

Getting to Reparations: Japanese Americans and African Americans*

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Abstract

The literature on social movements shows why the Japanese American reparations movement was successful, while the African American reparations movement has had far less success. How the claim is framed is extremely important for a reparations movement. Even though treatment of African Americans in the past violated key contemporary precepts such as the importance of bodily integrity, the ideal of equality, and the sanctity of private property, African American claimants encounter several problems. Victims of direct harms are dead, perpetrators are diffuse, some of the actual harms were legal at the time they were committed, and the causal chain of harm is long and complex. Some estimates of reparations due would also impose unreasonable burdens on government and American citizens.

Reparations As a Social Movement

A nascent social movement for reparations to African Americans began in the U.S. during the last two decades of the twentieth century.¹ The moral case for such reparations seems unassailable. The horrors of slavery, the appalling segregation and violence of the Jim Crow era, and the continued discrimination since the 1964 Civil Rights Act are well known. One might ask why, if the facts are known, cannot African Americans receive reparations? After all, Japanese Americans received reparations for their internment during the Second World War, a much shorter period of oppression with effects that, however tragic and immoral, affected far fewer people and to a much less harmful degree. It is, however, much easier to obtain

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reparations when facts are about recent events, and apply to a finite number of living, identifiable individuals, with names, photographs, and individual stories, than to obtain reparations when the facts are about a seemingly infinite number of unknown people, many generations of whom are long dead.

I use social movements theory and research to illuminate the difficulty of successfully framing a claim for reparations to African Americans.² Meyer and Whittier (1994) define a social movement as “a collection of formal organizations, informal networks, and unaffiliated individuals engaged in a more or less coherent struggle for change” (277). The change sought in this instance is some variant of acknowledgement of and apology for past wrongs, and financial compensation for them, in the form of either collective or individual compensation. The question addressed using a social movements approach is, When and how can claims-making be successful?³ My analysis does not represent my personal views about who should receive compensation for what.⁴ It is, rather, an attempt to explain why it is so difficult to translate the obvious moral injustice of oppression of African Americans into a successful reparations claim.

Any social movement for any sort of social change requires the correct framing of the demand for change. This applies just as much to the demand for reparations for an injustice as to any other demand, however moral and self-evident the demand may seem to those making it. McAdam, McCarthy and Zald (1996) define framing as “the conscious strategic efforts by groups of people to fashion shared understandings of the world and of themselves that legitimate and motivate collective action” (6). Framing claims for reparations requires decisions about who is the perpetrator of a wrong, who is the victim, what exactly is the wrong to be compensated, and what are the reparations desired.

Reparations claims are a kind of symbolic politics, to use Alison Brysk’s (1995) term, involving “the maintenance or transformation of a power relationship through the communication of normative and affective representations” (561). Thus, symbolic politics rely heavily on “the subjective influence of ideas, learning and information” (560). Those who engage in symbolic politics often have to offer a new, counter-hegemonic narrative. To make sure this new narrative has some effect, they must also determine the characteristics of their listeners. Symbolic politics must elicit an emotional and moral resonance in the people from whom reparations are being claimed, as well as in the people making the claim. Claimants for reparations must try to find some “symbolic value congruence” (Ferree & Miller 1985:50) with people and institutions who are not themselves African American, or not dominated by African Americans.

Claimants for reparations to African Americans need to build a community of claimants, as well as a community of those receptive to — and capable of responding to — the claim. They must also convincingly demonstrate the causal chain between initial actions and later harms. The shorter the causal chain, and the fewer the actors involved in causing the harm, the easier it is for the link to be established and for those against whom a claim is made to accept responsibility.

The United Nations defines reparations to include a variety of symbolic and material measures, including acknowledgement of past actions, apologies for them, and monetary or other material compensation (Bassiouni 2000:9-11). This is an evolving international norm, but one not yet fully entrenched in international law. Finnemore (1993) defines a norm as “a rulelike prescription which is both clearly perceptible to a community of actors and which makes behavioral claims upon those actors” (566). Human beings think about what norms ought to be established, and propose measures for their establishment.

In the U.S., the norm promoting reparations for past injustices is still extremely weak. Moreover, there is not yet a strong epistemic community supporting reparations, which can influence national public policy. Haas (1992) defines epistemic communities as “networks of knowledge-based experts” (2) or “thought collectives” (3, note 4). Such communities have a “shared set of causal and principled (analytical and normative) beliefs, a consensual knowledge base, and a common policy enterprise (common interests)” (18). Once they exist, epistemic communities diffuse a norm both within the community, and to the wider public. But the idea of reparations to African Americans is still very weakly diffused. The “movement family” seeking reparations is still very small, represented at best by activists in *Transafrica Forum* (linked to the activist Randall Robinson) and the National Coalition of Blacks for Reparations in America (N’COBRA). Moreover, there is still no acknowledged policy venue for African American reparations. There have been some attempts to institute discussion in Congress, but not yet enough to maintain that reparations are a “normal” subject for legislators.

Framing Reparations Claims

It is common for those advocating reparations to African Americans to attempt to show that their claim parallels the Japanese American claim. Indeed, it is easy to argue that in its moral force the African American claim exceeds the Japanese American claim, and is therefore even more worthy of reparations. Successful claims, however, must present convincing arguments about what happened to justify the claim, who perpetrated the harm against whom, when and how the harm was perpetrated, and what is the appropriate remedy.

