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Source: *Critical Philosophy of Race*, Vol. 1, No. 2 (2013), pp. 145-162

Published by: [Penn State University Press](#)

Stable URL: <http://www.jstor.org/stable/10.5325/critphilrace.1.2.0145>

Accessed: 14/09/2013 11:15

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**RACIAL REALITIES AND
CORRECTIVE JUSTICE**

A Reply to Charles Mills

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**CRITICAL PHILOSOPHY OF RACE,
VOL. 1, NO. 2, 2013**

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Abstract

I reply to Mills's critique of my effort to show the relevance of Rawls's theory of justice for thinking about and responding to racial injustices. Contrary to Mills's claims, my suggestion that the fair equality of opportunity principle can remedy socioeconomic disadvantages caused by the legacy of racial oppression is compatible with Rawls's framework, does not conflate distributive justice with corrective justice, and does not confuse racial injustice with economic injustice. I also raise doubts about Mills's project to radically reconstruct contractarian political philosophy. He seeks to displace ideal theory with nonideal theory by foregrounding the realities of past racial domination. Against this approach, I argue that an ideal theory that abstracts away from these realities is not inherently ideological, useless for corrective justice, or too ideal to guide social reform. And I defend the view that ideal theory is indispensable for nonideal theorizing about racial justice.



Introduction

Charles Mills initiated his critique of contractarian (or deontological) political philosophy in his influential book *The Racial Contract* (1997).¹ There he charges that the seemingly race-neutral conceptual tools of this tradition actually obscure, marginalize, or ignore the history of racial domination in the world and, as a result, normative prescriptions based on these tools are flawed. Recently, his criticisms have been directed specifically toward John Rawls, the most celebrated contemporary representative of the contractarian tradition.² Mills calls for a deep revision in the Rawlsian apparatus, for a reinsertion of the excluded history of racial subjugation, so that the framework of contractarian liberalism can be usefully applied to racial injustice. In the inaugural issue of this journal, Mills has attempted to reinforce his position by criticizing an article I wrote defending the value of Rawls's theoretical framework for thinking about racial justice against his and others' challenges.³ To highlight what is and isn't at stake in this debate, I begin with some background remarks.

In all these interventions, the main thrust of Mills's critique is to emphasize the need to attend carefully to the *realities* of racial domination and to deny the value of a normative theory that abstracts away from the *actual* history of racial injustice. However, this critique has been mainly negative, telling us how *not* to derive principles of racial justice. Apart from vague suggestions that reparations are due for past racial injustices (e.g., for slavery and land expropriation), the positive normative analysis remains undeveloped. What we get instead is an emphasis on the necessity of getting the historical facts right about white supremacy. Mills does not offer his own positive normative principles for condemning or responding to the history of racial domination that he so forcefully describes.

By contrast, Rawls does offer a specific set of normative principles of justice that, I argue, can be usefully applied to racial subordination. Mills, so far as I am aware, does not argue that if we were to follow his methodological approach we would arrive at principles that conflict with the ones that Rawls defends. Nor does he specifically attack or attempt to reformulate Rawls's principles. So our dispute does not turn on the *content* of those two principles. Nor do we disagree over the importance of the conceptual distinction between facts and principles—between social realities and the standards we use to evaluate them. And we agree that the concrete facts about racial domination are *relevant* to the defense and application of the



principles of social justice. What is at issue, then, is exactly *how* these racial realities should figure in theorizing about racial injustice.

There are also background disagreements between Mills and me with regard to the traditions of political theory we each draw on. Much of my philosophical work, like Mills's, concerns questions of racial and economic justice. We both investigate how dynamics of racial and class domination interact to produce various forms of oppression and seek to determine how best to respond to these injustices and their legacy. Also like Mills, I often address the thorny race-class problem by drawing on three political traditions—left-liberalism, Marxism, and black radicalism. But, as one might naturally expect, Mills and I don't always agree on which resources from these three traditions are worth preserving or developing. Nor are we always in accord about how best to build on those elements from these traditions that we do agree are fruitful.

As I see it, our present disagreement has three main dimensions, each related to one of those political traditions. First, we both agree that Rawlsian left-liberalism can be helpful for thinking through issues of racial justice. But Mills believes that the Rawlsian framework requires a "radical revision" if it is to serve this purpose (1), while I deny that such radical changes are necessary. Second, we both think that the Marxist concept *ideology* should be central to critical thinking about race. However, Mills thinks that "ideal theory" (as practiced by Rawls and his followers) functions as an ideology when it comes to correcting racial injustices, while I believe ideal theory, properly understood, is indispensable to such corrective justice projects. And finally, we both maintain that the black radical tradition contains wisdom about how to fight for racial justice. However, Mills thinks that the black radical emphasis on *reparations* for past racial injustice should be central to a theory of corrective justice, while I believe matters of rectificatory justice are less normatively fundamental.

