

Cultural Politics of Redress: Reassessing the Meaning of the Civil Liberties Act of 1988 After 9/11

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*The Congress recognizes that, as described in the Commission on Wartime Relocation and Internment of Civilians, a grave injustice was done to both citizens and permanent residents aliens of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II. As the Commission documents, these actions were carried out without adequate security reasons, and were motivated in part by racial prejudice, wartime hysteria. The excluded individuals of Japanese ancestry suffered enormous damages, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has not been made. For these fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry, the Congress apologizes on behalf of the Nation.*¹

*The tradition of the oppressed teaches us that the "state of emergency" in which we live is not the exception but the rule. We must attain to a conception of history that is in keeping with this insight. Then we shall clearly realize that it is our task to bring about a real state of emergency, and this will improve our position in the struggle against Fascism.*²

*I am often asked, why I am not bitter and could this happen again? I am a realist with a creative mind, interested in people, so my thoughts are constructive. I am not bitter. I hope that things can be learned from this tragic episode, for I believe it could happen again.*³

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1. 133 CONG. REC. H7555 (1987). In addition to "racial prejudice and wartime hysteria," Bill Clinton's apology letter includes "a failure of political leadership."

2. Walter Benjamin, *Theses on the Philosophy of History*, in ILLUMINATIONS 257 (Hannah Arendt ed., 1955).

3. MINE OKUBO, CITIZEN 13660, at xii (1983). Okubo's book is a narrative of sketches and text that documents her experiences of being interned during World War II. She narrates events from Sept.

INTRODUCTION: BLOWBACK

When Representative Howard Coble of North Carolina – chairman of the House Subcommittee on Crime, Terrorism, and Homeland Security – can say in 2003 that the decision to intern 120,000 persons of Japanese ancestry in 1942 was justifiable,⁴ it is time to remember the “wartime hysteria” that produced Executive Order 9066⁵ and the blowback from internment a half century later. That blowback resulted in the Civil Liberties Act of 1988, or Japanese American Redress (“Redress”).⁶ The Civil Liberties Act was a triumphant moment, for justice denied became justice realized or, at the very least, justice delayed. The Civil Liberties Act can also be considered the highpoint of identity politics mobilization, the apex of how a group organized itself in order to appeal to its nation-state as a wronged group.⁷ Furthermore, the success of the Japanese American reparations movement illustrates the state’s capacity to remedy a wrong committed by the state.

However, the Civil Liberties Act may also be the *endpoint* of what can be done about historical injustice. In making this endpoint visible, the interests and limits of the nation-state can be discerned. Part I of this article argues that the interest convergence theory articulated by Derrick Bell in *Brown v. Board of Education and the Interest Convergence Dilemma*⁸ is useful in analyzing the Japanese American reparations

3, 1939 to the day she leaves the internment camp in early 1944.

4. “We were at war. They [Japanese-Americans] were an endangered species, . . . For many of these Japanese-Americans, it wasn’t safe for them to be on the street . . . Some probably were intent on doing harm to us just as some of these Arab-Americans are probably intent on doing harm to us.” *N.C. Rep.: WWII Internment Camps Were Meant to Help*, at <http://www.foxnews.com/story/0,2933,77677,00.html> (last visited Apr. 1, 2003) (quoting Rep. Howard Coble). The author would like to thank Eleanor Stanford for calling his attention to the news of the Coble controversy as soon as it broke.

5. Exec. Order No. 9066, 3 C.F.R. 1093 (1938-1943) (signed by President Franklin D. Roosevelt).

6. The Civil Liberties Act of 1988, which Congress passed and President Ronald Reagan signed in 1988, apologized to the Japanese Americans for their internment during World War II. See text accompanying note 1. In this article, when the word “Redress” is capitalized, it indicates the specific Japanese American movement to obtain reparations for losses stemming from Executive Order 9066. Pub. L. No. 100-383, 102 Stat. 903 101 (1988).

7. Identity politics is the term generally used to describe the formation of interest groups based on commonalities of history, condition, and experience. These identities came to function as a basis for mobilizing against discrimination and civil rights agitation. Historian George Lipsitz succinctly articulates the logic and the rise and fall of identity politics mobilization:

Especially since the 1964 and 1965 Civil Rights Acts, the dominant discourse in our society argues that the problems facing communities of color no longer stem primarily from discrimination but from the characteristics of those communities themselves, from unrestrained sexual behavior and childbirths out of wedlock, crime, welfare dependency, and a perverse sense of group identity and group entitlement that stands in the way of individual achievement and advancement.

GEORGE LIPSITZ, *THE POSSESSIVE INVESTMENT IN WHITENESS: HOW WHITE PEOPLE PROFIT FROM IDENTITY POLITICS* 24 (1998).

8. Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest Convergence Dilemma*, 93

movement. According to Bell, a civil rights triumph may primarily be evidence of majority interests converging with minority interests at a specific historical moment.⁹ In the case of *Brown v. Board of Education*,¹⁰ that moment was 1954 and those interests included Cold War anxieties, Southern industrialization, and demands from a minority group for equality in education and equal protection.¹¹ The convergent interests in the Civil Liberties Act were late Cold War anxieties, First World *de*industrialization, and demands from a minority group for compensation and an apology from a government that had unjustly incarcerated approximately 120,000 persons of Japanese ancestry.¹²

Part II turns to the theoretical stakes that become evident from this historical contextualization. The question that is asked in Part II is, what does it mean to frame a domestic issue amidst geopolitics and the demands of a changing economic order? As globalization is poised to supercede the nation-state as the last word in legitimate power,¹³ the United States makes one of the most contrite acts of civil society—it apologizes and provides cash payment for interning a population it feared. Applying Bell's interpretation of *Brown*, the Civil Liberties Act can be seen as a moment when the nation policed itself in an era of new scrutiny from within and without.

Part III examines the means by which Japanese American internment re-entered national history as a literal and figurative testimony of a wrong committed by a state that requires a remedy by that state. Specifically, internment and Redress is an example of unrepressing repressed history.

In Part IV, a closer look at cultural politics and textual features of internment reveals the complexity of the internment's tragedy and aftermath. Japanese American cultural production via stories, poems, novels, and films testifies to the suffering that took place at the hands of the U.S. government. Moreover, cultural and especially feminist cultural production transform testimony and show how the Japanese American experience of internment and Redress reveal the convergent interests of wartime hysteria, racial prejudice, and failed political leadership that led to internment. The extent to which the Redress successfully managed these interests has become questionable, as resonant tendencies have surfaced in

HARV. L. REV. 518 (1979).

9. See *id.* at 524-25.

10. 347 U.S. 483 (1954). According to Bell, in the quarter century since *Brown v. Board of Education*, the serving of these convergent interests had not resulted in better schools for African American children. See Bell, *supra* note 8, at 518-19.

11. See Bell, *supra* note 8, at 524-25.

12. By 1988, about 60,000 Japanese American internees were still alive. See REDRESS MONITOR, (JACL, Washington, D.C.) Oct./Nov. 1988, at 5.

13. The diminished power of the nation-state is a standard assertion by studies of globalization and postmodernity. See DAVID HARVEY, *THE CONDITION OF POSTMODERNITY: AN ENQUIRY INTO THE ORIGINS OF CULTURAL CHANGE* 37-38 (1990).

the wake of September 11, 2001 (“9/11”).

This article concludes with Part V, which addresses the ways in which the conflict between culture and economy, civil society and globalization, and words and money sought to be resolved through a successful reckoning with internment. Redress was meant to be a solution, but since wartime hysteria, racial prejudice, and failures of political leadership have not perished from our society, the question to ask is: “What was the problem?”

I. HOW DOES IT FEEL TO BE A PROBLEM SOLUTION?:
MODELING MINORITIES

The Civil Liberties Act needs to be understood both through and beyond the context of the struggle for civil rights in the United States. In his analysis of *Brown v. Board of Education*, Bell identifies a serious and undeniable failure of civil rights mobilizations—in the aftermath of a successful civil rights campaign to end segregation in America’s schools, actual social change was slow and, to an extent, non-existent.¹⁴ Inequalities were defiantly persistent in the face of legal and political transformations. It had become apparent that there might be something fundamentally flawed with mobilizing around demands for civil rights and engaging the state to rectify state-implemented inequalities.

Bell sets forth the challenge of historicizing the moments of triumph to better understand what they do *and do not* mean.¹⁵ Specifically, Bell states that

[i]t is necessary to remember that the issue of school segregation and the harm it inflicted on black children did not first come to the court’s attention in the *Brown* litigation: blacks had been attacking the validity of these policies for one hundred years. Yet, prior to *Brown*, black claims that segregated public schools were inferior had been met by orders requiring merely that facilities be made equal. What accounted, then, for the sudden shift in 1954 away from the separate but equal doctrine and toward a commitment to desegregation?¹⁶

In answering this question, Bell outlines the “interest convergence” that made 1954 a uniquely opportune moment for a new social movement to persuade the state. In 1954, the majority’s benevolent concern for the well-being of black schoolchildren overlapped with the minority’s interest in obtaining a decent education. However, the triumph of the *Brown* litigation did not solely result from the majority’s interest in upholding the civil rights of a minority population. Rather, Bell reframes the abandonment of formal segregation in the context of the increasingly global role the United States had in the immediate post-World War II

14. Bell, *supra* note 8, at 518.

15. *See id.* at 523-24.

