A Case for African American Reparations: The Inheritance of Racist Hierarchies and Moral Harm

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Cover Page Footnote
Written for Stephen Darwall's course PHIL 462: The Morality of Reparations.
One hundred fifty-six years after the abolition of slavery, the United States has yet to make any meaningful attempt to give reparations to African American descendants of slavery. In addition, current scholarship on the moral justifications for reparations has primarily focused on compensating Black Americans today for capital or property losses they inherited from their enslaved ancestors while neglecting the issue of repairing psychological harms and racist power structures that continue to be reinforced and recreated in contemporary America. In this paper, I will critique the Lockean inheritance argument for reparations, which was notably rearticulated and defended by Bernard R. Boxill, who declared in his 2002 paper that “John Locke, if he were alive today, would support a case for reparation for African Americans based on the enslavement of their slave ancestors.”

I argue that the Lockean inheritance argument laid out by Bernard R. Boxill in support of reparations is successful in justifying reparations for a limited set of wrongs, namely, property-based harms such as wage theft or property loss. But when it comes to justifying reparations for non-property-based harms such as dignity loss or bodily violations, it becomes harder to justify why the moral debt created by the harm can be inherited by the descendants of both the victim and the wrongdoer.

In this paper, I will argue that regardless of whether the moral debt can be inherited, moral harm can be. Where moral debts are inherited through a process of legal transmission of property claims, I will show how moral harm can be inherited through an unbroken chain of causal dependence, linking harm in one generation to that in another. I will first show that a narrow conception of inheritance as property-based and merely legal is insufficient to justify reparations for non-property-based harms such as dignity loss or bodily violations. Then, I will draw upon James Baldwin’s notion of history to explain the collective and structural nature of non-material harms caused by racial injustice. I will focus on how racist hierarchies of desert and value are historically transmitted from generation to generation. These non-material injustices will continue to endure if not proactively repaired. Thus, I will explain why even living non-Black Americans with no individual ethical responsibility in original wrongdoing against African Americans in the United States — racial injustices such as slavery, lynching, segregation, police brutality or mass incarceration — have an obligation to repair the ongoing, present-day reproductions of past injuries. Reparations are owed to repair the present system of racialized power in this country that chronically undervalues Black labor, property, culture, and lives, to the advantage of White labor, property, culture and lives.

The Lockean argument for reparations is based on the idea that if a person can inherit property, they can inherit debts on that property as well. Similarly, from the victim’s point of view, since descendants of victims can inherit property, so too can they inherit credit owed to their ancestors. Locke argues that a conqueror who fought against an unjust force has the right to claim reparations for the damages and costs of the war from the conquered who inherited the estates of those who unjustly started the war (ch. 16, sec. 182-183). Boxill extends this argument and claims that present-day African Americans have a claim based on inheritance to assets of their ancestors, and therefore a claim on unpaid debts owed by the estates of slave owners’ descendants (Boxill 74). Because the original victims’ right of compensation was never discharged, it is inherited, passing from generation to generation to living descendants.

This argument justifies reparations for wage and property theft that occurred during the period of American chattel slavery, owed by descendants of slaveowners to descendants of slaves. Slaves were robbed of wages and excluded from land ownership in a way similar to how the just conquerors in Locke’s argument were forced to deplete their property defending themselves in an unjust war. Thus, in both cases the victim is owed property reparations. Because the

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By Ko Lyn Cheang

ABSTRACT

In this paper, I will argue that living White Americans with no individual ethical responsibility in original wrongdoing such as slavery, segregation and mass incarceration against African Americans in the United States have an obligation to repair the ongoing, present-day reproductions of past injuries. Using the Lockean inheritance argument for reparations laid out by Bernard R. Boxill as a starting point, I will show how a narrow conception of inheritance as property-based and merely legal is insufficient to justify reparations for non-property-based harms such as dignity loss or bodily violations. Drawing upon James Baldwin’s notion of history to explain the collective and structural nature of non-material harms caused by racial injustice, I’ll show how racist hierarchies of desert and value are historically transmitted and create obligations for present-day people to repair them.
U.S. government never compensated slaves and has still not yet compensated their descendants (and in fact has explicitly refused to aid African Americans in acquiring housing property through red lining (Rothstein 79-81)), the government ought to pay reparations on the wage and property theft of slaves to their living descendants. Although a Lockean inheritance argument is successful in justifying property reparations, it is inadequate to justify reparations for non-material harms owed to the descendants of the victims. In the context of anti-Black injustice in the United States, examples of non-material harms include the extrajudicial killings of African Americans, the use of violence against peaceful civil rights protestors, use of racial slurs to denigrate, family separation through mass incarceration of Black men, and other autonomy restrictions or dignity violations.

