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RETHINKING NORTH–SOUTH DISCOURSES

REPARATIONS AND HISTORICAL INJUSTICE

Edited by
Bianca Sola Claudio and Filipe Campello

ROUTLEDGE

Rethinking North-South Discourses

This book challenges the asymmetries in dialogues between the Global South and Global North.

The book considers how the literature on reparative politics in itself often perpetuates Western-centric models, which risk leading to paternalistic approaches, as well as undermining the agency of thinkers, activists, and victims within the Global South. Encouraging a dialogue between the Global North and South, the book considers questions of affirmative action, collective memory, and alternative frameworks for dialogue on reparations. Authors also explore whether reparative policies should aim solely to repair past wrongs, or to also address ongoing structural inequalities and systemic injustices, including symbolic and affective dimensions.

Interdisciplinary by design, this book will be an important read for researchers across the fields of political science, international relations, global studies, and sociology.

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This volume grew out of a workshop and several events dedicated to addressing historical injustices in the Global South and discourses on reparations in the Global North. Earlier versions of some of the chapters included in this volume were presented and discussed at workshops, helping us all gain knowledge on such interesting questions. We would like to take this opportunity to thank all participants for their valuable discussions and intellectually stimulating inputs during the workshops and also at the colloquia in Duisburg. We are also thankful to the staff and fellows of the Kolleg, whose insights, questions and feedback enriched many of the ideas presented in this volume. We want to thank Hilary Erhabor and Magdalena Kensy for their invaluable administrative support in coordinating the events that helped this project come together.

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1 Rethinking North–South Discourses

Reparations and Historical Injustice

Bianca Sola Claudio and Filipe Campello

Introduction

Literature across different fields, grappling with issues such as how to rectify past wrongs, compensate for historical injustices, and incorporate the narratives and experiences of those directly affected into the formulation of historical reparations policies is increasingly important. At the same time, in the discourse surrounding reparative justice, the mainstream debate has often been framed within references that inadvertently perpetuate a South–North divide. For instance, the discourses on reparations and historical injustice have frequently been approached from the standpoint of a specific way of life, rationality, or models rooted in notions of property and territory influenced by Western modernity (Miller, 2004). This can unintentionally lead to paternalistic models of reparation policies. Another trend has been observed in bringing other perspectives into the discussion on reparations, for instance, of the potentials and limitations of public forgiveness (Cherry, 2023; see also Laarma et al., 2023).

However, the current uses and meanings of reparations or historical injustice in the social sciences as well as in politics have multiplied, and the discourses surrounding reparations have come to overlap and merge significantly. Forming what could be described as a "terminological minefield", the notions of reparation can often intersect with those of redress, rectification, restitution or compensation (Souter, 2022). The idea of satisfaction, that is, giving an explanation or apology, has also come to be interpreted as reparation in this context. Given that one's understanding of reparative justice will depend on the particular understanding of the reparative politics adopted, it is important to acknowledge the wide range of actions that reparations might entail, which of these are to be considered valid reparations, and by whom are they considered valid. Within the debate on reparations, it is widely acknowledged that political communities should compensate groups they have wronged in the past, whose members still suffer today from those historical injustices. In a general manner, it is also widely assumed that reparations stem from wrongdoings, such as wars, colonialism, economic exploitation, and wrongdoings causing global warming.

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Acknowledging the morality of reparations, some scholars argue that we must engage in counterfactual reasoning. That is, using the best available evidence to reconstruct the historical trajectory a group might have followed in the absence of the wrongful colonial intervention. However, selecting the relevant counterfactual poses well-known challenges (see Waldron, 1992; Simmons, 1995; Butt, 2009, ch. 4; Butt, 2013). More recently, David Miller (2023) suggests that we must imagine a world where the wrongdoing did not take place, but in other aspects remains as close as possible to the actual world. He takes the approach of how the victims would have evolved if the wrongdoing had not happened. The idea is that we are to imagine a world in which the wrongdoing we are targeting did not occur in order to spot the consequences of these wrongdoings. However, once we think of the relationship between the wrongdoers and the victims, it can be highly utopian to think that the victim could imagine a world in which there were no wrongdoings toward them. The victims, as the ones who still carry the consequences of colonisation have collectively constructed a history and built their identity within this colonized position. Thus, the imaginaries produced within this context are tied too closely to colonial practices and systems of oppression. Imagining a world where people were never colonized in the first place would force one to alter their perception of their surroundings, sense of collectivity, and their national history as they know it, making it difficult to even conceive the imaginary of a world without these oppressive practices. Often it is the case that, for instance, for Black communities they would not even be of their country of origin if the wrongdoing had never occurred. Departing from such normative assumptions could raise interesting moral questions, but this might come at the cost of erasing the experience of the oppressed, as well as their agency. Here we depart from a different proposal, as we ought to give the agency to and focus on those more disadvantaged by these wrongdoings to analyze South-North discourses on reparations and historical injustice.