Mills's main charges against me are that I confusedly use Rawls's fair equality of opportunity principle (FEO) as a principle of rectification to address the claims of the victims of racial injustice and that in doing so my approach to racial justice violates the letter and spirit of Rawls's framework, does not respect the distinction between ideal theory and nonideal theory, conflates principles of distributive justice with principles of corrective justice, and confuses racial injustice with economic injustice. I do not believe these charges have merit, and below I explain why. But I will also identify serious weaknesses in Mills's overall project to reconstruct contractarian political philosophy.



Ideal Theory: Reject or Supplement?

Rawls defends a left-liberal theory of social justice. It is liberal because it emphasizes the familiar liberal values of liberty, equality, and tolerance, prioritizing individual freedom over socioeconomic fairness and perfectionist ideals. Its leftist credentials stem from the fact that it places strict constraints on material inequality (permitting socioeconomic inequalities only when these would benefit the most disadvantaged in society) and that it subjects property claims to substantive (rather than merely formal) standards of fairness, including limiting the impact of material inequality on democratic processes.

Rawls's contributions to theorizing social justice are almost entirely restricted to *ideal theory*—that part of a theory of justice that explains and justifies the principles that would regulate the basic structure of a perfectly just society. Rawls explicitly states that *compensatory justice* is a part of non-ideal theory (or what he sometimes calls “partial compliance theory”) and that he does not address it.⁴ He recognizes that compensatory justice questions are important and that a fully comprehensive theory of justice would explain how such questions are to be handled. But the incompleteness of his liberal theory of justice does not show that the theory must be revised (radically or otherwise) to adequately address these nonideal questions.

The claim that Rawls does not supply principles for the rectification of past racial injustice is not controversial. Indeed, he does not supply rectification principles for *any* kind of injustice. His theory is not a *comprehensive* theory of justice, if by that one means a theory that includes an articulation and defense of the principles we are to follow when remedying the injustices that the ideal theory proscribes. These elements must surely be added if we are to have a complete theory of social justice. The dispute between Mills and me is over whether Rawls's theory must be radically altered to accommodate this addition. Mills's frequent complaint that Rawlsians generally say little about racial justice in their writings is not the same as the charge that Rawls's framework is not, without some revision, amenable to theorizing the rectification of racial injustice. There is a big difference between saying that they *don't* do it and saying that they *can't* do it. I do not see a good reason to think that Rawls's theory is incompatible with principles of rectification. And I view liberal philosophers such as Bernard Boxill and Howard McGary who (though perhaps not identifying as Rawlsians) have taken up reparations and forgiveness for past racial injustices as having supplemented the theory in just this way.⁵



Mills is aware of this type of reply but rejects it as inadequate. He counters it through three avenues of argument, all of which center on the alleged failures of ideal theory. The first is to argue that ideal theory obscures the realities of white supremacy and thus leads people to ignore or misperceive racial injustices. In other words, ideal theory is “ideological” (in the pejorative Marxist sense). The second is to argue that ideal theory provides no guidance for dealing with racial injustice. It is, he claims, simply unhelpful for theorizing the rectification of racial injustices. And finally, Mills argues that ideal theory is “too ideal” to handle the grim realities of racial injustice. That is to say, the ideal of a “perfectly just” society has no applicability to societies with a history of serious racial injustice. In the next three sections of this article, I will show that these three lines of argument fail, and in the final section, I will reply to Mills’s specific charges against my treatment of the fair equality of opportunity principle.

Is Ideal Theory “Ideological”?

Mills argues that ideal theory is a “hindrance” to constructing nonideal theory (12). As he says in another article, “the so-called ideal theory more dominant in mainstream ethics is in crucial respects obfuscatory, and can indeed be thought of as in part *ideological*, in the pejorative sense of a set of group ideas that reflect, and contribute to perpetuating, illicit group privilege.”⁶ Indeed, he goes further: “Ideal theory, I would contend, is really an *ideology*, a distortional complex of ideas, values, norms, and beliefs that reflects the nonrepresentative interests and experiences of a small minority of the national population—middle-to-upper-class white males—who are *hugely* overrepresented in the professional philosophical population.”⁷ Mills, extending insights from Marxism, argues that ideal theory obscures the actual conditions of social life, which are rife with racialized forms of domination, exploitation, and brutality. He contends that by abstracting away from the facts of oppression in its search for valid justice principles, ideal theory conceals the need for rectificatory justice, which is, he maintains, where the real action is with respect to racial justice.

