

# COMING TO TERMS WITH OUR PAST, PART II

## On the Morality and Politics of Reparations for Slavery

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*There has recently been a surge of interest, theoretical and political, in reparations for slavery. This essay takes up several moral-political issues from that intensifying debate: how to conceptualize and justify collective compensation and collective responsibility, and how to establish a plausible connection between past racial injustices and present racial inequalities. It concludes with some brief remarks on one aspect of the very complicated politics of reparations: the possible effects of hearings and trials on the public memory and political culture of a historically racist society. The hope is that these arguments, taken together, draft a coherent case for slavery reparations as pursued by the Reparations Coordinating Committee.*

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We can no longer afford to take that which was good in the past and simply call it our heritage, to discard the bad and simply think of it as a dead load which by itself time will bury in oblivion. . . . This is the reality in which we live.

—Hannah Arendt<sup>1</sup>

The 150-year history of the debate over reparations for slavery in the United States has recently entered a new phase, changing from a subject of concern primarily to black nationalists to the focal issue of an increasingly broad-based movement for racial justice. Thus, city councils in Chicago, Cleveland, Detroit, Washington, D.C., and elsewhere have adopted resolutions calling for reparations; Brown University has appointed a Committee

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on Slavery and Justice to examine whether the university should pay reparations or otherwise make amends for its historical connection to slavery; and the Reparations Coordinating Committee (RCC), centered at Harvard Law School and comprising an all-star cast of lawyers, scholars, and activists, is in the process of filing a variety of suits in a number of courts.<sup>2</sup> There are many reasons for this surge of interest, among them are the following: the recent success of reparations lawsuits against Swiss banks, European insurance companies, and German corporations for harms inflicted in the Nazi past; the central role of reparations in recent transitions to democracy in South Africa, Latin America, and elsewhere; the precedent set by the monetary awards and official apology extended by the U.S. Government in 1988 to Japanese Americans illegally interned during World War II; and, importantly, the evident failure of the civil rights legislation of the 1960s to repair the deep-seated inequalities left behind by 350 years of legally institutionalized discrimination, together with the conservative realignment of national politics that has stalled progress toward racial justice in the United States since the 1970s.

One lesson to be learned from the precedents seems clear to reparations scholars: redressing past wrongs is essential to establishing conditions of justice in a society scarred by the enduring and pervasive effects of those wrongs.<sup>3</sup> This is particularly true when the perpetrators of those wrongs prominently include continuing “corporate agents,” in the broad sense of bodies recognized in law as incorporated—such as states, firms, and other public and private institutions—and when the victims are large groups of individuals who were harmed precisely *as* members of a specific group—such as Jews or Japanese Americans. In situations of this kind, it is not unusual to seek collective reparations from corporate agents, including national governments that colluded in mass atrocities. And the RCC has, in fact, adopted such a strategy: they are suing corporations and other private institutions that benefited from slavery and the systematic racial discrimination that followed, as well as local, state, and federal government agencies that executed and sanctioned racially discriminatory policies and practices; and they are requiring these defendants to contribute to collective funds intended to address the residual effects of slavery and segregation. But it is not only monetary compensation that they seek: nonmonetary forms of redress are equally important, both “material”—for example, programs, policies, and institutional reforms designed to correct inequalities in housing, health care, education, job training, and the like—and “symbolic”—for example, public acknowledgments, official apologies, memorials, commemorations, museums, curricular reforms, and the like. As in many of the other reparations struggles mentioned above, the ultimate aim is to involve the

national government in redressing, through legislation, the legacy of injustice in which it has been deeply implicated. Judicial recourse is a means to that end.

It should be obvious that in assessing an undertaking of this magnitude, a great variety of considerations are relevant, not least the legal and political chances of success. In this essay, however, I want to focus on *three moral-political issues* raised by the RCC's approach to corrective justice and on *one ethical-political consideration* concerning the possible significance of the reparations struggle for our political culture. Especially in the latter regard, I shall be continuing a line of thought begun in an earlier essay on the public memory of slavery.<sup>4</sup>

Following a brief statement in section I of the standard moral-political argument for the obligation to correct past wrongs, sections II and III take up two unresolved problems facing the idea of collective reparations in a liberal-individualistic framework: how to conceptualize and justify *collective compensation*, and how to conceptualize and justify *collective responsibility*. Section IV then confronts an issue that haunts the debate over reparations for slavery: the *causal connection* of past racial injustice to present racial inequities. It offers a narrative explanation-sketch for a nodal point of such inequities: the urban black ghetto. The concluding section V considers only one aspect of the immensely complicated politics of reparations: the possible effects of public trials, hearings, and commissions on the *public memory and political culture* of a historically racist society. In a single essay I can offer no more than brief sketches of the key arguments on each point, but taken together, I hope, they draft a coherent case for slavery reparations.

### I. REPAIRING PAST INJUSTICE

The principal moral intuition behind the idea of reparations is easy to grasp. If one agent has wrongfully harmed another, then the perpetrator has a *prima facie* moral obligation to repair, so far as possible, the damage to the victim. That is to say, if there are persisting ill effects of a wrongful action and the perpetrator is in a position to rectify them in some measure, her moral obligation does not end with feelings of remorse, an admission of guilt, or an apology. She ought, so far as she can and so far as other moral obligations allow, to repair the situation in which she has placed the victim: otherwise, the victim's continued suffering would amount to a continuing harm. This is, of course, the intuition underlying the discourse of corrective or rectificatory justice from Aristotle to the present.<sup>5</sup> And it can be theoretically reconstructed and articulated in a variety of moral frameworks.

It is not difficult to sketch, at least in broad outline, how a moral-political case for reparations for slavery might be constructed from this intuition within a liberal framework. Political justice is here rooted in impartiality or fairness, which requires equal respect for each person, equal rights and liberties for all, equal treatment under the law, and equal consideration of the interests of all. There is no question that these were denied, under law, to slaves and their descendants at least into the 1960s. And there is a convincing case to be made for the continuing effects of these past injustices in the present inequalities of income, wealth, housing, health care, social standing, education, employment, and other opportunities that characterize the situation of African Americans in the United States. Correcting this legacy of past injustice, making these wrongs right, so far as practically possible and morally permissible, seems clearly to be a moral-political requirement of justice as fairness,<sup>6</sup> for the United States is a continuing constitutional undertaking (I am leaving the colonial period to one side for present purposes), an enduring “corporate agent”: having acknowledged in the 1960s the wrongful harms to blacks it had both permitted and sponsored in previous centuries, through denial to them of equal respect, rights, treatment, and consideration, it has a moral-political obligation now to redress the continuing effects of those harms. A just society must, so far as possible and permissible, right the wrongs of its own past injustices, particularly when their continuing ill effects upon the descendants of those wronged are plain for all to see.

