

## *Trans-Generational Justice – Compensatory vs. Interpretative Approaches*

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Paper prepared for the conference:

“Reparations: An Interdisciplinary Examination of Some Philosophical Issues”

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Feb. 6-8, 2004

Abstract: I argue that the disadvantaged situation of African Americans constitutes a gross historical injustice in American society, but that the payment of slavery reparations is not an appropriate remedy for this injustice. Rather, past racial injustice in the U.S. should be understood to establish a general presumption against indifference to present racial inequality. While the *quantitative* attribution of causal weight to distant historical events required by reparations advocacy is not workable, one can still support *qualitative* claims. Rather than conceiving the problem of a morally problematic racial history in *compensatory* terms, I propose to see the problem in *interpretative* terms, wherein justice requires a public recognition of the severity, and (crucially) the contemporary relevance, of what has transpired. The result would be to encourage a shared basis of civic memory – an agreed upon public “narrative” about the problem of racial inequality – through which the fact of past racial injury, and its ongoing consequences, can enter into current political discourses.

Outline for this essay:

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### **I. Introduction**

Should African Americans, in keeping with an idea of trans-generational justice, receive reparations for the historical crimes of slavery and Jim Crow segregation? That question is being asked with growing intensity across America. *If one understands by “reparations” the receipt of financial transfers as compensation for historical crimes, my answer to this question is a resounding, “No.”* In this essay, which draws on economics, sociology, politics and philosophy, I attempt to support this position while leaving room for the possibility that some claims can be sustained on behalf of African Americans that arise from the many racial injustices perpetrated against them and their ancestors over the course of U.S. history. Before getting to my argument proper, I wish to put forward some common sense reasons to think that we black Americans have little to gain and much to lose from making “Reparations Now” the next civil rights rallying cry:

*[Conceptualizing Harm]* Consider the complex character of the harm. To repair the consequences of historical crimes we need to begin with an understanding of what has been lost. Depriving the ancestors of current-day African Americans of the fruits of their labors was not, I argue, the gravest injury done them. Rather, it was the relegation of the black slaves and their progeny to a status of social pariahs, which constituted the severest harm. This harm, I claim, will not be reversed, and may indeed be reinforced, by the successful advocacy for slavery reparations.

*[Political Challenges]* Consider the demographics. When it comes to race in America, "them times, they are a-changin'." We are no longer, and will never again be, a nation of blacks and whites. Some 30 million immigrants, mostly of non-European origins, have arrived on our shores since the height of the civil rights movement. These new Americans and their children have a claim to the national narrative no less surely than do blacks. It is their country, too. Of course, new citizens of this republic are obligated like the rest of us to shoulder their share of national responsibilities, including the discharge of any debt the country has incurred as a result of historical wrongs. But, a racial reform movement built around the theme of paying reparations to blacks is unlikely to engage these newcomers, making the construction of political coalitions in support of progressive public policies that are essential for black flourishing less likely to occur.

*[Epistemological Problems]* Consider that there is no intellectually defensible way to put a price tag on slavery. Any sum mentioned is arbitrary. This is because the tort-law model underlying reparations advocacy – he who harms another must make the injured party whole – is hopelessly muddled when applied here. How would one even begin to demonstrate in quantitative terms the nature and extent of injury? Given the wide economic disparities to be observed among white Americans of various ethnic groups, who can know how blacks would have fared but for the wrongs of the past? Who can say what the out-of-wedlock birth rate for blacks would be, absent chattel slavery? How does one calculate the cost of inner-city ghettos, of poor education, of the stigma of perceived racial inferiority? The damage done by slavery and its aftermath is at once too subtle and too profound to be evaluated in monetary terms.

*[Issues of Interpretation]* Consider the symbolic tone of reparations advocacy. At the deepest level, it seems not even to be the money that animates most advocates. [See Randall Robinson, 2000, for an example of this rhetorical posture.] The deeper demand seems to be that America, by making amends, should fully acknowledge its wrongful past. While, as will become clear, I agree with this sentiment, I also think that it is rather late in the day for African Americans to be satisfied with a politics of symbolism. Substantive political gains for today's descendants of slaves require forging coalitions with those non-blacks who can see the need to extend greater opportunities to every American now being left behind. This means appealing to people on the basis of universal ideals, and proposing programs the benefits from which are available in principle to all who need them. I can see no way to fight black poverty, black imprisonment, inadequate black health care or deficient black education without, at one and the same time, fighting the poverty, imprisonment, poor health care and failed education that afflicts non-black Americans as well. Nor can I see any real justification for doing so.

*[Civic Construction Goals]* Reparations advocacy invites the majority of Americans to see the problem as one where "we" do something for "them." What is needed, however, is to construct a "we" – meaning all Americans – capable of righting whatever social injustices plague our society – for "our own sake" in this country, so that our moral pronouncements on the world stage will not be made into a hollow mockery. Slavery's consequences will be minimized only when we have established a regime of social provision that affords every American the chance to live a full and satisfying life. For blacks to gain reparations without attaining this goal would be to win a false victory. For then, when the horrible consequences of our troubled racial past persist in the

blighted lives of millions of poor black people, skeptical onlookers will be able to say, "We'd love to help, but you Negroes have already been paid."

This essay is organized as follows: Drawing on my book *The Anatomy of Racial Inequality* (Cambridge: Harvard University Press, 2002), I will offer in the next section a conceptual model of the propagation through history of racial injury. This model guides my thought about the problem of reparations and supports the conclusions here advanced. The core idea is that *racial stigma*, not *racial discrimination*, constitutes the deepest and most enduring historical harm done to blacks in the U.S. Following this, I will consider the limitations of one frequently encountered argument against slavery reparations, which I will refer to as *color-blind liberalism*. I then take-up some of the *epistemic difficulty* for inferring causal connections over long stretches of history, and the resulting implications of this difficulty for formulating a coherent conception of historical claims. Finally, I offer a statement of my proposed alternative approach, advocating an interpretative, as distinct from a compensatory, approach to meeting the imperative of historical justice in the case of black Americans.

## **II. Understanding the Harm: Racial Stigma not Racial Discrimination**

In this section I will discuss the conceptual framework that guides my thinking about the problem of racial inequality in the US. I have two broad aims: to outline a theory of "race" applicable to the social and historical circumstances of the United States; and, to sketch a speculative account of why racial inequality in the U.S. is so persistent. Fundamental to my approach is the distinction between *racial discrimination* and *racial stigma*. Racial discrimination has to do with how blacks are treated, while racial stigma is concerned with how black people are perceived. My fundamental premise is that *reward bias* is now a less significant barrier than is *development bias* to the full participation of African-Americans in US society. *Reward bias* refers to the unfair treatment of persons based on race in formal economic and bureaucratic transactions, limiting the rewards they can receive for the skills and talents they present to the market. *Development bias* refers to blocked access for persons in a subordinate racial group to resources that are essential for the development of human skills and the refinement of talents, due to the fact that resources of this kind often become available to persons as a byproduct of informal, non-market-mediated but race-influenced social relations.

