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Reparations for Historic Injustice

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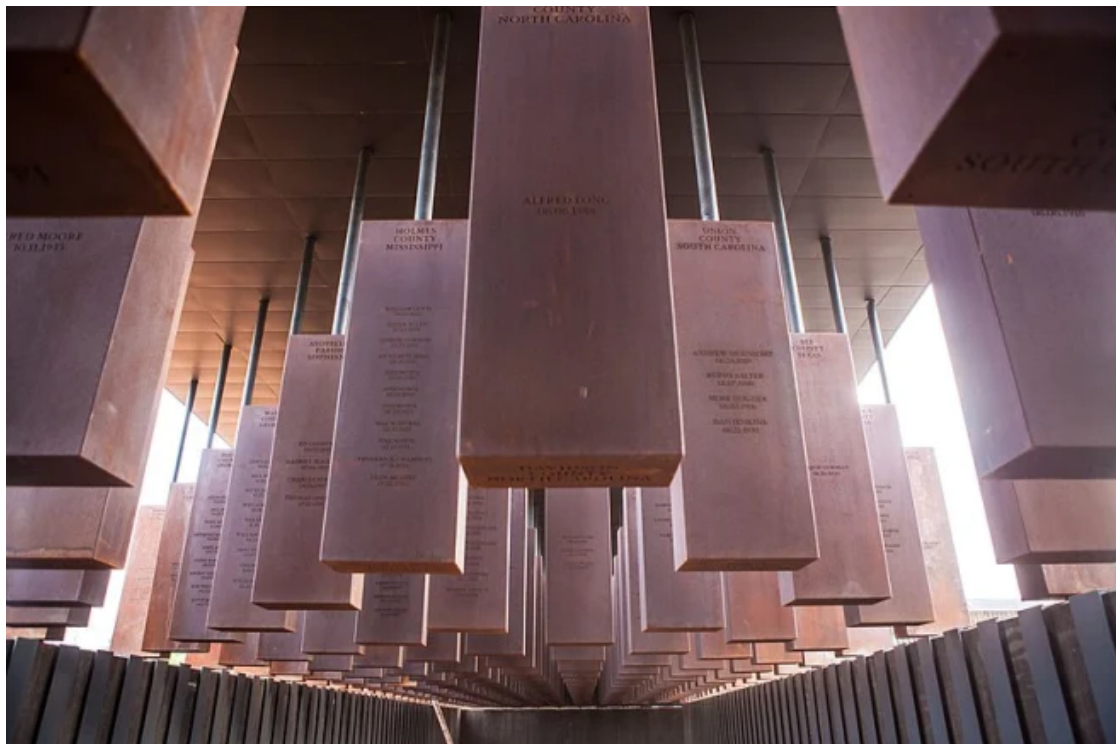
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History is marked by large-scale injustice. In the United States alone, Native Americans were violently displaced, Africans were enslaved and their descendants subject to lynchings and Jim Crow laws, and Japanese Americans were interned during World War II, among other major wrongs.

Do past injustices ever have moral implications for currently living people? In particular, are living members of victimized groups ever owed anything because of these wrongs, or for their continued effects? That is, do they deserve some form of *reparations*?

This essay outlines some general arguments in support of the idea of reparations and responds to some common objections. This discussion focuses on reparations to African-Americans for slavery, but its insights should be applicable to many other historic injustices.

<https://museumandmemorial.eji.org/memorial>

The National Memorial for Peace and Justice, Montgomery, Alabama.

1. Reparations and Reparative Justice

Most arguments for reparations are grounded in the principle of *reparative justice*, the idea that *victims of wrongdoing or injustice are morally entitled to some form of repair*.^[1] If I wrong you, say by stealing from or physically harming you, you are entitled to my making amends for this wrong, by acknowledging it, returning the stolen property, or paying damages. The underlying idea is that *past wrongs must be made right*.

Consider the brutal, centuries-long regime of slavery. Many have argued that a wrong as serious and long-lasting as this demands some form of response even generations later, especially insofar as its impact continues to be felt.^[2] But what kind of response? Reparations for slavery would likely involve a formal apology on behalf of the nation to the living descendants of enslaved people.^[3] They might also include an economic component, such as direct payments to those descendants, programs to increase educational opportunities, and federally-funded community investments to help overcome the lasting effects of slavery, among other proposals.^[4]

2. Objections to Reparations

Many accept the basic principle of reparative justice but deny that it can be applied to historic injustices. Let's consider some of the most common objections.

