

Environmental Justice Reparations for Jeju Island

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Abstract

Jeju Island provides a unique context for exploring remedies to mass harm. As a site of horrific historical human rights abuses and also ongoing present environmental degradation, Jeju offers a setting for exploring environmental justice as reparations. This Article argues for democratic, community-led environmental justice reparations prioritizing sustainable economic development and capacity building, aimed at benefiting Jeju residents rather than outside military, tourist, or other colonial interests.

Key words :

Jeju, reparations, microreparations, mass harm, human rights, environmental justice, sustainable development, climate change

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1. Introduction

Jeju Island (located off the southern tip of South Korea) has been and continues to be a site of exploitation and abuse by outside forces. Jeju's past and present are linked; reparations for the past must involve forward-looking remedies for the present.

The premise of our paper is twofold. First, we note the history of Jeju, as well as the questions of remedy which often arise in cases of mass harm. To address these issues, we then advocate for environmental justice reparations in the form of self-sufficient structures of capacity-building. Importantly, Jeju residents, including and especially women, should lead these efforts for sustainable economic development planning and prioritize the community's needs and desires.

For too long, outside forces have dominated Jeju. This outside domination has come in the forms of militarization alongside both political and economic colonialism. Under these forces, Jeju has become a site of horrific tragedy, as well as grave environmental injustice. The same forces of military and colonial rule which created human rights harms during the 4.3 Incident are linked to the structures which harm Jeju's environmental resources today, both directly and also by contributing to climate change which threatens islanders and their way of life.

Environmental justice reparations tie together these strands.³ Reparations should be centered on sustainable economic development and planning, and should be led by islanders and the local community. These reparations are justified because of the connection between causes of current environmental harms, which echo the same causes of the human rights abuses fifty years ago. The abuses of 4.3 are not strictly in the past, but contribute to ongoing harms. Thus, there exists a nexus between the current building of military

bases—driven by outside forces, contributing to environmental degradation—and the militarization which led to Jeju 4.3.

We support the call for a Joint South Korea and United States Jeju 4.3 Task Force,⁴ and we expand on this idea by setting out how environmental justice reparations fit into this process.

2. A Brief History of the Jeju Atrocity

The Jeju atrocity is well-known to readers of these pages.⁵ As one scholar sums up, "From 1947 until after the Korean War, South Korean security forces under U.S. supervision detained, summarily tried, raped, tortured, and executed thousands of Jeju residents for protesting police brutality and food policies."⁶ Approximately 30,000 civilians were killed in total and tens of thousands more made homeless as hundreds of villages were destroyed—at least 300 villages, 20,000 households, and 40,000 homes in total.⁷ Much of the violence was centered around the events of April 3, and thus the overall atrocity has become widely known as Jeju 4.3.

Despite its impact and important effects on the island of Jeju, the nation of South Korea, and in international politics broadly, the event has been widely ignored. Discussion of Jeju was actively suppressed for decades in Korea, only coming to light 50 years after the fact.⁸ Student-led efforts in the 1960's to investigate and publicize information about Jeju were met with harsh government action, including jailing the movement's leaders.⁹ Following this, discussion of the 4.3 Incident became taboo. Many modern Koreans lack knowledge of the horrors that took place.¹⁰ The lack of knowledge is even more striking in the United States; as Yamamoto summarizes, "we in the United States know almost nothing about the tragedy and the substantial role of the United States."¹¹

In recent decades, the Korean government has taken steps to address this past. Actions taken

3. This is similar to the idea of Environmental Reparations set out by Robin Morris Collin & Robert Collin in "Environmental Reparations," in *The Quest for Environmental Justice: Human Rights and the Politics of Pollution* (Robert D. Bullard ed., 2005).

4. This has been advocated by scholars and activists such as Chang Hoon Ko and Eric Yamamoto.

5. See generally Chang Hoon Ko et al., *Jeju 4.3 Grand Tragedy During "Peacetime" Korea: The Asia Pacific Context (1947–2016)*; Hunjoon Kim, *Seeking Truth After 50 Years: The National Committee for Investigation of the Truth About the Jeju 4.3 Events*, 3 *Int'l J. of Transitional Justice* 406–423 (2009); Nat'l Comm. for Investigation of the Truth About the Jeju Apr. 3 Incident, *The Jeju April 3 Incident Investigation Report* (Jeju Apr. 3 Peace Found. trans., 2013), available at http://www.jeju43peace.or.kr/report_eng.pdf; Tae-Ung Baik, *Social Healing Through Justice: Jeju 4.3 Case*, 2 *World Env. & Isl. Stud.* 59 (2012); Natsu Saito, *Reflections on Accountability: The United States' Violations of International Law on Jeju Island in the Aftermath of World War II*, 7 *World Env. & Isl. Stud.* 35 (2017); Eric Yamamoto et al., *Unfinished Business: A Joint South Korea and United States Jeju 4.3 Tragedy Task Force to Further Implement Recommendations and Foster Comprehensive and Enduring Social Healing Through Justice*, 15 *Asian-Pac. L. & Pol'y J.* 1 (2014); Eric K. Yamamoto et al., *The United States' Role in the Korea Jeju April 3rd Tragedy and Its Responsibility for "Social Healing Through Justice"*, 2 *World Environ. & Island Stud.* 49 (2012) [hereinafter Yamamoto et al., U.S. Role].

