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Reconsidering Reparations¹

Abstract

There is an extensive literature and historical record of agitation for various forms of reparations from governments. Philosophers have responded to this literature and history by considering arguments for and against reparations in general and in specific historical cases. Much of this discussion has centered on the case of reparations for the harms of the trans-Atlantic slave trade, often specifically with respect to Black people in the United States. But the positions developed by philosophers have largely ignored potential contributions of the reasons and perspectives offered by activists and other political actors to the discussion. This paper aims to demonstrate the potential fruits of such engagement by pointing to a distinctive philosophical view made available by their work.

That distinctive view, which I call the *constructive view* of reparations, is rooted in distributive justice. Distributive justice is a topic in political philosophy that deals with how we understand, justify, or condemn distributions of goods and resources to people, and the processes and social facts that explain these distributions.² It also issues forward-looking recommendations about whether and how to change our current distribution of goods and resources. Reparations fits into this conversation, given that claims for reparations can be described as claims about how to distribute resources between an aggrieved party and a party held responsible. I begin by examining many of the current views of reparations in philosophical literature and related ones. Then, I survey rationales and demands put forward by activists and thinkers in the African diaspora, contrasting them with the arguments in part II. With both in hand, I briefly sketch the philosophical features of a distributive justice-based reconstruction of the perspectives of activists and political actors surveyed, and gesture at reasons to adopt this view, while stopping short of a full defense thereof.

I. Introduction

There is an extensive literature and historical record of agitation for various forms of reparations from governments. Former slave owners were often able to successfully petition for redress for their lost revenue, and legal abolition was often conditional on the availability of such redress.³ For example, after the Haitian Revolution ended slavery on the island, the young nation was forced to pay indemnity payments to France as a condition for ending a decades

¹ Thanks to [redacted]

² The term “resources” in this paper will be used broadly. It will refer not just to material resources, but other resources, like those that are social, cultural, and epistemic, and otherwise social.

³ [redacted]

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long political and economic blockade by the French, the United States, the British, and many allied European powers.⁴ The British empire's 1834 Abolition Act created a Compensation Commission to handle reparations claims from former slave owners. Among the over 45,000 claims were ones made by members of Parliament and the Barclays and Lloyd families.⁵ The US government has, from time to time, paid reparations to groups of specific individuals: for example, nominal payouts to tens of thousands of Japanese citizens who had been interned during World War II.⁶

Philosophers have responded to this literature and history by considering arguments for and against reparations in general and in specific historical cases. Much of this discussion has centered on the case of reparations for the harms of the trans-Atlantic slave trade, often specifically with respect to Black people in the United States. But the positions developed by philosophers have largely ignored potential contributions of the reasons and perspectives offered by activists and other political actors to the discussion. This paper aims to demonstrate the potential fruits of such engagement by pointing to a distinctive philosophical view made available by their work.

That distinctive view, which I call the *constructive view* of reparations, is rooted in distributive justice. Distributive justice is a topic in political philosophy that deals with how we understand, justify, or condemn distributions of goods and resources to people, and the processes and social facts that explain these distributions.⁷ It also issues forward-looking recommendations about whether and how to change our current distribution of goods and resources. Reparations fits into this conversation, given that claims for reparations can be described as claims about how to distribute resources between an aggrieved party and a party held responsible.

In part II, I'll begin by examining many of the current views of reparations in philosophical literature and related ones. In part III, I survey rationales and demands put forward by activists and thinkers throughout the African diaspora, contrasting them with the arguments in part II. In part IV I briefly sketch the philosophical features of a distributive justice-based argument for reparations that unites the perspectives surveyed in part III in what I call the "constructive view" of reparations, though a full elaboration and defense of this position is out of the scope of this paper. In part V I conclude.

⁴ Michel-Rolph Trouillot, *Haiti: State against Nation* (NYU Press, 1990). Pgs. 50-51.

⁵ V. P. Franklin, "COMMENTARY—REPARATIONS AS A DEVELOPMENT STRATEGY: THE CARICOM REPARATIONS COMMISSION," *The Journal of African American History* 98, no. 3 (2013): 363–66, <https://doi.org/10.5323/jafriamerhist.98.3.0363>; Nicholas Draper, "The Price of Emancipation," *Slave-Ownership, Compensation and British*, 2013.

⁶ Irvin Molotsky and Special to the New York Times, "Senate Votes to Compensate Japanese-American Internees," *The New York Times*, April 21, 1988, <http://www.nytimes.com/1988/04/21/us/senate-votes-to-compensate-japanese-american-internees.html>.

⁷ The term "resources" in this paper will be used broadly. It will refer not just to material resources, but other resources, like those that are social, cultural, and epistemic, and otherwise social.

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II. Repair Views

In my view, consideration of reparations claims demands a historical view of distributive justice, since the motivations for a present claim of reparations are intrinsically backward looking.⁸ I hold that reparations claims as such meet either of these two characteristics:

- 1) petitions to redress past harm or
- 2) petitions for alterations to a political state of affairs as a response to past actions (whether the actions in question are individual or institutional)

Many accounts of reparations defend it as an aspect of restorative justice. This position best exemplified by Margaret Walker in her book *Moral Repair*, on which reparations are considered primarily in terms of how they perform at “creating trust and hope in a shared sense of value and responsibility”.⁹ On this view, reparations, where appropriate, are such because they repair the moral relationship of the aggrieved with the party held responsible. Something like this view is also instantiated by Shiffrin, Kumar and Silver.¹⁰ I call this broad family of views the repair view.

This framework gives rise to two broad sub-families of conceiving of reparations as a form of restorative repair: harm-based repair and relation-based repair.

Harm-based repair views treat potential claimants of reparations (individuals or collectives) to have been harmed by paying party, and view reparations as repairing these harms. On this view, the harmed person's welfare is the broken thing to be fixed by successfully petitioning for reparations.

Relation-based repair views likewise consider the claimants as having been harmed, but view the relationship between the parties as the primary locus of importance. On these latter views, reparations are to be understood as aiming either at repairing the relationship between the parties broken both by the harm and subsequent non-reparation (which can cause additional injury) or rightfully navigating whatever relationship remains between the parties by a performance of obligations arising out of that relationship. On typical articulations of such

⁸ McGary argues that this plays a distinctive role in the moral evaluation of reparations claims, where this evaluation is taken to be separable from an evaluation of future-looking, consequence-based analyses. Boxill distinguishes reparations programs, which are necessarily backward looking, from mere compensatory accounts, which need only be forward looking. HOWARD MCGARY, “RECONCILIATION AND REPARATIONS,” *Metaphilosophy* 41, no. 4 (July 1, 2010): 546–62, <https://doi.org/10.1111/j.1467-9973.2010.01659.x>; Bernard R Boxill, “The Morality of Reparation,” *Social Theory and Practice* 2, no. 1 (1972): 113–23. Pg. 117.

⁹ Margaret Urban Walker, *Moral Repair: Reconstructing Moral Relations after Wrongdoing* (Cambridge University Press, 2006). Pg. 28.

¹⁰ Seana Valentine Shiffrin, “Reparations for US Slavery and Justice over Time,” in *Harming Future Persons* (Springer, 2009), 333–39; Rahul Kumar and David Silver, “The Legacy of Injustice. Wronging the Future, Responsibility for the Past,” *Justice in Time: Responding to Historical Injustice*, 2004, 145–58.

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views, reparations is required because of what it communicates between the parties, and in turn the terms of amicability or détente which they reparations can help them reach. I will review objections to both sub-families of views.

