This webinar was given on Friday, April 30, 2021 by Linda J. Bilmes, the Daniel Patrick Moynihan Senior Lecturer in Public Policy at HKS and Cornell William Brooks, Hauser Professor of the Practice of Nonprofit Organizations; Professor of the Practice of Public Leadership and Social Justice at HKS. Financial restitution is a widely accepted, utilized, and institutionalized mechanism by which the federal government compensates for harms. The U.S. has paid many forms of “reparations” throughout its history and has implemented hundreds of programs that compensate individuals and their descendants for various harms. In their new study, Bilmes and Brooks have developed a taxonomy of harms against African Americans in which the federal government played a direct or indirect role, and have mapped many of the interrelationships among these harms using data visualization software. They have then examined the issue of restorative justice and restitution to African Americans within the context of existing federal compensatory mechanisms. They provide a brief preview of a paper that they plan to release on June 19, 2021.

Scott Leland:
Hello, and welcome to today's webinar on Reimagining Restorative Justice: US Norms for Compensating Harms and the Implications for Restitution to African Americans.

Scott Leland:
My name is Scott Leland, I'm the executive director at the Mossavar-Rahmani Center for Business and Government, which is hosting today's event. Our co sponsors are the Center for Public Leadership, and the William Monroe Trotter Collaborative for Social Justice.

Scott Leland:
We have two speakers, possibly some of the students as well, and we will leave time at the end for questions. To submit your question, please use the Q&A button, which is most likely at the bottom of your Zoom screen.

Scott Leland:

Scott Leland:
Cornell William Brooks is Hauser professor, the practice of nonprofit organizations and professor the practice of public leadership and social justice at the Harvard Kennedy School. He's also director of the William Monroe Trotter Collaborative for Social Justice at the school of Center for Public Leadership, and visiting professor of the practice of prophetic religion and public leadership at Harvard Divinity School.

Scott Leland:
Now, Brooks is the former president and CEO of the NAACP. He's also a civil rights attorney, and an ordained minister. So, Professor Bilmes, Professor Brooks, thank you so much for being here today. We're eager to know more about your research. And Cornell Brooks you have the floor.
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Cornell Brooks:

No worry. So first, let me just begin with a word of appreciation to conveners, our moderators, certainly the audience and all of you who are interested in this world.

Cornell Brooks:

So, today's topic has a currency and a topicality that we have not seen in quite some time within debate and discussion around H.R. 40 towns and cities taking up the matter of reparatory justice and corporations doing the same. This is an particularly important topic. So, this matter of reimagining restorative justice, US norms for compensating harms and implications for restitution for African Americans is our propitiously turned.

Cornell Brooks:

And in this conversation, I am enthused to join Linda Bilmes, who as a public finance expert, and with my background in civil rights and with your collective insights, perhaps we can bring a fresh clear lens to this topic. We're also joined in this great work with our students Hillary Anderson, Michael Burbanks, Ivy, Jessica Castro and Stevie Olsen. So if we can just go to the next on topics.

Cornell Brooks:

So, the work that, I should said the approach that we bring to this matter of repertory justice, is one that is unique and certainly distinctive. We begin first by creating, if you will, a taxonomy of harms, which is distinctive, in terms of not merely looking at the chronology of original harms in this country with respect to African Americans, but the categorization of those harms. And variability and diversity of those harms.

Cornell Brooks:

Our second element that's distinctive in the approach that we are taking, is the visualization of the interconnection of these racial harms across the generations, right? So in other words, the harms visited on African Americans and the descendants of American slaves, are, in fact, they're profound. But they're not freestanding. They relate to one another. They compound over time, and they literally span generations. We also examine the norms for the compensation of harms. We also examine the common and conventional financial restitution programs in this country.

Cornell Brooks:
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So in other words, in this country, we have all manner of programs that engage in the financial restitution of harms, a wide variety of harms. And in a sense, reparations is not an uncommon endeavor in our country. And we are collectively incorporate this, or I should say we are endeavoring to incorporate this approach into the national conversation. Our next slide.

Cornell Brooks:

So we want to be very clear at the outset, that the set of harms that we are discussing have been inflicted upon African Americans due to federal policy, actions inactions, negligence, in direct effects, in ways that are quite profound spanning the arc of time. These actions and inactions, federal policy, negligence indirect, are a matter of disarray and de facto consequences. And these harms let us know here are rooted in chattel slavery but not limited to chattel slavery.

