Chapter 1 | THE PURPOSE AND HISTORY OF THE BLACK REDRESS MOVEMENT

The orchestrated aspiration to obtain slave redress—redress for slavery and Jim Crow collectively—is referred to here as the "black redress movement." Although this orchestration has yet to soar to the symphonic heights of the civil rights movement, and although gigantic conductors of the stature of Martin Luther King and Thurgood Marshall have yet to emerge (but are on the way), it would be wrong to dismiss the black redress movement as a ragtag collection of racial malcontents marching to the beat of their own drum. The movement is growing in strength and acceptance as it becomes better understood. Better understanding is the key to its growth.

Part of this understanding is the realization that, not unlike the pre-1963 civil rights movement (see the Epilogue), the modern black redress movement is in its nascent stage. The modern movement, in fact, began in 1989 with the introduction of a slave redress bill in Congress by Representative John Conyers (D–Mich.). Since 1989, dozens of books, articles, and commentaries have been written about the movement. Similarly, several cities and states have addressed the question of slave redress in various ways. What, then, is the purpose of the modern movement? What, in addition, is its history?

PURPOSE

Whether centered on compensation through the tort model or apology under the atonement model, the black redress movement is an attempt by

black Americans and others to secure redress from the federal or state governments for stolen capital on behalf of the slaves, free blacks, and their descendants. By capital, I do not simply mean financial capital (labor and property), but also human capital (education and skills), social capital (social esteem and empowerment), and basic capital (life, liberty, and human dignity). These forms of capital are discussed in greater detail in chapters 2 and 3.

It is equally important to understand that the redress claim against the government encompasses not only the institutions, policies, laws, and procedures of the bifurcated government formed under the Constitution of 1787, but also those of its predecessor regimes. The Continental Congress formed under the Articles of Confederation and the British colonies themselves sanctioned and protected slavery. Slavery remained an institution in this country despite changes in governmental structure and personnel. Various forms of capital were stolen from blacks during a period of approximately two and one-quarter centuries of human bondage (ca. 1638–1865).

The slave redress claim also recognizes the fact that when slavery ended in 1865, it was not replaced with a system of racial equality, except for a few years of Reconstruction. It folded into a system of separate-but-equal Jim Crow laws that lasted approximately one hundred years (ca. 1877–1972).[1] This separate-but-equal regime was much more the former than the latter. Jim Crow was, in fact, a government-mandated or -sanctioned program of racial hegemony and racial preferences for whites, whether rich or poor, male or female, native-born or immigrant. Even though most whites and our political leaders, including the justices of the Supreme Court, claimed that this was not the case, they knew it was.[2] In his years of retirement, President Ulysses Grant wrote with uncommon candor about the true objectives of southern whites in the aftermath of slavery. Southern whites "by force and terror [intended] to . . . deprive colored citizens of the right to . . . a free ballot; to suppress schools in which colored children were taught, and to reduce the colored people to a condition closely akin to that of slavery."[3] The system of racial hegemony ended only thirty years ago with the passage of a federal law, the Equal Employment Opportunity Act of 1972, prohibiting racial discrimination and segregation in state and local employment markets.[4]

The black redress movement, then, makes a twofold argument. First,

slavery and the slavelike conditions under which free blacks lived denied these blacks life and liberty (basic capital), plus an estate (financial, human, and social capital) to bequeath to their heirs. Second, Jim Crow forced their descendants, who had little capital to begin with, into the worst jobs, the worst housing, and the worst educational systems, the effects of which are very much in evidence today.

While both the tort model and the atonement model seek redress from the government for the harms slavery and Jim Crow have caused to the slaves, free blacks, and their descendants, the tort model has a secondary purpose, which falls beyond the scope of the atonement model. This is the attempt to seek nonapologetic redress through litigation from private parties who profited from slavery directly. Corporations that have profited from slave labor and wealthy white families whose fortunes were built on the backs of blacks are the main targets of this pursuit. Many blacks today can, in fact, trace their roots back to specific plantation families whose descendants are alive today. Alex Haley's seminal work *Roots* (1976) and, on the other side of the color line, Edward Ball's national bestseller *Slaves in the Family* (1998) illustrate these intergenerational, cross-racial connections. Gwendolyn Hall, a private historian, has gone Haley and Ball one better. She has created a database detailing 161 years of slavery in Louisiana. Everything from slave names, genders, ages, occupations, family relations, and illnesses to the prices paid by slave owners and emancipation records is documented on a CD-ROM located at Louisiana State University.[5]