6. Miyoko T. Pettit, *Who is Worthy of Redress?: Recognizing Sexual Violence Injustice Against Women of Color as Uniquely Redress-Worthy -- Illuminated by a Case Study on Kenya's Mau Mau Women and Their Unique Harms*, 30 *Berkeley J. Gender L. & Just.* 268, 306 (2015).

7. Saito, *supra* note 5, at 36–38; Pettit, *supra* note 6, at 306.

8. Saito, *supra* note 5, at 36.

9. *A Guide to the History of the Jeju 4.3 Incident* (Jeju 4.3 Peace Foundation 2016), at 46.

10. Yamamoto et al., U.S. Role, *supra* note 5, at 50.

11. *Id.*

so far have included presidential apologies, a government-sponsored museum, an extensive public memorial and park, gravesites for known victims, a peace foundation, as well as some medical assistance for bereaved families.¹² Korea has recognized April 3 as a national Memorial Day.¹³ Despite these actions, more reconciliation efforts are needed—especially with respect to acknowledging the long-enduring consequences of the 4.3 Incident over time.¹⁴ These harms include far-reaching traumatic psychological pain across generations, destruction of the fabric of communities, and long-term financial and environmental impacts lasting to the present day.¹⁵

An important voice absent from the Jeju reconciliation process has been on the perpetrator side. As Yamamoto notes, “The United States has been fully absent from the reparatory justice process.”¹⁶ There has been no acknowledgement of the role that the United States played in the violations of human rights, the accompanying environmental devastation, or the ongoing suffering of survivors and their families.¹⁷ This is unacceptable because the U.S. government played a pivotal role in the harms. U.S. officials portrayed political protests and labor strikes as part of a communist conspiracy, and encouraged the Korean government as their surrogate to crack down harshly.¹⁸ U.S. military officers replaced high-ranking military officials with an extreme rightist government to crack down on the Jeju people in the events leading to the 4.3 Incident.¹⁹ U.S. officials were also “directly involved in the training and supervision of the Korean forces, and were well aware of the ‘guerilla extermination campaign’ being waged,” notes Saito.²⁰ “The United States played

an integral role in the injustice and bears some responsibility for healing the past and persisting wounds.”²¹

A critique of the current process is that it has not sufficiently linked past abuses to current economic and environmental harms. Additionally, it has often excluded the voices of Jeju women.²² The procedures thus far have “largely marginalized Jeju women’s unique multidimensional harms” and have “generally ignored Jeju women’s intersectional race-gender harms.”²³ The use of sexual violence as a tool of oppression has not been fully investigated yet by the 4.3 National Committee.²⁴ Nor have the cross-generational harms to children, such as being orphaned, losing family members, and bearing additional burdens and responsibilities.²⁵

In sum, after having been concealed for generations, some significant reconciliation acts for Jeju 4.3 have taken place, “but there remains a compelling sense among many that Jeju 4.3 social healing is starkly incomplete.”²⁶

3. Reparations for Mass Harms

Societies often struggle with how to justly compensate for mass harms.²⁷ International law recognizes a number of different sometimes overlapping reparations goals when addressing mass injustices.²⁸ One is to reverse the harm and restore the situation before the wrongful act. A second is compensation of victims of the wrongful act. A third prong of “satisfaction” involves repairing the damage by way of apology, truth-telling, and guarantees of non-repetition of the harmful act.²⁹

Implementing these goals can be difficult. Scholars addressing issues of reparations for

12. See generally *A Guide to the History of the Jeju*, supra note 9, Chapter 5.

13. Saito, supra note 5, at 36.

14. Yamamoto et al., *Unfinished Business*, supra note 5, at 17.

15. *Id.* at 16.

16. Yamamoto et al., *U.S. Role*, supra note 5, at 51.

17. Saito, supra note 5, at 36; Yamamoto et al., *Unfinished Business*, supra note 5, at 16, 35–36.

18. Saito, supra note 5, at 35–37; see also Yamamoto et al., *U.S. Role*, supra note 5.

19. *A Guide to the History of the Jeju*, supra note 9, at 12.