In a more practical approach, Boris Bittker's *The Case for Black Reparations* (Bittker, 1973) can be seen as a key point of departure in the modern reparations discourses in legal scholarship. Bittker was among the first to articulate a reparations claim grounded in US constitutional and tort law and moved the discourse from abstract moral appeals to rather concrete legal frameworks. His work encouraged subsequent legal advocacy by positioning reparations as a legitimate policy issue, compelling public institutions to confront their complicity in racial injustice. Building upon this foundation, Richard America's *The Wealth of Races* (America, 1990) highlights a macroeconomic perspective on racial inequality. Taking into account the racial wealth gap as a direct legacy of slavery and systemic discrimination, he proposes quantifiable models of harm and concrete compensatory measures. His contributions reframe the discourses on reparations not only as moral redress but as strategic economic investment aimed at national equity. A case more grounded in lived experience, and perhaps therefore more compelling when considering how to bridge Global North and Global South discourses on reparations, was made by Randall Robinson in *The Debt: What America Owes to Blacks* (Robinson, 2001). Robinson aimed to bring visibility to the reparations movement by combining personal narrative, historical analysis, and political advocacy. He framed reparations and historical injustices as a moral and historical obligation, urging the United States to engage in a collective reckoning with its past. In doing so, he expanded the debate beyond legal and economic dimensions to encompass questions of memory and national consciousness. This is more applicable and translatable to the discourses on reparation in and from the Global South, where the lived experience of injustice often constitutes a fundamental mode of existence. In this regard, Ta-Nehisi Coates's landmark essay "The Case for Reparations" (Coates, 2014) re-energizes the mainstream discourse on reparations by highlighting the continuity of racial injustice from slavery to more recent forms of structural exclusion. Coates points out that reparations can serve as a vehicle for national introspection and historical truth-telling, rather than a purely financial transaction. His work opened up new avenues for public dialogues for both political discourse and academic scholarship on reparations in the twenty-first century.

These are examples from US discourses, which have emerged and can be potentially bridged to Global South perspectives. Narratives and discursive frameworks on the reparations mentioned tend to focus on shaping the possibilities and limits of reparative justice. As Cohrs et al. (2017) argue, the legitimacy of reparations is profoundly influenced by collective memories, ideological framing, and national identities, particularly in the Global North, where reparation claims often encounter resistance, often grounded in selective historical interpretation. These insights can resonate with the patterns of "state nostalgia" and conservative media discourse analyzed by Esch (2016), where reparation debates in the United States are framed less around restorative justice and more as threats to national coherence. The discourses emerging from the Global South can help decenter the state and foreground collective memory, intergenerational trauma, and community-based modes of redress, as can be seen in the *quilombola* claims in Brazil or post-apartheid South Africa's debates around restitution and recognition. Yet, the Global South is not merely a recipient of normative models developed in the North; rather, it often generates epistemic alternatives that challenge Western-centric narratives of reparations as property-based or individual compensation. The divergence in discursive frameworks between North and South – between institutionalized, state-mediated narratives and communal, resistance-rooted imaginaries – underscores the need to reconceptualize reparations not as a unidirectional process but as a contested, dialogical field shaped by power, memory, and competing visions of justice.

Although addressing a broad body of literature on reparations, this volume's primary focus lies rather in the discourses on past injustices. While we intend to address the literature relating to reparations to situate this volume, we aim to focus more on dialogues between the Global North and South, with reparations being a critical but not exclusive theme. Importantly, we ought to acknowledge that these asymmetries are not merely a matter of the Global South favoring more bottom-up discourses of reparations or that lived experiences emerge solely from the Global South. Such approaches also exist in the Global North. Rather, through the contributions in this volume, we aim to shed light on the epistemic asymmetries and practices that shape and inform discourses on reparations. Nor is the aim of this volume to raise the debate of whether satisfaction is or not reparation. Rather, we would like to point out that an open dialogue about reparation has its importance, particularly when we are addressing how debates in the Global South and those in the Global North take place. In this regard, we aim to explore how asymmetries in these dialogues shape understandings of historical injustices and their redress. This framing aligns with our broader goal of highlighting the diverse perspectives and voices that contribute to these global dialogues. This endeavor involves offering new interpretative alternative notions from the Global South and also questioning the academic structures and the notions of decolonisation, which are reproduced by academic structures.

Discourses on Reparations from the Global South Perspective

Scholars working both in and on the Global South also advanced conceptions of reparations rooted in community agency, historical memory, and local practices. This body of work not only documents lived experiences of harm but also critically interrogates the limitations of official transitional justice mechanisms. Mahmood Mamdani (2000) has shifted the focus of reparations discourse in post-apartheid South Africa and critiques the Truth and Reconciliation Commission (TRC) for depoliticizing systemic violence and individualizing accountability, and argues instead that "reconciliation without redistribution is a form of injustice". For Mamdani (2000), reparations are tied to broader projects of social transformation, particularly land restitution and economic restructuring. Building on this critique, Madlingozi (2007) emphasizes the epistemic violence embedded in transitional justice frameworks and highlights the voices of survivors and marginalized communities. He describes them as "subaltern publics" who reject state-sponsored narratives of closure and seek instead transformative justice rooted in lived experience and political struggle.

In the Latin American context, Uprimny and Saffon (2006) provide a nuanced analysis of reparations in Colombia, particularly in relation to the Victims and Land Restitution Law. Their work underscores the tension between technocratic, state-driven approaches and the territorial, intersectional claims of victims' organisations, especially those representing Afro-Colombian and Indigenous populations. They advocate for a "pluralistic understanding of reparations" that embraces cultural specificity and collective forms of reparations. Similarly, Elizabeth Lira (2003), who wrote in the aftermath of Chile's dictatorship, critically analyses the selectivity of state reparations policies, which often excluded victims of sexual violence and victims who did not fit into predefined categories. She argues that while symbolic and financial reparations were implemented, they were not embedded in a larger democratizing project and therefore failed to adequately confront the authoritarian legacy or address deep social inequalities. Chandra Lekha Sriram (2009) and Michèle Lamont (2010) have explored such reparations processes in Tunisia and Morocco, analyzing how post-authoritarian regimes used reparations as part of broader strategies of controlled liberalisation. Sriram (2009) continued to push for more radical forms of accountability and recognition and argued that while reparations often served to contain dissent, grassroots mobilisations, especially those among former political prisoners and the families of the disappeared.