A. Against Harm-Repair Views

On the harm-repair view, we consider the aggrieved party to have harmed the victim by lowering them from some baseline of welfare that they would have enjoyed but for the offense. Reparations 'repair' this damage by distributing benefits to the victim that close the gap between their current state of wellness and this purported baseline, perhaps with some interest for their trouble. This way of thinking about the harm resembles discussions of liability contract and tort law – perhaps accordingly, many arguments for reparations in legal literature take a form something like this.¹¹ I don't have any objection to the use of the harm based repair view in other domains of political and legal philosophy. However, this strategy runs into difficulties in dealing with the reparations claims like the ones advanced for trans-Atlantic slavery and colonialism.¹²

Many of the problems caused by a repair view are caused by the difficulty of establishing a baseline against which to make out a specific extent of harm, or even that harm has occurred at all. Implicit harm frameworks often assume that the contrast class of interest is the welfare that the harmed party would have enjoyed but for the harm. If it turned out that a more appropriate contrast class were the welfare the harmed party could have enjoyed if the harming party had acted appropriately – if we considered not simply the possibility that the refrained from harm but included the entire range of foregone beneficial possibilities – then the harm repair view might not get off of the ground.¹³ To give harm views their best shot, I'll argue that views of reparations fail even if the welfare the harmed party would have otherwise enjoyed is the morally appropriate basis for establishing a baseline of harm.

The conceptual problems with the harm view are decisive when individual's lives are meant to provide the basis for such a baseline. Even had reparations been paid shortly after the abolition of slavery: how could one 'repair', say, whatever harm was done to a child born in the condition of slavery? For this individual's life, there is no "before" to return to. Put generally: objectors claim that it may be impossible to make sense of an individual 'harm' claim on the repair view if the action or process being charged with harm is also responsible for creating the agent that claims they were harmed. According to this objection, there is no possible world or relevant counterfactual in which the agent is better off without the harming

¹¹ See, for example: Vincene Verdun, "If the Shoe Fits, Wear It: An Analysis of Reparations to African Americans," *Tul. L. Rev.* 67 (1992): 597; Jeremy Levitt, "Black African Reparations: Making a Claim for Enslavement and Systematic De Jure Segregation and Racial Discrimination under American and International Law," *SUL Rev.* 25 (1997): 1.

¹² Verdun, "If the Shoe Fits, Wear It: An Analysis of Reparations to African Americans."

¹³ Albert Memmi considers this line of thought in the "Situations of the Colonized" chapter of *The Colonizer and the Colonized*, as does Daniel Butt more recently. Albert Memmi, *The Colonizer and the Colonized* (Routledge, 2013), 157–61; Daniel Butt, "Repairing Historical Wrongs and the End of Empire," *Social & Legal Studies* 21, no. 2 (2012): 227–42.

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action, because every world in which the harming action does not exist is a world in which the agent who claims they were harmed does not exist either.

Kumar and Silver term this problem the “existential worry”, following Christopher Morris’ treatment of the problem in ethical theory.¹⁴ If successful, there are no backward-looking considerations that could possibly establish that processes like slavery or colonialism harmed the people formed as a result of those processes (the descendants of enslaved or colonized people) and claims of harm cannot underwrite a successful argument for reparations for descendants of aggrieved parties.¹⁵

Other ways of making out a repair claim might suppose we ought to be tracking social collectives rather than individuals. Instead of considering a baseline of wellness for individuals like the child born into slavery, we could consider the baseline for collectives of people in some sense: perhaps geographical regions, a continent, or nation-states. The question for the reformed repair theorist shifts from what a question about what quality of life an individual would have had if the offense hadn't happened to a question about what quality of life a collective would have had.

But this strategy does not avoid the existential worry. Morris’ argument applies to individuals but seems argumentatively valid for sets of individuals. If any arbitrarily selected descendant of people enslaved in the US would not exist but for the particular circumstances engendered by slavery, then the set of such descendants likewise would not exist. Then, it should also be true for the set of such descendants – “Black Americans” collectively, perhaps - that the same sort of counterfactual problem exists.

Even if there is some answer to the preceding, it is unclear which counterfactuals to evaluate and how to evaluate them. For example, take the historic debate between James Baldwin and William Buckley. Buckley invoked the counterfactual comparison on which Blacks’ lives in the US are compared with those of Black Africans’ at the time.¹⁶ What if, as Buckley pointed out to a packed Oxford audience, Blacks in the US are supposedly “better off” than their African counterparts?¹⁷ If so, reparations face an even stronger objection than the existential worry: if a Buckley-style objector is right, there’s no harm to repair!

¹⁴ Christopher Morris with sketching out the existential worry in ethical theory: for example, many descendants of slaves would not exist at all but for the facts of slavery, which renders false counterfactual claims constructed along the lines of the repair view. Subsequent treatments of the philosophical problem have termed it the “non-identity problem”. Kumar and Silver, “The Legacy of Injustice. Wronging the Future, Responsibility for the Past”; Christopher W Morris, “Existential Limits to the Rectification of Past Wrongs,” *American Philosophical Quarterly* 21, no. 2 (1984): 175–82; Melinda A Roberts and David T Wasserman, *Harming Future Persons: Ethics, Genetics and the Nonidentity Problem*, vol. 35 (Springer Science & Business Media, 2009).

¹⁵ Kumar and Silver, “The Legacy of Injustice. Wronging the Future, Responsibility for the Past.”

¹⁶ For an illuminating historical example, see the 1965 debate between James Baldwin and William Buckley. James Baldwin et al., *Debate: Baldwin vs Buckley* (New York, NY: National Educational Television and Radio Center, 1965).

¹⁷ A closely related style of response is to credit “the West” for any positive developments on the continent (access to modern technology or public health) while blaming African corruption

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But this genre of response faces its own “existential worry”. Kumar and Silver reconstruct a necessary condition for harm via Morris’ argument in the following way:

“V is wronged by W via act A only if V, in the absence of A:

- 1) Exists
- 2) Is *not* injured or wronged by W”¹⁸

If this also goes for being advantaged: it could be reconstructed simply by swapping out the terms:

“V is advantaged by W via act A only if V, in the absence of A,

- 3) Exists
- 4) Is *not* advantaged by W”¹⁹

If the existential worry is a reason that Blacks could not have been harmed by slavery then it is also a reason that they could not have been benefitted by it. Put generally: if the existential worry rules out counterfactuals that establish harm, it in the very same way also rules out those that establish benefit – either for Blacks or whites whose opportunities and life chances (or lackthereof) owe themselves to a history fueled by a slave system and global colonial capitalism.

Perhaps doesn't not mean that Blacks are advantaged by slavery, but simply that they were not disadvantaged or harmed. But conceptual difficulties remain. The disparities in quality of life between Black Americans and Black Africans are themselves produced by the very historical process that led to the claims for redress, namely colonialism and the slave trade. Those processes figure into the economic development of nations like the United States and the relative lackthereof in Africa. Then, they also help explain the very gap in living conditions appealed to by the Buckley-style objector.²⁰

or exogenous environmental and cultural factors for negative developments (war, famine). I'm not sure which argumentative strategy is less philosophically serious, but Mazrui has the stuff of a reply to this concern on pages 8-10 of his MKO Abiola lecture on reparations. Ali A Mazrui, “Global Africa: From Abolitionists to Reparationists,” *African Studies Review* 37, no. 3 (1994): 1–18.

¹⁸ Kumar and Silver, “The Legacy of Injustice. Wronging the Future, Responsibility for the Past.” Pg. 148.

¹⁹ Kumar and Silver. Pg. 148.

