

Responsibility and Historic Injustice

Frantz Fanon ends his bitter critique of colonialism in *Black Skins, White Masks* with the surprising call for Africans to put this history behind them. To seek in the past a vindication for their present situation, or to dwell on the crimes of slavery and colonial exploitation risks reinscribing the relations of Negro and White man that liberation must transcend. The purported revolutionary who anguishes over the vast crimes of the past will get bogged down in backward looking resentment.

I am not a prisoner of history. I should not seek the for the meaning of my destiny...

In the world through which I travel, I am endlessly creating myself.

Am I going to ask the contemporary white man to answer for the slave-ships of the seventeenth century?

Am I going to try by every possible means to case Guilt to be born in minds?¹

Fanon recommends instead the existentialist stance of radical freedom and self-invention. Colonialism creates two interrelated subjectivities, the Negro and the White man, the one debased by the other and desiring therefore to be the other. Only a radical leap out of this pathological structure into a future where everyone is only human will disalienate the person of color.

Those Negroes and white men will be disalienated who refuse to let themselves be sealed away in the materialized Tower of the Past. For many other Negroes, in other ways, disalienation will come into being through their refusal to accept the present as definitive.²

¹ Frantz Fanon, *Black Skins, White Masks* (Grove Press, 1967), pp. 229-230.

I as a man of color, to the extent that it becomes possible for me to exist absolutely, do not have the right to lock myself into a world of retroactive reparations...³

It is through the effort to recapture the self and to scrutinize the self, it is through the lasting tension of their freedom that men will be able to create the ideal conditions of existence for a human world.⁴

Fanon's is a compelling position. Too often oppressed people seek their validation in a romanticized story of a past before oppression began, rather than setting to the work of building a better future from where they are. People who rightly judge themselves victims of massive past injustices can become bogged down in resentment, and attached to their wounds in ways that serve to reproduce the relations between oppressor and oppressed that they resent more than to undermine them.⁵ It does seem misplaced to accuse the contemporary white person of perpetrating enslavement in the seventeenth century. To the extent that claims about responsibility for the past and calls for reparations wittingly or unwittingly implicate those living today in injustices of the distant past, such claims are likely to create a resentment from those who find themselves positioned as faulty. Where our purpose is to rid ourselves of current injustice and build a more just society for the future, this position says, it is better to put the past injustice behind us and *start over* on terms of equal humanity.

Just because Fanon's attitude is heroic, it is ultimately untenable. The existential humanism on which it is based is too radically individualist and dehistoricized. To be

² Ibid, p. 225.

³ Ibid, p. 226.

⁴ Ibid, p. 231

⁵ Wendy Brown, *States of Injury* (Princeton: Princeton, NJ, 1995).

sure, no person's situation and action are *determined* by the past. We are radically free in the sense that alternative possibilities that we invent out of nothing are always open to us. Nevertheless, as historical beings, we situate our personal narrative in the context of a larger history beyond our power to change but which we regard as constituting us in some respect. At the same time, to live in society with others is to be historical. We link our fates with those of our parents and our children, and to imagine a larger human story in which we ourselves play but flickering parts. Whole societies bolster their organization and preserve their institutions by reciting public tales of how their present institutions today emerge from discussions and events of the past. In modern heterogeneous societies a plurality of such social histories interact, overlap, and compete. The history of most societies today includes injustice, in some cases massive and long standing injustice such as the processes of colonialism and enslavement to which Fanon refers. Most important for political action, racial injustice persists and has structural continuities with historic injustice. Changing the current injustice does indeed mean breaking with this past. Such break can be made not by turning our backs on the past, however, but rather by reconstructing our relationship to it.

We can neither implicate present people in blame for past injustice, nor should we allow ourselves to distance ourselves from this past and claim that it has nothing to do with us. In this essay⁶ I attempt to resolve this apparent paradox with specific reference to debates about reparations. Most of my analysis will focus on claims concerning reparations for slavery and its aftermath in the United States. I will also briefly consider

⁶ Earlier versions of this essay have been presented to the political theory workshop at Victoria University and the work in progress seminar at the University of Chicago. I have benefited from constructive discussion on both those occasions. I am grateful to David Alexander, Adrienne Davis, Bernard Harcourt, Hennie Loetter, David Lyons, and Howard McGary, for comments. Thanks to Anita Chari and David Newstone for research assistance.

claims concerning reparations for historic injustices of colonizing American Indians and for apartheid in South Africa.

My aim is to support the political intentions of most reparations advocates. The dominant political intentions of persons and organizations who make arguments concerning reparations for slavery, as I understand them, are to call attention to the deep and persisting racialized injustice in the United States today and to argue that this current injustice is continuous with past institutions and practices that most people today agree were deeply unjust. The reparations movement aims to give special moral force to this claim that Americans, and especially white Americans, are obliged to take action to redress continuing racial injustice, and that remedial action requires serious structural change. In this respect the primary orientation of racial reparations claim is forward looking and involves assigning and taking responsibility for transformation.

When political actors and social movements make claims for reparations for historic injustices such as slavery and colonialism, however, they often connect present actors with culpability or liability for past actions, or at least are understood as doing so. I will argue that efforts to hold some persons or groups responsible today in a liability sense for institutions, policies and actions of past generations are, for the most part, fraught with conceptual and practical difficulties. Such difficulties, in my opinion, impede realization of the political goals of persuading Americans, and especially white Americans, to take responsibility for the legacies of historic injustices of racism and contribute to social change for greater justice.

To make this argument I will introduce a distinction between two models of responsibility. Most discussions of responsibility in relation to historic injustice,

including Fanon's cited above, assume a standard liability model of responsibility. I show why this standard model does not apply well to taking responsibility for historic injustices such as slavery. I will introduce an alternative conception of responsibility, a social connection model, which specifically concerns relations of individual agents to structural social injustice. On a social connection model of responsibility, members of society share responsibility to remedy structural injustice by dint of the fact that they contribute by their actions to its production and reproduction. This model of responsibility does not assign blame or fault, but rather serves as a basis for enjoining people to take up a political responsibility to organize collective action for change. In this sense it is more forward looking than backward looking.

I will argue that claims about responsibility in relation to historic injustice, including responsibility in relation to slavery and its aftermath, are better interpreted under the social connection model than under the liability model. On the social connection model, the primary issue is that privileged Americans should take responsibility for changing processes that perpetuate structural injustice. Applying the social connection model to these claims, however, also entails explaining how projects to transform currently unjust racialized structures relate to history. There are two major functions for appeals to historic injustice in forward looking political projects to undermine current racialized structural injustice. First, without an understanding of its continuities with past social structural processes, it is difficult to see and understand current structural injustice and propose interventions that will transform the structures to produce more just consequences. Second, remedies for present racialized structure injustice will not be complete with public debate about the history of racial injustice in which socially

suppressed narratives of this history gain greater voice and acceptance. The reconstitution of their own historical narrative by dialogue with those in relatively disadvantaged structural positions can motivate those in more privileged positions to take more responsibility for change.

Two Models of Responsibility: Liability and Social Connection

In previous writing I have argued that standard accounts of legal and moral responsibility do not work well to conceptualize responsibility in relation to structural injustices such as sweatshop factories or the fact that large numbers of people are either homeless or risk becoming homeless due to a lack of affordable housing.⁷ Standard conceptions of legal and moral responsibility usually require that we trace a direct connection between the action of a person or group and a harm. Although structural processes that produce injustice result from the actions of many persons and the policies of many organizations, in most cases it is not possible to trace which specific actions of which specific agents cause which specific parts of the structural processes or their outcomes. A social connection model of responsibility, as I call it, better conceptualizes moral and political issues of responsibility in relation to structural injustice than does what I call a liability model of responsibility. Here I will summarize this distinction.

Liability Model

⁷ Iris Marion Young, "Responsibility and Global Labor Justice, *Journal of Political Philosophy*, fall 2004; "Political Responsibility and Structural Injustice," The Lindlay Lecture, University of Kansas, May 2003; "Responsibility and Global Justice: A Social Connection Model," forthcoming, *Philosophy and Social Policy*, 2005.