Cornell Brooks:

So in other words, for those who regard slavery as a part of America's distant past, when you look at the racial harms that have grown out of slavery, the convict leasing system manifested in this carceral state in which we find ourselves, voter suppression going back to the days of 15th amendment. These harms are a complex and diverse rooted in chattel slavery, but not limited.

Cornell Brooks:

In terms of transformation in evolution, many of these harms are intertwined with all the harms compounded over time, with long-term intergenerational consequences. This is incredibly important for us to appreciate that, in terms of talking about the racial harms that are a part of America's past, present, and indeed, the future, that these harms are not freestanding. They interact with one another. The effects compound over time, in ways that are intergenerational that can be felt, experienced, measured in people's lives, families, and communities.

Cornell Brooks:

One part of our work that's critically important, and I think unique, which is that these harms can be visualized through interactive relational software, or relationship software i.e Kumu. So in other words, we can plot these harms, look at the nodes of these harms, in terms of laws, policies, and regulations, and visualize them, and show the ways in which they interact with one another, literally compounding the effect of these harms, in ways that costs our generations.

Cornell Brooks:
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And lastly, and this is really a credit to one of our wonderful students, that we can go beyond this visualization software to reduce these harms to a two dimensional picture that might be visualized as a living tree. And so, we'll get to that later. But I think this is a very, very powerful way of looking at the very complex racial harms that have been visted upon African Americans. So, if we can go to the next slide.

Cornell Brooks:

So when we think about a taxonomy of harms, a categorization, a classification of harms, we can think in terms of seven functional categories, a housing, labor, criminal punishment or the criminal legal system, healthcare, education, violence, and disenfranchisement. Specifically, what we mean by that is voter disenfranchisement.

Cornell Brooks:

So, just by way of example, if we think of African American forebears leaving slavery, literally sleeping in open fields, having to find ways to subsist with their bodies, that is through labor. This whole manner of them being subject to a criminal punishment system, endeavoring to reduce them back to a state of chattel slavery. Healthcare across the ages, and demonstrating that the precariousness of life and the vulnerability of black bodies, education being anything but a right for African Americans. And of course violence being a part of daily life.

Cornell Brooks:

And when we think about the franchise precariously inscribed in the 15th Amendment, being a civic sacrament that African Americans across the generations have come to with uncertain effect. So these are seven functional categories. But let's turn to the next slide.

Cornell Brooks:

That really demonstrates the ways in which the racial harms that we have seen and we yet see in this country are not a matter of the distant past, and not a matter of freestanding harms, but are in fact related to one another in intergenerational ways. So if we think about the GI Bill, President Franklin Delano Roosevelt signed in 1944. It provided college tuition, low costs home loans, unemployment insurance to all veterans who were honorably discharged in 1956.
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And yet those who fought against fascism and Nazism abroad, return to face Jim Crow at home, that is to say 1.2 million black veterans of World War II, 8% of the total, these African Americans, these veterans, those who fought for their country, were not able to access the full measure of GI benefits.

Cornell Brooks:
So, when we think about GI benefits in terms of education, very few African Americans were able to attain any of the full measure of such benefits. Almost no blacks obtained a GI homeloans. That is to say, in New York, fewer than 100 of 67,000 GI Bill mortgages went to non whites. That is to say presumptively speaking, a smaller fraction went to African Americans. But let's look at the ways in which these harms interact.

Cornell Brooks:
So, if the GI Bill was administered by the states, it allowed the stage to discriminate, it allowed the state to impose the stamp of Jim Crow on the GI Bill. If we think about the fact that lenders in terms of lenders engaging in redlining, that is to say the segregation of finance, the segregation of mortgages, the segregation of housing, which prevented blacks from buying homes. And that is to say, using the benefits to have a stake in the American dream.

Cornell Brooks:
If we think about education, that is to say African American GIs, 95% were told to apply to black colleges only. Well, what that meant was, by limiting their options to historically black colleges and universities, what that meant was not merely that separate was inherently unequal, it meant that separate was inherently and obviously smaller, that is to say, a smaller number of colleges to choose from.

Cornell Brooks:
And that also meant, that there were HBCUs that were distant from where GIs lived, that meant that they had the option of not attending college, or traveling some distance to go to an HBCU, placing a college education beyond their reach. When we think about the fact that most vocational trades were restricted to whites. So in other words, vocational education would not be a means by which GIs could access the American dream in terms of the vocational traits.

Cornell Brooks:
The ways in which housing, education, training, interact in the lives of GIs, in the lives of their families, span generations, and show the degree to which these racial harms interact with one another in
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people's lives, in ways that can be fiscally measured. Historically chronicle, but also visualized as a matter of data. Incredibly important. So we can turn to the next slide.