16. *Id.*

period¹⁷ and in the context of regionalist impediments to Southern industrialization.¹⁸ According to Bell,

[f]irst, the decision [to desegregate schools] helped to provide immediate credibility to America's struggle with communist countries to win the hearts and minds of emerging third world people . . . Second, *Brown* offered much needed reassurance to American blacks that the precepts of equality and freedom heralded during World War II might yet be given meaning at home . . . Finally there were whites who realized that the South could make the transition from a rural plantation society to the Sunbelt with all its potential and profit only when it ended its struggle to remain divided by state-sponsored segregation.¹⁹

African Americans were thus a non-aligned population in danger of falling to the left. The disposal of "separate but equal" transformed this non-aligned population into first-class citizens in a show of moral rectitude for the whole world to witness and praise. In short, interest converged between what was morally right (i.e., racial equality under the tenets of liberalism) and self-interestedly right (i.e., global recognition under the tenets of economic reasoning and self-preservation).²⁰

Ultimately, Bell's assertions about the Cold War and post-agrarian Southern development may be speculative and difficult to prove. The point of Bell's observations and inquiries is that there is a need for a new method of analysis that is not restricted to the conventional race-based approaches to civil rights mobilizations.²¹ This is a bold statement coming from someone committed to "minority rights"²² because Bell is arguing that a very difficult win is not a victory.

While Bell is careful to acknowledge the real and important legal watershed of the *Brown* decision, he is also careful not to conclude that the decision can be understood as a notion of progress that legitimates the

17. For examples of analyses of the role of the "global city" under postmodernity, see, e.g., SASKIA SASSEN, *THE GLOBAL CITY: NEW YORK, LONDON, TOKYO* (2001); HARVEY, *supra* note 14, at 119-97.

18. See Bell, *supra* note 8, at 524-25.

19. *Id.*

20. See MARSHALL ROBINSON, *AN INTRODUCTION TO ECONOMIC REASONING* 8-20 (1967).

21. Bell explains how "racial remedies" used to address "harm suffered by blacks" (i.e. violations of civil rights based on race) may be symptoms of interests that are "subconscious" in "middle- and upper-class whites" and expressed in judicial decisions that "appear" to be interested in "racial justice."

It follows that the availability of Fourteenth Amendment protection in racial cases may not actually be determined by the character of harm suffered by blacks or the quantum of liability proved against whites. Racial remedies may instead be the outward manifestations of unspoken and perhaps subconscious judicial conclusions that the remedies, if granted, will secure, advance, or at least not harm societal interests deemed important by middle and upper-class whites. Racial justice – or its appearance – may, from time to time, be counted among the interest deemed important by courts and by society's policymakers.

Bell, *supra* note 8, at 22.

22. See *id.* at 533.

authority of the state as a privileged institution for creating social change.²³

Bell writes,

Now, more than twenty-five years after that dramatic decision, it is clear that *Brown* will not be forgotten. It has triggered a revolution in civil rights law and in the political leverage available to blacks in and out of court. . . . Yet today most black children attend public schools that are both racially isolated and inferior.²⁴

Therefore, a retrospective analysis of the “practical value” the *Brown* decision had on “millions of black children” reveals that the interests that converged in 1954 may have diverged a quarter century later, and the remaining interests do not benefit the African American children desiring a first-rate education.²⁵ The drama of interest convergence *and* divergence may be the rule in American legal history rather than the exception.²⁶

Bell’s analysis of *Brown*’s qualified successes allows a better contextualization and understanding of the victories in the Redress movement.²⁷ Similar to Bell’s influential invocation of the geopolitical stakes in the Cold War,²⁸ the internment and Redress movement should be

23. Bell explains how the *Brown* decision is at risk of being “irrelevant[t]” because its “current practical value” has been proven ineffective at delivering on “the decision’s promise of equal educational opportunity.” *Id.* at 20. There emerges then a gap between the presumed impact of the decision and its “implement[ation],” between the state’s role in bringing about “the necessary degree of social reform” and “the whole array of reasons” that have kept that reform from meaningfully happening, between the decision’s viability in law and its “current practical value.” *Id.*

Demographic patterns, white flight, and the inability of the courts to effect the necessary degree of social reform render further progress in implementing *Brown* almost impossible. The late Alexander Bickel warned that *Brown* would not be overturned but, for a whole array of reasons, “may be headed for – dread word – irrelevance.” Bickel’s prediction is premature in law where the *Brown* decision remains viable, but it may be an accurate assessment of its current practical value to millions of black children who have not experienced the decision’s promise of equal educational opportunity.

Id.

24. Bell, *supra* note 8, at 518.

25. *See id.*

26. The classic articulation of interest convergence and divergence is James Madison’s 1787 *Federalist Paper No. 10*, in which Publius agonizes over the inadequacies of drafts of the Constitution to address the Lockean state of nature and “the violence of faction.”

The diversity in the faculties of men from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. Those who hold, and those who are without property, have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a monied interest, with many lesser interests, grow up of necessity in a civilized nation, and divide them into different classes, actuated by different sentiments and views.

James Madison, *The Federalist No. 10*, reprinted in HEATH ANTHOLOGY OF AMERICAN LITERATURE, VOL. 1, at 1016 (2002). *See also* Charles Beard, *A Survey of Economic Interests in 1787*, reprinted in AN ECONOMIC INTERPRETATION OF THE CONSTITUTION OF THE UNITED STATES 19-51 (1986).

27. This connection is not made simply through analogy; as a watershed in Civil Rights litigation, *Brown v. Board of Education* was not irrelevant to internment cases such as *Korematsu v. U.S.*, 323 U.S. 214 (1944). *See generally* PETER IRONS, JUSTICE DELAYED: THE RECORD OF JAPANESE AMERICAN INTERNMENT CASES 13 (1989).

28. Bell, *supra* note 8.

framed amidst the cultural conditions of an emerging globalization as the Cold War was about to end. An analysis of the triumphant moment of Redress asks the question, “What are the increasingly global stakes of putatively domestic matters?” Such reframing must continue to account for the continuing pull of non-international demands. Ultimately, Bell seeks to avoid pessimism and the appearance of weakening the efficacy of grassroots mobilizations by stating that “criticism, as we in the movement for minority rights have every reason to learn, is a synonym for neither cowardice nor capitulation. It may instead bring awareness, always the first step toward overcoming still another barrier in the struggle for racial equality.”²⁹

A. Fifteen years ago: The Cresting of the Civil Rights Era

With the Civil Liberties Act, the United States used two key methods to repair the damage of the past: (1) the logic of damages and (2) the hyperbolic rhetoric of apology.³⁰ In the 1970s, only an overly optimistic lunatic fringe entertained the possibility of actually obtaining monetary redress from the government that had incarcerated them.³¹ Generally, acknowledgment and an apology were the main goals because monetary payments seemed wishful, if not mercenary, for the so-called “Quiet Americans.”³² But the lunatic fringe was correct since the Civil Liberties Act provided both an apology and a monetary payment.

According to President George H.W. Bush, the Civil Liberties Act was adopted in part to “take a clear stand for justice.”³³ In President Bush’s letter of apology, Bush wrote that

[a] monetary sum and words alone cannot restore lost years or erase painful memories; and neither can they fully convey our Nation’s resolve to rectify injustice and to uphold the rights of individuals. We can never fully right the wrongs of the past. But we can take a clear stand for justice and recognize that serious injustices were done to the Japanese Americans during World War II.³⁴

Ironically, the “clear stand for justice and recogni[tion] of a serious injustice” is vulnerable today in the post-9/11 United States.

29. *Id.* at 533.

30. The House Resolution of the Civil Liberties Act was H.R. 422. The number 422 is symbolic because it was also the number of the “Fighting 442” – the Japanese American soldiers who fought in World War II. See MITCHELL MAKI ET AL., *ACHIEVING THE IMPOSSIBLE DREAM: HOW JAPANESE AMERICANS OBTAINED REDRESS* 153, 196 (2001).

31. *See id.* 64-84.

32. The phrase “Quiet Americans” was prominently used in BILL HOSOKAWA, *THE NISEI: QUIET AMERICANS* (1969).

33. MAKI, *supra* note 30, at 214 (quoting President H.W. Bush’s letter of apology).

34. *Id.*

Long before the controversial U.S.A. Patriot Act,³⁵ the civil rights basis of social justice legislation has been under attack both legally and culturally in what is called “reverse discrimination.”³⁶ President Lyndon Johnson’s vision of the “Great Society”³⁷ has more or less collapsed as implementations of historical correctives, such as affirmative action, lose popular and legal support.³⁸ With the continued legal, political, and cultural assaults on affirmative action and other social justice measures, the Civil Liberties Act may go down in history as multiculturalism’s last gasp—the last demonstration of an idea that it is the role of the state to bring about social and economic equality.³⁹

During the rise of neoconservatism and dismantling of social welfare programs, Asian Americans were trotted out as the Model Minority,⁴⁰ or “miracle synthetic white people.”⁴¹ In the hands of conservatives, Asian Americans were a demonstration of how the system can correct itself without need of radical change; that is, without hurting the status quo.⁴² Specifically, Japanese Americans could be seen as an ideal group to champion as a population known for marrying outside their ethnicity, immigrating in tiny numbers (unlike the Chinese, Koreans, Filipinos, Vietnamese, Laotians, and Cambodians who came in large numbers since the Immigration and Naturalization Act of 1965),⁴³ and having a higher median household income than the “average” American.⁴⁴ The fact that

35. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot) Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001). See, e.g., Nancy Chang, *The U.S.A. Patriotic Act: What’s So Patriotic About Trampling on the Bill of Rights?* (2001), at http://www.ccr-ny.org/whatsnew/usa_patriot_act.asp.

36. See *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978).

37. See Lyndon Johnson, Great Society Speech (1964), available at <http://www.nv.cc.va.us/home/nvsageh/Hist122/Part4/LBJGrSoc.html> (last visited Apr. 2, 2003).

38. One example of the backlash against social justice is the California Civil Rights Initiative (Proposition 209), CAL. CONST. ART. I, § 31 (1996).

39. Evidence of the changes against social justice occurred when affirmative action was nixed in California by the deceptively named California Civil Rights Initiative (Proposition 209), CAL. CONST. ART. I, § 31 (1996). Moreover, the University of California can no longer apply affirmative action in its admissions policies, and the University of Michigan is currently defending its affirmative action admissions policies in the face of a legal assault that includes the White House.

