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# CONFERENCE ON STATISTICS, SCIENCE AND PUBLIC POLICY

## HERSTMONCEUX CASTLE, UK, 2020

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## *CONCEPTUALISING EMPIRE*

Taxonomists who have attempted to impose theoretical order on the chaotic features of imperial rule have identified certain recurring patterns of behaviour. This is despite the often very different geographical, ethnic, religious and cultural characteristics of the empires they describe.

A British military historian, Sir John Glubb, examined the common features in eleven territorial empires.[1] These empires commenced with the Assyrian Empire of 859 BCE, and ended with the British Empire, which concluded in 1950 CE. Glubb classified what he described as remarkably similar patterns into which the rise and fall of the eleven empires could be divided. He concluded that each empire progressed essentially through seven stages.

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[1] J.B. Glubb, *The Fate of Empires and the Search for Survival*, William Blackwood & Sons, London, 1975.

Each had lasted for a period of approximately ten generations. Those stages were:

* The Age of Pioneers;
* The Age of Conquests;
* The Age of Commerce;
* The Age of Affluence;
* The Age of Intellect;
* The Age of Decadence; and
* The Age of Decline and Collapse.

According the Glubb, all of the eleven empires that he studied began to fall into decline as a consequence of a long period of wealth and power, selfishness, quest for money and deterioration from what he described as the earlier “sense of duty”. Features of the Age of Decadence were political defensiveness, pessimism, materialism, frivolity, the influx of foreigners and a weakening of religion. Critics might question whether such developments were properly described as “Decadence”, or were, rather, possibly rationality and self-questioning as to whether the imperial wars and oppression, necessary to maintain empires, were worth the advantages that came in their wake.

Similar classifications were reached by the application of an economic model to the same historical facts. Thus, Mike Maloney arrived at seven stages

which he described in more hard-nosed terms: namely, they were aimed at "following the money": [2]

- The Age of Good Money;
- The Age of Public Works;
- The Age of Military Expansionism;
- The Age of War;
- The Age of Currency Debasement;
- The Age of Monetary Inflation; and
- The Age of Financial Decline and Fiscal Collapse.

As demonstrated by Glubb and Maloney, the age of empires cannot be confined to modern history or even to European history. The sub-classifications exhibit universal phenomena. All the empires examined include in their chronicle more or less reliance on migration to new parts of the empire, of scattering pockets of their venturesome populations to establish imperial outposts "beyond the seas".

The Greeks created a large number of settler colonies around the perimeter of the Eastern Mediterranean. Even today, these colonies of the distant past explain many Greek-ruled islands, positioned uncomfortably close to the Turkish coast. Similarly, with the conquering armies of Rome, colonies sprung up in virtually all their territories gathered around the Mediterranean Sea. The degree of penetration and permanence of Rome's imperium may be measured today by the linguistic communities that trace their origins to

[2] In Jane Burbank and Fred Cooper, *Empires and World History – Power and the Politics of Difference*, Princeton University Press (Princeton & Oxford) 2010, p 8.

Latin speaking immigrants. They explain the common features not only of France and Spain but also of Romania and ultimately, of later empires around the globe founded by Spain, France and Portugal in Africa, the Americas, Asia and the Pacific.

I cannot offer a statistical analysis of empire. One probably exists in an examination of the typical rise and fall of political and economic power and the common time this seems to take. But our audience is probably most familiar with the last of the empires that J.B. Glubb examined: that of Britain. Perhaps we could add to Glubb's narrative the post British empires, including the American, the Japanese, the Russian, and the Chinese. The last of these is now on track towards a new zenith, whilst others are in decline.

Japan, thought, boasts the only Emperor in the world of today. However, following its experience in the Second World War, it is now actually no more than a national constitutional monarchy which largely disclaims overseas pockets of its native population.

The Russian Empire, which seemed so strong, stable and expansive in 1945, in the aftermath of the Second World War, has progressed in its decline, Crimea excluded. The Korean Empire was formally abolished by the Japanese in 1905. But if the economic wealth if its severed halves could be united today it would still be growing, certainly in economic terms. But the largest aspiring empire of today is undoubtedly the Chinese, with substantial ethnic remnants in Indonesia, Singapore, Malaysia, Taiwan, Hong Kong and around the periphery of the Middle Kingdom. Its political and economic

expansion is far from its peak. Its Ages of Decadence and Decline seem a long way off.