I do not claim these two kinds of bias to be mutually exclusive: the acquisition of skills can be blocked by market discrimination; and, the maintenance of a discriminatory order against the pressures of market competition may rely on various instruments of informal social control. Still, I think this distinction is useful for, whereas the reward bias emerging from market discrimination presents a straightforward moral problem, and calls forth the obvious and nearly universally embraced remedy of anti-discrimination law, development bias is a subtler, more insidious moral problem – one, I will argue, that may be difficult to remedy in any manner likely to garner a majority's support. This difficulty has both a cognitive and an ethical dimension. From a cognitive point of view, many observers, when seeking an explanation for a group's poor social performance, may not distinguish between limited opportunities for development and limited innate capacities to develop. From an ethical point of view, citizens who find the overt discrimination by race associated with reward bias to be noxious may be less offended by the covert social discrimination that underlies development bias. All of this is relevant to a discussion of

reparations because given the facts of human developmental dynamics, the irreversibility of harms associated with blocked developmental opportunities, and the inability of financial transfers to offset those harms, to the extent that development bias is the main culprit, a compensatory goal for reparations will be that much more difficult to attain.

The subordinate position of blacks in the contemporary social economy of the U.S. derives from the stigmatized status of blacks in the society, and not the other way around. Racial stigma (about which more momentarily) inhibits African Americans from gaining access to those networks of social affiliation where developmental resources are most readily appropriated. The main problem today is not a race-influenced marketplace refusing to reward black talent, but race-influenced patterns of social intercourse refusing many black people a chance to reach their full human potential, and a race-influenced psychology of valuation that denies to African Americans the tacit presumption of equal human worth. My key point is that blacks' stigmatized status in the social imagination is reinforced, reproduced and justified by their subordinate position in the economic order, creating a vicious circle which, though it originates in the distant past, has now taken on a life of its own. Blacks' "underperformance" is rooted in their social isolation and tacit devaluation, while this isolation and devaluation is legitimated and normalized by widely held perceptions about black underperformance. Unfortunately, race-conditioned social policy, of which reparations is one variant, is likely to prove insufficient to counteract this self-reinforcing dynamic.

My view on the ontological status of "race" under girds and reinforces this way of thinking. As one who takes "race" to be a social construction, I place great weight on the subjective and inter-subjective aspects of racial awareness. I take mainly a cognitive rather than a normative stance toward race-conscious behavior, looking to how human agents process social experience and how they organize their perceptions, examining the categories into which they sort those others whom they encounter in society. What we see in the phenomenon of "race" is that a field of human subjects characterized by morphological variability (differences in skin tone, hair texture, facial bone structure and the like) comes through concrete historical experience to be partitioned into subgroups defined by some cluster of these physical markers. Information-hungry agents then hang expectations around these markers, beliefs that can, by processes I have discussed elsewhere in some detail (see Loury 2002, Chp. 2), become self-confirming. Meaning-hungry agents invest these markers with social, psychological, and even spiritual significance. Markers become the basis of social and personal identities. Narrative accounts of descent are constructed around them. Collectivities of mutually susceptible agents -- sharing feelings of pride, honor, shame, loyalty, and hope -- come into existence based to some extent on their holding these race-markers in common. This vesting of reasonable expectation and ineffable meaning in objectively arbitrary markings of the human body comes, through social and political struggles mediated by economic and institutional structures, to be reproduced over the generations. It takes on a social life of its own, seems natural not merely conventional, and ends up having profound consequences for social relations obtaining among individuals within the "raced" society.

Now, taking "race" to be a conventional, not a natural category, suggests that the *symbolic* connotations of racial categorization in American life may be helpful to understand the extent and durability of the subordinate position of black people. The conceptual frame I envision for this essay builds on the observation that, due to the

history and culture of this society, powerful negative connotations have come to be associated with particular bodily marks carried by some citizens. I claim that this is decidedly the case with respect to the marks that connote “blackness” in U.S. society. (This claim is defended at length in Loury 2002, chp.3) To understand racial inequality in this society I propose that scholars should place great emphasis on how observers perceive and interpret social data bearing on the status of disadvantaged racial groups – an approach that is to be distinguished from the traditional focus on some racial dislike or antipathy that members of the dominant group are said to harbor against members of the subordinate racial group.

My argument begins with the broad observation that we humans have the innate tendency to impute an ineffable significance to the artifacts that furnish our lives. That is, we look for and derive *meaning* from the material substratum in which we are embedded. Accordingly, human behavior is determined not only by material structures “out there” in the world, but also by what those structures are understood to signify “in here,” inside our minds. The bodily markings associated with racial categories are among those material structures in the American social environment to which meanings about the identity, capability, and worthiness of their bearers have been imputed.

Once established, these meanings can come to be taken for granted, enduring unchallenged for generations. In a hierarchical society, a correspondence may develop between a person’s social position and the physical marks taken in that society to signify race. Bodily signs that trigger in an observer’s mind the sense that their bearer is ordained to be “a hewer of wood and drawer of water,” or is a member of a “master race destined to rule the world,” or is a “social pariah best avoided at all costs” illustrate the possibilities. When the meanings connoted by race-symbols undermine an observing agent’s ability to see their bearer as a person possessing a common humanity with the observer – as “someone not unlike the rest of us” – then I say this person is “racially stigmatized,” and the group to which he belongs suffers a “spoiled collective identity.”

Historical context is everything here, and for the matter at hand the key contextual factor is the historical institution of chattel slavery. In his 1982 treatise, *Slavery and Social Death*, historical sociologist Orlando Patterson shows that to understand slavery one must grasp the importance of *honor*. Slavery, he argues, is a great deal more than an institution allowing property-in-people. It is “the permanent, violent domination of natively alienated and generally dishonored persons,” Patterson argues. By surveying this institution across five continents over two millennia, he shows that the hierarchy of social standing—masters over slaves, reinforced by ritual and culture—is what distinguishes slavery from any other system of forced labor. In the American context, obviously, the rituals and customs supporting this hierarchical order—the system of taken-for-granted meanings that made possible an adherence to high Enlightenment ideals in the midst of widespread human bondage—came to be closely intertwined in both the popular and the elite culture with ideas about race. As such, dishonor, shown so brilliantly by Patterson to be a general and defining feature of slavery, became, in the (American) case at hand, inseparable from the social meaning of race.

So my syllogism is this: In general, slaves are profoundly dishonored persons. In the American context, slavery was a thoroughly racial institution. *Ergo*, the social meaning of race emergent in American political culture at mid-nineteenth century was closely connected with the slaves’ dishonorable status. Of course, that was a long time

ago and it is true that many non-black Americans have ancestors who were profoundly dishonored in one way or another. Nevertheless, honest assessment of the contemporary American political landscape – debates over welfare, crime, schools, jobs, taxes, housing, test scores, diversity, urban policy, and much more – reveals the lingering effects of this historically engendered racial dishonor. By “racial dishonor” I mean something specific: an entrenched if inchoate presumption of inferiority, of moral inadequacy, of unfitness for intimacy, of intellectual incapacity, harbored by observing agents when they regard the race-marked subjects. I assert that this specter of “social otherness,” of racial dishonor that emerged with slavery and that has been shaped over the post-emancipation decades by political, economic, and cultural forces specific to American society, remains yet to be fully eradicated. So my use of the term “racial stigma” alludes to this lingering residue in post-slavery American political culture of the dishonor engendered by racial slavery.