40. See SUCHENG CHAN, *ASIAN AMERICANS: AN INTERPRETIVE HISTORY* 167-68 (1991).

41. FRANK CHIN ET AL., *IIIIIIIIII: ANTHOLOGY OF ASIAN AMERICAN WRITERS*, at xv (Frank Chin et al. eds., 1974).

42. Bell describes how the perception of a zero-sum game will always prevent genuine change, even with desegregation by stating that “[w]hites may agree in the abstract that blacks are citizens and are entitled to constitutional protection against racial discrimination, but few are willing to recognize that racial segregation is much more than a series of quaint customs that can be remedied effectively without altering the status of whites.” Cf. Bell, *supra* note 8, at 22.

43. See generally U.S. COMM’N ON CIVIL RIGHTS, *REPORT ON CIVIL RIGHTS ISSUES FACING ASIAN AMERICANS IN THE 1990s* 15 T.1.2 (Feb. 1992) (By the early 1990s, the percentage of foreign born Japanese Americans was at 28.4% while the average for Asian Americans in general was at 62.1%).

44. *Id.* at 17 T. 1.3. However, these statistics need to be scrutinized. In 1980, Japanese American families – as opposed to individuals – had a poverty rate of 4.2%, while the national average was 9.6%.

Japanese Americans seem to manage all these forms of integration and success despite having been imprisoned and dispossessed of their property was used as evidence of the existence of an American social order premised on hard work and equal opportunities.⁴⁵ In a perversion of the logic of entitlement, cleverly manipulated statistics showed that the U.S. government seemed to be bestowing Redress upon a population that had already pulled itself up by its bootstraps.⁴⁶ For example, Thomas Sowell wrote that

[t]he history of Japanese Americans is a story of tragedy and triumph. Few people ever came to America more predisposed and determined to be good Americans. Few met such repeated rebuffs and barriers – including barriers of mass internment camps – or more completely triumphed over it all, across a broad spectrum of economic, social, and political success.⁴⁷

Hence, the apparent success of the Japanese Americans in the early 1980s could fuel conservative desires to justify the dismantling of costly social welfare programs that did not seem to be working.⁴⁸

Moreover, the nation's moral responsibility toed a slippery slope because other reparations claims awaited the U.S. government. For example, dispossessed native populations would seek damages for a legacy of broken treaties;⁴⁹ the progeny of the formerly enslaved would demand back wages,⁵⁰ and the non-consensually colonized would seek compensation for the irrecoverable loss of traditional ways.⁵¹ Therefore, the ideological bulwark against using Redress as a precedent was ostensibly the category of the wronged *individual*, and by implication the wronged group, or perhaps more accurately, the wrongfully grouped.

President Bush had been careful to emphasize “our Nation’s resolve . . . to uphold the rights of individuals” in his apology letter.⁵² But, in what was often repeated in the discourse of the Civil Liberties Act, the *descendants* of those individuals and groups did not have a legitimate basis

Also in 1980, the median family income – as opposed to net assets – of Japanese Americans was the highest among Asian American groups, 1.37 compared to a national average of 1.0. *Id.*

45. For a classic neoconservative approach to ethnic difference, see generally THOMAS SOWELL, *ETHNIC AMERICA: A HISTORY* (1981).

46. By 1980, Japanese Americans had a poverty rate of 4.2% while the national average was 9.6. The Asian American average was 10.3. See U.S. COMM’N ON CIVIL RIGHTS, *supra* note 43, at 17 T.1.3.

47. SOWELL, *supra* note 45, at 155.

48. For example, Sowell argues that Japanese American prosperity stems from “individual thriftiness,” “family, community ties, and concepts of honor,” and “rotating credit systems.” *Id.* at 167.

49. See RICHARD WHITE, “IT’S YOUR MISFORTUNE AND NONE OF MY OWN”: A NEW HISTORY OF THE AMERICAN WEST 586 (1991). Broken treaties emerged as a rallying point for the American Indian Movement, particularly embodied by the 1972 protest march, The Trail of Broken Treaties.

50. See RANDALL ROBINSON, *THE DEBT: WHAT AMERICA OWES TO BLACKS* 219-21 (2000).

51. See Haunani Kay Trask, *Politics in the Pacific Islands: Imperialism and Native Self-Determination*, 16 *AMERASIA* 12-14 (1990). The demands of the indigenous Hawaiian sovereignty movement have placed much emphasis on access to natural resources that would make possible a modicum of economic self-determination.

52. MAKI, *supra* note 30, at 214 (quoting President George H. W. Bush’s letter of apology).

for grievance since the wrong was not committed against the descendants personally.⁵³ The descendants are presumed to be *tabula rasa* on a playing field leveled through the protection of equal rights made possible through the Fourteenth Amendment and the *Brown* decision.

But as the conditions have shifted from a Cold War concern with NATO and the Warsaw Pact to a post-Cold War era of NAFTA, GATT, and the legitimacy of the WTO, a fundamental commitment to free trade and a world made safe for it rather than a fundamental commitment to civil society has emerged. Over the past three decades, a steady erosion of social justice legislation has occurred and has been legitimated.⁵⁴ With the ascendance of globalization, the erosion of social justice legislation offered the United States a way out of the quagmire of multiculturalist⁵⁵ demands for social and economic justice for a history of structural inequalities, both explicitly stated and/or merely practiced.⁵⁶ Moreover, the United States no longer needs to demonstrate to the non-aligned world its “equal treatment” of its citizens and turn the spotlight on the model minorities, who were tolerated and given a square deal in civil society, despite the hysterics of the past, such as chattel slavery or wartime relocation in the “concentration camps.”⁵⁷ As Michael Hardt and Antonio Negri write, “[i]n our times . . . civil society no longer serves as the adequate point of mediation between capital and sovereignty. The structures and institutions that constitute it are today progressively withering away.”⁵⁸

The place of culture in this context creates a remembrance of the institutions that legitimated these terms and critiqued that legitimacy.

53. The *Redress Monitor* reproduced the government’s “Frequently Asked Questions” pamphlet, which included a quick response to pour sand on that slippery slope. The only exception involves a next-of-kin heir to those who died after Aug. 10, 1988 but before collecting their check. REDRESS MONITOR, *supra* note 12, at 5-7. Anyone who was evacuated, but chose to repatriate to unnamed Japan was not eligible: “Excluded from payment are those individuals who during the period beginning December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country.” *Id.* at 5.

54. See Kimberle Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARVARD L. REV. 1331, 1336-49 (1988).

55. Multiculturalism is a term loosely used to describe the social transformations that were concomitant with the recognition and valorization of diversity. See LISA LOWE, *CRITICAL TERRAINS: FRENCH AND BRITISH ORIENTALISMS* 27 (1992). Lowe characterizes these transitions to neoconservative politics of difference as following three different positions (1) “We have different histories in the United States and different degrees of access to opportunity”; (2) “We have different access, but we are entitled to the same opportunity”; and (3) “Minorities have equal opportunity; they are already ‘the same’ enough.” *Id.* at 27.

56. Asian Americans have been at the forefront of informal racism, as *Yick Wo v. Hopkins*, 118 U.S. 356, 373-74 (1886), demonstrated, when a San Francisco city ordinance against wooden laundry buildings was deemed a violation of equal protection. The ordinance was applied with “an evil eye” and “an unequal hand,” despite not explicitly naming the Chinese. *Id.*

57. The internment camps were called “concentration camps” in the official discourse of internment, including that of President Franklin Roosevelt. See MAKI, *supra* note 30, at 243. Maki suggests “death camps” is the more appropriate term for the Nazi institutions of the Final Solution. *Id.*

58. MICHAEL HARDT & ANTONIO NEGRI, *EMPIRE* 328 (2000).

Specifically, the Japanese American feminist cultural productions that emerged around Redress and internment⁵⁹ exhibited the limits of the nation-state and national culture. These limits are visible through the ways in which the feminist cultural productions show how internment is both the product and producer of the gendered racialization of Asian Americans. In other words, we can see the limits of the nation-state at moments where redress is an inadequate solution, even if it is the best one. From the *failures* of a notably successful Redress movement, there can be a better understanding of the interest convergence that made the Civil Liberties Act possible.

B. Fifteen years ago: Ascendant globalization

The conditions of internment were fundamentally international,⁶⁰ for war and race panics converged to incarcerate more than 120,000 persons of Japanese ancestry without due process.⁶¹ The Redress movement was an inspiring grassroots mobilization right out of the Civil Rights mold. Activism emerged from Japanese American communities in Seattle, Los Angeles, and other West Coast localities.⁶² The Japanese American Citizens League (“JACL”) – once vilified for its calls for compliance with Executive Order 9066⁶³ – emerged as a prime hero of the Redress movement. But similar to the Civil Rights Era more generally, the Redress movement must also be understood as having unnoticed international causes and consequences in the midst of the ascendance and contradictions of globalization.⁶⁴

59. See WHO’S GOING TO PAY FOR THESE DONUTS ANYWAY? (Janice Tanaka 1992) [hereinafter DONUTS] (documenting Tanaka’s search for her father who had been confined to mental institutions, on and off since World War II); Hisaye Yamamoto, *The Legend of Miss Sasagawara*, in HISAYE YAMAMOTO, SEVENTEEN SYLLABLES AND OTHER STORIES 20 (1988) (providing a portrait of the titular curious woman in an internment camp during World War II. Miss Sasagawara is legendary because she cannot, or will not, conform to life in the camps. She is deemed insane and institutionalized.); HISTORY AND MEMORY (Rea Tajiri 1991) (assembling new and archival footage to capture the interplay of history and memory in narrating the experience of being interned and the experience of remembering it).

60. See MICHIE WEGLYN, YEARS OF INFAMY 56-66 (1976).

61. See *generally id.* at 57; ROGER DANIELS, CONCENTRATION CAMPS, USA (1971). Perhaps ironically, internment has been probably the most widely documented subject in Asian American Studies. See *generally* Scott MacFarlane, *Covering Obasan and the Narrative of Internment*, in PRIVILEGING POSITIONS: THE SITES OF ASIAN AMERICAN STUDIES 401 (Gary Okihiro et al. eds., 1995).