## II. COLLECTIVE COMPENSATION

As Bernard Boxill has lucidly elaborated, arguments of this sort have two complementary faces: one looking backward to the past injustice and one looking forward to the future improvement of the victim’s condition.<sup>7</sup> In connection with the latter, he takes up (1) the matter of group compensation and notes (2) the limits of the applicability to the African American situation of the tort model of compensation.

1. Like a number of other reparations advocacy groups, the Reparations Coordinating Committee favors a form of collective reparation that would lead to the establishment of trust funds, reforms, policies, and programs designed to strengthen black institutions and provide resources for overcoming the deeply entrenched, *de facto* inequalities inherited from centuries of *de jure* discrimination. Boxill sketches a line of reasoning that could be used to support this approach. Historically, blacks were oppressed and discriminated against *because* they were black, in a legal-political order that assumed they deserved less than equal respect and consideration *because* of their race.

When individuals are thus harmed solely *under the description* of them as members of a racial group, all members of that group suffer disadvantages, even if only in the form of the less than equal security, opportunity, and respect that attaches to membership in that group, as well as the profound stigmatization that comes with this. Since blacks have been harmed and disadvantaged as a group in just this way, they deserve compensation as a group.<sup>8</sup>

The underlying idea here can be further developed by contrasting it with one element of Janna Thompson's recent discussion of reparations.<sup>9</sup> She elaborates a line of argument centered on the transgenerational obligations and responsibilities incurred by organized intergenerational associations and communities. Particularly in democratic societies, she argues, commitments, debts, entitlements, and the like are routinely and legitimately inherited from predecessor generations and passed on to successor generations. And citizens of such societies have a *prima facie* moral-political obligation to honor them. This general account of transgenerational obligations is then applied to the particular situation of the descendants of slaves in the United States. In that connection, Thompson argues, however, that reparations are owed only to *individuals* who are members of family lines that have been historically disadvantaged by racial discrimination. She arrives at that conclusion by restricting standing in claims for reparations to individuals and "organized" intergenerational groups such as nations. By contrast, in the view proposed here "unorganized" (in her specific sense), transgenerationally persecuted groups may be, and typically are to a greater or lesser extent, socially, culturally, legally, and politically "constructed" in and through their very persecution and response to it. The group classifications and identifications thus formed may be so deeply entrenched in social structures and cultural patterns that they persist across generations, even after their legal institutionalization has been dismantled. This is surely the case with African Americans.<sup>10</sup> And as there are no convincing reasons to deny moral-political standing to persecuted groups who are socially constructed as groups through systematic persecution, the classifications of "race" under which African Americans have suffered may also serve as guidelines in their claim for reparations.

The other side of the collective nature of the persecution practiced is the *collective nature of the harm suffered*. Thus a complementary, sociological line of reasoning in favor of group compensation may start from the oft-noted fact that *de jure* discrimination against blacks, which was a systemic feature of American society for most of its history, did not disappear without a trace when the laws were changed in the 1960s. It left behind entrenched *patterns* of disadvantage and *structures* of inequality that cannot effectively be dealt with on an individual basis but only be dealt with through resources, poli-

cies, programs and reforms aimed precisely at repairing them, at making blacks, as a group, more nearly equal to other groups in our society. Orlando Patterson sums up this line of reasoning as follows:

Only the representative actor mobilizing the agents of state can deal with . . . the accumulated patterns of discrimination over long periods of time against particular groups of people that create not only generalized disabilities of a collective nature but also generalized advantages to those who benefit from the discrimination. . . . Afro-Americans spent two-thirds of their history under a system of slavery. . . . Only they were systematically shut out of the emerging industrial revolution at the end of the nineteenth century, preventing them from developing those critical patterns of behavior and cultural tools necessary for keeping in phase with the nation's changing economy. . . . It is impossible to measure the individual impact of such collectively accumulated Acts of History. Their effects are pervasive, collective, and diffuse. . . . For this reason, they can be dealt with only by representative agents whose task is to correct and remedy the lingering systemic impacts.<sup>11</sup>

2. The remedies for such collectively accumulated, generalized disadvantages would differ from the sort of individual compensation for wrongful acts familiar to us from civil law. To begin with, it seems impossible to "put a price tag" on slavery and segregation; that is, to spell out in any meaningful way the idea of providing something "equivalent in value" to the losses sustained and the pain and suffering endured. Furthermore, since the defendants in reparations lawsuits will mostly be corporate agents, in the broad sense, those ultimately "paying damages" would overlap with those being compensated: black taxpayers and stockholders, for instance, would contribute to any government or corporate reparations for slavery and segregation. In dealing with "harms" of this kind we need, it seems, *a moral-political notion of repairing damages* inflicted by unjust actions that is *broader than the tort model*. And, as might be expected, previous attempts to apply the latter to reparations for slavery have encountered insuperable obstacles in "calculating" the appropriate amounts of compensation. Whether starting from the unpaid wages of slave labor, the market values of slaves, the unjust enrichment of the beneficiaries of slavery, or some other supposedly quantifiable factor, such attempts inevitably get bogged down in the multifarious assumptions and counterfactuals they require to span the many generations of slavery and segregation and the great variety of situations covered.<sup>12</sup>

The collective compensation approach I want to defend appeals to a different type of forward-looking argument for reparations, which Boxill signals as follows: "Had it not been for slavery and discrimination, blacks as a group would be more nearly equal in income, education, and well-being to other groups. . . . Consequently, assuming that compensating a group for wrongful disadvantages requires bringing it to the condition it would have

been in had it not been wrongfully disadvantaged, compensating blacks as a group requires making them, as a group, more nearly equal to those other groups.”<sup>13</sup> To be sure, this approach too turns on a counterfactual claim, but it is an eminently reasonable one: given that biological racism has been discredited, the most plausible answer to the question of how well African Americans would have done, had it not been for centuries of oppression and discrimination, is surely “about as well as other groups in the USA.” This response suggests a forward-looking use of distributive justice arguments: they could be adapted to fill out the idea of “more nearly equal.” That is to say, the basic principles of distributive justice theory could serve as general guidelines in working out the (always contestable) details of reparation programs and policies. The type of “calculation” involved in this approach is not a putatively objective search for monetary equivalents but a democratic deliberation upon the requirements of equal justice.