Certain aspects of the claim about what happened bear more moral resonance than others. If an action for which reparations are claimed was illegal at the time it was committed, the claim has more resonance than if the action became illegal only after the fact, or indeed is still legal at the time the claim is made. If the action caused death or physical harm, the claim for reparation is more likely to be accepted both by the public and by political authorities. Similarly, if the action offends contemporary ideals of equality, the social movement is more likely to be successful. Finally, loss of property seems to impel public sympathy, as private property is a core value of the modern Western world.

Framing of claimant and respondent is also key to success. The claimant must represent a clearly identifiable group. The respondent must also be clearly identifiable. A claim is more likely to be successful if there is a recognizable responsible authority, such as a government, to whom the claim can be addressed.

The causal chain between the harmful action and the claim for reparations is also very important. Both time and number of actors involved characterize the causal chain. The length of time since an alleged wrong was committed helps predict the success of a movement for reparations. If the victims, or at least their immediate heirs, are still alive, reparations are more likely to be considered legitimate than if the potential beneficiaries of reparations are many generations removed from the ancestors who suffered the moral wrong. It is also necessary to show a direct link between those accused of perpetrating a wrong and those living activists who claim to have been wronged. If many actors were involved in the process of wronging the victims, then it is difficult to find a precise respondent to the claim. When the “actors” include structural variables rather than identifiable human beings — such as the decline of employment opportunities in inner-city America — the chain is even more complicated.

The type of reparation that is demanded also affects the likelihood of a successful claim. If the claim is only for acknowledgement of a past wrong, or even for an apology without any material compensation, it is more likely to succeed than if there is also a claim for material or monetary payment. If material compensation is claimed, its reasonableness will affect the outcome. There must be a clear and limited demand. The amount must be one that is payable without causing significant disadvantage to those making the payment. This may not be a morally or philosophically defensible stance, but it is pragmatically sensible.⁵ Thus, the stance taken by philosopher J. Angelo Corlett (2003) would be suicidal, were it to be adopted by the movement for African American reparations. Corlett argues that “the United States could no longer survive as it now does should it finally own up to what it owes in reparations. . . . [But] [w]hatever suffering accrues to the United States . . . might be seen rightly as the moral cost of . . . murdering and otherwise oppressing untold millions of Native and African Americans” (219). There can be no reasonable expectation of success for a social movement that suggests undermining a society’s basic security.

Not only the framing of the claim, but also the organization of the claim, affects the success of a demand for reparations. The claims-making organization needs effective tactics. One tactic often used in human rights social movements is that of shaming or embarrassing a respondent into acquiescing to a claim. The effectiveness of such a technique often depends on whether the social movement can find a condensation point, a concrete event or individual that becomes publicly symbolic of the perpetrated harm. For example, Rosa Parks became a condensation point for the American civil rights movement when she refused to move to the back of the bus. Personal stories of this type move an audience to empathy more

easily than facts or statistics (Rorty 1993:133). The aim of any human rights or reparations movement is to create a new and legitimate story.

A new and legitimate story can result in interest and publicity via the mass media. Such media interest will assist to build up a social base, a constituency that follows the actions of the social movement leader and supports its claims. If this is combined with political pressure, then there might be some hope that political elites would take up the cause. In the U.S., the reparations movement puts pressure on members of the Black Congressional Caucus as an entry point to the political elite.

Lawsuits, or the threats of lawsuits, can also embarrass a government or private entity into negotiating reparations. The more precedents that claimants can find for their legal claims, the stronger their case. In order to acquire allies, however, a clear distinction must be made between guilt and responsibility. The claim for reparations to African Americans is largely an intergenerational claim: governments and institutions are held responsible for the actions of often long-dead predecessors. If the social movement tries to impute guilt to the individual actors who make up these governments and institutions, or to the wider non-African American public, resistance will increase and empathy decline. Thus, the belief that one purpose of reparations is to punish white Americans for their ancestors' actions is not only morally wrong, but a self-defeating tactic.⁶

Below I assess the Japanese American and African American reparations claims along the criteria set out above. This comparison shows the relative simplicity of the Japanese American case, compared to the African American.

Japanese Americans⁷

All persons of Japanese ancestry in the mainland U.S., including women, children, and the elderly as well as able-bodied, military-age men, were interned during WWII. The interment occurred pursuant to Executive Order 9066, issued by President Roosevelt on February 19, 1942.⁸ Eventually more than 120,000 people were interned, of whom about 77,000 were American citizens (Hatamiya 1999:190). The Japanese Americans were moved from their farms, businesses and residences on the west coast. The compensation they received for their loss of property was derisory. In the late 1970s a social movement to gain redress began among Japanese Americans. In 1988 the government of the U.S. acknowledged its wrong-doing in the Civil Liberties Act, and awarded each living individual who had been interned \$20,000.⁹

The action taken against Japanese Americans was legal at the time. Some, but not all, of the individuals interned were still Japanese citizens, hence they were enemy aliens, subject to control during a time of war. The others had been ordered interned by President Roosevelt as an extraordinary wartime measure.¹⁰ While the conditions in which the Japanese Americans lived were harsh, they were not

deliberately tortured or murdered. Nevertheless, opinion about the internship changed over time. In 1982 an official report concluded that "Executive Order 9066 was not justified by military necessity," and recommended reparations.¹¹ This report was a great boost to the reparations movement.