62. For a detailed survey of the struggle for redress that emerged along the Pacific Coast, see ROBERT SHIMABUKURO, BORN IN SEATTLE: THE CAMPAIGN FOR JAPANESE AMERICAN REDRESS (2001).

63. See MAKI, *supra* note 30, at 33-35. Maki notes that the JACL initially expressed resistance to evacuation, but by March of 1942 the JACL board voted unanimously to encourage their membership to cooperate with the exclusion order.

64. Even before the watershed demonstrations at the World Trade Organization summit in Seattle in 1999, analysts had been critiquing the ascendance of globalization as both dubious in its totality, and fundamentally exploitative in its practice. See SASKIA SASSEN, GLOBALIZATION AND ITS DISCONTENTS, at xix-xxxvi (1998).

Suspect populations like the Japanese Americans have long been political footballs throughout American history. Under the administration of John Adams, for example, the deeply controversial 1798 Alien and Sedition Act particularly infringed upon the civil liberties of the French immigrants.⁶⁵ Persons of African descent – especially free, literate ones – were also de facto fomenters of insurrection prior to 1863, if not after as well. Further, homosexuals were considered a security risk during the Cold War.⁶⁶ All of these identity categories function or have functioned as the basis for the denial of civil rights. Therefore, the story of internment and Redress has a tragic relevance for the post-9/11 perils of globalization, where homeland security and color-coded terror alerts manage allegedly dangerous populations.⁶⁷

These identities, if properly rearticulated and redeployed, can go from the cause of persecution to grounds for grievance.⁶⁸ An identity thus goes from being a problem to being the means for a solution.⁶⁹ Specifically, the identity goes from being evidence of “the wrongs of the past” to the rights and corrections of the present. With a new basis for anti-discrimination in place, a chapter on injustice should have closed with the granting of redress.⁷⁰ Seeing how the category of the identity can be mobilized for the minority’s civil rights violation claims changes the 20th century question of: “How does it feel to be a problem?” The new 21st century’s question is: “How does it feel to be a solution?” It is this solution that now sheds light on the problems that the solution did not adequately resolve.

C. Fifteen years ago: A Chapter Closes?

From the very ways in which internment and Redress is spoken of, it can be discerned how internment and Redress will be imagined in the meaning of history. It has become a common trope to use the rhetoric of

65. See Calvin R. Massey, *The Locus of Sovereignty: Judicial Review, Legislative Supremacy, and Federalism in the Constitutional Traditions of Canada and the United States*, 1990 Duke L.J. 1229, 1242-45 (1990).

66. Gregory B. Lewis & Marc A. Rogers, *Does the Public Support Equal Employment Rights for Gays and Lesbians?*, in ELLEN D.B. RIGGLE & BARRY L. TADLOCK, *GAYS AND LESBIANS IN THE DEMOCRATIC PROCESS: PUBLIC POLICY, PUBLIC OPINION, AND POLITICAL REPRESENTATION* 118-19 (1999).

67. For a critique of the racialization and the racial profiling of the “Arab terrorist,” see generally Leti Volpp, *Critical Race Studies: The Citizen and the Terrorist*, 49 UCLA L. REV. 1575 (2002).

68. See, e.g., Mari Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 362-97 (1987).

69. W.E.B. DU BOIS, *THE SOULS OF BLACK FOLK: ESSAYS AND SKETCHES*, at xiii (1961). The question, “How does it feel to be a problem?” comes of course from the opening lines, in reference to the post-Reconstruction notion of “the Negro Problem.” *Id.* at 15. See also W.E.B. DuBois, *The Talented Tenth*, reprinted in *THE NEGRO PROBLEM: A SERIES OF ARTICLES BY REPRESENTATIVE AMERICAN NEGROES OF TO-DAY* 31 (1903).

70. These new identities can also spawn reactionary identities, as Eve Sedgwick discusses in relation to the fleeting pathologizing of the sufferer of “male homosexual panic.” See EVE SEDGWICK, *THE EPISTEMOLOGY OF THE CLOSET* 4-8, 19-21, 138-39, 182-212 (1990).

chapter, episode, and story when discussing the internment of Japanese Americans.⁷¹ The particular efficacy of these terms to internment and Redress stems from two main features of chapter and episode: (1) the ability to insert or remove internment from American history narratives and (2) the apparent beginning, middle, and end in the story of internment. The legal and political history of internment has a neatness to it. Executive Order 9066 is the beginning and the Civil Liberties Act is the closing. Internment had also long been omitted from American history and it was later inserted, ready to be called up during a moment of crisis.⁷² The Civil Liberties Act provides a satisfying and necessary victory for the survivors of internment. And it also reminds a nation to be vigilant of its own hypocrisy.

Redress primarily addressed and was legitimated by the evidence of property losses.⁷³ However, the legal struggle, through its generation of testimony about internment, made speakable and visible the psychological and social damage that internment wrought on Japanese Americans. In other words, *cultural* politics of legal history enter the picture to show that the Civil Liberties Act did not close the chapter on resonant “racial prejudice, wartime hysteria, and failure of political leadership” that can still exist in a post-H.R. 442 and post-9/11 world.

II. REBIRTH OR DEATH OF THE NATION-STATE: NATIONAL IN THE LAST INSTANCE

One of the most important insights of Bell’s analysis of the *Brown* decision was his identification of the limits of the nation-state as an instrument of justice. History has further emphasized the suspicion that Bell gestured toward 24 years ago—legal triumph does not result in the realization of social justice.⁷⁴ Bell’s analysis of *Brown* can only speculate about the role of geopolitics in the judicial decision because law is out of

71. See ANGELO ANCHETA, RACE, RIGHTS, AND THE ASIAN AMERICAN EXPERIENCE 32 (1998) (“[I]t took the enactment of the Civil Liberties Act of 1988, which issued a formal apology for the internment and granted redress payments to internees, to close the chapter on one of the most ignoble episodes in American legal history.”); JUSTICE FOR ALL: AN ORAL HISTORY OF THE JAPANESE AMERICAN DETENTION CAMPS, at xi (John Tateishi ed., 1984) (“Until recently, one of the least known episodes in the history of the United States was the forced exclusion and detention during World War II of over 120,000 Japanese American civilians who resided on the West Coast at the outbreak of the conflict.”); LAST WITNESSES: REFLECTIONS ON THE WARTIME INTERNMENT OF JAPANESE AMERICANS I (Erica Harth ed., 2001) (“The incarceration of Japanese Americans is a nasty story.”)

72. A recent symposium at UCLA Law School brought together leading scholars on this very subject: “Learning From Internment in a Post 9-11 World.” Recent articles pointedly explore the relevance of Executive Order 9066 today. See, e.g., Natsu Taylor Saito, *Symbolism Under Siege*, 8 ASIAN L.J. 1 (2001); Jerry Kang, *Thinking Through Internment: 12/7 and 9/11*, 9 ASIAN L.J. 195 (2002).

73. See WEGLYN, *supra* note 60, at 274-81.

74. See Bell, *supra* 8, at 20. Bell begins his famous article by juxtaposing the 1954 promises of Judge Robert L. Carter with the fact of persistent inequalities a quarter century later. *Id.*

its element beyond the nation-state.⁷⁵ But Japanese American cultural production regarding internment and Redress shows how the actions of the nation-state are local and global. In emphasizing this, the article attempts to highlight how the “national” is an idea suffused by and suffusing conceptions of both the local and global.⁷⁶

In practice, and especially in times of crisis, the national remains the privileged site of contestation and governance, and of grievance and remedy. With few exceptions, world courts have yet to be an effective means of protecting rights and bringing people to justice.⁷⁷ Yet in the articulations of the nation-state and in forms of engaging resistance to it, there are increasingly complicated workings of the local and global that the national cannot wholly resolve and contain.⁷⁸ In practice, the national seeks to resolve and contain because a nation would rather police itself. Through reparative measures of payments, apologies, and memorials, the nation offers to close an unresolved chapter or, in the granite realization of the Maya Lin’s Vietnam Veterans Memorial, a “wound.”⁷⁹

Through Redress, the nation reintegrated and recognized Japanese Americans as *individuals*, and not as a group that was once vilified and feared. While justly celebrated, the Civil Liberties Act puts into discourse the limits of reintegration that Japanese American cultural production continue to ponder to this day and had been pondering for decades before the Civil Liberties Act.

Moreover, instead of merely *regulating* Japanese Americans, the law *produces* the category of “Japanese American” – or more pointedly, “persons of Japanese ancestry.”⁸⁰ The law therefore becomes more than just a legal matter. The law becomes both a window into and a shaper of culture and political economy. The scars of the past have continuing relevance, and a piece of law functions as a memorial.

75. See LISA LOWE, IMMIGRANT ACTS 20-22 (1996). The dialectical relationship of the legal-political, economic, and cultural spheres is influentially elaborated in Lisa Lowe’s *Immigrant Acts* through the concept of “Asian American critique.”

76. This highlight is the project of Bell’s analysis of *Brown* amidst global, local, and regional politics, as well as the national scope of a U.S. Supreme Court decision. Bell notes that the upholding of *Brown v. Board of Education* can even be explained by federal judges as the need to assert their authority over local school boards. So, enforcing desegregation may be more concerned with “antidefiance remedies” than equal rights and the “shield[ing] [of] black children from retaliatory discrimination.” See Bell, *supra* note 8, at 25-26.

77. Among the main exceptions would be the Nuremberg trials and the Milosevic trial. The movement to bring Henry Kissinger to trial for war crimes has not been successful, legally at least. See generally CHRISTOPHER HITCHENS, THE TRIAL OF HENRY KISSINGER (2001).