Cornell Brooks:

What our team endeavor to do, was to create a means of visualizing these harms, across time, across categories, in ways that demonstrate the ways in which these harms interact with one another. In other words, housing, the franchise, voting, violence, how do these harms interact, and how might we measure the impact, as well as chronicle the history, in terms of the categories and in terms of the time.

Cornell Brooks:

This data visualization, is visualization software, is linked to a huge database of laws, policy, regulatory decisions. So this was a very significant, massive endeavor. And I'd like to just show you the fruit of our colleagues work, in terms of this short Kumu video. So Yaya, if you would queue that up, that'd be great. Thank you.

Cornell Brooks:

So in this video, which spans about roughly a minute or so, what you're seeing are various nodes, various aspects of these harms, and the ways in which they relate to one another. So in terms of educational decisions relating to education as a right. Segregation. Access to secondary education, higher education. In the case of the criminal punishment system, the relationship between the 13th Amendment during pig laws, the slave laws, as their slave codes, black codes. This demonstrates not only the diversity of the harms, but the complexity of the harms, and the interaction of the harms.

Cornell Brooks:

This is incredibly important and distinctive, why? Because there isn't a literature, any number of articles and books that speak to the cost of these harms, that speak to the chronology of these harms across time. But what is significant here is that we’re looking at the ways in which the harms interact over time and in people's lives. And as you can see, this is a very important work. So with that said, if we can turn to the next slide.

Cornell Brooks:

So, before you is a picture of a tree with branches and limbs, and a trunk. And above it are these words, blood on the leaves and blood at the root. The full lyrics for the jazz composition, that is to say Strange Fruit, which was a song by Billie Holiday an African American jazz musician. And composed by the Jewish
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American teacher, Abel Meeropol. This these words of course, southern trees bear a strange fruit. Blood on the leaves. Blood at the root. Black bodies swinging in the southern breeze.

Cornell Brooks:
This iconic American jazz composition, Strange Fruit is here read at as a tree, which represents racial harms. The trunk of the tree, you see the categories that we’ve described in terms of housing, and education, and health, but they extend upward into federal policies, and practice. If you noticed the trees and branches interact with one another.

Cornell Brooks:
Below the trunk, is of course the root of the tree, which go back into chattel slavery. What’s important about this is, it makes clear that when we talk about reparations, and repertory justice, we’re not really talking about the roots, we’re also talking about the trunk, we’re also talked about the branches, we’re also talking about the limbs, we’re talking about the ways in which these things interact. If we can go to the next slide.

Cornell Brooks:
And so very quickly, I just want to lift up a few historical examples of reparations. Talk very briefly about religious norms, and the norms in human rights instruments, and examples. So when we think about historical examples of reparations, obviously, there are examples where we say governments have offered reparations, not to those who were owned, but rather those who were the slave owners. In the case of the United States, we had Great Britain and Haiti, extending reparations post abolition to slave owners. But we have certainly in this country, enslaved persons who have gone to the courts in the 1700s, in the 1800s, to seek reparations for their captured, for their enslavement early on.

Cornell Brooks:
We have a figures no less than Frederick Douglass and Thomas Jefferson, who spoke of the need for reparations. And of course, the descendants of slaves have also lifted up the pole for reparations, going obviously, back to David Walker, to Frederick Douglass, going back to James Forman, and certainly to those in Congress who are lifting up that debate today. These examples also speak to religious norms, which undergird some of the moral philosophical underpinnings of this country, and inform the reparation debate.
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So, when we think of, for example, the theological principle of Teshuvah in Judaism which informs them the Christian notion of reconciliation. This of course, is premise on this idea, that when one engages in reconciliation, or makes a man foreseen, one engages in restitution to the victim. Similarly, in the context of Islam, this notion of justice speaks to restoration to victims.

Cornell Brooks:
When we think about norms within our human rights instruments, we think about the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination. We have groups like that, the movement for Black Lives, citing the norms and international instruments to give some philosophical grounding for this discussion of reparations for African Americans. So if we can go to the next slide.

Cornell Brooks:
So, I'm here going to turn the discussion over to my colleague, Linda Bilmes, who will take us from norms into the compensatory mechanisms that speak to this reparation debate today.

Linda J. Bilmes:
Hi everyone, and thank you Cornell. So, I have to admit that when we first started on this project, I didn't know a great deal about this topic. But when we began to study it last fall, what I discovered is that the federal government and state governments spend hundreds of billions of dollars every year, on dozens at the federal level, and hundreds of programs at the state level, on programs that provide various types of compensation for harms.