It is crucial to understand that this is not mainly an issue of the personal attitudes of individual Americans. To reject my argument here with the claim that “stigma cannot be so important because attitude surveys show a continued decline in expressed racism among Americans over the decades” is to thoroughly misunderstand me. I am discussing social meanings, not attitudes—specifically the meanings conveyed by race-related public actions and events. I am talking about the “etiquette of public discourse” and the “boundaries of legitimacy” that constrain politicians when they formulate and justify the policies they advocate. I have in mind the unexamined beliefs that influence how citizens understand and interpret the images they glean from the larger social world. I claim that the meaning of a policy – job preferences, say – can be quite sensitive to the race of those affected: Veterans are acceptable beneficiaries but blacks violate meritocratic principles. I assert that public responses to a social malady—drug involvement, say—depend on the race of those suffering the problem: The youthful city-dwelling drug sellers elicit a punitive response, while the youthful suburban-dwelling drug buyers call forth a therapeutic one.

Nothing in these examples, I claim, turns on the racial attitudes of the typical American. Everything depends, I am arguing, on racially biased social cognitions that cause some situations to appear anomalous, disquieting, contrary to expectation, worthy of further investigation, inconsistent with the natural order of things—while other situations appear normal, about right, in keeping with what one might expect, consistent with the social world as we know it. These cognitive distinctions tend to be drawn to the detriment of millions of racially stigmatized citizens, I assert, because of the taint of dishonor that is part and parcel of the social meaning of race in the United States. Now, I may be right or I may be wrong about this, but no attitude survey can decide the issue.

To illustrate, consider the debate over race and intelligence that has raged in recent years thanks in large part to the best-selling 1994 book, *The Bell Curve* by Richard Herrnstein and Charles Murray. What, I ask, does the typical well-educated American know about IQ differences among people from Tennessee, Texas, and Massachusetts? I venture that most Americans know next to nothing about such disparities, if any exist. Moreover, and this the key point, it would be illegitimate to make a factual claim about such differences in a public argument over policy – to object to the redistribution of resources between geographic regions within the country, for example, on the grounds that people in the less advantaged areas are already receiving their IQ-adjusted deserts.<sup>1</sup> Or I can put the point somewhat differently. The American population is aging. It is known

that intelligence declines as a person ages, after some point in the life cycle. And, laws against age discrimination have invalidated mandatory retirement policies. These things taken together imply that the American workforce could become “dumber” if we baby boomers insist on staying in the workforce beyond our prime years. Where can one read about the dire consequences of this development for our future economic productivity? Nowhere. Why not? The reason, I suggest, is that those older, soon-to-be-less-intelligent workers are our mothers and fathers (or, in some cases, ourselves!) We are not about to set those people to one side so as to conduct an elaborate discourse about their fitness. And if they are “dumb,” then they are our “dumb” moms and dads. Like those living in different regions, we who belong to different generations will not permit ourselves to be sundered by any civic boundary. We will sink or swim together.

The point here, once again, is that some social disparities are salient and others not. The salience of social facts is not determined in an entirely rational, deductively confirmed manner. It involves a mode of cognition that depends on some prior patterning or orientation that is not, itself, the product of conscious reflection. I want to deepen the received theory of racial discrimination for this reflection on reparations because, in the case at hand (namely, racial inequality in the US) the disadvantaged racial group is often objectively less productive (i.e., has fewer useful skills on average than the dominant population according to conventional measures, or commits more crimes, or whatever.) And yet, this “objective” productivity gap is, I maintain, the outgrowth of a social process that is racially biased. This kind of thinking led me, in my doctoral thesis of 25 years ago (oh, my!), to coin the phrase “social capital.” (And what a stroke of good luck that was for me! My writing down those two words has led the late sociologist, James Coleman, in his treatise *The Foundations of Social Theory* to credit me with being one of the progenitors of the idea of social capital. And, given the way that the idea has taken-off, that’s proven to be a real windfall!) I was moved to use the phrase in my dissertation because it seemed to me then that the “human capital” account of individual variation in labor market earnings gave insufficient attention to the socially conditioned processes through which people come to “invest” in human capital, ignoring what is often the most interesting and morally problematic aspects of the inequality-generating processes. I argued that we should look not only to the rational calculation of the anticipated return on investment, but also to the factors which promote or impede an individuals’ access to resources critical to human development. This access, this “social capital,” depends upon a person’s inherited social position – who their parents are, who their neighbors are, what kind of community they grew up in, whom they were connected to, where they got their life-altering inspiration – things of this kind. So, if we want to understand inequality in this society, especially racial inequality, we must understand how such differences of social situation are produced and have been sustained over time. But the orthodox approach in economics didn’t invite us to think about that.

With this framework in mind, I wish to suggest that durable racial inequality can best be understood as the outgrowth of a series of what Gunnar Myrdal (1944) referred to as “vicious circles of cumulative causation.” I am particularly interested in how “race” can bias processes of social cognition. That is, I am trying to move from the fact that people take note of racial classification in the course of their social interactions, to some understanding of how this affects their *perceptions* of the phenomena they observe in the social world around them, and how it shapes their *explanations* of those phenomena. I

am asking, when does the race of those subject to some problematic social circumstance affect whether powerful observers perceive there to be a problem, and if so, what follows from this. I am suggesting that the tacit social meanings associated with "blackness" in the public's imagination biases the social cognitions of observing agents, inducing them to make detrimental causal misattributions. Confronted by the facts of objective racial disparity of performance, observers must adopt some "model" of what has generated their data. Their processes of social cognition and discernment, their awareness of anomaly and their capacity for empathy will be influenced by widely held beliefs in this regard. Because observers will have difficulty identifying with the plight of a group of people whom they (mistakenly) assume simply to be "reaping what they have sown," there will be little public support for egalitarian policies benefiting a stigmatized racial group. This, in turn, encourages the reproduction through time of racial inequality because, absent some policies of this sort, the low social conditions of many blacks (say) persist, the negative social meanings ascribed to blackness are thereby reinforced, and so the racially biased social-cognitive processes are reproduced, completing the circle.

It may help to make this point with a non-racial example. So, consider gender inequality, disparity in the social outcomes for boys and girls, in two different venues – the schools and the jails. Suppose that, when compared to the girls, the boys are over-represented among those doing well in math and science in the schools, and also among those doing poorly in society at large by ending-up in jail. There is some evidence to support both suppositions, but only the first is widely perceived to be a problem for public policy. Why? My answer is that it offends our basic intuition about the propriety of underlying social processes that boys and girls do differentially well in the technical curriculum. Although we may not be able to put our fingers on exactly why this outcome occurs, we instinctively know that it is not right. In the face of the disparity we are inclined to interrogate our institutions – to search the record of our social practice and examine myriad possibilities in order to see where things might have gone wrong. Our base-line expectation is that equality should prevail here. Our moral sensibility is offended when it does not. And so, an impetus to reform is spurred thereby. We cannot easily envision a wholly legitimate sequence of events that would produce the disparity, so we set ourselves the task of solving a problem.

On the other hand, gender disparity in rates of imprisonment occasions no such disquiet. This is because, tacitly if not explicitly, we are "gender essentialists." That is, we think boys and girls are different in some ways relevant to explaining the disparity – different either in their biological natures, or in their deeply ingrained socializations. (Note well, the *essentialism* with which I am concerned need not be based solely or even mainly in biology. It can be grounded in (possibly false) beliefs about profound cultural difference as well.) As "gender essentialists," our intuitions are not offended by the fact of vastly higher rates of imprisonment among males than females. We seldom ask any deeper questions about why this disparity has come about. And so, we see no problem.