78. On the limits of civil society and the nation-state under globalization, see HARDT, *supra* note 57, at 328.

79. See MAYA LIN: A STRONG CLEAR VISION (Frida Lee Mock 1995); MARITA STURKEN, TANGLED MEMORIES: THE VIETNAM WAR, THE AIDS EPIDEMIC, AND THE POLITICS OF REMEMBERING 53-54 (1997).

80. See Exec. Order No. 9066, *supra* note 5.

The recent wave of anti-terror legislation⁸¹ makes the examination of wartime unconstitutionality and its after-effects especially pertinent. The question to ask is: On what scale of social organization can civil society be reasonably practiced?⁸² As global capitalism begins to dominate, national sovereignty runs the risk of being rendered illegitimate if its practices contradict globalization. The United States is not the visible hand in the empire's velvet glove because there is no one nation at the core of the "modern world system."⁸³ Instead, power and national responsibility have been diffused and denationalized. Indeed this is the very power of empire today: a unified and unifiable culprit, as France or Great Britain had once been, cannot be pointed to as the conspicuous orchestrator of imperialism.⁸⁴

Since isolationism is an impracticable fallacy in a world ordered by global capitalism, it is an important analytical maneuver to put the struggle for civil rights in a simultaneously international and local frame, to see connections between geopolitics and community-based organizing.⁸⁵ For instance, the discourses of both Rev. Martin Luther King Jr. and Malcolm X drew inspiration and examples from the decolonization movements in Africa and Asia, as did the student protestors at U.C. Berkeley and San Francisco State who had no compunctions about calling themselves the "Third World Liberation Front."⁸⁶ Even the dissenting opinion of *Korematsu* in 1944 contains the scathing remarks of the Salinas Vegetable Grower-Shippers Association that were decidedly extraneous to fears of defensive sabotage and demands of military necessity:

81. A report issued by the Center for Constitutional Rights declares:

Perhaps the most disturbing aspect of the government's actions has been its attack on the Bill of Rights, the very cornerstone of our American democracy. The War on Terror has seriously compromised the First, Fourth, Fifth and Sixth Amendment rights of citizens and non-citizens alike. From the USA PATRIOT Act's over-broad definition of domestic terrorism, to the FBI's new powers of search and surveillance, to the indefinite detention of both citizens and non-citizens without formal charges, the principles of free speech, due process, and equal protection under the law have been seriously undermined.

Center for Constitutional Rights, *The State of Civil Liberties: One Year Later—Erosion of Civil Liberties in the Post 9/11 Era*, at [http://www.ccrny.org/v2/reports/report.asp? ObjID =nQd bIRk DgG &Content=153](http://www.ccrny.org/v2/reports/report.asp?ObjID=nQd bIRk DgG &Content=153) (last visited April 7, 2003).

82. See HARDT, *supra* note 58, at 328.

83. *Id.* at xiv. "The United States does indeed occupy a privileged position in Empire, but this privilege derives not from its similarities to the old European imperialist powers, but from its differences." *Id.*

84. See *id.* at xiv-xvi.

85. See ROBERT BLAUNER, *RACIAL OPPRESSION IN AMERICA* 51-104 (1972). Sociologist Robert Blauner influentially uses colonialism to describe certain minoritized populations, rather than ethnicity and immigration.

86. See Rev. Martin Luther King, Jr., *Letter from Birmingham Jail*, in NORTON ANTHOLOGY OF AFRICAN AMERICAN LITERATURE 1856-57 (1963) (King refers to the "jet plane" speed of anticolonial movements while domestic civil rights struggles proceed at "horse and buggy" pace); Malcolm X, *THE BALLOT OR THE BULLET* 98-99 (1964) (Malcolm argues for what Robert Blauner would call "internal colonization" of American ghettos); BLAUNER, *supra* note 86, at 51-81. See also KAREN UMEMOTO, *ON STRIKE: THE SAN FRANCISCO STATE COLLEGE STRIKE 1968-1969*, at 24-26 (1989).

Special interest groups were extremely active in applying pressure for mass evacuation . . . Mr. Austin E. Anson, managing secretary of the Salinas Vegetable Grower-Shipper Association, has frankly admitted that "We're charged with wanting to get rid of the Japs for selfish reasons . . . We do. It's a question of whether the white man lives on the Pacific Coast or the brown men. They came into this valley to work, and they stayed to take over . . . They undersell the white man in the markets . . . They work their women and children while the white farmer has to pay wages for his help. If all the Japs were removed tomorrow, we'd never miss them in two weeks, because the white farmers can take over and produce everything the Jap grows. And we don't want them back when the war ends, either."⁸⁷

It was this very racialized spectacle of "persons [or families] of Japanese ancestry" that characterized the Japanese Americans as a threat to national security during a time of hysteria and opportunism.⁸⁸ Clearly, hysteria and opportunism have not necessarily abated, and they are not specific to the years during 1941-1945.

National security and "special interest" business competition conveniently converged with the internment of the economically successful racialized farmers. In the interest convergence reframings of *Brown* and Executive Order 9066, there is an important and underacknowledged will to escape the national as such. The Japanese American cultural politics are the felicitous vehicle for discerning this convergence. That is, similar to the way the interests that favored internment cannot be confined simply to wartime racial hysteria and national emergency, the interests in favor of Redress cannot simply be confined to peacetime multiculturalism and national guilt.

III. RETURN OF THE REDRESSED

The Redress movement spanned at least six presidential administrations.⁸⁹ President Clinton opened his 1993 apology letter with an acknowledgement of the delay: "Over fifty years ago, the United States Government unjustly interned, evacuated, or relocated you and many other Japanese Americans."⁹⁰ Of the nine individuals who first received redress payments in 1990, six had already passed their 100th birthdays.⁹¹ Since

87. *Korematsu*, 323 U.S. 214, 240 n.12 (quoting Mr. Austin E. Anson, managing secretary of the Salinas Vegetable Grower-Shipper Association).

88. On the notion of visibility and internment, see DAVID ENG, *RACIAL CASTRATION* 104-36 (2001). Eng discusses how the endemic invisibility of Chinese labor is in stark contrast to the hyper-visibility of Japanese saboteurs.

89. See MAKI, *supra* note 30, at 64 (dating the earliest inklings of what would come to become the Redress movement in 1970).

90. Bill Clinton, cited in Stewart David Ikeda, *The Art of Apology: Grading the Ex-Presidents on their Internment Lessons*, at http://www.imdiversity.com/article_detail.asp?Article_ID=3267 (last visited Mar. 31, 2003).

91. For a list of these individuals and their ages on that day, see MAKI, *supra* note 30, at 275.

only those who were actually interned, and not their non-interned descendants, were eligible for redress, the JACL raced against time to have the Civil Liberties Act implemented.⁹²

On August 10, 1988, in a characteristically public performance, President Ronald Reagan signed the Civil Liberties Act in the conspicuous presence of elderly and prominent Japanese Americans.⁹³ Afterwards, the more material and mundane matter of actually getting the checks to the survivors of internment followed. *The Redress Monitor*, the newsletter of the JACL's Legal Committee, diligently tracked the progress of the Civil Liberties Act in Congress. The JACL worked to obtain written confirmations from each state and the District of Columbia that the \$20,000 in Redress would be tax-free. Every state but Mississippi enthusiastically agreed to not take a piece of the settlement.⁹⁴ One can only imagine how miniscule the actual revenue would have been, based on the number of former internees living in Mississippi.⁹⁵ However, by complying with the other 49 states and the District of Columbia,⁹⁶ Mississippi may have given the appearance that it was soft on civil rights.

Even before the Civil Liberties Act, the culpability of the government was increasingly undeniable. Internment was either left out of history books or was explained as a constitutional and military necessity. The decisions of *Korematsu* and *Hirabayashi* made sure of that legally,⁹⁷ and the suppression of the Munson Report ensured that in terms of policy. Consider the following conclusions drawn in October and November of 1941, *before* the attack on Pearl Harbor. The "secret"⁹⁸ Munson Report stated:

The story was all the same. There is no Japanese "problem" on the Coast. There will be no armed uprising of Japanese. There will undoubtedly be some sabotage financed by Japan and executed largely by imported agents . . . In each Naval District there are about 250 to 300 suspects under surveillance. It is easy to get on the suspect list, merely a speech in favor of Japan at some banquet being sufficient to land one there. The Intelligence Services are generous with the title of suspect and are taking

92. *Message from the Chair*, REDRESS MONITOR (JACL, Washington, D.C.), Oct./Nov. 1988, at 1, 1.

93. *Id.*

94. *States' Treatment of Redress Payments*, REDRESS MONITOR (JACL, Washington, D.C.), Mar. 1990, at 1,1; *States' Treatment of Redress* REDRESS MONITOR (JAC, Washington, D.C.), May 1990, at 1,18.

95. In the 1990 census, there were 13,016 persons under the category "Asian or Pacific Islander" in the state of Mississippi. <http://venus.census.gov/cdrom/lookup/1042647952>.

96. *Twenty-Five States Address Monetary Compensation*, REDRESS MONITOR (JACL, Washington, D.C.), Feb./Mar. 1989, at 1, 10-11.

97. See JOHANNES TEN BROECK ET AL., PREJUDICE, WAR, AND THE CONSTITUTION 261-304 (1968).

98. MICHIE WEGLYN, *The Secret Munson Report*, in YEARS OF INFAMY: THE UNTOLD STORY OF AMERICA'S CONCENTRATION CAMPS 33-53 (1976).

no chances. Privately, they believe that only 50 or 60 in each district can be classed as really dangerous. The Japanese are hampered as saboteurs because of their easily recognized physical appearance. It will be hard for them to get near anything to blow up if it is guarded. There is far more danger from Communists and people of the Bridges type on the Coast than there is from Japanese. The Japanese here is almost exclusively a farmer, a fisherman or a small businessman. He has no entree to plants or intricate machinery.⁹⁹

As Munson predicted, Japanese Americans proved not to be a security threat; no instances of espionage or sabotage ever surfaced. Moreover, the 442nd soldiers became the most decorated and, in historian Tak Fujitani's suggestive phrase, "the most remembered, almost forgotten soldiers"¹⁰⁰ of a battalion fighting for the United States while their loved ones were interned by the very same country. These are all details that have been well-established and, through the hard work of generations of scholars and activists, well-publicized.¹⁰¹

A generation of committed scholars and activists made the amnesia around Executive Order 9066 recognizable. More than simply writing that "chapter" into American history, internment became perhaps the prime example of how revisionism had to be a more fundamentally radical procedure than simply adding facts we had not previously known.¹⁰² Institutions of knowledge production were more sharply seen as institutions of power that could be understood as institutions of knowledge production.¹⁰³ Thus, the phrase "persons of Japanese ancestry" that had an ominous meaning after December 7, 1941, now no longer refers to a potentially dangerous group of people because of revisionism and multiculturalism. The phrase now means a population due an apology and reparations.