²⁰ Shiffrin makes this point about the dependence of everyone, not just descendents of slaves, to the historical legacies of slavery and colonialism on pages 334-335. But, for some historical treatments of both sides of the comparison, see: Olufemi Taiwo, *How Colonialism Preempted Modernity in Africa* (Indiana University Press, 2010); Walter Rodney, “How Europe Underdeveloped Africa,” *Bogle-L'Ouverture Publications, London and Dar Es Salaam*, 1972; Eric Williams, *Capitalism and Slavery* (UNC Press Books, 2014); Shiffrin, “Reparations for US Slavery and Justice over Time”; Daniel Tetteh Osabu-Kle, “The African Reparation Cry: Rationale, Estimate, Prospects, and Strategies,” *Journal of Black Studies* 30, no. 3 (2000): 331–50; Samir Amin, “Underdevelopment and Dependence in Black Africa—origins and Contemporary Forms,” *The Journal of Modern African Studies* 10, no. 4 (1972): 503–24. Pgs. 334-335.

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Then, a fuller treatment of the causal entanglements appreciated by a historical view shows that there are more existential worries than we initially bargained for. Neither the United States, nor developed countries, nor African countries, nor formerly colonized countries, nor the various gaps between the life chances of their current inhabitants, would be what they are but for colonialism and the slave trade.²¹ This is clear both as an historical and empirical matter and also conceptually speaking.

Historically: the slave trades involved a transfer of labor power from the African continent so large that, by 1850, the continent's population was half of what it would have been without them.²² The trans-Atlantic slave trade, by volume, was responsible for double the amount of depopulation as all other slave trades on the continent combined. The labor power that the abducted people possessed then became an economic input in the macroeconomies of the countries where they were forced to work. That was of immense economic and strategic importance to colonial powers: for example, the total economic value of enslaved people in the US south was greater than the entire country's combined industrial capital until well into the 19th century.²³ The incentive structure generated by the existence of such a lucrative market for kidnapping resulted in the decline of previously stable societies, the creation of a continental bandit class, and inter-ethnic divisions that continue to undermine political institutions on the continent.²⁴ These factors powerfully shape the political circumstances and characteristics of African nation-states today.

Conceptually, the explanation is much simpler: the very same racialized social system that constitutes a person as a slave (or potentially so) also constitutes other people as slave owners (or potentially so), and the same colonial social system that constitutes persons as members of the colonized group constitutes other people as members of the colonizing group.

Then, what point in whose history can we appeal to establish a baseline of harm without triggering the existential worry? I don't think there is a satisfying answer to that question on the way.²⁵ Harm-based repair views don't seem to survive the existential worry.

²¹ Shiffrin, "Reparations for US Slavery and Justice over Time."

²² Nathan Nunn, "The Long-Term Effects of Africa's Slave Trades*," *The Quarterly Journal of Economics* 123, no. 1 (February 1, 2008): 139–76, <https://doi.org/10.1162/qjec.2008.123.1.139>. Pg. 142 of the Nunn paper.

²³ Thomas Piketty and Gabriel Zucman, "Capital Is Back: Wealth-Income Ratios in Rich Countries 1700–2010," *The Quarterly Journal of Economics* 129, no. 3 (2014): 1255–1310; for larger geopolitical context see chapters 1-3 of Williams, *Capitalism and Slavery*.

²⁴ Rodney, "How Europe Underdeveloped Africa"; Nunn, "The Long-Term Effects of Africa's Slave Trades*." Chapter 4 in Rodney.

²⁵ Daniel Butt offers a noteworthy attempt to do just this in a 2012 article, proposing a "double counterfactual" which invites us to imagine any particular colonized community not simply without the particular colonial past it has but without having been colonized at all. I suspect this strategy will run into significant hurdles at the calculation stage, and in any event, the constructive view that will be introduced later in this paper obviates the need for it by shifting from "harm" to a more general sort of explanation. Butt, "Repairing Historical Wrongs and the End of Empire."

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B. Against Relationship-repair Views

Other conceptions of repair worth mentioning work on a different conception of the kind of harm that can found the distinctive kinds of reparations claims made about trans-Atlantic slavery and colonialism without triggering the existential worry. Whatever else slavery and colonialism were, they were or involved significant moral harms. Perhaps, then, the right response is a kind of moral repair of a social or political relation, as opposed to the sort of prudential repair of an individual or group's welfare that the first sub-family of views might prefer.

Many arguments for reparations for US slavery in philosophical literature treat reparations claims as a straightforward payment of a debt. An important set of these follow a Lockean approach based in a philosophical commitment to reparations as a moral or political right. Locke thought that the right to reparation of harm was a natural right, one that each person would have over every other person either in a "commonwealth" or even in the state of nature.²⁶ Further, on his historical view of reparations, he argued that the children of those dispossessed by war, even where the war is just, retain moral rights to the possession of their ancestors.²⁷ Where their rights to those possessions, or any other property, are infringed, the claimants are to be considered "slaves under the force of war" rather than free people.²⁸ That is, the infringement of their rights harms a political relation between the claimants and the broader political community is degraded into conflict and adversity, where the relationship could and should be a cooperative one. Reparations repair by removing one set of things barriers between the claimants and the broader political community, and thus help create the conditions for non-adversarial political relations.

Finding these sorts of theoretical claims congenial, a number of prominent philosophers have made similar if not explicitly Lockean arguments for Black reparations in the United States. This view is most obviously exemplified by Bernard Boxill, though Catherine Lu, Lawrie Balfour, J. Angelo Cortlett, and Robert Fullinwider also provide reparations arguments that could be fit here.²⁹

In *Moral Repair*, Walker argues that reparations construed as restorative justice for anti-Black racism is aimed at the "restoration of relationships" between Black citizens and other citizens, seeing the alienation of Blacks from their (now) fellow citizens and from the government they live under as a primary harm.³⁰ Similarly, Lu considers reparations as a reconciliatory task, both an intervention upon the victims' alienation from the individuals that

²⁶ Bernard Boxill points to this passage in "Black Reparations". John Locke and Crawford Brough Macpherson, *Second Treatise of Government* (Hackett Publishing, 1980); Bernard Boxill, "Black Reparations," *Stanford Encyclopedia of Philosophy*, 2011. Book II, sec. 6-12.

²⁷ Locke and Macpherson, *Second Treatise of Government*. Book XVI, "Conquest", sec. 190-196.

²⁸ Locke and Macpherson. Book XVI, "Conquest", sec. 192, pg. 63.

²⁹ Bernard R Boxill, "A Lockean Argument for Black Reparations," *The Journal of Ethics* 7, no. 1 (2003): 63–91; Robert K Fullinwider, "The Case for Reparations," 2000; J Angelo Corlett, "Race, Racism, and Reparations," *Journal of Social Philosophy* 36, no. 4 (2005): 568–85; Lawrie Balfour, "Reparations after Identity Politics," *Political Theory* 33, no. 6 (2005): 786–811.

³⁰ Walker, *Moral Repair: Reconstructing Moral Relations after Wrongdoing*. Pg. 224.

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harmed them and also their alienation from the social/political order that played a causal role in their harm.³¹ Kumar and Silver endorse an explicitly contractualist conception of such moral harm, arguing that imposing conditions on an agent that violate legitimate interpersonal expectations is a way of harming them.³² Shiffrin endorses a similar account of harm, arguing that people can be harmed by the imposition of conditions that they would not rationally will or are reasonably alienated from, which does not require the sorts of counterfactuals that trigger Morris' objection.³³

Boxill and Shiffrin also consider communicative effects of refusing to make reparations when they are due. Refusal to take reparative steps when one has injured another (or otherwise ought to) can signal that the ongoing moral commitment that the injured party morally deserved their injury or need not be regarded as a moral equal. Refusal can also be criticized for the culpable failure to signal the opposite commitment.³⁴ Racial discrimination, disrespect, and the current living conditions of much of the Black world, to the extent that these owe their character to slavery and colonialism, would qualify as harm on these conceptions.