A common thread across the literature mentioned above, which stems from very different areas of the Global South, is the critique of the technocratic narrowing of reparations into monetary schemes and bureaucratic processes. These scholars have argued instead for more participatory and context-sensitive approaches, where reparations are deeply entangled with struggles over land, memory, economic justice, and political voice. Rather than treating reparations as a policy endpoint, this body of work addresses them as contested, evolving, and incomplete processes, which are continuously shaped by both historical legacies and contemporary power dynamics. As Madlingozi (2010) poignantly writes, "the subaltern is not just demanding recognition from the state but is demanding the right to reshape the terms of justice itself". Such literature challenges us to rethink reparations and historical injustice as not merely acts of compensation but as tools for reimagining political community, and that is to be done from the margins upward. In addressing such a discursive landscape from different local contexts, this volume aims to contribute to emerging frameworks for debating reparations and historical injustices. What new forms of dialogue can be imagined or fostered when we look at these local examples of historical injustice and their peculiarities?

Innovative Frameworks for Dialogues on Historical Injustice

It must be noted that proposing such a dialogue can go in contrast to a conceptual idea of historical objectivity, as the struggle for reparations seeks to liberate the history of colonized countries from a Eurocentric narrative. A dialogue on reparations is therefore a political struggle that actively questions time, the meaning of historical celebrations and the practice of institutions. According to historian and activist of the Black movement, Beatriz Nascimento (1974):

> They think that those who study us under slavery understand us historically. As if history could be limited to "spectacular time", to represented time, and not the other way around: time is within history. What is not

> studied, in the Black person who is living, is the lived History. We are the Living History of Black people, not numbers.

Her notion of lived history (*história vivida*) combats the idea of slavery as something disconnected from the present. Shifting the focus to the importance of present experience and a lived history that shapes the self-identity of people suffering from past wrongdoings helps us think of what reparation and historical injustices mean in this lived history. This is a shift which imposes a vision of time and combats the idea of colonial practices as something disconnected from the present. This is particularly the case as many injustices are still taking place in the past colonies in the Global South, as well as to the Black Communities of the Global North, and many are still suffering the consequences of colonial practices. Recognizing colonial practices in the present enables the non-contemporaneity of the living present, through which responsibility and respect for justice regarding those who were dehumanized are intertwined.

The perspective defended by the slavery reparations movement is not anchored in the historical past of slavery per se, but in its contemporary manifestation, in other words, its duration in the present. Despite a consensus on what could be considered a compensatory mechanism for tragic, irreplaceable and irreparable losses, the politics of reparation supports this intertwining of individual experiences and historical facts. Reparations, from this perspective, do not seek individual compensation, but a recognition of enslavement, abolition and the abuses of violence perpetrated by the state, which continue over time and affect the present lives of communities. Hence, a reparations agenda should interlink human rights policy mechanisms within which the universal historical aspirations are inherited from a common past in order to be effective. In giving importance to the present, as well as to the communities that still to this day suffer the injustices of colonial practices, we come across concepts that can be helpful in the conceptualisation of reparative measures. Some examples of notions that add nuances to debates and discursive frameworks on reparations include Indigenous worldviews and their critique of rationality as a form of dominating nature (Kopenawa, 2010), the concept of *quilombismo* as a model for social organisation (Nascimento, 1980) and dialogue between countries with distinct colonial experiences. In this volume, the exchange of such dialogue is more present with a focus on Brazil, South Africa, and India.

Quilombismo, for instance, as articulated by Abdias do Nascimento, can be insightful when we are addressing models of social organisations which emerge in colonial settings. The term refers to a socio-political and cultural movement related to the history and legacy of *quilombos*, which were communities of escaped slaves in Latin America. As centers of resistance against slavery and colonial oppression, *quilombos* provided spaces for African cultural preservation and social organisation. *Quilombismo* envisions a society built on the values and principles that governed quilombos.

These are freedom and equality, but most importantly and of great contribution to the Western concepts of reparations, *quilombismo* highlights the importance of communal living and resistance to oppression. Thus, it can serve as a framework for understanding and addressing racial and social injustices. Its feasibility as a framework for reparations is exemplified by the 2018 decision to grant land rights to Afro-descendants, specifically *quilombolas*, in Brazil (Lixinski, 2023). *Quilombismo*, however, is not confined to the Brazilian context, as it resonates with the struggles of African-descendant communities across the Americas and globally, encouraging cooperation among oppressed peoples. This movement offers a framework for conceptualizing reparations and historical injustices while addressing the current injustices being endured collectively.