By the 1980s, multiculturalism began to champion the ideals of diversity.¹⁰⁴ "A person of Japanese ancestry" became a site of critical authority and legitimate grievance. As with other substantiated claims of civil rights denial, forms of social justice needed to be implemented. Alliances and coalitions across racializations and ethnicities emerged to critique and mobilize against hegemony and exploitation.¹⁰⁵ Therefore,

99. *Id.* at 33-53.

100. See Tak Fujitani, *Go For Broke, The Movie* (2001).

101. The work of Roger Daniels and Michi Weglyn are exemplary in this regard. Also, as part of the Redress settlement, the Civil Liberties Public Education Fund was established and designed to educate the American public on the history of internment. See MAKI, *supra* note 30, at 225-27.

102. This concept is characterized by Ronald Takaki's notion of "a different mirror" to the past. See generally TAKAKI, *A DIFFERENT MIRROR: A HISTORY OF MULTICULTURAL AMERICA* (1993).

103. See *id.* at 37-59.

104. For example, the slogan of the University of California during this period was "excellence amidst diversity."

105. The establishment of Ethnic Studies programs is a prime example. See MIKE ICHIRO MURASE, *Ethnic Studies and Higher Education for Asian Americans*, in COUNTERPOINT: PERSPECTIVES

Redress was a conspicuous victory in these struggles with formal and informal discrimination.

A. Japanese American Cultural Production

Japanese American communities, from Seattle to San Diego and beyond,¹⁰⁶ were irreversibly shattered by internment.¹⁰⁷ It is no exaggeration to assert that internment was a watershed event for Japanese Americans. Internment was a moment of distinction, both racially and historically. Time would forever break down into pre and post-internment, and before and after the meaning of “persons of Japanese ancestry” became the basis for repression and the suspension of civil rights. Mari Matsuda proposes that reparations be understood as a method of political mobilization that emerges from historical conditions. Matsuda states that “indeed, the need for reparations arises precisely because it takes a nation so long to recognize historical wrongs against those on the bottom. Thus something other than a rigid conception of timeliness is required.”¹⁰⁸ The time lag between cause and effect can indeed be quite great. The great gap of time both magnifies and blurs that relationship of causality.

Why then has so much Japanese American cultural production complicated this narrative of damage and claims? For all the demands and temptations to sharpen the distinctions between the pre and post-Executive Order 9066 worlds, Japanese American cultural production has often been decidedly *unsentimental*, with little nostalgia for the pre -1942 era. With surprising frequency, cultural representations of Japanese American communities before internment do not paint a portrait of a pre-lapsarian Eden forever ruined by a specific race panic. This is especially notable in post-internment representations of the pre-internment era. Thus, the question to ask is “Why are so many post-internment depictions of the pre-internment world – the world so devastated by internment and therefore in need of remedy – unflattering?” The dilemma is to register legitimate and remediable damage that is ultimately not reducible to a single causal factor and a single frame of reference.

Turning to Japanese American cultural productions, each of the three stories in this section below are indicative of the ambivalent meaning of internment in Japanese American culture. Internment is both a symptom of

ON ASIAN AMERICA 202-08 (Emma Gee et al. eds., 1976).

106. Aleuts and persons of Japanese ancestry from Latin America were also interned and championed in the era of redress. See generally MAKI, *supra* note 30.

107. For an interesting argument regarding the loss of property, see Keith Aoki, *No Right to Own?: The Early Twentieth-Century “Alien Land Laws” as a Prelude to Internment*, 40 B.C.L. REV. 37 (1998) (arguing for the confluence of internment and Alien Land Laws as the factor most profoundly responsible for dispossessing property). Thanks to Professor Kyungwon Hong for bringing this article to my attention.

108. *Id.* at 381.

damage as well as its cause. Redress therefore is both more and less than the compensation it was designed to be legally. Redress is less than full compensation because internment is a symptom of problems, namely gendered racialization, that predated and lived on after internment and even Redress. It is also more than its intended compensation because it changed the relationship to the repressed, particularly through the form and content of testimony.

B. Seventeen Syllables by Hisaye Yamamoto

First, Hisaye Yamamoto does not make any reference to the internment in *Seventeen Syllables*, her much-anthologized story about the 1930s Japanese American farming families in Central Valley California.¹⁰⁹ Instead of showing a bucolic community that – of course unbeknownst to them – would later be destroyed by the misfortunes of war, Yamamoto unflinchingly exposes the hypocrisies of patriarchy and middle class morality. Moreover, the story is particularly damning to the family. In *Seventeen Syllables*, fathers are often patriarchal, domineering, and authoritarian, with the weight of displaced tradition on their side, and mothers are repressed and trapped in loveless marriages, laboring without compensation, and, troublingly, reproducing themselves in their daughters.¹¹⁰

Seventeen Syllables depicts the repressive conditions of farming life for a mother who would rather be writing haikus. Although there is no explicit reference to the internment, there is a tension in the Japanese American social world that senses an upheaval brewing. Only it is not one exclusively from the public sphere. Rosie Hayashi, the young protagonist, cannot envision a livable future under the conditions of her family, and imagines a radical and violent change. Specifically, Yamamoto writes,

[a]s they rode homeward silently, Rosie, sitting between, felt a rush of hate for both—for her mother for begging, for her father for denying her mother. I wish this old Ford would crash, right now, she thought, then immediately, no, no, I wish my father would laugh, but it was too late: already the vision had passed through her mind of the green pick-up crumpled in the dark against one of the might eucalyptus trees they were

109. See Hisaye Yamamoto, *Seventeen Syllables*, in SEVENTEEN SYLLABLES AND OTHER STORIES 8-19 (1988). Loosely autobiographical, this story is about adolescent Rosie Hayashi and her mother, a poet-farmer. Mrs. Hayashi's poetical aspirations increasingly become in conflict with her duties as a mother, wife, and coworker on the family farm. Eventually, Mr. Hayashi forbids his wife from participating in poetry-related activities, prompting her to divulge the events leading up to the arranged marriage with him. Mrs. Hayashi tells Rosie never to marry. Rosie listens half-heartedly to her mother's tale, but she has already fallen in love with Jesus Carrasco, a young Chicano laborer who lives nearby her family's farm.

110. See ELAINE KIM, ASIAN AMERICAN LITERATURE: AN INTRODUCTION TO THE WRITINGS AND THEIR SOCIAL CONTEXT 157-63 (1982) (analyzing a Japanese American woman's view through Hisaye Yamamoto's short stories).

just riding past, of the three contorted, bleeding bodies, one of them hers.¹¹¹

By not invoking the internment directly, the story actually expands the scope of the meaning and consequences of internment. *Seventeen Syllables* is a piece of period literature that grapples with a moment on the other side of a watershed event. It might be presumed that that other side is a happier one, but the story does not provide such simplified accounts of life before internment.

C. *No-No Boy* by John Okada

When there are direct depictions of and references to the internment, the complexity of the social world that Executive Order 9066 made visible and is seen as already damaged can be explored. In John Okada's novel *No-No Boy*,¹¹² Okada paints a similarly bleak portrait of the Japanese American family before and after internment, but this time in Seattle. Instead of trumpeting the achievements of loyal Japanese Americans, Okada's 1957 novel tells the story of an explicitly disloyal one. It is perhaps not surprising that this novel, which was written by a World War II veteran about a conscientious objector, found little following in the famously patriotic days.¹¹³ Readers are implicitly and explicitly asked to identify with a figure who is constructed as reprehensible to American values. Specifically, the main character Ichiro Yamada agonizes over the viability of his reintegration to a country about which he continues to have profound ambivalence. Yamada is also viewed as a deeply suspicious character by the mainstream Japanese American community in Seattle – including his own brother who was too young to serve but passionately wanted to – that sees him as, at best, a coward and, at worst, a traitor. In the novel, Okada explores the competing claims on Yamada that led to his decision to answer in the negative on the loyalty questionnaire. Moreover, Yamada's mother – who Yamada blames for his refusal to serve – has gone mad, and his father is an alcoholic. The novel comes to its disturbing resolution – or perhaps lack of one – with the suicide of his mother.

111. Yamamoto, *supra* note 109, at 12.

112. JOHN OKADA, *NO-NO BOY* (Combined Asian American Resources Project, Inc. 1976) (1957). Okada's novel tells the story of Ichiro Yamada, one who was imprisoned for refusing to make a loyalty oath. Upon returning to Seattle, Ichiro faces suspicion from everyone, especially Japanese Americans who served in the war. Ichiro is torn between allegiance to his near-mad mother who thinks that Japan has not lost the war, and his identification with the United States, his national home.

113. See Jinqi Ling, *No-No Boy*, in *A RESOURCES GUIDE TO ASIAN AMERICAN LITERATURE* 140-50 (Sau-ling Cynthia Wong & Stephen H. Sumida eds., 2000). Okada's widow even admitted to putting her late husband's second novel into the fireplace and incinerating the only copy. See OKADA, *supra* note 112, at iii.

