

## Reparations Reconstructed

American Philosophical Quarterly, Volume 34, No. 3, July, 1997, pp.301-318.

### I Introduction

The concept of reparations, where a guilty party makes up for an injustice by paying or otherwise benefiting a victim, has been adapted in recent political discussion to historical relations among ethnic groups. From Bosnia to Connecticut, groups who were wronged generations ago are exacting compensation from those they regard as descendants of those who wronged their ancestors.

This paper argues that for generations-ago wrongs, the concept of "compensation" or "reparation" cannot be reasonably applied. However, by reconstruing the payers and payees, the intuition that the descendants of the wrong-doers can have special reasons to benefit descendants of those wronged is supportable.

The issue of reparations and compensation is fundamentally an issue of how to justify partiality, that is, differential treatment. Thus a theory of compensation or reparations must show why, given two equally needy people A and B, if D is a descendant of C, and C wronged an ancestor of A but did not wrong any ancestor of B, then D should give more resources to A than to B. Reparations, that is, are discriminatory.

The first section of the paper gives a compelling argument, based on familiar ontological and moral considerations, that one cannot construct an obligation to descendants of victims based on descent from victimizers. That is, one cannot justify an obligation to discriminate because of a debt that has been incurred by the ancestors which the descendants now owe.

The second section of the paper shows that, while there are no obligations to discriminate in favor of descendants of those your ancestors have wronged, there are sometimes reasons to so discriminate. I argue that one can derive a justification of partiality to the descendants of those one's ancestors have wronged from partiality based on personal relationships.

### II Why literal compensation for generations-old harms doesn't make sense

My argument in this section rests on familiar ontological considerations, but applies them in slightly different ways than has been the case before. The steps in brief are the following:

- 0) No individual persons can be wronged by events that took place before their conception.
- 1) Almost certainly, no individual persons are worse off as a result of past injustices that occurred before their conception.
- 2) Thus, to find a current victim for such past injustices, one needs to invoke communities or collectives--families, tribes, nations, parties. Such communities would be human entities that can exist for longer than individual members, and are in most ways ontologically independent of individuals.
- 3) But allowing such invocation produces too many victims, and will always make the same person both victim and victimizer. The ethical theorist needs some way to select appropriate communities from the plethora of wronged groups.
- 4) Plausible ways of identifying communities capable of having suffered harms generate unjust consequences for compensation and reparation. These unjust consequences include the following:
  - a) Victims can be created arbitrarily, by concerted action by interested parties.
  - b) Further injustices to a wronged group can eliminate future rights to reparations.

5) So there is no rational basis for resentment of existing people for ancient wrongs. People's differing circumstances are matters of luck rather than the fault of some subset of their contemporaries. Thus, for instance, it is just a mistake for Serbians to feel that they are legitimately entitled to Bosnian farmland.

A) Who is wronged and who is worse off?

I take it as a premise that an individual is entitled to reparations for an unjust event only if the individual would still exist if the unjust event had not happened. An individual can be wronged in an event whose overall effect is to benefit him.<sup>1</sup> I argue in two stages that this condition means that almost certainly, no individual is entitled to reparations or compensation for events that took place before his conception.

I first consider a situation where it is very clear that an injustice cannot have wronged or harmed persons conceived after it, and then consider the general conditions for a person having been wronged or harmed by events prior to that person's conception.

Consider an injustice only a generation removed from me. My maternal grandfather's very large farm was unjustly lost at the beginning of the Great Depression. As a result, my mother, along with the rest of her family, moved from Virginia to Ohio. At Cedar Point, Ohio, where she was working one summer to earn college expenses, she met my father, also a student at an Ohio college. Their meeting would have been very unlikely without the original injustice. On any reasonable construal of the truth-conditions of counterfactuals, I would not exist without the unjust seizure of my Grandfather's farm.<sup>2</sup> Now, who has been wronged or harmed by the unjust loss of my Grandfather's farm? It is probably true that my Grandfather's grandchildren would be wealthier and perhaps happier, on the average, if the injustice had not taken place. So, perhaps those grandchildren as some sort of entity have been harmed. But, while I would certainly be happy to receive a check for reparations from the bankers who committed the injustice, it would not be in my interests if that part of the past were to be redone justly. I would not exist.

The welfare of a group has little to do with my welfare, except insofar as I am a part of that group. In the counterfactual situation where Will Hamilton is not unjustly dispossessed, his grandchildren would probably have lived in Virginia and prospered in their various ways, but I would not have been among them.

I can certainly be angry at the injustice, and I can believe that the world would be better if it had not happened. For all historic injustices, we can believe that the world would have been better, other things being equal, if that injustice had not taken place. But this is very different from thinking that things would be better for *us* if those injustices had not taken place, or that *WE* have been wronged or harmed by those injustices.

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<sup>1</sup> Daryl Mollendorf points out that someone throwing a brick through your window and dislodging a board that concealed a treasure trove in your old house would have wronged you, even though you are better off. If we regard compensation as making up for injustices by repairing their evil effects, this counterexample would not apply. In any case, a person's being wronged by events which are necessary to bringing that person into existence seems odd.

<sup>2</sup> These considerations are presented in much more detail in Stanislaw Lem's "Odds" (*New Yorker Magazine*, 1978, pp.38-54) and applied in the other temporal direction by Thomas Schwartz in "Obligations to Posterity" in Sikora, R. I. and Barry, Brian eds., *Obligations to Future Generations*, Temple UP, Philadelphia, 1978.

To put this point another way: The phrase "my maternal grandfather's grandchildren" has different references in counterfactual suppositions depending on whether it is being used rigidly to designate those entities which are Will Hamilton's grandchildren in the actual world, i.e., me, my siblings, and my cousins; or whether it is being used non-rigidly to designate whatever entities in those other possible situations would have been his grandchildren.<sup>3</sup> Now to generalize from this set of considerations: The above argument supposes that it is essential to my existence that I have the parents I do. But that condition is only necessary, not sufficient, since I have three brothers and two sisters, none of whom are identical with me. To get close to a sufficient condition of my existence, we need to require that I have come from the same egg and the same sperm.