Now, we may be right or wrong to act as we do in these gender disparity matters, but my point with the example is to show that the bare facts of gender disparity do not, in themselves, suggest any course of action. To act, we must marry the facts to some model of social causation. This model need not be explicit in our minds. It can and usually will lurk beneath the surface of our conscious reflections. Still, it is the facts *plus* the model that lead us to perceive a given circumstance as indicative of some as yet undiagnosed



failing in our social interactions, or not. This kind of reflection on the deeper structure of our social-cognitive processes, as they bear on the issues of racial disparity, is what I had hoped to encourage with my discussion of “biased social cognition.” And, the role of “race” in such processes is what I am alluding to when I talk about “racial stigma.”<sup>ii</sup>

I see this argument as having important political implications. Imagine that an observer (correctly) takes note of the fact that, on the average and all else equal, commercial loans to blacks pose a greater risk of default, or that black residential neighborhoods are more likely to decline. This may lead that observer to withhold credit from blacks, or to move away from any neighborhood when more than a few blacks move into it. But, what if “race” conveys this information only because, when a great number of observers expect it to do so and act on that expectation, the result (through some possibly complex chain of social causation) is to bring about the confirmation of their beliefs? Perhaps blacks default more often precisely because they have trouble getting further extensions of credit in the face of a crisis. Or, perhaps non-black residents panic at the arrival of a few blacks, selling their homes too quickly and below the market value to lower-income (black) buyers, and it is this process that ends-up promoting neighborhood decline. If under such circumstances observers were to attribute racially disparate behaviors to deeply ingrained (biological or cultural) limitations of the African Americans – thinking, say, that blacks do not repay their loans or take care of their property because, for whatever reasons, they are just less responsible people on average – then these observers might well be mistaken. Yet, since their surmise about blacks is supported by hard evidence, they might well persist in the error. Such an error, persisted in, would be of great *political* moment, because if one attributes an endogenous difference (a difference produced within a system of interactions) to an exogenous cause (a cause located outside that system), then one is unlikely to see any need for systemic reform. This distinction between *endogenous* and *exogenous* sources of social causation, I am arguing, is the key to understanding the difference in our reformist intuitions about gender inequalities in the schools and in the jails: Because we think the disparity of school outcomes stems from endogenous sources, while the disparity of jail outcomes is tacitly attributed in most of our “causal models” to exogenous sources, we are differentially moved to do something about the disparities.

So, the effect I am after when I talk about “racial stigma” and the reason I employ an apparently loaded phrase like “biased social cognition” is this: It is a politically consequential cognitive distortion to understand the observably disadvantageous position of a racially defined population subgroup as having emerged from qualities taken to be intrinsic to the group when, as a matter of actual social causation, that disadvantage is the product of a system of social interactions. I reiterate that it hardly matters whether those internal qualities *mistakenly* seen as the source of a group’s observed laggardly status are biological or deeply cultural. What matters, I argue, is that something has gone wrong if observers fail to see *systemic, endogenous* interactions that lead to bad social outcomes for blacks, and instead attribute those results to *exogenous* factors taken as internal to the group in question. My contention is that in American society, when the group in question is blacks, the risk of this kind of causal misattribution is especially great. Given the facts of racially disparate achievement, the racially disproportionate transgression of legal strictures, and racially unequal development of productive potential, observers will have difficulty identifying with the plight of a group of people whom they (mistakenly)

think are simply "reaping what they have sown." So, there will be little public support for egalitarian policies benefiting a stigmatized racial group. This, in turn, encourages the reproduction through time of racial inequality because, absent some policies of this sort, the low social conditions of many blacks persist, the negative social meanings ascribed to blackness are thereby reinforced, and so the racially biased social-cognitive processes are reproduced, completing the circle.

Moreover, this argument also has implications for how we social scientists interpret our data bearing on racial inequality. As I have been suggesting, individuals are embedded in complex networks of affiliations: They are members of nuclear and extended families; they belong to religious and linguistic groupings; they have ethnic and racial identities; they are attached to particular localities. Each individual is socially situated, and one's location within the network of social affiliations substantially affects one's access to various resources. Opportunity travels along the synapses of these social networks. Thus a newborn is severely handicapped if its parents are relatively uninterested in (or incapable of) fostering the youngster's intellectual development in the first years of life. A talented adolescent whose social peer group disdains the activities that must be undertaken for that talent to flourish is at risk of not achieving his or her full potential. An unemployed person without friends or relatives already at work in a certain industry may never hear about the job opportunities available there. An individual's inherited social situation plays a major role in determining his or her ultimate economic success. Some important part of racial inequality, on this view, arises from the way geographic and social segregation along racial lines, fostered by the stigmatized status of blacks—their "social otherness"—inhibits the development of their full human potential. Because access to developmental resources is mediated through race-segregated social networks, an individual's opportunities to acquire skills depend on present and past skill attainments by others in the same racial group.

### **III. Problems with Color-Blind Liberalism**

Seven generations after the end of slavery, and a half-century past the dawn of the civil rights movement, social life in the United States is still characterized by a significant degree of racial stratification and inequality. Numerous indices of well being – wages, unemployment rates, income and wealth levels, ability test scores, incarceration and criminal victimization rates, health and mortality statistics – all reveal substantial disparity among different racial groups. Indeed, over the past quarter century the black-white gap along some of these dimensions has remained unchanged, or even widened. Although there has been noteworthy progress in reversing historical patterns of racial subordination, there is today no scientific basis upon which to rest the prediction that a rough parity of socioeconomic status between blacks and whites in the US will obtain in the foreseeable future.<sup>iii</sup>

"So what?" one might reasonably ask. As long as the individual members of a disadvantaged racial minority group are not being discriminated against, why should citizens in the United States, or in any liberal democracy for that matter, care about racial inequality *per se*? This is an important question for anyone reflecting on matters of social justice in a pluralistic society. It is especially crucial for adherents of a certain version of political liberalism, who hold that a properly structured analysis of the justness

of social arrangements should derive from a consideration of the welfare of individuals, and not from the economic or social position of population sub-groups.

While I am arguing against the payment of reparations to black Americans for the harms of the past, I wish to stress that I reject the view that only individuals and never groups can be the subjects of a discourse on social justice. As such, I undertake here to criticize the manner in which this “color-blind” version of liberal political theory deals with the ethical problems raised by the pronounced and durable social-economic disadvantage of African Americans. My topic, then, is “racial justice.”

To fix ideas, consider the formidable intellectual edifice that is modern social choice theory. This literature at the junction of economics and philosophy pursues the formal, logical derivation of implications for public decision-making that issue from various postulates chosen to capture our ethical intuitions about social justice.<sup>iv</sup> A near universally imposed constraint on collective decision making in this literature is the so-called *Anonymity Axiom*. This postulate denies the ethical legitimacy of distinguishing for purposes of social choice between two states of affairs, A and B, that differ only in the identities of the people located in various positions of the social order. Thus, imagine that states of affairs A and B entail the same number of persons living in poverty, suffering from inadequate health care, held in prison, and the like, but that a different group of people suffer these conditions in state A than in state B. The Anonymity Axiom then requires that a just public decision-making process be indifferent between these two states. It follows as an immediate corollary of this requirement that the diminution of racial inequality for its own sake would not be a legitimate social goal.