The Lockean argument is limited because it relies on certain features unique to property that are not present in goods like autonomy, dignity, or self-regard. The normative work of the Lockean inheritance argument is done by proving a one-for-one correspondence between the original injury and what the descendants are deprived of in their inheritance, and, similarly, between the original debt owed and what the descendants inherit unjustly. Based on the one-for-one correspondence, we can conclude that the right to compensation and obligation to compensate are inherited generation to generation. This correspondence is possible because money and property are (a) fungible, meaning every dollar is identical to every other dollar (inflation notwithstanding), and (b) zero-sum, where one person’s loss is another person’s equivalent gain (transaction costs notwithstanding). So, a dollar denied to a slave entails a dollar earned by the slave owner, and a dollar passed down to the slaveowner’s children, with interest. Property harms necessarily involve a wrongdoer being unjustly enriched to the exact same extent as the wronged is unjustly deprived of some quantity of rightful property, and this property is inheritable. As such, property harms are a natural suitable candidate for inheritance-based reparations claims.

On the other hand, with non-property harms, there is no such one-for-one correspondence between the original injury and what the descendants are deprived of as a result. It is unclear how a slave’s experience of being subjugated and abused translates into a commensurate loss for their descendants, although I will show later that descendants of racial injustice victims do inherit harm of a different nature than the one in the Lockean argument. Similarly, there is no correspondence between the benefit enjoyed by the original wrongdoer for committing such non-material harms and the inher-

“What one inherits can include experiences, harms, or beliefs, just as white Americans have inherited a psychological aversion to structural change that addresses racial justice.”

To begin with, I explicate how slaveowners gained immense benefits from committing non-economic harms against slaves, such as rape or verbal denigration, and how their gains were an inheritable benefit that living white Americans continue to enjoy today. The acts of rape, forced family separations, verbal abuse, and other
non-economic acts created structural advantages for white Americans and disadvantages for Black Americans through establishing a racial hierarchy marked by the exclusion of Black Americans from the rest of the country’s sphere of moral consideration. As Baldwin put it in the 1965 Cambridge Union debate, “the country which is your birthplace, and to which you owe your life and your identity, has not in its whole system of reality evolved any place for you.”

I’ll examine two kinds of hierarchies that were produced by racial injustice, a perceived desert hierarchy and value hierarchy. First, a perceived desert hierarchy, whose adherents rank people according to how much attention, time, and resources they believe each person deserves and how much moral consideration their problems deserve. I borrow from Baldwin’s notion of desert and posit that the historical mistreatment of African Americans has led people to “believe that they deserve their history” and that “white people deserve the power and the glory” of their history (Baldwin White Guilt 724). A way that people make sense of and justify abuse, horror and bloodshed their race has endured is by adopting a belief that they deserve it and it is just for them to suffer, and likewise for white Americans with their immense relative privilege and comfort. The desert belief takes the form of ‘I deserve this treatment because of my race.’

As belief in the desert hierarchy becomes entrenched, Blacks and whites alike come to internalize a value hierarchy that justifies the notion of race-based desert. In the value hierarchy, white lives, labor, property, and culture are valued more highly than that of African Americans. Black labor is structurally undervalued, Black income is suppressed (Rothstein 154) and Black property and businesses are undervalued relative to their actual worth (Perry). Black lives are treated as less deserving of moral attention, time and resources than white lives, evidenced by systemic underinvestment in them. Baldwin pointed out how the U.S. government and society value a white person’s life more than they value a Black person’s: “the government says, ‘We can’t do anything about it’ — but if those are white people being murdered in Mississippi work farms, being carried off to jail, if those are white children running up and down the streets, the government would find some way of doing something about it.” The Black Lives Matter movement does the same by pointing out the way the U.S. as a nation undervalues black lives; “I continue to be surprised at how little Black lives matter,” wrote Alicia Garza, co-founder of the movement (Lowery). In this hierarchy, whiteness is normativity and superiority, and blackness is criminality, barbarism, and inferiority. The hierarchy has become embedded in individuals’ normative understanding of their self and their history, and thus forms the bedrock of a racialized American value system.

