

HEALING THE RACIAL DIVIDE: A VOLUNTARY REPARATIONS MODEL

Presentation by

Adjoa Artis Aiyetoro

(The article upon which this presentation is based will be submitted for publication in March 2007)

The courts and legislatures, with one notable exception, have failed to provide a remedy for the injuries suffered by Africans in America and their descendants in the United States as a result of the crime against humanity of slavery and its continuing vestiges. The response by the courts and legislatures appears to flow from a disregard for the interests and rights of the affected class. It also reflects identification with the interests of the perpetrator class to which the judges belong, as do most of the members of the legislative bodies. This refusal to provide a remedy only deepens the racial divide and continues the harm to African descendants. Since legislatures as well as the judiciary are influenced by public opinion, the presentation argues that well-respected organizations/entities should develop and implement a voluntary reparations program. This program should not only be applied to the organization/entity, it should also be publicized by the entity to encourage the adoption of such a model by the private and public sector.

The presentation will begin with a discussion of the failure of the court in *Alexander v. State of Oklahoma* to utilize its equity powers to heal the injuries caused African descendants by the 1921 destruction of their community, the Greenwood District in Tulsa, Oklahoma by a white, deputized mob. The failure of the courts to do justice in

1921 was compounded by the failure to use the courts' equity powers in *Alexander* in 2004 to right the wrong done to the African descendant community in Tulsa.

This discussion will lead to the proposal that the American Bar Association should develop a voluntary reparations model because of its historic practices of exclusion of African descendants in the legal profession and the support these policies and practices gave to the treatment of African descendant attorneys and litigants in Tulsa, Oklahoma and throughout the United States. The ABA will be used as an example of an organization with a history of exclusionary policies and practices that can serve as a model for the acknowledgment that is needed if true racial healing is to be accomplished.

The presentation acknowledges the work of the ABA on "diversity issues" since the 1980s. In 1980 the American Bar Association began to articulate a need to address the "concerns and problems of minorities in the profession." The data suggests that despite its efforts, there are continuing disparities. The presentation suggests a similarity between the development of these initiatives and the failure to do equity in *Alexander*.

The presentation utilizes the social science scholarship on apology as well as the legal scholarship on this topic to specifically identify the form of the acknowledgment that must take place as a precursor to material reparations. The model presented can lead to true healing, through honest dialogue and a commitment to recognizing the material gains made by whites through slavery and Jim Crow and the injury experienced by Africans and their descendants.