The crux of my argument in this essay, and the outlines of my alternative proposal for how to deal with the racial harms of America’s past, can be seen by considering the case I wish to make against this implication of the Anonymity Axiom. I question the adequacy of “color-blind” liberalism as a normative theory, in view of the historical facts of racial subordination, and the continuing reality of racial inequality. There seem to be questions of social justice arising under these conditions, in societies such as the United States that are sharply stratified along racial lines, to which this theory can give no good answers.<sup>v</sup>

The phenomenon of racial stigma poses intractable problems for this brand of individualism. For there is a sphere of intimate social intercourse, governed to some degree by “raced” perceptions in individuals’ minds, that, out of respect for liberty and the dignity of human beings, should not become the object of political or bureaucratic manipulation. Yet, I hold that such race-preferential associative behavior perpetuates a regime of development bias against blacks, largely due to a protracted, ignoble history during which reward bias against blacks was the norm. Thinking in terms of racial stigma, I believe, provides insight into race-constrained social interactions and into race-impacted processes of social cognition, helping us to see the forces at work in a “raced” society like the US that create causal feedback loops perpetuating racial inequality, and that impede their identification. Moreover, as expanded upon below, this way of looking at things has an important implication for political philosophy. In particular, it leads us to reject color-blindness (or the related notions of race-neutrality, or racial impartiality) as *the* moral standard in regard to issues of social justice and racial inequality in the US.

*Indeed, I argue that color-blindness – a quintessential icon of liberal neutrality – is a superficial moral standard, one that reveals how starkly under-socialized is the*

*entire intellectual project within which it is embedded.* It will be important now to stress that I do not think of this weakness as irremediable. The root of my argument is not to announce a bedrock philosophical inadequacy; it is to decry a sociological naiveté. I do not attack liberalism in a wholesale manner. But I long to see liberalism enriched by taking seriously the relational structures that mediate the contacts between autonomous, dignity-bearing subjects, who are the concern of liberal political theory. I want the socially situated context of these subjects to be integrated into the philosophical project itself. Thus, I do not defend simpleminded racial utilitarianism – the idea that we aggregate the incomes or utilities of people defined by superficial racial characteristics, and use this sum as an indicator of the goodness of society. But I insist that reflection about the rights of individuals and the vitality of the institutions that influence individual interactions, should take seriously the “raced” historical and social structures within which those individuals function.<sup>vi</sup>

So, my core objection to color-blind liberalism has to do with this sociological naiveté and the limited place for historical developments to enter when liberal political theory is brought to bear on the problem of race. Sure, the so-called “underclass” in the ghettos of America is behaving badly, in self-destructive and threatening ways. But those patterns of behavior, embodied in those individuals, reflect structures of human development mediated by social relations that are biased against those persons because of a history of racial deprivation and oppression. The result then is to produce, in our time, wide disparities in some indicia of behavior across racial groups. What does the abstract individualism of liberal theory suggest that we do now? Throw up our hands? There are no questions of justice raised? Scratch our heads? We don't quite know what to do. Too bad. We lament, but... There is, I believe, a gaping hole in liberalism as a normative framework if no better answer is to be had.

My fundamental point is that the selves that are the enshrined subjects of liberal theory are not given *a priori*. Rather, they are products of social relations, and of economic and political institutions. They are creatures, to some not inconsiderable degree, of the very system of laws, social intercourse, and economic relations that normative political theory is supposed to assess. Neither their ideas about the good life, nor (crucial for my purposes here) their self-understandings as “raced” subjects, come into being outside of the flow of history and the web of culture.<sup>vii</sup> The diminished selves, the self-doubting, alienated, nihilistic selves – these are social products, and I want to attend to this fact within the project of political theory. This leads to a rejection of color-blindness as a normative standard because I cannot abide the imposition of abstract strictures of neutrality upon a game in which, systematically, non-neutral practices have left so many “raced” and stigmatized outsiders with so few good cards to play. My core concern is about racial stigma and development bias. Succinctly stated, my argument with liberalism is that it fails to comprehend the following. *Stigma-influenced dynamics in the spheres of social interaction and self-image production lead to “objective” racial inequality which is de-coupled from the discriminatory acts of individuals, carries over across generations, shapes political and social-cognitive sensibilities in the citizenry, makes racial disparity appear “natural” and non-dissonant, stymies reform, and locks-in inequality.*

#### IV. Epistemic Difficulties

One aspect of this perspective should be commented upon. History has been invoked here as a factor conditioning the ethical assessment of contemporary social arrangements. And yet, the explicit channels of historical influence, on which social scientific work can shed some light, must of necessity remain opaque, and vaguely specified. What might be called an “epistemological fog” obscures the causal dynamics at work across the generations and limits our ability to know in detail how past events have shaped current arrangements. Thus, it may be reasonable to assert in a general way that past racial discrimination in contract, together with present discrimination in contract, disadvantages blacks by impeding their acquisition of skills. But it is nearly impossible to say with any quantitative precision just *how much* of current racial inequality is due to this source of disadvantage.<sup>viii</sup>

Now one could take the view, as some conservatives have done, that this knowledge limitation should short-circuit claims for racial egalitarianism that rely upon the past unjust treatment of some racial group.<sup>ix</sup> While acknowledging the plausibility of this view, I nevertheless reject it. Rather, I hold that a compensatory model, familiar from tort and liability law, is the wrong way to think about this question. My position, contrary to what I believe are simplistic applications of liberal neutrality that issue in mandates of color-blindness, is that past racial injustice is relevant in establishing a general presumption against indifference to present racial inequality (thereby militating against the implications of the Anonymity Axiom mentioned earlier). But the degree to which social policy should be oriented toward reducing present racial inequality and the weight to be placed on this objective in the social decision calculus is not here conceived in terms of “correcting” or “balancing” for historical violation. Thus I argue that, even though quantitative attribution of causal weight to distant historical events is not possible, one can still support qualitative claims.

This distinction between quantitative and qualitative historically based claims is important, I think, because it casts doubt on the adequacy of purely procedural theories of justice when analyzing matters of race. Color-blindness as understood by critics of affirmative action is one such theory. In general, procedural theories of social justice turn on the answers to two kinds of questions: What are people entitled to? And, what actions affecting the distribution of claims are legitimate? Then, any state of affairs that respects individuals’ entitlements and comes about from procedurally legitimate actions is held to be just. Notice, however, that procedural theories are essentially incomplete because they cannot cope with the consequences of their own violations.

Suppose we are given a set of rules about how people are to treat one another. Suppose further that people happen not always to follow these rules. As just noted, history can be messy stuff. Teasing out causal implications across the centuries of historic procedural violations is impossibly difficult. So, if procedurally just requirements are not adhered to at some point – people entitled to the fruits of their labor are not rewarded accordingly, say – then, at some later point, perhaps a century on, there will be consequences rife in the interstices of society. But, as argued above, it will be impossible in principle to identify and to quantify these effects. What then would a procedural account have to say about this? Simple notions about providing compensation for identifiable historic wrongs may work when individual interactions are being considered, but they cannot possibly work for broad social violations – chattel slavery, for instance. A procedural theory leaves us with no account of justice under such

circumstances. This is a fundamental incompleteness in the theory, one that is especially pertinent to a consideration of racial justice in the US.<sup>x</sup>

To pursue this point somewhat more formally, let us call a system of rules about social justice *procedural* if it satisfies the following: (1) A list of rules or procedures is specified about how people are supposed to deal with one another. And, (2) a state of affairs is held to be just if it evolves from a just original state, where every step in the evolution is brought about by the freely chosen actions of mutually consenting agents, all of which are consistent with the rules specified in (1). Furthermore, call such a system *closed to moral deviation* if it meets the following test. Whenever some state of affairs is brought about through actions by some agents that breach the rules specified in (1), it is in principle possible to “recover” from the effects of this breach through a series of counter-actions that are themselves consistent with the rules set out in (1).