Yet if Glubb and Maloney are to be believed, the turnaround in empires, coming up in the rear, may include the empires of the Turks, the Persians, the Indians, together possibly with the Brazilians and the Malays. America might aspire to be “great” again. But the lesson of history seems to be that every empire will pass through cycles that are predictive and inescapable. Greatness does not endure, at least for the original beneficiaries of empire. These beneficiaries were often the settlers of empire. They are left in outposts around the world, living remnants of past imperium’s.

*SETTLERS AND POSSESSION*

During the expansion of several European empires, the immigration of people from the metropolitan power reached out to build settler communities, usually during what Glubb calls the Age of Exploration and Commercial Expansion.

The establishment of a settler colony in the vicinity of the Cape of Good Hope at the southern-most extremity of Africa was initially the work of the Netherlands East India Company. Initially, it sought nothing more from Africa than a refreshment station for its ships, sailing between the Netherlands and the East Indies. The first Netherlands colony at the Cape was set up in 1652 around a fort designed to be no more than protection for the company’s strictly limited economic purposes. However, increasing numbers of the early transients saw advantages in the climate and rich economic opportunities. So they began to expand their territory and land claims, which

ultimately brought them into conflict with the early British arrivals close by. The latter also began to see the advantages of settlement in Africa: resources, cheap labour and a temperate climate. However, to the economic objectives they soon added larger aspirations of empire: a more substantial settlement and a “civilizing mission” to justify the dislocation of those who had lived there before.

As the European settlers arrived in the territories and in the many islands along their trading routes, their assertion of a right to “settle” began to present potential conflicts with local peoples. The concern of the metropolitan government about the risks of expensive wars and anxiety over the legal basis of the purported settlements that were springing up in multiple venues within the ever-expanding boundaries of the then known world invoked principles of international law designed to give a semblance of principle to the seizure of other peoples’ property.

In North America, the British settlements came to be substantially confined to the thirteen colonies and Upper Canada, which were separated by the successful revolution fought by the colonists in 1776-90 in what became known as the United States of America. Before the American Revolution, the British colonial power intermittently endeavoured to create alliances with Indigenous tribes. However, once new nations were established in the form of the United States and Canada, their leaders began to assert the “manifest right and destiny” of the new nations to expand their rule to the Pacific Coast and even beyond. Wars with the Native American tribes in the expanding American territories generally saw the governmental side supporting the settler claimants. This commonly forced the Indigenous peoples into

reservations, often different from their traditional homelands.[3] Ultimately, these reservations that had initially derived from treaty arrangements, gave way to federal legislation. In the United States this included the *Dawes Act* of 1887. This Act was "agreed to" by the Indigenous peoples affected as the price of joining a modern nation and helping them to become "civilized". This process resulted in assimilation into the people of the United States and the erosion of the tribal languages and cultures of the First Peoples.

In Canada, the First Peoples were commonly divided having regard to the bases of their respective relationships with the British Crown. Under the *British North America Act* (later *Constitution Act* (1867)),[4] sole responsibility for "Indians and lands reserved for the Indians" was assigned to the Federal Parliament of Canada. The Dominion of Canada accepted that it had inherited treaty obligations from the British colonial authorities in Eastern Canada. A number of treaties had been signed with First Nations Peoples. An Act was eventually passed that governed interaction with all treaty and non-treaty peoples.[5]

*DISPOSSESSION AND RESTORATION*

Although these provisions constituted a step forward in the treatment of Indigenous peoples in Canada (and were reinforced by the acceptance of trust obligations imposed by the courts on the Crown in Canada), many problems remained. These problems included the separate status of all Inuit (then called Eskimo) and Métis Peoples. The policies of assimilation,

[3] Collin G. Calloway, *A Dictionary Survey of American Indian History*, Bedford/St Martin's, Boston MA, 2008.
[4] BNAA, section 91 (24).
[5] *Indian Act* 1876 (Canada).

education in residential schools and abuse and wrongdoing in those schools ultimately led in Canada to assertions of a form of genocide by the settlers. In 2006 a legal case won a settlement of $2million Canadian dollars. A Truth and Reconciliation Commission was established to identify the effects upon children of the previous laws. In 2008 an apology was tendered by Prime Minister Stephen Harper on behalf of Canada for the residential school system and the suffering in that system that had come to light.[6]