20. Saito, supra note 5, at 39.

21. Yamamoto et al., *U.S. Role*, supra note 5, at 52.

22. Pettit, supra note 6.

23. See *id.* at 306.

24. Yamamoto et al., *Unfinished Business*, supra note 5, at 17.

25. *Id.*

26. Ko et al., supra note 5, at 24.

27. This is a frequent topic in the reparations literature. See generally Alfred Brophy, *Reparations Pro & Con* (2006); Alfred Brophy, *Some Conceptual and Legal Problems in Reparations for Slavery*, 58 *N.Y.U. Ann. Surv. Am. L.* 497, 500–01 (2002); Roy Brooks, *Atonement and Forgiveness* (2004); *When Sorry Isn’t Enough: The Controversy Over Apologies and Reparations for Human Injustice* (Roy L. Brooks ed., 1999); Keith Hylton, *Slavery and Tort Law*, 84 *B. U. L. Rev.* 1209 (2004); Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 *Harv. C.R.–C.L. L. Rev.* 323 (1987); Kaimipono David Wenger, “Too Big to Remedy?” *Rethinking Mass Restitution for Slavery and Jim Crow*, 44 *Loyola L.A. L. Rev.* 177; Kaimipono David Wenger, *Slavery as a Takings Clause Violation*, 53 *Am. U. L. Rev.* 191 (2003); Robert Westley, *Many Billions Gone: Is it Time to Reconsider the Case for Black Reparations?*, 40 *B.C. L. Rev.* 429, 432 (1998); Eric K. Yamamoto, *Racial Reparations: Japanese American Redress and African American Claims*, 40 *B.C. L. Rev.* 477 (1998).

28. See generally Maxine Burkett, *Climate Reparations*, 10 *Melbourne J. Int’l L.* 509 (2009); see also Brophy, *Pro & Con*, supra note 27.

29. *Id.*

slavery in the United States have addressed many potential frameworks. For instance, Roy Brooks has suggested framing the problem as one of moral harm.³⁰ Brooks writes that the wrong of slavery has created a moral harm which must be addressed through apology and reparation, a process of atonement.³¹ Once that atonement process takes place, then the community can begin to heal through forgiveness. Brooks focuses remedies on community healing, such as through a museum for memory, or funds for businesses to grow, in addition to apology. Other scholars including Al Brophy and Robert Westley have examined legal claims for reparations.³² Legal claims for slavery reparations have come up against barriers, however, including sovereign immunity, standing, causation, statute of limitations, and other defenses, highlighting the problems with the legal model.³³

A number of other scholars have sketched out potential frameworks for remedying mass harms. For example, Carlton Waterhouse elaborates on components of moral agency, public memory, and social dominance, using this toolkit to examine how reparations can address issues of racial hierarchy in society. Waterhouse argues for a system of justice that changes the public memory in America through “rectificatory justice,”³⁴ which restores and strengthens the moral agency of marginalized groups;³⁵ and which challenges existing systems of dominance and privilege.³⁶ Eric Yamamoto has explored the idea of “social healing through justice.”³⁷ Yamamoto’s social healing approach can include elements of truth telling, criminal prosecution, or economic justice as potential pieces of remedy.³⁸ Atiba Ellis has written about revisiting legal history in order to dissect how courts and society have understood personhood and have constructed legal norms to reinforce white supremacy; in Ellis’s

approach, retelling and reframing history is a form of reparations that would undermine these norms.³⁹

The multiplicity of frameworks reflects the complex balance of issues here and the need for creative remedies. As a site of mass harm, Jeju allows for examination of some of these issues.

4. Jeju: Site of Environmental Injustice

Policymakers and scholars increasingly analyze environmental issues through an Environmental Justice (EJ) framework. EJ is a response to the fact that “[e]nvironmental hazards are inequitably distributed... with poor people and people of color bearing a greater share of pollution than richer and white people.”⁴⁰ EJ frameworks focus on the ways in which environmental harms fall on the most marginalized communities, analyzing how “economic, political, legal and social forces ... influence environmental decision-making processes and environmental outcomes.”⁴¹ EJ is prescriptive as well, “requir[ing] democratic decision-making, community empowerment, and the incorporation of social structure—for example, existing community health problems, cumulative effects of preexisting environmental hazards, the effects of segregative housing patterns—in environmental decision-making processes.”⁴² Importantly, affected communities should have a meaningful opportunity to dialogue with experts and administrators, and should have substantial influence over the decision-making process.⁴³ “The movement for environmental justice is also about creating clean jobs, building a sustainable economy, guaranteeing safe and affordable housing, and achieving racial and social justice.”⁴⁴

EJ has been discussed at various points in time as a policy priority for the United States

30. Brooks, *Atonement and Forgiveness*, supra note 27.

31. *Id.*

32. Brophy, *Some Problems*, supra note 27; Brophy, *Pro & Con*, supra note 27; Westley, supra note 27.

33. As Wenger has written, there is a sort of “reparations dilemma”: “Tort compensation is a poor fit, but nonremedy is an outrage.” Wenger, *Too Big to Remedy*, supra note 27, at 201.

34. Carlton Waterhouse, *Total Recall: Restoring the Public Memory of Enslaved African-Americans and the American System of Slavery Through Rectificatory Justice and Reparations*, 14 *J. Gender, Race & Just.* 703, 707 (2011).