And these programs come in all kinds of shapes and sizes, there are programs to recompense for physical harms, like workplace injuries, for economic harms, to communities and individuals and businesses who are displaced through trade for example. There are property holder compensations, there are some narrow precedent type of programs, there are programs that go from generation to generation, including veterans and Indian Affairs programs, there are a range of programs for the environment. But what was clear to me, was that the government has got a set of norms itself, for helping address the consequences of different types of harms. Next slide, please.
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This is just a subset of some of the programs that pay compensatory restitution, and we couldn't fit them all on one page. But just to give you a flavor of the variety of these. And the more we looked, the more we found, there are probably, just on trade assistance alone, there are probably more than 50 programs that provide compensation. So, let me talk for a minute about how the government determines eligibility for these kind of programs, and how they pay for these programs. Our next slide, please.

Linda J. Bilmes:
The eligibility is typically defined in one of three ways. There are programs in which a specific group of people are determined eligible, for example, the 9/11 victims fund. There are programs which are for a particular type of injury, for example, Vaccine Injuries and the Hemophilia Fund. And they are the largest group of programs which are hybrids, for example, the Veterans Disability Compensation Program, which spends about $250 billion a year on veterans benefits and veterans healthcare for veterans, for spouses, for dependents, for descendants, for children of veterans, on a really wide range of programs which are determined based on the type of injury or illness or aggravation of something that was precipitated during the time that a veteran was in service.

Linda J. Bilmes:
And let me just give you a couple of examples of these kinds of programs. So if we could have the next slide. So, one typical way of funding these programs is through excise taxes. So for example, one which is in the news at the moment, there is a National Vaccine Injury Compensation Program, which provides compensation to people who were injured by vaccines that are FDA and CDC approved.

Linda J. Bilmes:
So, the way this works, is that every vaccine administered in United States, the manufacturer pays a 75 cent excise tax based on, or higher if the vaccine tackles more than one disease, for example, the measles mumps rubella, the manufacturer pays $2.25 per vaccine. And that money goes into a trust fund, so that anyone who claims injury can file a petition.

Linda J. Bilmes:
And the principle here is that, although the government clearly did not deliberately harm individuals, but that the government plays a role, in that the FDA approves the vaccines, with the knowledge that a small subset of people will be harmed through the vaccine. And in return for paying this excise tax, the manufacturers are indemnified against legal class action suits by those who are injured. And the funding
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Financial restitution is put into a trust fund. As most of these programs are trust funds in the federal government. There are many hundreds of trust funds at the federal level.

Linda J. Bilmes:
Trust funds are not quite the same as private sector trust funds, but trust funds are an accounting mechanism that track inflows and outflows in the federal government. And so, when the trust fund is in surplus, it is held in non-marketable treasury securities. And when it is in deficit, the federal government is obligated to borrow to top up the trust fund.

Linda J. Bilmes:
Now, I mean, I think a program like this immediately makes you think about the issue of reparations, for consequences of housing discrimination in a different way. It’s not very hard to imagine a program in which an excise tax would be paid by those housing mortgage companies and lenders who were involved in redlining and housing discrimination. If I can see the next slide, please.

Linda J. Bilmes:
And so, the trade adjustment programs are very interesting, because these are quite substantial in terms of spending. In 2016 they were spending $1.9 billion a year, the GAO found at least 15 different programs, as well as a tax expenditure in that year, and each program is structured differently. Some of the beneficiaries are individuals, some are firms that have been adversely affected by trade, and some are communities.

Linda J. Bilmes:
There are multiple programs. So for example, the department of labor provides direct aid mostly to communities. The department of defense has got at least six programs. So for example, if a weapon system is canceled, or if there's a BRAC base closure, the communities and individuals affected are paid compensation. The USDA has program which funds communities and firms, as well as individuals in the textile industry as the textile industry has declined. The Appalachian Regional Commission has a whole range of different programs, having to do with coal mining.

Linda J. Bilmes:
There's also a health coverage tax credit, that is a tax deduction for the after tax cost of health insurance for individuals who lose jobs due to trade. And a variety of additional programs that are administered at the state level. This again demonstrates the principle that these are kind of no fault consequences of the
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fact that the government has taken actions through trade policies, that have an adverse effect on some individuals in society, even if they benefit the overall society. I can have the next slide please.

Linda J. Bilmes:
Another example, and is the American Indian Trust Fund. So in the 1880s, the American Indian nations signed treaties with the United States with ceded land titles, in exchange for sovereignty. Were retained the resource rights, that is the rights for drilling, mining, grazing, timber, et cetera. But the federal government which did act as a banker, and secured the funding and raised through activities, in partners managed and in part just siphoned off and stole all of the proceeds of this.