The most common model of assigning responsibility derives from legal reasoning to find guilt or fault for a harm. Under this liability model, one assigns responsibility to particular agents whose actions can be shown as causally connected to the circumstances for which responsibility is sought. This agent can be a collective entity, such as a corporation, but when it is that entity can be treated as a single agent for the purposes of assigning responsibility.⁸ The actions found causally connected to the circumstances are shown to be voluntary and performed with adequate knowledge of the situation. If candidates for responsibility can successfully show that their action was not voluntary or that they were excusably ignorant, then their responsibility is usually mitigated if not dissolved. When these conditions do exist, however, it is appropriate to blame the agents for the harmful outcomes.⁹ A concept of strict liability departs from a fault or blame model in that it holds an agent liable for a harm even if the agent did not intend or was unable to control the outcome, such as when one person's property accidentally causes damage to another person's property.¹⁰

A concept of responsibility as blame or liability is indispensable for a legal system and sense of moral right that respects agents as individuals and expects them to behave decently toward others. When applying this concept of responsibility, there must be clear rules of evidence, not only for demonstrating the causal connection between this agent and a harm, but also for evaluating the intentions, motives and consequences of the actions. Just for this reason the liability model of responsibility does not apply well when

⁸ Peter French, *Collective and Corporate Responsibility* (New York: Columbia University Press, 1984).

⁹ See George Fletcher, *Basic Concepts of Criminal Law* (Oxford: Oxford University Press, 1999), for a clear statement of this model of responsibility.

¹⁰ See, for example, Tony Honore, "Responsibility and Luck: The Moral Basis of Strict Liability," in *Responsibility and Fault* (Oxford: Oxford University Press, 1999), pp. 14-40.

harms result from the confluence of the actions of thousands or millions of individuals acting within generally accepted institutional rules and norms.

Global production, distribution and consumption of clothing, for example, involves complex economic, legal and fashion relationships that together account for why so much clothing production takes place in facilities labeled “sweatshops.” While some agents within this process break the law and others act cruelly, and thus fall under the liability model, many others believe that they have no relationship to workers who labor under conditions that violate human rights, and that they therefore have no responsibility in relation to those workers. The anti-sweatshop movement has successfully challenged this attitude, however, and argues that even consumers of clothing and institutions such as universities that allow it to be sold on their premises bear some responsibility for far away sweatshop conditions. Because such agents as these cannot plausibly be *blamed* for these conditions, or held liable for them in some other legal sense, I suggest that we need another concept of responsibility to make sense of that claim.

Social Connection Model

The social connection model of responsibility says that individuals bear responsibility for structural injustice because they contribute by their actions to the processes that produce unjust outcomes. Our responsibility derives from the fact that we seek benefits and aim to realize projects within a system of interdependent processes of cooperation and competition. Within this scheme of social cooperation, as Rawls calls it, each of us expects justice toward ourselves, and others can legitimately make claims on us. When we make a judgment of structural injustice, we claim that a harm such as being at risk for

homelessness is socially caused, but we cannot attribute blame for the harm to some particular agents. Instead, all who act within the structures must take responsibility for remedying the injustice, though some might have different kinds and degrees of this responsibility. We who are part of these processes bear responsibility, even though we cannot trace the outcome we regret to our own particular actions in a direct causal chain. I shall detail features of the social connection model of responsibility by contrasting it with the liability model.

(1) *Not isolating* – The liability model of responsibility seeks to mark out and isolate those responsible, thereby distinguishing them from others, who by implication are not responsible. Such isolation of the one or ones liable from the others who are not is an important aspect of legal responsibility, both in criminal and in tort law. The purpose of social practices of finding guilty or find faulty, or holding strictly liable are to focus on particular agents in order to sanction or demand compensation from them and them alone. It is important to the system of moral rules and legal accountability that every agent know that they may face accusation or accountability as individual agents. Because they argue that organizations or collectives, as well as individual persons, can be blamed for harms, most accounts of collective responsibility also aim to isolate perpetrators in this way.

When harms result from the participation of thousands or millions of people in institutions and practices that produce the unjust results, on the other hand, such an isolating concept of responsibility is inadequate. Where there are structural injustices, finding that some people are guilty of perpetrating specific wrongful actions does not absolve others whose actions contribute to the outcomes from bearing responsibility.

(2) *Judging background conditions* – In a liability concept of responsibility, what counts as a wrong for which a perpetrator is sought and for which he or she might be required to compensate, is generally conceived as a deviation from a baseline. Implicitly we assume a normal background situation that is morally acceptable, if not ideal. A crime or an actionable harm consists in a morally and often legally unacceptable deviation from this background structure.¹¹ The process that brought about the harm is conceived as a discrete, bounded event that breaks away from the ongoing normal flow.

A model of responsibility deriving from understanding the mediated connection that agents have to structural injustices, on the other hand, evaluates not harm that deviates from the normal and acceptable, but rather often brings into question precisely the background conditions that ascriptions of blame or fault assume as normal. When we judge that structural injustice exists, we are saying precisely that at least some of the normal and accepted background conditions of action are not morally acceptable. Many people in the society contribute to a greater or lesser degree to the production and reproduction of structural injustice precisely because they follow the accepted and expected rules and conventions of the communities and institutions in which they act.

(3) *More forward looking than backward looking* – Assigning responsibility, whether under the liability model or the social connection model, always has both backward looking and forward looking aspects. The liability model and social connection models of responsibility nevertheless differ in temporal emphasis. On most occasions, application of the liability model of backward looking primarily. The primary emphasis of the social connection model, on the other hand, is forward looking.

¹¹ See George Fletcher's discussion of the way that the assignment of criminal liability must distinguish between foregrounded deviations from background conditions assume as normal, and the background conditions themselves. *Basic Concepts of Criminal Law*, pp. 69-70.

Under a liability model of responsibility, the harm or circumstance for which we seek to hold agents responsible is usually an isolatable action or event that has reached a terminus. The robbery has taken place, an oil tanker has spewed its contents on the beach. Usually the purpose of assigning responsibility in terms of blame, fault, or liability, then, is to seek retribution or compensation for this past action. To be sure, such backward looking condemnation and sanction may have a forward looking purpose as well; often it aims to deter others from similar action in the future, or to identify weak points in an institutional system that allows or encourages such blameworthy actions, in order to reform institutions.

When conceptualizing responsibility in relation to structural injustice, on the other hand, we are concerned with an ongoing set of processes that we understand is likely to continue producing harms unless there are interventions in it. The temporality of assigning and taking responsibility, then, is more forward looking than backward looking. The injustices produced through structures have not reached a terminus, but rather are ongoing. The point is not to blame, punish, or seek compensation from those who did it, but rather to enjoin those who participate by their actions in the process of collective action to change it.¹²

(4) *Shared responsibility* – From the point that the social connection model differs from the liability model in that it does not isolate those liable in ways that implicitly absolves others, it follows that all those who contribute by their actions to the structural processes that produce injustice share responsibility for these harms. Shared responsibility is a personal responsibility for outcomes produced by a group of persons.

¹² See Hans Jonas, *The Imperative of Responsibility* (Chicago: University of Chicago Press, 1984), pp. 90-120.

Each is personally responsible for the outcome in a partial way, since he or she does not produce the outcomes alone; the specific part that each plays in producing the outcome cannot be isolated and identified, however, and thus the responsibility is essentially shared.¹³

(5) *Discharged through collective action* – A final feature of the social connection model that distinguishes it from a liability model of responsibility is that the forward looking responsibility can be discharged only by joining with others in collective action. This feature follows from the essentially shared nature of the responsibility. Thousands or even millions of agents contribute by our actions in particular institutional contexts to the processes that produce unjust outcomes. Our forward looking responsibility consists in changing the institutions and processes so that their outcomes will be less unjust. No one of us can do this on our own. A single clothing consumer can do little on her own to affect the conditions under which the clothes she wears are produced. The processes can be altered only if many actors from diverse positions in the structural processes work together to intervene in the processes in the attempt to produce other consequences. Responsibility from social connection, then, is ultimately *political* responsibility. Taking responsibility in a forward looking sense under this model involves joining with others to organize collective action to reform the structures.