Whilst these developments were occurring in North America, in the 1770s the islands of New Zealand, Aotearoa, were mapped by the British navigator and explorer, Lieutenant James Cook RN. He completed this task immediately after he had recorded, near Tahiti, the eclipse of the planet Venus for the British Admiralty sailed on to "discover" the East coast of Australia. Whilst sailing past established communities along the coastline of New Zealand, Cook identified the Indigenous people of New Zealand, who responded with hostility. They made it clear that the newcomers were not welcome. However, a New Zealand Company was later established in Britain to act on behalf of a large number of settlers and intended settlers who aimed to establish a viable British colony in New Zealand. A number of Indigenous Māori leaders were persuaded to petition the British Government for "protection" against the purported "French incursions" into their land.

A consequence of this Māori "petition" was the appointment of a British official for New Zealand, later designated Lieutenant Governor, William Hobson. He drew up a treaty (the *Treaty of Waitangi*) with the Crown.[7] This

[6] K. Benjoe, "Group Gathers for Harper's Apology", *Leader-Post*, 15 September 2012
[7] Te Tiriti o Waitangi (in Maori).

document contained important disparities between the English-language text and the text in Māori. It was signed on both sides after a consultation process with the Māori in the months after Hobson signed the original on February 6, 1840. The articles of the Treaty provided governance rights to the Crown of the United Kingdom. They preserved the Chieftainship of the Māori leaders and continued ownership of their land. They also afforded full rights and protections to the Māori as British subjects, guaranteed by Queen Victoria.

Following this treaty, the Māori steadily lost control of much of the territory of their traditional lands. This happened sometimes fairly and at other times by confiscation or unequal arrangements. Although never incorporated into New Zealand domestic law, the *Treaty of Waitangi* has been widely regarded since the 1970s (or possibly earlier) as a founding constitutional document of New Zealand.[8] Apart from its specific guarantees, it afforded the Maori people of New Zealand the dignity of apparently equal standing with the settlers and their representatives. This dignity and sense of right has greatly affected the relationship with the settlers since 1840.

There is nothing quite like the *Treaty of Waitangi* or its consultation process in the other settler communities of the British Crown. The Treaty became the launching pad of a series of judicial decisions and legislation designed to protect the land, language and other rights of the Māori in New Zealand. The annual anniversary of the signing of the Treaty later became the New Zealand national day. The subsequent creation of the Māori land court and tribunal have corrected some of the injustices that had crept in during earlier

[8] C. Orange, *The Treaty of Waitangi*, Bridges Williams Books Wellington, 1992, 8.

years. The reasons why the Māori were more successful in securing protection of their rights including their higher proportionate number; their continued observance of traditions; their strong and united cultural norms; and language and legal institutions. The Māori have emerged from their encounter with European settlers in a stronger position than any other community of First Peoples in lands that experienced British colonial dispossession. Yet every group of Indigenous people suffered injustices in the time of empire because of the settlers. The Māori were not exempt. But they were different.

*AUSTRALIAN SETTLERS AND ABORIGINALS*

The most disadvantaged of any of the First Peoples of the British Crown are the Indigenous peoples of Australia: the Australian Aboriginals and Torres Strait Islanders.

They did not enjoy any serious consultation whatever with the settler newcomers, as the Māori had done, and to some extent Indigenous peoples in North America. They did not enjoy the benefit of a treaty, signed on behalf of the Crown and in the name of Queen Victoria. They did not enjoy a specific guarantee of land rights, as appeared in the *Treaty of Waitangi* and, to some extent, in the treaties with the American colonies and with Canada. No specific lands, whether traditional homelands or “settlements”, were agreed to by treaty. Nor were land rights recognised as their entitlement, whether under treaty or by statute, as in the United States. They did not enjoy guarantees of respect and protection for their chiefs or elders, as was expressed at Waitangi. They did not have special guarantees of education or even partially favorable reference in the Constitution adopted on the

attainment by Australia of dominion status, at the time of federation. On the contrary, in the Australian federal Constitution of 1901, the First Peoples were mentioned only to be excluded from a specific grant of powers for federal legal protection. They were left to the tender mercies of State "protectors". They were also excluded from inclusion in the national census, inferentially because they were regarded as nomads. Constitutionally speaking, they were regarded as having no entitlement, as such, to participation in the "civilized" population of the Commonwealth.[9] There was no later treaty with them. Although in recent times a 'Makarrata' has been proposed by Aboriginal leaders, no treaty, even of a symbolic or purely ceremonial kind, has ever been signed by the Crown or the Commonwealth of Australia with the First Peoples of Australia.[10]