But under those conditions for existence of an individual, the chances of any individual existing are close to zero. That is, on any plausible naturalistic criterion of what is required for this individual rather than that to have existed, the probability at conception minus one week that that individual will come to exist is practically zero, for the same reasons that the actual precise composite position of all the thousands of pieces of gravel in my driveway has a probability close to zero relative to their positions a week ago.

Too many factors come together in a typical conception for there to be any chance that another combination of circumstances, differing even in the slightest from the actual, would have brought the same individual into existence. That is, we do not need to appeal to major disruptions such as depressions and wars in order to have circumstances such that, if they had been different, we would not have existed. Even given a counterfactual situation in which our parents are in the right mood at the right time, the slightest difference in our parents' behavior in the crucial hours before your actual conception would, given the enormous numbers of actors in a sperm-egg encounter, result in the conception of someone else rather than you.

So, not only injustices, but virtually every detail of the world prior to one's conception cannot sensibly be said to have harmed you. So, the question, "What would things be like for me if the depression had never happened?" is a little like "What would half of eleven be if eleven were even?" We may feel like saying that it would be greater than 2 and less than 10, but really, it is an illusion that we have any notion at all of half of an eleven which is even. In the present case, however, the illusion that a counterfactual has sense causes great harm.

Conclusion: Only communities, if anything currently existing, are harmed by injustices that took place before their members' conceptions. Individual human beings who happen to be or are essentially members of such communities are not harmed by injustices which took place before their conceptions. Thus the only entities capable of deserving reparations for ancient wrongs are "communities", entities whose status and nature we need to investigate. So, as a preliminary result, it is just mistaken for a Serb to feel that he personally has been derived of a farm by generations-ago invaders.

## B) What are communities?

Let us first note some metaphysical features of communities, as construed so that harms may be done to them even though no member is harmed. Such communities include families, tribes, nations, and volunteer fire departments. The relationship between communities and

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<sup>3</sup> This is slightly complicated by the fact that being a child or grandchild of X is essential to whatever has the feature. Briefly, we need to recognize that the sentences: "If Will Hamilton had not moved to Virginia, none of his children would have existed." and "If Will Hamilton had not moved to Virginia, his children would have been born in North Carolina" might both be true.

individuals is not symmetrical. While membership in some communities might be essential to some individuals, members typically are accidental to the community. I have to have been a descendant of Will Hamilton, but the descendants of Will Hamilton need not have included me.

So far, the community of grandchildren of Will Hamilton is an entity like a species of animal. A dog is essentially a dog, but in counterfactual situations, the population of individual dogs would be different. And to benefit dogs it is necessary and sufficient to benefit the animals who happen to be dogs. However, there are important differences between "communities" and such natural kinds as the dogs. Given that an entity is a dog, there is no other animal kind not a genus or a species of dog to which the entity belongs essentially. So, if A is a dog essentially, A cannot also be a cat.

In contrast, an individual can be essentially a member of numerous independent communities at the same level. I am both a descendant of Will Hamilton and of Samuel Crane. These are independent necessary features of me, since all of my cousins have one feature and not the other. Further back, I'm a descendent of the Picts, who had their land taken first by Celts and then by Romans, and of the Celts, who were wrongly deprived of resources by the Romans, among others. There are lords and serfs, slaves and owners, victimizers and victims among my ancestors.

The difficulties with reparations to communities stem from the fact that communities can only receive reparation by compensating the individuals in them, either directly or indirectly. But people will generally belong to too many communities. That is, if I am to be paid back by the descendants of the Romans because I am a descendant of the Picts, I must also pay compensation to other Picts as a descendent of the Celts. And this is just the beginning of those classes of ancestors of which I have some inkling. Given past history, everyone would owe reparations to everyone, which would be the same as no-one owing reparations to anyone. To justify coercing reparations from descendants of unjust actors to descendants of their victims, we must invoke some more selective criterion for being a community capable of being harmed and receiving reparation.

### C) Selecting the Victims

Let us take as a premise that I am not owed reparations qua being a descendant of the Picts. More generally, no-one who favors reparations to descendants of Maoris or Pequots or Serbs also favors reparations to descendants of the Picts.

The account of reparations needs some criterion by which wronged communities can be sorted into the ones which really merit compensation and the ones which do not. How are we to do this? The solution suggested by some writers on this topic<sup>4</sup> is to take communities to be real communities worthy of compensation only if those communities are conscious of themselves as such, and if the individuals define themselves as members of this community. Various supplementary conditions such as recognition by others, the existence of cultural practices, etc., may also be appealed to. So, Picts, since they are not conscious of themselves as such, do not merit compensation for wrongs done to their ancestors.

Whatever criterion is proposed, it will be social, not biological. Any such social criterion can be brought about by successful political action. If the conditions for group existence include singling out by others, then actions of those outside the group can intensify the reality and

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<sup>4</sup> For instance Jeremy Waldron in "Superseding Historic Injustice," *Ethics*, Volume 103, Number 1, October 1992, pp.4-28 has in mind communities which "...generate a deeper sense of identity for the individuals they comprise..."(page 6) Thus self-consciousness would seem to be an important part of a community which could suffer harms, according to Waldron.

distinctness of the group. One might suppose that this was part of the process by which Jews were constituted in Nazi Germany--those who did not regard themselves as Jews, and were not Jews according to Jewish law became German Jews, not by nature but by political action. Such activity can also, of course, be carried out by members of the group, as various revival movements would show.

But if political action from inside or outside brings groups into or out of existence, then the existence and non-existence of communities can be manipulated in unjust ways. There are at least two ways for injustice to arise.:

First, on any plausible social criterion of "community", political action would be able to create moral obligations. If I use my energy and influence to create Pict consciousness, and so develop a situation where reparations are in order, I have placed moral obligations on you. One would think that in two situations with all of the same persons and all of the same history of injustices, whatever was owed in one situation would be owed in the other. But if self-definition by the community is what it takes to merit compensations, this plausible principle is violated. Although I do not show this in detail, any further plausible criteria for community existence supplementary to community consciousness can be achieved by forceful cultural entrepreneurship.