The undervaluation of Black lives creates a relative benefit for white individuals, who are given higher moral regard, therefore prioritized in the distribution of resources, and favored with advantages in every aspect of life. Furthermore, the desert hierarchy allows white Americans to rationalize a race-based right to rule and policies of racial segregation, which systematically advantage whites at the expense of denying opportunities to Black Americans. Consider William F. Buckley, originally a supporter of segregation, who justified it on the basis of a race-based desert claim. Buckley argued in 1957 that “the White community is so entitled” to take measures to prevail “in areas in which it does not predominate numerically…because for the time being, it is the advanced race” (Buckley, Why the South). He claimed that “Negro backwardness” was a fact, and that white Americans were justified in “the right to impose superior mores for whatever period it takes to effect a genuine cultural equality”, including the right to deny the vote to African Americans who he considered under qualified to vote (Buckley, Why the South). To Buckley, receiving fair democratic representation and cultural respect are conditioned upon being culturally superior, that is, white. The value and desert hierarchy thus enable living white Americans to maintain their convictions about segregationist or anti-Black policies and gain support for doing so by appealing to these justifications. These advantages are passed from generation to generation of white Americans as collective inheritances, which individuals enjoy and benefit from in turn.

Crucially, the devaluation of Black lives is by nature not only individual, i.e., perpetrated by specific individuals. Rather, these harms should be understood as systemic because systems of belief, adopted by entire polities such as towns, states, and arguably the entire nation, are responsible for these harms, even though individuals are the ones who express them. Racial injustices produce a collective understanding of what it means to be Black and code ‘Blackness’ as inferior. Slaves were recognized as property until 1865 and even after slaves were emancipated, long-standing belief systems that categorized them as sub-human continued to endure in the political and cultural imagination — one Southern slave owner called the emancipated slaves “stolen property” (Du Bois 115.) Racial injustices after slavery continued the project of racial hierarchization, advancing racist understandings of what it means to be Black. As Alexander put it, mass incarceration and Jim Crow laws both “define the meaning and significance of race in America” (200). Within the era of race-based mass incarceration, “black man” became synonymous with “criminal”, just as in Jim Crow South, “black” was synonymous with “second-class citizen”. “The process of marking black youth as black criminals is essential to the functioning of mass incarceration as a racial caste system,” wrote Alexander (200). Thus, it is not only individual wrongs but systemic harms that were visited upon victims of racial injustice, and not only individual benefits but systemic benefits that were enjoyed by perpetrators of injustice.

To understand how this system of power based on a racialized hierarchy is transmitted, I turn to James Baldwin’s notion of history. Our beliefs and points of view are inheritances of our history, accord-
ing to his framework, in that they are caused by our past. Baldwin points to the influence of history in shaping an individual’s sense of reality when he writes, “the great force of history comes from the fact that we carry it within us, are unconsciously controlled by it in many ways, and history is literally present in all that we do...it is to history that we owe our frames of reference, our identities, and our aspirations” (Baldwin White Guilt 723). Our history is sustained by our continuing project of remembering, honoring, and embracing systems of belief and narratives about ourselves told in our history. However, the values and myths gleaned from our history are siloed based on our group identity, often according to race. White history told within white traditions and Black history told within Black traditions are fundamentally rooted in different systems of belief and values. Thus, owing to our history, our present becomes racialized. The anti-Black racialized hierarchy is an object of history that is passed on generation to generation, subliminally or consciously influencing the behavior of people long after the original wrongdoer — slave owner, Selma sheriff, or prison guard — is dead.

The racial hierarchy can be inherited both interpersonally and societally. The process of inheritance occurs on one hand on an individual level, from parent to child, or through similar individual relationships of knowledge inheritance such as from a teacher to student. We can agree intuitively that beliefs can be passed down from parent to child — consider how many children adopt the religion of their parents, having been inculcated with those beliefs throughout their formative years. Parents also can pass more complex psychological objects such as a point of view, a sense of family identity, a narrative of history, and so on to their children. Granted, not all children inherit their parents’ beliefs, but this objection is no more damaging to my inheritance argument about racism than the claim that not all children inherit their parents’ wealth. The process of both Lockean property inheritance and inheritance of belief systems is not one that occurs for every single white American, but those for whom it does occur owe a reparative obligation to those who have wronged by their inheritance.

Furthermore, in response to this objection, I will emphasize that the inheritance of racialized hierarchies occurs even more saliently on a societal level. The society-wide endorsement of racial hierarchies — which is a structural, collective process, unlike property inheritance — is arguably the impetus for individual, family-based endorsement of racial hierarchies. In the context of anti-Black racialized hierarchies, we need not limit the transmission methods to individual parent-children or mentor-mentee relationships because beliefs about racial superiority are most saliently transmitted societally, through school textbooks, political messaging, and the media. The inheritance of racial hierarchy manifests societally, from the Moynihan report blaming Black family culture for Black poverty, to Reagan’s presidential campaign condemnations of “welfare queens” and criminal “predators” (Alexander 45, 48), to Donald Trump praising alt-right neo-Nazi protestors in 2017 as “very fine people” (Graham et. al.) These manifestations are expressions of racist belief systems rooted in historical injustices and they continue to keep alive the injustices in the present-day.

