

Philos 117AC, Fall 2017
Setting the Stage:
John Conyers, H.R. 40
Ta-Nehisi Coates, “The Case for Reparations”

Main text:
Bernard Boxill, “A Lockean Argument for Black Reparations”

Basic Idea: Two Lockean arguments for reparations to present-day African Americans for the enslavement of African Americans.

Racist philosophers may have racist theories, but they may also produce theories that can be used to defeat racism. Locke may be a case in point. He wrote the Constitution for the Carolinas that provided for black slavery, and his theory of property seems to have been designed to justify the European seizure of the Americas from the Indians. Yet, as I have tried to show here, his theory of reparation can be used to justify reparation for the descendants of those he supposed were justifiably enslaved.

Locke’s account of reparations:

If T commits a transgression (not necessarily against V, whether or not T benefits) and V is harmed as a result, V has a right to reparation from T. This should aim to make V as well off as V would have been if not for the transgression (?).

- Not punishment: No aim to deter.
- Not compensation (although later on, confusingly, Boxill seems to slide back and forth between “compensation” and “reparation”):
 - a. Can compensate for harms not due to transgression.
 - b. Can be compensated by someone other than the transgressor, T.

Counterfactual argument:

Problems:

1. Transgressors long dead. How can they give reparation?
 - U.S. federal and state governments supported slavery. Those governments still exist. So governments owe reparations.
 - But Boxill worries that this is unfair. Why should present-day citizens be burdened with duties that they did not incur?
2. Enslaved persons long dead. How can they receive reparations?
 - Present-day African Americans were harmed by slavery.
3. Even if present-day African Americans are disadvantaged, is slavery *the cause*?
4. Reparation requires making the victims of the transgression as well off as they would have been had the transgression not occurred. How well off would present-day African Americans be had slavery never occurred? If had slavery never occurred, many present-day African Americans would never have been conceived! Perhaps *no one* now existing would have ever been conceived.
 - The relevant transgression was preventing each generation of descendants from *recovering* from the harms of slavery (although that recovery might have taken place if reparations had been paid to the preceding generation). That transgression took place *after* each generation of descendants was conceived.

Inheritance argument:

- Formerly enslaved persons entitled to reparations from governments, which they never received. (For theft of their labor? Or for more?)
- Granted, those formerly enslaved persons cannot be given those reparations now.
- However, descendants inherit the entitlements of their ancestors. E.g., if someone stole the heirloom that your grandma meant to leave to you, then they should give it “back” to you.
- So present-day descendants are entitled to reparations from governments.
- Does not depend on the idea that descendants were harmed by slavery.

Problems:

1. Present-day U.S. citizens were not complicit in the crime of slavery. So how can they have duties to pay reparations for transgressions that they did not commit?

- Grant that they don’t have duties of *reparations*. The point is simply that they inherited something that didn’t belong to them. So they should give it back.
- “Present-day African Americans have titles to a part of the estates white U.S. citizens have inherited from the slave holders and those who assisted, concurred or consented to their transgressions.” (All African Americans? All and only white citizens?)
- Who were pretty much all white U.S. citizens at the time. Because “a people’s failure to express dissent from their government’s unjust acts gives tacit consent to these acts.”

2. Lyons’s point: Rights to inheritance change with circumstances

- Granted, rights to inheritance are limited, e.g., if recognizing rights to inheritance would lead to “exploitation and domination.”
- But would recognizing the rights to inheritance at issue lead to this?