The internment of the entire Japanese-American population violated the equality principle. At the time the social movement for reparations began in the late 1970s, this principle was quite firmly entrenched in American culture, although at the time of the internment, it was not.¹² In the America of the 1940s there was a strict racial hierarchy which was considered quite legitimate.¹³ Nevertheless, by the 1970s the organizers of the redress movement were able to make effective use of the equality principle, using it to build alliances with other groups in the U.S. dedicated to equality, such as the National Association for the Advancement of Colored People, and the American Civil Liberties Union (Hatamiya 1999). The internment also violated the principle of private property, again having more moral resonance in the 1970s than in the 1940s, when it was common to violate the property rights of nonwhite Americans.

The Japanese American claim for reparations was much easier to make than the African American claim. The perpetrators of the wrong against Japanese Americans were clearly identifiable. The American government had made the order to intern, and its agents had carried out the order. The claimants were also easily identifiable. They were all the individuals who had been living in mainland United States in 1942 who were perceived to be of Japanese "racial" origin, regardless of their citizenship status. The harm was also finite: internment began in 1942 and ended in 1946. It took place during a short period, within living memory. The causal chain of harm was easy for Japanese Americans to demonstrate. Only about 30 years had passed between the initial order to intern and the beginning of the reparations movement. When the reparations were finally awarded, many of the victims were still alive, and it was only they, not their descendants, who claimed and received individual financial awards (Laremont 2001:242).

The Japanese American redress movement was also very well organized. After some internal debate and competition among various groups, the lead organization was considered the legitimate representative of the collectivity. The claimants also had access to very influential, high-level governmental insiders. There were four Japanese American members of Congress, Senators Daniel Inouye and Spark Matsunaga, both from Hawaii, and Congressmen Norman Mineta and Bob Matsui, both from California (Hatamiya 1999:194). Matsunaga and Inouye were also WWII veterans. This allowed them to act as insider advocates (Laremont 2001:248). Inouye was also a very visible victim of violation of physical integrity, as he had lost part of his right arm in battle (Hatamiya 1999:195). The visibility of his injury became a condensation point in the struggle for reparations.

The two veterans in the government had been members of the segregated Japanese American 442d Regimental Combat Team, known for its bravery during WWII (Hatamiya 1999). The reparations movement was able to build an alliance

with white veterans who were aware of this unit's bravery, and who acted as witnesses in support of reparations. The existence of these allies helped break down the original hostility to reparations in the Congress and Senate.

The members of the redress movement successfully used shame and embarrassment to achieve their ends. A key lawsuit also acted as a condensation point. In 1983 three Japanese Americans who had been convicted during World War II of defying the internship policy had their convictions vacated, on the grounds that the internship policy had been motivated by racial prejudice rather than military necessity (Brooks 1999:208). The media publicity generated by this case also helped to generate public sympathy for the cause. Together with an effective lobbying campaign, the lawsuits, politics of shame, and media publicity rendered unnecessary further militant tactics.

Finally, the awards to Japanese Americans were an amount the public could find reasonable, \$20,000 per individual. The claimants were not awarded the full market value of their lost property; indeed, the amount was little more than symbolic. In the event, about 80,000 individual claims were paid, at a total cost of about \$1.6 billion. Aside from the financial settlement, Japanese Americans made reasonable demands for symbolic reparations, which were relatively easy to satisfy. An official apology was included in the Civil Liberties Act (Barkan 2000:30–31).

African Americans

Claims for reparations to African Americans are decidedly more complicated than claims for reparations to Japanese Americans. The time period for which reparations are claimed is so long that it must be divided into three distinct phases; namely, slavery, Jim Crow, and the post-WWII period.

SLAVERY¹⁴

It is extremely difficult to frame a claim for reparations for slavery. To contemporary eyes, the moral claim that American slavery constituted a grievous harm to those bought or born into slavery seems irrefutable. Yet the practice of slavery in the U.S. was not illegal until 1863, when President Lincoln freed the slaves. Slavery did constitute what is now considered to be a gross violation of human rights. In some states at some times, owners could legally kill slaves, and in all periods they could legally torture them.¹⁵ Slavery also violated the deepest notions of equality. In legal status, slaves were not even fully considered people. Nor did slaves have the right to own property. Indeed, they did not even own their own capacity to labor.¹⁶

These obvious facts might seem enough to many African Americans and to many sympathizers to justify a claim for reparations. But offsetting this justification is the difficulty of establishing a clear causal chain between the harm done to slaves in the U.S. until 1863, and the desire of their descendants to receive some form of

reparation. Not only are the direct victims of slavery long since dead, but so are their immediate heirs. Even their more distant heirs are difficult to identify. Some individuals brought to the U.S. from Africa, or their descendants, were freed before 1863. Indeed, a few even owned slaves themselves (Burnham 1993; Johnson & Roark 1984). Other black people in the U.S. are voluntary immigrants from the Caribbean or from Africa. It is difficult to identify among all those individuals of presumed African “racial” or genetic background in the U.S. those whose ancestors were actually victimized by slavery in America, although some identification can be made via historic records, shipping lists, parish documents, and even DNA testing.

