Apology & Reparation II: United States Engagement with Near-Final Stages of Jeju 4.3 Social Healing

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I. OVERVIEW: HEALING THE PERSISTING WOUNDS OF THE JEJU 4.3 TRAGEDY

This article and its companion article – Apology & Reparation: The Jeju Tragedy Retrials and the Japanese American Coram Nobis Cases as Catalysts for Reparative Justice1 – address a pressing challenge for global communities: healing the persisting wounds of historic injustice. The articles collectively focus on the Jeju 4.3 Tragedy and South Korea’s ongoing twenty-year 4.3 reconciliation initiative,2 and they enfold the United States into that initiative in two distinct though related ways. First, through the Jeju court’s consideration of the American courts’ 1980s coram nobis reopenings of the World War II Japanese American incarceration cases as global precedent for retrying in 2018 the Jeju 4.3’s mass military convictions – with each court righting historic wrongs and serving as a catalyst for apologies and legislative reparation.3 And second, through uplifting the imperative of

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2 Officials, scholars, journalists and government documents employ differing descriptors for the collective efforts to heal the persisting wounds of the Jeju 4.3 Tragedy. “Reconciliation” and “social healing” are often used. Some scholars also employ “reparative justice” to characterize the efforts because the overall aim is to “repair” the Tragedy’s long-term damage and because United Nations’ principles of “reparation” are especially relevant. This article uses these terms interchangeably. It also employs “initiative” to signal the “repair” efforts emanating from the National Assembly’s Special Act of 2000 that started the formal investigation, recommendation, implementation and supplementation process.

U.S. participation in the final stages of the 4.3 social healing initiative for its partial, albeit significant, military responsibility for the “scorched earth” carnage and enduring suffering. Apology & Reparation I broadly described 4.3 events, the pervasive damage and horrific suffering and South Korea’s started-stalled-rejuvenated reconciliation initiative. A brief recounting is warranted for context.

Euphemistically called “an incident,” and marked by widespread violence and immense suffering, the 4.3 Tragedy [commencing on April 3, 1948] swept across an entire island of villagers during the supposed “peacetime” between World War II and the Korean War. Initiated by the U.S. Military Government and then overseen by U.S. Military officials, South Korean armed forces killed an estimated 30,000 island villagers, detained and tortured thousands more and burned down nearly all seaside villages. All fueled by the mischaracterization of Jeju as an “island of reds.”

More specifically, the article discussed the United States’ partial responsibility for the Jeju 4.3 Tragedy.

[T]he U.S. Military Government (as United Nations designated Trustee) and later the Republic of Korea (under United States oversight) carried out a “scorched earth” Jeju 4.3 “suppression operation . . . ” [G]overnment forces killed and maimed thousands of others in villages, fields and

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6 Yamamoto & Burns, Apology & Reparation I, supra note 1, at 8.
mountain hideouts, even though the villagers lacked unlawful links to communism or resistance activities. By 1949, the violence of the Tragedy left “one in every five or six islanders” dead and “more than half the villages . . . destroyed.”

Inspired by the 1980s South Korea democracy movement, the 2000 National Assembly legislated for Jeju 4.3 truth finding and reconciliation, with an emphasis on [rectifying] the suffering of victims and their families. The resulting 2003 Korean language report of the “National Committee for Investigation of the Truth About the Jeju April 3 Incident” ascertained historical facts, examined responsibility and made recommendations. Immediately after, [South Korea] President Roh Moo-Hyun visited Jeju and apologized to survivors and their families. The national government also took active steps toward social healing. But reconciliation efforts stalled after 2007.

[Even though] the beautiful peace park, the inspiring memorial as well as the informative April 3rd museum [were] established . . . the problem still exist[ed]: (a) [redress was] very limited; (b) victims still c[ould not] get any reparations because their [wrongful] status as the core group of ‘communist guerillas,’ . . . and (c) the United States’ secondary responsibility ha[d] not been discussed legally at depth yet, despite [the fact that the U.S.] also played an important role [in the Jeju Tragedy].

In this setting, as the initial article described, eighteen Jeju 4.3 survivors petitioned a South Korea court in 2017 to clear their 1948-49 wrongful mass military convictions for alleged “rebellion,” “aiding and contacting the [Communist] enemy” and “espionage.”

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7 Id. at 16-17.
8 YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 3, at 4 (citing Kunihiko Yoshida, Reparations and Reconciliations in East Asia: Some Comparison of the Jeju April 3rd Tragedy with Other Related Asian Reparations Cases, 2 WORLD ENV’T & ISLAND STUD. 79, 80–81 (2012)). The legislatively created Korea National Committee for Investigation of the Truth About the Jeju April 3 Incident is hereinafter referred to as the “National 4.3 Committee.”
9 Id. (emphasis added) (citing Yoshida, supra note 8, at 80–81).
10 See Yamamoto & Burns, Apology & and Reparation I, supra note 1, at 8.
The initial article linked the survivors-petitioners’ 4.3 retrials in 2018\textsuperscript{11} to Japanese American incarceration resisters’ 1980s coram nobis petitions\textsuperscript{12} challenging the U.S. Supreme Court’s World War II rulings\textsuperscript{13} – both cleansing decades-old manifestly unjust convictions.\textsuperscript{14}

Through the translated scholarship on the Japanese American incarceration coram nobis cases,\textsuperscript{15} the 4.3 petitioners offered [Jeju District Court] Judge Chang an international precedent – a type of template – for reopening manifestly unjust criminal convictions, decades after-the-fact, as an integral element of an ongoing reparative justice initiative. In a fashion similar to the coram nobis litigation, the Jeju survivors-petitioners more broadly sought to vindicate all 2,500 villagers wrongly mass convicted and punished. And, in important ways, they sought to uplift the justice claims of the 30,000 killed and thousands of others tortured or forcibly removed from their villages.\textsuperscript{16}

In making that linkage between the Jeju 4.3 retrials and the Japanese American coram nobis case reopenings, the article teased out similarities and differences between both court cases and tracked the impacts of latter-day liberatory judicial rulings in galvanizing key aspects of the political push for

\textsuperscript{11} Jaegal Chang et al., Korea Jeju District Court Second Criminal Department: The Decision, 9 WORLD ENV’T & ISLAND STUD. 97 (Jin Ju Moon, Chang Hoon Ko & Michael Saxton trans., 2019) [hereinafter 2019 Order Dismissing Indictments].

\textsuperscript{12} Korematsu v. United States, 584 F. Supp. 1406 (N.D. Cal. 1984); Hirabayashi v. United States, 828 F.2d 591 (9th Cir. 1987); Yasui v. United States, 772 F.2d 1496 (9th Cir. 1985).

\textsuperscript{13} Korematsu v. United States, 323 U.S. 214 (1944); Hirabayashi v. United States, 320 U.S. 81 (1943); Yasui v. United States, 320 U.S. 115 (1943).

\textsuperscript{14} See Yamamoto & Burns, Apologies & Reparations I, supra note 1, Part III.A. for further discussion.


\textsuperscript{16} Yamamoto & Burns, Apology & Reparation I, supra note 1, at 32-33.
apologies and legislative reparations in South Korea and the United States, respectively.\textsuperscript{17}

The article then drew upon human rights precepts of reparative justice\textsuperscript{18} and multidisciplinary insights into social healing\textsuperscript{19} to uplift the remarkable recent progress. It also identified remaining gaps in the reparative initiative.\textsuperscript{20}

The Jeju court’s 2019 landmark decisions expunging the convictions of the eighteen survivors and awarding substantial monetary damages were significant practically and symbolically. Yet, the decisions ironically underscored the glaring void in the larger 4.3 reparative initiative. The enduring han (“deepest pain”) of the tens of thousands of other Jeju 4.3 survivors, families and communities persisted in the face of continuing political opposition to broadscale reparations and other forms of economic justice.\textsuperscript{21}

Especially significant, the United States continued to refuse to “recognize and assume responsibility for its 4.3 role and to repair the damage,” or to acknowledge, let alone participate in, the reconciliation initiative.\textsuperscript{22}

With this in mind, in synthesizing potential next steps toward comprehensive and enduring Jeju 4.3 social healing through justice, this companion article highlights a crucial – and perhaps final – missing piece in

\textsuperscript{17} See id. at 53-55; see also Yamamoto, Pettit & Lee, Unfinished Business, supra note 5, Part V (discussing the need for a joint South Korea and United States Jeju 4.3 Task Force to further implement past recommendations and to foster comprehensive and enduring social healing through justice).


\textsuperscript{19} See generally YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, Chapters 3–4.

\textsuperscript{20} See Yamamoto & Burns, Apology & Reparation I, supra note 1, Part VI.B. for further discussion on the notable gaps in the 2021–2022 Special Act amendments.

\textsuperscript{21} Yamamoto & Burns, Apology & Reparation I, supra note 1, at 13-14. “The Special Act’s February 2021 revision established a Jeju 4.3 Trauma Healing Center and authorized minimal medical support and welfare for a limited number of survivors. But it declined to confer general reparations. For thousands who suffered directly and indirectly from the 4.3 ‘scorched earth’ carnage, reconciliation efforts remained starkly incomplete.” Id.; see Special Act on Discovering the Truth on the Jeju 4·3 Incident and the Restoration of Honor of Victims, Act. No. 17963, Mar. 23, 2021, amended by Act. No. 18745, Jan. 11, 2022 (S. Kor.) [hereinafter 2021 Jeju 4.3 Special Act], https://www.law.go.kr (search required).

\textsuperscript{22} YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 286.
the 4.3 reparative initiative: American engagement, with the United States affirmatively stepping up to its place at the 4.3 reconciliation table.

A. Intertwining the 1980s Japanese American Coram Nobis Case Reopenings and the 2018 Jeju 4.3 Military Commissions Retrials

Both the Jeju 4.3 Tragedy and the World War II mass incarceration of Japanese Americans erupted in the 1940s, marked by wartime hysteria and egregious government abuse of civilians under the falsely constructed mantle of national security. In both tragedies, those suffering eventually turned to the courts and the rule of law in democratic societies to correct the legal-historical record and repair some of the prolonged damage — invoking the language and principles of civil and human rights. Decades after-the-fact, courts in the two countries opened public eyes to help alter public consciousness about the grave historical injustice with continuing consequences. Both catalyzed acceptance of government responsibility for historic civil and human rights transgressions and helped generate long-awaited broadscale legislative action aimed at reconstruction and reparation. The reparative justice initiatives in both countries served as “cautionary tale[s] of grave injustice arising out of popular fears, 

23 See Ko & Cho, Some Insights on 18 Jeju 4.3 Survivors’ Retrial Cases, supra note 3, at 33.

24 See Jaegal Chang, Each Retrial Shall be Initiated for the Decision to be Re-judged: Decision About Case: 2017 Inventory Hub–4, 8 WORLD ENV’T & ISLAND STUD. 117, 118 (Chang Hoon Ko & Michael Saxton trans., 2018) [hereinafter 2018 Order Reopening 4.3 Mass Convictions]; see generally Korematsu v. United States, 584 F. Supp. 1406 (N.D. Cal. 1984); Hirabayashi v. United States, 828 F.2d 591 (9th Cir. 1987); Yasui v. United States, 772 F.2d 1496 (9th Cir. 1985).


opportunistic politicians, [dissembling officials, on matters of national security,] and deferential courts.”