I believe the Marxist critique of ideology is important for thinking about and addressing racial injustice.⁸ And I would not deny that moral theories



can be ideological or that philosophers (past and present) have contributed to the production of moral ideology. However, I do not think that ideal theory, as Rawls understands this, is ideological in the relevant sense.

Rawls explicitly states that his two principles are meant “to guide the course of social reform.”⁹ He explains that his ideal principles have two main functions: to serve as *goals* to work toward and as normative *standards* for judging the overall justice of particular social arrangements (i.e., the “basic structure” of particular societies). In keeping with his liberal outlook, Rawls also argues that we should prioritize establishing social conditions that satisfy the equal liberty principle over conditions that bring about greater socioeconomic equality, as unequal liberty is a more serious and manifest injustice. Rawlsian ideal theory does not therefore “ignore” oppression. It gives us a reasonable standard for judging when social arrangements are, in fact, oppressive—that is, seriously unjust—and a goal to strive for in our resistance to oppression.

Mills’s charge can seem plausible because he’s vague about which part of Rawls’s ideal-theory framework is supposed to be ideological. Sometimes by “ideal theory” Mills seems to mean an idealized picture of actual societies and their history, where their racist character has been “whitewashed,” surreptitiously sanitized of all racial domination. I suppose this could be construed as an objection to the thickness of the veil of ignorance in the original position, where the parties are limited to knowledge of *general* social facts and thus do not know the particular characteristics of the society for which they are choosing principles of association (except that the society falls within the circumstance of justice).¹⁰ But that methodological restriction is not a whitewashing of history. It is a way of modeling the *impartial* point of view of political morality, a way of preventing particular social contingencies—including *existing and past injustices*—from biasing the chosen principles or undermining their generality.

At other times, by “ideal theory” Mills seems to have in mind Rawls’s assumption of strict compliance.¹¹ The parties in the original position are to choose the principles of their association on the assumption that these principles will be fully complied with, i.e., that the institutional structure will be regulated by the principles and that the members of society will support and conform their conduct to institutional requirements. However, this methodological assumption is not a denial of the obvious fact that institutions and individuals often don’t comply with what justice demands. Rather, it is a way of modeling what social justice fully realized would look like.



Consideration of the historical and current realities of racial injustice does have an indirect role to play in ideal theory through the process of coming to reflective equilibrium. We must inevitably rely on our firmest pre-theoretic moral convictions about particular cases of injustice when evaluating our theoretical conclusions, treating these convictions as fallible and “provisional fixed points” for moral reflection, not as self-evident moral foundations.¹² So if the principles chosen from the original position didn’t condemn, for example, slavery, racial segregation, or racial discrimination in employment, then we could be confident that these principles aren’t sound and that we need to revise the conditions of the initial choice situation. Ultimately, we want our general conclusions to cohere with our deepest convictions about particular cases so that philosophical theory and concrete moral judgments mutually support each other. The realities of past racial domination are not therefore to be ignored in ideal theorizing, though we may abstract away from them for purposes of using the contractarian apparatus to justify general principles.

Of course, the historically particular facts of social life do figure more directly in nonideal theory, because here the point is to assess the degree to which the actual world diverges from the ideal principles of justice and to chart a feasible course, *from where we now stand*, to the realization of these principles. But ideal theory is concerned with what these principles *are* and, just as important, with what *justifies* them. Rawls’s conceptual apparatus of the original position, along with its veil of ignorance and assumption of strict compliance, is meant to model a fair agreement on political principles of association such that once the agreement is made the resulting principles can be considered just.

Admittedly, Rawls’s treatment of social justice operates at a high level of abstraction (including abstraction from time and place), and he does not draw out the implications of his theory for racial justice specifically. Thus in my original article, I sought to articulate some of these implications. I explained how Rawls’s theory could help us understand what institutional racism and racial discrimination are and what makes them unjust (1705–9). And I highlighted that Rawls would have us understand the ideal of racial equality as equal civic standing in a democratic polity, which is grounded in the presumption that all, regardless of race, are capable of fully participating in social life on fair terms (1701–4). My ultimate aim was to explain how the Rawlsian framework could help us understand how racial justice fits within an overall conception of social justice.