Another notion that could be integrated into discursive frameworks of reparations is the articulation of a culture's customs in the *fall of the sky*. David Kopenawa provides a political declaration of traditional knowledge and a cosmological and spiritual vision of the world, which can be seen as suppressed nowadays. This description and analysis convey that "[w]hen the Amazon succumbs to unbridled devastation and the last shaman dies, the sky will fall on everyone, and it will be the end of the world" (Albert and Kopenawa, 2010, p. 489). In other words, the *fall of the sky* conveys that the forest is alive and can only die if white people persist in destroying it. If they succeed, rivers will disappear underground, the soil will crumble, trees will shrivel, and stones will crack in the heat. As Kopenawa explains, the Earth will become empty and silent, and the so-called *xapiri* spirits, who descend from the mountains to play in the forest, will escape far away. Their shaman fathers will no longer be able to call them to protect us all, rendering them powerless against the epidemic fumes and evil beings that will turn the dead forest to chaos. We will die one after another, both white people and Indigenous people, and all shamans will eventually perish. Hence, without shamans to hold it up, the sky will fall (Albert and Kopenawa, 2010, p. 6). With the *fall of the sky*, Davi Kopenawa indicates that the sustainability of life on Earth is directly connected to the preservation of the forest and the lives of its inhabitants. As long as shamans are alive, they can prevent the sky from falling, even if it is ill (Albert and Kopenawa, 2010, p. 489). This understanding means that shamans "drive away dangerous things" (Albert and Kopenawa, 2010) to defend the forest's inhabitants and work in defense of the white people who live under the same sky (Albert and Kopenawa, 2010, p. 492). Thus, the shaman–forest–sustainability connection affects everyone collectively, even in urban centers, and remains indelible.

Discourses on Reparations and Historical Injustice within Academic Structure

These are only a few examples of notions which help us view the influence of colonial practices from another perspective and integrate the views and experiences of the oppressed into the discourses on reparations and historical injustice. However, this should not be done to portray Indigenous and Black movement(s) as merely another form of othering or as an object of research, but to actively implement these notions in the academic debate and consider them conceptually when addressing reparations. Introducing such notions in the discourses on reparations encourages us to question whether reparations, rather than simply addressing past wrongs, should also address ongoing structural inequalities and current systemic injustices. It is important to recognize academia as an institution that reproduces colonial practices, through exclusions, as many scholars from the Global South do not have access to the debates taking place in the Global North. Debates in academic institutions, even on decolonial matters, not only remain strictly among scholars from the Global North, but also focus on notions and concepts of reparations from the Global North. Even though this debate often positions itself within the confines of the ivory tower, it consistently engages in the politics of memory, particularly concerning its historical roots. This engagement manifests through selecting research topics, designing school and university curricula, and commemorating historical figures through ceremonies, lecture series, portraits, statues, and dedicated spaces within philosophical institutions. However, a recurring oversight – or even active suppression – plagues this practice: many of the historical figures revered in philosophy served as sources for racist and pro-colonialist ideologies. Within the context of contemporary debates surrounding historical narratives, it obscures its contradictions, thereby perpetuating "white ignorance" (Mills, 2007) about the pro-colonialist influence of certain Enlightenment ideas that persist in contemporary thought and consequently in academic institutions.

This relates to Elizabeth Camp's (2018) theory of "perspectives" and "characterizations" embedded in narratives, where she defines a perspective as "an open-ended disposition to characterize: to encounter, interpret, and respond to some parts of the world in certain ways". This disposition encompasses three components: first, it determines which aspects of an object seize our attention and which fade into the background. Second, it influences the questions we are inclined to ask about the object. Third, it shapes the conclusions and evaluations we draw about the object in question. Camp's concept of "characterizations" links collections of features to a specific object, structuring our intuitive thinking based on their prominence and centrality. These "characterizations" are inherently value-laden, driven by practical, moral, or aesthetic values.

Since the intention of this volume is to address the focus on Northern perspectives on reparations also within academic institutions, it is important to keep in mind the questions of why, when, where, and for whom the discourse on reparations is generated. In a 2009 essay, Walter Mignolo asks his readership to consider similar questions regarding knowledge production, such as "[For whom] and when, why, and where knowledge is generated" (Mignolo, 2009, p. 2).

He explains that:

> Asking these questions means to shift the attention from the enunciated to the enunciation. And by so doing, turning Descartes's dictum inside out: rather than assuming that thinking comes before being, one assumes instead that it is a racially marked body in a geo-historical marked space that feels the urge or get[s] the call to speak, to articulate, in whatever semiotic system, the urge that makes of living organisms "human" beings.
>
> (Mignolo, 2009, p. 2)

Mignolo attempts to invert the Cartesian presupposition of rationality as a requirement for knowing the self to detach knowledge practices from the dominant macro-narratives of modernity. One such narrative of modernity is common to Anglophone academic philosophy, which departs from the assumption that the beginnings of civilisation were founded in ancient Greek thought, and accordingly, that distinct intellectual developments and trajectories from this seat of civilisation can be tracked through Western Europe and eventually to Anglo-America. A second macro-narrative originates from a critique of capitalism developed by sociologists during the Cold War. Scholars in this vein of sociological critique, such as Immanuel Wallerstein (Wallerstein, 1983) and Fernand Braudel (Braudel, 1992 [1979]), describe modernity as the rise of a "modern world-system", developing since the fifteenth century. This macro-narrative suggests that it was neither mere national projects nor intellectual developments arising from particular geopolitical locations that came to stand in for the narrative of "civilizing" national identities such as "the English", "the Dutch", "the Belgian", "the Portuguese", "the Spanish", or "the French". Rather, it was the emergence of a capitalist world-economy through conquest and imperial expansion that became the basis for a densely interrelated socioeconomic network known as the "modern world-system". The sociologists of world-systems theory then provided a way to link capital expansion to the expansion of knowledge production, which later thinkers, including Edward Said (1978) and Gayatri Chakravorty Spivak (1988), would take up in their respective writings.