The major difference between the primary and secondary objectives of the black redress movement may be more than just a matter of emphasis. It may also be one of legitimacy. Because it identifies individual perpetrators, the secondary goal of the movement could be viewed as more legitimate than the primary one, which focuses on governments. On the other hand, the primary objective could be viewed as equally legitimate, if not more legitimate than the secondary objective, because it targets the entities most responsible for slavery and Jim Crow. In addition, the primary purpose, unlike the secondary purpose, spreads the cost of slavery and Jim Crow among all Americans, including whites who benefited the most from these prior systems of racial subordination.

Taken together, these purposes—governmental and private redress—reflect a view of the slave redress issue that the average citizen rarely considers. It is the belief that governmental or private action that "ignores the

discriminatory past is just as culpable" as governmental or private action that embraces that past. "No nation," as one pioneer of the tort model has observed, "can enslave a race of people for hundreds of years, set them free bedraggled and penniless, pit them, without assistance in a hostile environment, against privileged victimizers, and then reasonably expect the gap between the heirs of the two groups to narrow."[6] On this point, I am in total agreement with proponents of the tort model.

HISTORICAL BACKGROUND

Though it has a modern dimension, the black redress movement is not a movement of recent vintage. It has deep historical roots in this country. Claims for redress were, in fact, made decades before the end of slavery. And since slavery, each generation of black Americans has reasserted the claim. Black leaders as diverse as Marcus Garvey (a racial separatist) and Martin Luther King (a racial integrationist) have called for slave redress. Today, proponents of redress include the National Association for the Advancement of Colored People (NAACP) (the nation's oldest civil rights organization), Secretary of State Colin Powell, Jesse Jackson, and Louis Farrakhan.[7] Thus, not only does the idea of slave redress enjoy broad support among blacks, it is a timely claim. It is not being raised for the first time some 137 years after the fact.

In sketching the contours of the movement's history, I shall divide the movement into three eras: slavery; post-slavery; and post-Holocaust. The last, which represents the modern movement, is the most important of the three.

THE SLAVERY ERA

The first recorded effort to seek redress for slavery involved a black American born free in 1759 in Massachusetts. This pioneer of slave redress, Paul Cuffe, viewed repatriation to Africa as a form of slave redress. Cuffe and other successful blacks of his day, including Gustavus Vassa, Benjamin Banneker, Phillis Wheatley, and Jupiter Hammon, were part of the larger American movement "toward intellectual and economic self-sufficiency

that was so characteristic of the period."[8] Imbued with this postrevolutionary spirit, Cuffe financed the return of thirty-eight free blacks, including himself, to Africa in 1816. Yet he came to believe the government should repatriate both slaves and free blacks to their homeland. As Robert Johnson states, "resettlement was seen as a means of righting a wrong that had begun two centuries earlier. . . . [T]he return to Africa was understood to be a specific, narrowly tailored form of restitution for slavery."[9]

The federal government did in fact finance the repatriation of a small group of free blacks in 1822. This was accomplished through the American Colonization Society (ACS), which was founded after Cuffe's dramatic repatriation. Justice Bushrod Washington, George Washington's brother, was its first president. Indeed, many politically prominent Americans were members of the ACS, including Thomas Jefferson, James Monroe, Andrew Jackson, Henry Clay, Daniel Webster, and Abraham Lincoln. The ACS did not, however, equate colonization with reparations, as did Cuffe and his followers. The organization simply believed that deportation was in the best interests of both races. As Jefferson explained: "Deep rooted prejudices entertained by the whites; ten thousand recollections, by the blacks, of the injuries they have sustained; new provocations; the real distinctions which nature has made; and many other circumstances, will divide us into parties, and produce convulsions which will probably never end but in the extermination of the one or the other race."[10] The abolitionists, however, believed the ACS was only interested in protecting whites, that it "did not have the best interest of African Americans at heart."[11]

Whatever the intentions of the ACS and in spite of Cuffe's singular effort, repatriation as a form of slave redress went nowhere fast. Repatriation was "doomed," as John Hope Franklin remarks, because "the Negro was as permanent a fixture as there was in America."[12] Even in the early nineteenth century, most blacks had come to regard America as their home. They had too much blood and labor invested in this country not to call it home. Blacks wanted to remain in the United States, but on different terms.[13]