Linda J. Bilmes:
So, after many decades of various kinds of litigations and negotiation, in 2010, there was a settlement for some of the descendants of the original mineral rights dating back to 1887. And through this settlement, the descendants are entitled to small shares of parcels which are throughout future generations being subdivided.

Linda J. Bilmes:
So right now the department of interior oversees about $44 million of acres, and oversees all these activities such as grazing and mining, and so forth, and distributes around... It brings in about $5 billion a year, it distributes about $1 billion a year to descendants of the original treaties. And this will continue to be subdivided. So they expect that by 2030, there will be 11 million people who will be receiving some payments through this original program.

Linda J. Bilmes:
And I think these are just three examples, but what they demonstrate is, first of all, that as you can see, there is a very strong norm for compensating the effects of harms. And secondly, there is a precedent for compensating intergenerational effects of harms. And with that, I'm going to turn it back over to my colleague Cornell.

Cornell Brooks:
With this matter repertory justice, we are confronted with two challenges. The first of which is that reparations repertory justice for African Americans seems a matter of a sui generis. It is a thing unto itself and distinctive. Secondly, related to this, is this notion that this is a problematic fiscal normative impossibility. This research suggests that the diversity and variability of compensation programs, not
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only demonstrates what has been done but what might be done, right? As a matter of law and policy and fiscal practice, African Americans are inexplicably excluded from categories of compensation, both as a matter of practice, but also as matter of definition, like how do we define the problem? Who do we define as a victim class?

Cornell Brooks:
The sheer number, a variety and complexity of the programs demonstrate that it is possible to compensate harms that are rooted in but not limited to the time of chattel slavery. Developing new and expanding existing categories of compensation to address these harms, is normatively consistent to what we already do. I think incredibly important to note here. And then when we consider the range of harms, and the victims addressed by government programs, compensating the taxonomy of racial harms, is not a departure from precedent, it would be a radical departure from precedent to not do so.

Cornell Brooks:
So in other words, these programs, what Linda has lifted up just in terms of the range, the multiplicity, suggests what can be done. And it is a substantial advancement in the discourse in the conversation in which we find ourselves. So with that said, thank you, and we'd love to welcome your questions.

Scott Leland:
Thank you so much Cornell and Linda, that was fascinating and really informative view of the research that you've been doing. There's so many issues and so many questions that pop. There's building the public's case, there's creating the political support or building on the political support. Questions on how do you finance this, on how you determine eligibility, how you distribute it, so many facets to it.

Scott Leland:
I guess I want to open up with just a question on political support, and kind of your assessment of where political support stands right now. Before I ask you to comment on that, I would just like to remind our listeners to please go ahead and submit your questions, again, via the Q&A button at the bottom of your Zoom screen. Where would you assess this in terms of political support? This is clearly something that the Biden administration has mentioned, has kind of focused on somewhat, but tell us more.

Cornell Brooks:
Sure. Well, let me just begin by noting where we are in this discussion, right? So, literally going back to the days of Jefferson and Frederick Douglass, going back to the field [inaudible 00:34:40] 15. This has
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been a matter of aspiration. We are in a moment in which this is a matter of political and fiscal possibility. Where we have at least two candidates from one of the major parties, all saying that we should have a commission on reparations. That suggests that this is in fact possible.

Cornell Brooks:

Go back to the way reparations were granted to Japanese Americans who were interned in World War II. There was never popular support. If you looked at letters that were written to Carlos, it was never a groundswell of popular support, but a growing recognition that this was something American needed to do. And with the development of their narrative, in other words, why should we do it? And a greater appreciation of how it might be done as a matter of law and as a matter of fiscal policy, that was done. The Congressional Black Caucus supported that back then.

Cornell Brooks:

At this moment, we see a broad range of political constituencies, we see American towns and cities and states looking at how they might engage in repertory justice, we see universities endeavoring to do the same. So, what I'm suggesting to you, is not merely the number of constituencies, not merely the number of entities, but also the diversity of entities make it clear that this is politically possible. And what is I think very encouraging, is to research my colleagues and soon is fiscally possible. And that there's precedent for it.

Linda J. Bilmes:

If I can just add something on this. My first job out of college, I spent two years working as a political pollster. I've always liked numbers. And so one thing I learned, was that the answer to any question depends on what question you ask. And so, if you ask the general public today, "How do you feel about slavery reparations?" You would get an overwhelmingly negative response. If you ask the general public, how would they feel about charging an excise tax on every two mortgage lenders, on every house sold, that would be a few dollars that would compensate those who suffered from housing discrimination, you would probably get a very different response. I would suspect that the majority of Democrats and independents would be supportive.