Political and personal action can also take individuals out of groups. If it is going to cost me money to identify myself as one of the oppressors, then I can learn to speak of the English invaders of Ireland as "they." That is, given some Irish ancestry and some English, I can realize that it is better to be Irish, and by marching on March 17th, and despising Orange things, relieve myself of the obligation to compensate the Irish by becoming one. Given the many groups to which everyone potentially belongs, membership in no group is mandatory.

Let me spell out the point that "communities" can be intentional artifacts: Right now we Picts have no genuine right to compensation for wrongs done to us by, for instance, the Romans. We Picts have not been conscious of our Pictishness, that feature having been suppressed for almost two thousand years. But suppose someone from the Highlands had made this an issue, and Picts came to conceive of themselves as Picts. As a result of this Pict-consciousness movement, it is implausible that we would come to have rights we did not have before.

Suppose I adopt a pattern of Pictish or supposedly Pictish behavior, such as painting myself blue on ceremonial occasions and singing appropriately Pictish songs and bewailing my ancestors' defeats. This could not qualify me for a slot machine franchise in Scotland or other compensation for past wrongs, unless I already had such a right. (Notice that outside agents with darker purposes could attempt the same thing. Picts were notoriously primitive, as recent Prince Valiant episodes show, and descent from Picts might be taken to be a reason to restrict access to higher education or public office, in imaginable circumstances.)

Second, on this criterion further wrongs can reduce a moral debt. Compounding injustice by suppressing community consciousness should not remove obligations. By any social-constitution theory of legitimate communities, though, descendants of the wronged Picts at one time did deserve compensation from the Romans, Celts, and Saxons. But the successful suppression of Pict-consciousness would have removed any obligations the descendants of the wronging Romans have to the descendants of the wronged Picts. So, further harming a wronged community by suppressing its self-consciousness would remove moral obligations rather than adding to them, as if a robber could reduce his debt by killing his victim, leaving no-one to be owed.

The advocate of reparations must accommodate incompatible exigencies: Communities appropriate for compensation are not given by nature, but come to be entitled to reparation by

social processes. But this has unjust consequences: Two situations with exactly the same people and exactly the same history of wrong can differ in what one group owes another. Worse, further wrongs can reduce moral debt.

The conclusion of this section is that we cannot justify people's intuitions that it would be good for descendants of perpetrators of injustice to show partiality to descendants of victims of those injustices under the model of compensation or reparation. The next section constructs a set of moral considerations that do rationalize the feeling that one ought to differentially benefit the descendants of victims of your ancestors' wrong-doings.

## II) Another Tack: Paying the Real Victims

### A) The Interests of the Dead

Suppose we investigate the perhaps initially implausible idea that we descendants of perpetrators of injustice can do something to pay back the actual wronged individuals, even though they are deceased.

Many people will immediately be reminded of Aristotle's *Nicomachean Ethics*, Book A, Chapter 11: There, Aristotle muses about the possibility that a person's happiness can be changed for better or worse, after the person's death. I argue below that whether or not happiness can be posthumously altered, a person can be benefited and harmed after death. Aristotle also suggests that the harm or benefit it is possible to render the dead diminishes with time. Near the end of this essay, I will show why this remark is correct.

Objections to Aristotle's suggestions about benefiting the dead would seem to arise from the supposition that benefits must make a difference in feelings or affects of the recipient of benefits. Now, Aristotle would probably agree that a dead person cannot be happy, since happiness is an activity.

My position is that there are benefits that need not result in increased happiness. It is, other things being equal, equal. If we want things which we ought not to, or have plans whose fulfillment is not in our interests, then we may not be benefited by getting what we want and having our plans succeed. In the same way, if there are things we ought to want, then we can be said to be benefited even if in fact we get something we don't want. I don't want to be rescued from the cliff-brink, but I am benefited when I am. Some points touching on this one arise below. a benefit to get what we want, or have our plans succeed. We have interests which extend past our deaths. A mark of these interests is that we are willing to pay for many benefits even when they happen after our deaths. Now, some would argue that paying for things which will exist only after our deaths is only rational because of the pleasure we experience in contemplating the future condition. But such a substitution of the pleasure for the reality as the object of interest and concern has familiar difficulties.<sup>5</sup>

The rest of this essay presupposes some defensible but controversial theses about feelings. I assume that some feelings are legitimate and reasonable, while others are not. My argument appears

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<sup>5</sup> See Nozick's discussion of the experience machine, which produces the sensations of accomplishments without the reality (In *Anarchy, State and Utopia*, Basic Books, New York, 1974, pp.42-45. Aristotle's perception that pleasure is how the good appears rather than the good itself seems to me to give pleasure and current sensation its due without the bizarre idea that all we really want is experience.

to Davidson's<sup>6</sup> account of what must take place in the interpretation of another entity as a rational agent. I have argued elsewhere that radical interpretation not only maximizes agreement in beliefs, but must also maximize agreement in values and other propositional attitudes. Thus, if "rationality" is construed as what we maximize in interpreting another as a rational agent, then certain desires and feelings are rational.

Here is a brief example: There is nothing formally incoherent in desiring pain, but by the above account of rationality, it would be irrational to do so. If we are interpreting a sequence of behavior, say of a person dropping a bowling ball on his foot, a formally possible interpretation, compatible with maximizing agreement in beliefs, is that he sought some pain and believed that this would be a good way to experience some. This explanation would require a great deal of other background to be acceptable, in the same way that an explanation of the answer "Yes and No" to a question would require a lot of background to be read as expressing a belief in a contradiction.

A desire not to have pain is a "content" not a "formal" constraint on interpretation as rational. In the same way, I will argue, some feelings are "rational" in the "content" sense. There will be nothing formally contradictory in supposing someone indifferent to his children's sufferings, but such an assignment of feelings will require heavy auxiliary evidence, in the same way that assigning someone a belief in a contradiction or a desire to experience pain will. The concept of rationality we assume in this essay evaluates the rationality of beliefs and desires not just by form, but also by content.