Mills ignores this part of my discussion. His justification, I assume, is that he thinks these are not the racial justice issues currently worth theorizing about. As he says at the start, “I should clarify that by *racial justice* I mean primarily not preemptive measures to prevent racial injustice but corrective measures to rectify injustices *that have already occurred*” (2; emphasis in original). And he later reminds us, “my primary concern, as noted at the start, is corrective racial justice, which is the really interesting issue, rather than preventive antiracist measures” (5).

I am going to assume that Mills would agree that the rectification of past racial injustice is not the only issue of racial justice *suitable* for philosophical theorizing. The question of what *constitutes* unjust racial treatment (a question within ideal theory) is clearly an important philosophical question. It is also clear that Mills would agree that, particularly in the United States, there are *ongoing* racial injustices (e.g., institutional racism, racial profiling, racialized mass incarceration, racist immigration practices, and racial discrimination in employment and housing), and so not all the serious racial injustices were perpetrated in the past.¹³ Certainly these injustices merit a *practical* (if not a philosophical) response. In addition, I take it he thinks that Rawls (and numerous others) properly identified the principles that would condemn these ongoing racial injustices, such that this philosophical question is no longer “really interesting” (19–20). Moreover, since the publication of *A Theory of Justice* (1971), the overwhelming majority of (white, male) political philosophers have followed Rawls in an almost exclusive focus on ideal theory, and thus perhaps Mills thinks we have had enough of *that* and should now attend to the neglected and more challenging topic of rectificatory justice. So, for Mills, the pressing and unresolved philosophical question about racial justice is what principles we should follow when rectifying grave past racial injustices (e.g., the land expropriation of nonwhite native peoples, racially motivated genocide, racialized slavery, colonial domination over the darker peoples of the globe, and vicious segregation regimes).

Perhaps Mills is right that arriving at precisely formulated, systematically developed, and fully compelling answers to the racial questions of ideal theory is not our most critical philosophical need.¹⁴ He may also be correct that more political philosophers should devote some of their attention to nonideal theory, particularly with respect to racial injustice (2–3). And he may even be correct in his speculation that the racial, gender, and class demographics of professional philosophy have a lot to do with why



so little attention has been given to the topics of nonideal theory (21–22). However, even if we were to concede all these claims, they do not show that ideal theory is ideological. In particular, they do not establish that ideal theory necessarily obscures or misrepresents racial injustice, conceals the need for rectificatory justice, or perpetuates the racial status quo. What ideal theory does, among other things, is give us a way to specify and defend racial justice principles that private individuals and state officials can use to evaluate institutional arrangements.

Is Ideal Theory “Useless” for Nonideal Theory?

Mills says, “Though Shelby does mention the ideal theory/non-ideal theory distinction, he does not really attribute that much weight to it” (10). On the contrary, I think the distinction has great significance.¹⁵ In fact, I don’t just mention the distinction but explain its implications for thinking about racial justice and explain why the race concept and racial identities do not figure in ideal theory directly (1698–1704). And not only do I believe that nonideal theory is a vital (if underappreciated) philosophical activity, but most of my writings are instances of it.¹⁶ The real disagreement between Mills and me is over how exactly to conceive the relationship between ideal theory and nonideal theory.

Mills believes that ideal theory is unnecessary and useless, and political philosophers should simply abandon it and opt for nonideal theory instead. I, however, do not think of ideal theory and nonideal theory as two opposed or separable enterprises. They are rather complementary components of a single comprehensive theory of social justice. In fact, the second part, nonideal theory, logically depends on ideal theory; and the aims of nonideal theory (to respond appropriately to injustice) give ideal theory its practical point.

On the Rawlsian view, injustices are conceptualized as *deviations* from the ideal principles of justice, in much the same way that fallacious reasoning is conceived as a deviation from the rules of logical inference. An injustice is a failure on the part of individuals or social arrangements to satisfy what the ideal principles of justice demand. Thus, charges of injustice *presuppose* ideals of justice, which particular individuals and institutions can and often do depart from. Such deviations can be small or great, minor or serious, and depending on the size and nature of the gap between ideals and practice (and also on whether these deviations are avoidable



or blameworthy), different remedies will be required. Nonideal theory specifies and justifies the principles that should guide our responses to such deviations from ideal justice.¹⁷

Within nonideal theory (and here I focus on domestic rather than global justice), we should distinguish at least four sets of principles:

1. Principles of reform and revolution: the principles that should guide efforts to bring an unjust institutional arrangement more in line with justice such that the society's members have a more just (though not necessarily perfectly just) society within which to live.
2. Principles of rectification: the principles that should guide the steps a society takes to remedy or make amends for the injuries and losses the oppressed have suffered as a result of past injustice.
3. Penal principles: the principles that should guide the policies a society relies on when responding to individual noncompliance with what justice requires (e.g., principles for punishment, detention, and deportation).
4. Political ethics: the duties and permissions individuals have under unjust social conditions, that is, the principles that should guide their response to injustice.

