

US - Perspectives on the Slave Reparations Movement

Tuesday 21 February 2006, by [John Malone](#)

This posting aims at presenting information and links on the movement calling for reparations for African Americans.

1.- Two comprehensive articles:

a. "Alive and Well" by Tatsha Robertson. [The Crisis](#), May/June 2003.

"He traveled by train from Northeast Texas to North Carolina, carrying only a small suitcase, not really knowing what he would see or do. But 39-year-old former slave Andrew Jackson Hurdle, who was sold from his family nearly 30 years earlier, was determined to put the pieces of his life back together.

It was 1885, and although he had a wife, many children and a farm back in Texas, he had not come to terms with all that he had lost. Determined to find his family, he walked off the train that stormy night and headed toward the direction where he thought he used to live."

[Read more...](#)

b. "The Real Story Behind the Movement for Reparations for African Americans" by Yoji Cole. [DiversityInc.com](#), July 08, 2003.

"Hannah Hurdle Toomey, 71, is one generation removed from slavery but for her, the story remains sharp. Her father, Andrew Jackson Hurdle, was born into slavery in 1845. Toomey, who was born when her father was 87 years old, remembers listening to stories of her father's first 10 years spent on a North Carolina plantation before he was auctioned off with several brothers and sisters to a farm in Texas.

Toomey heard those stories from her siblings. Andrew Hurdle died at 89, the father of 25 children and a successful man who worked as a minister, farmer, manager of a sorghum syrup mill and launched one of Texas' first African-American schools of higher education: Northeast Texas Christian Theological and Industrial College.

"He was scarred on his back from being whipped and beat but he taught us not to hate and not to be a perpetual victim," Toomey says.

Robert Holloway, 84, says he still gets visions of the night in 1921 when white men shot their way into his family's home and ignited the curtains, setting the house ablaze, but the memories are buried beneath a life of happier experiences. The white mob went from home to home and business to business — all African-American-owned — and burned and killed everything and everyone in site in what has become known as the Tulsa Race Riots of 1921.

"It's a tough experience to explain," says Holloway who adds that recalling that night is like reliving a fatal car crash.

The contemporary movement calling for reparations for African Americans has been simmering on the nation's back burners since 2000 when Aetna first released an apology expressing regret for profiting from slavery. Now, the issue of whether African Americans deserve reparations for the enslavement of their ancestors and the destruction of their livelihoods is being brought by plaintiffs, such as Toomey and Holloway, in two class-action lawsuits."

[Read more...](#)

2.- A newly released documentary: *Slave Reparations, The Final Passage*

More information: <http://www.uslaver reparations.org/>

3.- [Diane Elizabeth Sammons](#), from the law firm [Nagel Rice & Mazie, LLP](#), is one of the attorneys who filed a case against 16 Corporations. She answers here to commonly asked questions:

1. Why are you bringing this lawsuit?

Some US Corporations benefited from stolen labor, stolen people, and crimes against humanity. They should not be allowed to keep their ill-gotten gains.

2. Why are you bringing it now?

Recent research that has previously remained largely in the hands of corporations has revealed connections to specific companies.

The Holocaust cases provide a model for this lawsuit. Additionally, slavery, in the international arena has recently been declared a crime against humanity.

3. What is the impact the cases have had on the discussion of reparations?

The public has begun to perceive reparations more in the framework of a legal obligation arising from fundamental legal theories and human rights principles that have long been embedded in American and international jurisprudence. As reported in the NY Times several months ago, the lawsuits have spurred corporations to look at their role in slavery more responsibly resulting recently in the admissions by JP Morgan Chase as to an acquired company's role in slavery and JP Morgan Chase's announced commitment to offer a scholarship program as a means to repair the harm.

Significantly, our researchers have discovered living individuals who were enslaved into the mid 20th Century, revealing a treasure trove of historical data on how stubborn patterns of slavery continued well past the time anyone thought imaginable. In December 2003, ABC's Nightline did a segment on these extraordinary individuals and their stories.

In terms of the larger arena of reparations for slavery, our suits have sparked other initiatives in the political, academic, theological, business and international communities to address the continuing harm of slavery and its legacy. For instance, on the political stage, there are examples of growing initiatives on the state and municipal levels to investigate and address the continuing harm of slavery and its legacy.

Alderman Dorothy Tillman in Chicago was instrumental in getting legislation passed that required all companies doing business in the City of Chicago, to report their company's or predecessor company's ties to slavery. In California, as you know, there is legislation that requires insurance companies doing business there to report their slavery ties.

But this is not the only arena where we are seeing progress. On the theological front for instance, professors at Union Theological Seminary, a leading seminary in the country, hosted a summit entitled, "Costly Grace, Race and Reparations". Out of it grew a body of theological analysis that appeared in their theological journal that addressed the moral questions of reparations and our moral duty to investigate, account and repair for the harm caused by gross human rights violations such as slavery. The National Convention of the Episcopal Church will consider at its upcoming National Convention, a resolution in support of further study and discussion on reparations for descendants of enslaved African-Americans.