The justification of partiality towards descendants of those our ancestors have wronged must deal with two questions:

- 1) How can we produce benefits for the dead by being partial to their descendants?
- 2) Why should we produce benefits for the dead by being partial to their descendants?

#### B) Justifying Partiality

I begin by characterizing partiality and distinguishing among several kinds of partiality: Assuming a number of concepts to be roughly understood, let me stipulate that by "partiality" I mean favoritism which has no basis in a general property, but is rather a favoritism essentially related to individuals. For instance, God's choice of Israel is partiality, according to the Bible. Nothing about Israel entitled it to be chosen. Similarly, my preference for giving presents to my own children rather than to more deserving ones is not based on any general feature. The feature in question, "being a child of SW" makes essential reference to a particular.

Let us distinguish partiality from kinds of unreasonable favoritism based on general properties. If I differentially favor persons with last names in the lower half of the alphabet, seating them at the better tables in my restaurant, that would not be partiality in the restricted sense I want to use, since it is not based on any relation to individuals.

Partiality, by its very nature as an attitude which is not based on any general properties, is an attitude based on a personal relation with a particular individual. To have a direct personal relationship with a particular qua particular, one must have, at a minimum, a rigid designator for the particular in question. Of course that is not sufficient. What else is required we can leave to one side as an interesting topic of its own, since the cases which will turn out to interest me below are ones where we lack this necessary condition.

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<sup>6</sup> See especially "Radical Interpretation", in *Inquiries into Truth and Interpretation*, pp. 125-140, Oxford UP, 1984; and the other articles in the subsection it heads.

Partiality can be unfair, permissible, or normal. First, unfair partiality is partiality which we have a right to prohibit. Unfair partiality arises in situations where partiality conflicts with obligations. If I give Smith an unearned A because I like him, this conflicts with my obligations as a teacher.

Legitimate partiality is neither obligatory nor prohibited. People can be partial to sports teams, particular diseases' charities, or the colleges they happen to have graduated from. We have a right neither to enforce nor to prohibit such groundless favoritism.

Normal partiality conforms to a rational norm. Like true judgments about the obvious and logical consistency, normal partialities are assumed by interpretations. Abandonment of the ascription of a normal partiality is only possible in order to preserve other important aspects of rational agency in an interpretation. People are expected to be partial to their children and their friends. Such values as loyalty and filial concern, as well as such disvalues as parental neglect seem to depend on the notion that some specific partialities are normal and reasonable. For instance, we regard a person as defective who is no more concerned about his own daughter's welfare than about welfare generally. I should come to the aid of all persons in distress equally, other things being equal, but the fact that Blanche is my mother means that things are not equal, and that she ought to get much more of my attention than the average woman in distress.

Normal partiality is not only rational and defensible, but part of the feelings and attitudes that constitute rationality in the broad sense sketched above. A clear and uncontroversial such normal partiality is partiality towards one's children. It is reasonable and normal to be partial to one's own offspring.

Note that "offspring" here need not be biological. In fact mere biological parenthood will not produce or suffice for partiality. A "real" personal relationship with one's children, although this will not be subject to sharp definition, is more than biological. Biological parenthood is not sufficient: Suppose that I had been injured and in a coma, and that a corrupt attending physician, wanting some truly excellent genes for his sperm bank, harvested my sperm by the millions. It now turns out that I am the biological parent of millions of Californians. Partiality towards those Californians would seem to me to be irrational or racist. Biological parenthood is not necessary, as should be obvious to anyone who knows anyone who has an adopted child.

"Required by reason," remember, means such that interpretation assumes it, and such that lack of it is a serious count against an interpretation being correct. If we see a person showing no partiality to his children, we have to suppose that some special considerations are in play: The person is being "helping daddy" at the nursery school, for instance. The supposition that the person really does not care especially about his own children would require a lot of stage setting. (This is not to say that such an ascription would be impossible: Just as one can find reasons to ascribe to a person the belief that God is both One and Three, so one can find reasons to ascribe to a person impartiality to his children.)

### C) Serving People's Real Interests

Given that partiality to one's children is a rational desire, in our "contentful" sense, and normal, there are three ways we can apply this fact in reasoning about ethics. More generally, whatever desires and preferences we maximize in interpreting people can be ascribed to people under three "modalities" which can be thought of as different understandings of what a person should want:

The first of these modalities is "What a person probably wants". As I will argue, this notion justifies assuming that people are benefited by benefiting their children relative just to the

information that they are people with children. It will not support ascribing real desires contrary to occurrent desires.

The second modality, what a person should want in a moral sense, would justify certain social policies and justify ignoring the person's actual desires in many situations. However, it will not support the idea that a person's "real interests" as distinct from his actual interest, are being served by actions which realize what the person should have wanted.

The third modality, what a person should want in a situation, is what a decent person would want, given better information. This third modality will justify ascribing "real interests" which are contrary to actual expressed or acted-on desires. This last idea will be crucial to my argument about the reasonableness of partiality to descendants of victims of our ancestors. Using the example of partiality to one's children, let me go over each of the modalities:

1) First, consider the weakest "should" the probabilistic: Since partiality to one's children is a normal desire, it is a desire we can with reasonable probability ascribe to any ancestor of current individuals, other things being equal. Any policy we adopt on the basis of such ascription may be justified epistemologically, even though in fact its basis turns out to be mistaken.

So, we might say, just in virtue of the fact that Fred and Celeste are Joe's children, Joe is probably partial to them and wants them to be differentially benefited. However, if we have further information about Joe, such that in his circumstances it would be normal to cease to be partial to one's children (for instance, we know that his children in fact were very abusive spendthrifts who exhausted his normal parental partiality) then such ascription would cease to be justified.