Another important antebellum expression of the redress idea came in 1842 in the form of a scathing commentary on society's treatment of blacks, slave and free black alike. It was written by an English barrister then living in the United States. James Grahame castigated the federal government and its citizens, both North and South, for not "redressing long and enormous injustice without any atoning sacrifice or reparatory expense,

[for not] restoring and elevating, . . . without any surrender of interest or convenience, the rights and the dignity of a numerous race of men whom they and their fathers have ruined and degraded."[14] A precursor of the atonement model, this early and elegant articulation of slave redress gave way to a more earthly demand for it in the years following the Civil War.

THE POST-SLAVERY ERA

Penniless and defenseless, former slaves pressed for redress during the post-bellum period. They did so more out of necessity than as a demand for restorative justice. Ex-slave claims came in two forms. The first consisted of individual claims lodged by former slaves against their former masters. Typical was a letter dated August 7, 1865, written by Jourdon Anderson to his former owner, Colonel P. H. Anderson. The letter said in part: "I served you faithfully for thirty-two years, and Mandy [his wife] twenty years. At twenty-five dollars a month for me, and two dollars a week for Mandy, our earnings would amount to eleven thousand six hundred and eighty dollars."[15] Private redress claims continue to some extent today in the form of lawsuits filed against families and corporations that benefited from slavery.

A second set of claims for redress was based on a federal promise of "forty acres and a mule." Section 4 of the Freedmen's Bureau Act of 1865 authorized the commissioner of the Freedmen's Bureau "to lease not more than forty acres of land within the Confederate states to each freedman or refugee for a period of three years; during or after the lease period, each occupant would be given the option to purchase the land for its value."[16] Section 4 was designed to codify Major General William T. Sherman's Special Field Order No. 15, issued on January 16, 1865, three months before Section 4 was enacted.[17] The promise of "forty acres and a mule" was never fulfilled. In a recent lawsuit, a federal district court judge, Paul L. Friedman, explained what happened:

> Forty acres and a mule. As the Civil War drew to a close, the United States government created the Freedmen's Bureau to provide assistance to former slaves. The government promised to sell or lease to farmers parcels of unoccupied land and land that had been confiscated by the Union during the

war, and it promised the loan of a federal government mule to plow that land. Some African Americans took advantage of these programs and either bought or leased parcels of land. During Reconstruction, however, President Andrew Johnson vetoed a bill to enlarge the powers and activities of the Freedmen's Bureau, and he reversed many of the policies of the Bureau. Much of the promised land that had been leased to African American farmers [approximately 400,000 acres to about 40,000 ex-slaves] was taken away and returned to Confederate loyalists. For most African Americans, the promise of forty acres and a mule was never kept.[18]

Judge Friedman then discusses important evidence that links the current plight of the plaintiffs in the case, black farmers suing the Department of Agriculture for discrimination, with the government's broken promise of "forty acres and a mule." The significance of this discussion warrants an extended quotation:

Despite the government's failure to live up to its promise, African American farmers persevered. By 1910, they had acquired approximately 16 million acres of farmland. By 1920, there were 925,000 African American farms in the United States.

On May 15, 1862, as Congress was debating the issue of providing land for freed former slaves, the United States Department of Agriculture was created. The statute creating the Department charged it with acquiring and preserving "all information concerning agriculture" and collecting "new and valuable seeds and plants; to test, by cultivation, the value of such of them as may require such tests; to propagate such as may be worthy of propagation, and to distribute them among agriculturists.". . . In 1889, the Department of Agriculture achieved full cabinet department status. Today, it has an annual budget of $67.5 billion and administers farm loans and guarantees worth $2.8 billion.

As the Department of Agriculture has grown, the number of African American farmers has declined dramatically. Today, there are fewer than 18,000 African American farms in the United States, and African American farmers now own less then 3 million acres of land. The United States Department of Agriculture and the county commissioners to whom it has delegated so much power *bear much of the responsibility for this dramatic decline* [emphasis in original]. The Department itself has recognized that there has always been a disconnect between what President Lincoln envi-

sioned as "the people's department," serving all of the people, and the widespread belief that the Department is "the last plantation," a department "perceived as playing a key role in what some see as a conspiracy to force minority and disadvantaged farmers off their land through discriminatory loan practices.". . . "Civil Rights at the United States Department of Agriculture: A Report by the Civil Rights Action Team" (Feb. 1997) at 2.