In part due to the lawsuits, Brown University is due to soon release a report prepared by a special commission appointed by its President to look at the history of the University as it relates to slavery and to

consider additional steps to ameliorate the harm caused.. Other universities and law schools are offering courses studying the law behind reparations. We have been in touch with legal scholars and university professors world-wide who are exploring the concept of reparations for slavery and are adding to a growing body of research and academic discourse on this important subject in the form of op ed pieces, law journals, and academic journals in support of the concepts.

As to non-profit organizations, we are also seeing growing support among mainstream civil rights organizations like the NAACP. Several state branches have actually passed resolutions in support of our lawsuit. Others around the country have requested our video that describes the lawsuit, so that they can follow suit.

Internationally, there is support worldwide for reparations, as attorneys and advocates worldwide are considering similar lawsuits under similar theories. There is a rich array of examples of worldwide precedents for a nation-wide effort to uncover, investigate, and compensate victims for violations of human rights:

- Civil Rights Act of 1988 provided \$20,000 to each descendants who were interned during WWII or who lost assets.
- -In 1992, after more than 2,000 human rights abuses were documented by a Chilean commission, the Chilean Legislature enacted a law providing a wide range of economic benefit for the victims and their families.
- -Canada has provided a reparations package for the First Nation children were taken from their families and transferred to boarding schools where they were denied access to their culture and frequently mistreated.

New Zealand established a process to address the wrongs committed by the British against the Maori people in the late 1800's, systematically taken their lands and resources and has returned lands and transferred factories, fishing vessels and fishing rights to the Maori groups to compensate them for their losses.

In Puerto Rico, Governor Pedro Rossello publicly apologized and offered restitution of up to \$6,000 each to thousands of freedom fighters and other who were spied on by polite intelligence units starting in the 1940s.

4. But wasn't slavery legal at the time these corporations engaged in their acts. How can you hold them liable for something of the past?

That is precisely what was done in Germany after the war. The acts of Germany in exterminating millions of Jews were legal, but later, the Nuremberg laws made the actions illegal.

Precedent for similar holdings exist in the area in toxic substance tort law. (For instance if you find mercury in your well after buying a house, and you develop an injury and discover your illness is caused by the toxic waste dumped 100 years ago, you can still sue the company who dumped the material if they are still around.)

Research reveals that Trans-Atlantic slave trade was abolished in the US, around 1806, yet slavery continued until 1836 and in some other documented cases as late as the 1950's. One can argue that by holding slaves and continuing to purchase more, that one were aiding and abetting in an unlawful act.

5. Present day stockholders and officers cannot be responsible for what happened in the past, can they?

In most instances, present day corporations are responsible for the liabilities of their predecessor entities. Shareholders and officers accept that as part of the risk.

6. Could this have an extremely deleterious effect on the economy and could bankrupt corporations?

In the tobacco cases, where there was the largest settlement of any class action lawsuit, the price of stock went up. This is for two reasons: 1. companies did the right thing and accepted their corporate responsibility, 2. it made the past the past, and everyone could look ahead to the future.

We are not looking to bankrupt companies, we are first and foremost asking for records so that there can be an accounting done, after that we are looking for a reasonable figure that serves to acknowledge in some way the benefits they derived from enslaved Africans.

7. How about trying to figure out who is in the class, what about folks whose grandparents are both white and black, can they claim, what about stars or people who are very successful like Tiger Woods, Michael Jordan, etc. Why should they benefit from a fund like this?

The question is one of payment for the use of stolen labor from Slavery; it is about a debt owed that has remained unpaid. If you are a slave descendent, you are entitled to be a member of the class, but this is not about individual checks, it is about payment into a humanitarian fund to address a collective harm.

8. Some people say you cannot overcome the statute of limitations problem that the statute ran out years ago?

a. Crimes Against Humanity have no statute of limitations.

b. There are many well-known exceptions to the statute: 1) the discovery rule - one's claim does not accrue until one has knowledge of injury and the entity that caused it; 2) equitable tolling - if someone prevented the information from become available, the statute gets tolled; and 3) the theory of continuing tort - if the tort continues until today, the statute does not begin to tick.

c. We can change the statutes. This has occurred already on other cases involving reparations

9. What about problems with identifying a particular slave descendent to a particular corporation, isn't this a necessary element to bring a lawsuit?

a. There are common legal theories to address this concern. One is conspiracy. To function at all, the slave trade required a conspiracy among industries, shipping, financing, insurance, transportation, raw materials and manufacturing. Each industry was dependent upon the other and they were all dependent and complicit in the slave trade. Therefore, the claim of any one slave descendent can be assessed against any of the industries that worked together to profit from slavery.

b. There is a theory that has been used in tort law, where someone has been exposed to harm from particular product: DES, Asbestos and Tobacco. The court says it was impossible for people to know what particular manufacturer produced the substance the plaintiff was exposed to, so they bring in all the defendants and then divide up the responsibility based upon each person's market share at the time. This is similar to the slave descendant cases where it is now extremely difficult for slave descendants to have records that date back to a particular defendant. The inability to tie a particular slave descendant to a particular defendant is not a valid basis to defeat a claim.