An important corollary of such political responsibility is that many of those properly thought to be victims of harm or injustice may nevertheless have political responsibility in relation to it. On the liability model of responsibility, blaming those who claim to be victims of injustice usually functions to absolve others of responsibility for their plight.

¹³ See Larry May, *Sharing Responsibility* (Chicago: University of Chicago Press, 1993), especially Chapter 3.

In the social connection model, however, those who can properly be argued to be victims of structural injustice can be called to a responsibility they share with others in the structures to engage in actions directed at transforming the structures. Indeed, on some issues those who might be argued to be in less advantaged positions in the structures perhaps should take the lead in organizing and proposing remedies for injustice, because their interests might be argued as the most acutely at stake and their social position offers them a unique understanding of the likely effects of proposed policies and actions.

II. Liability for Historic Injustice?

Much recent moral and political theory about responsibility and historic injustice tends to merge two categories of cases: those in which at least some of the victims and perpetrators of the injustice are still alive, and those in which all the original victims and perpetrators died many years ago. Roy Brook's useful anthology, *When Sorry Isn't Enough*, for example, contains commentary on reparations for Japanese internment and South African apartheid, as well as on reparations for broken treaties with North American Indians, and claims about reparations for slavery in America.¹⁴ What all such cases have in common is that the injustice resulted from conscious policies of dominant groups which have ended, and which people in the society now judge were deeply wrong.

The temporal difference in these kinds of cases, however, is crucial for application of ideas of responsibility. On the face of it at least, where individual victims and perpetrators are still alive, application of the liability model of responsibility would seem to be appropriate. In principle at least, perpetrators can be identified, blamed, or faulted,

¹⁴ Roy L. Brooks, ed., *When Sorry Isn't Enough: The Controversy over Apologies and Reparations for Human Injustice* (New York: New York University Press, 1999).

and made in some way to compensate the victims and/or society for the wrongs. I will suggest later in my discussion of apartheid, however, that even in more contemporary cases the liability model draws the scope of responsibility too narrowly, and should be supplemented with the social connection model.

Cases of historic injustice whose original perpetrators and victims lived generations ago present particular ontological and conceptual problems when we try to apply the liability model to them.¹⁵ In this section I will focus on claims for reparations for slavery in the United States to illustrate these difficulties. On the whole, applying a liability model to assign responsibility for the historic injustices of slavery and its aftermath does not work. This does not imply that the intuitions behind reparations claims are misplaced. It means, rather, I shall argue, that they are better supported using the social connection model of responsibility.

Some contemporary advocates of reparations for slavery say that white Americans as a group owe reparations to African Americans as a group. Others say that America in general owes reparation to African Americans in general. Randall Robinson, for example, in his widely read book, *The Debt*, says that America today owes a debt to Blacks today for the wrongs committed by a younger America.¹⁶

What does this claim mean? The most obvious difficulty in applying the liability model of responsibility derives from the fact that both the perpetrators of slavery and its victims are long dead. White people in American today can rightly protest that we have not perpetrated the harms of slavery. Indeed, the majority of white people in the United

¹⁵ In the context of reconciliation efforts in Africa for both colonialism and more recent harms, Pal Ahluwalia argues that a “rhetoric of blame” is an impediment to seeking justice in the present. See “Towards (Re)Conciliation: The Postcolonial Economy of Giving,” in David Theo Goldberg and Ato Quayson, ed., *Relocating Postcolonialism*, (Oxford: Blackwell Publishers, 2002), pp. 184-204.

¹⁶ Randall Robinson, *The Debt: What America Owes to Blacks* (New York: Penguin Books, 2000).

States descend from people who immigrated to the United States after emancipation. If the liability model applies at all, it must seriously modify its standard conceptualization of who counts as beneficiaries, who are liable to pay the costs, the form of payment, and so on.¹⁷

If we are to apply the liability model in making claims for reparations for slavery, we need to know first who are the parties to be held liable. Shall we say that white Americans are the liable parties? But why all whites, if indeed so many descend from Europeans who arrived on these shores in the twentieth century? Shall we limit liability to whites who descend from slave owners? This does not capture the fact that many other whites have been privileged by the system of slavery and its aftermath.

Identifying the individuals who ought to be beneficiaries of reparations is no easier. Shall they be all African Americans, or only those descended from slaves? And just who is African American? Today many persons of African descent dwell in the United States who are first or second generation immigrants from the Caribbean or Africa. If there is structural racism in the United States they arguably suffer because of it.

Because of these difficulties¹⁸, few advocates of reparations for slavery and its aftermath call for identifying individuals who are liable as individuals and beneficiaries who should benefit as individuals. More often they claim that the liability is on a corporate entity, whites as a group, and that this group owes reparations to blacks as a group. It is difficult to say that whites as a group are an *agent*, however, satisfying conditions of being held liable. Whites as a group did not or do not have institutionalized forms of collective internationality such as the ability to make promises, for example,

¹⁷ See Eric A. Posner and Adrian Vermeule, "Reparations for Slavery and Other Historical Injustices,"

¹⁸ Adolph Reed argues against reparations politics partly on grounds of these sort of difficulties. See Reed, "The Case Against Reparations," *Progressive*, Vol. 64, Issue 12, December 2000.

which Janna Thompson finds as the basis for claims of redress for historic injustice between national groups.¹⁹

In the face of such difficulties, some people suggest that it is not whites, or America, that is the liable party, but rather the United States federal government.²⁰ There is no question that since its founding, the United States federal government was a major supporter of slavery, and since emancipation the United States federal government has promulgated policies of racial segregation or failed to take action to undermine racial domination. The United States federal government, however, has also in its history taken some positive action to change the legal status of African Americans and has occasionally enforced these laws.

The United States federal government, however, has hardly been the only governmental agent that instituted and enforced slavery before 1863 and other racist laws and policies since. Thinking of the United States federal government as the liable party lets these government entities too much off the hook. Slavery and its aftermath were not only legal systems, moreover, but have involved private labor practices, interactive norms, cultural expressions and many other social processes to which many private Americans have and do contribute by their actions. Anti-Black racism in America, that is, is structural and not simply a matter of government action. If there are responsibilities in relation to these historic injustices, then, these belong in some sense to the people of

¹⁹ Janna Thompson, *Taking Responsibility for the Past: Reparation and Historical Injustice* (Cambridge: Polity Press, 2002).

²⁰ George Schedler focuses on the U.S. federal government as the liable party and thus as the party that should pay reparations. See "Reparations for Slavery," George Schedler, *Racist Symbols and Reparations: Philosophical Reflections on Vestiges of the American Civil War* (Lanham, MD: Rowman and Littlefield Publishers, 1998), pp. 93-138; David Lyons doubts the applicability of a liability model in assessing claims on particular individuals or even groups today; he does argue, however, that the United States federal government is the party on which reparations claims should be made; see Lyons, "Corrective Justice, Equal Opportunity, and the Legacy of Slavery and Jim Crow."

the United States, or at least to some of us, and not only to the United States federal government. As in previous decades the United States government, as well as state and local governments, can be vehicles for discharging responsibilities that belong in some sense to the society's members, or some of them. This is different, however, from saying that the state itself is the liable party.

For several years a group of activists and lawyers have promoted a different way of applying the liability model of claims for reparations for slavery, one that in my opinion has greater plausibility. Legislation has been passed and litigation pursued that aims to hold corporations responsible for the profits that they derived from slavery. Corporations named in these suits include commercial banks, investment banks, tobacco companies, insurance companies, railroads, and textile companies.²¹ A suit was recently heard and decided on by a federal district court in Chicago where a group of African American descendents of slaves made claims on still existing corporations with demonstrable connections to slave labor or the slave trade. The State of California has a law requiring that insurance companies doing business with California document that they did not insure against damage to property in slaves. The City of Chicago requires companies with which it does business to file an affidavit disclosing whether in its history it did business that profited from slavery.