Linda J. Bilmes:

So, I think that one of the problems that we have faced is that we have not really looked in the details. The devil is really in the details on this issue, which is one of the things the students did so incredibly well in setting up the kumu. And this is so ordinary, and so every day, in terms of how we do it, and all
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The multiplicity of ways to fund different types of it, that it is a problem that I think works better if it is looked at in its components rather than simply at the overall high level.

Scott Leland:
Thank you. We have a couple of questions in the Q&A. Gerben Shep here says, “Thanks so much for this thought provoking research. Did the research suggest anything like a quantified range of harms? In other words, are there any rough estimates on what the financial harms per person might be?”

Linda J. Bilmes:
Cornell, I think you can take this one and then I can also chime in?

Cornell Brooks:
Well, I'll just simply say that, when you look at the work of Bill Doherty and Duke, who's suddenly talked about trillion dollar price tags. He suggested the number's large, right? I've hesitated to have the conversation about how large the cheque should be per person, as opposed to having the conversation about the kind of harms that should be recognized. And the ways in which we might finance reparation and restoring to some degree, and making people whole to the extent that we can, as opposed to how large the cheque is per person.

Cornell Brooks:
I'll defer to my colleague on that. But what I do want to underscore here, is for the longest time the complexity of the math, has literally paralyzed the discussion about morality and necessity reparations. And so, our research suggests the math is possible, that it can be done. And with that said I'll turn it back over to Linda.

Linda J. Bilmes:
Hi. So, I have spent a lot of my career on thinking about the overall huge costs of different kinds of things. For example, what is the total cost of, the long-term cost of the post 9/11 wars which is in numbers that we released yesterday over seven trillion? But just because there is a large number, it doesn't mean that that is what the government's can do, or that that's the government's responsibility. So Gerben, to give you an answer close to your heart, our studies show that the American public values, places a value on the national parks of $92 billion.
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Now, the government actually funds the national parks that only $2.5 billion, so a very small fraction of the total value of the parks. And that doesn't even include all the ecosystem values. And in this case, there have been large studies about the enormous amount of debt. But there is a principal and a norm in the government of starting somewhere, of starting somewhere by recognizing that a harm is done, and beginning to work on ways to think about compensating for some of the effects of the harm.

Linda J. Bilmes:

The United States is never going to be able to compensate for what happened at the beginning of the founding of the country and before. It can compensate some of the descendants for some of the consequences of 400 years of discrimination. So, the American Indian Trust Fund is an interesting example, because at the time in 2010, during the Obama administration, there was a quantification of the present value of the losses to the native tribes that had lost their control of the resources, which was about $50 billion. But the settlement reached that the government agreed to pay and has paid, was about $4 billion. So it was much less, but still, it was a start. And it was a turning point in terms of being able to recognize and to begin to deal with some of the consequences of this.

Scott Leland:

Thank you. We have a question from George Eden. And he asked, sort of following on the financial question, "Has there ever been an attempt to prioritize the numerous justifications for financial remedy for harms by the government, either in an annual budget process, or an oversight of expenditures?" So I guess to your point Linda, the government may not be able to compensate the full breadth of harms done. But has there previously been an effort to take a part, and to put that into the budget process?

Linda J. Bilmes:

So, I think that's a really interesting question. My reading of it is that this huge list of compensatory restitution programs is pretty idiosyncratic. And there doesn't seem to be any rhyme or reason, for example, to why particular illnesses and diseases have government restitution, and other ones don't. I would imagine that has more to do with advocacy and political pressures.

Linda J. Bilmes:

What is clear is that, in almost any kind of program one could imagine, that deals with some of the consequences of discriminatory anti-black laws, you can find a precedent in the many different programs that exist, because there are so many different principles laid out. Because basically, the government in each and every one of those, if you look at as I've been doing now, and you study the charter, and you look at the laws, they all start with something that that kind of acknowledges that this
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is harming some subset of individuals, and the government is attempting, regardless of its role, to mitigate that harm or to address some of the effects of the harm. Financially.