35. Carlton Waterhouse, *The Good, the Bad, and the Ugly: Moral Agency and the Role of Victims in Reparations Programs*, 31 *U. Pa. J. Int’l L.* 257 (2009).

36. Carlton Waterhouse, *Reparations: The Problem of Social Dominance*, 6 *World Env. & Isl. Stud.* 11 (2016); see also Carlton Waterhouse, *Reparations Would Hit at the Core of Racial Inequality*, *N.Y. Times, Room For Debate*, April 16, 2016, at <https://www.nytimes.com/roomfordebate/2016/01/28/racial-reparations-and-the-limits-of-economic-policy/reparations-would-hit-at-the-core-of-racial-inequality>.

37. Yamamoto et al, *Unfinished Business*, supra note 5, at 38; see also Saito, supra note 5, at 40.

38. Yamamoto et al, *Unfinished Business*, supra note 5, at 38.

39. Atiba R. Ellis, *Polley v. Ratcliff: A New Way to Address an Original Sin?*, 115 *W. Va. L. Rev.* 777, 791–92 (2012); see also Atiba R. Ellis, *Reviving the Dream: Equality and the Democratic Promise in the Post-Civil Rights Era*, 2014 *Mich. St. L. Rev.* 789, 838 (2015); Atiba R. Ellis, *Citizens United and Tiered Personhood*, 44 *J. Marshall L. Rev.* 717, 749 (2011).

40. Luke W. Cole & Sheila Foster, *From the Ground Up: Environmental Racism and the Rise of the Environmental Justice Movement* 10 (2001).

41. Cole & Foster, supra note 40, at 11. Environmental justice Law was pioneered by the work of Luke Cole. See *id.*, see also Luke W. Cole, *Environmental Justice Litigation: Another Stone in David’s Sling*, 21 *Fordham Urb. L.J.* 523, 523 (1994).

42. Cole & Foster, supra note 40, at 16.

43. *Id.* at 16.

44. *Id.* at 17.

government. For instance, a 1995 executive order provided that “each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing ... disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.”⁴⁵ EJ is currently defined by the United States Environmental Protection Agency as the “fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EJ strives to ensure all communities have the same protection from environmental harms, especially those affecting public health and safety, and that all communities can equally shape the environmental policy decision-making process.⁴⁶ The following describes why an EJ approach will benefit the island of Jeju.

The island of Jeju has been devastated by decades of military occupation.⁴⁷ 30,000 people were killed during the 4.3 incident, and tens of thousands of homes were destroyed, as well as many schools, town centers, and public facilities.⁴⁸ Nearly all mountainous villages were burned to the ground in a “scorched earth” policy.⁴⁹ Despite government restoration and resettlement efforts, many villagers did not return. These are known as “lost villages.”⁵⁰ Jeju’s industries, including agriculture, fishing, and trade were severely affected.⁵¹ Many islanders who lost their homes and wage-earning relatives continue to live in poverty.⁵²

Construction of a South Korean military base⁵³ in 2011 at Gangjeong, Jeju, created further environmental concerns. Critics of the base cite threats to Jeju’s biodiversity, displacement of communities, as well as disruption of culture and the local economy.⁵⁴ They also fear the base will thwart Jeju residents’ goal of building a “peace

island” that promotes environmental sustainability.⁵⁵ And Haenyeo fish-divers worry pollution from the base will threaten their traditional occupation.⁵⁶ Anti-base villagers have chained themselves to trees in protest.⁵⁷ Kang-Ae-Shim, an anti-base advocate, expressed this sentiment: “The land and sea isn’t something you bought. Why are you selling something that was there long before you were born?”⁵⁸ Other protesters were arrested, beaten, fined, and threatened for demonstrating and standing in the way of construction, including pouring concrete along the coastline. According to villagers, the Navy seized 130 acres of fertile farmland previously used by residents.⁵⁹ Prior to base construction, the island government had declared the coastline a protected area. It cancelled this designation to allow for the naval base—which was predicted to destroy 98 acres of ocean floor inhabited by coral reef and nine endangered species.

Residents of Jeju also claim they have been disenfranchised and excluded from decisions affecting their environmental future—the second prong of the EJ framework. Residents claim that meetings to approve the base were rushed, votes were held in an unprecedented fashion, and residents were bribed and tricked to gain their support.⁶⁰

In addition to the direct environmental harms caused by military occupation, like many island nations, Jeju is positioned to experience the effects of climate change “first and worst.” Climate change is itself an outsider-imposed harm of colonization, as Jeju suffers from the outsize carbon emissions of more developed nations. In contrast to more industrialized nations, Jeju’s residents have contributed relatively little to this global problem—a phenomenon known as “the world’s biggest regressive tax.”⁶¹ Jeju is a unique environmental setting. It has received designation in all three of

45. See Exec. Order No. 12,898, 3 C.F.R. 859 (1995), reprinted as amended in 42 U.S.C. § 4321 (2012). See generally David A. Dana & Deborah Tuerkheimer, *After Flint: Environmental Justice As Equal Protection*, 111 Nw. U. L. Rev. 879, 890 (2017).