This modality is weak in the sense that it generates no sense of "what a person really wants" or "real interests" distinct from actual occurrent desires. In this probabilistic sense of "What Joe should want" there is no room for over-riding clear evidence that the person did not want a certain outcome. That is, this sense of what a person probably wants does not draw a line between "real interests" and "occurrent" interests. That one is probably interested in the Red Sox, given that one lives in Boston, does not mean that the success of the Red Sox is in one's "real interests" or that one is better off if the Red Sox succeed.

2) The strongest modality generated by norms of partiality uses such norms to determine some of the interests a person should have, in a kind of moral sense. A Davidsonian account of interpretation generates the notion of a person who actually has the desires and preferences that it is rational to maximize agreement with in interpretation. This notion of what a person should want as what the ideally rational (in our broad sense) person would want will differ from what almost anyone actually wants.

On this notion of what a person should want, we may be acting correctly by benefiting his children whether or not he has any special feeling towards his children, but we are not benefiting him. He may be indifferent towards his children, perhaps by having been swept up in a Palestinian cult ("Leave the dead to bury the dead"), but he should not be. He is neglectful if he does not care and act especially for his children. That is, because partiality towards one's children is normative, our being partial to his children does what he should have wanted.

Now, a determination of what the person "should have wanted" or "should want" might well justify ignoring a person's actual desires in determining social policy. However, it is clear that in bringing about what a person should want, we are not thereby benefiting the person himself. That is, while we may remove Jones' children from him because the things he wants in relation to them are opposite to things he should want, that removal cannot be construed as therefore to HIS benefit. Some people are just not nice, and while it may be a benefit to the world to do things that these people should have wanted, it is more Platonic than most of us are willing to be to suppose that

such actions are benefiting these bad people or doing what they really want. A Platonic theory would hold that people's true interests are the interests that they ought to have. Given non-Aristotelian ideas that virtue is teachable at any stage in a person's life, a Platonist might regard the "should" modality as essentially the same as the "would" modality discussed below.

3) The one kind of case where a person does seem to have real interests and desires which differ from actual interests and desires seems to be where the mistaken desires are the result of relatively isolated mistaken beliefs or mistaken reasoning. Some people come to have bad desires because of ignorance. If their deep-seated and pervasively influential desires, given correction of these isolated beliefs, would give them desires opposite to these bad desires, their bad desires are not their real desires, even though they are their actual desires. In such cases, we can speak of what they WOULD want if their false impressions were corrected. What they would want is plausibly what they really want and what is in their interests.

For instance, a basically intelligent person might want to eat food with lots of saturated fat under the impression that this will act as a lubricant for his stiff joints. We can speak of what this person WOULD want if he only knew the truth about saturated fats.

There are some clear cases where our actions against a person's actual desires and occurrent interests are in accord with a person's "true" desires and "real" interests: As Joe is distractedly stepping off a curb, unaware of the on-rushing bus, we thwart the immediate project by grabbing his arm. What Joe wanted to do was step into the street, but he only wanted to do this because he did not know about the bus. Note that we can only speak of real interests differing from actual interests when isolated beliefs are in question, the notion of "real interest" is not that of "what a person would want given perfect information." Joe may have very mistaken beliefs on a variety of topics. When we say that he doesn't really want to step into the street, it is a fairly specific piece of ignorance which justifies our claim.

Other cases, however, are much more ambiguous. There are some inter-related sources of the vagueness and indeterminacy of the notion of Fred's "real desires" as what Fred would want if he only knew: For one thing, the very notion of a concrete person, with a character and personality, is in part constituted by the beliefs and desires the person actually has. There is no sharp line in the nature of things, and so no principled distinction between bad desires that arise *merely* from mistaken beliefs and bad desires which are part of "what the person is." Since beliefs and desires are so intertwined with character and personality, there is no clear sense to what the very same person would want if that person had beliefs differing in these ways.

Bear in mind that the notion of "concrete person" encompasses such features as how good a person the person is. "Hitler was an evil person" does not mean that, if that same human being had been raised in Scarsdale by different parents and sent to a good art school, he would have been evil. Aristotle's account of virtue uses this notion. There are habits and features that a person might have avoided but which are now irremediable parts of what the person is. A feature like "decency", while not essential to the human being, is a necessary part of a concrete human being, a now-fixed composite of essence and some accidents. The "necessary" here is temporal.

A closely related point is that counterfactuals about what people would desire if their beliefs were different only have truth-values in the case of fairly isolated beliefs, where an isolated belief is one which does not connect much with the central beliefs and desires that are a concrete actual person. A phrase like "doesn't connect much" reflect the fact that there is no principled line between the superficial correctible belief and the deep belief whose modification changes what the person is.

Consider someone who is a decent person, but who, by an unfortunate choice of what magazine to read, has picked up mistaken beliefs about the likely outcome of integrating schools. Such a person, who actually wants schools not to be integrated, would want schools to be integrated if she only knew that the outcomes she feared would probably not occur. When we do what she would have wanted if she had only known that the magazine article was based on distorted statistics, we can be said to be "doing what she really wanted." (This would be like putting 5w20 oil in her car when she had specifically requested 10w40, on the basis of finding that she had accidentally read the service manual to an older car.)

But suppose the person's notion of likely outcomes of integration is not derived from isolated misinformation, but rather from beliefs about the evils of miscegenation, the natural superiority of whites over all other races, and the genetic curse laid by God on Ham. The counterfactual, "If she did not believe any of these things, then she would want integration", has an antecedent too removed from the factual for the counterfactual to have a truth-value.

The difficulty is that determining that a person would want  $q$  if that person believed that  $p$  depends on holding the rest of a person's beliefs and desires constant, and imagining that only a few beliefs were different. But the two interrelated difficulties mentioned above make such counterfactuals lack truth-values: For one, if the beliefs are fairly central, it is not clear we are talking about the same concrete person when we ask what the person would want given change in those beliefs. Second, beliefs interact with other beliefs and with desires, so the evaluation of any counter-factual involving multiple beliefs or important beliefs becomes much more problematic. So, evaluation of whether people would want  $q$  if only they knew that  $p$  is, like much evaluation of counterfactuals, not always possible. Where the beliefs are central and important, we lose "the same person" and we lose the determinacy of the counterfactual.