A related question is how to demonstrate that the descendants of these slaves — even if they can be identified — are suffering now as a result of slavery. In his *The Debt* (2000), the prominent African American leader Randall Robinson constructs a hypothetical case of a black male in the 1990s, still suffering the effects of slavery. Robinson shows how low expectations and a life of crime are in all likelihood a consequence of generations of persecution, from enslaved great-great grandfathers to sharecropper grandfathers to fathers who suffered from discrimination. Robinson’s composite multigenerational biography is not far-fetched. Consider the African American reporter Leon Dash’s (1996) biography of Rosa Lee, an African American woman living in the 1990s in the Washington, D.C. ghetto. Rosa Lee’s life was profoundly affected by the legacy of slavery. Her grandparents were poor sharecroppers in the South, her mother a domestic worker in Washington. Illiteracy and lack of opportunity plagued Rosa Lee until her death from AIDS in the mid-1990s and also profoundly limited her children’s life chances. Nevertheless, despite such stories, there is the countercharge that African Americans are also in part responsible for their own fate, for example, by rejecting education as a “white man’s value.” And there are many middle-class and professional African Americans who have done well in life and presumably do not need extra help, either via affirmative action or via reparations, as the black conservative critic Shelby Steele has argued. In Steele’s view, “the demand for reparations is yet another demand for white responsibility when today’s problem is a failure of black responsibility” (Steele 2001:198).

One might argue that whether descendants of slaves suffer as a result of their ancestors’ enslavement is in any case irrelevant. Japanese American claimants received reparations for harms they endured in the past, regardless of whether they still suffered (in a material sense) the effects of those harms. In the public mind, however, it is clear that these living individuals did suffer in the recent past, in both a material and a nonmaterial way. This is very different from a case in which very distant ancestors suffered, and in which the causes of the problems of descendants are many and complex, and may include their own actions. The causal chain in the latter instance is far from simple.

Although it is difficult to identify legitimate present-day claimants for reparations for slavery, it is somewhat easier to identify the correct respondents. Slave-owners were the primary perpetrators of the historic harm, but they were supported by their various state governments, and ultimately by the national government. All governments take on the responsibilities and debts of their predecessors. The present-day government of the U.S., and the governments of the states that permitted slavery (in the North as well as the South), are the correctly identified respondents to the claim for reparations. Some public and private institutions may also be respondents, as discussed further below. Some commentators also suggest that descendants of individual slave owners are correct respondents.

Very recently the American government did make some symbolic reparation for slavery, without, however, using the vocabulary of reparation. Plans in 2004 were underway to build a museum of African American history in Washington (Cornwall 2003). Such a museum acts as a monument, a recognition of past evils. By 2004 no apology for slavery had yet been offered by the national government, however. Both President Bill Clinton in 1998 and President George W. Bush in 2003 acknowledged the evils of slavery during state visits to Africa, but they did not acknowledge these evils in any formal way while on the territory of the U.S. (Bush 2003; Clinton 1998; Ross 1998). There was still no serious discussion of monetary reparations. In 2004 it did not appear that a government considering financial compensation — or even symbolic rhetorical compensation — to African Americans would enjoy electoral support on this issue. A 1997 poll showed that 88% of whites opposed paying reparations (Feagin & O'Brien 1999:343).

In any case, the social movement for reparations to African Americans is still weak. There is no legitimate collective representative demanding compensation: rather, there are only some private organizations, among the most prominent of which are the National Coalition of Blacks for Reparations in America (N'COBRA) (Aiyetoro 2003) and TransAfrica Forum. The claimants enjoy few, if any allies, although one Congressional representative, John Conyers, has several times introduced a Bill suggesting a formal study of the reparations question, most recently known as H.R. 40, into the House of Congress.¹⁷ This Bill claimed compensation for the "40 acres and a mule" allegedly promised to all African Americans when slavery was abolished.¹⁸ Another representative, Tony P. Hall, unsuccessfully introduced a Resolution for an apology to African Americans in 1997.¹⁹

So far, the small social movement for reparations has occasionally used the tactic of the politics of shame. In 2001 Yale University was subject to the politics of embarrassment, when three graduate students revealed that many of its principal buildings had been named after slave owners (Brophy 2001). More recently, Brown University set up a commission to investigate its own history and to decide on possible remedies, after exposure of the fact that some members of the Brown family after whom the University was named had engaged in the shipping of slaves (although others became staunch abolitionists) (Belluck 2004). Activists also

attempted to use lawsuits to target private companies that, they alleged, had been involved in slavery or the slave trade. The most important case (still unresolved at the time of writing) was against several financial and insurance companies in the U.S. whose nineteenth-century predecessors were known to have insured slaves as property, against illness and death.²⁰ Another lawsuit was filed in Britain against Lloyd's of London, historically a major insurer of ships that by implication must have insured slave ships (Walsh 2004). That the African American reparations movement can use these tactics is a consequence of the fact that African Americans are, however unequally, citizens of the U.S., the country in which they make their claims. Even though they possess no punitive resources, they can embarrass the country to which they belong. The movement's putative constituency is not only all African-Americans, but also sympathetic (and embarrassed) white and other Americans.

THE JIM CROW ERA

As is the case regarding the period of legal slavery in the U.S., so also the injustices against African Americans during the post-slavery period of "Jim Crow" are in retrospect so obvious that proponents of reparations might think their case unassailable. The Jim Crow era stretches roughly from the legal end of slavery until the Civil Rights Act of 1964. During this era African Americans were always at risk of severe physical harm. Thousands were lynched, often as a result of false accusations of raping white women (Baughman 1966). The treatment of African Americans also violated the principle of equality rights. After the short period of Reconstruction, they lost the vote, which was subsequently routinely denied them until the civil rights movement of the 1950s and 1960s. They were subjected to educational, residential, and employment discrimination. African American property rights were insecure, always subject to disruption by white racists. Nor were they equally permitted opportunities to acquire property. Well into the 1950s, the federal government included restrictive covenants in mortgage loans, preventing African Americans from buying houses in white neighborhoods (Gary et al. 2000).