46. See Cole & Foster, *supra* note 40.

47. See Choe-Sang Hun, “Island’s Naval Base Stirs Opposition in South Korea,” N.Y. Times, Aug. 19, 2011.

48. A Guide to the History of the Jeju, *supra* note 9, at 41.

49. *Id.*

50. *Id.* at 43.

51. *Id.* at 42.

52. See Chang Hoon Ko et al., *Actualization of Reparation, Reconciliation and Reconnection Agenda for the Jeju 4.3 Grand Tragedy*, 6 World Env. & Isl. Stud. 167, 168 (2016).

53. According to some, the base is partially for use by the United States. Yamamoto et al., *Unfinished Business*, *supra* note 5, at 4.

54. Yamamoto et al., *Unfinished Business*, *supra* note 5, at 71–72.

55. *Id.* at 71.

56. A Guide to the History of the Jeju, *supra* note 9, at 41–43.

57. *Id.*; see also Hun, *supra* note 47.

58. Christine Ahn, “Naval Base Tears Apart Korean Village,” Foreign Policy in Focus website, at http://fpif.org/naval_base_tears_apart_korean_village/

59. *Id.*

60. *Id.* Villagers mobilized and held a referendum vote, which was not recognized by the central government. *Id.*

61. See generally Burkett, *supra* note 28.

UNESCO's natural science categories.⁶² The center of the island was named a UNESCO Biosphere Reserve in 2002,⁶³ a designation which focuses on the interplay of cultural and biological diversity with conservation and sustainable development.⁶⁴ Its many endangered plants and animals are increasingly vulnerable to the effects of climate change. Traditional occupations like Haenyeo—women who dive underwater for fish without the use of any machinery or equipment⁶⁵—create less environmental impacts than their industrialized counterparts. Historically, these women also have a communal approach that focuses on collective gain, mutual aid, and they have an unparalleled and unique body of wisdom about the marine ecology—which has been passed through generations.⁶⁶

With a population of slightly more than half a million people,⁶⁷ negative environmental effects of modernization are being felt on the island. Jeju's major industries are tourism, agriculture, and stock-farming.⁶⁸ Agriculture, coastal systems and fisheries are uniquely susceptible to climate impacts, and island nations like Jeju typically have the least resources to adapt to these impacts.⁶⁹ Coastal pollution from the aquaculture industry has lessened yields along Jeju's coast.⁷⁰ Tourism—with 140,000 cruise tourists visiting Jeju in 2012⁷¹—has a tremendous potential to harm the island's marine ecosystem. Indiscriminate development, which is heavily dependent on casinos and duty-free stops, has caused environmental problems for the island.⁷² Jeju has more casinos than any other location in Korea.⁷³ Land prices have increased dramatically due to foreign investment, and are among the highest in the nation, making it hard for residents to get ahead.⁷⁴ Chinese investors own much of Jeju's commercial and residential property.⁷⁵ Poor land use planning has created traffic congestion that has negative public health effects and has decreased quality of life for island residents.⁷⁶ Jeju has a very

high rate of car ownership compared to the national average, which has led to major increases in injuries and death from car accidents.⁷⁷ Lifting prior environmental protections called "greenbelt areas" has only contributed to the problem.⁷⁸

Jeju is a site of grave environmental injustice. Jeju's environmental vulnerabilities—whether from military occupation or climate change—are overwhelmingly caused by forces outside the island, and not by actions or livelihoods of residents. Further, islander voices have largely been excluded from involvement in many decisions shaping their environmental future. Remedies to alleviate these environmental harms should be approached using an EJ approach.

5. Policy Considerations in Reparations for Jeju

It is impossible to turn back the clock to the time before 4.3 and bring back the tens of thousands killed. However, Jeju reparations can focus on restoring the community fabric, in particular through actions which restore property and rights that were taken away through the same militarization process which both caused the harm of 4.3, and also has created the ongoing harms to environment and community. Because of the nexus between these events and their associated harms, reparations for Jeju should as a matter of policy focus on environmental justice.

As discussed above, law often struggles with compensation for mass harms. Jeju puts these questions into sharp relief, but also suggests solutions.

First, some individual reparations are called for. Island residents should have an opportunity to document tangible losses and injuries—such as dispossessed land and/or livelihoods—in a transparent, public process. Once that information is collected, specific steps should be contemplated

62. See Chang Hoon Ko et al., *An Island Conservation Model of Jeju Haenyeo Cohabitation with Nature in an Age of the Coastal Pollution*, 4 *World Env. & Isl. Stud.* 27, 29 (2014).

63. See "Jeju Island," webpage at UNESCO website, at <http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/biosphere-reserves/asia-and-the-pacific/republic-of-korea/jeju-island>

64. See "Main Characteristics of Biosphere Reserves," webpage at UNESCO website, at <http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/biosphere-reserves/main-characteristics/>

65. "Main Characteristics of Biosphere Reserves," supra note 64.