Rawls's theory provides some direction for (1) and (4), and some limited guidance for (3). But he provides almost no help with (2). And it is (2)—principles of rectification—that is Mills's chief concern and the main concern of many black radicals. Most of my work has focused on principles of reform and revolution and political ethics (particularly the political ethics of the oppressed), and on the relationship between the two. Yet I certainly see value in work defending principles of rectification.

Indeed, we can view the principles of reform and revolution and the principles of rectification as jointly constituting a theory of *corrective justice*. Principles of type (1) have to do with altering the basic structure of a society so that it better approximates a well-ordered society. Type (2) principles address the need to make amends to those burdened and harmed by unjust basic structures. Type (1) principles are forward looking, oriented toward establishing a just society. Type (2) principles are backward looking, oriented toward settling unpaid moral debts. To see that (1) and (2) are distinct it is enough to observe that one could fully pay reparations to the victims of past racial injustice and yet their society remain unjust, including racially unjust.

Rawls is concerned with corrective justice, but he thinks of it as encompassing more than laying down principles for making amends



to the victims of past injustice. He conceives of it as also including the philosophical arm of reform or revolutionary efforts to establish a society regulated by a mutual commitment to justice, a well-ordered society. When the principles of justice function as a *goal* of reform or revolution, what the reformers and revolutionaries are ultimately aiming at is this: a society in which the principles are fully realized in its institutions and citizens support and comply with institutional rules because these are in accord with their shared conception of justice. It is in this way that ideal theory serves as a guide for nonideal theory.

Mills might accept this more expansive conception of corrective justice and even concede that Rawls's ideal theory can aid us in its development. But I suspect he would still have doubts about ideal theory's helpfulness in developing the *rectificatory* dimension of nonideal theory. After all, Rawls's two principles are supposed to provide a basis for citizens to judge the validity of their claims of justice on their social system. One kind of claim citizens may make (on their own behalf or on behalf of others) is that they or others are due reparations for harms they have incurred as a result of serious injustice. Does Rawls provide any guidance for judging the validity of such claims? Mills is skeptical. He asserts, "Surely forty years is long enough—especially in a society to whose creation racism has been central—for there to be a significant body of work by now showing how one derives principles of rectificatory racial justice (a "pressing and urgent matter" [Rawls, *Theory*, 9] if ever there was one) from the ideal-theory principles!" (23, note 6)

In reply I would note that serving as a *guide* for nonideal theory is not the same as serving as a set of axioms from which theorems of rectification can be directly deduced. I doubt that ideal theory could play this latter justificatory role. And it should not surprise us if auxiliary precepts of justice were required for a fully adequate theory of compensatory justice. (The same would presumably be true of penal principles. After all, one cannot strictly derive a principle of proportionality in punishment from the two principles of justice either.)¹⁸ What ideal theory can provide, however, are evaluative standards for judging when such rectification is *prima facie* called for—namely, when culpable violations of the principles of justice have caused serious and identifiable harm. The ideal principles (particularly the equal liberty principle) help to explain what was wrong with, say, Jim Crow and Apartheid and why the damage they did to their victims warrants various corrective measures, perhaps including reparations.



The trouble with Mills's view is that he regards nonideal theory as *independent* of ideal theory, indeed as an alternative to it. But nonideal theory—the study of the principles that should guide our responses to injustice—cannot succeed without knowing what the standards of justice are (and perhaps also what justifies these standards). It is not clear how we are to develop a philosophically adequate and complete theory of how to respond to social injustice without first knowing what makes a social scheme unjust. When dealing with gross injustices, such as slavery, we may of course be able to judge correctly that a social arrangement is unjust simply by observing it or having it described to us, relying exclusively on our pre-theoretic moral convictions. We don't need a theory for that. But with less manifest injustices, or when our political values seem to conflict, or when we're uncertain about what justice requires, or when there is great but honest disagreement about whether a practice is unjust, we won't know which aspects of a society should be altered in the absence of a more systematic conception of justice. Without a set of principles that enables us to identify the injustice-making features of a social system, we could not be confident in the direction social change should take, at least not if our aim is to realize a fully just society.