10. Isn't this just an excuse for attorneys to make money and the folks who suffered the harm never see anything?

a. The nature of a class action lawsuit is designed to protect the victim and to give them power as a group that they could not have independently.

To this aim, it is not the attorneys that dictate the fee they received. It is the court who dictates the fee and who will only award a reasonable compensation to the attorneys.

In the Holocaust cases as an example, the Court allowed a 2% fee to the attorneys, which was the lowest amount ever awarded in a class action lawsuit.

b. The cases are taken on a contingency, meaning if the attorney loses, they do not get a penny.

c. The costs of litigating these cases are enormous and the clients do not pay a penny of the litigation costs. Generally, it is the attorneys who entirely fund the litigation, taking a risk that they will not receive any remuneration.

11. Everyone talks about the Holocaust cases as setting a precedent for this action, but didn't the Holocaust case involve survivors and not descendants?

There was a portion of the Holocaust cases that involved reimbursement for slave labor against corporations and just like this case; there was a portion of that case that involved a humanitarian fund that was to be set up for the benefit of descendants.

12. But aren't the Holocaust cases really a bad example because the case settled and did not go to trial, nor was their a decision rendered by the court on some of the key legal issues in this cases?

95% of all cases settle without a trial. It is true that there was no legal ruling on some of the issues, but rest assured a judge would not recommend a settlement strategy nor would the defendants accept a settlement absent some belief in the underlying strength of the arguments presented. One of the key legal questions in the Holocaust was a statute of limitations argument like the one that many people have raised with regards to this lawsuit.

13. Why should there be reparations, when so many of the programs in the 60's addressed and corrected the vestiges of slavery and there are so many successful African-Americans today? Doesn't this just foster a system of dependency?

a. The question of reparations is not "one more hand out". It is a debt owed for work that remains unpaid. It is payment for services rendered that still remains outstanding.

b. The programs of the 60's did not eliminate the vestiges of slavery. In fact there is still a long way to go. By every social yardstick, African Americans lag behind Whites: education, salaries, health care, and housing, to name a few.

c. Some people argued the same thing in the Holocaust cases, claiming that Jewish people had already received reparations from the German government and therefore they were not entitled to anything more. The truth of the matter is that the amount received was limited and incomplete and that it did not relieve corporations from their responsibility for their acts. It is the same thing in the US Slavery cases.

14. Won't this cause divisiveness and a terrible split between African-Americans and Whites?

By coming to terms with this issue: discussing it and doing the right thing, we can heal the wound that still exists in our country. We can begin to live into the promise of our Constitution.

15. Won't this open the floodgates to every other ethnic group claiming that at some time in the past they were ill treated?

We have already provided some form of reparations to the Native-Americans.

We have already provided some form of reparations to Japanese-Americans interned during World War II.

We have already provided some form of reparations to Jewish people as a result of the Holocaust.

16. What are the contentions in your lawsuits?

Between March 26, 2002 and January 2003, attorneys filed nine putative class action lawsuits on behalf of a putative class of 35,000,000 African-American slave descendants against eighteen (“18”) national companies and one (1) international company in seven jurisdictions: Eastern District of New York, Southern District of New York, New Jersey, Northern District of Illinois, Texas, California and Louisiana. The complaints allege that the defendants are responsible, either individually and collectively, for their profiteering from the Trans-Atlantic slave trade, engaging in human rights violations, crimes against humanity and becoming enriched therefrom, that defendants conspired with slave traders, with each other and other entities and institutions to commit and/or knowingly facilitate crimes against humanity, and to further illicitly profit from slave labor.

17. What is the current status of the cases?

The cases were all joined before federal Judge Charles Norgle of the Northern District, Eastern Division of Illinois. Last February, Judge Norgle granted defendants’ Motion to Dismiss the Complaints, but allowed the parties to replead their allegations. We are currently awaiting a decision on the Second Motion to Dismiss. We have secured the resources of appellate attorneys and are prepared to take the case to the 7th Circuit should the court dismiss the Complaints again. Recently, the Court took judicial notice of the recent public admissions made by defendant JP Morgan Chase of a related company’s prior involvement in the slave trade.

For more information on the case or related matters, you can contact Diane Elizabeth Sammons: dsammons AT nrmlaw.com.