For decades, despite its promise that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of an applicant or recipient receiving Federal financial assistance from the Department of Agriculture, ". . . the Department of Agriculture and the county commissioners discriminated against African American farmers when they denied, delayed or otherwise frustrated the applications of those farmers for farm loans and other credit and benefit programs. Further compounding the problem, in 1983 the Department of Agriculture disbanded its Office of Civil Rights and stopped responding to claims of discrimination. These events were the culmination of a string of broken promises that had been made to African American farmers for well over a century.

It is difficult to resist the impulse to try to undo all the broken promises and years of discrimination that have led to the precipitous decline in the number of African American farmers in the United States. The Court has before it a proposed settlement of a class action lawsuit that will not undo all that has been done [but is] a good first step towards assuring that the kind of discrimination that has been visited on African American farmers since Reconstruction will not continue into the next century.[19]

The legacy of the past impinges on the present.

Notwithstanding the broken promise of "forty acres and a mule," some blacks did receive land under the Southern Homestead Act of 1866. Unlike the "forty-acres-and-a-mule" promise made a year earlier, the Homestead Act was available to persons of all races. Its purpose was to encourage people to disperse from congested southern population centers. Eighty acres were given to the head of each family under the act, and blacks received hundreds of thousands of acres in this way, but fewer black families received homestead land than the number of black families that would have received "forty acres and a mule" under Special Field Order No. 15.[20]

In 1890, an "Ex-slave Pension and Bounty Bill" was introduced in Con-

gress by Republicans. The idea of the son of an Alabama slaveholder named Walter Vaughan, who had developed "a passion for the welfare of the former slaves," the bill would have provided a maximum payment of $15 per month and a maximum bounty of $500 for each ex-slave. Unfortunately, the bill was never enacted into law. Supporting James Grahame's charge that whites would not give justice to blacks if it meant the "surrender of interest or convenience," Congress rejected the bill on the grounds that, inter alia, "ex-slave pensions would be too large a burden on taxpayers." Some members of Congress also believed that "only education could help the freedmen." The bill was not even supported by the three blacks serving in Congress at the time.[21]

Vaughan continued his fight for ex-slave pensions. His struggle was energized by the growing number of blacks who joined his crusade. "Between 1890 and 1917, over 600,000 of the 4 million emancipated Africans lobbied our government for pensions because they believed their uncompensated labor subsidized the building of the nation's wealth for two and a half centuries."[22] Through the establishment of "Ex-Slave Pension Clubs," including the National Ex-Slave Mutual Relief Bounty and Pension Association, blacks took the forefront in the unsuccessful campaign for a federal slave pension bill. Some white southerners supported the bill because they saw it as an economic benefit for their region.

This round of the legislative effort ended unsuccessfully in 1916. The idea of an ex-slave pension bill never received the support of mainstream black civil rights organizations like the National Negro Business League or the NAACP. The cruelest fate of all befell some of the leaders of the pension movement, many of whom the federal government "pursued, prosecuted, and convicted" on questionable charges, such as "acting fraudulently by collecting money to fund a lobbying effort that instilled the false hope in the hearts of the ex-slaves that the government would give them a pension."[23]

In 1916, in the Federal District Court of the District of Columbia, four blacks reported to have had some affiliation with the ex-slave pension cause filed what may be the first reparations lawsuit ever, alleging that the Treasury Department owed blacks "$68,073,388.99, which was the amount of taxes collected on cotton between 1862 and 1868."[24] According to David Blight, "the records for that period could apparently be recovered and traced," and based on them, this figure "was arrived at as the compensa-

tion owed blacks for their labor in production."[25] Like so many redress lawsuits filed today, this lawsuit was dismissed without a decision on the merits.[26]

The final attempt to secure pensions for the ex-slaves came in 1934. It was a last-ditch effort engineered by some of the former slaves themselves. A group wrote to President Franklin Roosevelt asking, "Is there any way to consider the old slaves?" They wanted to know, in particular, if anything was being done about the idea of "giving us pensions in payment for our long days of servitude?"[27] Of course, nothing was done. The idea of constructing a memorial in Washington, D.C., to commemorate the slaves was, however, mentioned as an alternative. But, this idea, which had been kicked around Washington for a number of years, went the way of the ex-slave pension bill.

