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A Different Look at Reparations for Slavery

In this paper, I will explain how Boxill uses ideas of libertarianism to justify the need for reparations for slavery, and then I will introduce a possible issue with his line of reasoning related to a consequence of monetary reparations. I will then propose an alternative, yet related conclusion to Boxill's that considers slavery as only one of the examples of structural racism that requires reparations, leading to a need for more widespread reparations, including structural change. I will conclude by responding to the objection that structural changes as reparations contradicts the libertarian idea of a minimal state.

Boxill uses libertarian views, specifically citing Locke, to justify reparations for American descendants of slavery. He uses the Nozickian idea that when there is a violation of property rights, rectification is needed to compensate for the injustice. As slavery clearly deprived slaves of property, namely their labor and freedom, slaves should have been owed reparations. Boxill then describes two ways to extend these rights to today's descendants of slavery: the counterfactual and inheritance arguments. The counterfactual argument directly relates to Nozick's idea of what justice in rectification should entail, in that the people wronged should be put in the position they would have been in without the injustice. This means today's descendants of slavery should be compensated by being given reparations to put them in the

situation they would be in but for American slavery. However, a problem with this argument is that the slave trade brought most Africans to America, so current American descendants of slavery would not exist if it was not for the system of American slavery. The inheritance argument avoids this issue. By the inheritance argument, slaveholders wrongly possessed property that belonged to the slaves, so many descendants of slaveholders today possess property that they do not rightfully own. From this logic, Boxill argues that reparations should entail descendants of slaveholders giving wrongly inherited property back to descendants of slaves, who inherited debt from the original slaves.

By Boxill's argument, today's descendants of slavery should receive tangible property compensation in the form of money. A possible worry, that makes up the premise of the television show *Watchmen*, is that reparations will do nothing to help racial tensions in America. In fact, there is the fear that it will cause resentment towards black Americans and worsen the problems of white supremacy in our country. I note that this would not be a problem for Nozick, as Nozick's entitlement theory utilizes historical justice, in that a situation today is just or moral if it was caused by past just actions. Nozick's libertarianism does not consider actions based on their consequences, but it is intuitively rational to consider dangerous consequences of actions, especially if reparations could be counterproductive. A way to handle this is to think about the injustice of slavery on a broader scale, regarding racism in America in general. The system of slavery comes from the idea of white racial superiority, and if we consider institutionalized racism, from the history of slavery to today's society, there is much injustice that deserves reparations. I would like to note that this is very similar to Boxill's attempt to fix the counterfactual argument, by changing the hypothetical. He says instead of considering where current descendants of slavery would be today without slavery, it is a better idea to consider

where they would be without the injustices that prevented them from recovering from slavery. However, my argument is slightly different, because the actions that require rectification are not limited to maintaining the status of descendants of slavery after slavery. Instead, I consider any event of systemic racism that deprives the property rights of black Americans, and slavery is just an example (albeit likely the most significant example).

I will present my argument and then defend my premises:

1. If systemic racism has violated property rights for black Americans, they are owed reparations.
2. Systemic racism has violated property rights for black Americans.
- C. Black Americans are owed reparations.

I will briefly acknowledge that while I am focusing on black Americans, other demographic groups were enslaved. This is because the vast majority were African Americans, and any of these other demographic groups have also been victims of systemic racism, making the same argument follow.

Premise 1 comes simply from the Nozickian idea of justice in rectification. That is, if property rights are violated, reparations are owed to put the victims in the position they would have been in without the injustice. Since the condition for rectification is simple, if black Americans have been wrongly deprived of property due to the history of systemic racism, rectification is needed to compensate. This would entail giving monetary reparations to compensate for physical property loss, and would come from Americans who wrongly possess property owed. Additionally, if systemic racism is currently unjustly depriving black Americans

of property, they should be compensated by being put in a position without this systemic racism. From this logic, national institutional changes are needed, and these long term reforms will likely be much more effective in addressing racial talents than monetary reparations on their own. To reiterate, in order for the rectification to accurately reflect the historical and injustice, both monetary reparations and systemic reforms will be needed.

Premise 2 states that American systemic racism has violated property rights for black Americans. For Nozickian libertarianism, it is not enough to say that American systems are unfair or discriminatory, but that they actual violate principles of justice with regards to property rights. I will use some key examples of systemic racism to show how it violates property rights for black Americans. Police brutality in America kills disproportionate numbers of black Americans, and as one's life is personal property, wrongful killings unjustly take away property. Black Americans are killed at more than twice the rate of white Americans, while accounting for less than 13% of the population, and as many of the instances involve unarmed and innocent victims, it is clear that black Americans suffer from wrongful killings¹. Another example is disparities for suspensions from school as a disciplinary practice. Although overall rates of these suspensions are decreasing, in recent years black students were found to be four times as likely to be suspended as white students, and three times as likely to be expelled.² Education and the fundamental right to go to school should be considered property that needs to be protected, so disproportionately forcing black Americans out of school wrongly deprives them of property. Housing discrimination also continues to lower the chances of homeownership for black Americans, and this unjustly takes away the physical property of houses. In the beginning of

¹ Julie Tate, Jennifer Jenkins, and Steven Rich, "Fatal Force."

² Nick Morrison, "Black Students 'Face Racial Bias' In School Discipline."

2021 white households had a 73.8% homeownership rate while that of black households was 45.1%.³ These examples are not exhaustive, and any other instance of societal discrimination can be shown to violate the property rights of black Americans, therefore requiring rectification by Nozick's libertarianism.

A possible counterargument to my claims is that by making the requirements for rectification so broad, almost anything can require rectification, which will cause the government to not be minimal as Nozick intended. In response to this, I agree that many more examples of injustice in American society require rectification and it needs to entail a more powerful government. However, this does not need to contradict Nozick's intention of a minimal state because he believed a state could have enough extent to protect people's property rights. In *Anarchy, State, Utopia*, Nozick acknowledges that a consequence of his idea for justice in rectification is that there can be "a state limited to protecting persons against murder, assault, theft, fraud, and so forth".⁴ Since all examples in my argument consider property among the scope of what the state should protect according to Nozick, this counterargument is not a real problem for my conclusion.

As argued, if we consider the history of racism in America's societal makeup, each instance of property rights violations requires reparations, in accordance with Nozickian justice in rectification. Considering the violations of justice in this way allows for more widespread structural changes as opposed to solely monetary reparations, offering a more promising solution to racial tensions in America.

³ Carolive Love, "America's Racial Gap in Homeownership Is Wider than It Was during Segregation, a New Report Finds."

⁴ Robert Nozick, "Anarchy, State, and Utopia", 162

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