D. Fish Head Soup by Philip Kan Gotanda

Finally, in a more contemporary portrait, Philip Kan Gotanda looks at the shattered Japanese American family barely holding itself together in *Fish Head Soup*.¹¹⁴ The play refers to “the sickness” in the Iwasaki family that passes from generation to generation. It is an ailment derived from the persistence of racial discrimination. In the closing scene, the father in the play declares,

[a]nd the long train ride, the train ride to the camp, the camp, the barbed wire, twisting, crawling with it. And mama looking at Papa, “The camp did that, the camp did it,” and me knowing it’s not true, it’s not true, because I could always see it. It was always there, the sickness. A part of the land. The land itself.¹¹⁵

Thus, internment is seen more as the rule than the exception to Iwasaki’s family history. Internment only emerges as the latest and most insidious form of racial discrimination that produced Alien Land Laws, Anti-miscegenation Laws, Exclusion Acts, and every other form of formal and informal segregation in America.

Fish Head Soup is also a post-Redress drama, a narrative that speculates on the meaning and uses of the \$20,000 reparation checks. Mat Iwasaki, the prodigal son, imagines that the money will go toward the financing of an independent movie he is trying to make about a Japanese American going to Japan and finding his identity.¹¹⁶ Mat seeks to get his parents to sign over their checks and take out a new mortgage on their house to finance the production of his film. Hence there is some poetic justice in the redress checks going toward culturally transformative projects. But eventually all of Mat’s plans come to nothing. The climactic final moments of the play involve the destruction of the set as a symbolic scrapping of the domestic unit. In what is a common but effective meta-theatrical gesture, the audience is left with the “house” (i.e., theater) destroyed and the real world undeniably present.

Each of these examples of Japanese cultural production, *Seventeen Syllables*, *No-No Boy*, and *Fish Head Soup*, exemplifies the ambivalent meaning of internment in Japanese American culture. Internment is thus viewed as the cause of damages and also the symptoms of that damage. Redress, however, could not rectify the gendered racialization that predated and existed after internment.

114. PHILIP KAN GOTANDA, *Fish Head Soup*, in *FISH HEAD SOUP AND OTHER PLAYS* (1995). *Fish Head Soup* is a play about the Iwasaki family in contemporary California. The favorite son, Mat, fakes his death in order to outrun a past he is ashamed of. His death affects an already traumatized family. Mat returns in an effort to get funding for a film he is trying to make. Mat wants both the deed to his parents’ house and their redress checks, but his plans fail.

115. *Id.* at 64.

116. Narrative similar to DAVID MURA, *TURNING JAPANESE: MEMOIRS OF A SANSEI* (1991).

IV. TESTIMONIAL SUBJECTS

The danger of “beating city hall”¹¹⁷ is that, in triumph, the victors affirm the legitimacy of city hall as the guarantor of rights. But Japanese American cultural production articulates a more complex world, both in terms of historical conditions and political terrain. For example, Robert Shimabukuro’s account of the Redress movement takes the opportunity for visibility that the movement made possible, and examines the social, cultural, and economic contexts of Japanese American communities.¹¹⁸ The remaining cultural productions that will be examined dramatize how the telling of occluded pasts profoundly changed both the teller and the listener. These cultural productions show that when the subject matter is as traumatic and forgotten as the internment, testifying is not simply the recounting of an experience to provide information, but it is also the transformation of the meaning of testimony itself.

A. *Breaking Silence* by Janice Mirikitani

Perhaps the great articulation of the Redress movement is Janice Mirikitani’s poem *Breaking Silence*.¹¹⁹ The poem, emerging during the era of the Redress struggle, is an exploration of the meaning of testimony and the act of testifying. The poem testifies to the poetical power of testimony itself. In the poem, the speaker juxtaposes her mother’s testimony with lines concerning the speaker’s relationship with her own daughter. Testifying ostensibly about her experiences with and the consequences of internment are extrapolated in the bond of mother and daughter.

The final line of the poem is “Our language is beautiful.” The poem thereby radically redefines aesthetics as including testimony about historical injustice.¹²⁰ In a postmodern pastiche, the verses parallel the private and public, past and present, verbal and non-verbal, without asserting a necessary hierarchy. This pragmatic yet artificial division is illustrated typographically: at the beginning of the poem there is

117. This is the phrase Chizu Omori uses to convey the bewilderment of the interned upon achieving Redress. See Chizu Omori, *Foreword* to ROBERT SADAMU SHIMABUKURO, BORN IN SEATTLE: THE CAMPAIGN FOR JAPANESE AMERICAN REDRESS, at ix (2001).

118. See ROBERT SHIMABUKURO, BORN IN SEATTLE: THE CAMPAIGN FOR JAPANESE AMERICAN REDRESS (2001).

119. Janice Mirikitani, *Breaking Silence*, in BREAKING SILENCE: AN ANTHOLOGY OF CONTEMPORARY ASIAN AMERICAN POETRY (Joseph Bruchac ed., 1983) (1982).

120. This same move is done quite effectively in *Obasan*, Joy Kogawa’s novel of Japanese Canadian internment. See generally JOY KOGAWA, *OBASAN* (1981). *Obasan* begins with an opaquely expressionist description of silence and ends with actual testimony from the Canadian Parliament. For fine literary analyses of Kogawa’s novel, see SAU-LING CYNTHIA WONG, *READING ASIAN AMERICAN LITERATURE: FROM NECESSITY TO EXTRAVAGANCE* 24-29 (1993); KING-KOK CHEUNG, *ARTICULATE SILENCES: HISAYE YAMAMOTO, MAXINE HONG KINGSTON, JOY KAGAWA* 126-68 (1993). Patricia Williams, in *The Alchemy of Race and Rights: Diary of a Law School Professor*, invokes the opening of *Obasan* to discuss Tawana Brawley—“There is a silence that cannot speak.” PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* 175 (1991).

conventional free verse with figural imagery on a left column, and informative and factual testimony of the poet's mother in quotation marks on the right. Eventually the distinction between testimony and poem breaks down. The quotation marks disappear and the language of the testimony starts to become figural: "Words are better than tears,/ so I spill them."

We are lightning and justice.

Our souls become transparent like glass revealing tears for war-dead sons

Red ashes of Hiroshima

Jagged wounds from barbed wire.

We must recognize ourselves at last

We are a rainforest of color and noise.

We hear everything.

We are unafraid.

Our language is beautiful.

The closing line appears on the right side, her mother's side. Testimony is conventionally given the status of a transparent utterance, while poetic discourse employs art and craft. Mirikitani destabilizes this dichotomy and reminds us to read testimony for what is indirectly conveyed, what may resist formal legal codification yet nonetheless exists with a force the reader has only begun to recognize and feel through the aesthetic medium of poetic discourse.

B. *Citizen 13660* by Mine Okubo

Next, Mine Okubo's *Citizen 13660*, has the distinction of actually being used as testimony during the Redress hearings.¹²¹ Okubo writes that she

testified at the hearing in New York City. As *Citizen 13660* had been widely reviewed and was considered an important reference book on the Japanese American evacuation and internment, I presented the Commission with a copy of the book in addition to my oral testimony. In my testimony I stressed the need for young people from grade school through college to be educated about the evacuation. I believe that some form of reparation and an apology are due to all those who were evacuated and interned.¹²²

Hence, Okubo encourages the reader to understand her narrative as an articulation of grievance. Yet it is a narrative that is oddly detached and aloof from its subject. Okubo clearly occupies the position of an almost amused observer.

Okubo begins her narrative with the events of September 3, 1939, when England and France declared war. At that time, she had been

121. OKUBO, *supra* note 3.

122. *Id.* at xi.

traveling in Europe as an art student from the University of California at Berkeley. In those circumstances, one such as she would presumably feel her national identity as an American citizen: the holder of a passport, one not technically involved with the war in Europe. However, Obuko's resolve to document her experiences does not come until fifty pages later when she writes on May 20, 1942 that "[f]rom the grandstand balcony [of the Tanforan Racetrack she] . . . watched the coming and going of the baggage trucks . . . The humor and pathos of the scenes made me decide to keep a record of camp life in sketches and drawings."¹²³

Whereas, the first fifty pages document the gradual dissolution of Okubo's sense of national identity and citizenship – she goes from being an American abroad to a foreigner at home – the rest of the book dispassionately records the daily and oddly quotidian experiences of wartime relocation. The narrative ends with her ambivalent release from the camp in January 1944. Okubo writes how she is afraid to reenter American society:

I was now *free*.

I looked at the crowd at the gate. Only the very old or very young were left. Here I was, alone, with no family responsibilities, and yet fear had chained me to the camp. I thought, "My God! How do they expect those poor people to leave the one place they can call home." I swallowed a lump in my throat as I waved good-by [sic] to them.¹²⁴

Interestingly, as a pre-Redress articulation, Obuko narrates ambivalence over internment in the 1983 introduction. How Obuko chose to tell her story and observations in *Citizen 13660* is as instructive as her observations themselves, for her detachment to the subject matter speaks about her disconnection to her national identity and citizenship.

C. *The Legend of Miss Sasagawara by Hisaye Yamamoto*

Similar to *Citizen 13660*, Hisaye Yamamoto's *The Legend of Miss Sasagawara* offers direct depictions of internment life.¹²⁵ *The Legend of Miss Sasagawara* juxtaposes the apparently easy compliance with Executive Order 9066 of the majority of internees in a fictional camp with one who dissents, Miss Sasagawara, and is therefore deemed insane and sent to a sanatorium. Miss Sasagawara's form of resistance is incomprehensible to her contemporaries. But years later, that unrecognized resistance and misdiagnosed ailment is captured in a published poem, discovered in the post-internment era by the narrator of the story.¹²⁶

123. *Id.* at 53.

124. *Id.* at 208-29.

125. Yamamoto, *supra* note 59.

126. *Id.* at 32.