Cornell Brooks:
May I add [inaudible 00:44:39]. So, when it comes to enforcing the nation's civil rights laws, the justice department has essentially two types of tools. You have criminal prosecutions and you have civil prosecutions. When you prioritize your civil prosecutions, you are simply seeking money damages. So, in the case of housing discrimination, when the justice department says, "We're going to prioritize home mortgages in terms of discrimination. We will go after the banks, we will devise solvents that ensure that these victims receive this amount of restitution. These banks are responsible for educating people as to the availability of mortgages. These banks will be responsible to put people in a position where they can get credit, whether it be in terms of mortgages or for small businesses."

Cornell Brooks:
The point being here is the ordering of prosecutorial priorities, is in effect, a prioritization if you will, of repertory justice. Because what you're saying here is, we're going after these civil rights wrongs, these provisions, these racial harms. And we are going to settlement agreements, prioritize certain kinds of compensation. Because to be clear, that's exactly what you do. You create a settlement agreement that says, "We have a victim fund that looks like this. People receive this kind of compensation. And beyond money, we're going to order these kinds of programmatic responses."

Cornell Brooks:
So that's one way we do it, it is still, I agree with my colleague, idiosyncratic, but it suggests that that kind of prioritization can be done with respect to repertory compensation.

Scott Leland:
Thank you. David Wood has a question, it says, "This is extremely compelling and useful work. Thank you both. It seems that resistance to reparations is itself a product of and a particular kind of the harms that the black community has suffered. Which analogize to the Japanese internment case, but perhaps less to say than the vaccine case. How does this resistance to reparations change the politics that we've talked about? Clearly, some members of the political community are behind this, but there is strong resistance in some quarters." And I don't know if you can comment on winning over the folks who are resisting so strongly.

Cornell Brooks:
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So, I think Linda is precisely right that, part of the resistance is the way in which we frame the question and frame the debate. So, in other words, if reparations is about something in the long ago past, those very much in the present don’t feel responsible for it, particularly if their forebears came to this country well after the 13th Amendment.

Cornell Brooks:

So, the matter of framing the debate such that we understand these racial harms may be rooted in chattel slavery, but they extend well to the present. Point one.

Cornell Brooks:

Point two, engaging in a narrative shift, right? In other words, the math is critically important, but the stories are critically important. The narrative aspect of this and the empirical aspect of this have to be yoked, right? So in other words, we have to see a certain kind of fiscal way forward. But we also need a kind of narrative urgency. In other words, people need to fully appreciate that American GIs, who really fought fascism abroad and Nazism broad, came back home to Jim Crow, and the Jim Crowization if you will, or the GI Bill meant that they had lack of access with respect to education, and housing, and that that had consequences, not only for those who served, but it had consequences for their children and their grandchildren that can be felt today.

Cornell Brooks:

Once we broaden the discussion, lift up the story in ways in which people see themselves, but, we also make it clear that we can be fiscally prudent, we can programmatically thoughtful, and that we have all manner of precedent before us. In other words, we engage in repertory justice every day. We just don’t call it that. That’s one way to shift the debate forward.

Scott Leland:

Thank you. Valli Bear has asked a question, “Can you comment on the example in Evanston, Illinois, who have recently offering some reparations? Is that a helpful way to address reparations as a start?” And if I could also ask that you perhaps tell us what has happened in Evanston, Illinois for those of us who may not be fully aware?

Cornell Brooks:

I can Linda, but I think Hillary is on the line. He convened a conference in which we had the council person who actually drafted that that piece of legislation. Hillary, would you like to comment on that?
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Hillary Anderson:
Yeah. So, Robin Rue Simmons who is an alderman from Evanston, Illinois, recently passed this... What's being held is like a reparations like provision within the City of Evanston, Illinois. It's I think currently focused primarily on home loans to black homeowners who were living in the city during the time of a lot of housing discrimination.

Hillary Anderson:
But I think she has plans to further kind of develop and expand on that initial plan. I think that something that I've recently had conversation with her and Professor Brooks, and something that really stood out to me in that conversation, was how what the cities and some of the states are doing, really serves as proof points for the federal government in order to make a move in the future.

Hillary Anderson:
So this isn't to say that any of what a state is doing or what a locality is doing should supersede the call for federal regulations. But it is to say that, what these cities and states are doing, can serve as the groundwork and also help to serve as momentum building for an eventual federal plan.

Hillary Anderson:
So, I think that there's... Some people maybe know as tension between state and city of reparations repertory justice programs and what the federal government should do, I think that there is still an obligation for the federal government to act. But the work of alderman Simmons and other local leaders like her is really valuable for the overall movement towards repertory justice.

Cornell Brooks:
And wouldn’t it also be true that because, to Linda’s point, because they identified a discrete harm, that say people lived in this city during a period of housing discrimination, and they took an excise, and impose an excise tax on the cannabis industry and use that to fund the program, which speaks to the point that Linda made that, you can have repertory justice with funding streams that look a lot like what we do every day.