As developed in Part III of the companion article, at the outset of the case, in response to Jeju District Judge Chang’s query, the 4.3 petitioners’ advocates suggested that the Jeju court view the Japanese American coram nobis reopenings as a kind of international precedent. Nearly forty years after the initial 1944 Korematsu Supreme Court ruling, newly discovered World War II government documents presented in the coram nobis cases compelled the federal courts to invalidate the convictions of resisters Korematsu, Hirabayashi and Yasui. Those documents revealed a “scandal without precedent in the history of American law.” More specifically, the resisters’

coram nobis petitions asserted that newly discovered government wartime documents unequivocally demonstrated that: (1) no military necessity existed to justify the racial exclusion and imprisonment, (2) government decision-makers knew this and yet proceeded with the mass incarceration, and (3) the government suppressed and manufactured crucial evidence on pressing public necessity

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28 Margaret Chon, Remembering and Repairing the Error Before Us, In Our Presence, 8 SEATTLE J. FOR SOC. JUST. 643, 645–47 (2012) [hereinafter Chon, Remembering and Repairing the Error Before Us] (describing the writ of coram nobis as a vehicle for reopening badly tainted convictions and repairing the continuing damage by correcting court records and constructing a new memory of the injustice).

29 Ko & Cho, Some Insights on 18 Jeju 4.3 Survivors’ Retrial Case, supra note 3, at 33.

30 Yamamoto & Oyama, Masquerading Behind a Façade of National Security, supra note 27, at 688, 698 (discussing the behind-the-scenes U.S. maneuvers revealing egregious governmental misconduct both in the original mass racial incarceration decisions and in the judicial prosecution of the Japanese American resisters during World War II).


32 Yamamoto & Oyama, Masquerading Behind a Façade of National Security, supra note 27, at 694 (quoting Peter Irons, Justice at War: The Story of the Japanese Internment Cases viii (1983)).
in its presentations to the Supreme Court, in effect defrauding the Court and the American public about the legality – and legitimacy – of “the internment.”

And the federal courts’ mid-1980s coram nobis decisions cleared the names of thousands of Japanese Americans and contributed to a notable measure of social healing through the U.S. Civil Liberties Act of 1988 and its congressional and presidential apologies and symbolic reparations.

As also developed in Part III, like the U.S. courts in the Japanese American coram nobis cases, in September 2018 the Jeju court reopened the eighteen survivors’ sham convictions rooted in mischaracterizations of communist threats to national security. Deeply moved by the Jeju survivors’ personal stories of suffering, Judge Chang vacated their seventy-year-old convictions. On retrial, with South Korea watching, the Jeju judge issued a landmark ruling formally dismissing the indictments, clearing the criminal records of the eighteen survivors and effectively exonerating the 2,500 others wrongfully convicted. In August 2019, the Jeju judge followed with an award of substantial monetary damages for each petitioner.

33 Yamamoto, In the Shadow of Korematsu, supra note 27, at 37.
35 Id.
36 See 2018 Order Reopening 4.3 Mass Convictions, supra note 24, at 118. See Yamamoto & Burns, Apology & Reparation I, supra note 1, Part II.A. for more discussion on the mischaracterization of Jeju as the “Island of Reds.”
More remained, though, for the larger 4.3 reparative initiative.

B. What’s Missing from the Jeju 4.3 Social Healing Initiative Even After Judge Chang’s Rulings?

Judge Chang’s path-forging rulings ironically underscored the yawning reparations void for most 4.3 victims and families. Economic justice awaited.40

In partial response, the Korean Nation Assembly revised the Jeju 4.3 Special Act (originally enacted in 2000 and amended in 2016).41 But the February 2021 amendments still abjured general reparations for thousands who suffered.42 Then, in response to further Jeju community grassroots advocacy, political lobbying, scholars’ assessments and research analyses, in December 2021, the National Assembly authorized substantial individual payments to over 10,000 designated victims and family members of the 4.3 Tragedy.43 A legislative reparations landmark.

Important gaps nevertheless remained. As Part VI of the first article developed, the most recent Special Act revisions imposed strict eligibility requirements – a remaining impediment to broadscale economic support for potentially thousands of other family members.44 It also failed to uplift


41 See 2021 Jeju 4.3 Special Act, supra note 21.

42 See id.; Ho-joon Heo, Revised Jeju 4·3 Special Act Now Effective, but With What Improvements?, Jeju 4·3 Peace Found. (Oct. 5, 2021), http://jeju43peace.org/revised-jeju-4%e2%80%93special-act-now-effective-but-with-what-improvements/. Some of the Jeju residents most harmed – those living in poverty or with severe disability – remained excluded from broadscale reparations. See Yamamoto & Burns, Apology & Reparation I, supra note 1, Part V.C.


44 See Yamamoto & Burns, Apology & Reparation I, supra note 1, Part VI.B.1 for further discussion on the Jeju 4.3 Special Act’s eligibility barriers for intergenerational survivors.
tailored “capacity-building” economic justice and tended to overlook the voices and suffering of women sexual violence survivors.

Perhaps most significant, the 2021-2022 legislation avoided acknowledging a main missing piece in the reparative initiative – the United States’ presence at the Jeju 4.3 reconciliation table. Two questions reverberated. Would the United States expressly acknowledge its partial, though crucial, responsibility for the Tragedy? And would it mutually engage with next – and potentially final – reparative steps toward comprehensive and enduring 4.3 social healing through justice?

C. Calls from Researchers, Residents, Human Rights Groups and Scholars for United States Participation in Jeju 4.3 Social Healing

Indeed, contemporary American and South Korean scholars, researchers, historians and human rights organizations collectively called upon the United States to engage in the 4.3 reparative initiative. Most significant, building on its investigation and detailed findings, South Korea’s National 4.3 Committee ascertained that the United States, as trustee, initiated the armed

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46 Rimhwa Han, Cases of Sexual Assault Committed to Local Women During Jeju 4.3 Incident, 5 WORLD ENV’T & ISLAND STUD. 185, 189–95 (Ae-Duck Im trans., 2015); Tae-Ung Baik, Social Healing Through Justice: Jeju 4.3 Case, 2 WORLD ENV’T & ISLAND STUD. 59, 64 (2012); see YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 154–55, 219–20. See also Yamamoto & Burns, Apology and Reparation I, supra note 1, Part VI.B.3. for further discussion on the absence of reparative justice for female sexual violence survivors.

47 See 2022 Jeju 4.3 Special Act, supra note 26.

48 See YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 137 (highlighting “American and South Korean historians and reparative justice scholars [who] have . . . called for present-day United States participation to examine the existing record and clarify the extent and limits of [the United States’] responsibility and to engage with further Jeju 4.3 social healing efforts”).

forces’ scorched earth devastation and then retained operational control over security forces in Korea.\(^{50}\) Most noteworthy, the 4.3 Committee concluded that the 4.3 widespread violence

occurred under the US Military Government regime and the US Army Colonel in Jeju directly commanded the Suppression Operation. The US Army continued Operational Control on Korea after the establishment of the Republic of Korea under the US/Korea Military Convention and supplied weapons and observation aircrafts for the Suppression Operation.\(^{51}\)

The United States’ collective actions – direct military orders and years of knowing complicity – ascribed partial U.S. responsibility.\(^{52}\)

Prior to the National 4.3 Committee’s 2003 report, at least two American scholars determined that the U.S. Military Government initiated and directed central parts of the 4.3 devastation.\(^{53}\) John Merrill, former Northeast Asia Bureau director for the U.S. State Department, determined that

The U.S. “Military Government’s use of right-wing youth groups that employed terroristic methods” contributed significantly to the bloodshed. Moreover, a “Vietnam-like syndrome in which commanders competed to accumulate impressive statistics on casualties inflicted on the guerillas also contributed to the heavy death toll [of civilians].” Intense “political pressure to clean up the rebellion and the tactics of area clearance used by the government forces” blurred the “distinction between civilians and guerillas.”\(^{54}\)

Merrill also found that even after the establishment of the Republic of Korea, American officials remained “present as advisors throughout the pacification campaign and should have attempted to modify the excessive

\(^{50}\) See 4.3 INVESTIGATION REPORT, supra note 40, at 333–34 (describing a Korean military commander recalling the U.S. Military Governor “emphasiz[ing] that the only way to settle the Jeju 4.3 incident quickly was a scorched earth strategy”).

\(^{51}\) 4.3 INVESTIGATION REPORT, supra note 40, at 654.

\(^{52}\) See GREGORY MELLEMA, COMPPLICITY AND MORAL ACCOUNTABILITY 19–20 (2016) (recognizing that the failure to prevent tragedy constitutes complicity when one has power and is morally bound to prevent what happens).

\(^{53}\) See YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 137–41.

\(^{54}\) See id. at 13.
brutality with which the operations were often conducted.” He therefore concluded that the “excuse that these excesses were inevitable . . . is unconvincing” and that the “question of American responsibility and role in the rebellion [still] has to be addressed.

Following Merrill’s preliminary assessment, historian Bruce Cumings’ extensive research affirmed the United States directed extensive suppression operations, including “the daily training of counterinsurgent forces, interrogation of prisoners, and the use of American spotter planes to ferret out guerrillas.” He cited “formerly classified American materials [that document a] wholesale assault on the [Jeju] people.” Cumings maintained that “[i]f it should come to pass that any Koreans succeed in gaining compensation from the American Government for the events of 1945 to 1953, certainly the people of [Jeju] should come first.”

George Katsiaficas, Professor of Asian Politics and U.S. Foreign Policy, also concluded that the United States played an active role in the Tragedy. Katsiaficas declared Jeju 4.3 as “the worst single massacre under the post-war U.S. military government . . . and has yet to be acknowledged by the United States.”