After Lieutenant James Cook had departed New Zealand, he sailed to Australia and mapped its East Coast. Near Cape York, he laid claim to the territory of the new land that he had "discovered" in the name of the Crown (King George III). Cook's earlier Australian claim for legal possession of New Zealand was later expressly disclaimed by Lieutenant Governor Hobson. He did this out of deference to the Māori chiefs with whom he negotiated the treaty at Waitangi. He acknowledged that New Zealand was *not* a British Colony. He recognised in the *Treaty of Waitangi* that the United Kingdom asserted no establishments claim to sovereignty over New Zealand. However, once again, in the case of Australia, things developed very differently.

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[9] *Australian Constitution*. See s 51(xxvi) as amended and s 127 (repealed 1967).
[10] Shireen Morris (ed.) *A Rightful Place – A Road Map to Recognition,* Black Inc., Melbourne, 2017 at 1-3 "Uluru Statement from the Heart", p 3; and D Freeman and N Hunter, "When Two Rivers Become One" p 174 ("The politics of treaty"). See also G. Williams and Harry Hobbs, *Treaty*, 2nd ed, Federation Press, Sydney, 2020.

Captain Cook's sealed and secret letter from the British Admiralty expressly cautioned him against laying claim to land in Australia without the agreement of the local people. Notwithstanding this instruction, and after spending five months exploring and mapping the previously unmapped eastern coast of the vast land, Cook reached the north-most tip, which he named Cape York on August 22, 1770. He then proceeded to perform what he clearly regarded as a solemn legal task. He searched for a hill from which he could look back on part of the long coastline that he had faithfully mapped and named. He also looked ahead into the Torres Strait that he would soon enter on his homeward journey. There on a hill Cook laid claim to the entire coastline of what is now Australia. He claimed it in the name of King George III, as British territory. He named the island where he had made this claim "Possession Island".[11] This act, and the subsequent repetition of it by Captain Arthur Phillip RN in 1788, is part of the asserted legal foundation for sovereignty over Australian territory of the British Crown. The claim was subsequently recognised by the Crown's courts in the United Kingdom, in the Australian colonies and in the Australian Commonwealth itself.

Generally speaking, the British officials in Whitehall took a more cautious interest in controlling the over-ready willingness of military and naval officers and civilians, far from England, to lay claim to far away territories in the name of the Crown. To do this, the British officials required, in accordance with the then understanding of international law, the consent of the local people, consent ordinarily signified by a treaty signed on their behalf. To that extent,

[11] James Cook, *Journal of HMS Endeavour*, 1768-71, National Library of Australia MS 1771.

what happed in North America and New Zealand was the fulfilment, however imperfect, of what was generally regarded as the requirement of the Law of Nations.

The clearest exception to this requirement was where the land, subject to the claim, was unoccupied or where it possessed no civilized legal order appropriate to negotiation and signature of a treaty. Captain Cook recorded in his *Journal* some, but not many, encounters with, or sightings of, Aboriginal people as *The Endeavour* proceeded up the long Australian coastline to Cape York. As we now know, the land mass behind and beyond the coastline was enormous and partly occupied.

Early colonists and explorers of Australia, prior to British settlement in 1788, treated the continent as unoccupied, or at least unoccupied by civilized people. The absence of cities or towns; the apparently impoverished condition of the few Indigenous peoples they encountered; the apparent lack of any common or written language; the limited weapons; and the apparently small number of them, proportionate to the land mass, had all been reported back to Whitehall. These descriptions became the factual foundation for an available legal theory. The vast land originally claimed for the Crown by Captain Cook was treated as basically "empty" i.e. it was *terra nullius*.[12] It was on that foundation, apparently, that the repeated claims to sovereignty by Captains Cook and Phillip were viewed as endowing legal rights upon the Crown.