In these critical veins, the subject matter of Western/Global North knowledge practices and the disciplinary philosophical discourses of epistemology have never existed merely as forms of abstract argumentation about belief, truth, justification, or cognition. Rather, as is a common theme among decolonial thought and praxis, knowledge production itself – implicating universities, academic presses, research institutes, and the range of other associated networks comprised of those who concern themselves with "intellectual" production – is a materially embedded set of social and historical phenomena. In addition, the wide-ranging practices that concern themselves with the production and dissemination of knowledge are themselves located in differing political and cultural sites of enunciation, each with differing relations to histories and realities of colonialism, imperialism, and capitalism. This framing of epistemology – what Mignolo refers to as geopolitics of knowledge – can be a starting point to address the relationship between decolonial approaches to "epistemology" and the topic of epistemic injustice. Furthermore, it remains of great matter to produce disciplinary discourses from academic institutions in the Global North on the topic of decolonial studies without perpetuating an Occidentalism and "othering" of communities whose existences require a perpetual struggle against neoliberal economic expansion and epistemic hegemony. Given North American Anglophone and Western European institutional dominance, knowledge production from such centralized sites will require a careful integration of the notions of reparation and historical injustice coming from the Global South.

By approaching the discourses on reparation from the perspective of those directly affected, the focus shifts from "how should we repair" to the perspective of "how do we wish to be repaired?" One of these questions to be explored is the extent to which reparative policies genuinely transform the very practices that led to past injustices, shedding light on the structural changes still necessary in the present. In other words, the contributions to this volume also raise the question of whether the objective is solely to repair (in Portuguese, *reparar*) or if it should also encompass the notion of "stopping" (*parar*) or "degrowth". With these tensions in view, the volume aims to overcome conventional boundaries in the discourse on reparations by fostering a North–South dialogue. This is done by delving into multifaceted aspects of epistemic dimensions of reparations, academic activity and its relation to historical injustices and affirmative action.

To address the gap between the Global North and Global South discourses on reparations and historical injustices, this volume is organized in three parts, each exploring a different aspect of discourses on reparations to provide a more nuanced understanding of discourses. The first section analyses the importance and potential epistemic dimensions of reparations in and from the Global South. The second section focuses on the challenges of decolonizing academic institutions, the transformation of discourses and curricula, while addressing structural issues within academia. The final section examines the role and effectiveness of affirmative action and the possibility of structural changes in policies in addressing colonial legacies.

1) Rethinking Epistemic Perspectives from the Global South

This part of the book aims to highlight and discuss discourses from and in the Global South that emphasize community-based movements and the restoration of cultural practices disrupted by colonialism. This part intends to discuss the notions of reparation and their epistemic dimensions in terms of how we approach questions of reparations. It mainly aims to address understandings of reparations that stem from the Global South, generating valuable insights into ongoing discussions on historical reparations and political repair.

Chapter 2 "The Political-Cultural Category of Amefricanity" is a translated essay by Lélia Gonzalez, which draws from the experiences of Black people as well as Indigenous people in the Brazilian context and argues for a single category – namely Ameficanity – which challenges the category of the "Latin" identity that suppressed both. She offers a contribution to the conversation on decoloniality taking place today, and in her insistence on thinking race, gender and class in relation, made her an early scholar of intersectionality. The chapter invites us to rethink colonial injustices in a new category and provides further insights into the injustice of the Brazilian colonial context.

In Chapter 3, "Thinking after Gaza", Vladimir Safatle proposes that we think of philosophical matters not merely separated from reality and reserved interpretations and comments on already existing texts. However, the article urges us to address the current events and illustrates such a philosophical perspective using the example of Gaza.

The first more tangible example of reparations is drawn from the South African liberation movements, as George Hull discusses the idea of reparation in the epistemic domain in Chapter 4, "Epistemic restitution and the South African Black Consciousness Movement". The chapter explores the idea of reparation in the epistemic domain, drawing on insights from South African liberation movements. It discusses the historical suppression of cultural distinctiveness and advocates for addressing cultural and epistemic injustice by highlighting the writings of Black Consciousness Movement intellectuals. Even if theoretical questions increasingly receive close attention worldwide, the chapter highlights that a neglected intellectual source from the Global South can help illuminate them further: the writings of theorists from twentieth-century South African liberation movements.

2) Working Through the Past in Academic and Legal Settings

This part will discuss the representation of memories related to colonial injustices and discuss strategies employed in the Global South to decolonize academic and legal practices, giving voice to marginalized communities. The chapters of this part explore how universities and legal systems themselves become sites where historical harm is remembered, contested, and becomes a site for transformation. The contributors analyze how pedagogical practices and legal reasoning can reproduce existing inequalities, but also open space for more structural forms of redress.

Expanding on the role of academic institutions in shaping reparative memory, in Chapter 5, "Teaching as Memory Making: Conceptualising Critical University Pedagogy in the Wake of *#RhodesMustFall*", Daniel James and Franz Knappik suggest a compelling framework, which rethinks university teaching as an act of collective memory making. Drawing on the scholarship on Memory Studies and addressing the #RhodesMustFall movement, the authors argue that curricula and classroom practices are not only epistemic tools but also symbolic spaces where historical injustices are either reinforced or contested. The chapter introduces the figure of the educator as a "memory maker", whose choices shape the narratives students inherit about colonialism, race, and oppression. The chapter complements and shows more nuance than other critiques of institutional co-option of decolonial discourse. This is done by pointing out that pedagogical memory can serve both as a tool of symbolic domination and a site of transformative, reparative potential.