On these versions of construing harm or injury, we needn't appeal to a colonized person's being made "worse-off" relative to an actual past baseline or a counterfactual scenario. These views, then, avoid the existential worry. Instead, the important aspect of the ongoing wrongs of slavery (and, presumably, colonialism) for these theories is the ongoing failure of the relevant parties to repudiate the ills of slavery. This failure risks tacit endorsement of or insufficient discontinuity with the attitudes of the past, on which African, African-descended, and other colonized peoples were deserving of inferior social status and treatment.³⁵ Then, the value of reparations is to be understood as communicative, an expression of serious and sincere regret of the past.³⁶

These second views, however, face a more important worry. They don't explicitly rule out material redress, and these authors explicitly support material compensation of some form. However, these views deny that material redress and the address of the present-day living conditions of the recipients is the point of reparations. But, for many contemporary and historical advocates of reparations, it seems to be the point. I review many such views in the next section.

³¹ Catherine Lu, "Reconciliation and Reparations," *The Oxford Handbook of Ethics of War*, October 2015, <https://doi.org/10.1093/oxfordhb/9780199943418.013.17>.

³² Kumar and Silver, "The Legacy of Injustice. Wronging the Future, Responsibility for the Past." Pgs. 149-151.

³³ Seana Valentine Shiffrin, "Wrongful Life, Procreative Responsibility, and the Significance of Harm," *Legal Theory* 5, no. 02 (1999): 117-48. Page 124.

³⁴ Boxill, "The Morality of Reparation"; Shiffrin, "Reparations for US Slavery and Justice over Time."

³⁵ Kumar and Silver are speaking about the US context in this section, but I take it that this specific point of theirs generalizes. Kumar and Silver, "The Legacy of Injustice. Wronging the Future, Responsibility for the Past." Page 152.

³⁶ Shiffrin, "Reparations for US Slavery and Justice over Time." Page 335.

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III. A third view on reparations

Outside of the philosophical literature, many advocates of reparations for trans-Atlantic slavery and colonialism causally link current conditions faced by people living today to the historical phenomena they are responding to. On these views, reparations are primarily considered based on what it is hoped that they will do for the recipients' lives in particular, rather than what it will do for their relationships with other parties. Such views not only also deserve philosophical exploration, but seem to rest ultimately on stronger argumentative ground than the views taken up more commonly in philosophical and legal literature. While a full defense of that claim is outside of the scope of this paper, I aim to both explain the basic structure reconstructed view and gesture at the commitments a full defense of it would take on.

Whatever the philosophical virtues of the harm based and relationship based repair views, they face serious challenges as interpretations of many reparations claims especially the ones for trans-Atlantic slavery and colonialism here considered. It's instructive, here, to recall Dr. Martin Luther King Jr's exhortation from his book *Why We Can't Wait*:

The Negro today is not struggling for some abstract, vague rights, but for concrete and prompt improvement in his way of life. What will it profit him to be able to send his children to an integrated school if the family income is insufficient to buy them school clothes? What will he gain by being permitted to move to an integrated neighborhood if he cannot afford to do so because he is unemployed or has a low-paying job with no future? During the lunch-counter sit-ins in Greensboro, North Carolina, a nightclub comic observed that, had the demonstrators been served, some of them could not have paid for the meal...The struggle for rights is, at bottom, a struggle for opportunities.³⁷

Speaking specifically about reparations, Frantz Fanon explicitly rejects a moral repair criterion, saying: “[m]oral reparation for national independence does not fool us and it doesn't feed us”, preferring a conception of material and technical aid as “just reparation” for colonial exploitation of the Third World.³⁸

Perhaps some of those who appeal for reparations are in it for an apology. But why should that be the *point*?

Activists, organization leaders, and actors in multinational or international contexts seem to advocate a different purpose for reparations than many philosophers have. Despite different justifications, argument styles, and concrete goals, a theme that emerges among these disparate views is a focus on the changes reparations could make to the lives of recipients in material terms, and the power structures that African descended communities and the institutions that (ought to) serve them operate within. This strategic stands in stark contrast both to the moralizing, obligation-based arguments of harm-repair views and the symbolic and communicative value emphasized in many versions of the relation-repair views.

A systematic empirical review of activists, academic, experts, and other “elites” on the African continent found that, though the symbolic significance of reparations were broadly

³⁷ Martin Luther King, *Why We Can't Wait* (Penguin, 2000). Pg 129.

³⁸ Frantz Fanon, “The Wretched of the Earth. 1961,” *Trans. Richard Philcox. New York: Grove, 2004.* Pgs 58-59.

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appreciated, even this aspect was considered practically by these actors, in terms of its future looking consequential implications for future interactions.³⁹ A firm consensus emerged: the point of reparations was to “develop and rehabilitate Africa” - a future looking consideration directed at collective wellbeing.⁴⁰

My own review of such figures is consistent with the possibility that there is broad support for a view of reparations that is like neither of the repair models explored in philosophical literature so far. For example, Mireille Fanon-Mendes and the United Nations' Working Group of Experts on People of African Descent, argued similarly in a statement pressuring the United States in particular to provide material reparations for Black people.⁴¹ Verene Shepherd, also of the United Nations' Working Group of Experts on People of African Descent linked historical injustices and colonialism to present day poverty among African descended peoples and other colonized peoples, arguing that reparations are needed to combat economic disenfranchisement and exploitation that represent ongoing effects of slavery and colonialism.⁴²

State governments and official actors have also articulated reparations claims in ways that the US philosophical literature on reparations have yet to substantively take up. In the United States, Black political actors and government officials pushed for material concessions to Black people freed from slavery during and after the US Civil War.⁴³ General William Tecumseh Sherman issued Special Order Fifteen, which unsuccessfully aimed to allot forty acres of land per Black family in the defeated South.⁴⁴ In the legislature, Congressman Thaddeus Stevens led radical Republicans in advocating for the provision of material resources to newly freed Blacks in the south.⁴⁵ Partially due to his efforts, Congress created a series of bureaus (first the Bureau

³⁹ Anthony P Lombardo and Rhoda E Howard-Hassmann, “Africans on Reparations: An Analysis of Elite and Activist Opinion,” *Canadian Journal of African Studies/La Revue Canadienne Des Études Africaines* 39, no. 3 (2005): 517–48. Pgs. 533-536.

⁴⁰ Lombardo and Howard-Hassmann. Pg 543.

⁴¹ “OHCHR | Statement to the Media by the United Nations' Working Group of Experts on People of African Descent, on the Conclusion of Its Official Visit to USA, 19-29 January 2016,” accessed July 8, 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17000&LangID=E>.

⁴² Verene Shepherd, “Reparation and the Right to Development” (United Nations Office of the High Commissioner on Human Rights, 2015), <http://www.ohchr.org/Documents/Issues/Racism/WGEAPD/Session16/VereneShepherd.pdf>; Verene Shepherd, “Justice Requires Former Colonialists Pay Reparations,” *The New York Times*, accessed June 21, 2017, <https://www.nytimes.com/roomfordebate/2015/10/08/are-transatlantic-slave-trade-reparations-due/justice-requires-former-colonialists-pay-reparations?mcubz=1>.

⁴³ Manning Marable, *The Great Wells of Democracy: The Meaning of Race in American Life* (Basic Books, 2003). Pgs. 225-226.

⁴⁴ Nell Irvin Painter, *Exodusters: Black Migration to Kansas after Reconstruction* (WW Norton & Company, 1992). Pgs. x-xi.