Such laws and suits make creative use of the fact that U.S. law considers corporations as persons; the life of these persons in some cases extends hundreds of years. Holding institutions like corporations responsible for their historic relation to slavery and its aftermath spreads responsibility beyond the U.S. government and makes salient that

²¹ See Roy L. Brooks, *Atonement and Forgiveness: A New Model for Black Reparations* (Berkeley: University of California Press, 2004), p. 132.

slavery and post-slavery racism have been economic and social systems. Despite their promise, however, these actions nevertheless appear to be problematic applications of the liability model of claims of reparation for slavery.²² The federal district court ruled against the plaintiffs in the case I mentioned above. It argued that the plaintiffs not only needed to demonstrate that they descended from slaves, but that individual forebears had particular connections to the particular corporations from whom they claimed compensation. This reasoning illustrates how most interpretations of a liability model of responsibility require a direct causal connection between the purported victims of a harm and those purportedly held liable to pay damages or compensation for it. There are some exceptions to this generalization. Actions that have been taken and proposed to acknowledge the victims of the racist attack on the Black community of Tulsa, Oklahoma in 1921 properly apply a liability model, inasmuch as they can identify a particular group of perpetrators, even if not all the individuals, and particular victims, in a particular place and time.²³

Some advocates of reparations agree that contemporary persons or groups cannot be blamed or found at fault for the harms of slavery. Rather, they argue that the ground for reparations lies in the fact that some persons and groups today hold wealth or other benefits that derives wholly or partly from the exploitation of slaves. Here the argument is that descendants of persons who were unjustly enriched by slavery owe compensation to those whose ancestors were deprived of wages and property ownership that might have

²² Brooks points out that none of the cases has been recognized by a Court as valid; in a fashion similar to my argument here, Brooks argues that such a liability strategy does not apply to historic injustice such as slavery.

²³ For a discussion of the Tulsa litigation and legislative action, see Derrick Bell, *Silent Covenants: Brown v. Board of Education and the Unfulfilled Hopes for Racial Reform* (Oxford: Oxford University Press, 2004), pp. 75-77.

enabled them to pass wealth on to their descendants. On this account, the contemporary descendants of those who benefited from slavery stand more in the position of persons who unwittingly inherit or purchase stolen goods than of people are to blame or fault for the original harm.²⁴ The intent of the California and Chicago legislation can be interpreted along these lines, as well as the suits that have been filed against particular corporations.

The stolen property or unjust enrichment framework for conceptualizing reparations claims also has some problems, however. It introduces into reparations politics a speculative project to calculate the amount of unjust enrichment. Dalton Conley asserts that “more or less all black-white inequality in contemporary America is a direct result of the institution of slavery.”²⁵ He argues that the compensation that whites owe blacks due to unjust enrichment is just the amount that would make the two groups equal in wealth and material well being.²⁶ Leaving aside the rather large differences of wealth *within* each of these groups, this way of thinking about unjust enrichment does not take account of the intervening processes between now and the end of slavery. The material relationship between African Americans and white Americans is not so simple as the relationship between heirs to stolen goods and the descendants of the people from which they were stolen. Structural social processes of continuing exploitation and enrichment involving millions of people, the enterprise of internal migrants and immigrants from

²⁴ See Bernard R. Boxill, “A Lockean Argument for Black Reparations,” *The Journal of Ethics*, 7, 63-91, 2003.

²⁵ Dalton Conley, “Calculating Slavery Reparations: Theory, Numbers and Implication,” in John Torpey, ed., *Politics and the Past: On Repairing Historical Injustice* (Lanham, MD: Rowman and Littlefield, 2003), pp. 117-125.

²⁶ Compare Richard America, “The Theory of Restitution: The African American Case,” in Thomas D. Boston, *A Different Vision: Race and Public Policy* (New York: Routledge, 1997), pp. 154-162.

abroad, are all among the actions that converge to have produced contemporary economic inequality.

As I understand it, a liability model requires sorting out from these complex structures some specific race-based costs born by some people, and demonstrating that these account for some specific portion of the wealth or material well being of some specific others. The complexity and cumulative effect of these structural processes, especially over many decades, makes such calculation speculative at best. The structural processes that have produced and continue to reproduce racial inequalities of wealth and income between many Blacks and many whites are continuous with the exploitation and deprivation of slavery and its aftermath. Years have seen new forms of racial exploitation and domination grafted on to these and transforming them, as well as the mediation of other practices and institutional norms with consequences for racial inequality. My argument is that we are better off conceptualizing responsibility in relation to these present structures with some roots in the past according to a social connection model, one that understands the “wages of whiteness,” as a set of diverse structural privileges that include wealth and income, rather than as some specific amount to be calculated.

Perhaps more important, the unjust enrichment approach narrows the harm of slavery and its aftermath too much to issues of property and income, and focuses less on myriad other harms of racism: coercion, stigmatization, segregation, violence, cultural imperialism, the restriction of opportunities for self-development and self-expression, and so on. Some of these wrongs and damages are incalculable, even though their structural effects condition the lives of generations. The attempt to apply the liability model of

responsibility in order to argue for reparations to African Americans is thus fraught with conceptual and practical difficulties. I do not conclude from this that reparations politics is inappropriate or misguided. I want to suggest instead that the political purposes of the reparations movement are better served through a social connection model of responsibility.

III. Social Connection and Historic Injustice

In recent years some philosophers and legal theorists who endorse the notion that the historic injustice of slavery and its aftermath ground claims of responsibility argue as I am doing that a blame or fault-based model of responsibility is problematic in this context. These theorists include Debra Satz,²⁷ Thomas McCarthy,²⁸ Roy Brooks,²⁹ David Lyons,³⁰ and Pablo de Greiff.³¹ They all argue for conceiving the responsibilities that moral agents today have in relation to historic injustice differently than on a liability model. I now want to offer the social connection model of responsibility to conceptualize this specific form of responsibility. On the social connection model, the primary issue is a persistence of racialized structural injustice that has continuities with the institutions and practices of slavery and the racist institutions and practices established after its abolition. Let me first briefly review these matters of structural injustice.

On many indicators of relative well being, racial inequality in the United States is flagrant. While 6.3% of white families live below the poverty level, for example, 21.6%

²⁷ Debra Satz, "Reparations and International Injustices: On the limits of the 'Compensation Paradigm,'" paper prepared for a conference on reparations at Queen's University, Ontario, February 6-8, 2004.

²⁸ "Coming to Terms with Our Past, Part II: On the Morality and Politics of Reparations for Slavery," *Political Theory*, Vol. 32, no. 6, December 2004, pp. 750-773.

²⁹ Brooks, work cited, *Atonement and Forgiveness*

³⁰ Lyons, work cited above

³¹ Pablo de Greiff, "Justice and Reparations, Queens University conference, February 2004.

of Black families do. Only 9.1% of single whites live below poverty, whereas 24.1% of single Blacks.³² In 2002 the median weekly earnings for white full-time salary workers was \$624, whereas the median for Black full-time workers was \$498. The official unemployment rate for whites in 2000 was 3%, whereas that for Blacks was 6.9% (and 5.7% for Hispanics), and there is much reason to think that the official rate leaves many people who would like a job uncouncted. This disparity holds even though a slightly higher proportion of Blacks than whites have completed high school and a comparable proportion have taken some college courses. The median net worth of white families in 2001 was a whopping \$120,000, whereas the median for all non-whites was \$17, 100.³³ Whereas 74.6% of whites live in a home they own, only 49.4% of Blacks do. In 2003 there were only 39 African American Congresspeople (7.2%), and only 25 were Latino (4.6%). Although Blacks comprise 12.3% of the American population, 28.1% of those arrested in 2001 were Black. The lifetime chances of Black men entering state or federal prison is 32.%, whereas that for white men is only 5.9%.³⁴ Most social scientists agree that this inequality is due in large measure to racial biases at every stage of criminal justice system.

Statistics such as these indicate aggregate patterns, and signal the status of groups in relation to one another. They say little about people's individual lives, their solidarities, friendships, individual achievements, their joys or sorrows. The above indicators, moreover, do not refer to images and stereotypes and the experiences many African Americans have of discrimination or avoidance. It is important to notice such patterned inequalities in order to identify structural injustice. Just one or two of these inequalities

³² *American Fact Finder, Census 2000*; figures for Hispanics are close to that of Blacks.