In addition to offering a handle on the otherwise unmanageable idea of compensating the damages of racial injustice in the United States, this approach has the added advantage of avoiding the “one-time pay-off” trap. A recurring objection to the tort model of reparation is that under it compensation settles the matter once and for all—so that, for instance, if racial inequalities persisted thereafter, there would be no further recourse. Adapting distributive justice principles to reparations purposes, as I am proposing, sets the standard of reparation in terms of doing “about as well as” or being “more nearly equal to” other groups of citizens and thus blunts that objection.

Finally, though I am arguing that reparations for slavery and segregation ought to be collective in form, the ultimate moral-political basis both for marking the original injustices and for endorsing present claims to redress them is the equal respect and treatment due to individual members of our moral-political community. The other face of this requirement is the duty of each citizen to see that equal respect and treatment are in fact extended to all citizens, and to support measures designed to correct situations in which that is not the case. But although the approach proposed here is clearly compatible with appealing to individual civic responsibility to heal the wounds of past injustice, it appeals directly to a notion of *collective civic responsibility*.

### III. COLLECTIVE RESPONSIBILITY

The approach to collective responsibility I defend supports the RCC strategy of targeting corporate agents; that is, legally constituted bodies that persist over time despite changes in personnel. In justifying that approach here, I focus on the agent that is central to the moral-political case for reparations:

the United States. Treating the United States as a corporate agent distinguishes this approach from arguments for national responsibility, like David Miller's, that turn on an idea of intergenerational communities, such as peoples or nations, whose persistence is conceived primarily in cultural rather than legal-political terms.<sup>14</sup> It is closer in this respect to the approach of Janna Thompson, who stresses the organized character of certain intergenerational groups, particularly the statelike character of politically organized groups such as nations.<sup>15</sup>

In my view, the case for slavery reparations should make systematic use of the facts that the United States is a nation-*state* with an unbroken constitutional history and that African Americans were denied equal protection under the law for most of that history. Without this emphasis, arguments for slavery reparations may founder on the further fact that the nonblack population of the United States derives largely from waves of post-Civil War immigration—including the most recent, post-civil rights wave, which now comprises some thirty to forty million foreign-born citizens and fifty to sixty million first- or second-generation Americans. In regard to a population of this sort, it makes little sense, I think, to construct arguments for reparations turning on the claim that all nonblacks have contributed to the continuance of black inequality or at least have benefited from it. Even supposing that were true in some sense, how could we begin to conceptualize the infinitely complex attributions of *differential* responsibility involved? And arguments that eschew individual attributions of responsibility for conceptions of national responsibility centered around *cultural* continuity, and on the sense of identification with the past it brings, lose much of their force when applied to a community shaped by successive waves of multicultural immigration. This is not true, however, of arguments that turn, rather, on the constitutional continuity of a legal-political community.

The approach I defend holds that there is *a collective responsibility of U.S. citizens as such* for the enduring harms to African Americans that have resulted from legally sanctioned injuries of race under earlier regimes. Each generation of citizens, whether native- or foreign-born, inherits the burdens of membership—the national debts, as it were—together with the benefits of membership. Any conceptually coherent case for bestowing upon incoming citizens full rights to the national territory, public institutions, and the like, which are the accumulated results of the actions of earlier generations of citizens—including the actions of civil rights activists, who have bequeathed to all minorities fairer structures of opportunity—is at the same time a case for their inheriting the liabilities incurred by those earlier generations.<sup>16</sup> Thus, the responsibility to rectify the continuing harms of past racial injustice accrues to the political community as a whole, not only because those wrongs

were generally state sanctioned and frequently state implemented but also because present members who share inherited benefits must by the same logic share inherited liabilities. Our national inheritance was in considerable part unjustly acquired at the expense of African Americans, and, as a result, it is now unfairly distributed in respect to them. The issue here is not whether individual citizens' ancestors owned slaves, or whether they have personally benefited from discrimination against blacks, but that they now share in and benefit from an unjustly acquired and unfairly distributed national inheritance. *This is not a matter of collective guilt but of collective responsibility; and reparation is not a matter of collective punishment but of collective liability.*

#### IV. CAUSAL CONNECTIONS

A crucial component of both the moral-political and the legal cases for reparations is the claim that the inequities from which African Americans presently suffer are largely the consequence of a history of racial oppression that began with slavery. Among the prerequisites for a meritorious legal claim for redress, Roy L. Brooks lists the requirements that members of the victim group continue to suffer harm and that this harm be causally connected to past injustice.<sup>17</sup> And Robert Westley, in his discussion of the legal basis for slavery reparations, notes, "The burden of the reparations argument, for which material inequality may serve as a first predicate, is to show that current disparities in material resources are causally linked to unjust and unremedied actions in the past."<sup>18</sup> It was this requirement that led Boris Bittker, in his early (1973) and influential examination of the legal case for black reparations, to recommend that African Americans seek reparations not for slavery—which, he held, lay too far in the causal past to be a plausible basis for reparations claims—but for the postemancipation system of segregation and discrimination that persisted into the 1960s and could thus be causally related to contemporary harms.<sup>19</sup> For present purposes, the burdens of, and restrictions upon, causal attributions in legal settings, as well as their legal implications for reparations claims, may be left to the judicial processes now underway. My concern here is with the *morality and politics* of reparations for slavery, and significant causal relations can be convincingly established for these purposes, in the sense that *reasonable people could not reasonably reject the evidence and arguments for them.*

To some, these relations seem so obvious as not to require detailed demonstration, while to others they seem too improbable to permit thereof. As a

result, both academic discussions and public debates about reparations are regularly impaired by a rather loose to-ing and fro-ing around causal claims. Part of the problem is the very deep-seated, individualistic bent of moral and political discourse in the United States. For historical reasons too complicated to go into—including the enormous influence of the immigrant experience in our culture—the belief that people’s lives are largely what they make of them, that individuals generally get what they deserve in this “land of equal opportunity,” is so deep and pervasive as to make social-structural factors in success and failure nearly invisible. Thus the view that black socioeconomic disadvantages are largely the result of character defects—of African Americans possessing too few of the individual virtues that enabled successive waves of immigrants to overcome prejudice and work their ways up—is widespread among nonblacks and figures importantly in the low level of support for race-conscious programs designed to address them.<sup>20</sup> Another part of the problem is the continually shifting and overly narrow foci of the causal arguments brought into the reparations debate. Thus, for instance, the vast racial disparity in wealth has recently become a focal point of causal attribution.<sup>21</sup> But like most other particular indices of racial inequality, that is too one dimensional and symptomatic to clarify the complicated etiology of the American racial disease. Without in any way claiming to be getting back to “first causes,” I will sketch below (in paragraphs 2 and 3) a causal argument better suited to reparations purposes, one that better illuminates the manifold, entwined, historical roots of the problem. This is by no means the only such argument to be made. And my treatment of it is not original. It is merely an attempt to put variously known things together in a perspicuous way, so as to illustrate *the kind of causal accounts* we should be constructing. But first, a few general remarks (in paragraph 1) concerning *how* we might best approach these matters.