[12] *Director of Aboriginal of Islander Advancement v Peinkinna* (1978) 17 ALR 129.

From later extensive anthropological research, we now know that, before Lieutenant Cook's arrival on the east coast of Australia, there was, in fact, quite a numerous population of Aboriginal First Peoples throughout the land mass. It has been estimated as somewhere between 350,000 to 1 million.[13] No one with Cook, or later with Phillip, stopped to make a genuine inspection for this purpose or even for a more accurate estimate. On the contrary, the attitude taken in the later federal Constitution seemingly proceeded on the same assumption, that the nomadic First Peoples of Australia were very few and would simply die out. Although not always deliberately, this belief seemed vindicated when a large number of the Indigenous population, close to the convict settlement at Port Jackson, died from early exposure to smallpox, brought either by the convicts or their guards or by exposure to smallpox amongst other islander people who suffered from the same disease.[14]

Throughout the 19th century, from the standpoint of the law, there was no significant improvement in the legal recognition of the rights of Australia's First Peoples. Decisions of the Australian colonial courts; of the Judicial Committee of the Privy Council in London; and of the courts of colonial and federal Australia denied recognition of Aboriginal land rights.[15] Although some legislation was enacted in more recent times to provide for recognition of the land rights of Australia's First Peoples, it was limited in its application.[16] Although in 1967, a referendum in Australia was overwhelmingly adopted,

[13] A. Bashford and S. MacIntyre (Eds), *The Cambridge History of Australia,* Vol 1: "Indigenous and Colonial Australia" Melbourne, 2013, 294 ff, "Population and Health".
[14] Ibid.
[15] *Cooper v Stuart* (1889) 14 App Cas 286 of 292. See *Mabo v Queensland [No.2]* (1992) 175 CLR 1 at 39.
[16] See for example *Aboriginal Lands Trust Act* 1966 (SA).

providing for the deletion of the exclusion of Aboriginals from the national census and adding legislative power for the federal parliament to make laws with respect to Aboriginals, these developments, though gratifying, fell far short of correcting the basic deprivation and dispossession of Australia's First Peoples. No constitutional head of power was identified to permit the High Court of Australia to overturn the historical dispossession and disadvantage. The elected Australian parliaments, federal, state and territory, did not move to do so with any resolution.

The consequence was that the Indigenous peoples of Australia suffered serious and enduring legal, economic and political disadvantages. This was basically inevitable as a result of their exclusion from the assertion, enjoyment and legal protection of their land and other property rights from the start of the "fateful encounter" with British naval and military power and with the British settlers who came with and after them.

In 1992, a long-belated challenge to this state of affairs was raised in the High Court of Australia in *Mabo v Queensland [No.2]*.[17] This case asked the court to overrule the long-existing rejection by the Australian common law of the recognition of Aboriginal land rights. By majority (6:1), the court upheld the challenge. As explained in the leading decision of Justice F.G. Brennan, there were two foundations for overturning the earlier expression of the law, notwithstanding the lengthy and repeated acceptance in Australia of "terra nullius" and the natural caution of a court of law to overturn such a settled principle of land law.

[17] (1992) 175 CLR 1.

The first foundation for change, was the evidentiary basis that questioned and challenged the suggested indifference of Indigenous Australians towards possession and control of their traditional lands. Anthropological evidence refuted this assumption and thus the applicability of the doctrine of *terra nullius* in Australia as a matter of *fact*.

Equally important, as a matter of *law,* was the Court's acceptance and recognition of a universal principle accepted in all civilized systems of law. That principle required that people should not be deprived of basic, common legal rights on the ground their race.[18] As a result, and based on these new foundations, the entitlement of the First Peoples in Australia to recognition of their land rights was accepted by the majority of the High Court of Australia. Consequential legislation to fill in the gaps was soon enacted on that footing. Subsequent cases in the High Court of Australia and in the Federal Court of Australia extended and expanded the operation of the *Mabo* principles.[19] The result has been an improvement in the legal rights of Aboriginals and Torres Strait Islanders. However, they still fall far short of the constitutional and legal rights recognised in other settler societies and accorded to the settlers and their descendants and successors.