In light of these considerations, I have two questions about Mills's project: If we abandon the framework for ideal theorizing, how do we determine which principles of justice should guide our reform or revolutionary efforts, and how do we justify these principles if we must rely exclusively on nonideal theory? Unless Mills is prepared to relinquish the goal of realizing a fully just society, he owes an answer to these questions.

Is Ideal Theory "Too Ideal"?

Another reason Mills believes a radical revision is necessary to accommodate principles of rectification is that he thinks Rawls's ideal theory has no applicability to our world, a world that is full of serious injustices, past and present. On Mills's interpretation, Rawls is committed to a normative model of society that is "ideally just," by which Mills means a society that is fully just now and has no injustice in its past. As he says in another article, there is a "crucial ambiguity" in Rawls's ideal theory: "'ideally just' as meaning a society without *any* previous history of injustice and 'ideally just' as meaning a society with an unjust history that has now been *completely*



corrected for. Rawls means the former, not the latter.”¹⁹ Mills argues that because of this methodological choice, Rawls’s principles can help us *prevent* injustices from occurring but cannot help us *rectify* injustices after they have already occurred, because the “ideally just” society would have no injustices in its past.

Here I can be brief, as Mills’s interpretation of Rawls is clearly mistaken, particularly in light of my argument regarding the complementary relationship between ideal and nonideal theory. As far as I can tell, Rawls uses the phrase “ideally just” only once in *A Theory of Justice*, and there he clearly means “well-ordered.”²⁰ In a well-ordered society, the basic structure is regulated by a shared conception of justice and its members know that they share the same principles of justice and that their society instantiates them; and they are willing to freely abide by these principles without the incentive of sanctions.²¹ In a well-ordered society, members have a common basis for determining when violations of justice have occurred.

I see no reason to believe that Rawls thought a well-ordered society could never be created out of an unjust one. Indeed, had he thought that, it would not have made sense to explicitly put forward his two principles as fundamental bases for social criticism and guides to social reform: “Viewing the theory of justice as a whole, the ideal part presents a conception of a just society that we are to achieve if we can. Existing institutions are to be judged in light of this conception and held to be unjust to the extent that they depart from it without sufficient reason.”²² In fact, instead of “ideally just,” Rawls more often speaks of “perfectly just,” and in those contexts it is clear that he believes it is possible to move from an unjust social scheme to a perfectly just one.²³

Fair Equality of Opportunity and Corrective Justice

Finally, I would like to address Mills’s criticisms of my discussion of the fair equality of opportunity principle (FEO). He claims, “Shelby’s strategy for addressing these matters [corrective racial justice], as detailed in part 5 of his article, is to use FEO as the crucial Rawlsian principle” (6). If by “corrective racial justice” Mills means principles of reform and revolution, then his interpretation of me is basically correct, as I see the realization of FEO as an *aim* of social reform. However, I do not view FEO as a principle of rectification (i.e., as a matter of compensatory justice), contrary to what



Mills says: “[Shelby] is using FEO *as if* it were a principle of rectificatory justice authorizing wealth transfer” (15; emphasis in original).

What I actually say is the following (and Mills quotes the passage):

The racially disparate *distribution of income, wealth, and opportunities* that currently obtains in the United States, for example, can be partly explained by the cumulative impact of this history of racial violence and domination. Past racism has led to the development of a *class structure* in which the members of certain racial minorities (e.g., Native Americans and African Americans) are disproportionately located in its lowest ranks. (1710–11; emphasis added)

Notice that I explicitly say I am talking about the “class structure” that was created, in part, by past racial injustice. It is the unfair *material disadvantage* that was my focus. I was not conflating racial injustice with economic injustice. I was simply pointing out that racial injustices sometimes *cause* economic inequities. I then go on to say, “Given that *ideal theory* does *not* directly address matters of *compensatory justice*, how, if at all, can Rawls’s theory be useful for addressing this injustice?” (1711; emphasis added) Notice the qualification: I explicitly say that ideal theory does not deal with compensatory justice. And, as has been noted, Rawls does not offer principles of compensatory justice.