1. The general point of departure for present purposes is the system of racialized domination and exploitation that was already firmly in place at the time of the American Revolution and continued in various forms—most prominently, in pre-Civil War institutions of chattel slavery and post-Civil War institutions of a racial caste system—for another two centuries. As the opening chapter of the *explanatory narrative* required to account for the enduring injuries of race, slavery sets the stage for all that follows. It was in and through slavery that the hierarchy of privilege and respect, with blacks at the bottom, was put in place; that the racist attitudes that stigmatized blacks as inherently inferior and fit only to serve became second nature; and that opportunities open to all other arrivals on America’s shores were closed to blacks.<sup>22</sup> In short, the later chapters of the story of race relations in the United

States—the Civil War and Emancipation, Reconstruction and Jim Crow, the Civil Rights movement and urban black ghettos, and so forth—simply cannot be understood apart from that beginning.

To establish the continuing responsibility of a nation to repair continuing harms due to past injustices, one need not—and in the case of injustices that lie far enough in the past, often cannot—draw a causal line *directly* from those past actions to present harms. A more complex narrative is called for—for instance, one in which the repeated refusal to acknowledge past wrongs and the continued failure to remedy them are themselves fresh wrongs that compound the original one, in which deep-seated racist attitudes are continually expressed in new and different ways, and in which hierarchies of power and privilege are continuously maintained in ever-changing circumstances. What we are depicting here is “the history of a relationship,” which in the case of whites and blacks in the United States is a “history of disrespect” and domination.<sup>23</sup> Earlier episodes are linked to later ones as manifestations of the same system of racialized domination and the same attitudes of racialized disrespect. The failure to repair the resultant injustices belongs to that same history, and that is how it is experienced and understood by the descendants of slaves themselves. On this approach, the history of racial oppression as a whole is relevant to reparations claims, for it connects earlier with later oppression and ultimately with the racialized character of current inequities. It is, moreover, these persisting injustices and the continuing failure to remedy them that gives that history its moral and political salience.

Now, one might be generally sympathetic to some such account of the role of explanatory narratives in reparations discourse and yet doubt that strong causal links could be forged by their means. In my view, such skepticism is unwarranted. By the usual standards of historical forensics, the evidence for causal links between the past oppression and present situation of African Americans is voluminous and has only to be carefully marshaled for reparations purposes: blacks have been systematically denied equal access to land, jobs, credit, voting rights, trade unions, Civil Service positions, New Deal programs, the GI Bill, public facilities, hospitals, schools, churches, libraries, transportation, recreation, sports, parks, and so forth and so on, all the way to funeral homes and cemeteries. And since many aspects of this cradle-to-grave apartheid system persisted *de jure* into the 1950s and 1960s, their *de facto* persistence thereafter should come as no historical surprise. Let me try now to concretize this general approach by sketching in very broad outline only one such explanatory narrative, but one that is crucial to the reparations debate, in that it seeks to account for the formation and persistence of the urban black ghettos that figure so centrally in the etiology of racial dispar-

ities.<sup>24</sup> If, as Charles Ogletree has emphasized, the central aim of the reparations movement is to help “the poorest of the poor” break the cycle of poverty and discrimination, then the story of the black “underclass” is of critical importance.<sup>25</sup>

2. What has to be explained is the fact that “black [residential] segregation is not comparable to the limited and transient segregation experienced by other racial and ethnic groups, now or in the past. No group in the history of the United States has ever experienced the sustained high level of residential segregation that has been imposed on blacks in large American cities.”<sup>26</sup> The bare essentials are as follows. From the end of the Civil War to the start of World War I, roughly one-half million blacks migrated to the north. Before 1900, however, nothing like urban black ghettos resulted. Ghettoization began with the “great migration” that accompanied accelerated industrialization and urbanization, and the outbreak of war, in the first part of the twentieth century. From 1910 to 1940, roughly 1.8 million blacks migrated from south to north and from farm to city. The reaction of northern whites to this rising tide of black arrivals was a marked upsurge in hostility, violence, and exclusion. “Levels of residential segregation between blacks and whites began a steady rise . . . [and] by World War II the foundations of the modern ghetto had been laid in virtually every northern city.”<sup>27</sup> If the urban black ghettos were largely in place by 1940, during the next three decades they took on many of their contemporary characteristics. From 1940 to 1970 roughly 4.5 million blacks migrated from south to north. Through the 1940s they were moving to urban areas with rather fixed and limited supplies of housing, and ghetto expansion proved to be difficult. During the 1950s and 1960s, by contrast, there was a boom in residential housing construction and a rapid suburbanization of the white middle class, who deserted the inner cities in increasing numbers. The combination of white suburban flight and continuing black migration (nearly 3 million during these two decades) led to a massive increase in the size of the ghettos. Between 1950 and 1970 the percentage of blacks more than doubled in most large northern cities, while the index of “residential dissimilarity” (the segregation measure) remained extraordinarily high. Blacks and whites lived in almost wholly separate neighborhoods, and in increasingly separate worlds.

This brief survey of a few important dates and figures outlines a process but offers no real explanation for it, other than a passing mention of white racial prejudice. In addition to the aggregate effects of unorganized actions ranging from home sales to random violence and spontaneous riots, important factors in the formation of the black ghetto (1910-1940) included organized communal violence that drove blacks, particularly integrated elites, out

of white areas and into the emerging black ghettos (e.g., bombings, targeted violence, white race riots); the formation of “neighborhood improvement associations” to maintain the residential color line (e.g., through lobbying for zoning changes or boycotting businesses and real estate agents that served blacks); the implementation (typically through such associations) of “restrictive covenants” (enforced by the courts until 1948) excluding blacks from purchasing specific properties; the activities of local real estate boards in maintaining residential color lines, supported by official policies of the National Association of Real Estate Brokers;<sup>28</sup> and the refusal of most white-owned banks to make home loans to black applicants.