It is worth mentioning that a memorial commemorating black Civil War veterans, although not quite a slave-redress measure, was the subject of a protest rally in 1915. The demonstration was staged by black veterans in Washington, D.C. Something similar to the black veterans' slave memorial became a distinct possibility in 2003 when President George W. Bush signed legislation that authorized the construction of a museum called the "National Museum of African American History and Culture." Though backed by a 409-to-9 vote in the House and unanimously passed in the Senate, the legislation has a different focus than what the black veterans had in mind when they gathered on the Mall in 1915 to press Congress for the construction of a Civil War memorial. It also has some major defects, which would have displeased the black patriots. There are no assurances that the museum will be built on the Mall, "which sends the message that the story of black Americans is ancillary to the central narrative of American history," and the government is obligated to pay only 50 percent of the cost, with the balance coming from private donations. Most important, from the perspective of atonement, there is no apology for slavery attached to the legislation.[28]

THE POST-HOLOCAUST ERA

The Holocaust shamed the community of civilized nations into taking human rights seriously. It awakened a rare spirit of human understand-

ing, institutionalized in the new United Nations. What the Holocaust taught, perhaps more than any other lesson, is that atrocities can only occur when the perpetrator does not identity with his victim. When the German politician does not identify with the Jewish schoolteacher—when he does not see a common humanity—we have the makings of the Holocaust. But when he does identify with her humanity, when he understands that people of different religious and racial backgrounds have equal moral and legal standing, he is not likely to treat her in barbaric ways. A common morality provides a basis for mutual identification between victim and perpetrator. If this common bond is breached by the commission of an atrocity, the wrongdoer has at the very least a moral obligation to atone for his acts. It is through the process of atonement that the common bond of humanity is restored. The perpetrator reclaims his position in the community of moral beings through apology and reparations.

This post-Holocaust vision of heightened morality, identification, egalitarianism, and restorative justice was certainly not pressed as hard as it should have been in the black redress movement during the 1960s. The most active proponent of slave redress at this time was not Dr. Martin Luther King or the Nation of Islam, even though both were staunch supporters of slave redress. It was the civil rights activist James Forman. Visualize if you will Sunday church service at the all-white and very wealthy Riverside Church in New York City. The year is 1969. King had been assassinated in the preceding year. Forman marches in, interrupting church service, and stands at the front of the congregation holding his "Black Manifesto," a treatise on slave redress. Forman delivers an appeal for redress in the form of what he called "reparations." His appeal is addressed to the "white Christian Churches and Jewish Synagogues in the United States of America and All Other Racist Institutions." Forman's demand, like the "Black Manifesto" itself, outlined in detail many ambitious economic demands, including "the creation of banks, presses, universities, and training centers for African Americans, all to be established as repayment for centuries of racist degradation and exploitation." These demands were, of course, largely ignored. That was 1969.[29]

Nothing of consequence happened in the black redress movement for twenty years. Then, in 1989, and in each year thereafter, Congressman John Conyers submitted a slave redress bill in Congress. Given the name H.R.

40 in recognition of the government's broken promise of "forty acres and a mule," this bill calls for the creation of a commission to study the question of slave redress. It does not request any particular form of redress, but merely asks that the commission study the redress issue. This commission would operate in a manner similar to the commissions established for Japanese and Italian Americans. It would not, however, be as powerful as the Indian Claims Commission, which had authority to decide Native Americans redress claims. Despite these reasonable requests, the bill has never even been voted out of its congressional subcommittee. Consequently, Congress, never having had the redress bill brought before it for formal action, has never voted on it.[30]

H.R. 40 began what I call the modern phase of the black redress movement. It rekindled the redress spirit, which had lay dormant for two decades, among black Americans. More than that, it potentially put a new face on slave redress—an international face. Congressman Conyers has said that the Civil Liberties Act of 1988 inspired him to introduce H.R. 40. In that 1988 redress legislation, Congress apologized to Japanese Americans for their removal and internment during World War II and made its apology believable by legislating a host of reparations, including $20,000 for each victim. The similarities between the redress movement leading up to the Civil Liberties Act and redress movements in other parts of the world, including South Africa, Japan, and Australia, plus other domestic redress movements, such as movements by Native Americans and Hawaiians, are too important to overlook. These movements are less about money than about atonement—apology plus reparations. My ambition is to redefine the black redress movement in light of this international, cross-cultural push for atonement.