Most of these practices of persecution and discrimination, however, were not illegal at the time they were perpetrated. In the early twenty-first century, the very legality in earlier times of the oppressive treatment of African Americans constitutes part of the evidence that African Americans do deserve reparations. Yet claims for reparations for treatment in the Jim Crow era suffer the same disadvantages as claims for reparations for slavery. Most of the victims, and their immediate heirs, are deceased. The causal chain is long and difficult to determine, and perpetrators are diffuse. The amount to which claimants might in principle be entitled is indeterminate, and any amount calculated might be so large as to seem unreasonable to those expected to pay. Organization in favor of reparations for the

Jim Crow era is growing, but is still weak: essentially, the same set of actors is involved as in the claim for reparations for slavery.

Only in particular cases with clear victims, clear perpetrators, and finite harms have reparations claims for treatment during the Jim Crow era been successful. One such claim was filed on behalf of victims of the Tuskegee “medical” experiments, started in the 1930s and not ended until the 1970s. African American men who believed that they were being treated for syphilis were left without appropriate medical attention, in the interests of unethical “research” to determine how the untreated syphilis would progress. President Bill Clinton apologized to victims of the Tuskegee experiments in 1997, and reparations were provided in the form of a memorial at Tuskegee, and a grant to the university at Tuskegee to establish a center for bioethics research (Clinton 1997).

Two other cases of obvious injustice within living memory had contradictory results, however. About 120 blacks in Rosewood, Florida were burned out of their homes in 1923, and several were murdered, the ostensible reason being an assault on a white woman by a black man.²¹ After this pogrom (to use a word usually connected to European anti-Semitism, but an accurate description of this event) became a public issue in the 1990s, Rosewood victims and their descendants were awarded \$US 2.1 million in compensation (Wharton 2002). In 1921, a “race riot” in the black Greenwood area of Tulsa, Oklahoma, also set off by accusations that a black man had assaulted a white woman, left perhaps 75 to 300 individuals (including some whites) dead, and destroyed a community so prosperous that it had once been known as the “black Wall Street.”²² This terrible massacre was buried in history for decades, so much so that the local newspaper, the *Tulsa Tribune*, ignored it in 1936 and 1946 in its “this day fifteen (twenty-five) years ago” column (Franklin & Ellsworth 2001:26).²³ Yet while the facts were acknowledged by a state commission that reported in 2001, the only compensation awarded was medals to survivors (Staples 2003) and a scholarship program for Tulsa residents (Wharton 2002:3).

In all three of these cases from the Jim Crow era, Tuskegee, Rosewood, and Tulsa, the injustice, when eventually exposed in the 1990s, was so severe as to be obvious to American politicians, policy makers, and the general public. All three were within living memory of elderly survivors or their children. In the Tuskegee medical experiments (also resonating with knowledge of Nazi medical experiments [Lifton 1986]) victims were subject to grievous bodily harm, and their (retrospective) legal right to equality was violated. In Tulsa and Rosewood, individuals suffered grievous bodily harm, their formal right to equality was ignored, and their right to private property was violated. Tuskegee, Tulsa and Rosewood all became condensation points for general public perceptions of the Jim Crow era. The actions causing harm were discrete: the causal chain was short, and only a limited number of actors was involved. National, state and local governments, and some individuals, were responsible for the injustices and could be identified. The federal government acknowledged responsibility for the Tuskegee affair, and the

governments of Florida and Oklahoma acknowledged responsibility for the massacres in their respective jurisdictions. The victims could clearly be identified, and some were still living. Given these conditions, tactics of shaming worked effectively in the claim for reparations, as did media publicity, especially in the case of the 1997 film, *Rosewood*. Finally, the cost of reparations was not inhibitory.

Reparations Post Civil Rights Act

Forty years have passed since the Civil Rights Act clarified that discrimination against African Americans was illegal, yet during this period African Americans still did not enjoy the full range of rights that ought to be theirs by virtue of their American citizenship. There were still some, although many fewer, gross violations of human rights, such as lynchings. Although protected in principle, political and civil rights were not always protected in practice. Nor were property rights protected; discrimination in banking, mortgaging, and employment (a particularly important form of property in the modern world) still occurred.

Some injustices that occurred during this time were correctable through the American legal system. Particular cases of lynching, violation of property rights, or violation of the principle of equality could be addressed. In 1987, for example, the mother of a young man who was lynched by members of the Ku Klux Klan in Mobile, Alabama was awarded the property of the United Klans of America in compensation (Kunen 1987; Southern Poverty Law Center 2004). Laws protecting individuals from discrete, obviously illegal harms were now clearly in place. Victims and their immediate heirs were still alive. Perpetrators could be identified, and the causal chain in such events was simple and short. Politicians, policy makers and the public were guided by the law and by the obvious nature of these injustices to support rectification, whatever their private views of African Americans might have been.