For my purposes, however, the critical factor was *the expanded role of the federal government in promoting racial segregation*, which was due in no small measure to the disproportional power of Southern Democrats in Congress. Desmond King provides a detailed account of how segregation and discrimination were institutionalized in the federal system after 1913, and of how the federal government became one of the principal instruments for propagating them throughout the country, especially through its segregated programs of assistance and training, including those of the New Deal.

In the decades before the Civil Rights Act of 1964, the Federal government used its power to impose a pattern of segregated race relations among its employees and, through its programmes (such as housing and employment services), upon the whole of American society well beyond the Mason-Dixon line. This pattern structured the relationship between ordinary Black Americans and the US Federal government—whether as employees in government agencies, inmates or officers in Federal prisons, inductees in the Armed Services, consumers of federally guaranteed mortgages, job-seekers in USES [United States Employment Service] offices, or visitors to National Parks in which the facilities were segregated (or often non-existent for Black Americans). In all these instances, segregation did not imply just separation but also profound racial inequality.<sup>29</sup>

In particular, the federal programs and agencies created to increase home ownership were at the same time mechanisms for excluding blacks and thus blocking a, if not the, principal avenue of wealth accumulation in the American middle class.<sup>30</sup>

The Home Owners Loan Corporation (HOLC), which introduced the widespread use of long-term mortgages with uniform payments, also initiated and institutionalized the practice of “redlining” black areas; that is, of routinely assigning them the worst ratings (coded red) of risks associated with loans in various neighborhoods. In this way, the HOLC “lent the power, prestige, and support of the federal government to the systematic practice of racial discrimination in housing.”<sup>31</sup> And HOLC practices became the model for other credit institutions, private and public. Thus, during the 1930s and

1940s private banks relied heavily on HOLC procedures, and even on its “Residential Security Maps,” in designing their own “redlining” procedures. Moreover, the HOLC rating system decisively influenced the discriminatory underwriting practices of the Federal Housing Administration (FHA) and the Veterans Administration (VA), which, during the 1940s and 1950s “completely reshaped the residential housing market of the United States. . . . Loans made by the FHA and the VA were a major impetus behind the rapid suburbanization of the United States after 1945.”<sup>32</sup> The overall effect of these discriminatory lending and underwriting practices was not only to lock blacks into ghettos but also to dry up the flow of capital into those areas, which led to steep declines in property values and widespread patterns of deterioration.

And that brings us to another chapter in the formation of the urban black ghetto as we know it today: “urban renewal.” During the 1950s and 1960s, local officials, representing the interests of middle- and upper-class urban whites, sought relief for troubled cities from the federal government and received it in the form of federal funds for urban renewal; that is, for purchasing, clearing, and redeveloping slum properties, while relocating their inhabitants to public housing. These programs were used by local elites “to carry out slum clearance in growing black neighborhoods that threatened white business districts and elite institutions. . . . As a result, projects were typically built on cleared land within or adjacent to existing black neighborhoods. . . . The replacement of low-density slums with high-density towers of poor families also reduced the class diversity of the ghetto and brought about a geographic concentration of poverty that was previously unimaginable. . . . This new segregation of blacks—in economic as well as social terms—was the direct result of an unprecedented collaboration between local and national government.”<sup>33</sup>

3. By the time of the urban riots of the 1960s, black isolation in all major American cities was significantly greater than that of any other ethnic group. And the systematic disinvestment in black communities, aided and abetted by federal agencies, as well as the concentration of high-density housing projects within them, constructed by local authorities under federal programs, brought about an intersection of race and class that was not only unparalleled but also self-perpetuating. In that situation, the economic upheavals of the 1970s—the long and deep recession, the decline in manufacturing, the suburbanization of employment, and the expansion of the low-wage service sector for unskilled workers—seriously undermined the capacity of ghetto inhabitants to support the formation of families.<sup>34</sup>

One does not have to be a sociologist to appreciate the profound, and till now unbreakable, connection between the geographic concentration of pov-

erty in urban black ghettos and the deterioration in them of educational facilities, employment opportunities, health care delivery, security of person and property, and so on. Residential segregation “systematically undermines the social and economic well-being of blacks. . . . [It] concentrates poverty to build a set of mutually reinforcing and self-feeding spirals of decline into black neighborhoods. . . . The damaging social consequences that follow from poverty are concentrated as well, creating uniquely disadvantaged environments that become progressively isolated . . . from the rest of society.”<sup>35</sup> In particular, residential segregation concentrates and amplifies the negative effects of economic downturns, so that black neighborhoods suffer a disproportionate share of the socioeconomic deprivation caused by such slumps.<sup>36</sup>

In short, the urban black ghetto is the nodal point of a causal nexus that created and perpetuates an urban black “underclass.” The historical-sociological account of the rise and reproduction of the former also explains the existence and persistence of the latter—including the deep cultural and psychological alienation from mainstream America, which neoconservative intellectuals and, unfortunately, many of our fellow citizens point to as the cause rather than the effect of black deprivation. “Such high levels of racial isolation cannot be sustained without creating a profound alienation from American society and its institutions. . . . Spatial isolation leads to social isolation [and] . . . this lack of connection to the rest of society carries profound costs”<sup>37</sup>—costs in personal contacts and role models, skills and habits, motivations and aspirations, attitudes and values, and so on and so forth. Those who blame the victims of hypersegregation for the culture of hypersegregation are *getting the causal story backward*. The institutionalized, federally sanctioned and implemented discrimination that was instrumental in creating the black ghetto and the black underclass was largely the work of individual and corporate agents of the white majority, which was thereby continuing through transforming the institutionalized domination over blacks it inherited from slavery. And now, it appears, those ghettos and that underclass are self-reproducing, linked in a causal feedback loop of race and poverty. They will not disappear themselves, without the political will to repair the damages of slavery and segregation.

## V. PUBLIC MEMORY

From a moral-political perspective, it can be argued that, other things being equal, redressing the injuries to a group from past wrongs done them has a certain priority over addressing the equity claims of other disadvantaged groups who are not victims of past injustice, because it has the weight

of both distributive and corrective justice on its side. In the case at hand, not only do African Americans suffer from entrenched inequalities but also those inequalities are largely the consequence of injuries historically inflicted upon them by representative agents of the white majority. Moreover, given the extent and intensity of the disadvantages suffered by the black underclass today, equity arguments alone would dictate giving them high priority.<sup>38</sup> From a practical-political standpoint, however, race-targeted government programs have been under attack and on the decline here for several decades, and the class politics favored by many progressive activists and intellectuals appears at present to have little chance of success. In this situation, the struggle for reparations is perceived by many of its proponents to be strategically the most promising route to reconstruction politically open at this time, but there are also a number of strategic considerations weighing against it.