Whether I succeed or not, there is no question that the black redress movement has been infused with new vigor since the introduction of H.R. 40. The arguments have gotten more sophisticated and more diverse, the proponents more determined, and the number of believers grows each year. A case in point is the National Coalition of Blacks for Reparations in America, more commonly known as N'COBRA, a grassroots organization created in the early 1990s that enjoys wide support among poor and working-class blacks, which is more responsible than any other group for placing the issue of slave redress on the national agenda.

Now based in Washington, D.C., N'COBRA seeks, inter alia, slave re-

dress primarily in the form of monetary compensation for individual blacks. One of its board members, Taiwo Kujichagulia-Seitu, writes:

> Self-determination, or the ability to determine our own destiny, is the key to reparations, or repairing Black people. . . . The second of a list of six down payment demands for the National Coalition of Blacks for Reparations in America (NCOBRA) is "$25,000 per Black family or the modern day equivalent of 40 acres and a mule." A simple plan for the distribution of such funds would be a requirement for each family (both children and adults) to attend a financial planning seminar prior to receiving the money. At the end of the seminar, they should leave with a plan in hand of how to put the funds to best use in their situation. The use of these funds can also partially serve as a deciding factor in eligibility for business or land grants—the granting boards for which would be elected by members of Black communities across the country. These are just a few ideas.[31]

Portrayed in the media as a "radical" organization, N'COBRA's web site is replete with a diversity of views on the slave redress question. The web site includes links to articles written by mainstream black scholars as well as discussions about such sensitive issues as whether African nations that participated in the slave trade owe black Americans anything.[32]

During the 1990s, other groups and individuals joined N'COBRA in pushing for slave redress. Some of these groups and individuals were pre–H.R. 40 supporters who went on to other issues after 1969. One group that became more active after H.R. 40 was the Nation of Islam. In 1994, the Nation petitioned a UN human rights commission to investigate the issue of slave redress on behalf of black Americans. The petition asked the United Nations to "intervene based on international laws protecting the rights of minorities." The United Nations has yet to respond.

Congressman Tony Hall (D–Ohio) introduced a bill in Congress in 1997 calling for a congressional resolution apologizing for slavery. Unlike H.R. 40, there was no mentioning of a commission to study the question. It merely asked for an apology. The resolution picked up sixteen co-sponsors but was never adopted.[33]

Following a suggestion that appeared in *Essence,* a number of blacks filed "black tax" claims with the Internal Revenue Service during the 1990s. The "black tax" was the estimated current value of "forty acres and a mule."

Blacks claiming this tax reported it on their returns as a tax credit for "slave reparations," or, more technically, as an overpayment of taxes on "undistributed long-term capital gains." One black taxpayer reported annual income of only $3,429 but claimed a refund of $500,000 for the "black tax," which the IRS promptly paid. After paying millions of dollars in "black tax" refunds, the IRS brought lawsuits against accountants who were preparing these returns. An accountant who had filed "at least 13" of these tax returns, Robert L. Foster, was one of the first to be sued. In October 2002, a federal judge in Richmond, Virginia, order him to stop claiming "nonexistent slavery reparations for his African-Americans clients." The IRS has worked out a schedule of repayment for all those who spent their "black tax" refund.[34]

On August 17, 2002, a coalition of black nationalist groups convened a "Millions for Reparations" rally at the National Mall in Washington, D.C. During the demonstration, Minister Louis Farrakhan of the Nation of Islam presented slave redress as a means of empowering young blacks, who, he remarked, were "deserving of a better future." The demonstration could hardly be called a success. The turnout was disappointing and did not begin to approach anything near a million. In addition, only a few of the major figures in the black redress movement, such as Charles Ogletree, Randall Robinson, and Johnnie Cochrane, spoke at the demonstration. Black Americans basically ignored it, perhaps because of its black nationalist bent.