Systemic injustices, however, were another matter. No effective social movement emerged to demand health care for blacks,²⁴ to correct the severe inequities of racially categorized "welfare" programs, or to assist black mothers to raise their children (Neubeck 2005; Neubeck & Casenave 2001). In 2002, an estimated 12 per cent of black males in their twenties and early thirties were in prison or jail: no social movement effectively addressed this problem (Harrison & Karberg 2003:11). No laws existed to enforce the socioeconomic rights of African Americans (in part because the U.S. does not acknowledge the existence of economic rights, which are protected by international law). The causes of the suffering of so many African-Americans were not easily identified and were attributable more to structural problems than to individuals, or even to governments. There were many difficulties in the affirmative action policy, which might be seen retrospectively as a type of reparation, although not originally devised using reparations language. Affirmative action appeared to violate the equality rights of some whites, did not

necessarily target the appropriate members of the African American community, and appeared to apply a relatively blunt instrument to a complex problem.

Tactics of shaming, media publicity, boycotts and lawsuits did not lend themselves easily to such complex, wide-ranging problems. Nor did the African-American community as a whole possess punitive resources (such as a threat to withdraw labor) that could effectively promote change, even if the community had been able to organize as one coherent bloc. Whether framed in terms of distributive justice or in terms of compensatory reparation, the particular need of black Americans remained unmet.

Successful and Unsuccessful Reparations Claims

I have used the literature on social movements to explain why it will be much more difficult for African Americans to win reparations than it was for Japanese Americans. The African American claim faces two major difficulties. First, it is difficult to frame the call for reparations in a convincing manner because many of the victims are long since dead, there are too many of them, and they cannot easily be identified. Second, the causal chain between past harms and present victims is too long and too complex, with too many actors and events implicated. By contrast, the Japanese American claim for reparations was easily framed. Both victims and perpetrators were easily identifiable, and the event took place over a short, finite period. The harm was clear, and the causal chain was short and lacking in complexity.

This analysis suggests that while there may be more symbolic acknowledgements — and perhaps even apologies for — slavery and the Jim Crow era, no large amounts of financial compensation will ever be forthcoming. On the other hand, discrete harms that violated key moral precepts such as the necessity for physical integrity, the principle of equality, and the sanctity of private property, and that occurred within living memory, may continue to result in some concrete reparations.

Those working for reparations to African Americans may enjoy more success in the future if they learn the lessons of other social movements. They must present clear, limited demands for recognizable wrongs, caused by recognizable agents and events. The victims must be a finite group, living in the present. And in the case of the call for financial reparations, the amounts must not be so large as to seem obviously unreasonable to the governments and publics of the states from whom reparations are claimed.

Notes

1. There had, however, been earlier discussions of reparations to African-Americans. See the excellent history of the reparations movement in Torpey (2004).

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2. A companion piece to the present article compares reparations to Jews and continental Africans. See Howard-Hassmann & Lombardo (n.d.).
3. Much of my thinking on the claim for reparations as a social movement emerges from my reading of the brilliant book by Keck & Sikkink (1998), especially their discussions of causal chains, physical harm, ideals of equality, and condensation points, all matters I discuss below.
4. It is perhaps inappropriate for me, as a Canadian, to present my personal views here. But I think that the federal and state governments of the U.S. should acknowledge the grave harms committed against African Americans, apologize for them, and provide collective compensation, such as enhanced funding for predominantly African American schools. Institutions such as universities, churches or private corporations that participated in or benefited from the slave trade, slavery, and the subsequent oppression of African Americans have commensurate responsibilities.
5. I draw this point in part from the discussion of international duties in Orend (2002).
6. Browne (1972:69) summarizes various motives for reparations.
7. Except where otherwise noted, this section is based on Barkan (2000:30-45) and Brooks (1999:157-228).
8. The Order is printed in Brooks (1999:169-70). Even though they lived much closer to Japan, Hawaiian Japanese were not interned, presumably because they were too numerous and economically central to Hawaii (Barkan 2000:32).
9. A similar apology and compensation were awarded in 1988 to the Japanese-Canadian community, which also experienced internship. For the statement of apology by Prime Minister Brian Mulroney, see House of Commons (1988).
10. For a 1984 defense of the order written by one of the people involved in the decision to relocate the Japanese Americans, see "Letter from John J. McCloy to Jane B. Kaihatsu," in Brooks (1999:222-25).
11. "Report of the Commission on Wartime Relocation and Internment of Civilians," *Personal Justice Denied*, Washington, D.C.: U.S. Government Printing Office, 1982, pp. 1-2 and 16-23, excerpted in Brooks (1999:171-76). Quotation from p. 173.
12. Japanese-Canadians relied on the rhetoric of equality rights in making their claims for compensation. See Kobayashi (1992:4).
13. Barkan (2000:33) also makes this point.
14. I use the term *slave* to designate a legal status, not a state of mind or psychological predisposition.
15. On the various powers held over slaves over time, in various states, see the classic volume by Higginbotham (1978).
16. A fact which causes Block (2002) to make the libertarian argument that the descendants of slave owners in the U.S. owe financial compensation to the descendants of the slaves that their ancestors owned.