But the fact that many counterfactuals have obscure truth-conditions and truth-values does not mean that no ascriptions of counterfactual belief are true. We may be puzzled by the counterfactual, "If Napoleon had realized that Fermat's last theorem is correct, he would not have wanted to invade Russia". Are we supposed to consider what sort of person Napoleon would have been had he been sufficiently gifted in mathematics to follow the recently discovered proof? Could a person devote that much time to math and still have time to conquer places? We are not puzzled, though, by the counterfactual "If Napoleon had realized that less than one quarter of his troops would return he would not have wanted to invade Russia." That one is obviously true. And so is, "If Joe had realized that a bus was coming, he would not have wanted to step into the street."

Important distinctions are predicated on precisely such counterfactuals about change of desire given corrected beliefs or corrected logic. Such counterfactuals are part of our concepts of the good, the decent, and the well-meaning. Consider the notion appealed to above of a "decent person." A decent person is someone whose values can be brought around to correct ones by getting better information. We share enough with such a person that we can be confident in judging what the person would have wanted, given corrected beliefs. Furthermore, we think that the person could be brought around by reasoning. Those desires a person would have, can then reasonably be called his REAL desires. If Fred is a decent man, his real interests are the interests he would have if he knew some relevant facts. "If Fred had remembered that it was his wife's birthday, he would not have wanted to play golf that Saturday." If we know that Fred is a basically considerate person, we can know the counterfactual is true. If Fred is callous or mean, we can know it is false.

Many cases can lead to different judgments: Some people, on certain topics, have wrong beliefs which resist correction, for many kinds of reasons. Such people may have recalcitrant evil desires. Depending on how seriously you take his recalcitrant desires, respect may or may not be

possible. Much of what we think about people in the benighted past (as every past and future must be benighted from the present perspective) hangs on whether very bad desires can be tolerated. If we can admire and respect Bacon and Bach even though they were entrenched anti-semites, we should be able to be friends with former Stalinists. But could you be a friend of someone who was *still* a Stalinist or a Nazi? Perhaps the concept needed here is that of a BASICALLY decent person, someone with serious and uncorrectible flaws, but enough countervailing virtues.

This is not to say that we cannot admire people for other than moral reasons. As a descendent of Bach, I can defend his value, and discount his anti-semitism. This won't commit me to thinking that thinking that he is decent, and will, as we see below, give me no special reason to buy Israel Bonds.

So, starting somewhere between "Vlad would not have wanted to impale others had he considered the categorical imperative" and "Joe would not have wanted to step into the street had he noticed the bus," there is a range of counterfactuals about what people would have wanted, given change of belief, which can be known to be true or false. These counterfactuals about what people would have wanted give us a sense of "real interests" which can differ from actual occurrent interests. So, there are cases where we can do things on peoples' behalfs which are contrary to their actual desires but which are in accord with their "real" interests.

## B) Benefiting the dead

Let us start with a first approximation: Consider the limited case where our parents (now deceased) wronged the parents (also now deceased) of Smith, who was conceived in a sad coupling after the wrong. How can we benefit the parents by benefiting Smith? Well, the Smiths had desires, and one measure of their well-being is the degree of satisfaction of their desires. So, we can benefit the deceased Smiths by doing what they would have wanted. We can be fairly sure they wanted their children to prosper. A normal desire is that one's children have benefits. Therefore, we usually benefit the dead by benefiting their children. Briefly, we make the wronged individuals better off by helping them get something they wanted. We ameliorate the disruption of the deceased Smiths' plans that our parents' wronging them brought about.

This "compensation" may not rectify the wrong, and may not be equivalent good to the wrong. But that is not the issue. The issue is whether the dead can be benefited and whether we have a reason to be partial to the offspring of the offspring of those our parents have wronged. Substitute goods may be reasonable, even though there is no equivalence and the evil does not disappear. When we buy Susie an ice-cream cone after her little league team has been defeated, we are benefiting her because of an evil she suffered, but not "making it all right". Furthermore, when we benefit Smith's parents by benefiting Smith, the reasonableness of our action does not depend on Smith himself having been harmed by his parents' misfortune. Smith may in fact have been taken under the wing of a wealthy industrialist looking for an underprivileged child to assist, and so Smith may be in every way better off because of the wrong. His parents are still served by having him enjoy even more prosperity.

For a first approximation, then, we assume, using principles of rationality, that the wronged parents wanted their children to prosper. So, benefiting their children will benefit them, albeit posthumously. If we have a reason to benefit the parents, we have a reason to benefit their children. More generally, people are normally and legitimately partial to members of their families with whom they have direct personal relations. So benefits to the families of the now-dead wronged are benefits to the dead.

Now, partiality, as a relation towards individuals, seems to require direct personal relationship with those individuals. Briefly, a necessary condition of personal, non-property-mediated relations is that we have rigid designators for such beings; that we are acquainted with them as individuals, not just as instantiating properties. Prima facie, such direct personal relationship is unavailable between almost everyone and their great great great grandchildren. So unless we allow the legitimacy of racist biological preferences to benefit one's gene-stock, it appears we cannot explain how long ago wrongs can give us descendants of wrongdoers legitimate partiality to descendants of victims.

The next section solves part of this difficulty by showing how the justification of partiality to children leads to partiality to generations past our Grandchildren. That is, we can begin to understand and justify partiality to "my descendants". Then the only problem left will be that of showing why we, as descendants of wrongdoers, should be partial to those descendants of the wronged.

### C) Indirect personal relations:

The basic consideration that justifies partiality to unknown descendants is that your partiality to your children entails differential concern for what your children are concerned with. This differential concern justifies partiality to grandchildren, great-grandchildren, and so on, even though you have no direct personal acquaintance with them, and, given the contingency of future entities, no rigid designators for your great great great grandchildren. That is, partiality to one's children entails differential care for their partialities, including their partialities to their own children and any indirect partialities your children may have to THEIR great grand children--and so on.