Although the black redress movement has experienced setbacks, it has also achieved some notable successes, particularly in recent years. These victories have come mainly at the state level and within the private sector. In 1994, for example, the Florida legislature enacted the Rosewood Compensation Act to compensate blacks who lost property as a result of a race riot that demolished the all-black town of Rosewood in 1921. No apology was issued, however.[35]

In many respects, California has led the way at the state level. In 2000, California passed legislation that made headline news. It required the state insurance commissioner to obtain from insurance companies doing business in California any records of slaveholder insurance policies issued by any predecessor corporation during the time of slavery.[36] These insurance policies helped to finance the institution of slavery by compensating slaveholders for damage or death to their slaves. The insurance legislation also

required the commissioner of insurance to determine whether current law provides a basis for compensating slave descendants and, if not, whether changes in the law should be made. The legislative history behind this new law took note of the related fact that the fortunes of many slaveholders have gone into utility companies located in southern states. Thus, these utilities were in effect built with the blood and sweat of black slaves.[37]

In 2001, California passed additional legislation in support of slave redress. The legislature issued a joint resolution on June 19, 2001, backing both H.R. 40 and Congressman Hall's resolution, discussed earlier. The joint resolution also called on Congress to erect a memorial honoring the slaves.

One of the largest life insurance companies in the United States, Aetna, based in Hartford, Connecticut, which traces its roots to 1853 and once wrote life insurance policies on slaves, naming slave owners as beneficiaries, made two significant moves toward slave redress in 2000. First, it issued a formal apology to black Americans for its participation in sustaining the institution of slavery. Second, it voluntarily created a minority internship program and established a diversity scholarship fund as forms of reparation for its financial support of slavery.[38]

Another Connecticut company made a positive contribution to the slave redress movement in 2000. Connecticut's largest daily newspaper, the *Hartford Courant,* issued a front-page apology for running advertisements for slave auctions and for committing other acts in support of slavery.[39] Unlike Aetna, the newspaper has not been named as a defendant in any of the slave redress lawsuits discussed in chapter 4.

Most of the action on reparations seems to be occurring at the municipal level. Quite a number of cities have passed ordinances supporting the redress movement in one way or another. In 2001, Chicago, Dallas, Detroit, Cleveland, and Washington, D.C., passed resolutions asking Congress to apologize for slavery or, in some cases, to provide redress without apologizing. Chicago's resolution also called on the state of Illinois to deal with its role in slavery. In October 2002, the Chicago City Council approved another ordinance, this one requiring any company wishing to do business with Chicago to investigate and disclose any profits derived from the American slave trade. The Los Angeles City Council unanimously approved a similar ordinance in June 2003. Neither ordinance carries any penalties, but each could provide proponents of slave redress with infor-

mation that could lead to fresh demands for redress from banks, railroads, insurance, shipping, and other companies. "There can never be any real justice until we discover this information," a Los Angeles councilman, Nate Holden, explained. Detroit, Cleveland, and New York City are considering similar measures.[40]

The Vatican has also supported slave redress. In August 2001, it issued a statement that reads in part: "the evil which has been done must be acknowledged and, as far as possible, corrected."[41] This statement was perhaps timed to coincide with an important international human rights conference scheduled for that month.

From August 31, 2001, to September 8, 2001, government officials, NGOs (Non-Government Organizations), celebrities, and average citizens met at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa. Although this United Nations–sponsored conference had the potential to give the black redress movement an important boost, it has been largely relegated to the footnotes of history. Not only was it overshadowed by the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, but it failed to achieve anything of real substance for the black redress movement. Still, a study of the conference may provide valuable lessons for the black redress movement.

The primary purpose of this conference was to produce a global blueprint for fighting racism and related offenses on an international basis. I was one of several scholars, political leaders, and activists who came together in April 2001 at the Danish Institute for Human Rights in Copenhagen in the hope of producing a document supportive of the reparations idea that the conference could expressively adopt in its final resolutions. Other groups meeting in other countries, including the United States, had a similar objective. These efforts were doomed even before the conference was called to order.