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17. Congressman John Conyers of Michigan, "The Commission to Study Reparations Proposals," in Brooks (1999:367–69).
18. Major-General W.T. Sherman, "Special Field Order No. 15, 'Forty Acres and a Mule'", issued at Headquarters, Military Division of the Mississippi, in the Field, Savannah, Georgia, January 16, 1865, in Brooks (1999:365–66). There is no mention of a mule in this Order, which actually gave "three respectable negroes, heads of families" 120 acres to share equally amongst themselves.
19. Congressman Tony P. Hall of Ohio, "Defense of Congressional Resolution Apologizing for Slavery," in Brooks (1999:350–51).
20. "Daedria Farmer-Paellmann vs Fleetboston Financial Corporation, Aetna Inc., CSX and their predecessors," United States District Court for the Eastern District of New York, March 26, 2002. Reprinted in Winbush (2003:348–60).
21. See the Special Master's Final Report, "Rosewood Victims vs. State of Florida", March 24, 1994, <<http://afgen.com/roswood2.html>>
22. See the Oklahoma Commission to Study the Tulsa Race Riot of 1921, *Tulsa Race Riot: Report*, February 28, 2001. See also Halliburton (1972) and Brune (2002).
23. John Hope Franklin, the distinguished African American historian, was himself a five-year-old survivor of the Tulsa massacre: his father was a Greenwood lawyer.
24. In 2002, 20.2% of African Americans were without health insurance, compared to 10.7% of white, non-Hispanic Americans. (Note, however, that the uninsured rate was even higher among Latinos, at 32.4 per cent, and among noncitizen immigrants, at 43.3%). See the Center on Budget and Policy Priorities, News Release, "Number of Americans without Health Insurance Rose in 2002," October 8, 2003, p. 3.

References

- Aiyetoro, Adjoa A. 2003. "The National Coalition of Blacks for Reparations in America (N'COBRA): Its Creation and Contribution to the Reparations Movement." Pp. 209–25 in *Should America Pay? Slavery and the Raging Debate on Reparations*, edited by Raymond A. Winbush. Amistad.
- Barkan, Elezar. 2000. *The Guilt of Nations: Restitution and Negotiating Historical Injustices*. Norton.
- Bassiouni, M. Cherif. 2000. "The right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms." United Nations, Commission on Human Rights, 56th Session, E/CN.4/2000/62. 18 January.
- Baughman, Laurence Alan. 1966. *Southern Rape Complex: Hundred Year Psychosis*. Pendulum Books. Cited in Friedman, Lawrence J. 1979. "Rape Complex, Southern." Pp. 1029 in *The Encyclopedia of Southern History*, edited by David C. Roller and Robert W. Twyman. Louisiana State University Press.
- Belluck, Pam. 2004. "Brown U. to Examine Debt to Slave Trade." *New York Times*, March 13.
- Block, Walter. 2002. "On Reparations to Blacks for Slavery." *Human Rights Review* 3:53–73.

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- Brooks, Roy L. 1999. *When Sorry Isn't Enough: The Controversy over Apologies and Reparations to Human Injustice*. New York University Press.
- Brophy, Alfred L. 2001. "Should Yale Apologize for Slavery?" *History News Network*, August 21. <<http://hnn.us/articles/213.html>>
- Browne, Robert S. 1972. "The Economic Basis for Reparations to Black America." *Review of Black Political Economy* 2:67–80.
- Brune, Adrian. 2002. "Tulsa's Shame: Race Riot Victims Still Wait for Promised Reparations." *The Nation*, 18 March. Pp. 11–14.
- Brysk, Alison. 1995. "'Hearts and Minds': Bringing Symbolic Politics Back In." *Polity* 27:559–85.
- Burnham, Philip. 1993. "Selling Poor Steven: the struggles and torments of a forgotten class in antebellum America: black slaveowners." *American Heritage* 44:91–97.
- Bush, President George W. 2003. "President Bush Speaks at Goree Island in Senegal." Pp. 889–91 in *Weekly Compilation of Presidential Documents*, July 8. <<http://www.gpoaccess.gov/wcomp/index.html>>
- Clinton, President Bill. 1997. "Remarks in Apology to African-Americans on the Tuskegee Experiment." In *Weekly Compilation of Presidential Documents*, May 16. <<http://www.gpoaccess.gov/wcomp/index.html>>
- Clinton, President Bill. 1998. "Remarks at the Kisowera School in Mukono, Uganda." Pp. 490–93 in *Weekly Compilation of Presidential Documents*, 24 March. <<http://www.gpoaccess.gov/wcomp/index.html>>
- Corlett, J. Angelo. 2003. *Race, Racism and Reparations*. Cornell University Press.
- Cornwall, Rupert. 2003. "African-Americans win 70-year fight for a national museum." *The Independent* (United Kingdom), 22 November.
- Dash, Leon. 1996. *Rosa Lee: A Mother and her Family in Urban America*. Basic Books.
- Feagin, Joe R., and Eileen O'Brien. 1999. "The Growing Movement for Reparations." Pp. 341–44 in *When Sorry Isn't Enough: The Controversy over Apologies and Reparations to Human Injustice*, edited by Roy L. Brooks.
- Ferree, Myra Marx and Frederick D. Miller. 1985. "Mobilization and Meaning: Toward an Integration of Social Psychological and Resource Perspectives on Social Movements." *Sociological Inquiry* 55:39–61.
- Finnemore, Martha. 1993. "International Organizations As Teachers of Norms: The United Nations Educational, Scientific, and Cultural Organization and Science Policy." *International Organization* 47:565–97.
- Franklin, John Hope, and Scott Ellsworth. 2001. "History Knows No Fences: An Overview." In *Tulsa Race Riot: Report*, gathered by the Oklahoma Commission to Study the Tulsa Race Riot of 1921. Pp. 21–35.
- Gary, Willie E., Jack Hitt, Alexander J. Pires Jr., Richard F. Scruggs, Dennis C. Sweet III. 2000. "Making the Case for Racial Reparations." *Harper's Magazine* 301(1806). Reprinted in *Should America Pay? Slavery and the Raging Debate on Reparations*, edited by Raymond A. Winbush. Pp. 79–108.
- Haas, Peter M. 1992. "Introduction: epistemic communities and international policy coordination." *International Organization* 46:1–35.
- Halliburton, R., Jr. 1972. "The Tulsa Race War of 1921." *Journal of Black Studies* 2:333–57.