I do not take up these issues here,<sup>39</sup> and I do not consider the comparative historical and sociological evidence, which suggests that reparations are a limited means of *materially* repairing the effects of massive, systematic injustices.<sup>40</sup> That same body of evidence also suggests that they can be effective as *symbolic* measures, especially when an attempt, at least, is made also to provide material redress. In my concluding remarks, I want to consider very briefly *the symbolic dimension of the struggle for slavery reparations itself*. To be sure, the principal symbolic fruits of reparations—public acknowledgments and public apologies, times and places of official commemoration, museums and exhibitions, revised textbooks and curricula, a strengthening of civic trust and solidarity, and so on—could come only after reparations measures were in place and at work. But that is not the situation in which we now find ourselves.

In “*Vergangenheitsbewältigung* in the USA,” I argued that the politics of race in America was trapped in a vicious circle of racial injustice and racial resentment, and that we might, perhaps, break out of it through an intense and prolonged “national conversation on race,” if only one could be set in motion.<sup>41</sup> I want now to suggest that the reparations movement could ignite a public debate in our mass-mediated public sphere and that this could eventually prove to be of great “public-pedagogical” significance in raising and reforming public historical consciousness.<sup>42</sup> The structured forums provided by public trials, public hearings, commissions of inquiry, and the like are settings in which the massive gap between professional historiography and public memory might be narrowed somewhat; that is to say, in which the dismal state of public awareness of the actual history of slavery and segregation in the United States, of the extent to which it has shaped our culture and institutions, and of the pervasive structural inequalities it has left behind could be improved.<sup>43</sup>

Of course, among African Americans, existing inequities are widely understood to be the consequence of systematic historical injustice. And black activists and intellectuals have repeatedly set the critical narrative of American history behind that view over against the official “master narrative” of the birth and steady growth in the American Republic of “liberty and justice for all.” But the master narrative has dominated public historical consciousness.<sup>44</sup> Versions of it have been disseminated in every generation and to every new wave of immigrants—through schooling, citizenship requirements, public celebrations, museums and memorials, the mass media, and just about every other vehicle of political culture. On the other hand, versions of the critical narrative have, since the 1960s, become firmly established as the dominant view in the professional historiography of slavery and its aftermath. As a result, critical narratives of slavery and segregation now have the weight of scholarship on their side, whereas for almost a century after the Civil War, views much more sympathetic to the South’s “peculiar institutions” predominated among professionals as well.<sup>45</sup> Debates about competing national narratives are contests for public memory, with the potential to reshape political culture and thereby to influence political practice.<sup>46</sup> In regard to the history of racial oppression in America, a public debate of this kind is desperately needed, and the filing of reparations lawsuits may set one in motion.

The continued failure of mainstream politics seriously to address racial inequities has moved reparations activists to juridify them. And though the adversarial nature of lawsuits seems to speak against using them to initiate a “conversation,” other aspects of judicial proceedings—such as the use of expert witnesses and the conduct of extensive discovery—speak for their possible value in public education.<sup>47</sup> One might reasonably expect that, under more controlled conditions of argumentation, the weight of historical scholarship and empirical inquiry would eventually make itself felt, and with the support of a broader political movement, one might reasonably hope that this would eventually have an influence on the minds, and maybe even the hearts, of the wider American public. To be politically efficacious, this process need not result in unanimity of public historical consciousness. There is ample space for competing interpretations within the parameters set by historical scholarship, even after the deep ignorance and widespread error so politically efficacious at present have been alleviated. In the end, the invigoration of public memory and the ongoing conflict of interpretations occasioned by it would, in democratic politics, have to take effect through winning over a majority to the critical narrative. Thus my line of argument involves a “political conjecture” that, were the reparations debate to occupy center stage in the public sphere, democratic deliberation would eventually

reflect more accurate views of our interconnected history of racial domination and disrespect—and this “symbolic” gain might be achieved even if the pursuit of “material” reparations failed.

There are, to be sure, a number of considerations weighing against this conjecture, and I close by remarking on three of the more obvious considerations, but only very briefly and merely to signal possible lines of response: (1) passion and interest versus knowledge, (2) division versus reconciliation, and (3) victimization versus emancipation.

1. It might be objected that any degree of optimism concerning the likely political-cultural effects of a prolonged and intense debate about reparations for slavery could only rest on overestimating the “cognitive” dimensions of racism—ignorance and false belief, for example—and underestimating its “noncognitive” dimensions—for instance, the protection of group interests, the maintenance of social dominance, ideological commitments, prejudices, psychopathologies, and the like. Insofar as racism feeds off such sources, the objection runs, it will prove to be largely invulnerable to any form of “public education.” There is no point denying that such factors are at work in our racialized politics or that dealing with them requires a politics of race that goes far beyond a politics of memory. My ethical-political line of argument requires only that knowledge and belief have *some* independent force, that they play *some* role in public deliberation concerning racial issues, and that an extended debate could have *some* effect on them—the more, obviously, the better for the argument. Moreover, the relative political weight of factors such as the state of public awareness, on one side, and factors such as vested interests and entrenched prejudices, on the other, is not a matter that can be determined independently of the political process itself, and it should not be forgotten that the politics of memory associated with reparations struggles has its own, often very powerful, affective dimensions.

2. Critics of slavery reparations frequently object that pursuing redress only for African Americans will inevitably exacerbate racial divisions and that this will seriously limit the prospects of success. A study of American history reveals, the objection goes, that black emancipation has advanced only when a critical mass of the nonblack majority has joined forces with African Americans in resisting racial oppression. That may be, but the same history also reveals that such coalitions have to be built in and through the process of struggle itself. The broad support that the civil rights movement of the 1960s eventually enjoyed, for example, was certainly not there at the start. Thus, whether a reparations movement could eventually gain similar support is a question to be decided by political practice not by scientific prediction: it depends on what the actors involved actually do. Furthermore, the

sort of transracial "class politics" promoted as a less divisive alternative by many progressive critics of the reparations movement does not appear to be an effective possibility in the present political climate.<sup>48</sup> And even if it were, it would not address the specific injuries of race, material and symbolic, that are the legacy of slavery and segregation: not all the problems African Americans face are class problems. Finally, given the repeated failure of class politics in recent decades, reparations advocates might well ask how many more generations of blighted ghetto life should be endured before taking a different path. The judicial strategy of the RCC may provide a way around existing political roadblocks. And the racial divisiveness that reparations lawsuits may initially exacerbate is part of the very problem that the reparations movement aims to deal with. The racial resentment that continues to bubble below the surface of national life has to be addressed head on, and a national reparations debate is one way of doing that.