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55 John Merrill, *The Cheju-Do Rebellion*, 2 J. KOREAN STUD. 139, 184, 196 (1980). [hereinafter Merrill, The Cheju-Do Rebellion] (determining that during a “final push to try to clear the island of guerillas . . . many innocent persons were killed . . . 630 persons were killed in a single week . . . a tremendous amount of overkill”). See 4.3 INVESTIGATION REPORT, supra note 40, at 441.

56 Id. at 196.


58 See id.


61 George Katsiaficas, *Why Many South Koreans Fear the U.S.*, EROS EFFECT – GEORGE KATSIAFICAS, https://www.eroseffect.com/articles/why-many-south-koreans-fear-the-us (last visited Aug. 17, 2022) (cautioning that until “Americans acknowledge and accept responsibility for the tragic actions of our government [like the mass killings at Jeju], many Koreans will regard us with fear, hostility, and suspicion”); *see KATSIAFICAS, ASIA’S UNKNOWN UPRISINGS, supra note 60, at 92, 96; see also* Yang Han Kwon, *The Truth About
Following the publication of the 2013 English translation of the National 4.3 Committee’s report, law professor Eric K. Yamamoto and researchers Miyoko Pettit-Toledo and Sara Lee observed that U.S. military leadership issued direct orders to the South Korean armed forces, triggering and sustaining the 4.3 Tragedy.\(^{62}\) The American researchers also confirmed that the “United States, thus far [] has not acknowledged the extent of its role as trainer, initiator, initial director and later overseer” of 4.3 events.\(^{63}\)

Similarly, in 2016 American reparations scholar Carlton Waterhouse observed that the “United States has not been an official part of South Korea’s investigation.”\(^{64}\) Waterhouse maintained that the United States bears a duty to examine the tragedy to openly address its responsibility for proper redress.

As the commanding military force, at the time, the United States has an obligation to openly examine its role in the tragedy and its responsibility to the victims today. Doing any less would raise questions about the value and worth the United States has placed on the lives of these victims that their soldiers were ostensibly deployed to protect.\(^{65}\)

South Korean scholars, too, highlighted the pressing need for United States engagement.\(^{66}\) Professor Chang Hoon Ko of Jeju National University reported that at a minimum, Jeju islanders “strongly desire the US government to tell the truth about the US government role [in] the Jeju 4.3 Uprising and Grand Massacre.”\(^{67}\) Along with Japanese reparations scholar Kunihiko Yoshida,\(^{68}\) Ko urged United States participation in a “[b]alanced

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\(^{62}\) 4.3 INVESTIGATION REPORT, supra note 40 (describing the direct U.S. role in operations in Jeju); Yamamoto, Pettit & Lee, Unfinished Business, supra note 5, at 57.

\(^{63}\) Yamamoto, Pettit & Lee, Unfinished Business, supra note 5, at 59.

\(^{64}\) Carlton Waterhouse, Reparations: The Problems of Social Dominance, in JEJU 4.3 GRAND TRAGEDY DURING ’PEACETIME’ KOREA: THE ASIA PACIFIC CONTEXT (1947–2016) 333, 344–45 (2016) (recognizing that despite the South Korean government’s actions to “prominently honor[] victims of the tragedy,” without United States participation, the “reparative process remains incomplete”).

\(^{65}\) Id. at 345.

\(^{66}\) YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 141–42.

\(^{67}\) Chang Hoon Ko, US Government Responsibility in the Jeju April Third Uprising and Grand Massacre: Islanders’ Perspective, 8 LOCAL GOV’T STUD. 123, 126–27 (2004) (confirming that Jeju Island and its residents were incorrectly labeled a “Red Island,” and the residents were instead part of a “civil rights movement concerned with peace and individual rights”).

\(^{68}\) See Yoshida, supra note 8, at 79–81.
implementation of a short term action plan on the long term vision of social healing of the Jeju April 3 tragedy."\(^{69}\)

Professor Tae-Ung Baik, formerly of South Korea and now a United States expert in international human rights and Korean law, observed that the United States “used its power to strengthen the rightist political factions while cracking down on leftist groups” in Jeju.\(^{70}\) By identifying the United States as a culpable actor in the 4.3 devastation, he pushed for an important measure of U.S. accountability to “achiev[e] transitional justice in Korea.”\(^{71}\)

Jeju 4.3 advocacy groups and human rights organizations joined the campaign to compel U.S. participation. In 2018, on the seventieth anniversary of the Tragedy, the Association of Bereaved Families of the 4.3 Victims, the Memorial Committee of the 70th Anniversary of the Jeju April 3rd Uprising and Massacre and the Pan-National Committee for the 70th Anniversary of Jeju April 3rd prominently authored a joint letter calling out the absence of U.S. participation in 4.3 social healing.\(^{72}\) These groups uplifted the imperative of U.S. engagement, proclaiming that the “U.S. administration[s] that should have taken responsibility have remained ‘bystanders’ and not said a word for [seventy] long years.”\(^{73}\)


\(^{71}\) Id. at 94–111.

\(^{72}\) See Keum-bi Hwang, Jeju Citizens Demand US Apology for Apr. 3 Massacre, HANKYOREH (Apr. 9, 2018) [hereinafter Hwang, Jeju Citizens Demand US Apology for Apr. 3 Massacre], https://english.hani.co.kr/arti/english_edition/e_national/839789.html; see also Yonhap, Parties Mark 70th Anniv. of Jeju April 3 Incident With Varied Interpretations, KOREA HERALD (Apr. 3, 2018), http://m.koreaherald.com/view.php?ud=20180403000545 (reporting on the joint letter rejecting the conservative framing of the incident as a revolt by communists “stag[ing] guerrilla warfare” that resulted in the government carrying “out a strong crackdown . . . which caused damage to Jeju civilians”).

\(^{73}\) Hwang, Jeju Citizens Demand US Apology for Apr. 3 Massacre, supra note 72; see also Assoc. of Bereaved Families of Victims of the Jeju Apr. 3rd Uprising for Historical Truth, WHO ARE THE TRUE VICTIMS OF THE JEJU APRIL 3RD UPRISING? 4–5 (2013) (“The truths and lessons of the Jeju Uprising have yet to be fully unearthed.”).
Similarly, a broad-based United Nations convening in 2019 resulted in a demand for United States participation in the 4.3 reparative initiative.⁷⁴ Academics, “human rights experts, journalists, diplomats, religious leaders, and peace activists” urged present-day U.S. involvement in the 4.3 truth and reconciliation process.⁷⁵ In response to a flurry of international media coverage, human rights groups, including the East Asian Network for Democracy, Peace and Human Rights, advocated for the establishment of international 4.3 peace networks.⁷⁶ The Jeju World Peace Academy encouraged the U.S. Congress to pass a “Jeju 4.3 Human Rights and Peace Island Act 2021.”⁷⁷ Together, their calls for globalizing the Jeju 4.3 social healing initiative with active United States participation bolstered an international conscious-raising effort – “to finally leave the dark cave and emerge into the light of truth.”⁷⁸

II. UNITED STATES ENGAGEMENT IN JEJU 4.3 SOCIAL HEALING

The United States, however, responded, and continues to respond, with silence. In the early 2000s it shunned requests to actively participate in the South Korea National 4.3 Committee’s inquiry.⁷⁹ Nor did it later engage in the reparative process. As the working principles of reparative justice suggest, some meaningful level of United States engagement will likely be essential for healing the enduring wounds of 4.3 survivors, families and

⁷⁴ See Int’l Center for Transitional Justice, Jeju 4.3: A Dark Chapter in Korean History Revealed at UN, MEDIUM (July 1, 2019), https://medium.com/@ICTJ/jeju-4-3-holds-historic-event-at-un-3c6e9976273a?text=June%2020%2C%202019%20%E2%80%9994%20%E2%80%9D%20event-at-un (Ruben Carranza, director of the International Center for Transitional Justice, envisioning a joint United States and South Korea 4.3 truth commission).

⁷⁵ See id.


⁷⁷ Chang Hoon Ko, Korean Jeju 4.3 Human Rights and Peace Island Act 2021: A Righteous Social Healing of Jeju 4.3 Grand Tragedy Through Jeju Massacre Consultation, 9 WORLD ENV’T & ISLAND STUD. 221, 221 (2019). The suggested “Jeju 4.3 Human Rights and Peace Island Act 2021” was based on the Jeju National University student’s 2019 “Jeju 4.3 Reconciliation Act” proposal. Id. at 226–27. This proposed act referenced the U.S. Civil Liberties Act of 1988 and made parallels to the reparative justice claims of the Korematsu coram nobis case to stress the importance of U.S. participation in Jeju 4.3 social healing. Id.


⁷⁹ See Jae-Jung Suh, Truth and Reconciliation in South Korea: Confronting War, Colonialism, and Intervention in the Asia Pacific, 42 CRITICAL ASIAN STUD. 503, 520 (2010) ("[T]he collective amnesia . . . can be seen not only in the [United States’] almost total refusal to acknowledge any wrongdoing by U.S. forces in [South] Korea but also in the complete denial of American culpability [for Jeju events].").
communities and for South Korean society itself. The Biden administration’s 2022 renewed commitment to human rights, and particularly the human rights reparative justice regime, opens the door.

A. U.S. Commitment to Repair the Damage of Its Human Rights Transgressions – Strengthening American Legitimacy as a Democracy Committed to the Rule of Law

With the United States facing manifold pressing geopolitical challenges, what might compel American policymakers and leadership to engage in the final stages of the Jeju 4.3 reparative justice initiative? One answer lies in the United States’ renewed commitment to international human rights – including reparative justice – and its interest in restoring its damaged global stature as a leading democracy. 80

1. The United States’ Recent Renewed Commitment to Repair the Damage of Its Past Human Rights Injustices

The United States’ strong interest in revitalizing its stature impelled newly-elected President Biden to embrace America’s renewed commitment to accountability for human rights transgressions. 81 Early in his presidency, Biden announced the Presidential Initiative for Democratic Renewal.

The United States has long worked to strengthen democracy and advance respect for human rights. Not only is this the right thing to do, it is in the United States’ national security interest, because strong, rights-respecting democracies are more peaceful, prosperous, and stable. 82

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80 See YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, Chapter 12 for more discussion on the United States’ interest in manifesting democratic legitimacy.