A. Death of Original Victims

Many agree that the *original victims* of historic injustices like slavery were owed reparations, but argue that since they are all deceased, a moral claim to reparation can no longer be asserted: no *living* person is entitled to the reparations once due to their ancestors.^[5]

However, at least some kinds of moral entitlements can be handed across generations, as the case of inheritance makes clear. When people die, their rights to their property commonly pass to their heirs. Furthermore, something need not be in one's possession in order to be one's property: stolen property is still *your* property. Since enslaved persons had a right to be paid for their labor, that payment can be viewed as *their property*. So, the right to this withheld compensation might pass down to their descendants. Call this *the inheritance argument*.^[6]

B. Passage of Time

Some might grant that immediate descendants of original victims may have inherited claims to reparation, but argue that these claims are now *too old* to be taken seriously.^[7]

But the fact that the original wrongs of slavery are historically distant does not mean that their effects are not still felt by many. Consider that in 2011 the wealth holdings of the median black household in the U.S. were roughly *fifteen times lower* than those of the median white household.^[8] The vast majority of social scientists see this racial wealth gap as inextricably bound up with generations of social and economic oppression, from slavery on through the post-civil war period and into the twentieth century.^[9]

To the extent that contemporary black Americans have *themselves* been made worse off by the historic wrongs in question, they may be entitled to demand reparations on that basis, *independently* of their having inherited any rights to do so. Call this *the harm argument*.^[10]

C. Owed By Whom?

Some might agree with the above arguments, yet argue that reparations can only be properly demanded from those who are personally guilty of some clear wrongdoing: since the original perpetrators of slavery are long dead, there is ultimately no one alive who can be justly held accountable for repairing these moral wrongs.^[11]

Notice, however, that people and groups may come to bear reparative obligations *without* having personally done anything wrong. If I accidentally damage your property, I may owe you compensation, even if that damage was not due to any negligence on my part; my child or dog could damage your property, but I have to fix it; the government is obligated to compensate the wrongfully convicted, even if the judge and jury of their case have passed away, and so on.

Things are even clearer in cases of *unjust enrichment*, where someone benefits, perhaps unknowingly, from the wrongful actions of another: if you unknowingly receive stolen goods, you must return these items if you learn they were stolen, despite your innocence. In general, people who benefit from injustice are obligated to release those benefits, to compensate victims. This idea can be applied to the vast wealth amassed by slaveholders and passed down to many now living, often in the form of real estate and other financial assets like stocks, bonds and other investments. When assets like these are traceable to the original wrongs of slavery, descendants might be entitled to all or part of their value.

Beyond this, however, we must also recall that the practice of slavery and related laws were enforced by the United States government for centuries.^[12] That same government still exists, and can arguably be called to account for its past misdeeds like any other wrongdoer, even if all the citizens and officials who once composed it are deceased.^[13]

3. Conclusion

There are, of course, other objections to the idea of reparations for historic injustice.^[14] There are *practical* concerns about determining exactly *who owes what to whom*, as well as *political* concerns about the risks of inflaming racial and ethnic tensions. Our discussion suggests, at least, that the *moral* question of reparations might not be as easily dismissed as many believe.

Notes

[1] This intuition is widely accepted among moral philosophers. For one influential discussion, see chapter 2 of Ross (1930) 2002.

Among the few moral philosophers who reject the principle of reparative justice are consequentialists who reject the idea of “backward-looking” approaches to justice generally and evaluate possible actions *wholly* in terms of their future outcomes. This, however, does not rule out their endorsing proposals designed to compensate those who have suffered some wrongful harm: it means that they will see such programs as warranted only insofar as they represent, or help to produce, the morally preferable outcome, and not merely as a response to the past wrong itself. For discussion of this point, see section 4 of Miller 2017. For an introduction to consequentialism, see [Consequentialism](https://1000wordphilosophy.com/2014/05/15/introduction-to-consequentialism/) (<https://1000wordphilosophy.com/2014/05/15/introduction-to-consequentialism/>), by Shane Gronholz. For an introduction to the nature of justice, as presented through a discussion of the most influential twentieth-century theorist of justice, see [John Rawls’ ‘A Theory of Justice’](https://1000wordphilosophy.com/2018/07/27/john-rawls-a-theory-of-justice/) (<https://1000wordphilosophy.com/2018/07/27/john-rawls-a-theory-of-justice/>), by Ben Davies.

[2] For examples of recent arguments for racial reparations grounded in the wrongs of slavery, Jim Crow segregation, and housing discrimination, see: Robinson 2000, Lyons 2004, and Kaplan and Valls 2007, respectively. For a more popular example drawing upon each of these wrongs, see Coates 2014. See also the call for reparations advanced by the broad coalition of organizations known as the Movement for Black Lives, at: <https://policy.m4bl.org/reparations> (<https://policy.m4bl.org/reparations/>).