³³ *Statistical Abstract of the United States*

³⁴ *Sourcebook of Criminal Justice Statistics*, 2002.

alone might not indicate injustice. When several such patterned inequalities occur together and when their general pattern persists for decades, however, then we can begin to claim that they are unjust. To complete that claim we should give an account of processes that produce and reproduce the inequalities, and of how they reinforce one another.³⁵ Libraries are loaded with such accounts of how the aggregated effects of institutional rules, social practices, the given built environment, market incentive structures, and so on, collude to produce and reproduce these structural patterns.³⁶

These structural processes are unjust because they circumscribe the lives of many African Americans within very limited options and opportunities for developing and exercising capacities and achieving well being. Some African Americans escape these limited options because they come from middle class or wealthy families, although even they live with racial stigma that makes them vulnerable to ill treatment from others. Others escape by luck. Many African Americans achieve a decent life or even lives of nobility or fame because they succeed in overcoming the constricted options available to them. They do not thereby escape injustice. It is not fair for some people to be able to run on a level and open road to get to achieve their goals, while others must leap hurdles with a fifty pound pack on their backs to reach the same destination.

³⁵ See Iris Marion Young, "Equality of Whom? Social Groups and Judgments of Injustice," *Journal of Political Philosophy*, Vol. 9, no. 1, March 2001, pp. 1-18.

³⁶ For example, Glenn C. Loury, *The Anatomy of Racial Inequality* (Cambridge: Harvard University Press, 2002); William Julius Wilson, *When Work Disappears: The World of the New Urban Poor* (New York: Alfred Knopf, 1997); John A. Powell, Gavin Kearney, and Vina Kay, ed., *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* (New York: Peter Lang, 2001); Paul A. Jargowsky, *Place and Poverty: Ghettos, Barrios, and the American City* (New York: Russell Sage, 1997); Howard Winant, *The World is a Ghetto: Race and Democracy Since World War II* (New York: Basic Books, 2001); Linda Faye Williams, *The Constant of Race: Legacies of White Privilege in America* (University Park, PA: Pennsylvania State University, 2003); Michael K Brown, et. al., *Whitewashing Race: The Myth of a Color-Blind Society* (Berkeley: University of California Press, 2003).

The injustice, then, consists in being socially positioned in a way that limits one's opportunities to achieve well being and makes one vulnerable to domination or denigration. To say that the injustice is *structural* is to say that this positioning and the constraints associated with it result from aggregate effects of institutional rules and policies, social practices, given built environment, many of which do not aim to discriminate against or denigrate African Americans.³⁷ While government policies contribute a great deal to these structures, for example, laws and policies that explicitly exclude African Americans from certain opportunities are no longer in force. There is little doubt that some individuals engage in racist behavior with particular African Americans they encounter – denying them jobs or apartments, avoiding African American neighborhoods, and countless other actions. To a large extent, however, those who engage in such actions do not self-consciously understand themselves as discriminating. Instead, they find other reasons for their actions in the rules and routines of the institutions they act within, and other people who may witness or learn of these actions usually accept these reasons, or at least fail to challenge them. Most actions that contribute to reproducing the structural injustices of racial inequality, however, are not even covertly discriminatory. They are simply people pursuing their ends and doing their jobs, relatively unmindful of the racial biases of institutional operations and relatively indifferent to the fates of people to whom their actions may be only distantly connected.

A social connection model of responsibility says that all those who contribute by their action to the production and reproduction of structural injustice share responsibility for

³⁷ For a useful account of continued structural injustice as an argument for reparations politics, see Manning Marable, "Forty Acres and a Mule: The Case for Black Reparations," in Marable, *The Great Wells of Democracy: The Meaning of Race in American Life* (New York: Basic Books, 2002), pp. 223-253.

organizing collective action for changing the structures. Most members of American society contribute in one way or another to the structures of racial injustice. We all share responsibility, then, for organizing actions and policies that will intervene in the structural processes to change their outcomes. Because of social positions, relative power, or privilege, however, some of those who contribute to the structures have greater forward looking responsibilities than others. Government officials, both elected and appointed, corporate executives, foundation leaders, and like, arguably have stronger responsibilities. Inasmuch as being positioned as white in these structures usually carries a certain relative privilege, moreover, it is reasonable to say that white people have special responsibilities to recognize and organize to transform these racialized structures.

And what should we take responsibility to do? What does it mean to work on structural transformation that will undermine existing racial inequality? It means making a massive effort to transfer resources in order to change the basic conditions of lives for more disadvantaged Americans, and reforming the policies and practices of many public institutions so that they do not perpetuate racial stigma either wittingly or unwittingly.

A program to make structural change would include massive investment in neighborhood infrastructure, school buildings, affordable housing, health care, and personal asset building, to the more materially disadvantaged members of American society. Government is an important vehicle for undertaking such collective action, but this does not mean that it is a liable party. We need public investment not only in and useful education and job training, but also in public works jobs, some of which might be devoted to working on building schools, schools, and affordable housing. Investments such as these cannot and should not be limited to benefit exclusively African Americans,

but can and should be organized so as to target African American individuals and communities as primary beneficiaries. Some American Indian and Latino communities are just as much in need, are also subject to structural injustice. They too should be targets of structural reinvestment.

Could such a program be financed even if there were the political will to do it? Last year the United States Congress authorized the spending of \$87 billion in the U.S. taxpayer dollars for investing in the neighborhoods, schools, health clinics, and job training of Iraq. If a majority of Americans were committed to investment in improving the basic structure behind the lives of worst off Americans, funds could be raised to do it. Taxation is the most important way. Assuming that relatively comfortable white Americans have special responsibilities in relation to racialized structural injustice, these can also be discharged by means of voluntary funds to which relatively affluent whites have special responsibilities to contribute.

Important as redistribution and reinvestment are, making structural change goes beyond redistribution.³⁸ More African Americans, Latinos, and American Indians should be elected and appointed to public office and installed in important decision making positions in private economic and civic associations.³⁹ Even further, the very nature of occupational structures should be examined and criticized. The current structural distinction between menial and service, work, more skilled craft work, and professional work, tracks too closely with racial difference. If occupational hierarchy were restructured so that individuals in low level positions had real opportunities to advance to

³⁸ Both McCarthy and Brooks emphasize the importance of non-distributive remedies, including memorials, public forums for recognition of historical injustice, and similar measures.

³⁹ Howard McGary discusses Lani Guinier's electoral reform proposals as an example of a reparations policy. See McGary, "'Achieving Democratic Equality: Forgiveness, Reconciliation and Reparations,'" *The Journal of Ethics*, 7, 93-113, 2003.

professional and managerial work by means of on the job or government or employer sponsored training with job guarantees, then much of the bedrock of the reproduction of racial difference in this society would crumble.

Many institutions, furthermore, need to assess, criticize, and reform many of their practices for how they produce and reproduce racialized injustice. We need to have a bigger public debate about the criminal justice system, for example, which many social scientists argue contains racial bias at every level. Media and entertainment institutions, financial institutions, and others might undergo systematic regular racial impact audits to evaluate how their normal practices may have racial bias or contribute to structures that produce racial stigma and inequality.

A consistent application of a liability model of responsibility for the historic injustices of slavery and its aftermath would seem to call for a transfer of wealth directly from descendents of slave owners or others who profited from slavery to descendents of slaves. Most reparations advocates, however, propose programs more like the forward looking programs supporting structural change such as I have summarized above.⁴⁰ These sorts of proposals about what ought to be done to redress racial injustice are both more far reaching than individual transfers, and entail more creative ways that Americans, and especially privileged white Americans, might think about our responsibilities.

Why Attend to Historical Injustice?

⁴⁰ See, for example, Clarence J. Munford, *Race and Reparations: A Black Perspective for the 21st Century* (Trenton, NJ: Africa World Press, 1996); among other things, calls for affirmative action, minority set-asides, free health care, income support for all vulnerable citizens, financing for purchase of productive industries. Howard McGary is one who argues that a comprehensive reparation should be forward looking. "Justice and Reparations," in McGary, *Race and Social Justice* (Modeln, MA: Blackwell, 1999).