Following up, in mid-2022, Biden’s Secretary of State Anthony Blinken uplifted the United States’ pledge to repair the damage of its own serious human rights violations.83 Marking the release of the United States “2021 Country Reports on Human Rights Practices,” Blinken underscored America’s strong “interest in standing up for human rights.”84 Moreover, recognizing the “vital” importance of human rights credibility to America’s “enduring security and prosperity,” Blinken also acknowledged the United States’ need to “hold [itself] accountable” for the damage of its own civil and human rights “shortcomings.”85 Indeed, the President conceded that on American soil the United States “know[s] that it is long past time to confront deep racial inequities and the systematic racism that continue to plague our nation.”86

In recent years, the United States has deployed charges of human rights violations against other countries to constrain their abusive conduct.87 Secretary of State Blinken endorsed that tactic, announcing that “a country that’s perpetrating gross and systematic violations of human rights shouldn’t sit on a body whose job it is to protect those rights.”88 In light of these pronouncements, Blinken’s acknowledgment of the United States’

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85 Blinken, Human Rights Remarks, supra note 81.


87 See, e.g., Blinken, Human Rights Remarks, supra note 81 (referring to abuses by Russia, China, Afghanistan, Ethiopia and others).

88 Id. For example, “[a]fter regaining a seat on the UN Human Rights Council” in October 2021, the United States “led a successful effort to suspend Russia from that [Council].” Id. The United States Treasury Department also “appl[ied] sanctions and impose[d] visa restrictions on human rights abusers and those who enable and profit from them through the Global Magnitsky Act, the Khashoggi Ban, and other tools.” Id.
“responsibility to address [its human rights] shortcomings” appeared to mark America’s bold step forward on rule-of-law accountability.89

2. The United States’ Failure to Acknowledge Its Own Human Rights Injustices

These rhetorical commitments, while empowering, also opened American leadership to charges of hypocrisy. The United States’ follow-through actions await.90

After World War II, the United States repeatedly denied redress for 2,300 innocent Japanese Latin Americans (JLAs).91 The United States orchestrated the abduction of JLAs from their home countries during the war and incarcerated them in U.S. concentration camps because of their Japanese ancestry.92 After years of harsh imprisonment, the United States government released the JLAs.93 But it designated them “illegal aliens,” ignoring the grave injustice of their race-based abduction and incarceration, maintaining that the JLAs entered the United States “without permission.”94 The government’s grave mislabeling of the JLAs generated immense suffering as JLAs struggled to rebuild broken lives.95

Compounding the injustice, the U.S. Civil Liberties Act of 1988, aimed at repairing some of the damage suffered by Japanese Americans incarcerated during World War II, excluded JLA survivors on the ironic grounds that JLAs failed to possess U.S. citizenship or legal permanent residency at the time of

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89 Id.; see also Biden, Statement on Black History Month, supra note 86.
92 Yamamoto, Reluctant Redress, supra note 91, at 134–36. During World War II, the United States orchestrated the kidnapping of thousands of Japanese Latin Americans and their transportation to the United States and incarceration in American “internment” camps. Id. The majority of these JLAs were Peruvian citizens of Japanese ancestry with no ties to Japan other than race. Id. See also Shibayama v. United States, 55 Fed. Cl. 720, 723 (2002).
93 Yamamoto, Reluctant Redress, supra note 91, at 134–36.
94 Id.
95 Id.
their wartime internment. Moreover, the subsequent Mochizuki class action lawsuit against the U.S. for JLA inclusion in the Act further salted the wounds of injustice. The suit’s putative settlement offered only $5,000 per individual JLA if reparations money remained after payment of Japanese Americans – none remained – and a boilerplate apology that excluded recognition of the JLA’s circumstances and suffering and the United States’ responsibility for human rights transgressions. The trauma persisted through generations.

In 2020 the Inter-American Commission on Human Rights produced a groundbreaking investigative report implicating the United States’ role in the JLAs’ prolonged suffering. It concluded that the U.S. government violated the JLAs’ human right to equality and denied them the human right to a meaningful remedy for the government’s human rights violations in excluding the JLAs from the Civil Liberties Act’s redress. President Biden acknowledged the United States’ role in this JLA injustice in his February 2022 Day of Remembrance annual statement on the World War II Japanese American incarceration – the first such presidential acknowledgment. The President, however, did not undertake or even signal proactive U.S. measures to repair the damage.

As the Black Lives Matter demonstrations revealed to American and international populaces, the United States also avoided full reckoning with the persisting harms of slavery, Jim Crow segregation and continuing

96 Id. (finding that illegally interned JLAs applied for redress under the Civil Liberties Act of 1988, but the U.S. government denied their claims because they were not citizens or permanent resident aliens at the time of incarceration); see Shibayama, 55 Fed. Cl. at 739–40.
98 See Yamamoto, Reluctant Redress, supra note 91, at 134–36.
101 See id.
103 See id.

Moreover, the United States committed to and then at least partially reneged upon its reconciliation promise to Native Hawaiians.\footnote{105}{See, e.g., YAMAMOTO, BANNAI & CHON, RACE, RIGHTS AND NATIONAL SECURITY, supra note 25, at 83–85 (describing present day, persisting harms and reduced productivity resulting from internalized negative cultural stereotypes).}


The resulting social divisions, acrimony and diminished productivity continue.\footnote{107}{See NATIVE HAWAIIAN LAW: A TREATISE, supra note 106, at 41; Troy J.H. Andrade, Legacy in Paradise: Analyzing the Obama Administration’s Efforts of Reconciliation with Native Hawaiians, 22 MICH. J. RACE & L. 273, 278 (2017) [thereinafter Andrade, Legacy in Paradise] (highlighting that the Apology Resolution “set forth an apology on behalf of the American people for the actions of Americans in supporting and orchestrating the overthrow of the [Hawaiian] Kingdom and called for reconciliatory efforts between Native Hawaiians and the United States”).}

Many of the government’s promises for follow up reparative action, though, withered on political vines.\footnote{108}{See NATIVE HAWAIIAN LAW: A TREATISE, supra note 106, at 41; (recognizing that the “Apology Resolution contains strong findings, establishes a foundation for reconciliation, and calls for a reconciliation process. It does not, however, require restorative action or even set forth a process for reconciliation”); Andrade, Legacy in Paradise, supra note 107, at 278 (spotlighting that though “the time was opportune for true reconciliation” for Native
In failing to follow through and fully address, and in appropriate ways redress, the continuing wounds through generations, the United States’ renewed pledge to uplift human rights rings somewhat hollow – potentially eliciting a charge of hypocrisy.\textsuperscript{109}

3. The United States’ Opportunity to Strengthen Democracy by Assuring That “It” Will Not Happen Again

United States political leadership now possesses an opportunity to partially attenuate a charge of hypocrisy and to strengthen American legitimacy as a democracy.\textsuperscript{110} Through engagement with the Jeju 4.3 initiative, the United States would potentially foster an interest-convergence: healing the wounds of those still suffering while endeavoring to live up to human rights precepts of reparative justice.\textsuperscript{111} In acting upon its recent recommitment to human rights accountability, the United States would demonstrate acceptance of its

\textsuperscript{109}See Rogin, The Supreme Court has Undermined U.S. Credibility on Human Rights, supra note 90. Macarena Saez, executive director of the Women’s Rights Division at Human Rights Watch, highlighted that the “U.S. is aligned today with those very countries that the U.S. has often criticized for its violation of human rights, including the way in which women and girls are treated . . . . The U.S. is now an outlier in terms of democracies.” See also Blinken, Human Rights Remarks, supra note 81.

\textsuperscript{110}FERNANDO R. TESON, HUMANITARIAN INTERVENTION 15–16 (2d ed., 1999) (Fernando Teson, a renowned author on humanitarian intervention, observing that “a government that engages in substantial violations of [civil or] human rights betrays the very purpose for which it exists and so forfeits not only its domestic legitimacy, but its international legitimacy as well”).

\textsuperscript{111}See Derrick A. Bell, Jr., Brown v. Board of Education and the Interest-Convergence Dilemma, 93 HARV. L. REV. 518, 522 (1980) (observing that parties with power tend to repair the damage to vulnerable communities only when doing so uplifts their larger interests). An extension of this thesis “predicts that a society’s (and its government’s) interest in repairing persisting damage converges with the interest of those harmed when the reparative actions restore or enhance the society’s stature as a democracy actually (not just professedly) committed to the rule of law and particularly civil liberties and human rights.” YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 237; see also Eric K. Yamamoto, Sandra Hye Yun Kim & Abigail M. Holden, American Reparations Theory and Practice at the Crossroads, 44 CAt. W. L. REV. 1, 67–74 (2007) (articulating how a modified interest-convergence theory offers a strategic approach to compel government actors to join reparative initiatives).
“responsibility to address [its human rights] shortcomings.” With the benefits of human rights accountability in mind, Secretary of State Blinken acknowledged in 2022 that “practicing what we preach at home gives us greater legitimacy” as a democracy. Indeed, that kind of human rights accountability is “critical to sustaining healthy democracies” worldwide.

Accountability for U.S. human rights violations on foreign soil, as well as “at home,” is also essential to democratic legitimacy. Sarah Yager, Washington director of Human Rights Watch, welcomed the U.S. Human Rights Report, but also highlighted its failure to particularize the United States’ international transgressions. She chided the United States government to extend the reach of the U.S. reparative justice commitment to encompass American human rights violations on foreign land.

In sum, the United States’ renewed commitment to human rights and reparative justice casts into sharp relief its refusal to participate in the Jeju 4.3 social healing initiative. And, for reasons discussed below, it also opens a pathway for U.S. engagement.

What might that pathway look like practically? Social healing through justice often initially entails “a vehicle for cogent historical fact-finding (encouraging official recognition) and expansive public consciousness-shifting through intensive political education (for accepting responsibility)” – steps often serving as the foundation for affirmative reparative actions.

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112 Blinken, Human Rights Remarks, supra note 81.
113 Id.
114 Id.
115 See id.
118 See id.
119 See 4.3 INVESTIGATION REPORT, supra note 40, at 57–58 (describing the National 4.3 Committee’s difficulties in obtaining Jeju-related documents from United States officials); YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, Chapter 10.
That vehicle for the United States might take the form of a multi-layered U.S.-Jeju 4.3 Truth Committee sponsored by the legislative or executive branches; or a U.S. executive branch ad hoc 4.3 task force; or, after internal inquiry, a Congressional decree or a Presidential declaration.

Any of these vehicles, and especially the most logistically simple, a presidential declaration, might recommend as a reparative starting point a meaningful United States apology to Jeju 4.3 survivors and communities. Shaped both by international reparative justice precepts and South Korean cultural norms, an apology would likely mark a cogent step toward comprehensive 4.3 social healing.