[3] As of this writing, no such formal apology for slavery has ever been offered. As far as legislation aimed at further investigating the various wrongs associated with slavery, some version of the “Commission to Study and Develop Reparation Proposals for African-Americans Act” (also known as House Resolution 40) has been submitted to the House of Representatives every year since 1989 – first by Representative John Conyers, until his retirement in 2017, and most recently by Representative Sheila Jackson Lee. It has never moved beyond committee. See H.R. 40, 116th Congress 2019-2020.

[4] The question of what exactly it means to be a *descendant* of slaves is subject to debate: what kind or degree of relation to an enslaved person is needed for someone to be a descendent, and must this be a biological relation? Although H.R. 40 is primarily aimed at studying the idea of a national reparations program, in the event that it were to acknowledge the need for compensation, among its goals would be to make recommendations concerning “What form of compensation should be awarded, through what instrumentalities and *who should be eligible* for such compensation” (Sec. 3. Establishment and Duties. (b) (7) (F), my emphasis).

For further discussion of possible modes of reparation, see part 3 of Martin and Yaquinto 2007. For an argument that moral reparation is not reducible to material compensation, see Boxill 1972.

[5] It bears emphasizing that what is at issue here is the *moral* claim to reparation rather than the *legal* one, since the former may exist even while the latter does not, in much the same way that enslaved persons had a moral claim to freedom under slavery, but no legal claim.

[6] See section 7 of Boxill 2016 for further discussion. It will be noted that inheritance does not usually involve claims against wrongdoers, let alone wrongdoers who are no longer living, as is the case with slave-holders. We'll return to this complication in section C – labeled “*Owed By Whom?*” – below.

It ought to be clear that the very same reasoning could apply to enslaved persons' rights to moral reparation for the various *other* myriad wrongs associated with slavery (which obviously far exceeded their having been forced to labor without pay), in which case their descendants would be entitled to demand reparation for those wrongs also.

[7] A related objection, although not about time passing *per se*, is that demands rooted in such historically distant wrongs are outweighed or *superseded* by the competing needs of subsequent or current generations. Waldron 1992 makes such a case against aboriginal land claims in the context of New Zealand, Australia, and North America, for example. While it is true that the original inhabitants of those lands were forcefully and wrongfully removed, according to Waldron, the fact is that the said lands have long since been occupied by settler populations who now depend on them. In this sense, it may be *too late* for their return to the few descendants of those originally displaced. For further discussion of this point, including reply, see section 8 of Boxill 2016.

[8] See Sullivan et al. 2015, which lists these figures at roughly \$7000 and \$111,000, respectively.

[9] For discussion of the deep roots of contemporary racial inequality in the U.S., see Oliver and Shapiro 2006, and Feagin and Ducey 2019. For further discussion of how best to interpret (and to close) the racial wealth gap, in particular, see Darity et al. 2018. For an argument which grants the harmful legacy of slavery, but views reparations as a misguided threat to broad inter-racial political solidarity in the U.S., see Reed 2000.

[10] This kind of intergenerational harm-based reasoning is sometimes thought to come up against what philosophers call the “Non-Identity Problem.” The thought is that contemporary descendants of slaves *would not have existed* were it not for the fact that their ancestors were brought to America as slaves, and thus cannot ultimately claim to have been *harmed* by slavery or its legacy. For an example of this kind of argument, see Morris 1984. For an introduction to this problem, see [The Non-Identity Problem](https://1000wordphilosophy.com/2014/02/27/non-identity-problem/) (<https://1000wordphilosophy.com/2014/02/27/non-identity-problem/>) by Duncan Purves.

While the harm and inheritance arguments are distinct in terms of their moral logic, it ought to be clear that they might overlap in cases where a given party has *both* inherited a moral claim to demand reparation *and* personally suffered as a result of some historic wrong. For further discussion of the harm and inheritance arguments in connection with the Non-Identity Problem, see sections 6 and 7 of Boxill 2016.

[11] For an example of this kind of reasoning, see Kukathas 2006.

[12] See Lyons 2007.

[13] Compare the case of long-standing international treaties, for example, which do not become invalid simply because all of the people who made up the government during their passage have died. For an example of this kind of argument, see chapter 2 of Boonin 2011. This reasoning might also apply in the case of other institutions implicated in the wrongs of slavery, such as churches, corporations, and

universities, for example. For an argument which takes individual *persons* to be the only proper subjects of moral accountability, but which maintains that racial reparations are warranted all the same, see Boxill 2003.

[14] For further arguments both for and against racial reparations in particular, see Brophy 2006.

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