Through the poem, Miss Sasagawara, instead comes across as eminently reasonable if not prophetic. By inverting the terms of reason and resistance, Miss Sasagawara recasts the compliance of the Japanese American community as possible evidence of their collective *insanity*. The Japanese American community blithely recreates their institutions and identities of community in the closed space of the internment camp, while Miss Sasagawara emerges as a critic of her community, both in and out of the camps.¹²⁷ The gossip-mongering ways of the community spread tales of Miss Sasagawara's curious conduct to make their own behavior more normalized. Further, her insanity takes on gendered characteristics as Miss Sasagawara apparently chafes against the lack of a domestic sphere, rather than against racial prejudice, wartime hysteria, and a failure of political leadership.

D. History and Memory directed by Rea Tajiri

In the short film *History and Memory*, director Rea Tajiri explores the strange bond she feels with her mother who had been interned. Tajiri is a post-internment-born *sansei*. Her film demonstrates how the non-interned generation to bear witness to pasts that they had not actually lived through themselves. They may not be the direct recipients of either the traumas of internment or the reparations of Redress, but they are connected to that past in ways that legal acts do not – and perhaps cannot – implement.

Tajiri's film begins with an indelible image: her mother is in camp filling a canteen and splashing her face. Tajiri and her sister both have this recurrent image in their memories, but they do not quite know what to make of it. The scene is recreated with Tajiri in the role of her mother. It becomes the wedge into unrepressing the history of internment and revisiting pasts that may be too painful for the interned generation to revisit. Repeatedly, Tajiri references the idea that she is filming views that her mother could not have recorded (due to restrictions on cameras) or even seen (due to drawn blinds in the transport trains).

Also, in the film, Tajiri describes a seemingly clairvoyant moment when she goes to the ruins of Poston to try to find the exact barrack where her mother had been placed. Using what she refers to as an "internal diving rod," she does indeed find the exact spot. While Tajiri chooses to invoke the paranormal, there may be other more prosaic explanations for how she could have this knowledge of things she had not experienced. She may have not realized that she knew these things that were only half formed or repressed. The information was triggered and instrumentalized by the

127. Had she not written *Citizen 13660*, one might imagine Okubo would have come across as a Miss Sasagawara, as one driven to near madness in her desire to maintain the privacy she enjoyed before internment. At one point, Okubo even hangs a "Quarantine" sign outside her door in an effort to create privacy. OKUBO, *supra* note 3, at 152.

experience of being in the camp itself. Memory can thus be seen as having an unexpectedly collective register that expands the notion of experience and the individual.

E. Who's Going to Pay for These Donuts Anyway?

directed by Janice Tanaka

The final example of Japanese American cultural production around internment and Redress is Janice Tanaka's video *Who's Going to Pay for These Donuts Anyway?*¹²⁸ The film chronicles a search for a lost father, a search that begins with the death of her mother.

I'm beginning to realize how directly affected I was by the internment. My mother's distress was so acute that in an attempt to protect my brother and I from what she believed was the cause of her pain, she withdrew her place from within the family circle and the Asian community. The three of us lived on our own island of isolation adrift in a sea of white. My father lives in his own world of seclusion, which has been shaped by events largely out of his control. We are starting to realize the depths of our loneliness and the importance of family and family history. In each other's presence, we begin to understand the presence of culture behavior and attitude. Our sense of personal weirdness has taken on new meaning within the family unit. The bonds of affection are self-evident, expressing that affection and concern is most often clumsy and awkwardly foreign. As we attempt to establish relationships so long suppressed by fear of contact. I'm trying to believe that with time these relationships will become more tangible and that the reality of it will flow in both directions.¹²⁹

Like numerous other Japanese Americans in the days after Pearl Harbor, Jack Tanaka was detained by the FBI for questioning. Through an irrecoverable set of events, Jack was deemed mentally ill and institutionalized for the duration of the war. Even though he later denies ever doing so, Jack had written and spoken out against the evacuation order. By the late 1980s, such acts of resistance would be seen as heroic. But Jack had been so thoroughly institutionalized – receiving drug and shock therapy – that he either refuses to remember or does not remember having voiced objections.

The film ends with Jack receiving his Redress check and reading President Bush's apology letter aloud. There is a profound ambivalence over what it all means. At one point, Janice asks Jack directly if he knows why he is getting a check. And Jack responds in what clearly sounds like a direct quotation of the sentiments in the apology letter. It can never really be known if Jack would have been deemed mentally ill if there had been no internment. The question is academic because the history of internment

128. DONUTS, *supra* note 59.

129. *Id.*

cannot be undone. Jack's life and the lives of more than 120,000 Japanese Americans faced a crisis that both created and amplified the problems of race, nation, family, class, and gender that existed before the evils of internment and live on after the best intentions of the Civil Liberties Act.

CONCLUSION: WORDS AND MONEY

After Jack Tanaka's efforts to reiterate the logic of Redress peter out, he pauses and says, "I'm broke."¹³⁰ To hear him then read the Presidential apology is a reminder of a moment of triumph. The audience is glad that Jack was found by his daughter, who had not seen him since she was three, and that he, unlike Janice's mother, lived to collect a meager \$20,000 for a life that was taken from him. Janice's mother is also a tragically liminal figure in the history on internment. She died in 1988.¹³¹ Perhaps Janice's mother took comfort in the apology, but she did not receive a redress payment.

The curious title of *Who is Going to Pay for These Donuts Anyway?*, is addressed more than half way into the film. This is Tanaka's explanation in the voiceover:

I desperately want to believe in what-ifs and yet doing so increases my sense of anger and loss. I wonder if my interpretations are even remotely close to the realm of possibilities. My father, institutionalized for a period of more than ten years, I lament over the effects of long-term confinement. During those years, he managed to escape on several occasions. I am told he found employment as a deliveryman for a bakery company. There was always a surplus of doughnuts at the end of his route. He took the opportunity to deliver the uneaten doughnuts to various police stations and then he'd bill them at the end of the month. I would like to believe that perhaps he was collecting redress long before it became a political issue.¹³²

In the politics of his everyday life, Jack waged a struggle for compensation and recognition, isolated from his immediate and extended family and from the mainstream of the Redress movement. In Janice's account, the actual Redress movement is then a rough legal and legislative approximation of Jack's critical resistance. Like Miss Sasagawara, Jack seemed insane at that time. But history and the movement exonerate their apparent madness.

130. *Id.*

131. The story of Tanaka's mother is depicted in a shorter, earlier film of Tanaka's called *Memories From the Department of Amnesia* (1989). That film is broken down into two parts. The first is an extended surreal sequence involving BMX bicycles, a café, paramedics, and snowfall to the music of a New Orleans-style brass band. The second part is a montage of photographs and a textual chronology of Lily Tanaka's life to the soundtrack of a conversation between Janice and a family member reminiscing about Lily and her odd behavior. See *MEMORIES FROM THE DEPARTMENT OF AMNESIA* (Janice Tanaka, 1992).

132. *DONUTS*, *supra* note 59.

It is the role of art to appreciate this madness, even if it does not yet have meaning in the political and legal arena. On the madness of internment, Okubo writes,

Time mellows the harsh and the grim. I remember the ridiculous, the insane, and the humorous incidents and aspects of camp life. I was an American citizen, and because of the injustices and contradictions nothing made much sense, making things comical in spite of the misery. Crazy things were constantly happening in the camp, with close to ten thousand people confined in an area a mile square. There was no privacy. There was plenty of laughter in sharing discomforts, creating imaginative rumors and stories, and daydreaming wishful hopes. The different personalities and incidents come back to me often and I smile and wonder what happened to the poor souls.¹³³

As the saying goes, “One day we’ll all look back at this and laugh.” But Okubo’s narrative is actually an inversion of that process. The idea that “discomfort” would produce “laughter” is a telling illustration of the sense of helplessness at the moment things were happening. The community of interned Japanese Americans seems to embody the kind of “incoherency” of which Matsuda writes, becomes apparent when the law breaks down.¹³⁴ In the course of time, the “harsh and grim” of 1939-1944 “mellow” to become recognizable *as* the “harsh and grim” of 1983. These experiences cease to be just laughter, weeping, or certifiable behavior, similar to delivering unordered donuts to the police. These former incoherencies have returned as political demands. This return is the product of a process of cultural politics that make visible the historical conditions in which we live, through the unsettled and unsettling pasts that fail to remain in the past. These politics exist just beyond the reach of conventional political engagement with the nation-state.

The reassessment of the cultural politics of Redress in the current climate of curtailed civil liberties is a reminder of the ironic dialectic of two competing and incommensurable desires: the desire to reckon with the past and the desire to detach ourselves from it through that reckoning.¹³⁵ Twenty-five years later, the history of “separate but equal” has not yet been undone, and the Civil Liberties Act is an attempt to compensate for “incalculable losses” that have been weighed as \$20,000. Although fifteen years may not be enough time to conclude that the Civil Liberties Act was a success or a failure, one consequence of the Civil Liberties Act has certainly resulted: veterans of internment and the Redress movement have

133. OKUBO, *supra* note 3, at ix-x.

134. Matsuda, *supra* note 68, at 332-33.

135. See, e.g., Center for Constitutional Rights, *The State of Civil Liberties: One Year Later – Erosion of Civil Liberties in the Post 9/11 Era*, available at <http://www.ccr-ny.org/v2/whatsnew/report.asp?ObjID=nQdbIRkDgG&Content=153> (last visited Apr. 5, 2003).

become some of the most committed watchdogs and defenders of civil liberties before and since 9/11.¹³⁶

136. For example, the JACL was one of the few groups to speak out against the persecution of persons of Iranian ancestry during the post-Shah hostage crisis in the 1970s. *See Matsuda, supra* note 68, at 340. *See also* Press Release, Japanese American Citizens League (JACL) (Sept. 12, 2001), available at <http://www.globalexchange.org/september11/JACL091201.html>. Such an alliance between a model minority and a demonized population radically recasts the “quiet American” stereotype. It is reasonable to assume that these coalitions and comparisons would have been far less conceivable had it not been for internment.