The main issue of responsibility concerning racial injustice, I have been arguing, concerns current racialized structural injustice that wrongly deprives some persons or subjects them to shameful indignity at the same time that it privileges some others. A social connection model says that everyone who contributes to the production and reproduction of these structures today, and especially those benefiting from white privilege, should collectively take steps to transform these structures. One might well ask how this position differs from that I quoted Fanon as taking at the beginning of this essay, or from more contemporary proponents of racial structural change who argue that a backward look at the history of injustice only drags us into a unproductive discourse of recrimination.⁴¹ It would seem that a social connection model of responsibility does not need to consider injustice perpetrated in the past; that of the present is enough to worry about.

While I think that this view should be taken seriously, I think it too far narrows the scope of what taking responsibility for present racial injustice requires. There are two major reasons that a project to transform current social structures to eliminate racial injustice entails thinking about historic injustice. First, current injustice is hard to discern as structural without an understanding of its continuities with injustice of the past. Second, a collective political project of transforming relationships of members of groups differently positioned in racialized structural processes involves discussing and debating about the history of the society and polity, and reconfiguring how we relate narratives of the past for the future. Let me briefly elaborate on each of these

⁴¹ See, for example, Adolph Reed, "The Case Against Reparations," *Progressive*, Vol. 64, Issue 12, December 2000.

purposes for focusing on historical injustice in the forward looking project of changing current structural processes that produce injustice.

Understanding Structure

How do we know that the circumstances of a person's life are conditioned by structural injustice, as distinct from a specific wrong the person has suffered from the action of specifiable individuals, or from her own actions, or as a matter of sheer back luck? An immediate answer is this: if the sort of disadvantage or indignity that characterizes a person's situation is similar to that of a group of others, we are probably warranted in saying that the source of the disadvantage lies at least partly in the way institutions and practices together produce effects not necessarily intended by the participants. Another indicator of structural injustice is a pattern of privilege and disadvantage across several fields of social life. Neither of these grounds for claiming that there is structural injustice need appeal to the past, or at least a past very long ago.

One cannot understand structural processes in a very comprehensive manner, how they are produced and why they persist, however, without considering past institutional relations and events and their consequences. Where the structures are as wide their scope and basic in their effects as racialized structures, only an account of the relationship of present patterns, policies, institutional relations and practices to past institutional relations can provide the sort of understanding of how injustice is produced and reproduced which suggest ways effectively to intervene in the processes to change them. In order to intervene in processes that reproduce residential racial segregation, for example, we need to understand how patterns and practices of market

choice, zoning policy, and development practice has some roots in past practices and policies, as well as in incentive structures resulting from the materialization of past decisions.

Some advocates of reparations for slavery in America suggest that we can trace a direct causal line between the harms of slavery, which nearly everyone now agrees where grossly unjust, and the contemporary situation of many African Americans, about which there is less agreement that it is unjust. I agree that the argument that many or most African Americans' lives are conditioned by racialized injustice can be bolstered by appeal to past injustice. It is not plausible to claim, however, that there is a direct causal line between the slave auction block and today's segregated city blocks, between forced labor in the cotton fields and underpaid part-time employment at Wal-Mart. Many actions and structural social processes intervene between then and now. Properly to understand contemporary racialized structures implies tracing how some current structural injustice has continuities with the structures of slavery. At the same time, it entails understanding how past actions and policies and their often unforeseen consequences created new social relations or transformed old ones into new configurations. The racialized social structures of the present, that is, are both continuous and discontinuous with those of the past.⁴²

For this reason appeals to historical injustice for the sake of understanding contemporary racial structures and persuading doubters that they produce injustice need to attend to the century that follows slavery more than do many reparations

⁴² Thomas Holt argues that structural racism both builds on and transforms the policies, practices and habits of historical racisms. See *The Problem of Race in the 21st Century* (Cambridge: Harvard University Press, 2000).

arguments.⁴³ Much about contemporary racialized structures is more immediately related to successful efforts to construct a new system of racial subordination in the period between 1870 and 1910, as to the reaction of employers, property owners, and municipal governments to the migration of millions of African Americans to the North and West in the first half of the twentieth century. Understanding the racialized social structures during these period, the specific wrongful actions and policies perpetrated by many actors during these decades, as well as the mundanely unjust aggregate consequences of actions not specifically wrong in themselves, is crucial for seeing the depth of contemporary racialized injustice and rectifying it.

The Politics of Memory

The second function of attention to the historic injustices of slavery and Jim Crow concerns how members of the society who are to engage in collective action to transform social structures relate to one another. This transformative project can be crucially aided by engaging in a “politics of memory.”⁴⁴ In order to develop cross-group relationships of cooperation, we need to have more public multi-voiced discussion and debate about the history of the United States and its many locales.

Like most societies, the United States is a plural society where communities and social groups have differing perspectives on events of the past. We locate our own individual identities in terms of narratives of our parents and grandparents, and these narratives

⁴³ In the above cited essay David Lyons asserts that the Reconstruction and Jim Crow periods of American History have been neglected by discussions of reparations for slavery; see also Andrew Valls, “Is There a Case for Black Reparations?” Queens conference.

⁴⁴ I take the phrase from Thomas McCarthy, “Vergangenheitsigung in the USA: On the Politics of the Memory of Slavery,” *Political Theory*, Vol. 30, no. 5, October 2002, pp. 623-648; see also Wole Soyinka, “Reparations, Truth, and Reconciliation,” in *The Burden of Memory, the Muse of Forgiveness* (Oxford: Oxford University Press, 1999).

differ, though often overlap, for differently situated Americans – African Americans who descend from slaves, white Americans who descend from European colonial settlers, some of whom were slave holders, white Americans who descend from Eastern European immigrants, Mexican Americans who descend from mestizo of the Mexico before 1848, Native Americans who descend from members of groups forced to move from their homelands, and so on. Families and community networks have stories of the past with distinctive emphases, interpretive and explanatory force. Arguably these differing stories do not today equally influence the public narratives dominant in the American imagination – those that children learn in school, those that are invoked at celebrations of national holidays, and those alluded to in popular media. A politics of memory aims to gain public attention for the more suppressed stories and encourage debate about the shape and significance of these public narratives.⁴⁵

The goal of such public debate and discussion about historic injustices and their connection to present circumstances is not to come to some new single authoritative “truth,” but rather to generate what Charles Maier calls “contrapuntal history, with parallel story lines that are read horizontally, but maintain some determinate relation with each other.”⁴⁶ Public and civic institutions ought to take a lead in fostering such discussion and debate, for example, by means of educational materials, the manner of celebrating public holidays, or the mounting of memorials and exhibitions. We have some of this regarding the history of slavery in America, and we need more. We have

⁴⁵ Compare Rogers Smith, *Stories of Peoplehood* (Cambridge: Cambridge University Press, 2002).

⁴⁶ Charles Maier, “Overcoming the Past? Narrative and Negotiation, Remembering and Reparation: Issues at the Interface of History and Law,” in John Torpey, ed., *Politics and the Past: On Repairing Historical Injustices*.

less of it concerning racial domination and inequality in the century after emancipation, and this is a particular lack in public culture.

Many of the actions taken in the current movement for reparations for slavery can plausibly be interpreted as efforts to promote public discussion about historic injustice and its continuity with current injustice. The purpose of the California and Chicago laws requiring companies with which they do business to disclose historical connections to slavery, for example, is not to exact compensation from those companies. It is instead to motivate them to research their own histories in the interest of understanding the history of racial domination, and to expose the origins of some privileges and profits. Efforts on the part of institutions such as Brown University to bring to light their complex histories in relation to the slave trade would appear to have similar purposes. The litigation which was struck down by the federal district courts also arguably functions to bring greater public awareness and acknowledgment that slavery was an economic as well as a political institution.

All of these efforts focus on bringing to light the way that numerous private individuals and organizations, in the North as well as the South, supported or benefited from slavery. While this is certainly important, at this time in American history it may be even more important to jog the public memory about the failure to make reparations to the freed slaves after emancipation, and the ease with which revised systems of racial domination were instituted, in the North and West as well as the South.