Chapter 6, "Seeking Structural Transformation beyond Individual Repair: Women's Human Rights as a Reparative Legal Category", extends this discussion on institutional responsibility to a legal field. This is the case, as Mariana Prandini Assis revisits the foundations of human rights discourse and gives special attention to its individualistic logic and implications for potential legal redress. Using the examples of key feminist interventions that have re-signified the legal framework, she shows how attention to gender and sexuality has compelled the recognition of structural injustice. The chapter particularly addresses the Inter-American Court of Human Rights, analyzing how certain landmark decisions on violence against women not only reflect, but also help institutionalize, this reparative legal framing. The authors explore how the category of women's human rights can operate as a claim to justice for individual victims and simultaneously be a tool for reimagining legal responsibility in structural terms. This demonstrates how redress within the legal sphere parallels the challenges faced by academic institutions, in the sense that both must grapple with how to translate acknowledgment of past harms into true institutional transformation.

3) Affirmative Actions and Structural Changes

Affirmative action policies address the legacy and burdens of colonialism and promote equity and inclusion in the Global South. Even if the specific importance of affirmative action can vary depending on one's perspective, there are several key arguments in favor of these policies, including the promotion of equality and diversity, as well as openly addressing discrimination against minorities. Critics of such policies raise the question of whether affirmative action tackles the underlying mechanisms that contribute to the maldistribution of resources and the continuity of exploitation. This section is dedicated to the possibility of structural change and to what extent can affirmative action tackle the underlying mechanisms that contribute to the maldistribution of resources and the continuity of exploitation.

Given the limited discussion on reparative issues in South Asia, unlike in Africa and its diaspora, there is a pressing need to connect questions of reparation with India and the Indian diaspora in South Asian Studies. An overarching contribution is made by Gajendran Ayyathurai in Chapter 7, "Justifying Reparations against Brahminism/Casteism and European

Imperialism in South Asia", in which he focuses on India's postcolonial context and examines the legacy of colonialism on caste-based exploitation. The colonial and postcolonial subjugation and resistance of Indigenous Indians by self-privileging caste groups, such as brahmins, highlight the dispossession of water, land, food, labour, sexuality, resources, homesteads, and environments. Here, the need for reparative structural transformation, addressing both North–South and as well as intra-South dynamics is emphasized and multidimensional approaches to decolonisation are discussed within this context.

Chapter 8, "Reparative Politics beyond Responsibility", is a critique of the limited scope of reparative politics as a judicial matter, as it emphasizes its reliance on merely legal definitions. The author Pablo Holmes argues for a broader understanding of reparative politics beyond legal frameworks, suggesting a systems theoretical approach to societal memory to address structural social exclusion and oppression. A systems theoretical approach to understanding societal memory as a communicative tool, it points out that the confusion between the legal conceptualisation and the transformative approach makes reparative politics an inadequate tool to overcome structural social exclusion and oppression, because it uses a legal tool to deal with problems that are not juridical. The article thus argues for forms of reparative politics that are not based on the idea of legal responsibility.

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Part I

Rethinking Epistemic Perspectives from the Global South

2 The Political-Cultural Category of Amefricanity

Lélia Gonzalez

Translated by Bianca Sola Claudio

1 Introduction

This text is the result of a reflection that has been structured in previous texts (Gonzalez, 1983, 1988a, 1988b and 1988c)[1] and which is rooted in the recovery of an idea of Bety Milan's developed by M. D. Magno (1981). It is a new and creative look at the approach to the social-historical formation of Brazil, which, for reasons of geography and, above all, of the unconscious, is not what is generally affirmed: a country whose formations of the unconscious are exclusively European, white. On the contrary, Brazil is an African America whose Latinity, because of its non-existence, has had the *t* changed to a *d*, and can now assume its name with all its letters: Ladino Africa (it is no coincidence that racism is the quintessential symptom of Brazilian cultural neurosis). In this context, all Brazilians (not only the *pretos* and *pardos* of the IBGE3) are Ladinoamefrican. For a proper understanding of the tricks of the racism characterised above, it is worth recalling the Freudian category of denial (*verneinung*): "a process by virtue of which the subject, despite formulating one of his hitherto repressed desires, thoughts or feelings, continues to defend himself, denying that it belongs to him" (Laplanche and Pontalis, 1970). As a denial of our Ladinoamefricanity, "Brazilian-style" racism turns against those who are its living testimony (Blacks), while at the same time declaring that it does not ("Brazilian racial democracy"). To better understand this question from a Lacanian perspective, we recommend reading the brilliant text by M. D. Magno (1981).

Thanks to increasing contact with Black cultural manifestations in other countries of the American continent, I have had the opportunity to observe certain similarities, which, as far as forms of speech are concerned, are reminiscent of our country. It is true that the Black presence in the Caribbean region (which in this text is understood not only as Insular America, but also includes the Atlantic coast of Central America and the north of South America) modified the Spanish, English and French spoken in the region (about Dutch, I can say nothing, due to my lack of knowledge). In other words, what I call "Preto-guês"[2] and which is nothing more than the mark of the Africanisation of the Portuguese spoken in Brazil (not forgetting

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that the coloniser called the African slaves "*pretos*" and those born in Brazil "*crioulos*") is easy to see, especially in the Spanish of the Caribbean region. The tonal and rhythmic character of the African languages brought to the New World, as well as the absence of certain consonants (such as *l* or *r*, for example), point to an underexplored aspect of Black influence in the historical-cultural formation of the continent as a whole (even without considering the Creole dialects of the Caribbean). Similarities are even more evident if we look at music, dance, belief systems and so on. It is undeniable how much all this is covered by the ideological veil of whitening and repressed by Eurocentric classifications such as "popular culture," "national folklore," etc., which minimise the importance of the Black contribution.