In other words, a *procedural* account of social justice is *closed to moral deviation* if one can correct the consequences of rule violation through actions that are themselves consistent with the rules. In the absence of this “closure” property, a procedural theory would need to be supplemented by some non-procedural account of how to manage the states of affairs arrived at in the aftermath of the commission of procedurally unjust acts. Elsewhere I have demonstrated (in the context of a theoretical example) that notwithstanding the effective prohibition of discrimination in contract, historically engendered economic differences between racial groups can persist indefinitely when discrimination in contact continues to be practiced (see Loury 1977 and 1995). That is, non-discrimination, once having been established in the sphere of contract but not in the sphere of contact, can admit of an indefinite perpetuation of the racial inequality originally engendered by historic contractual discrimination. Stated in terms of the language just introduced, my demonstration implies that the color-blindness derived from the Anonymity Axiom – treat all subjects interchangeably and take note of no person’s racial identity in the execution of social choice – when viewed as a procedural account of racial justice, is not closed to moral deviation. This, then, is the basis of my larger argument that, as a matter of social ethics, policies should be undertaken to mitigate the economic marginality of members of historically oppressed racial groups. This is not a reparations argument. *When the developmental prospects of an individual depend on the circumstances of those with whom he is socially affiliated, even a minimal commitment to equality of opportunity for individuals requires such policies.*

## **V. The Interpretative Approach**

A sharp contrast can be drawn between two different ways of dealing with the problem of a morally problematic racial history. One seeks “reparations,” conceiving the problem in compensatory terms. The other conceives the problem, let us say, in interpretative terms—seeking public recognition of the severity, and (crucially) the contemporary relevance, of what transpired. In the latter view, the goal is to establish a common baseline of historical memory—a common narrative, if you like—through which the past injury and its continuing significance can enter into current policy discourse. (A crude analogy might be drawn here, suggested by the debate over the Truth and Reconciliation Commission in post-Apartheid South Africa: The compensatory approach is rather like putting as many past offenders as possible on trial, punishing them for their wrongdoing, and getting justice for survivors of the victims. The interpretative

approach is a bit like waiving the pursuit of individual criminal liability in the interest of bringing to public light the true nature of what took place under Apartheid.) What seems conceptually important, though, is to clarify that, while some reckoning with the racist history of the United States remains to be done, this reckoning may, for political as well as epistemological reasons, be inappropriately specified when cast in terms of “reparations.” What is required, instead, is a commitment on the part of the public, the political elite, the opinion-shaping media, and so on to take responsibility for such situations as the contemporary plight of the urban black poor, and to understand them in a general way as a consequence of an ethically indefensible past. Such a commitment would, on this view, be open-ended and not contingent on demonstrating any specific lines of causality. This, I wish to suggest, is the most powerful, enduring and appropriate reparation that could be proffered to black Americans in repair of the injuries of the past.

The national narrative – the agreed-upon interpretation of a nation’s history and its relevance to contemporary political issues – matters a great deal. Thus, in the U.S. we are often said to be a nation of immigrants. Thirty million newcomers have arrived on our shores since the liberalization of immigration laws in the 1960s. They have advanced up the escalator of opportunity, by and large. Now, what will the story be? Here is one possibility: “We are a great nation, an open society, the land of opportunity. True, there are millions of laggard blacks, and that’s too bad. It is regrettable that we need to lock up one million of them on any given day. And it is too bad that some two out of five of these black children depend on a public welfare system that has just been reformed in such a manner that, absent a boom economy, they may suffer a great deal. True, we have of late engaged in a discourse about the intellectual inadequacies of these blacks—a discourse that leaves it an open question whether or not, or the extent to which, those inadequacies are rooted in the inherent incapacities of their genetic endowments. But, as best we can determine, no individual’s rights are being violated when he or she applies for an employment or educational opportunity, and we intend to make sure this remains the case. True, some blacks are falling behind, but most of the recent immigrants are not of European origins either, and they are doing pretty well by and large. So as far as racial justice is concerned, America is okay.”

Now, is that simply racism? Yes and no, I would say. Yes, it is racism, but by no means is it *simply* racism. How, the question becomes, will it be contested? What will the argument be? “Don’t compare blacks to immigrants?” Frankly, my view is that analysts ought to be wary of such comparisons, but I do not see how they can be avoided. “Don’t publish those test score data?” I seriously doubt that anyone is going to put the genie back in the bottle on that one either. But how about this: Adopt as an axiom from the outset a belief in the equal humanity of these sons and daughters of slaves. Make this an a priori commitment that is not contingent on any empirical determination. The view would be that they are equal humanly with us, and that we swim or sink together. This view would be taught to the new Americans at their first step off the boat. We would not allow them to cluster in Miami, thinking that they have made a wondrous new world on the shores of industrial capitalism and liberal democracy, while the laggards over in Liberty City riot every now and then, and otherwise suck on the welfare tit. Before they get the citizenship paper, we would make sure they know the story of the country—that is, the decent story, the narrative that has some chance of being sustained under appropriate moral scrutiny. A central aspect of that story is that one-quarter or so of the black American population

languishes in the Liberty Cities of the nation because we have a public culture in which the presumption of their equal humanity has not yet been fully extended.

This “conservative line” on race in America today is simplistic. An alternative narrative would stress that the self-limiting patterns of behavior among poor blacks are not a product of some alien cultural imposition on a pristine Euro-American canvas. Rather, such “pathological” behavior by these most marginal of Americans is deeply rooted in American history. This interpretation of our history would emphasize that black cultural marginality evolved in tandem with American political and economic institutions, and with cultural practices that supported and legitimated those institutions—practices that were often deeply biased against blacks. So, the line might go, while we should not ignore the behavioral problems of this so-called underclass, we should discuss and react to them as if we were talking about our own children, neighbors, and friends. This is an American tragedy. It is a national, not merely a communal disgrace. And we should respond to it as we might to an epidemic of teen suicide or a run of high school shooting sprees—by embracing, not demonizing, the perpetrators, who, often enough, are also among the victims.

And yet, the conservative line on race downplays the fact that contemporary American society has inherited a racial hierarchy—the remnant of a system of racial domination that was had been supported by an array of symbols and meanings deleterious to the reputation and self-image of blacks. A more appropriate interpretation of our history would recognize that the web of interconnections among persons that facilitate access to opportunity and shape the outlooks of individuals are “raced” – which is to say, processes of human development have been and are systematically conditioned by race.