120 See YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, Chapter 4 (offering a social healing through justice framework comprised of the 4Rs—recognition, responsibility, reconstruction and reparation); Chon, Remembering and Repairing the Error Before Us, supra note 28, at 643 (highlighting that “[t]he primary purpose of reparations is to repair past harm, then reparations should first include a backward-looking mechanism to remember the harm accurately from the point of view of those harmed and then a forward-looking mechanism to correct past harm that has ‘hardened’ into present everyday practices”).

121 See id. at 206 (describing each of these potential vehicles for U.S. reparative engagement).

122 See id. at 206–10.

123 See infra Part III.B. for discussion of apologies and Korean cultural norms.

124 Basic Principles and Guidelines on Reparation, supra note 18 (“Affirming the importance of addressing the question of remedies and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law.”).

125 See Yamamoto and Burns, Apologies & Reparations I, supra note 1, Part VI.A; YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 238–
for Reparation encompass far more than monetary payments for human rights violations victims. To the extent feasible, they aim to restore the physical, emotional and financial well-being of those harmed. Setting forth concrete multifaceted forms of reparation, the Basic Principles and Guidelines for Reparation target restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

In addressing America’s accountability for its human rights “shortcomings” – including its partial responsibility for the Jeju Tragedy – the United States might draw from these forms of reparation in fashioning appropriate justice measures that resonate with the Jeju people. Although some forms of reparation, for instance restitution, may be impracticable in light of the passage of time and remedial actions already taken by the South Korean government, satisfaction, the broadest reparation form, might offer the most effective path forward.

As conceived by the United Nations Human Rights Commission, compensation entails “verification of the facts and full and public disclosure of the truth” and satisfaction entails an “official declaration [apology] . . . restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim.”

40 (distilling international human rights precepts of reparative justice); see generally Basic Principles and Guidelines on Reparation, supra note 18.

127 Basic Principles and Guidelines on Reparation, supra note 18, ¶ 19 (“Restitution should . . . restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred.”).

128 Id. ¶ 20 (“Compensation should be provided for any economically assessable damage . . . resulting from gross violations of international human rights law and serious violations of international humanitarian law.”).

129 Id. ¶ 21 (“Rehabilitation should include medical and psychological care as well as legal and social services.”).

130 Id. ¶ 22 (listing the measures of “[s]atisfaction”).

131 Id. ¶ 23 (listing the measures of “[g]uarantees of non-repetition”).

132 Blinken, Human Rights Remarks, supra note 81.

133 See YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 238–40.

134 Basic Principles and Guidelines on Reparation, supra note 18, ¶ 15 (“Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law.”).

135 Id. ¶ 22(d).
(rebuilding relationships through performative apologies, institutional restructuring and creation of a new resonant narrative of the injustice). Through those threshold reconstructive actions, the United States would demonstrate its renewed human rights commitment to repair the damage of past transgressions. And as developed below, an appropriate U.S. public apology to the Jeju people might well ignite final steps in the 4.3 social healing initiative.

Moreover, guarantees of non-repetition, another form of reparation, conveyed as a part of an apology, may prove to be pivotal in light of compelling U.S. geopolitical challenges and rising tensions in Asia and beyond. An apology proactively conveying a guarantee of non-repetition reflects the reconstruction tenet’s commitment to alter institutions and public understandings so that past military or national security power abuses will not be replicated in the future — so that “it” will not happen again to anyone. Guarantees of non-repetition include “[p]romoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises.”


137 See Yamamoto, Oyama & Katano, Reconciliation Revitalized Through an Official Apology for the Wrongful Jeju 4.3 Mass Convictions, supra note 136, at 183; see also Natsu Taylor Saito, Redressing Foundational Wrongs, 51 U. TOL. L. REV. 13, 31 (2019) [hereinafter Saito, Redressing Foundational Wrongs]. Professor Saito observed that “in the struggle for reparations, we are not asking for redress from the state because it would be the moral or politically correct thing to do (though we may also be making that claim); we are asking for compliance with the rule of law” and the United States has long promoted itself as a champion of the global rule of law. Id.

138 See Basic Principles and Guidelines on Reparation, supra note 18, ¶ 18, 23.

139 YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 227 (discussing how “restructuring could target human rights protections for Jeju civilians to assure the populace that ‘it’ would not happen again”).

140 Basic Principles and Guidelines on Reparation, supra note 18, ¶ 23(f).
Commitment to non-repetition is especially significant for Jeju communities in light of the decade-long controversy over the Jeju Naval Base construction.\textsuperscript{141} In 2005 the South Korea government named Jeju as the “Island of World Peace.”\textsuperscript{142} Yet, “with the recently completed naval base on Jeju [partially on 4.3 land], peace on the island appeared to be illusive.”\textsuperscript{143} The Jeju Naval base – for apparent partial United States usage – “strengthen[ed South Korea’s] ability to counter North Korea’s miscalculations and further enable[d] its access to the open seas.”\textsuperscript{144} But its construction in the face of strident resident opposition failed “to address the grievances of those who live there.”\textsuperscript{145} Gyung-Lan Jung, Chairperson of South Korea’s Women Making Peace Commission, captured the “inflamed Jeju survivors, descendants and human rights supporters’ sense of 4.3 injustice,”\textsuperscript{146} proclaiming,

Jeju still has the memory of the massive state violence of 4.3

. . . . Even now 60 years on, the people of Jeju Island who lost members of their families and have been living with

\begin{footnotes}


\item[143] YAMAMOTO, \textit{HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE}, supra note 4, at 227; see Hilty, \textit{Island of Peace? The Peace Culture of Jeju}, supra note 142; see generally Kath Rogers & Kaimipono David Wenger, \textit{Environmental Justice Reparations for Jeju Island}, \textit{7 World Env’t & Island Stud.} 95 (2017) [hereinafter Rogers & David, \textit{Environmental Justice Reparations for Jeju Island}].


\item[145] Id.; see also Rogers & David, \textit{Environmental Justice Reparations for Jeju Island}, supra note 143, at 99 (“Critics of the [naval] base cite threats to Jeju’s biodiversity, displacement of communities, as well as the disruption of culture and the local economy.”).

\item[146] YAMAMOTO, \textit{HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE}, supra note 4, at 228–29.
\end{footnotes}
grief for years are not able to raise their voices, and their bitterness cannot be brushed away. However, the new form of massive state violence in the form of the naval base is threatening our lives and peace.147

Because the United States refrained from engaging in the 4.3 reconciliation initiative, and because it never acknowledged its serious abuse of military authority during 4.3, the naval base construction “reignited fears of human rights abuses among some Jeju residents.”148 In the event of conflict with North Korea or China,149 and without human rights assurances of non-repetition, 4.3 survivors and others remained apprehensive about whether U.S. military abuse could happen again in some modern form.150

These compelling present-day concerns, linked to the history of 4.3, underscore the importance of a U.S. public apology that conveys, among other things, a commitment to institutional structures aimed at preventing recurrence.151 With its embrace of human rights precepts of reparative justice, the United States is now tethered to the reparative precept of satisfaction (including a public apology) that incorporates a guarantee of non-repetition and reconstruction.152

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147 Jung, Korean Women Want Nature Instead of Naval Base on Jeju Island, supra note 141.

148 YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 229; see also Chang Hoon Ko et al., Global Governance of Jeju World Heritage, 2 WORLD ENV'T. & ISLAND STUD. 25, 44 (2012).

149 Noam Chomsky, US Military Base in South Korea Threatens China: The Threat of Warships on an “Island of World Peace,” GLOBAL RES. (Oct. 8, 2011), https://www.globalresearch.ca/us-military-base-in-south-korea-threatens-china-the-threat-of-warships-on-an-island-of-world-peace/26986 (cautioning that the Jeju Naval base project is naturally seen by China “as a threat to its national security . . . [and] is likely to trigger confrontation and an arms race between South Korea and China, with the U.S. almost inevitably involved”).


151 Yamamoto, Oyama & Katano, Reconciliation Revitalized Through an Official Apology for the Wrongful Jeju 4.3 Mass Convictions, supra note 136, at 182 (describing the “salience of changes in institutional structures” to prevent the recurrence of injustice).

152 See Blinken, Human Rights Remarks, supra note 81 (“The universal nature of human rights also means that we [the United States] have to hold ourselves accountable to the same standards [of international human rights regimes].”); see also Basic Principles and Guidelines on Reparation, supra note 18, ¶¶ 18, 23 (including guarantees of non-repetition as part of the reparation process). Rabbi Lynn Gottlieb prescribes similar dimensions of social healing for serious human rights violations. Lynn Gottlieb, Comment to The Feminist Revolution, JEWISH WOMEN’S ARCHIVE, https://jwa.org/feminism/gottlieb-lynn (last visited Oct. 17, 2022).
Through these threshold reparative actions benefitting Jeju communities, the United States would also strengthen America’s legitimacy as a democracy actually, rather than merely professedly, committed to the rule of law. And as developed below, both the Basic Principles and Guidelines on Reparation and the reconstruction tenet of social healing through justice speak to the significance of a resonating culturally-attuned apology.

B. United States Apologies for Its Role in Other Human Rights Transgressions

To grapple with the significance of a potential U.S. apology to Jeju communities, and how it might operate practically, a glimpse of past United States apologies for its human rights transgressions offers a rough template.

1. The United States Congressional and Presidential Apology to Incarcerated Japanese Americans

Upon Congress’ passage of the Civil Liberties Act of 1988, President Ronald Reagan formally apologized to Japanese Americans incarcerated...
during World War II. President George H.W. Bush followed in 1991, apologizing by personal letter to every survivor. Bush acknowledged that though the United States “[could] never fully right the wrongs of the past,” it desired to “take a clear stand for justice [to] recognize that serious injustices were done to Japanese Americans during World War II.” In “calling for restitution and offering a sincere apology,” the nation “renewed [its] traditional commitment to the ideals of freedom, equality, and justice.”

The Presidents’ apologies, catalyzed by the Korematsu, Hirabayashi and Yasui coram nobis litigation, the Congressional Commission’s investigation and grassroots organizing, spoke to the persisting decades-long trauma and energized an intergenerational social healing process. Congress followed up by appropriating substantial, yet symbolic, monetary reparations ($20,000) for each survivor and funding public education projects aimed at an accurate recounting of history to prevent this kind of civil and human rights transgression from recurring on U.S. soil or elsewhere.