I then say this: “This principle [FEO], were it to be institutionally realized in a well-ordered society in which the basic liberties were secure and their fair value guaranteed, would mitigate, if not correct, these race-based disadvantages by insuring that the life prospects of racial minorities are not negatively affected by the *economic* legacy of racial oppression” (1711; emphasis added). The key point is that these socioeconomic disadvantages could be mitigated so that members of historically oppressed racial groups were not materially disadvantaged in the competition for opportunities and valued positions in society. This is not the same as calling for compensation for past wrongs. It would be a *forward-looking* measure used to bring society closer to the ideal of a well-ordered society. It would not replace the need to make amends for or acknowledge past racial injustice. Nor was I assuming that economic disadvantages are the only unfair disadvantages racial minorities suffer from. As I emphasize, “My main point here, though, is that a basic structure that provided fair equality of opportunity for all citizens regardless of race would remove *many* of the *socioeconomic burdens* that racial minorities presently shoulder because of the history of racial



injustice” (1711; emphasis added). I was not therefore confusing distributive justice with compensatory justice. In fact, I have elsewhere emphasized the importance of just this distinction.²⁴

I end my discussion like this:

In this way, the fair equality of opportunity principle addresses one of the most urgent concerns of members of the least favored races, namely, to insure that their life prospects are not unfairly diminished by the economic inequalities that have been created by a history of racism. Were this principle institutionally realized and widely recognized, it *might* also have the effect of sharply *reducing* the resentment for past racial injustice that some members of disadvantaged racial groups harbor, maybe even leading them to reconsider their insistence on claims to reparations.” (1712; emphasis added)

Note that I say it could *reduce* this resentment. I do not say it would or should eliminate it. Moreover, my point was that some might not *press* their claim for reparations. I did not mean to imply that, with FEO realized, their claim would no longer be valid or justified. We sometimes have rights to things that we decide, for whatever reason, not to claim. Like financial loans, moral debts can be forgiven. My point was that were FEO instantiated in society, then historically oppressed racial minorities would not be nearly as materially disadvantaged as they are now. FEO requires an equitable distribution of wealth, as the equally talented and ambitious would not have equal prospects in life if there were great disparities in wealth. And a progressive tax scheme that keeps wealth widely dispersed and prohibits large intergenerational wealth transfers within families is, I take it, perfectly compatible with private property. The claim of racial minorities on material reparations for past injustice would thus be less practically urgent and, because of this, they might drop it altogether.

Mills rightly insists that the rectification of racial injustice must not be sidestepped or re-described to make redress more palatable to those who oppose it. As he says, “Advocates of reparations, for example—the variety of rectificatory justice for black Americans most discussed over the past decade—would contend that justice *has not been done* unless the circumstances make a particular description appropriate” (13; emphasis in original). I agree with this and, in fact, have insisted on the point in another context.²⁵ Nor would I deny the place of “truth and reconciliation commissions, acknowledgments of wrongdoing, apologies, genuine repentance, community repair, restoration



of civic trust” in a general theory of corrective justice (13). Even if members of historically oppressed racial groups relinquished their claim for material reparations, they could still justly demand such symbolic efforts.

If my argument is sound, then material reparations for past racial injustice should be regarded as less central to the project of corrective racial justice than Mills assumes. Many black radicals are of course skeptical about the prospects for meaningful social change in racist societies, and so they often advocate emigration, secession, or internal separation over reform or revolutionary efforts. Consequently, they often prioritize the fight for material reparations over the protracted struggle for a well-ordered society. But even here (and leaving aside which is more feasible), the question of the internal institutional structure of black self-determination would remain and thus also the questions ideal theory addresses. The fundamental normative question for the members of historically oppressed groups still living in the midst of societal injustice should not be “Are we due reparations for our injuries” but “What kind of society would merit our allegiance and is therefore worth fighting for?”

Conclusion

I am not opposed to abandoning an old paradigm when its limits have been demonstrated and a better approach emerges. If important questions cannot be answered within the old framework, we should of course revise the framework, choose another, or devise a new one. But I also think we should be careful to avoid reinventing the wheel (particularly when the reinvention is likely to work less well). I continue to think Rawls’s rich and well-developed theoretical framework is amenable to developing a nonideal theory of racial justice and so does not require “radical revision” on that score. And though I have learned much from, and am generally sympathetic to, Mills’s provocative writings on racial justice, I have yet to see a convincing argument from him that leads me to reconsider my stance on the value of Rawlsian liberalism for thinking about racial justice.

NOTES

For helpful comments on an earlier draft of this article, I’m grateful to Derrick Darby and Brandon Terry.