Another, rather unconscious, aspect of what we are dealing with here refers to the Freudian category of the partial object (Partialobjekt), defined as follows:

> The type of objects at which partial drives are aimed, without this implying that a person as a whole is taken as the object of love. These are mainly parts of the body, real or phantasmatic [...] and their symbolic equivalents. Even a person can identify or be identified with a partial object.
>
> (Laplanche and Pontalis, 1970)

Well then. At least as far as Brazil is concerned, this is true not only of an entire literature (Jorge Amado, for example), but also of the manifestations of Brazilian sexual fantasies. These are concentrated in the partial object *par excellence* of our culture: *bunda* (Gonzalez, 1983). When consulting the Aurélio dictionary, it can be seen that this word is part of the vocabulary of an African language, Quimbundo *Mbundu* (the ass), which has greatly influenced our ways of speaking. It is also worth noting that the Bundus are a Bantu ethnic group in Angola and that, in addition to the aforementioned Quimbundo, they speak two other languages: Bundu and Ambundu. If attention is paid to the fact that Luanda was one of the major ports for the export of slaves to America [...] Consequently, in addition to certain idioms (I am referring, for example, to the bikini called dental floss) which seek to highlight this partial object, it should be noted that the term gave rise to many others in our pre-Portuguese. For this reason, I like to make a play on words by affirming that the Portuguese, the Lusitanian, "does not speak or say bunda" (from the verb "*desbundar*"[3]).

These and many other marks that show the Black presence in the cultural construction of the American continent led me to consider the need to elaborate a category that would not be limited to the Brazilian case and that, by taking a broader approach, would take into consideration the interdisciplinary requirements of the Brazilian case. In this way, I began to reflect on the need to develop a category that would not be limited to the Brazilian case. In this way, I began to reflect on the category of Amefricanity.

2 Racism, Colonialism, Imperialism and Their Effects

We know that European colonialism, as we define it today, took shape in the second half of the 19th century. In the same period, racism was constituted as the "science" of Euro-Christian superiority (white and patriarchal) to the extent that the Aryan model of explanation was structured (Bernal, 1987), which would not only become the referential of the triadic classifications of positivist evolutionism in the nascent sciences of man, but which even today guides the gaze of Western academic production. It is worth noting that this process developed on the fertile ground of a whole pre-colonial ethnocentric tradition (15–19th century), which considered the cultural manifestations of "savage" peoples as absurd, superstitious or exotic (Leclerc, 1972). Hence, the "naturalness" with which the ethnocidal and destructive violence of the forces of European pre-colonialism fell upon these peoples.

In the course of the second half of the 19th century, Europe transformed all this into an explanation of the (since then) "primitive habits," into a question of the administrative rationality of its colonies. However, in the face of the resistance of the colonised, violence will take on new, more sophisticated contours, sometimes coming to appear not as violence, but as "true superiority." The texts of a Fanon or a Memmi demonstrate the effects of alienation that the effectiveness of colonial domination exerted on the colonised.

When we analyse the strategy used by European countries in their colonies, we see that racism plays a fundamental role in the internalisation of the coloniser's "superiority" by the colonised. And this has at least two faces that only differ as tactics aiming at the same goal: exploration/oppression. I refer, in this case, to what is commonly known as open racism and veiled racism. The former, characteristic of Anglo-Saxon, Germanic or Dutch societies, states that a person is Black if he or she has Black ancestors ("Black blood in the veins"). According to such an ideological articulation, miscegenation is unthinkable (although rape and sexual exploitation of women have always occurred), as the white group seeks to maintain its "purity" and assert its "superiority." Consequently, the only solution, explicitly assumed to be the most coherent, is the segregation of non-white groups. South Africa, with its doctrine of "equal" but separate development, with its apartheid, is the ultimate model of this kind of racist theory and practice. In the case of societies of Latin origin, there is veiled racism or, as I classify it, racism by denial. Here, the "theories" of mestizaje, assimilation and "racial democracy" prevail. So-called Latin America, which in reality is much more Amerindian and Amefrican than anything else, is the best example of racism by denial. Especially in the countries of Portuguese-Spanish colonisation, where the very few exceptions (such as Nicaragua and its Statute of Autonomy of the Atlantic Coast Regions) confirm the rule. For this very reason, I believe it is important to look at the historical formation of the Iberian countries (Gonzalez, 1988b). It is a reflection that allows us to understand how this specific type of racism can develop to become the most effective form of alienation of those discriminated against.