The present-day apathy amongst many white Americans toward repairing these structural injustices are not merely an ahistorical pathology but emerges out of the history of white American backlash against attempts to remedy and repair the structural harms of slavery. From the beginning, attempts during Reconstruction to repair the harms of slavery and replace the anti-Black bedrock of society with one of empowerment were met with white rejection (DuBois). Furthermore, the collective memory of slavery and Reconstruction are characterized by historical amnesia and anti-Black revisionism. DuBois wrote about how historians committed to the defence of

“In contemporary America, one cannot speak of their race without acknowledging and recognizing the historically produced meaning of their race.”

Norms of anti-black devaluation have been systemically imbibed by the general American population and their children, Black and white alike. In contemporary America, one cannot speak of their race without acknowledging and recognizing the historically produced meaning of their race. As Baldwin put it, there is a universality and inevitability to the Black experience — what he calls a “system of reality” (Baldwin 1965). He spoke about the “catalog of disaster…the millions of details twenty-four hours of every day which spell out to you that you are a worthless human being. Still, that is not the worst thing, he says: “But what is worse than that, is that nothing you have done, and as far as you can tell, nothing you can do, will save your son or your daughter from meeting the same disaster and not impossibly coming to the same end.” Baldwin uses the second person, addressing the Black every-man. Thus, he challenges his almost entirely white audience at the Cambridge Union to empathetically identify with an imagined Black individual. Baldwin lays bare how a belief system of racial inferiority is passed down generation to generation and universally afflicts Black individuals born into a society that continues to uphold a racial hierarchy.

Now we can understand what is inherited from generation to generation. Unlike property debts, the descendants of the original victims
of racial subjugation do not inherit the identical harm. Instead, they inherit a present-day recreation of the original injury rooted in the historical injury. There is no one-for-one correspondence between the original benefit and harm and the inherited benefit and harm respectively, but there is a correspondence, which is more like that of a reproduction of the original injury. The effects of the original injury on the victim’s psyche and identity are historically transmitted to the next generation through a belief system. Descendants then who take up the racial hierarchies actively or passively. Baldwin identifies himself with the original victims of slavery when he says, “I am stating very seriously, and this is not an overstatement, I picked the cotton, and I carried it to market, and I built the railroads, under someone else’s whip, for nothing.” He does not literally mean he was a slave and experienced the same harm that slaves did, but he has experienced a reproduction of the racism that motivated slavery. Unlike the Lockean inheritance argument, which only recognizes individual harm and individual inheritance, this reimagined inheritance argument recognizes how harm can be structural and collectively inherited. This difference enables the reimagined inheritance argument to succeed at justifying reparations for non-material harms where the Lockean argument was inadequate.

Living Americans have a collective responsibility to repair this collective harm. We deal with the objection that living Americans are not guilty and therefore do not owe reparative obligations by showing that they are complicit in continuing and advancing racist hierarchies. Granted, existing persons are not actively responsible for original racial injustices, but they do, by existing in society and passively or actively accepting the racial hierarchy within it, lend power to them. Even the most benign actions support racial hierarchies, such as when a white job applicant takes advantage of their race to secure the job or when a white movie actor is preferred because whiteness is recognized as beauty. The vast majority of people today do not reject the context or point of view of their upbringing, much less protest against it, and are complicit in keeping alive the structural injustice of racism.

Furthermore, even those who do, in failing to take up the obligation to make reparations, allow the harm to continue in the future. Compensation is owed to living African Americans who suffer the inheritance of racist hierarchies. If the only people who can discharge this obligation fail to do so, they are not innocent. Every American has the responsibility to shoulder some of the reparative obligation because the reparative project will only work if everyone does it; the only way the structural racial hierarchies can be overturned is through a nationwide endorsement of collective responsibility. As McCarthy put it when discussing German reparations for Nazism, “even those born later, who bore no individual moral guilt in that connection, had a continuing responsibility to work up, on, and through such elements of German political culture in an effort to break with the past” (627). Failure to do so can be seen as a kind of assenting to structures of race-based devaluation and desert claims.

In this paper, I have reimagined the Lockean notion of inheritance and reparations by showing how harm can be inherited collectively, inflicted upon individuals collectively, and therefore how reparations can be owed collectively. Structures of racism established by racial injustice act on individuals to both harm and benefit them long after the original injury has ceased. Although I have not discussed the specific mechanisms and policies for fulfilling this collective reparative obligation owed by living white Americans to Black Americans, I have laid out the justification for a more expansive collective reparations program than what is provided by the Lockean inheritance argument.

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