Scott Leland:
Great, thank you. Somewhat related to that is, in addition to the program in Evanston, Illinois. Are there other states that are doing something that is worth mentioning in this forum, to sort of help inform what the federal government might do? And I guess a second related question is, the research that
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You’re doing now, is that being replicated at a state level anywhere? What other groups are looking at the specifics of operations that you might be able to comment on?

Linda J. Bilmes:
I may be not the best person to comment on this, but I do work with a lot of state and local governments. I mean, I think state and local governments are of course, they refer to as laboratories of innovation and democracy, and so forth. And they do serve very much as labs, and that they try a lot of different things. And some of them stick and some don’t.

Linda J. Bilmes:
So California, where I grew up was a complete pioneer in terms of vehicle, CO2 emission controls and so forth, 20 years before anybody else was thinking about it. Not everything that state and local governments try is applicable nationwide or works. And I think it’s a great thing for a national commission, which I hope we have, to study comprehensively all of the various efforts that state and local governments have undertaken.

Linda J. Bilmes:
I do think that state and local governments have a lot to tell us about different ways of funding programs, and different eligibility criteria, and things like that. What is lacking at the state and local level is a national acknowledgement of the scale of harms that have derived from the period of years of slavery and Jim Crow and everything that followed. And I think that in order to give a boost, both to federal programs and to state and local efforts, there needs to be a national moment of, which I hope can come through a commission, to acknowledge that this is something that we need to think about in the same way that we’ve thought about so many other kinds of harms.

Linda J. Bilmes:
And one of the things that is most interesting to me about looking at all these programs is that, in the same way California pioneered no fault divorce. The federal government grasps very well that it is not always somebodies fault. So, decisions have consequences and as Cornell described in detail, the fact that the GI Bill was, as it turned out an engine of inequality for blacks, was not because the GI Bill itself was bad, but because of various other forces that conspired to make it not work for black Americans.

Linda J. Bilmes:
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And that sort of issue about how is it that we keep doing all kinds of things, and somehow many of them are not helping the intended beneficiaries, and we have a whole generation of individuals who have been harmed by consequences of all of these things, that national moment of trying to examine it, even if imperfectly, is something that I believe needs to happen at the national level.

Hillary Anderson:
I would just add for additional examples of where these repertory justice programs are kind of taking place. California recently passed a law to establish a commission to study reparations proposals. So that is some action there in terms of a commission, that could potentially maybe be a model for a federal commission and how they would go about reading through literature and making determinations.

Hillary Anderson:
There’s also the example of another locality in Florida Rosewood, compensating victims of massacre, racial massacre, back in the 1920s. And then, there’s also the example of universities, right? So there was what happened with Georgetown in the recent kind of rediscovering of their connections, just the slave trade in order to fund the school, and the program that they now have established for descendants of those enslaved individuals. So there are multiple examples popping up. So, I would encourage people to go take a look at all of those programs as well.

Cornell Brooks:
And I would just note that we had a group of Harvard Kennedy School students who, in one of my classes work with the State of New Jersey to develop a reparations commission. And they specifically looked at the effect of this debate on children, and the effect of literally the last northern state to abolish the Great New Jersey. The consequences of chattel slavery on the present, and particularly children.

Cornell Brooks:
So, as Hillary lifted up and Linda lifted up, wonderful examples popping up, all of which point to the road that the federal government can take and should take, and is uniquely positioned to take. To Linda's point, laboratories of democracy, but they don’t suggest that the federal government or Congress should forfeit its role.

Scott Leland:
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Thank you so much. We have reached the end of our time, sadly. But I know you are currently in the process of writing up your paper, I believe, can you tell us when we might expect to have that available?

Cornell Brooks:
I'll leave Linda to tell us that.

Linda J. Bilmes:
We're hoping to put out a working paper on Juneteenth. And we hope that that stimulates discussion. I mean, we've been invited to write an article for the Atlantic. Our students are working on various enhancements now and on the visualizations and so forth. And so, I think that we will hope very much that this sparks a conversation as we call it a reimagining of the question.

Scott Leland:
Thank you very much Cornell Brooks, Linda Bilmes, Hilary Anderson, this has been a terrific session. And we wish you all the best of luck in your follow on work on this topic. Thank you.

Cornell Brooks:
Thank you.

Linda J. Bilmes:
Thank you Scott.

Cornell Brooks:
Thank you.

Linda J. Bilmes:
Thank you.