66. Ko et al., supra note 62, at 30.

67. Muthusami Kumaran and Dai-yeun Jeong, *The Rise of Jeju as a Global Model Environmental Hub*, 2 *World Env. & Isl. Stud.* 13, 21 (2012).

68. "Jeju Island," supra note 63.

69. Burkett, supra note 28.

70. Ko et al., supra note 62, at 30.

71. Ko et al., supra note 62, at 34.

72. Chang-Soo Kang, *The Jeju Green Urbanism for the Future*, 5 *World Env. & Isl. Stud.* 111, 111 (2015).

73. Id. at 115.

74. Id. at 114.

75. Id.

76. Id. at 116.

77. Id.

78. Id. at 112.

to attempt to make individuals whole. This includes, where possible, creating processes to restore land, property, and rights of villagers who have been dispossessed or disenfranchised.⁷⁹

Communitywide damage should also be compensated. This may include medical, legal, educational, or financial support for communities, as well as economic development, capacity-building, community-development, and rehabilitating destroyed community assets.⁸⁰ Damaged resources upon which the community depends should be identified, and a community-driven should be developed to determine appropriate remedies. As Natsu Saito has written, the “perspectives and needs of the Jeju Islanders” should be paramount in determining any kind of reparation.⁸¹ He elaborates that “the nature and extent of reparations should be determined not by the perpetrators but by the needs of those whose rights have been violated.”⁸² As attested in interviews with survivors and their families, “pain from the horrific Jeju 4.3 massacre persists over generations.”⁸³

Repairing the moral breach is the final major aspect of Jeju reparations. “The greatest value of a reparations effort is to centre the moral issues at the base and foster the key elements of a just state of affairs.”⁸⁴ The vast historical moral implications of wartime devastation of Jeju were compounded by the relatively recent government actions to suppress anti-base demonstrators. Deep dissensions and factionalization exists among villagers, as well as an understandable distrust of government.⁸⁵ Atonement or satisfaction approaches can address these moral issues, and attempt to repair community divides and restore some faith in a “just state of affairs.”

The lack of international attention to the conflict in Jeju has made villagers feel that their story is ignored. Truth-telling reparations can give names and faces to those who have suffered, giving a venue for their stories to be told.⁸⁶ In the environmental context, reparations can highlight the ways individuals are not only affected by their natural environment but also by the actions of others. This can help to restore or establish trust,

and can highlight issues on the world stage. A public, transparent process that highlights individual stories, like farmers whose land was confiscated during base construction, would allow villagers a platform to tell their stories. It would also provide recognition and acknowledgment of their “right to a sound livelihood”⁸⁷ without interference from the government.

Jeju differs in significant ways from some of the broader reparations contexts in the United States. Compared with the nation-spanning, multi-century abuse of slavery in the United States, Jeju has been a setting of comparatively concrete and localized harm. In the context of the United States, we might call it a setting for microreparations. Further, the events in Jeju have been examined by the National 4.3 Committee,⁸⁸ as well as the 2005 Truth and Reconciliation Commission.⁸⁹ The National Committee conducted a three-year investigation, interviewing witnesses, consulting with experts, and examining extensive evidence of harms.⁹⁰ These efforts to identify specific harms and victims makes the 4.3 Incident that much more “concrete” for purposes of reparations.

On the flip side, Jeju is also a lens through which we can examine a variety of broader issues. It is both a specific example of harm, but also a representative instance of the kinds of human rights abuses that have been all too common. It is a site of colonialism, where the harms of colonial policies are put into sharp relief. It was also a site of specific localized environmental harms caused by militarization.

Jeju is also a compelling story. Reparations efforts often include elements of storytelling and narrative building to reexamine historical injustices.⁹¹ Jeju fits into this mold, as an opportunity to examine questions of justice and restitution while bringing different stakeholders to the table.

Reparations for Jeju would constitute a fraction of military spending in the area. The United States military currently spends about \$1.5 billion per year to deploy about 30,000 troops in South Korea; and the Korean government spends an additional \$800

79. Restoration may not always be possible, however. For example, it is not possible to give back dispossessed land under the now-built military base.

80. Yamamoto et al., *Unfinished Business*, supra note 5, at 21.

81. Saito, supra note 5, at 40.

82. *Id.* at 40; see also Natsu Taylor Saito, *At the Heart of the Law: Remedies for Massive Wrongs*, 27 *Rev. Litig.* 281 (2008).

83. Yamamoto et al., *U.S. Role*, supra note 5, at 51.

84. Burkett, supra note 28.

85. Ahn, supra note 58.

86. Burkett, supra note 28; see also Wenger, *Too Big to Remedy*, supra note 27.

87. Burkett, supra note 28.

88. Yamamoto et al., *Unfinished Business*, supra note 5, at 32.

89. *Id.* at 54.

90. *Id.* at 32.