3. A line of criticism of reparations politics frequently encountered among African Americans is that it is a form of racialized identity politics that reinforces rather than reduces the essentialism at the heart of modern racism and that promotes a sense of victimization that is culturally and politically debilitating.<sup>49</sup> This is, of course, a problem facing many historically oppressed groups seeking justice, particularly those first constructed as social groups through that very oppression. But it makes little political sense to maintain that a group identification forged during centuries of brutal oppression could or should be dissolved while the injuries still persist. To proscribe race consciousness for remedial purposes without removing the racial inequities produced through racial classification for purposes of domination would be a fateful political error.<sup>50</sup> Moreover, as the abolitionist and civil rights movements demonstrate, it is a vast oversimplification to claim that the race consciousness forged in struggles against racial oppression merely reinforces a consciousness of victimization. Indeed, depending on circumstances, such struggles may well enhance a group's sense of effective agency and transformative power.

Unremembered, unacknowledged, and unredressed historical injustices on the scale of slavery and segregation cannot help but demoralize the common life of a nation, as they have ours.<sup>51</sup> Reparations harbor the potential, at least, for reshaping our public memory and remoralizing our political culture. Though pursuing them surely runs the risk of exacerbating racial tensions, it also promises to promote racial justice by helping to convince the majority that millions upon millions of desolate lives were not "their own fault" but a national tragedy for which the nation as whole bears responsibility. Given the alternatives, or rather the lack thereof, the promise may be worth the risk.

## NOTES

1. Hannah Arendt, "Preface to the First Edition," in *The Origins of Totalitarianism* (1950; repr., New York: Harcourt Brace Jovanovich, 1973), ix.

2. The codirectors of the RCC are Professor Charles Ogletree of Harvard Law School and Randall Robinson, founder and president of TransAfrica. See Charles J. Ogletree, "Litigating the Legacy of Slavery," *The New York Times*, March 31, 2002, section IV, p. 9; and "Reparations: A Fundamental Issue of Social Justice," <http://www.black-collegian.com/news/special-reports/>. The RCC filed its first suit in March 2003 on behalf of the living survivors of the 1921 Tulsa Race Riot. In 2002 a class-action suit was filed in New York by another group of lawyers on behalf of Deadria Farmer-Paellmann and millions of slave descendants, and against a number of private corporations that profited from slavery. It was subsequently consolidated with similar reparations lawsuits filed in a number of other states and brought before the U.S. District Court in Chicago, where the judge ruled against the plaintiffs, "without prejudice," suggesting that the legislative and executive branches of the federal government were the proper addressees for slavery reparations claims. The RCC approach, which has the broad backing of the National Coalition of Blacks for Reparations in America (N'COBRA) and other reparations advocacy groups, is the focus of my remarks.

3. See John Torpey, ed. *Politics and the Past: On Repairing Historical Injustices* (Lanham, MD: Rowman & Littlefield, 2003); and Pablo de Greiff, "The Role of Reparations in Transitions to Democracy" (unpublished manuscript, International Center for Transitional Justice, New York, 2003). De Greiff is currently editing a multivolume ICTJ study on reparations.

4. See Author' Note. I discuss some of the practical-political issues in "Repairing Past Injustice: Remarks on the Politics of Reparations," in *Reparations for African Americans*, ed. H. McGary (forthcoming).

5. See Rodney C. Roberts, ed., *Injustice and Rectification* (New York: Peter Lang, 2003). I use the term *reparation* in the general sense of repairing a harmful situation produced by a wrongful action. Thus it is not meant to contrast with, but is to include, "restitution," "compensation," "rehabilitation," "reconciliation," and other concerns of rectificatory justice. This general usage is not unusual; it is adopted, for instance, in Torpey, *Politics and the Past*, and in Roy L. Brooks, ed., *When Sorry Isn't Enough* (New York: New York University Press, 1999).

6. The qualification "morally permissible" is meant to signal the sorts of issues raised by Jeremy Waldron in "Superseding Historic Injustice," *Ethics* 103 (1992): 4-28. In general, I agree with those who argue that judgments concerning reparations in particular circumstances have to be made "all things considered." In particular, other legitimate moral-political claims—for instance, claims having to do with property or equity—have to be taken into account and weighed against reparations claims; and rectificatory claims *may* be overridden by conflicting moral-political claims. To be sure, in the case of African Americans, the demands of corrective and distributive justice tend to be mutually reinforcing rather than conflicting.

7. Bernard Boxill, *Blacks and Social Justice* (Totowa, NJ: Rowman & Allenheld, 1984), chaps. 4-7. Though Boxill acknowledges their complementarity (p. 171f), his treatment of them differs somewhat from the one proposed here: whereas I treat both the backward- and forward-looking arguments as conceptually related to past injustice, he reserves that to the former and casts the latter in terms of social utility (p. 168). On my account, the goal of making amends for past wrongs in present circumstances includes future-oriented considerations about improving the situation that resulted from them. The aim of redressing the consequences of past wrongs is what marks these forward-looking considerations as matters of rectificatory rather than distributive justice, with which they may well substantively overlap. I am grateful to Paul Stern for pushing me to clarify this point.

8. Boxill, *Blacks and Social Justice*, 152-54. In thus arguing for group compensation, there is no need to revoke the claim that the moral-political basis for reparations lies ultimately in past violations of individuals' rights and liberties: *individuals* were denied equal respect and treatment *because of their group classification*.

9. Janna Thomson, *Taking Responsibility for the Past: Reparation and Historical Injustice* (Oxford, UK: Polity, 2002).

10. See Robert Gooding-Williams, "Race, Multiculturalism, and Democracy," *Constellations* 5 (1998): 8-41.

11. Orlando Patterson, *The Ordeal of Integration* (Washington, DC: Civitas/Counterpoint, 1997), 121-22.

12. See, for instance, Andrew Valls, "The Libertarian Case for Affirmative Action," *Social Theory and Practice* 25 (1999): 299-323; and Dalton Conley, "Calculating Slavery Reparations: Theory, Numbers, and Implications," in *Politics and the Past*, ed. Torpey. Valls presents his own case for black reparations in "Racial Justice as Transitional Justice," *Polity* 36 (2003): 665-83.