For the Japanese American incarceration survivors, the presidential and congressional apologies, buttressed by monetary reparations, marked long-awaited progress in healing emotional, economic and cultural wounds. The apologies also served converging Japanese American and United States

159 Letter from U.S. President, supra note 158.
160 Id.
162 Id.
interests – a measure of healing for those suffering for decades while bolstering U.S. legitimacy as a democracy at the crucial moment it worked to tear down the Iron Curtain, showing that a viable democracy admits its transgressions and repairs the damage.\(^{164}\)

In a parallel fashion, in 2018 President Moon Jae-in rejuvenated South Korea’s commitment to healing the 4.3 wounds. He extended “sincere condolences” to the “people of Jeju, surviving victims and bereaved families who voiced the pain and truth about the April 3 (uprising).”\(^{165}\) His profound apology promised a “complete resolution” by “implement[ing] Government measures to heal the wounds and pain of the victims.”\(^{166}\) By apologizing again for its government’s responsibility for 4.3 carnage and triggering additional reparative acts of reconstruction, South Korea actively advanced the Jeju 4.3 social healing initiative – actualizing its commitment as a democracy to human rights.\(^{167}\)

What remained missing in President Moon’s powerful apology was mention of the United States’ partial responsibility for the 4.3 carnage.\(^{168}\) As detailed earlier, despite the expressed calls for U.S. participation by families,

\[^{164}\text{See Yamamoto, } \text{Friend, or Foe or Something Else, supra note 163, at 223, 231 (identifying that “reparations enabled decisionmakers to enhance somewhat the United States’ image as a country committed to human rights”). After years of delayed justice for Japanese American World War II incarceration survivors, meaningful redress finally materialized during a pivotal point in the Cold War. The United States belatedly admitted their historic human rights transgressions to uplift itself as a democracy, signaling that democracy was superior to communism. See id.}\]


\[^{166}\text{Jae-in Moon, Remarks by President Moon Jae-in at a Memorial Ceremony in Honor of Victims of the Jeju April 3 Incident (Apr. 3, 2018) [hereinafter Moon, } \text{Remarks at Memorial Ceremony], https://www.korea.net/Government/Briefing-Room/Presidential-Speeches/view?articleId=156640.}\]

\[^{167}\text{See Yamamoto, Oyama & Katano, } \text{Reconciliation Revitalized Through an Official Apology for the Wrongful Jeju 4.3 Mass Convictions, supra note 136, at 187 (assessing President Moon’s 2018 Apology as “part of efforts to resume (or continue) steps toward enduring social healing”).}\]

\[^{168}\text{See id. ("[A]s the [South Korean] president’s words indicated, and as journalists, artists and community advocates have demonstrated, comprehensive and enduring 4.3 social healing still remains ‘unfinished business.’"); Moon, } \text{Remarks at Memorial Ceremony, supra note 166.}\]
advocates, researchers and scholars, the United States’ total absence from the reparative process hovered as a ghost haunting Jeju 4.3 social healing.

2. United States International Law Apologies

In the recent past, the United States formally apologized for its agency’s violation of non-U.S. citizens’ human rights off U.S. soil – similar in that respect to the Jeju 4.3 Tragedy. In the 1940s the U.S. Public Health Service studied the progression of deadly sexually transmitted diseases by intentionally infecting and withholding treatment from hundreds of unwilling Guatemalans, including many institutionalized men.169 The United States Public Health Service shielded these human rights violations from public view until 2010 when President Barack Obama and Secretary of State Hillary Clinton finally authorized an investigation into the horrific abuse. They subsequently issued a joint U.S. apology to acknowledge the enduring physical and emotional harm to foreign nationals in their homeland and further committed the United States to just medical-ethical standards to obviate future health-research travesties in America and abroad.170 Congressional acknowledgement of U.S. responsibility might also engender an appropriate apology and reparative action. In 1993 Congress passed the Native Hawaiian “Apology Resolution” signed by President Bill Clinton.171 The Resolution apologized for the United States’ role in the 1893


171 Apology Resolution, Pub. L. No. 103-150, 107 Stat. 1510 (1993); see NATIVE HAWAIIAN LAW: A TREATISE, supra note 106, at 41; Andrade, Legacy in Paradise, supra note 107, at 278, 308 (“Congress specifically granted the President authority to reconcile with Native Hawaiians.”); Yamamoto, Race Apologies, supra note 156, at 68.
illegal overthrow of the sovereign Kingdom of Hawai‘i – a violation of international law – and for the persisting harms to Native Hawaiian people, land and culture. It also committed the United States to acts of reconciliation.  

III. A POTENTIAL UNITED STATES APOLOGY FOR ITS ROLE IN THE JEJU 4.3 TRAGEDY

Employing any one of the reparative justice vehicles just mentioned, United States engagement with the 4.3 reparative initiative would likely begin with an inquiry into the events and present-day consequences of Jeju 4.3 and an assessment of appropriate responsibility. It might start with scrutiny of the South Korea National 4.3 Investigative Committee’s extensive findings and recommendations.

A formal U.S. apology might well emerge from that inquiry as an impactful reparative step. While dependent on the dynamics of domestic culture and international politics, a resonant apology might prove to be the simplest and most “immediately realistic” demonstration of the United States’ acceptance of appropriate responsibility for healing the Tragedy’s persisting wounds.

A. Cross-Cultural Views of Apologies

A multidisciplinary glimpse at the value of apologies sheds light. Varying disciplines highlight a genuine apology as an affirmative step toward social healing. Cross-cultural social-psychological studies reveal that

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173 See generally Yamamoto, Oyama & Katano, Reconciliation Revitalized Through an Official Apology for the Wrongful Jeju 4.3 Mass Convictions, supra note 136, at 182 (highlighting the significance of formal apologies for those still suffering from the 4.3 events); see also Martha Minow, When Should Law Forgive? 3–4 (2019) (examining when legal officials and institutions can and should promote forgiveness).

174 YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 207 (acknowledging that a proposed U.S.-Jeju 4.3 Truth Committee may be too multifaceted).

175 See YAMAMOTO, INTERRACIAL JUSTICE, supra note 136, at 193–98 (discussing the diverse cultural perceptions of apologies embedded in the American and Japanese legal systems). This article’s glimpse at diverse disciplines’ treatment of apologies provides only a very general overview, without attention to nuance or development.

when sincere, the act of apologizing bears significant remedial value for a damaged relationship.\textsuperscript{177} Political science peace studies also stress “the importance of group apologies for redressing human rights abuses.”\textsuperscript{178} Christian and Buddhist theological precepts recognize an expression of contrition as an opening path to reconciliation.\textsuperscript{179} And Jewish theology, through \textit{teshuvah},\textsuperscript{180} recognizes that an apology – encompassing the acknowledgment of harms (\textit{hakarah}), remorse (\textit{charata}), promise of compensation (\textit{peira’on}), public truth telling and guarantees of non-repetition of the harm (\textit{azivat ha-chet}) – bears the potential to “complete . . . the satisfaction of injured parties.”\textsuperscript{181} Psychology of Religion studies reveal that Islam theology, too, values an apology “as a basic requirement for forgiveness” and rebuilding damaged relationships.\textsuperscript{182}

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{179} See Rebecca French et al., \textit{Law, Buddhism and Social Change: A Conversation with the 14th Dalai Lama}, 55 BUFFALO L. REV. 635, 732 (2007); see also Alex Hudson, \textit{Can Forgiveness Ever be Easy}, BBC NEWS (Apr. 22, 2011). For some Christian believers, forgiving those who harmed them can be a first step toward meaningful healing. See Yamamoto, Oyama & Katano, \textit{Reconciliation Revitalized Through an Official Apology for the Wrongful Jeju 4.3 Mass Convictions}, supra note 136, at 185; see also Karma, BBC NEWS (Nov. 17, 2009). At least one branch of Buddhism broadly parallels this approach. See YAMAMOTO, INTERRACIAL JUSTICE, supra note 136, at 191–98 (identifying forgiveness as a most powerful response to an appropriate and complete apology accompanied by some meaningful form of reparations).
\item \textsuperscript{180} A Jewish reparations framework that “carries the meaning of return to wholeness through acts of repair.” Gottlieb, \textit{Making Reparations after Churban}, supra note 152.
\item \textsuperscript{181} See id.
\item \textsuperscript{182} Etienne Mullet & Fabiola Azar, \textit{Apologies, Repentance, and Forgiveness: A Muslim-Christian Comparison}, 19 INT’L J. FOR PSYCH. RELIGION 275, 277 (2009) (assessing
\end{enumerate}
\end{footnotesize}
Nicolas Tavuchis’ sophisticated sociological study – intersecting philosophy, sociolinguistics, social psychology, anthropology, philology, law and religion – affirmed the cross-cultural healing power of apologies as responses to group-based grievances.183 His study describes an apology’s potential to restore group membership184 which “depends on validation by other community members.”185 Unless collectively addressed, immediate “conflicts and underlying grievances”186 retain the potential for severing community relationships.187

According to Tavuchis, to fix the shattered relational glass, an apology appropriately starts with “a call for urgent remembering and for an expression of regret” and then seeks forgiveness for the harmful acts of the past. It may then begin to heal the specific relationships within the group as well as the community as a whole.188 Especially in more collectivist cultures,189 group harmony – that is forward-looking and relationally-directed – weighs more heavily in healing significance than claims of individual rights.190 An apology aimed at salving the wounds of individuals and repairing tears in the communal fabric is “a special kind of enacted story whose remedial potential . . . stems from the acceptance by the aggrieved party of [the other’s sincere] admission of iniquity” and openness to reparative action.191

With these views broadly in mind, a genuine United States apology to the Jeju 4.3 victims and descendants, and to the larger Jeju community, would likely mark a major social healing step.192 It would be especially poignant in

184 Id.
185 YAMAMOTO, INTERRACIAL JUSTICE, supra note 136, at 191; see generally TAVUCHIS, MEA CulPA, supra note 183.
186 YAMAMOTO, INTERRACIAL JUSTICE, supra note 136, at 191; see generally TAVUCHIS, MEA CulPA, supra note 183.
187 See generally TAVUCHIS, MEA CulPA, supra note 183.
188 YAMAMOTO, INTERRACIAL JUSTICE, supra note 136, at 191; see generally TAVUCHIS, MEA CulPA, supra note 183.
189 See infra Part III.B. for more discussion on the significant healing potential of apologies in collectivist cultures.
190 See O’Keefe & Bates, Sorry About That, supra note 178.
191 Id.
192 Yamamoto, Oyama & Kätano, Reconciliation Revitalized Through an Official Apology for the Wrongful Jeju 4.3 Mass Convictions, supra note 136, at 182 (highlighting the
light of the United States’ total 4.3 silence to date. It bears acknowledging, though, that the American conflict resolution ethos tends to undermine apologies, principally as legal remedies.\textsuperscript{193} A cross-cultural social-psychological study revealed that some Americans hold a salutary view of apologies while others tend to view apologies as unnecessary self-expressions.\textsuperscript{194} This latter view derives in part from the American legal system’s general translation of psychic hurts into losses compensable by monetary payments. If a party to a legal conflict in America were “to seek an apology . . . as part of the settlement of a serious dispute, such an apology would probably be perceived as either insincere, personally degrading, or obsequious.”\textsuperscript{195} An apology for social transgressions, though, removed from the formal legal setting, sometimes galvanizes a healing process.\textsuperscript{196}