91. See Wenger, *Too Big to Remedy*, supra note 27.

million on civilian support for U.S. troops.⁹² As a policy matter, rebuilding the community should be a priority for both the United States and Korean governments.

6. Environmental Justice Reparations for Jeju

Despite Jeju reconciliation efforts thus far, lingering psychological, economic, and environmental wounds persist. The island's economic, cultural, and environmental development has too long been controlled by outside forces—whether by the military or foreign investors. Because of the harm involved, the vulnerable nature of the Jeju environment, and the ties between the aggressors and current environmental harms, environmental justice is appropriate as reparations for Jeju.

Many, including these authors, support a jointly staffed and funded South Korean and United States Jeju 4.3 Task Force to address deficiencies in reconciliation efforts so far to serve as a “vehicle for implementing viable... recommendations for charting forward-looking reconstructive and reparative next steps toward social healing in light of evolving social, political and economic conditions.”⁹³ This task force should also address lingering environmental destruction from the 4.3 Incident, and how these effects were compounded by the building of a military base on Jeju.⁹⁴ Importantly, the Joint Task Force should focus on promoting both economic and environmental self-sufficiency as a way to address ongoing harms from the 4.3 Incident that have persisted through generations.⁹⁵ These efforts should be tied to capacity-building programs that incorporate EJ principles. Sustainable community-led efforts around economic development will ensure that development profits are reinvested into the community.⁹⁶ For example, the task force can support long-time Jeju residents in starting locally-run, environmentally sustainable businesses by providing loans, start-up advertising, fee waivers, and streamlined local government

permitting.⁹⁷

Since its designation as a Self-Governing Province in 2006, Jeju's leadership has undertaken steps toward environmental stewardship with a goal of becoming a “World Environmental Hub.”⁹⁸ Jeju has hosted numerous environmental forums, bringing together sustainability leaders from around the world.⁹⁹ Its Ministry of Environment has adopted ambitious goals and strategies to promote environmental education, developing a low carbon economy and expanding its carbon sink, as well as expanding policies to achieve energy independence, and expand recycling, local food production, and green transportation.¹⁰⁰ Jeju's self-governance model is well-positioned to participate in a discussion around environmental reparations. Further, Jeju has a vibrant non-profit and NGO sector,¹⁰¹ which can play an integral role in advocating for and educating citizens about this concept.

In cooperation with the Jeju government, the task force should incorporate the important Environmental Justice principle of “self-representation and the agency inherent in [community members] speaking for [themselves].”¹⁰² Task force respect and deference to Jeju villagers is vital, especially listening to the community's desires for what they want in an environmental reparations program.¹⁰³ “The community must be actually incorporated through community meetings that make a true effort to bring the community to the table and to sit with its perpetrator or the entity that has claimed responsibility.”¹⁰⁴

Environmental reparations undertaken by the task force should be linked to the common working principle of “economic capacity-building as a form of reparations to promote “autonomy and self-determination.”¹⁰⁵ As such, Jeju residents should be involved in planning for Jeju's economic development and environmental future. Dr. Chang-Soo Kang promotes the idea of “developing Jeju for the Jeju people, meaning that the gains from development in Jeju should go back to Jeju citizens

92. See David S. Cloud, “How Much do Allies Pay for U.S. Troops? A Lot More than Donald Trump Says,” *Los Angeles Times*, October 1, 2016, at <http://www.latimes.com/nation/la-na-trump-allies-20160930-snap-story.html>.

93. Yamamoto et al., *Unfinished Business*, supra note 5, at 43–44.

94. See also id. at 78.

95. Id.

96. See also id. at 79.

97. See also id. at 81.

98. Kumaran and Jeong, supra note 67, at 19.

99. Id. at 17.

100. Id. at 19.

101. Id. at 21.

102. Cole & Foster, supra note 40, at 14.

103. Burkett, supra note 28.

104. Id.

105. Id.

as opposed to outsiders.¹⁰⁶ “In developing Jeju, a system in which only a few experts lead the development plans is no longer valid, said Dr. Kang. This effort might involve restructuring Jeju’s master plan to create a new socio-economic system that focuses on “ecoefficiency,¹⁰⁷ equity, and sustainable development.

When resources for reparations efforts are limited, capacity-building may be preferable to paying small individual reparations that may be seen as a pittance or “too little, too late.¹⁰⁸ For instance, the Peruvian government allocated less than \$100 per person to individuals in indigenous communities in fulfillment of its reconciliation obligations.¹⁰⁹ These payments were seen as a failure and did little to advance the community long-term or build economic capacity or self-sufficiency.¹¹⁰

Dr. Kang advocates a model very much in line with the environmental justice goals set out in this Article. Kang suggests first that development profits should be reinvested in the community. Land development profits could be shared among residents, and should be used for restoring the environment.¹¹¹ This is in line with Jeju’s tradition of sharing profits in the form of common pastures and fishing grounds.¹¹² Second, planning should focus on sustainable development through a movement called “making village and people. The island should be “selective about the types of capital coming into the island to ensure that industries are beneficial for the prosperity, environmental sustainability, and economic development of residents.¹¹³ Third, traffic calming measures should be implemented to enhance public safety (not to mention reducing greenhouse gas emissions). These measures might include limiting vehicles and/or putting an emphasis on public transportation.¹¹⁴ Fourth, Jeju should prioritize home grown industries with a goal of becoming self-sufficient. Dr. Kang also promotes the idea of prioritizing Jeju’s arts and culture scene as tourist attractions, as opposed to “colorless tourist development (e.g. casinos and duty-free shops).¹¹⁵ Dr. Kang’s proposal reflects one way to

implement policies that comport with environmental justice goals.