⁴⁵ William Edward Burghardt Du Bois, *Black Reconstruction in America: Toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860-1880*

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of Refugees, Freedmen, and Abandoned Lands, then more famous Freedmen's Bureau), charged with providing forty acres to each family of newly free people. Complications including flooding, widespread poverty and dispossession caused by the Civil War, a veto of a stronger Freedman's Bureau by then President Andrew Johnson, lobbying by railroad companies competing for land, and violent racial riots resulting in the murder of many freedmen, prevented followthrough on this point.⁴⁶

In the western hemisphere: Caribbean governments formed the Caribbean Commission on Reparations, CARICOM, whose ten point plan conceives of its nation-state targets as "the beneficiaries of enrichment from the enslavement of African peoples, the genocide of indigenous communities and the deceptive breach of contract and trust in respect of Indians, and other Asians" but sees the goal of its program as repair of the present day public health crisis in the Caribbean, literacy levels, and psychological "healing and repair" for currently living peoples descended from the formally colonized.⁴⁷

In 1978 Brazil, the Movimento Negro Unificado marched on São Paulo in the tens of thousands and read an open letter demanding material resources in the form of employment, social services, and land reform that would protect quilombos (autonomous regions created by escaped Africans during legal slavery).⁴⁸ A future movement claiming continuity with the MNU would in 2014 demand historical and humanitarian reparations for Black people.⁴⁹

In the US, Congressman John Conyers advanced a congressional bill calling for a Congressional investigation into possible US government liability for reparations, which earned the support of a coalition of Black organizations, the National Coalition of Blacks for Reparations in America (NCOBRA).⁵⁰

(Transaction Publishers, 2013); Verdun, "If the Shoe Fits, Wear It: An Analysis of Reparations to African Americans." Pgs. 432-434.

⁴⁶ Painter, *Exodusters: Black Migration to Kansas after Reconstruction*; Claude F Oubre, "'Forty Acres and a Mule': Louisiana and the Southern Homestead Act," *Louisiana History: The Journal of the Louisiana Historical Association* 17, no. 2 (1976): 143–57; Verdun, "If the Shoe Fits, Wear It: An Analysis of Reparations to African Americans"; Levitt, "Black African Reparations: Making a Claim for Enslavement and Systematic De Jure Segregation and Racial Discrimination under American and International Law." Pgs. 8-10.

⁴⁷ "Reparations for Native Genocide And Slavery —Caribbean Community (CARICOM) Secretariat," accessed July 11, 2017, <http://www.caricom.org/reparations-for-native-genocide-and-slavery>.

⁴⁸ Mirian Cristina de Moura Garrido, "Movimento Negro Unificado e Política: Sobre a Possibilidade de Apreender Militantes Como Protagonistas Políticos (1978-1988).," *Identidade!* 21, no. 1 (2016): 33–42; Flavia Rios, "O Protesto Negro No Brasil Contemporâneo (1978-2010)," *Lua Nova: Revista de Cultura e Política*, 2012, 41–79; Michael George Hanchard, *Orpheus and Power: The "Movimento Negro" of Rio de Janeiro and Sao Paulo, Brazil 1945-1988* (Princeton University Press, 1998). Pgs. 124-126.

⁴⁹ "Movimento Negro Unificado Ba," Movimento Negro Unificado Ba, accessed July 13, 2017, <https://movimentonegrounificadoba.wordpress.com/>.

⁵⁰ "NCOBRA: John Conyers Introduces New HR40 Reparations Bill," *National Coalition of Blacks for Reparations in America (NCOBRA)* (blog), January 15, 2017,

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MKO Abiola - soon after President-elect of Nigeria - headed up a "Group of Eminent Persons" with the Organization for African Unity, a predecessor to what is now the now African Union.⁵¹ This group convened the Pan-African Conference on Reparations, whose "Abuja Proclamation" denied that the "damage sustained by African peoples" was not a "thing of the past" but rather "[p]ainfully manifest in the damaged lives of contemporary Africans from Harlem to Harare".⁵² The document calls for capital transfers, debt cancellation, and representation of African peoples in multinational decision making bodies.⁵³

Activists have showed a similar focus on the potential material redistributive benefits of reparations over their symbolic or communicative value. Queen Mother Audley Moore is often credited as the mother of reparations movements in the 20th century in the western hemisphere, arguing that reparations ought to be used to end poverty in the Black community and counteract employment discrimination.⁵⁴ Her advocacy and work for reparations influenced a generation of subsequent organizations that also advocated for reparations in some form or other, including the Revolutionary Action Movement, and Black Panther Party for Self Defense.⁵⁵ James Forman of Student Nonviolent Coordinating Committee (SNCC) famously interrupted a Sunday morning service at Riverside Church in New York City to read the Black Manifesto developed by him and the National Black Economic Development conference, which demanded \$500 million dollars from churches and synagogues, or "15 dollars per nigger", for "aiding and abetting" a capitalist system that forced Blacks to "live as colonized people".⁵⁶ In today's US activism, the Movement for Black Lives policy platform explicitly ties specific forms of reparations to specific ways in which contemporary Blacks in America today are harmed or disadvantaged, and conceives reparations as being tasked with specific solutions to those harms.⁵⁷

<http://www.ncobraonline.org/congressman-john-conyers-introduces-new-hr40-reparations-bill/>.

⁵¹ Martha Biondi, "The Rise of the Reparations Movement," *Radical History Review* 87, no. 1 (2003): 5–18; Rhoda E Howard-Hassmann, "Reparations to Africa and the Group of Eminent Persons," *Cahiers d'Etudes Africaines*, no. 1 (2004): 81–97.

⁵² National Coalition of Blacks for Reparations in America (NCOBRA), "The Abuja Proclamation (Pan-African Conference on Reparations - 1993 Abuja, Nigeria)," accessed July 11, 2017, <http://www.ncobraonline.org/the-abuja-proclamation/>.

⁵³ National Coalition of Blacks for Reparations in America (NCOBRA).

⁵⁴ Charles J Ogletree Jr, "Repairing the Past: New Efforts in the Reparations Debate in America," *Harv. CR-CLL Rev.* 38 (2003): 279. Ashley Farmer, "Somebody Has to Pay: Audley Moore, Mother of the Reparations Movement – AAIHS," accessed July 12, 2017, <http://www.aaihs.org/somebody-has-to-pay-audley-moore-mother-of-the-reparations-movement/>.

⁵⁵ Farmer, "Somebody Has to Pay."

⁵⁶ James Forman, "The Black Manifesto," *Africa Today* 16, no. 4 (1969): 21–24; Levitt, "Black African Reparations: Making a Claim for Enslavement and Systematic De Jure Segregation and Racial Discrimination under American and International Law." Page 12.

⁵⁷ "Reparations," The Movement for Black Lives, accessed July 21, 2017, <https://policy.m4bl.org/reparations/>.

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Scholars have showed a similar focus on those who are alive now and their future prospects. Henry Ekiyor, former coordinator of the Movement for Reparations in Barbados, argues similarly, but links the slave trade with underdevelopment of the African continent and poverty amongst the peoples of the Africa and the diaspora more generally.⁵⁸ Daniel Osabu-Kle argues that reparations are due as a response to current underdevelopment of Africa is causally attributable to the trans-Atlantic slave trade, related colonialist adventurism, the structure of African economies in response, and the subsequent exploitation of that structure to the benefit of developed countries by the IMF and World Bank.⁵⁹

Relatedly, in the very first (aptly named) annual MKO Abiola lecture, eminent scholar Ali Mazrui diagnoses not only deprivations in material conditions for individual Africans, but deficits in power in multinational institutions like the IMF and the World Bank as downstream of colonial injustices and things to be specifically remedied by comprehensive schemes of reparations that transfer voting power in those institutions as well as capital and skills.⁶⁰ Ta-Nehisi Coates recently published a well-read longform article advocating the passage of that bill in *The Atlantic* linking current poverty and vulnerability to death and violence among Black Americans to slavery and subsequent patterns of racist policies and state violence.⁶¹

Current strands of religious and philosophical thought influenced by Marcus Garvey, including the Rastafarian movement, endorse repatriation of African descended peoples from “Babylon” - former British colonies like those in the Caribbean - back to the African continent.⁶² Inspired by similar views, hundreds of African descended peoples convened an Afrikan Emancipation Day Reparations March in the historically black neighborhood of Brixton, London in 2017 to demand that this be financed by the United Kingdom, given the role trans-Atlantic trafficking of Africans had in the present day exposure to poverty, ill-health, and exposure to discrimination of African-descended people in the world today.⁶³ In the United States, a variety of organizations support reparations, including: Black Youth Project 100, National Coalition of

⁵⁸ Henry A Ekiyor, “Making a Case for Reparation,” *Journal of Pan African Studies* 1, no. 9 (2007): 103–16.