Circumstances seemed to conspire to prevent the conference from considering the reparations issue. Some of these events were internal; others were external. For example, months before the conference convened, proposed resolutions condemning Israel as a racist country and equating Zionism with racism were announced. The conference consumed much of its time and expended all of its moral capital dealing with these accusatory resolutions. This confrontation gave ammunition to external forces

bent on discrediting the conference ab initio. In a disingenuous act that is difficult to forgive, the Bush administration, over the strong objections of its secretary of state, Colin Powell, succeeded in linking the issue of slave redress in the United States with proposed anti-Israel and anti-Zionist resolutions. No friend of slave redress, President Bush's national security advisor, Condoleeza Rice, went along with this nonexistent linkage. In a post-conference appearance on NBC's *Meet the Press,* she explained that while the administration had supported the goals of the conference initially, it could not support a gathering that seemed preoccupied with finding ways to condemn Israel. Yet Secretary Powell, who also disagreed with the proposed resolutions targeting Israel, felt that the conference was more than the sum of these misguided efforts and much too important for the United States to pass up. The split between the two highest-ranking blacks in his administration made it that much more easy for President Bush to withdraw from the conference before it began.[42]

A year later, the issue of Durban came before the United Nation for action. "Deeply concerned about persisting and growing racial discrimination, related intolerance and acts of violence," a committee of the UN General Assembly approved a draft resolution on November 25, 2002, that called for "comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action." Even though the Durban Declaration had not adopted language expressly supporting reparations, the United States and Israel felt that they could not support the draft resolution, which passed 153 to 2, with Canada, Australia, and the Marshall Islands abstaining. The U.S. representative agreed with the representative from Israel that, "[t]he highjacking of the Conference did a great disservice to those who would have benefitted from efforts to eradicate racism," and he also cited the "demonstrations outside [the conference] inciting racial hatred" as further reason for the U.S. decision not to support the draft resolution.[43]

Commentators on the right and left have weighed in on the conference, mostly with negative opinions. The *Wall Street Journal,* for example, described the conference as an "orgy of hate and self-denial," charging that "Sub-Saharan Africa wants to talk about slave reparations, but you better not mention Uganda's treatment of the Indians after decolonization or Zimbabwe's treatment of white farmers now."[44] Some observers pointed to the lack of solidarity among the various victim groups on key issues

other than the language regarding Israel and Zionism. As an example of what he called "The Solidarity of Self-Interest," the black author and *Newsweek* columnist Ellis Cose, who attended the conference, cited a disturbing development involving black Africans and black Americans. Although both came to the conference advocating reparations for slavery and colonialism, self-interest eventually drove them apart. African nations were interested in debt relief, foreign aid, and investments (called the "New African Initiative") and abandoned the call for reparations to close the deal. "During intense backstage negotiations over world-conference documents, African governments found it relatively easy to drop demands for reparations in return for assurances of support for their own initiatives," Cose notes. "The Africans' willingness to negotiate away the issue prompted one Afro-Latino delegate to quietly suggest that the Africans were abandoning their brothers in the New World. 'They sold us once, and now they're doing it again,' she quipped."[45]

What should the black redress movement take from the Durban experience? At least two lessons, I would say. First, choose your friends wisely. The anti-Israel language was as irrelevant to the issue of slave redress as it was unnecessary for the Durban Conference to accomplish its mission. But by associating with the anti-Israel forces, the supporters of slave redress walked into a windstorm that blew them off course. Perhaps it would have been better to withdraw from the conference after the anti-Israel language became known so as to protect the integrity of the black redress movement. But then again, perhaps the proponents of slave redress felt that it would be hypocritical for them to sit out what at the time appeared to be an important international conference against racism. Second, choose your friends wisely. Political coalitions with other victim groups are likely to founder on the shoals of self-interest. It was not just the Africans who were prepared to sell out their "friends" for selfish reasons; it was other groups as well. As the *Wall Street Journal* pointed out, "The Indians [were willing] to support the U.S.'s attempt to remove the language about Zionism, provided that India's skeleton in the closet, the caste system, [wasn't] mentioned."[46]

Whether black Americans can expect support from foreign governments or other victim groups, such as Japanese Americans and Jewish Americans, is an open question. Certainly, Japanese Americans pretty much flew solo in their fight for reparations from the United States government. They

neither built political coalitions nor sought international assistance. They simply drew upon the post-Holocaust vision of heightened morality, identification, egalitarianism, and restorative justice—in other words, the rhetoric of atonement. Japanese Americans were less than 1 percent of the United States population, and they were not politically active as a group when they secured reparations. They prevailed in large part because they captured the moral high ground and, in no small concession to political necessity, were able to garner the support of a few key congressional leaders at the time, such as Senator Bob Dole, whose own World War II wounds enabled him to *identify* with the victims.