Many have proposed adding more voices to the reparations conversation in Jeju, especially those of women.¹¹⁶ For example, women-led Haenyeo divers could help lead and organize discussions about environmental reparations. Politically, these women have long organized voluntary associations to decide village issues through democratic processes—known as Bultuk Democracy (Life Assembly of Jeju Women Divers).¹¹⁷ In 1932, the Haenyeo were able to stand up to Japan’s illegal management of villagers’ marine resources¹¹⁸—demonstrating their tremendous historical leadership. They have long promoted concepts like preservation, principle of commons, and respect of common property.¹¹⁹ Rather than basing reparations forums on often-detested European colonial models, the Bultuk presents a democratic leadership model that is well-respected and has symbolism of purity, resilience and courage¹²⁰—all of which are helpful in reparations discussions based on social trust. Bringing to the table these previously marginalized and excluded voices is crucial for a community-based reparations effort.

It is also necessary to examine community-focused remedies. This is one reason why, when discussing environmental reparations to make individuals and community members whole, it is imperative for determinations about payments or other forms of reparations to be community-led.¹²¹ While some reparations may take the form of individual payments for individual harms, there should also be EJ reparations that benefit the entire affected group. These are particularly appropriate here because so many of the harms involved, both past and present, have been less individual in nature and more community oriented – entire villages burned down during the Jeju 4.3 Incident, entire populations displaced and terrorized; and today, entire communities suffering from environmental harms. Because of the group-based aspect of these harms, remedies should also be community-

106.Kang, *supra* note 72, at 117.

107.Kumaran and Jeong, *supra* note 67, at 22.

108.Yamamoto et al., *Unfinished Business*, *supra* note 5, at 42.

109.*Id.*

110.*Id.*

111.Kang, *supra* note 72, at 119.

112.*Id.*

113.*Id.* at 118.

114.*Id.* at 118.

115.*Id.* at 118.

116.*Id.*

117. Ko et al., *supra* note 62, at 31.

118.*Id.*

119.*Id.* at 31.

120.*Id.* at 34.

121.Burkett, *supra* note 28.

focused; this underscores the need for communal involvement in crafting such remedies. A democratic and open process should involve all stakeholders to craft ideas for EJ reparations projects. Communities need “meaningful participation in the environmental decisions that affect them, which in turn allows them to craft a “framework for a reparative, restorative environmental policy based on justice first, then sustainability.”¹²²

There are many possible outcomes and specific implementation strategies for community-led EJ reparations. The particular details of Jeju reparations will depend on community feedback, and as such we will only sketch a few ideas here which may be helpful. Jeju advocates can draw from models of “environmental preservation districts as a form of reparations.”¹²³ Similarly, Dr. Kang has suggested changing Jeju’s land use planning to suit the needs of residents. This could mean re-instating protected “greenbelt areas, or restricting areas and types of development.”¹²⁴ Another possible outcome is ecological revitalization, a strategy of improving habitats for plants and animals, which has been employed by the U.S. EPA to restore Superfund cleanup sites.¹²⁵ Restored ecosystems improve public health, and can translate into increased business revenues and property values for residents. Other ideas may include community goods such as community centers, improved environmental or other infrastructure, environmental studies, sustainable development planning or any other communal needs. Ultimately, decisions should be made by the people of Jeju, in conversation with the joint task force.

7. Conclusion

Jeju has been a site of extraordinary mass harm; today, it also provides an extraordinary opportunity to explore issues of compensation for mass injustice. The harms suffered by the Jeju people are multifold, interrelated, and ongoing. The Jeju 4.3 Incident saw horrific abuses and mass murder; today, the fallout from those events is compounded by environmental injustice. This Article advocates for environmental justice reparations in the form of community-led programs to compensate for past harms and build a positive future that lives up to Jeju’s aspiration as a world environmental hub and peace island.

122. Collin & Collin, *supra* note 3, at 209, 214.

123. *Id.*, at 220.

124. Kang, *supra* note 72, at 113.

125. See “The Superfund Program: Protecting Healthy Communities, Advancing Environmental Protection,” website of the United States Environmental Protection Agency, at <https://www.epa.gov/superfund/superfund-program-protecting-healthy-communities-advancing-environmental-protection>