⁵⁹ Osabu-Kle, “The African Reparation Cry: Rationale, Estimate, Prospects, and Strategies.”

⁶⁰ Mazrui, “Global Africa: From Abolitionists to Reparationists.”

⁶¹ Ta-Nehisi Coates, “The Case for Reparations,” *The Atlantic*, June 2014, <https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>; Ta-Nehisi Coates, *Between the World and Me* (Text publishing, 2015).

⁶² Steed Davidson, “Leave Babylon: The Trope of Babylon in Rastafarian Discourse,” *Black Theology* 6, no. 1 (2008): 46–60.

⁶³ “Emancipation Day March: Hundreds Take to Streets of Brixton Calling for Slavery Reparations | London Evening Standard,” accessed June 21, 2017, <http://www.standard.co.uk/news/london/reparations-march-hundreds-take-to-the-streets-of-brixton-calling-for-amends-for-generations-of-a3309246.html>; “Petition · STOP THE MAANGAMIZI: WE CHARGE GENOCIDE/ECOCIDE · Change.Org,” accessed June 21, 2017, <https://www.change.org/p/stop-the-maangamizi-we-charge-genocide-ecocide>.

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Blacks for Reparations in America (NCOBRA), Chairman Omali Yeshitela of the Uhuru Movement and the Black is Back Coalition.⁶⁴

Not all of the aforementioned academic, activist, governmental, and other persons and groups have a statement indicating a comprehensive rationale or set of motivations for reparations. Between those that do, there are many disagreements and discontinuities. But these calls for reparations largely derive their moral *raison d'être* from past harms but its content, direction, and political urgency from the needs of contemporary Black people full stop, not in their relationships to non-Black people or inheritance from wronged ancestors.

IV. Towards The Constructive View

a. Reparations as Distributive Justice

There are many differences between these views, but they all share a commitment to a conception of the import of reparations as primarily emanating from a concern with the present material and social conditions of Blacks across the diaspora today. The historical causes of those conditions figure prominently, but less often as more often as a justification for the nature and costliness of the remedies demanded by the imprint of the past on those living in the present day and, most importantly, who is taken to be responsible for bearing the costs of those remedies.

In contemporary US political philosophy, a topic well suited to characterizing such claims and thereby drawing out the contrast between the constructive view and the prevailing views of reparations in the philosophical literature is distributive justice. In this section, I give a brief overview of a critical reconstruction of the arguments and struggles surveyed in the previous section using the concept of distributive justice. Though a full defense of this position is a task for a future paper, I gesture at a few of the view's upshots and consider some preliminary objections.

As mentioned in the introduction to this paper, principles of distributive justice govern how we understand, justify, or condemn distributions of goods and resources to people.⁶⁵ It is possible to stop there. A *snapshot view* of distributive justice conceptually 'starts over' and analyzes the appropriateness of the current distribution of wealth, resources, and social goods in abstraction from the historical processes that produced the distribution in question a *snapshot view* of distributive justice.⁶⁶ On such a view, the only considerations that ought to

⁶⁴ "Our Demands: Stop the Cops and FUND Black Futures," *BYP 100* (blog), accessed July 21, 2017, <http://byp100.org/what-we-want/>; "National Town Hall Meeting on Reparations Set: Chairman Omali to Be Panelist," accessed July 21, 2017, [//www.theburningspear.com/2011/05/national-town-hall-meeting-on-reparations-set-chairman-omali-to-be-panelist](http://www.theburningspear.com/2011/05/national-town-hall-meeting-on-reparations-set-chairman-omali-to-be-panelist).

⁶⁵ The term "resources" in this paper will be used broadly. It will refer not just to material resources, but other resources, like those that are social, cultural, and epistemic, and otherwise social.

⁶⁶ Rawls' *A Theory of Justice* gives a famous ideal theory of political philosophy that gives considerable attention to distributive justice, but not to corrective justice. Charles Mills points

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bear on reparations are future-looking – for example, disincentivizing the past aggressor to take future harmful actions, or creating the possibility of future moral relations by signaling the aggressor party's stance on past injustices.⁶⁷ Some in the philosophical literature have defended such a view.⁶⁸

Whatever their overall virtues, snapshot views of distributive justice aren't up to the job of grounding philosophical reconstructions of reparations claims. This is because reparations claims, as defined in Part II, gain their moral force from backward-looking considerations. Debating the overall merits and demerits of the snapshot view is out of the scope of this paper. For now, it's enough to say that a different view of distributive justice will be required to ground reparations here.⁶⁹

Moreover, the view of distributive justice implicitly held by the activists and thinkers in part III explicitly appeal to backward looking considerations of past racial domination and violence to explain their reparations demands. A *historical* view of distributive justice takes into account both welfarist considerations the snapshot theorist would consider (how well the distribution in question meets the needs of the people it affects), but also historical considerations explaining how that distribution was fairly or unfairly established are relevant. Figures in political philosophy like Rawls have defended recognizably historical views of distributive justice.⁷⁰ Even Nozick, famed expositor of the libertarian political theory of the

out that Rawls does not explicitly discuss rectificatory justice and seems to openly admit that the principles he outlines will be of limited application to (what Mills terms) "ill-formed" societies, those whose actual history does not sufficiently resemble the "well formed" society. There is some disagreement in the literature about whether the view Rawls develops can adequately account for corrective justice: for example, see the exchange between Tommie Shelby and Charles Mills, with Shelby dissenting, preferring a view that Rawls' theory provides adequate resources for the corrective justice needed for racial justice specifically. John Rawls, *A Theory of Justice*, Revised Edition (Cambridge: Harvard university press, 1999); Tommie Shelby, "Race and Social Justice: Rawlsian Considerations," *Fordham L. Rev.* 72 (2003): 1697; Charles W Mills, "Retrieving Rawls for Racial Justice? A Critique of Tommie Shelby," *Critical Philosophy of Race* 1, no. 1 (2013): 1–27; Charles W Mills, *Black Rights/White Wrongs: The Critique of Racial Liberalism* (Oxford University Press, 2017).

⁶⁷ Leif Wenar, "Reparations for the Future," *Journal of Social Philosophy* 37, no. 3 (2006): 396–405. Pgs. 403-405.

⁶⁸ Wenar. Pgs 396-397.

⁶⁹ Rawls seems to offer a stronger claim, one that implies that the views I've labeled "snapshot" views are somehow incoherent: "Thus in this kind of procedural justice the correctness of the distribution is founded on the justice of the scheme of cooperation from which it arises and on answering the claims of individuals engaged in it. A distribution cannot be judged in isolation from the system of which it is the outcome or from what individuals have done in good faith in the light of established expectations." I won't lean on a claim this strong here. Rawls, *A Theory of Justice*. Pg 76.

⁷⁰ Nozick's "entitlement theory of acquisition" counts as historical in the technical sense considered here. Robert Nozick, *Anarchy, State, and Utopia*, vol. 5038 (Basic books, 1974), 150–51; Rawls, *A Theory of Justice*.