So direct legitimate partiality of A to person B who is legitimately directly partial to person C yields indirect legitimate partiality of A to C, even though A doesn't know C. Indirect personal relationship generates indefinitely long chains of legitimate partiality.

Note, however, that Aristotle's intuitive remark that a person's happiness cannot be affected by events which take place long after his death gets vindicated. We should be a great deal less partial to our great great great grandchildren than to our children and grandchildren.

Let me explain why indirect personal relationship gives the result that the degree of concern (and so benefit from having those concerns addressed) will decrease with generational distance: While people generally care greatly about their children, they care about other things as well. Suppose that a normal decent father is such that at least half of his own welfare is identical with the welfare of his children. That is, the decent father finds half of his satisfaction in the welfare and flourishing of his children, and finds that his children's misery diminishes his satisfaction, other things being equal, by half. Now, whether or not we can quantify satisfactions, the basic idea is that our children are of very great importance to us but that we also have goals and interests which don't involve them. This idea seems to be at least analogically captured by the metrical myth. Our children are very important, but not everything, to us.

(This "quantification" is of course crude and fictional. It does not deny that horrible fates for one's children can be devastating. What it reflects, however, is that, even after the most dismal outcomes for our children, we can suffer further harms. In normal people, eventually, even after their children have been murdered, life goes on, however diminished.)

Our children's welfare is the degree to which their (real) interests are satisfied. Suppose we will never meet our Grandchildren. We care about our children, though, and we know that it is normal for them to "invest" half of their own welfare in their own children. Thus, if half of our

welfare is identical with our children's welfare; and half of their welfare is identical with their children's welfare, then one fourth of our welfare is identical with our grandchildren's. And so on. Our partiality towards our children is partiality to what they are normally and legitimately partial to. This partiality justifies our being partial to our descendants, although we care about them differentially to diminishing degrees, and so are legitimately partial to them to diminishing degrees, with generational distance. It is normal and rational to be much less inclined to make sacrifices for the differential welfare of my great great great grandchildren than to make sacrifices for my children or grandchildren. I should still be partial to them, but not to nearly the degree to which I am to my children.

Differential partiality is the degree to which, given equally deserving people, I favor one over the other. For instance, the difference in the way I spend money for my own children's education versus yours is far greater than the difference between how much it is rational and required of me to see to the financial and educational well-being of my great great grandchildren versus my similar responsibilities towards yours.

While the legitimacy of partiality toward one's descendants never entirely disappears, the benefit diminishes and reasonable strength of partiality diminishes. Thus Aristotle's intuition that people cannot be harmed by events which take place long after their deaths is roughly right. The other side of this phenomenon, of course, is that little can be done to benefit the centuries-dead, either. So, my wronged Pictish ancestors are pretty much immune to help by benefiting their descendants.

Note that temporal distance not only diminishes effects in the case of distant descendants, but also in the case of one's reputation. We care about our reputation among people we care about. Most of us are indifferent to the opinions about our value held by complete strangers. So, as the circle of my acquaintances shrinks after my death, the number of people whose good opinion I value shrinks as well. So, a slander that takes place well after my death does little to harm me.<sup>7</sup>

So far, we have established the possibility of benefiting long-deceased people by doing things for their descendants. Why should we show partiality to these descendants, though, just because our ancestors happen to have harmed their ancestors? To supply a reason for this partiality, a reason to favor these descendants over the equally needy, we need to reflect on other ways of improving the lot of the dead.

#### D) Indirect Personal Relations with our Ancestors

Normal partiality extends not only into the future, but into the past as well. Respect for our ancestors needs no metaphysics of "family", just the same transmission of partiality. Concern with the well-being of our ancestors is likewise subject to the same diminution. We care about our parents, they care about their parents, and our grandparents cared about their parents. So, we needn't be biologicistic or irrational to be distressed by wrongs to our ancestors. But there are also wrongs by our ancestors which can distress us.

Some of our concern with our ancestors is like the concern we have with wayward children: We care about them, but find that they have some wrong ideas about how to flourish. They want to

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<sup>7</sup> Probably, to some degree, our reputations among people we respect matter to us whether or not we know them or care about them personally. Achilles desired posthumous fame. Wouldn't you give some substantial sum to have it be true that your works were admired and studied in the thirtieth century? Perhaps only if you thought the philosophers of the thirtieth century were like your colleagues, only more perceptive.

be good people, but have mistaken ideas (often picked up from their peers) about what being a good person amounts to. We care about our children, though, whether they behave well or badly, within limits. To an only slightly greater degree than our children, our ancestors are difficult to change for the better, even though they wanted to be good people. So we care about our ancestors even though we know they have erred, within limits.

The above discussion assumes that a necessary condition of respect for our children and our ancestors is that they intend good. When their evil actions defeat our reasonable efforts to find excusing interpretations, it is reasonable to disown our children or disown our parents. So, parental duties and filial piety are conditional on and limited by the worthiness of parents and children. Everyone has a duty to discriminate in favor of their parents and children, given that it is reasonable to care for them. So, given normal decency of children and parents, it is one's duty to care about them, and one is derelict if one does not.

Now, I care about and respect my great great grandfathers on my mother's side. My partiality derives from attachment to my mother and my grandparents, who themselves cared about their grandparents. So, since I care about what they care about if I care about them, I care about my great great grandfathers on my mother's side. The fundamental respect that is a precondition of caring for them requires that I think they were fundamentally decent people, honorable Southern gentlemen who kept their word, meant well, and tried to do what a man ought to do.

One of the features of their culture, however, was a wide-spread belief that it was appropriate that some black people be owned as slaves. As members of their culture, these ancestors accepted slavery and, to the extent that their circumstances permitted, owned slaves.

Now consider what I can do for one of these great great grandfathers, Wade Hamilton. My Grandfather knew, cared for, and admired this man and I knew, cared for, and admired my Grandfather. So, I am quite sure that this Great great Grandfather was a decent person, with a genuine desire to do the right thing. That is, my admiration, care and respect for my Grandfather indirectly yields care, admiration and respect for *his* Grandfather.