Serious public discussion and debate about the failure of reconstruction, the establishment of the Jim Crow regime in the South, as well the formal policies of racial exclusion as well as informal prejudices and exclusion that took place in the North and

West, would challenge the dominant American narrative about the crucible of race. In order to support a story of progress, that dominant narrative today pays some attention to the history of slavery before the Civil War. The story goes something like this. Once upon a time the evil of slavery scarred the land. Through war and struggle we purged ourselves of this social poison. Since then the road to recovery has been rocky, but we have made steady progress toward equal citizenship. The Civil Rights movement of the 1950's and 1960's removed the last vestiges of racism from American social life, and now we can proudly stand under the banner of real freedom.

It is consistent with this narrative of sin and redemption to depict the wrongs of slavery. What has been suppressed, however, is the failure to make good on the promises of reparation after emancipation, and allowing new structures of inequality to emerge. The mainstream story of American history is virtually silent about the failures of white Americans to provide real opportunities to freed slaves and prevent the reconstitution of race based exploitation and South and a new system of racial hierarchy in the North and West. Lawrie Balfour shows how W.E. B. DuBois confronted this silence and distortion among historians in the early twentieth century.⁴⁷ In recent decades scholars of American history have filled in many gaps and corrected many biases in stories of the history of racial stigma and hierarchy in the post-Civil War United States.⁴⁸ The ugly histories of the treatment of African Americans in the century between 1865 and 1965, however, have not broken into the general public imagination.⁴⁹ While black family and

⁴⁷ Lawrie Balfour, "Unreconstructed Democracy: W.E.B. DuBois and the Case for Reparations," *American Political Science Review*, Vol. 97, no. 1, February 2003, pp. 33-44.

⁴⁸ For one excellent example, see Eric Foner,

⁴⁹ For one effort to challenge the march of progress toward racial equality narrative, see Philip A. Klinker and Rogers M. Smith, *The Unsteady March: The Rise and Decline of Racial Equality in America*, (Chicago: University of Chicago Press, 1999).

community narratives recall them, more generally public narratives of slavery and emancipation tend to reduce events of the next century to transient and even insignificant episodes.

Reimagining American history with acknowledgment of the legacies of historic injustice has some intrinsic value. It honors past victims, and respects the self-understanding of African Americans, and others whose lives are unjustly limited by racialized social structural processes. The primary purpose of public discussion and debate about historic injustice and its legacies, however, is instrumental. It aims to forge more trust and solidarity between groups in American society, particularly between African Americans and others. It aims, furthermore, to foster an understanding on the part of a broader segment of Americans of how contemporary racial inequalities have some of their origins in policies and practices of the past that most people today acknowledge were unjust.

IV. Responsibility as Social Connection Applied to Other Reparations Claims

I think that the social connection model is generally applicable to issues of responsibility in relation to historic injustice, however. Each case and political context requires a separate analysis, however, because each raises different issues about responsibility and relationships. I will conclude, then, by briefly discussing two other claims about reparations for historic injustice: those concerning injustice done to American Indians, and claims for reparations for the harms of apartheid in South Africa.

Reparations claims and American Indians

Advocates of reparations for slavery in the United States sometimes invoke relations between the United States and American Indian tribes as an example of the United States recognizing reparations claims. There are several grounds for this assertion. Some American Indian tribes have successfully won legal settlements against the federal government or one or more of the states in recognition and compensation for broken treaties. In 1946 the United States Congress passed the Indian Claims Commission Act, which enabled Indian groups to file claims for the wrongful appropriation of lands. When Indians have been successful in their claims, either before the Commission or through litigation, they have rarely had land returned, but instead have received monetary compensation.

In these and other ways, such as mechanisms established in the Indian Self-determination Act of 1978, the United States federal government and some state courts have given some recognition to the historical injustices suffered by Indians as groups. It would be a mistake, however, to conclude from this that Native Americans are better off than groups such as African Americans who have not received comparable reparation recognition. On most of the measures of income, wealth, and so on that I cited above, American Indians stand at about the same level of well being as Blacks, in comparison to whites. Although a few tribes have capitalized on Americans' love of gambling to help provide schools, health care and jobs for their communities, most tribes have great difficulty acquiring or maintaining an economic and cultural base for their communities. Perhaps because they are a small portion of the population in the United States, and because Indians reside in significant numbers in only a few regions of the United States, public discourse in the United States does not often include discussion of the situation of

Indians today and the connection of their situation with historic genocide, conquest, removal and domination. On the whole, American Indians are the forgotten minority; claims for reparation of their five hundred year history under colonialism are therefore rarely audible either to the general public, politicians, or academics.

This situation contrasts with that of other English and French speaking settler societies such as Canada, New Zealand, and Australia. In the last three decades there has been much public discussion about policy and policies in relation to indigenous peoples in those countries, as well as significant attention from academic theorists and researchers. Indeed, some of the most probing and imaginative thinking about themes of responsibility in relation to historic injustice has come from writers within these contexts.⁵⁰ Many of these writers also aim to conceptualize the responsibilities of contemporary Euro-Canadians, Euro-Australians, or Pakeha in ways different from the liability model, but without minimizing these responsibilities. In recent decades indigenous peoples in Latin American countries have also raised their voices as groups; in some countries constitutional recognition has been given to their claim for autonomy.

A liability model of responsibility, however, plausibly applies to the relation of settlers and their descendents to indigenous peoples, if these are considered distinct corporate entities. Indigenous peoples in all these places, and increasingly in Latin America as well, claim to be distinct self-determining peoples whose lands were stolen by settlers and who were forced to give up their practices and assimilate to European ways. In North America and in New Zealand the British Crown and then the United States and Canada recognized the legitimacy of these claims of indigenous people to

⁵⁰ Paul Patton, "Colonisation and Historical Injustice – The Australian Experience," Diprose, Gatens and Lloyd, Thompson, Tully, Kymlicka, etc.

nationhood by negotiating treaties with them. To the extent that these treaties were broken, a liability model of responsibility properly applies to claims on the part of indigenous peoples for redress and compensation for the unjust actions of the governments of the United States, New Zealand or Canada in the past. Since 1993 Australian courts have recognized some such similar claims on the part of Australian aboriginals, even though they made no treaties with the British settlers who stole their land, murdered them, and drove them into camps where they were forced to adopt English practices.

Janna Thompson theorizes some grounds for applying a liability model of responsibility to indigenous claims for reparations that relies on the status of indigenous peoples and those against whom they make claims as corporate national entities with lives spanning centuries. In Thompson's view, international relations relies on the ability of nations to make promises to one another. A political community's treaty promise has no meaning unless it obliges subsequent generations of that polity. Members of a political community whose earlier leaders made commitments on behalf of the nation, then, she argues, carry liability to make good on the commitment to current members of the people to whom commitments were made.

I think that this argument is plausible insofar as it trades on the liability of corporate entities. Accepting it, however, does not obviate the need also to apply a social connection model to claims of responsibility for historic injustice to indigenous people. As with the situation of African Americans, the main concern of justice toward Indians should be forward looking. As groups and as individuals, Native Americans suffer systematic injustice that requires institutional changes and redistributive measures to

correct. As I have argued with regard to racial injustice above, however, taking responsibility for the future circumstances of American Indians involves responsibility for the past in at least two respects. First, a just relationship between Indians and non-Indians in the context of U.S. politics will not happen unless many more non-Indian Americans learn about and acknowledge Indian perspectives on American history. Second, the current structural position of American Indians in relation to the United States and its regions cannot be well understood without understanding historical narratives of how this position came about.

Apartheid in South Africa

Many of the victims of apartheid are living today. Many of those who directly participated in implementing apartheid policies, as well as many who supported them or benefited from them, are still living as well. Given the strong commitment that a sizeable number of South Africans had to the apartheid system, and given the depth of oppression many others suffered under it, the country has made an amazing transition from authoritarian racism to a democratic government of equal political and civil rights.