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minimal state, held a historical view that one's current holdings inherit the normative status of the process responsible for the acquisition of those holdings, which is more than congenial to claims for reparations.⁷¹

b. Laying out the constructive view

Armed with a suitable distinction in senses of distributive justice, the constructive view then offers a division of labor between snapshot considerations of distributive justice and historical ones. With a historical view of distributive justice as a background assumption, reasoning about the global distribution of resources proceeds as follows:

At the first stage, snapshot views of distributive justice identify areas of excess and of dearth in the global distribution of resources, answering questions asked by distributive justice like "is there enough in this community, all things considered?", or "is there a problem with how much this community has?"

Then, at the intermediate stage, we ask: "why do these problems with the distribution exist?" Historical analysis helps us explain sites of lack and sites of excess, in connection with all of the other parties involved. It may be that some communities or nations are simply more industrious than others, or have had some sort of morally unproblematic good luck, through having access to particularly useful natural resources or luck of an even more basic stochastic kind. However, on the other hand, the right explanation of the excess that a community has may be that they have related to other communities in parasitic ways, and there may further be a unity between the explanation of one community's excess and another's lack. These are the cases where reparations are called for.

At the final stage we ask prescriptive questions, like "what should we do about these sites of excess and lack?" To move from this global distribution of resources to one where the benefits of international economic and political interaction are shared more justly will impose costs and burdens. After all, the burdens of transition themselves must be distributed. Who ought to shoulder them, and to what extent? As gestured at in the intermediate stage, the excess and lack identified in the snapshot stage may generate very different obligations of redistribution if it generates any at all: if disparities are downstream of luck, they may generate weak redistributive obligations on pure welfarist and egalitarian grounds. But if they are downstream of exploitation, they generate the kind of redistributive obligations that reparations claims are particularly concerned with: those of reparatory or rectificatory justice.⁷² The constructive view thus sharply distinguishes two questions about distributive justice that are all too often run together: diagnostic questions identifying problems with how resources are distributed in the status quo (stages 1 and 2) from prescriptive questions about distributive justice that ask what we should do about our current distribution of resources. Further, it provides a way of relating them to each other that clarifies what they have to do with one

⁷¹ Nozick develops a whole conception of distributive justice based largely on this "entitlement theory" of acquisition. Nozick, *Anarchy, State, and Utopia*. Pgs. 150-151.

⁷² Sorting out what sorts of obligations these are is part of the task for a full defense of the view, which I will not take up here in the interests of space.

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another.

c. Illustrating the Constructive View

Reparations paid by Germany for the crimes of the Holocaust to the state of Israel provide a clear historical example of something like the constructive view in action.⁷³ The atrocities of the Holocaust – like those of the trans-Atlantic slave trade and of European colonialism – involved incalculable human suffering.⁷⁴ The reparations paid Israel, however, neither represented an attempt to calculate it (as one might on the harm-repair view) nor primarily a making of amends (as on relationship-repair view). Nor did they represent the responsibilities of just *any* well off country to just any displaced and aggrieved people. Instead, the reparations payment was calculated based on the estimated costs of resettling those who would become citizens of Israel – that is, according to forward-looking considerations that aimed to bring about a specific political outcome in the future.⁷⁵ Furthermore, the parties of this transfer were also non-accidentally related to the history that produced the reason for the transfer. Snapshot considerations established the outcome that needed to be pursued (resettlement) and historical distributive justice principles identified Germany as the party that ought to bear the costs.

Settling the amount of reparations to be demanded is an important question. Some, even among those surveyed in part III, argue that the amount of reparation that should be demanded should be sufficient to return the total amount of wealth generated due to trans-Atlantic slavery and colonialism, which would undoubtedly be an astronomical amount on any serious calculation. But on the most natural extension of the philosophically reconstructed version of the constructive view, backward looking considerations only establish *who*: who is to be burdened (and how) with the costs of correcting the distribution of goods and resources and who is to be benefited. They do not establish the extent to which each side is to be burdened and benefited – that target is set by the future looking considerations that aim to establish a just distribution of resources and goods. Then, wealth and capital transfer demanded by corrective justice as I have construed it here would not be queued to the immeasurable amount of value plundered from colonized nations by colonizing nations, but rather to whatever amount is required to produce a just future.

Admittedly, this way of philosophically reconstructing the view raises some tensions between individual elements of the clusters of arguments that are often advanced for

⁷³ Pointing out this respect in which the financial relationship between Germany and Israel on the resettlement question is not to endorse where and under what circumstances the now-Israelis were resettled.

⁷⁴ Frederick Honig, “The Reparations Agreement between Israel and the Federal Republic of Germany,” *The American Journal of International Law* 48, no. 4 (1954): 564–78, <https://doi.org/10.2307/2195023>.

⁷⁵ I refer here specifically to the rationale for the resettlement payments, not the selection of land for resettlement, which needs to be justified on independent grounds. As such, this point provides no defense for either Israel's or the international community's treatment of Palestinians. I'm indebted to [personal communication redacted] for this point.

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reparations, most notably with respect to arguments attempting to establish how large the costs of reparations ought to be. Though the broad contours of the arguments for reparations considered in part III are concerned with distributive justice, rationales for the amounts demanded often proceed on the harm-repair model, which I have rejected here. For example, the account given of the constructive view here couldn't support conceptions of reparations that construe them as back wages for unpaid labor during slavery, a conception which sociologist Dalton Conley attributes to Black Power movements in the United States in the 60s and 70s, who notes other conceptual difficulties raised by this strategy.⁷⁶

It is possible to read this tendency and some of the others in tension with the constructive view as rhetorical or other sorts of concessions to non-ideal political realities. After all, there seem to be safe contextualizing assumptions that motivate this reading of particular cases: for example, that the US' moral liability for slavery and colonialism is well understood by the general public and that other concepts like distributive justice aren't. However, a full discussion of this complication is out of the scope of this paper. I hope to return to these questions in subsequent work and give a fuller discussion of the distinctive philosophical and political problems associated with the "calculus of causality" in slavery and colonialism.⁷⁷

d. Answers to objections

Having given a brief characterization of the reconstructed view, I now offer a few objections and replies to it. Though I stop short of a full defense here, I aim to motivate the conclusion that the constructive view is a potential advance relative to the views so far considered in the literature; failing that, at least a worthy competitor to the other views on offer that merits further exploration.

An objector to the whole project of reparations for trans-Atlantic slavery and colonialism might argue that advances in biological science show that race – often the sole or primary basis for making out who ought to receive reparations – either fails to be "real" in some relevant sense, or that its boundaries do not pick out the right people because the connections to any particular country's history of slavery and colonialism are contingent. Using the US as an example: some Black Americans are presumably descended partially or wholly from the population of free Blacks during slavery, and some Black Americans are immigrants from countries whose ancestors were not enslaved at all, or enslaved by some power that was not controlled or regulated by the United States.⁷⁸ In either case, it would be argued, thus there is no principled basis for establishing who reparations should benefit and who should pay its costs. Naomi Zack is one expositor of such a position.⁷⁹

⁷⁶ Dalton Conley, "Forty Acres and a Mule: What If America Pays Reparations?," *Contexts* 1, no. 3 (2002): 13–20.

⁷⁷ This term is Mazrui's. Mazrui, "Global Africa: From Abolitionists to Reparationists."

⁷⁸ Note that this is more careful than the objection is usually put: I aim to give this objection its best shot.

⁷⁹ While Zack claims on page that 149 that "even on a theoretical level" the "case for reparations flounders", she nevertheless endorses a broader project of "rectification". Zack seems to have in mind transfers to individual claimants, which I would argue that one could

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This kind of objection, as an answer to the constructive view, would rest on a number of mistakes. First, whether race is a natural kind or not is at best irrelevant for the kind of causality at issue on the constructive view. To the extent that race as commonly or even theoretically understood is relevant at all, it is as an answer to explanation of the current distribution of resources. All that needs to be true of it is that it is non-accidentally related to who currently has how much in the global distribution of resources – the case for which could be very modestly described as “overwhelming.” If anything, the fact that race is not a natural kind bolsters the argument that its role in explaining problems in today's distribution of resources will not be the innocuous kind – helping to render racially explained material inequalities the sort that the second stage of the constructive view will flag for scrutiny at the third stage.