1. Charles W. Mills, *The Racial Contract* (Ithaca, NY: Cornell University Press, 1997).
2. See Charles W. Mills, “‘Ideal Theory’ as Ideology,” *Hypatia* 20, no. 3 (2005): 165–84; Charles W. Mills, “Racial Liberalism,” *PMLA* 123, no. 5 (2008): 1380–97; and



- Charles W. Mills, "Rawls on Race/Race in Rawls," in "Race, Racism, and Liberalism in the Twenty-First Century," ed. Bill E. Lawson, supplement, *Southern Journal of Philosophy* 47 (2009): 161–84.
3. See Charles W. Mills, "Retrieving Rawls for Racial Justice? A Critique of Tommie Shelby," *Critical Philosophy of Race* 1, no. 1 (2013): 1–27; and Tommie Shelby, "Race and Social Justice: Rawlsian Considerations," *Fordham Law Review* 72, no. 5 (2004): 1697–1714. Subsequent page references to these two articles will appear in the main body of the text.
 4. John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: Harvard University Press, 1999), 8 and 309.
 5. See, for example, Bernard R. Boxill, "The Morality of Reparation," *Social Theory and Practice* 2, no. 1 (1972): 113–23; Bernard R. Boxill, "A Lockean Argument For Black Reparations," *Journal of Ethics* 7 (2003): 63–91; Howard McGary, *Race and Social Justice* (Malden, MA: Blackwell, 1999), chaps. 6–7; and Howard McGary, "Achieving Democratic Equality: Forgiveness, Reconciliation, and Reparations," *Journal of Ethics* 7 (2003): 93–113. For treatments of compensatory justice beyond but including the rectification of racial injustice, see the essays in *Injustice and Rectification*, ed. Rodney C. Roberts (New York: Peter Lang, 2002).
 6. Mills, "Ideal Theory' as Ideology," 166.
 7. *Ibid.*, 172 (emphasis in original).
 8. See my "Is Racism in the 'Heart'?" *Journal of Social Philosophy* 33, no. 3 (2002): 411–20; and "Ideology, Racism, and Critical Social Theory," *The Philosophical Forum* 34, no. 2 (2003): 153–88.
 9. Rawls, *A Theory of Justice*, 215–16.
 10. *Ibid.*, 118–23.
 11. *Ibid.*, 7–8.
 12. *Ibid.*, 15–19.
 13. Mills, "Racial Liberalism," 1390.
 14. I rather doubt this, though. In the United States today, for example, there is much disagreement over what constitutes racism and racial discrimination, whether racial profiling is always unjust, and whether racial disparities in wealth are unfair. Ideal theory can, I believe, help to illuminate these issues.
 15. The distinction is illuminatingly discussed in A. John Simmons, "Ideal and Nonideal Theory," *Philosophy and Public Affairs* 38, no. 1 (2010): 5–36; and Zophia Stemployska and Adam Swift, "Ideal and Non-Ideal Theory" in *The Oxford Handbook of Political Philosophy*, ed. David Estlund (Oxford: Oxford University Press, 2012), 373–89.
 16. See, for example, my *We Who Are Dark: The Philosophical Foundations of Solidarity* (Cambridge, MA: Harvard University Press, 2005); "Justice, Deviance, and the Dark Ghetto," *Philosophy and Public Affairs* 35, no. 2 (2007): 126–60; "The Ethics of Uncle Tom's Children," *Critical Inquiry* 38, no. 3 (2012): 513–32; and "Justice, Work, and the Ghetto Poor," *Law and Ethics of Human Rights* 6, no. 1 (2012): 70–96.



17. The language of “ideals of justice” in this paragraph should not be construed as suggesting that the members of any actual society, including those in the United States, are already committed, even in principle, to these ideals. Nor should the ideals in question be thought of as a codification or systemization of the norms of any actual society, again including the United States. Rawls, though an American, is not putting forward the United States as a place that approximates a well-ordered society. Nothing should be more obvious than that American society does not come close to realizing Rawls’s second principle (even without the demanding difference principle), and that violations of the first principle (even after the fall of Jim Crow) are not infrequent.
18. It might be possible to use the device of the original position and the veil of ignorance (perhaps within the four-stage sequence of application) to answer some of these questions. But I won’t pursue this possibility here.
19. Mills, “Rawls on Race” (emphasis in original).
20. Rawls, *A Theory of Justice*, 417.
21. *Ibid.*, 49, 275, and 397.
22. *Ibid.*, 216.
23. *Ibid.*, 215–16.
24. See the discussion of Lawrie Balfour’s treatment of reparations in my “Reparations, Leadership, and Democracy: A Comment on Balfour and Gooding-Williams,” *Du Bois Review* 8, no. 2 (2011): 395–99.
25. See my “Justice and Racial Conciliation: Two Visions,” *Daedalus* (Winter 2011): 95–107.