In comparison, generally cast, a sincere apology in Asian countries often possesses strong healing potential.\textsuperscript{197} One explanation for the differing approaches rests on how “culture affects notions of [an] apology.”\textsuperscript{198} In 2011 scholars from France, Japan and the United States undertook a cross-cultural study into the import of apologies.\textsuperscript{199} They concluded, “an apology in one cultural context can have very different functions, meanings, and consequences in another culture, and can exacerbate or ameliorate conflict depending on whether [the apology is] conveyed and interpreted appropriately.”\textsuperscript{200}

\begin{itemize}
  \item \textsuperscript{193} Wagatsuma & Rosett, The Implications of Apology, supra note 177, at 465 (researching the significance of apologies for American and Japanese people).
  \item \textsuperscript{194} Id. at 462 (finding that expressions of contrition are often unnecessary for Americans because they tend to rely on legal adjudication and court pronouncements to determine rights and duties).
  \item \textsuperscript{195} Id.
  \item \textsuperscript{197} Wagatsuma & Rosett, The Implications of Apology, supra note 177, at 492–96.
  \item \textsuperscript{198} Lee, The Law and Culture of the Apology, supra note 196, at 10 (quoting V. Lee HAMILTON & JOSEPH SANDERS, EVERYDAY JUSTICE: RESPONSIBILITY AND THE INDIVIDUAL IN JAPAN AND THE UNITED STATES 46 (1992) (the “[a]pology, and the role it plays in dispute resolution, is best understood as a part of a society’s culture.”)).
  \item \textsuperscript{199} William Maddux, Peter Kim, Tetushi Okumura, & Jeanne Brett, Cultural Differences in the Function and Meaning of Apologies, 16 INT’L NEGOT. 405, 406 (2011) (discussing the import of apologies for resolving disputes and repairing trust).
  \item \textsuperscript{200} Id. at 420.
\end{itemize}
In some East Asian cultures, for example, Confucianism pervades social and political ideology. Professor and South Korean Judge Sang Hyun Song observed that Confucianism “molded the minds and behaviors of the people in . . . Korea and Japan for many centuries.” Explaining that subtle yet significant effect, Professor Edward T. Hall’s study observed that Confucian beliefs influence how people perceive information. In more high-context communication cultures, including Japan and South Korea, communication remains less direct and information-laden because of an emphasis on values of group harmony and stability in interpersonal relationships and an expectation of a shared knowledge-base. In these cultures, a sincerely conveyed apology might at times “carry with it the implied presence of unspoken elements” that signal contrition and forthcoming reparative acts, with brief words and gestures initiating the “healing function.” A culturally-attuned apology might tap subtly, yet meaningfully, into those “unspoken elements.”

By contrast, in low-context communication cultures like the United States, the transmitted message itself bears most – if not all – information conveyed. This communication difference explains in part why an apology in East Asian cultures, which infuses the broader cultural context and relational understandings, might possess healing potential beyond the bare words conveyed or an unadorned offer of monetary payment.

For instance, with a high-context ethos at play, Japanese society tends to emphasize harmonious relationships and conciliation. Professors Hiroshi Wagatsuma and Arthur Rosett maintained that those cultural values explain the “Japanese tendency to apologize when one’s actions have resulted in the

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201 See Lee, The Law and Culture of the Apology, supra note 196, at 17–18.
202 See id. (quoting INTRODUCTION TO THE LAW AND LEGAL SYSTEM IN KOREA 43 (Sang Hyun Song ed., 1983)); see also EDWARD T. HALL, BEYOND CULTURE 79 (1976).
203 See Lee, The Law and Culture of the Apology, supra note 196, at 10–11. Professor Edward T. Hall, an American anthropologist, studied cultural differences in communication. Id.
204 See id.
205 Id. at 9, 12 (quoting Erin Ann O’Hara & Douglas Yarn, On Apology and Consilience, 77 WASH. L. REV. 1121, 1139 (2002)).
206 See id. at 10.
207 See id.
significant injury of another.” In recognizing that the “apology is an important ingredient in resolving conflict,” the Japanese dispute resolution system values “repairing harm to both the relationship and the social order” more than monetary compensation. At times an apology alone is enough. And, conversely, an “offer to compensate or accept punishment without an apology is considered insincere.”

B. South Korean Apologies

The South Korean conflict resolution culture, too, “may well prefer an apology” to the individual and the community as a reparative remedy. According to researchers, South Korean ideology, rooted in Confucianism, generally emphasizes group harmony and collectivism, placing less value on self-autonomy and individual preferences. This emphasis underscores the frequency and gravity of apologies in South Korean society.

In 2002, for example, a South Korean politician sought an apology from the United States President after a U.S. armored vehicle crushed two South Korean girls to death. The public remained dissatisfied with U.S. military officers’ and diplomats’ perfunctory apologies. Two weeks later, the continuing uproar compelled President George W. Bush to express “deep apologies.”

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209 Lee, The Law and Culture of the Apology, supra note 196, at 1–2 (recognizing that the “Japanese legal institutions have reinforced the societal use of the apology and integrated it into their justice system”); see Wagatsuma & Rosett, The Implications of Apology, supra note 177, at 461–62.

210 Wagatsuma & Rosett, The Implications of Apology, supra note 177, at 493.

211 YAMAMOTO, INTERRACIAL JUSTICE, supra note 136, at 194; see also Wagatsuma & Rosett, The Implications of Apology, supra note 177, at 478–88 (describing the stark cultural differences between the impact of apologies in the American and Japanese legal systems).

212 YAMAMOTO, INTERRACIAL JUSTICE, supra note 136, at 193–94.

213 Lee, The Law and Culture of the Apology, supra note 196, at 52.

214 HARRY C. TRIANDIS, INDIVIDUALISM AND COLLECTIVISM 2 (1995) (defining collectivism as “a social pattern consisting of closely linked individuals who see themselves as parts of one or more collectives (family, co-workers, tribe, nation) . . . [and] are willing to give priority to the goals of these collectives over their own personal goals . . . [to] emphasize their connectedness to members”).

215 See id.

216 See Lee, The Law and Culture of the Apology, supra note 196, at 24; see also Yamamoto, Oyama & Katano, Reconciliation Revitalized Through an Official Apology for the Wrongful Jeju 4.3 Mass Convictions, supra note 136, at 190 (recognizing that “delivering a sincere, official apology to the individual [Jeju] petitioners . . . would be a vital piece of this remedy – the continuing reparative justice effort”).


218 See id.
sadness and regret” to the President of South Korea\textsuperscript{219} – belatedly fostering a measure of social healing for the girls’ families and the nation as a whole.\textsuperscript{220} Similarly, as mentioned, President Moon’s “profound apology” to the Jeju people in April 2018 helped revitalize the 4.3 social healing initiative, energizing the push for broadscale reparations.\textsuperscript{221} In squarely facing the painful history of the Jeju Tragedy, Moon’s renewed commitment to 4.3 social healing emphasized the salience of “reconciliation[,] . . . peace and human rights” for Jeju residents and the South Korean nation.\textsuperscript{222}

Further illuminating the import of apologies for social healing in South Korea, cross-culture researcher and Professor Ilhyung Lee found that South Korea culturally “is deeply influenced by [the same] Confucian ethics . . . that have shaped the frequent use of the apology in Japan.”\textsuperscript{223} He also determined that its “legal system is [] in transition regarding the treatment of the apology”\textsuperscript{224} – now reflecting a narrower, more American conceptualization of the apology. This preliminary finding, though, remained specific to legal system apologies and did not undermine the socio-cultural significance of political apologies in South Korea, particularly for large-scale injustice.

Even with differences in how American and South Korean cultural systems conceptualize and perceive the impact of apologies, generally speaking, two key cross-cultural commonalities emerge. First, a genuine apology bears significance for ameliorating social or political controversies.\textsuperscript{225} Second, apologies are complex, and an apology will likely


\textsuperscript{220} Lee, The Law and Culture of the Apology, supra note 196, at 3–5 (discussing how President Bush’s apology illustrated “the Korean understanding of the apology in situations where a member of the society suffers harm of injury as a result of the actions of another”).

\textsuperscript{221} Moon, Remarks at Memorial Ceremony, supra note 166.

\textsuperscript{222} Id.

\textsuperscript{223} Lee, The Law and Culture of the Apology, supra note 196, at 52. Professor Lee conducted a survey on a small sample of nine attorneys and seven judges. Id. at 35. The survey results are more anecdotal than empirical – given the small sample size – but are nevertheless illuminating. See id. at 35–37.

\textsuperscript{224} Id. at 52.

\textsuperscript{225} See generally YAMAMOTO, INTERRACIAL JUSTICE, supra note 136, at 191–98; see also Basic Principles and Guidelines on Reparation, supra note 18, ¶ 22(e). The human rights reparative justice regime, emanating from the United Nations’ Basic Principles for Reparation, highlights a “public apology” as a key to the satisfaction principle. See id.
be most effective when it infuses cultural norms and values and is shaped by social healing principles.

C. Prospects for a United States 4.3 Apology

Pressing geopolitical challenges admittedly pose barriers to a formal U.S. apology. Yet, the United States’ renewed commitment to human rights uplifts a strong U.S. interest in engaging in the final stages of the 4.3 reparative justice initiative – not only in doing what is morally “right,” but also in re-instilling national and global confidence in the United States as a leading democracy committed to the rule of law.

In 2018 Professor Eric K. Yamamoto and researchers Rachel Oyama and Katya Katano surmised that the Jeju 4.3 survivors’ and the Jeju communities’ han, or enduring pain, could “last forever” if unredressed, damaging United States-Korea relations. Their research revealed that meaningful redress for the Jeju people might emerge first in the form of a “sincere and complete” United States apology. A resonant apology to the survivors and Korean public would “accept[] [appropriate] responsibility for the injustice, and . . . lay[] the foundation for forgiveness and for building a productive new relationship” – all providing an “opportunity for redemption for past wrongs.”