As part of this transition, the Truth and Reconciliation Commission was established in South Africa shortly after the first African National Congress government took power. Its charge was to hold hearings to make public the truth about crimes and brutalities committed by officials of the apartheid regime, for the purpose of fostering a reconciliation between the historically exploited and dominated Africans, coloreds, and Indians, and the historically privileged whites. The Commission also heard testimony

about brutalities that some participants in the resistance struggle committed against others in the society.

The TRC offered amnesty to perpetrators of crimes and wrongs if they would come forward and publicly testify about their acts. Relatively few perpetrators took up this invitation. Those who did not are subject to prosecution in principle, and some have been prosecuted. Most of the persons who testified before the TRC told stories of being victims of crimes, either on their own persons or on members of their families now dead. While the TRC was intended explicitly as an alternative to criminal trial and punishment, and it was such an alternative, it nevertheless instantiates a liability model of responsibility. Most of the wrongs about which it heard testimony were isolatable harms done to identifiable persons by perpetrators in principle identifiable, even when they had not been identified. Most of them also consisted of events with a terminus rather than an ongoing process.

The South African Truth and Reconciliation process has been much studied by theorists and researchers trying to assess and evaluate the conditions for transition to inclusive democracy. There has been much openness, courage, fortitude, and willingness to learn manifested by South African people during the process. Here at the other side of the process, however, many have expressed dissatisfaction with the outcome, especially many poor Blacks. In its final report the TRC recommended that the government facilitate reparation to victims of apartheid. The report suggests several reparative measures, including a government transfer of funds to individuals and a wealth tax on corporations to be paid into a development fund.

In April 2003 President Thabo Mbeki announced the government's response to these reparations recommendations. The government would issue a payment of R30,000 (just over \$3,000) to each of the 22,000 victims of human rights violations named in the TRC report. The primary reaction to this announcement was anger. R30,000 for the loss of loved ones? And what about the millions of people who were not themselves tortured, or their loved ones murdered, but were victims of everyday apartheid –pass laws, Bantustan policies, labor exploitation, and so on? What about the rich South Africans and their businesses that profited so handsomely from this system? Calls for reparations from corporations both inside and outside South Africa, as well as from well to do white South Africans, thus continue to be made.⁵¹

In spite of its political importance in raising the consciousness of many South Africans about the evils of the apartheid regime and in giving some measure of respect to its victims, I think that the Truth and Reconciliation Commission illustrates some of the limits of a liability model of responsibility for historic injustice even when that injustice was of the relatively recent past.

The mandate of the Commission limited the time period of crimes to be investigated as 1960-1992, and it specified that the wrongs to be heard must have had political motivations. The harms that the TRC investigated and heard testimony on, that is, did not involve actions before 1960 establishing, implementing, and those subsequently perpetuating apartheid policies as such. The harms of concern to the TRC were restricted

⁵¹ See, for example, Michael Lapsley and Karin Chubb, "Common Guilt or Common Responsibility: Moral Arguments for Reparations in South Africa," in Brandon Hamber and Thokozani Mofokeng, eds., *From Rhetoric to Responsibility: Making Reparations to the Survivors of Past Political Violence in South Africa*, Center for the Study of Violence and Reconciliation, 2003. See also Briefing paper, "Apartheid Debt and Reparations Campaign," Africa Action, www.africaaction.org, November 12, 2002.

to those occurring in the course of struggle against apartheid and the reaction of the government to political opposition.

Early in its work, the Truth and Reconciliation Commission distinguished between violations of ‘bodily integrity and right’ – killing, abduction, torture, or other forms of severe ill treatment of persons – from ‘subsistence rights’ – land deprivation, inadequate access to food, water, housing and health care, etc. They ruled that violation of subsistence rights did not come under the legislative mandate of the Commission. In its final report the TRC called attention to the context of the history of colonial domination and the systematic violations committed by the apartheid system against millions of Blacks, and stated that the crimes and harms on which its proceedings focused should be placed in that systemic context. They were not the subject of its proceedings.

Mahmood Mamdani argues that the TRC process was flawed for this reason. The Commission individualized the definition of both victims of apartheid and perpetrators of its wrongs, and failed to bring systemic or structural injustice under scrutiny. “Reduced to ‘the context,’ or ‘the background,’ of gross human rights violations, apartheid was effectively written out of the report of the TRC.”⁵²

I find that the distinction between a liability model and a social connection model of responsibility helps make sense of both this narrow and individualizing understanding the TRC had of the wrongs it would hear, and the distance between reparative outcome of the process and what many hoped for. The liability model of responsibility, as I suggested above, necessarily seeks to narrow responsibility to individual perpetrators of harms that

⁵² Mahmood Mamdani, “Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission of South Africa,” presented at a conference on “Identities, Affiliations, and Allegiances,” Yale University, October 3-5, 2003; see also Sampie Terreblanche, *A History of Inequality in South Africa, 1652-2002* (Durban: University of Natal Press, 2002), pp. 124-125.

are understood as deviations from ongoing background conditions. Surely the TRC process should have worried about the perpetration of such crimes that were fresh in people's memories. Whether the same tribunal could also have heard public discussion about the history, harms and effects of apartheid as a system is a judgment I am not qualified to make. It does seem, however, that *some* process could and still can give public testimony to the systematic harms of apartheid under a social connection model of responsibility. Various exhibitions and publications have been doing this, but arguably there should be more public acknowledgment of the everyday harms of apartheid, the millions who suffered from them and the millions who supported these policies or at least remained silent about them.

The TRC report briefly appeals to a notion of moral responsibility, in addition to the legal and political responsibility on which it focuses, and says that “all those who supported the system of apartheid or simply allowed it to continue to function and those who did not oppose violations” should accept individual responsibility for the system.⁵³

There were those who were responsible for creating and maintaining the brutal system of apartheid; those who supported this brutal system and benefited from it, and those who benefited from the system simply by being white and enjoying the privileges that flowed from that. Others occupied positions of power and status and enjoyed great influence in the apartheid system, even though they had not direct control over the security establishment and were not directly responsible for the commission of gross human rights violations. It is only by acknowledging this benefit and accepting this moral

⁵³ P.14 or section 14?

responsibility that a new South African society can be built.⁵⁴

This statement does not specify that the *kind* of responsibility South Africans who were not direct perpetrators of crimes or directly implementers of apartheid policies bear is of a different sort. A social connection model of responsibility makes sense of this responsibility by emphasizing that systematic injustice requires the participation of a large number of people in the society to persist, and that many people ignore such injustice because they benefit from it or stand in privileged positions within the system.

Although the politics and legal changes in South African society of the last decade are monumental, changes in the social and economic conditions of the lives of the majority of people have been less dramatic: new houses have been built, roads and electricity have been supplied (though people unable to pay for the electricity finds themselves often without service), and affirmative action programs have been put into place. The conditions of living for millions of poor South Africans, however, remain miserable, and in some respects these conditions have worsened since 1994. The unfinished business in South Africa today consists in undermining the structural injustices that continue to define the lives of most citizens, and which are structurally continuous with the apartheid system. Discharging responsibility as social connection in the context of South Africa today thus has a form similar to that I described for the United States. The primary objective is forward looking: to rid the country of poverty and disease, to make it possible for all South Africans to develop skills and have opportunities for a good life. Privileged South Africans, most but not all of whom are white, as well as wealthy businesses, have special responsibility in this project.

⁵⁴ P. or section 16.

As I described for the U.S. cases, this forward looking project has a backward looking aspect which, if Mamdani is right, has only barely begun. More politics of memory of apartheid as a system is called for, and more public understanding of how and why current inequalities are reproduced and what is their connection to the past system of oppression.⁵⁵ Because of the context of the history of colonialism to which the TRC report alludes, moreover, and even more because of the location of South Africa's economy and policies in a global system of structural privilege and disadvantage, relatively privileged people in the Northern hemisphere may properly be said to bear some responsibility for such a transformative project. But this is the subject of another paper.

⁵⁵ See Brandon Hamber, "Reparations as symbol: Narratives of resistance, reticence and possibility in South Africa," paper presented at conference, Reparations: an Interdisciplinary Examination of Some Philosophical Issues, Queens University, February 2004.