Another objector, more attentive to the specificities of the constructive view, might argue in opposition to recasting the reparations debate on distributive justice grounds by way of defending a snapshot view of distributive justice. They might argue that focusing on the current living conditions and material circumstances of African descended peoples implies an account that is entirely future-looking, and as such has lost track of the distinctive nature of reparations claims. If the problem to be solved is economic and social disenfranchisement and exploitation, why do we need the history lesson? Why not just argue for aid to the African diaspora on welfarist or consequentialist grounds? Put another way, why distinguish reparations claims from other redistributive schemes?⁸⁰

I argue that this objection rests on precisely the conflation the constructive view aims to avoid. There's one set of questions to ask about whether everyone has what and as much as they should have as things stand, relative to some distribution that is ideal on egalitarian grounds. We could ask how far we are from that ideal picture, diagnostic questions about distributive justice that allow us to identify failures of our current distribution of justice. That is precisely the set of questions engaged in stage 1. Snapshot considerations about distributive justice are perhaps enough to answer those questions, and thus such considerations would enable us to take issue with the rampant poverty and economic exploitation of African descended people across the globe quite independently of an analysis of historical colonialism. But these considerations would only generate generic reasons that inequality should be solved – they would not generate directed claims that could be used to identify who specifically ought bear the costs, or that could ground a principled basis for the global distribution of costs other than that basis provided by differential ability to pay. Stages 2 and 3 of the constructive view are meant to clarify matters on that terrain.

Even if the constructive view were to, for example, generate exactly the same list of countries or communities that should pay and countries or communities that should receive payment for trans-Atlantic slavery and colonialism, it wouldn't follow that the constructive view is trivially different from any general egalitarian impulse to make those with more wealth and resources bear more of the burdens of a social enterprise than those with less. This is philosophically obvious for two reasons.

reject while still endorsing reparations for slavery operationalized somehow else. Naomi Zack, “Reparations and the Rectification of Race,” *The Journal of Ethics* 7, no. 1 (2003): 139–51.

⁸⁰ The comparison of reparation and compensation is Boxill's. Boxill, “The Morality of Reparation.” Pg. 118.

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First, insofar as reasons matter – on, really, any view of why they might – the fact that constructive view and the kind of general egalitarianism that promotes progressive taxation call for distribution to African descended peoples and the global South for different reasons is enough motivation to wedge them apart from each other in, at least, the context of theorizing.

Secondly, a moment's imagination on counterfactuals will reveal that the constructive view and general egalitarian will make different recommendations in other possible cases. For example, imagine two possible worlds A and B. In world A, let the global distribution of resources be unjust because country X unluckily fell on hard times, due to a drought rather than unjust human interference, and all the other countries are doing well. On both the constructive view and the general egalitarian impulse, whatever obligations there are to correct this would apply to all of the rest of the world's countries, if any. In world B, let the global distribution of resources be unjust because country X fell on hard times, and these hard times were engineered by the colonial domination of country Y, while Y and all the other countries are doing well. Whatever the distribution of the reparative burden across Y and the other countries is called for, it is sensitive to the fact that Y is the explanation for X's hard times and is designed to make out why Y ought to shoulder more of the burden than, say, country Z. The general egalitarian impulse cannot do this.

While I've used formal language to bring out the generality of this point, real world examples abound when we think of reparations more generally than the specific case considered in this paper: it seems reasonable to presume, Libya (or Libyans) are owed reparations by NATO countries *specifically* and not simply because they are richer than Libya is after being bombed to hell. Any theory unable to so much as say *that* this is the case (much less help establish to what extent it might be important) is not worth the ink it's printed on.

This objection is less than impressive argumentatively. But another important thing to say about this objection is that it is perhaps downstream of a moral mistake in one's relationship to the political actors considered here, specifically in one's obligations to relate to them as moral claim makers and co-inhabitants of the space of reasons. While the constructive view may have been built out of engagement with a specific group's advocacy for reparations, it is itself a fully general view of distributive justice. An objector who makes this objection might have done so because they are treating the reasons and justifications *as such* as trivial, which is one way of explaining why the objector seems to treat the functional role of the claims in the struggle from which the constructive view as exhausting their value, treating principled advocacy as merely purposive and rhetorical political speech. In the long history of the discipline of philosophy, it would not be the first time.

V. Conclusion

The harm-repair and relationship communicative and expressive reparations argument confuse determinations that may help identify who may be saddled with the burdens of reparation and who ought to benefit with the purpose reparations *for* or aim at. Though theorists of harm-repair and relationship repair like Kumar and Silver, Boxill, and Shiffrin are careful to demand provisions of material resources, they do so as a measure and truthmaker of serious intent to repudiate past injustices. These views are calibrated to imputed psychological,

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political, or ideological needs of the recipients rather than material needs – that is, to the extent the needs of the recipients *as such* are considered at all.

In contrast, I've offered a constructive view of reparations in part IV. This view, as articulated here, is a critical reconstruction of the views of the activists surveyed and not a summary. It does not make sense of every part of every argument or claim advanced by those actors. In fact, it clashes directly with some ways of making out the harms of slavery and, especially, the extent of reparations owed that have been articulated by these peoples. Hopefully, however, it succeeds at stemming from a common guiding ethos about what reparations are for that is identifiable in the broad strokes of many strands of advocacy for reparations.

From this interpretive viewpoint, reparations claims do not seek centrally to save the moral soul of the descendants of colonizers, of the states built with and upon our ancestors, or of the moral relationships of the colonized to either of the preceding. After all, those seem likeliest to be primary concerns for the kind of people who know where their next meal is coming from, and further that they'll be eating it in peace. Meanwhile, many African descended peoples are excluded from even basic forms of economic and social security. Nearly half of children in sub-Saharan Africa live on the equivalent of less than \$1.90 a day, the World Bank's chosen figure for establishing extreme poverty.⁸¹ Foreign multinational corporations and local mafiosos continue centuries old traditions of exploitation, protected by international law and the system managed by and to the advantage of "former" imperial nations that underwrite said law, together creating the incentive structures that result in sustained and egregious forms of environmental and economic predation and piracy. For example, the Ogoni people living in the Niger Delta have faced decades of unrelenting oil spills, poisoning the water with 900 times the safe amount of lethal carcinogens and ruining critical farmland.⁸² This death, destruction, and exploitation has been functionally ignored - when not actively funded and supported - by the most influential members of international community.

Maybe the descendants of the colonizers and inheritors of their spoils are sorry, maybe they are not. Maybe we'll be bosom buddies, maybe we won't. Maybe paying reparations will confer political and moral legitimacy on the paying states, perhaps it will not.

Either way these go, I suspect Africans on the continent or in the diaspora will settle for vegetables that do not explode.

Reparations are one way to finally take up the burden of positively effecting the material, social lives of the descendants of the colonized, lives that continue to be shaped by past and ongoing racism and colonialism, and as an aspect of an overall strategy that aims make sure that the benefits and burdens of a transition to that better world are spread appropriately. It seems that these are the facts that animate Coates, Shepherd, the people of French Guiana, and the long, varied history of activism for reparations. And they seem to have said so.

⁸¹ David Locke Newhouse, Pablo Suarez-Becerra, and Martin Evans, "New Estimates of Extreme Poverty for Children," 2016.

⁸² "Shell Sued in UK for 'decades of Oil Spills' in Nigeria," accessed July 8, 2017, <http://www.aljazeera.com/news/2016/11/shell-sued-uk-decades-oil-spills-nigeria-161122193545741.html>.

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