13. Boxill, *Blacks and Social Justice*, 153.

14. See David Miller, "Holding Nations Responsible," *Ethics* 14 (2004): 240-68, and "Inheriting Responsibilities," <http://users.ox.ac.uk/magd1534/JDG/miller.pdf>. The former essay regards nations as groups of contemporaries, while the latter views them as intergenerational communities sharing common national identities. There is some overlap between the arguments of the latter and my arguments here, but Miller explicitly rejects treating states as the primary bearers of historical responsibility, reserving that role to nations in his primarily cultural sense.

15. See note 9.

16. In stressing the legal-political basis of national responsibility, this approach differs from—but is not necessarily incompatible with—approaches that emphasize the symmetry between national pride and national shame, so that, for instance, identifying with the past accomplishments of one's nation is morally inconsistent with refusing to acknowledge responsibility for harmful past actions. See, for instance, F. Abdel-Nour, "National Responsibility," *Political Theory* 31 (2003): 693-719.

17. Brooks, *When Sorry Isn't Enough*, 7.

18. Robert Westley, "Many Billions Gone," *Boston College Law Review* 40 (1998): 439.

19. Boris Bittker, *The Case for Black Reparations* (New York: Random House, 1973).

20. See Donald R. Kinder and Lynn M. Sanders, *Divided by Color* (Chicago: University of Chicago Press, 1996).

21. It is used in this way by Robert Westley, for instance, in "Many Billions Gone," 439-45. The case he makes there draws heavily on Melvin Oliver and Thomas Shapiro, *Black Wealth/White Wealth* (New York: Routledge, 1997), as do many similar arguments.

22. See Glenn C. Loury, *The Anatomy of Racial Inequality* (Cambridge, MA: Harvard University Press, 2002), for an interesting account of this process. Loury himself opposes reparations, as he makes clear in "Trans-Generational Justice—Compensatory vs. Interpretive Approaches," <http://www.queensu.ca/conferences/reparations/>.

23. Janna Thomson provides a convincing presentation of this approach in *Taking Responsibility for the Past*, where she characterizes such a narrative as "an interconnected history of wrongs" (p. 81). But she does not think it can do the causal job I shall assign it (pp. 104-107)—mainly owing to her more legalistic understanding of causal responsibility, and because, as noted above, her socially constructed groups, even when persecuted as groups, do not have the same moral-political standing as "organized" communities such as nations.

24. The sketch offered here draws on the work of Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and the Making of the Underclass* (Cambridge, MA: Harvard

University Press, 1993); and Desmond King, *Separate and Unequal: Black Americans and the US Federal Government* (Oxford, UK: Oxford University Press, 1995).

25. Ogletree, "Litigating the Legacy of Slavery."

26. Massey and Denton, *American Apartheid*, 2. On page 49 they point out that by 1970 the lowest level of spatial isolation observed for blacks in any major city, north or south, was greater than the highest isolation indexes ever recorded for any other groups in any American city.

27. Massey and Denton, *American Apartheid*, 30-31.

28. Until 1950, the code of ethics of the National Association stated, "A Realtor should never be instrumental in introducing into a neighborhood . . . members of any race or nationality . . . whose presence will clearly be detrimental to property values in that neighborhood" (cited in Massey and Denton, *American Apartheid*, 37).

29. King, *Separate and Unequal*, 4.

30. As noted, arguments for reparations often single out the black-white wealth gap as a key inequity, the linking of which to past racial discrimination would justify remedial action. The approach I am sketching incorporates that gap in an expanded narrative.

31. Massey and Denton, *American Apartheid*, 52.

32. Ibid., 53. The 1939 FHA *Underwriting Manual* states, "If a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same social and racial class" (cited by *ibid.*, 54).

33. Ibid., 55-57.

34. A very influential analysis of this process was provided by William Julius Wilson, *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy* (Chicago: University of Chicago Press, 1987). Massey and Denton's analysis differs from Wilson's by making residential segregation the key variable.

35. Massey and Denton, *American Apartheid*, 2.

36. See *ibid.*, 118-25, for a statistical model of this amplifying effect.

37. Ibid., 160-61.

38. A similar argument could be made in regard to Native Americans.

39. I discuss some of them in "Repairing Past Injustice: Remarks on the Politics of Reparations."

40. For a discussion of this, see Pablo de Greiff, "The Role of Reparations in Transitions to Democracy."

41. See Author's Note.

42. Laura Hein makes use of the idea of public pedagogy in her discussion of Japanese reparations for atrocities perpetrated during World War II, in "War Compensation: Claims against the Japanese Government and Japanese Corporations for War Crimes," in *Politics and the Past*, 127-47.

43. I discuss this gap in section II of "*Vergangenheitsbewältigung* in the USA."

44. Lawrie Balfour discusses the links between our "national amnesia" concerning the history of racial oppression and our failure to address its legacies in "Unreconstructed Democracy: W.E.B. Du Bois and the Case for Reparations," *American Political Science Review* 97 (2003): 33-44.

45. See "*Vergangenheitsbewältigung* in the USA," 631-33, for an overview and references.

46. "Public memory" is obviously a broad metaphor for socially constructed representations of the past, which may be decisively affected by historical scholarship, as they were in the German *Historikerstreit* of the 1980s. See the discussion of this in "*Vergangenheitsbewältigung* in the USA."

47. This is a point emphasized by Charles Ogletree and other reparations advocates.

48. See "Repairing Past Injustice" for relevant references and discussion.

49. See, for example, Adolph Reed, "The case against Reparations," *The Progressive*, December 2000, 15-17; and the pieces by Armstrong Williams, John McWhorter, and Shelby Steele in *Should America Pay?* ed. Raymond A. Winbush (New York: HarperCollins, 2003).

50. See Tommie Shelby, "Foundations of Black Solidarity: Collective Identity or Common Oppression?" *Ethics* 112 (2002): 231-66. See also Lani Guinier and Gerald Torres, *The Miner's Canary* (Cambridge, MA: Harvard University Press, 2002), who make a case for "enlisting race" rather than ignoring it when building multiracial coalitions.

51. I am borrowing this idea of a demoralized common life from Thompson, *Taking Responsibility for the Past*, 68.

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