Thus, racially disparate outcomes at the end of the twentieth century can be no surprise, either. The “comparative narrative”—“structural reform is not needed; blacks may be lagging but nonwhite immigrants are progressing nicely, so America must be okay”—is sophomoric social ethics and naïve social science. It is also unjust. Correcting this injustice is, I am arguing, what “reparations” for the crimes of slavery and of Jim Crow segregation should be all about. Saying this in no way commits me to the view that success is independent of effort, or that victims of racism should be exempted from mandates of personal responsibility. The problem with stigmatizing talk about “black culture,” “black crime,” and “black illegitimacy”—when used as explanatory categories by the morally obtuse—is that such a narrative is adopted as an exculpatory device, a way of avoiding a discussion of mutual obligation. A distressing fact about contemporary American politics is that simply to make this point is to risk being dismissed as an apologist for the inexcusably immoral behavior of the poor. In truth, the moral failing here lies with those who would wash their hands of the poor, declaring “we’ve done all we can.”

## **VI. Conclusions**

I wish in conclusion to return to my complaints against “color-blind liberalism,” and to describe what I take to be an appropriate context in which the intuitions of color-blindness might yet prevail. Let us distinguish among three domains or venues of public action in a racially stratified society where the “blindness” intuitions of liberal neutrality might be applied. First is the domain of policy implementation—where we decide on the instruments of public action. Here we are admitting students to college or hiring public



employees or distributing social benefits. Some mechanism is being used to do this, and that mechanism may, or may not, take cognizance of a subject's race. "Blindness" here means structuring public conduct so that people from different racial groups who are otherwise similar can expect similar treatment. This is what most people have in mind when they insist that the government should be "colorblind."

Second is the domain of policy evaluation—where we assess the consequences of public action. Here we are deciding whether to build a prison or a school, and if it is a school, whether it should serve the general population or only the most accomplished students. We are fighting a war on drugs and deciding whether to concentrate on the buying or the selling side of illicit transactions. As a general matter, prior to choosing a course of public action we need to assess the relative costs and benefits of the alternatives before us. The impact of an alternative on particular racial groups may, or may not, be explicitly reckoned in this assessment. "Blindness" here means not seeing a policy as more or less desirable on account of the race of those affected. This is what the Anonymity Axiom of social choice theory requires.

Third is what I will call the domain of civic construction—where we develop our nation's sense of shared purpose and common fate. Here we are building monuments, constructing public narratives, enacting rituals, and, most generally, pursuing policies that have an inescapably expressive as well as a directly instrumental effect. "Blindness" to race in this domain means deploying the instruments of civic pedagogy so as to promote a sense of national community that transcends racial divisions. This is what my Axiom 2 (on anti-essentialism) requires, when it is embraced without reference to empirical assessments.

Veterans of the racial preferences wars are most familiar with the questions—having mainly to do with the unfairness of racial discrimination—that arise in the domain of implementation. To get a glimpse of the subtle dilemmas that arise in the domain of evaluation, imagine that the central bank is trying to decide whether or not to induce a recession, so as to lower the risk of inflation. Would it be legitimate to tolerate a somewhat greater chance of inflation while maintaining a strong demand for labor because doing so also manages to hold the unemployment rate of black youth at humane levels for the first time in a half-century? Can we reckon that this is a good policy because it contributes to overcoming racial stigma, draws blacks more fully into the mainstream of society, and permits them to earn the respect of their fellow citizens? (Here I mean to suggest that, but for this racial benefit, a different decision might be taken.) In other words, can we explicitly count as a benefit to society what we calculate to be the racially progressive consequences (reducing black economic marginality) of what is a race-blind action (electing to take a greater risk of inflation)?

The issues arising in the domain of civic construction are also subtle. Consider the practice of capital punishment, which may or may not deter murder, but which is most definitely the state-sanctioned killing of a human being. Would it be legitimate when deciding whether or not to undertake the powerfully pedagogic public ritual of executing lawbreakers to take note of what may be a large racial disparity in its application? (Here I am supposing for the sake of argument that the processes of policing, judging, and sentencing that lead to persons being executed are not racially biased, and I am asking whether we might nevertheless reject the use of capital punishment because of its racially

disproportionate effects.) In other words, must we be blind to the possibility that such a racial imbalance could distort our civic self-understanding in the United States?

Or, to take a very different case, consider the conscious act of integrating the elite who exercise power and who bear honor in the society—the people to whom we delegate discretion over our lives. Suppose we undertake to ensure that there are, visibly, African Americans among that elite. Suppose this goal is pursued not to bestow benefits on black people, as such, but with the specific intent of integrating the national community by rubbing out in the consciousness of the populace a perception of racial difference in inherent capacities or deserved social standing. Would that be a valid enterprise? Such a project, after all, pays tribute to the idea of race-blindness, too: It seeks to diminish the sense within the polity that we consist of racial groups that are differently endowed or unequally worthy of respect, with some more deserving than others of inclusion in the prized venues of public life.

We have, then, these three domains—implementation, evaluation, and civic construction—giving rise to three classes of public questions: How should we treat individuals? How should we choose the goals to be pursued through our policies? And how much awareness ought we to have of the ways in which the conduct of public business can perpetuate into yet another generation the inherited stigma of race?

Color-blind liberalism seems to militate strongly in favor of “blindness” in both the first and the second domains. I think this is wrong on both counts, because it is a-historical and sociologically naïve. Color-blind liberalism fails, I will argue tomorrow, because (among other reasons) it is not closed to moral deviation. And a principled stand of race-indifference is unacceptable as well, because it rules out policies that are almost universally credited as being necessary and proper, given the history of race relations in this country. Few thoughtful people are prepared to import their love of the race-blind principle into the domain of evaluation. They may object to race-based selection rules, but they do not object to the pursuit of explicitly race-egalitarian outcomes through public policies that take no notice of race at the point of implementation. That is, using our linguistic convention introduced earlier, though they may embrace race-blindness they reject race-indifference.

Thus there is much (I think plausible) disquiet at the thought of constructing race-based electorates for the purpose of giving blacks greater political voice, but hardly any opposition to moving from at-large to non-racially drawn single-member voting districts when the intent is to produce a similar outcome. And, as mentioned, policies like the ten percent plan in Texas, implemented through race-blind decision rules but adopted with the intent of benefiting blacks and Hispanics, are not controversial—politically or constitutionally—among most opponents of affirmative action.

I want to suggest that only in the domain of civic construction should some notion of race-blindness be elevated to the level of fundamental principle. The operative moral idea would be what the sociologist Orlando Patterson has called the principle of infrangibility (that is, the absence of boundary)—saying that we are One Nation, Indivisible, and taking that idea seriously enough to try to act (whether in a race-blind or a race-sighted fashion) so as to bring that circumstance about. Those people languishing at the margins, even if they are strange and threatening, are going to be seen as being, in the way that most fundamentally counts for our politics and civic life, essentially like us. We’re going to prudentially and constitutionally, but determinedly and expeditiously,

move so as to tear down, or certainly build no higher, the boundaries of race that divide the body politic.

There should be no race-mediated civic boundary, and where a boundary exists, it becomes our work to rub it out. That is a kind of race-blindness, too. Embrace of this position would constitute “reparations” in its highest form. I hold that there is nothing in political liberalism, rightly understood, that should lead us to reject that practice. There is nothing wrong with a liberal, concerned about social justice, undertaking to fight racial stigma. There is nothing wrong with constructing a racially integrated elite in America. There is nothing wrong with fretting over 1.2 million African-American young bodies under the physical control of the state. Indeed, I am led to wonder how any thoughtful person aware of the history and the contemporary structure of US society could conclude otherwise.