Getting to Reparations / 839

- Harrison, Paige M., and Jennifer C. Karberg. 2003. "Prison and Jail Inmates at Midyear 2002." *Bureau of Justice Statistics Bulletin*, April. U.S. Department of Justice.
- Hatamiya, Leslie T. 1999. "Institutions and Interest Groups: Understanding the Passage of the Japanese American Redress Bill." Pp. 190-200 in *When Sorry Isn't Enough: The Controversy over Apologies and Reparations to Human Injustice*, edited by Roy L. Brooks.
- Higginbotham, A. Leon, Jr. 1978. *In the Matter of Color: Race and the American Legal Process: the Colonial Period*. Oxford University Press.
- House of Commons (Canada). 1988. *Debates*, Second Session-Thirty-Third Parliament, 37 Elizabeth II, September 22.
- Howard-Hassmann, Rhoda E., and Anthony P. Lombardo. n.d. "Framing Reparation Claims: Why Africans Can't Imitate the Jews." Forthcoming.
- Johnson, Michael P., and James L. Roark. 1984. *Black Masters: a Free Family of Color in the Old South*. Penguin Canada.
- Keck, Margaret E., and Kathryn Sikkink. 1998. *Activists Beyond Borders: Advocacy Networks in International Politics*. Cornell University Press.
- Kobayashi, Audrey. 1992. "The Japanese-Canadian Redress Settlement and its Implications for 'Race Relations.'" *Canadian Ethnic Studies* 24:1-19.
- Kunen, James S. 1987. "Seeking justice for her lynched son, an Alabama mother ruins the Klan that killed him." *People Weekly* 17, 8 June. P. 55.
- Laremont, Ricardo René. 2001. "Jewish and Japanese American Reparations: Political Lessons for the Africana Community." *Journal of Asian American Studies* 4:235-250.
- Lifton, Robert Jay. 1986. *The Nazi Doctors: Medical Killing and the Psychology of Genocide*. Basic Books.
- McAdam, Doug, John D. McCarthy, and Mayer N. Zald. 1996. *Comparative Perspective on Social Movements: Political Opportunities, Mobilizing Structures and Cultural Framings*. Cambridge University Press.
- Meyer, David S., and Nancy Whittier. 1994. "Social Movement Spillover." *Social Problems* 41:277-98.
- Neubeck, Kenneth J. 2004. "Welfare Racism and Human Rights." Unpublished manuscript. University of Connecticut.
- Neubeck, Kenneth J., and Noel A. Cazenave. 2001. *Welfare racism: Playing the Race Card against America's Poor*. Routledge.
- Oklahoma Commission to Study the Tulsa Race Riot of 1921. 2001. *Tulsa Race Riot: Report*. February 28.
- Orend, Brian. 2002. *Human Rights: Concept and Context*. Broadview Press.
- Robinson, Randall. 2000. *The Debt: What America Owes to Blacks*. Dutton.
- Rorty, Richard. 1993. "Human Rights, Rationality and Sentimentality." Pp. 111-34 in *On Human Rights: The Oxford Amnesty Lectures 1993*, edited by Stephen Shute and Susan Hurley. Basic Books.
- Ross, Sonya. 1998. "Clinton Ends Africa Tour with Visit to Slave-Trading Site." *The News-Times*, 2 April.
- Southern Poverty Law Center. 2004. *Beulah Mae Donald v. United Klans of America*. <<http://www.splcenter.org/legal/docket/files.jsp?cdrID=10&sortID=4>> (accessed July 31)

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- Staples, Brent. 2003. "Coming to Grips with the Unthinkable in Tulsa." *New York Times*, March 16.
- Steele, Shelby. 2001. "Or a Childish Illusion of Justice? Reparations Enshrine Victimhood, Dishonoring Our Ancestors." *Newsweek*, August 27. P. 22 ff. Reprinted in *Should America Pay? Slavery and the Raging Debate on Reparations*, edited by Raymond A. Winbush. 2003. Amistad. Pp. 197–99.
- Torpey, John. 2004. "Paying for the past?: the movement for reparations for African-Americans." *Journal of Human Rights* 3:171–87.
- Walsh, Conal. 2004. "Descendants of America's slaves sue Lloyd's for \$1bn," *Manchester Guardian Weekly* 170(15):7.
- Wharton, Martha L. 2002. "Tulsa, Rosewood Riots and the Precedent for Reparations." *Northstar Network*, September 30. [<http://www.thenorthstarnetwork.com/news/heritage/181512-1.html>]
- Winbush, Raymond A. (ed.) 2003. *Should America Pay? Slavery and the Raging Debate on Reparations*. Amistad.