Since respect requires a certain level of assumed decency in its object, interpreting the behavior of someone we care about and respect who is doing wrong things consists of finding mistakes in their reasoning and information, or else interpreting their misbehavior as a temporary aberration. In the case of a long-standing pattern of wrong-doing, our interpretation is forced to ascribe mistakes of reasoning and information.

For example, when we interpret the behavior of a loved one who has done us some harm, we try to find excuses or rationales which preserve the decency of the person. Deciding that my spouse spilled coffee on my copy of the second edition of the *Kritik der Reinen Vernunft* by accident or as a result of a bad day rather than an evil soul, is rational interpretation-practice. That sort of "charity" in interpretation, in fact, is of a piece with the interpretations we make of the general run of humanity. If they are persons, they must basically agree with us in beliefs and values. Given that they are cherished persons, their values must be even closer to our own. Of course, in the history of a relationship, or in the accumulation of more and more information about the person, we can decide that we are mistaken in cherishing the person.

Now it is rational to apply the same sorts of considerations to the interpretation of the indirectly cared-for and admired: If that great great grandfather had only thought through what slavery involves, and had seen the self-serving nature of the arguments that all of his friends, relatives and associates took for granted, he would have realized that owning slaves is wrong and that he has wronged people.

Being a decent and honest person, if he had come to realize these things, he would have wanted to do something to make it up to those he has wronged. He can no longer do anything for those he has wronged, but those who care about him can. If I care about my great great grandfather, I can, on his behalf, differentially benefit the descendants of those he has wronged.

Note that the current impossibility of correcting our ancestor's beliefs does not make those beliefs "uncorrectible" in the sense relevant to speaking of their real interests as opposed to their actual interests. In our paradigm where Joe steps off the curb and is killed by the bus, we can speak of Joe's real interests as those he would have if his correctible misinformation *had* been removed, even though those beliefs are not NOW correctible. So, the fact that I cannot now sit down with Wade and argue him out of his views does not make his views uncorrectible.

The justification for showing favoritism toward the descendants of those my ancestors have wronged comes from my respect for and partiality toward my own ancestors. If I come to believe that my ancestors are too evil to be respected, or if I do not care about my ancestors, then I have no motivation to do things on their behalf. I can do some research on my great great grandfather and his culture and come to feel that, even given that he was well within the norms of his time and surroundings, his behavior and attitudes are just too alien to my values for me to cherish or care about him. I could, possibly, decide to "cover" for him, if he had some non-moral virtues which made him admirable even though not decent. If he was exceptionally gifted, and wronged people, and I care about him for non-moral reasons, I can try to do things to make his life-performance less dismal, by doing things he would not have wanted. I'm not sure about the justifiability of this kind of discrimination. It is entirely possible to reasonably reject one's heritage.

Remember that these justifications depend on my information about the basic decency and persuadability of my ancestors being correct. If I am mistaken, then my partialities that rest on such suppositions are mistaken, though perhaps epistemologically justifiable. It is possible to err in both directions in caring about or dismissing one's ancestors. If my imagined discussions with my ancestors would have a very different outcome than I imagine, that is, if my supposition that they could be talked out of their wrong opinions is mistaken, then my discriminatory behavior in favor of descendants of his victims is just a mistake. In the same way, if in my confusion I make a donation to Cornell rather than to Colgate, thinking my father went to Cornell, there is no justification for my partiality. On the other hand, I can be too harsh, as younger generations often are, and not realize that my grandfather was doing his best, meant well, etc. This would be something like not realizing that Fred is actually my cousin. I haven't wronged him by not inviting him to dinner, but I haven't shown normal partiality.<sup>8</sup>

Now, some would regard it as an odd consequence that the worse my ancestors are, the less reason I have to differentially benefit the descendants of those they have wronged. This consequence, however, seems absolutely right to me. If it turns out that I am Stalin's son, in virtue of a complicated case of mistaken identity one night when my parents and Stalin were at the same hotel, I will feel very bad for my mother, but no special attachment to Stalin. I will have no reason to seek out his victims and benefit them differentially. The fact that I hold him in utter contempt removes any reason I have to favor those victims over Pol Pot's.

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<sup>8</sup> We can care about and admire ancestors whom we do not think are "basically decent" or could have been corrected. My ancestor Bach was so talented, after all, that I admire him for his non-moral virtues. However, I have no reason to benefit those he wronged, in that case.

E) Conclusion:

Reparations reconstructed in this way can justify differential treatment of those my ancestors have wronged. Given my affection for my parents and grandparents, one could even say that I ought to treat such people differentially, given that I am right about my ancestors' genuine decency and accessibility to reason. However, my obligation is to my parents, grandparents, and so on. They are the ones who have been wronged if I am remiss. Furthermore, this kind of obligation does not seem to call for coercion by third parties. Rather, it is as though I decided not to attend my father's funeral. I am certainly violating an obligation, but it is a family matter. I cannot plausibly be compelled to attend by governments or appalled friends.

So, the above argument justifies a permission to discriminate, not an enforceable obligation to do so. It does not therefore provide a warrant for those who would benefit from the discrimination to demand discrimination or coerce it.

The above "reconstruction" of "reparations" may strike many people as insufficiently concerned with those whose ancestors my ancestors wronged. Exactly the opposite is the case. What reparations consist of, from an impartial, universalist standpoint, is unjustified discrimination. Among those equally needy or deserving, some with a special distinction that they have done nothing to deserve are awarded extra benefits. Reparations are independent of the issue whether the needy should have their needs met by the less needy. That is an issue of social justice which does not require partiality or anything non-universal. The issue of reparations for ancient wrongs concerns legitimate grounds for singling out some people for special benefits, thereby depriving other equally deserving and needy persons of their fair share. It is somewhat surprising that any justification for such discrimination can be obtained. It is very misguided to suppose that there is an obligation to so discriminate.<sup>9</sup>

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<sup>9</sup> I would like to thank the anonymous referee who graciously recommended publication of this paper even though thinking it was thoroughly and irretrievably mistaken.