In 2022 Jeju survivors voiced again a strong desire for a meaningful U.S. apology with Ko Wan-Soon declaring, “I don’t need any

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226 Lee, The Law and Culture of the Apology, supra note 196, at 52–53.
227 Yamamoto, Oyama & Katano, Reconciliation Revitalized Through an Official Apology for the Wrongful Jeju 4.3 Mass Convictions, supra note 136, at 191 (highlighting “an apology incorporating social healing through justice principles could potentially foster comprehensive and enduring Jeju 4.3 social healing – as the U.S. presidential apology for the World War II mass incarceration similarly did for Japanese Americans”).
228 Yamamoto, Healing the Persisting Wounds of Historic Injustice, supra note 4, at 206 (envisioning “U.S. 4.3 engagement will depend in part on the domestic political climate, geopolitical dynamics in Asia and American’s global stature on matters of international security”).
229 Id. at 190.
230 See id. at 206, 245.
231 Boo-Woong Yoo, Korean Pentecostalism: Its History and Theology 221 (1988) (describing Han as a “feeling of unresolved resentment against injustices suffered, a sense of helplessness because of the overwhelming odds against one, a feeling of total abandonment, a feeling of acute pain in one’s guts and bowels making the whole body writhe and squirm, and an obstinate urge to take revenge and to right the wrong – all these combined”).
233 Id. at 185.
234 Id.
235 Id. at 190.
money after all this time. The massacre happened when I was 9. I’m 83 now. What I need is a truthful human apology, a willingness to come and hold my hands.”

Initiated by words of acknowledgement, this kind of “truthful human apology” would likely entail corresponding “promises of actions to repair the damage” and to assure against future recurrence. To the extent appropriate — and while reflecting social healing principles of mutual engagement, acceptance of responsibility and healing the individual and the collective — a U.S. apology would feature the United States’ acknowledgment of its role in the tragedy and convey empathy for the persisting suffering of Jeju people through generations cast culturally in term of han. It might also express words of contrition and convey an appropriate “admission of fault [and] a promise of future restraint.”

The prospects for U.S. engagement in the Jeju 4.3 reparative initiative in this fashion, though, would depend on shifting political realities. A major impediment to comprehensive and enduring 4.3 social healing to date has been the United States’ refusal to participate in the reconciliation initiative. Those doubting prospects for future U.S. participation might cite an apparent absence of Jeju 4.3 on America’s geopolitical radar. An oversimplified...

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239 Id. at 185 (describing how a genuine apology might be guided by the recognition, responsibility and reconstruction dimensions and working principles of social healing through justice); see Lee, *The Law and Culture of the Apology*, supra note 196, at 12, 34.

240 See YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 70–71 (discussing the darkside principle – the final working principle of social healing through justice). That principle warns against the “danger of incomplete, insincere acknowledgments and ameliorative efforts – how words of recognition without economic justice and institutional restructuring can mask continuing oppression.” Id. at 70. It also cautions against political backlash and stiff resistance to the social healing process. Id.

241 See id. at 161 (stressing that “the United States – a key participant in the 4.3 events and stakeholder in 4.3 reconciliation – has been largely absent from the reparative justice process. No mutual engagement”).
supporting utilitarian argument holds that the U.S. government maintains circumscribed international political capital and that the Jeju initiative fails to ascend the political-economy hierarchy.

This article, however, does not advocate for vaulting Jeju social healing to a top U.S. domestic and international priority. Rather, it highlights crucial engagement in the Jeju 4.3 reparative justice initiative as a U.S. opportunity to both do the right thing and help rebuild its tarnished democratic legitimacy – at home and abroad.

Rebuilding America’s stature as a leading democracy presents a myriad of challenges. The Trump administration regularly undermined efforts to uphold internationally-recognized human rights. In 2019, then-Secretary of State Mike Pompeo convened a decidedly conservative Task Force to re-evaluate human rights. The Task Force’s actual mission belied its purported efforts to improve human rights enforcement. Discarding any pretense of non-partisan inquiry, the Task Force strategically suggested drastic curtailment or even elimination of most rights, supporting only freedom of religion (particularly concerning abortion) and a right to property.

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243 See YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 279.


245 See Rogin, The Supreme Court has Undermined U.S. Credibility on Human Rights, supra note 90 (adding further context to the Pompeo Commission’s strategic narrowing of human rights, and highlighting Trump’s erosion of U.S. democratic legitimacy). In reinstating the Global Gag Rule consistently waived by Democratic presidents and reinstated by Republicans, “[t]he Trump administration went further than any of its predecessors by drastically expanding the scope of the restrictions to cover more than $7 billion worth of U.S. global health programs . . . . [These restrictions on abortion-related services] had disastrous effects on health outcomes for women and girls, especially in the LGBTQ, rural, poor and other marginalized communities.” Id. See also YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 281 (highlighting the Trump administration’s “bald hypocrisy” in “disparaging selected countries [for human rights abuses] . . . while overlooking harsh abuses of momentarily favored countries”).

(concerning development deregulation). Human rights observers chastised the Trump administration and the United States for their sharply regressive stance on crucial international constraints on grossly abusive government conduct.

In 2020, the “marked disparity between the Black Lives Matter demonstrators’ actions and the disproportionate federal response sparked domestic and international outrage.” Liz Throssell, the United Nations Human Rights Council spokesperson, “called early on for the United States to halt the ‘arbitrary arrest[s] or detention[s]’ of protestors and also to stop the ‘unnecessary disproportionate or discriminatory use of force or . . . other violations of their rights’” on U.S. soil. In full view of international communities, the United States’ human rights violence against its own people – spurred by the Trump administration – further tarnished America’s stature as a democracy.

After 9/11, the Iraq War and two decades into the prolonged war on terror, observers “from the United States and beyond expressed grave doubts about contemporary U.S. commitment to democratic values, particularly whether the country (through its leaders) is genuinely dedicated to human rights . . .” According to Mark Hannah, opinion writer for *Business Insider*, “if a

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249 YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 265.


252 YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 265.
country’s international influence derives in part from the attractiveness of its values, that influence is diminished when it’s seen discrediting those values through capricious acts of violence against its own people.”

Hannah aptly identified the Trump administration’s and earlier presidents’ damage to the United States’ global stature as a leading democracy. The “allure of America’s values is critical to the success of its foreign policy objectives, and the desertion of those values [is] . . . not just a moral failing, but a geopolitical blunder too.”

In addition to these and other geopolitical blunders, at home, divisive issues of spiraling gun violence, eviscerated reproductive and LGBTQIA rights, voter disenfranchisement, along with nasty inflation and accelerating climate change challenge American leadership. Abroad, authoritarian regimes work to undercut the United States and its allies. Hot controversies and cold war struggles extend from China’s aggressive military and economic overreaching in Asia, to North Korea’s bellicose pronouncements and missile tests, to Russia’s unilateral attack on Ukraine and the rise of authoritarian leaders in North Korea, Turkey, the Philippines and Brazil.

253 Id. (quoting Hannah, America’s Image Around the World Is Being Tarnished, supra note 244).

254 Hannah, America’s Image Around the World Is Being Tarnished, supra note 244 (spotlighting the consequences of the United States’ tarnished stature as a democracy on its capacity to maintain effective international alliances and exert its influence in world affairs).

255 See YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 252–60.

In 2020, the United States again found itself in a hotbed of criticism. From the Trump administration’s reported cozying up to dictators, to a botched coronavirus response, to misinformation surrounding voting campaigns and groundless attacks on the 2020 presidential election, the United States as a democracy faced intensifying reproach for its actions and doubt about its stature as a global leader.


258 See YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 279.
This article acknowledges that in this milieu Jeju 4.3 social healing will not rise to the upper echelon in U.S. political significance. But, by accepting responsibility and redressing America’s human rights “shortcomings” – as the President promised – the United States would do what is right and just for Jeju communities in a way that potentially uplifts America’s stature as a democracy actually committed to the rule of law and particularly the reparative justice precepts of the international human rights regime.

IV. CONCLUDING THOUGHTS: CONVERGING INTERESTS FOR THE UNITED STATES, SOUTH KOREA AND JEJU COMMUNITIES

With the geopolitical benefits derived from the U.S. Civil Liberties Act of 1988 generally as backdrop, U.S. engagement in 4.3 reparative justice presents a potential valuable international political opportunity. The United States would buoy ally South Korea’s started-stalled-rejuvenated efforts to heal the persisting wounds of Jeju families, communities and South Korea itself. U.S. engagement would also further buttress South Korea’s catalyzing Jeju court retrials and its National Assembly’s recent commitment to broadscale individual 4.3 compensation. Most important for the United States, a resonant, culturally-attuned Jeju 4.3 apology for America’s transgressions – including a human rights promise that “it” would never happen again in Korea or elsewhere – would timely uplift U.S. stature as a democracy on the world stage.

259 Id. at 206.

260 Blinken, Human Rights Remarks, supra note 81.

261 See Rogin, The Supreme Court has Undermined U.S. Credibility on Human Rights, supra note 90 (emphasizing the importance of uplifting the United States’ legitimacy as a democracy through its demonstrated commitment to human rights, civil liberties and the rule of law); see generally YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 265–66 (examining the need for a renewed U.S. emphasis on repairing the Trump administration’s damage to America’s stature as a democracy).

262 YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE, supra note 4, at 249–52.

263 See id. at 278–87.

264 See id. at 214.

265 Id. at 224–26; see Ho-Joon Heo, Japanese Event Commemorating Jeju April 3 Incident Draws Hundreds, HANKYOREH (June 23, 2022), https://www.hani.co.kr/ari/english_edition/e_international/1048265.html (highlighting the calls for U.S. accountability for Jeju 4.3). Association of Contemplating Jeju April 3
Professor Yamamoto assessed in 2021 that by “engaging forthrightly and transparently with the [Jeju 4.3] social healing process,” the United States, along with South Korea, “stand[s] to benefit by enhancing democratic legitimacy at home and abroad.”\textsuperscript{266} By “committing to participate in enduringly righting the wrongs of the Jeju 4.3 tragedy, the United States would send a powerful message to the international community that the Trump-era of U.S. unilateralism, isolationism and xenophobic populism has ended.”\textsuperscript{267}

All this begs the question: will the United States answer the mounting calls for America to engage in key – if not final – stages of the Jeju 4.3 initiative to comprehensively and enduringly heal the wounds of families and communities and to repair the damage to South Korea itself? And in doing so, will the United States reinvigorate its global stature as a democracy demonstrably committed to the rule of law and particularly human rights? If not now, when?

\textsuperscript{266} Id.
\textsuperscript{267} Id. at 287.