"Black Reparations" advocacy, on this account, is problematic not because (as many critics would have it) the people pushing it are quarrelsome jerks. It is problematic, and bad for this country, and bad for black people ourselves, because it squanders blacks' dwindling political capital and misses our chance to show genuine moral leadership in this nation, as the early civil rights era heroes had done. We are still a multi-racial nation, and will be for as far into the future as anyone can see. The moral and political issues most salient in the context of “blackness” remain to be addressed (over-crowded prisons, ghettos from which opportunity for social betterment has fled, and so on), and “compassionate conservatism” doesn't even begin to address them. But, then, neither will the payment of financial reparations for historical harm. The issue confronting those black leaders and intellectuals brave enough to think outside the box today is how to convert our historical inheritance of moral authority and our claim on the public's attention -- an inheritance derived from the sufferings and heroic triumphs of our ancestors -- into a moral *and political* currency that is relevant to our time. Mournful recitations of the old civil rights mantras are obviously inadequate to the task. The fact is that there are no problems facing the “black community” that are not also problems for a vast number of brown, yellow, red and white Americans. And there are no solutions for these problems that can, or should, be enacted solely (or even mainly) to assuage the legitimate concerns of blacks. But there is a criticism of the regnant interpretation of America's racial history in contemporary political discourses that can and should be made, in the name of historical and racial justice. I have tried in this essay to indicate what the broad outlines of such a criticism might be.

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## Endnotes

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<sup>i</sup> In this sense, we operate under a tacit constraint on public discourse that might be called “geographic anti-essentialism.” Under this tacit constraint, no public argument about regional policy is legitimate if it posits fundamental differences in capacities (moral or intellectual, say) between inhabitants of distinct geographic regions (urban/rural, north/south, etc.) My view elaborated in Loury 2002 (chp. 3) is that some comparable restraint is warranted on public discourse invoking inherent racial differences. I hold that such restraint is a necessary precondition to establishing a genuinely democratic order in the United States, in light of our history of racial subordination. This position of mine is to be distinguished from efforts to stifle scientific research on innate racial differences, which I do not support.

<sup>ii</sup> I see in the racially disparate impact of the enforcement of anti-drug laws, and in the American public’s general lack of interest in this racial disparity, a telling illustration of the value in this way of thinking. There could be no drug market without sellers and buyers. (Just so, there would be no street prostitution without hookers and johns.) Typically, those on the selling side of such markets are more deeply involved in crime and disproportionately drawn from the bottom rungs of society. Yet, they are only one side of a two-sided transaction. They would not exist, but for the demand for their services. There is no sensible way in which they alone can be held to have “caused” this problem. When we entertain various responses to the social malady reflected in drug use (or in street prostitution) we, in effect, weight the costs likely to be imposed upon the people involved on either side of the illicit transactions. Our tacit models of social causation play a role in this process of evaluation. Have bad lawbreakers who sell drugs on our city streets imposed this problem on us? (Or, in the parallel situation, have bad women who sell their bodies on our streets brought this malady of prostitution into being?) Or, has a bored, spoiled middle class with too much time on its hands engendered the problem in its hedonistic pursuit of a good time? The answer for such a question is unlikely to be determined in a rational, data-driven manner, I maintain. How serious a given crime is seen to be by those who through their votes indirectly determine our policies, and how deserving of punishment for a given infraction various individuals are seen to be, will depend on the racial identities of those involved, I maintain, because the tacit causal accounts adopted by influential observers are likely to depend on the social meanings imbedded in physical traits that serve as racial identifier.

<sup>iii</sup> See, e.g., United States, Office of the President (1998) chapter 4, Farley (1996) chapter 6, Loury (2000), and Loury (2002: Appendix) for documentation of these claims.

<sup>iv</sup> Further elaboration can be found in Arrow (1963), Sen (1970), and Elster and Hylland (1986).

<sup>v</sup> I am using the term “color-blind liberalism” here and throughout this lecture in order to distinguish the object of my criticism from the broad theory of political liberalism as set out, for example, in the work of John Rawls. I am mindful of the fact that the embrace of this latter theory does not necessarily entail an endorsement of “color-blindness” as a fundamental moral principle. However, so far as I know, the implications of Rawls’s political liberalism for the questions of racial egalitarianism with which I am here concerned remain to be worked out in any comprehensive way. Doing so, in my opinion, remains an urgent philosophical project.

<sup>vi</sup> Just what might this mean in practice? I will argue (implicitly) below that a proper theory of social justice suitable for a “raced” society like the U.S. would be one satisfying the following desiderata: a. The social position of racial groups would count in the moral assessment; b. social mobilization along lines of racial identity would be recognized as a necessary instrument of resistance for groups subject to historical racial subordination; c. racial stigma would be seen as a legitimate, and indeed urgent, object of social approbation; d. in the face of dramatic racial disparities in social performance, the imputation of responsibility to individuals for their “choices” would be qualified by a recognition of the racially conditioned environments within which these individuals have to operate.

<sup>vii</sup> My critique of liberalism is thus similar in spirit to the communitarian arguments found in the work of Michael Sandel (1982) and Charles Taylor (1992), among others. As mentioned in note (iii) above, the

philosophical problem of deducing with some specificity what Rawls's political liberalism [RPL] implies about the problem of racial justice in the contemporary US and like societies around the world remains an open one. Early critical discussion of this question in the literature -- eg., Charles Mills's critique of liberal theory [LT] in "The Racial Contract" ("LT pretends to a universalism that it never obtains; the actual 'contract' is deeply and subtly a racial one" -- Mills) or Michael Sandel's more profound critique in "Liberalism and the Limits of Justice" (LT suffers from sociological naivete and an inadequate philosophical anthropology [this regarding the nature of the self]: If the right is prior to the good then the self must be prior to its ends; but what manner of self might this be?" -- Sandel) -- do not seem to me to be adequate. Although RPL does not imply the "color-blindness" of today's anti-affirmative action racial libertarians, it remains unclear (despite much useful recent work on related questions by Amartya Sen, Anthony Appiah, Elizabeth Anderson and Will Kymlicka, among others) as to just what, in a more positive vein, RPL does require for the just arrangement of social institutions (for the design of economic, political, educational, social welfare and criminal justice institutions, more specifically), given the fact of persistent social inequality between historically significant and culturally salient racial groups. Although it is not my subject here, in subsequent work I hope to make some small progress toward closing this gap in the philosophical and political theoretic literatures.

<sup>viii</sup> Consider the recent argument of Orlando Patterson (1998) on behalf of the proposition that the high rates of paternal abandonment of children among contemporary Afro-Americans is due to the devastating consequences for gender relations among blacks of American slavery, and of the racist system of Jim Crow segregation that followed. In my view, Patterson's argument is persuasive. But, even so, he can provide no answer to this crucial counter-factual query: What would family patterns look like among today's blacks in the absence of these historical depredations? This question is important because, without some sense of the *extent* of damage caused by past violation, it is difficult to gauge the appropriate scope of remedy.

<sup>ix</sup> Thomas Sowell is perhaps the leading exponent of this view. A representative work is Sowell (1983).

<sup>x</sup> Nozick (1974) provides a prototype of the procedural approach, in the sense being criticized here. I hasten to note that Nozick is himself aware of these difficulties, and proposes various amendments to his procedural theory in an effort to deal with them.