In 2018, at a meeting of Aboriginal leaders at Uluru, in the centre of Australia, their representatives adopted a "*Statement from the Heart*".[20] This

[18] (1992) 175 CLR 1 at 42 per Brennan J. Contrast *Millrrpum v Nabalco Pty Ltd (Gove Land Rights Case)* (1971) 17 FLR 1 per Blackburn J, *Aboriginal Land Rights Act* 1976 (Cth).
[19] *Wik Peoples v Queensland* (1996) 187 CLR 1 at 255-6.
[20] *Uluru Statement from the Heart* in s Morris, *A Rightful Place: A Road Map to Recognition*, Black Inc. 1. Uluru had earlier been known as Ayres Rock.

*Statement* called for the provision to the First Peoples of Australia of a "Voice" to the Australian Parliament to overcome the political, legal and other disadvantages that Indigenous peoples had suffered since 1770. Although that request was immediately rejected by the then Prime Minister of Australia (Mr Malcolm Turnbull), it is still under consideration by the Government and people of Australia. Aboriginal representatives have made it clear that they are not seeking special, reserved seats in the Parliament of Australia. Nor are they seeking quotas for a fixed number of Aboriginal parliamentarians or ministers. They are seeking a "Voice". This expression presents certain ambiguities. The First Peoples of Australia speak to the rest of the population in a form of poetry. In the past, all too often, the majority have responded in peremptory prose. And in the negative.

The story of the settlers in Australia, and their descendants, has not been one of unmitigated injustice. At least over the past 50 years, governments of different political complexions have sought to address the disadvantages suffered by Australia's First Peoples, including in the areas of education, healthcare, housing and political rights. As the *Mabo* decision shows, the courts have sometimes responded positively to claims for novel rights and for their enforceability. As well, legislators and executive governments have recognised new rights and allocated significant funding. The lack of a constitutional charter of fundamental rights and the lack of effective federal or state legislation on rights has meant that often, Indigenous people, like other minorities in Australia, lack legal tools to invoke in their quest for equality and justice.

Enough has been said in this review to demonstrate the substantially common features of empires, in terms of political and economic impacts that flow from their sequential rise and fall. Common disadvantages in the impact of the British Empire have accompanied its many beneficial features of uncorrupted government, democratic law-making and the rule of law. Amongst the minorities who have suffered most from the inadequacies and defects of imperial power have certainly been the First Peoples of the lands that were ruled by the British. The African majority peoples in South Africa, in present-day Zimbabwe and in Kenya all suffered from the fact that their land rights were not recognised. The Indigenous First Peoples of the United States and Canada and the Māori in New Zealand all suffered inequality and injustice. Above all, the Aboriginal and Torres Strait Islanders in Australia have suffered dispossession. Only in recent decades have the first steps been taken to correct this injustice.

International human rights law has belatedly recognised the disadvantages of Indigenous peoples.[21] An important new *Declaration* has been adopted recognizing new rights – including the right to self-determination.[22] Settler societies increasingly recognise the injustices that have occurred. The need for reform is now increasingly accepted. However, it has been a long journey from the gradual dawning of enlightenment to positive action. And the disadvantage remains stubbornly resistant to change. Attitudes of superiority, hostility and indifference are common features of the successors to settler societies. New constitutional recognition and symbols are needed. Apologies for past wrongs are now more common. However, to correct the

[21] *United Nations Declaration on the Rights of Indigenous Peoples*, (2007).
[22] Ibid, arts 1-8; 30-34.

serious and persisting disadvantages, new political and economic rights are needed. The descendants of the slaves brought o North America from Africa are increasingly demanding measures for economic correction that will recognise the reassignment of economic advantages that occurred in colonial times.[23] Similar demands for economic re-adjustments are now being raised on behalf of Indigenous peoples whose disadvantages have been economic as well as spiritual and in times of intergenerational deprivations of universal rights.

In the age of empires, North Americans and Australasians have reached the end game: the Age of Decline, as the features of British and post British imperial rule dissipate. Before the empire is finally wound up, justice and universal rights demand that economic dispossession be reversed, and the Voice of First Peoples be heard in the land.

[23] United Nations General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (16 December 2005) (a/RES/60/147) See also the useful summary on "Reparations for Slavery" in Wikipedia, https://en.wikipedia.org/wiki/Reparations_for_slavery#:~:text=Reparations%20for%20slavery%20is%20the,and%20reparations%20in%20transitional%20justice.