The historical formation of Spain and Portugal took place in the course of a centuries-long struggle (the Reconquista) against invaders who differed not only in their religion (Islam). After all, the troops that invaded Iberia in 711 were not only mostly Black (6700 Moors against 300 Arabs), but were commanded by the Black general (Gabel) Tárik-bin-Ziad (the corruption of the term Gabel Tárik resulted in Gibraltar, a word that came to denote the strait hitherto known as the Pillars of Hercules). On the other hand, we know that not only soldiers but also gold from the Black kingdom of Ghana (West Africa) had a lot to do with the Moorish conquest of Iberia (or Al-Andalus). It is also worth noting that the last two dynasties to rule Al-Andalus came from West Africa: the Almoravids and the Almohads. It was during the reign of the latter that the most eminent philosopher of the Islamic world, the Aristotelian Averroes, was born in Corsica (1126) (Chandler, 1987). Needless to say, both racially and civilisationally, the Moorish presence left deep marks on Iberian societies (as well as in Italy, France, etc.). This is why racism by denial finds a privileged place of expression in Latin America, insofar as Spain and Portugal have acquired solid experience in terms of the most effective processes of articulating race relations (Gonzalez, 1988b).

We know that Iberian societies were structured on the basis of a rigid hierarchical model, in which everything and everyone had their place (even nominal treatment followed the rules imposed by hierarchical legislation). The Moors and Jews, as different and dominated ethnic groups, were subjected to violent social and political control. The societies that came to constitute so-called Latin America were the historical heirs of the ideologies of social classification (racial and sexual) and of the juridical-administrative techniques of the Iberian metropolises. Racially stratified, they dispensed open forms of segregation, once the hierarchies guaranteed the superiority of whites as the dominant group (Da Matta, 1984). The expression of the humourist Millôr Fernandes, when he states that "in Brazil there is no racism because blacks recognise their place," summarises what we have just said (Gonzalez, 1988b).

For this very reason, the affirmation that all are equal before the law assumes a clearly formalist character in our societies. Latin American racism is sophisticated enough to keep Blacks and Indians in the condition of subordinate segments within the most exploited classes, due to its most effective ideological form: the ideology of whitening. This ideology, which is channelled through the mass media and traditional ideological apparatuses, reproduces and perpetuates the belief that the classifications and values of the white West are the only true and universal ones. Once established, the myth of white superiority proves its effectiveness through the splintering, fragmenting effects of racial identity produced by it: the desire to whiten ("cleanse the blood," as they say in Brazil) is internalised along with the simultaneous denial of one's own race, of one's own culture (Gonzalez, 1988a).

With regard to the other form of racism, that of explicit segregation, it has been found that its effects on the discriminated groups reinforce their racial identity, unlike racism by denial. In fact, one's own racial identity is easily perceived by any child of such groups. In the case of Black children, they grow up already knowing that they are Black and are not ashamed of it, which allows them to develop other forms of perception within the society in which they live (in this sense, Black-female literature in the United States is a great source of wealth; and Alice Walker, practically the only one known in Brazil, is a beautiful example). Pay attention to the young cadres of the South African and Namibian liberation movements. Or the fact that the Black Movement – MN (Movimento Negro) – in the United States has achieved much greater social and political success than the MN in Colombia, Peru or Brazil, for example. It is also understandable that Marcus Garvey, the extraordinary Jamaican and legitimate descendant of Nanny (see bibliography), was one of the greatest champions of Pan-Africanism, or even that the Guyanese young man Walter Rodney produced one of the most forceful analyses of colonialism-imperialism (I had the honour of meeting him and receiving his encouragement at a seminar organised by the University of California in Los Angeles in 1979). From all this, we know the reasons for other assassinations, such as that of Malcolm X and Martin Luther King Jr.

The scientific production of Blacks in these countries of our continent has been characterised by progress, autonomy, innovation, diversification and national and international credibility, which brings us back to a spirit of profound determination, given the obstacles imposed by the dominant racism. But, as I have already mentioned, it is precisely the objective awareness of this undisguised racism and the direct knowledge of its cruel practices that awaken this determination, in the sense of rescuing and affirming the humanity and competence of an entire ethnic group considered "inferior". The harshness of the systems led the Black community to unite and fight, at different levels, against all forms of racist oppression.

In our societies of racism by denial, the process was different, as already mentioned. Here, cultural form is presented as the best form of resistance. This does not mean that solitary voices are not raised in analysis/denunciation of the existing system. It was the execrable effects of French assimilationism that led the Martinican psychiatrist Frantz Fanon to produce his masterly analyses of the socio-economic and psychological relations between coloniser/colonised (Fanon, 1979, 1983). In the Brazilian case, we have the figure of the Honourable Abdias do Nascimento, whose rich output (analysis/denunciation, theatre, poetry and painting) is not recognised by many of his brothers and is completely ignored by the country's "white" intellectuality (which accuses him of sectarianism or of being "racist on the contrary," which logically presupposes "right-wing racism"). It is interesting to note that both Fanon and Nascimento were only recognised and appreciated internationally and not in their countries of origin (Fanon only deserved homage in his own country after his premature death; that is why he expressed, on his deathbed, the wish to be buried in Algeria). It is unnecessary to emphasise the pain and loneliness of these brothers, of these examples of effective Black militancy.

However, from my perspective, there remains a major contradiction in terms of the political-ideological forms of Black struggle and resistance in the New World. We continue to be passive to the politico-ideological stance of the imperialistically dominant power in the region: the United States. It was also through this path that I began to reflect on the category of Amefricanity.

As we saw earlier, Brazil (the country with the largest Black population on the continent) and the Caribbean region have great similarities with respect to the Africanisation of the continent. However, when it comes to the United States, we know that enslaved Africans suffered harsh repression when they tried to preserve their cultural manifestations (for example, their hands were amputated if they played the atabaque drum). The puritanism of the Anglo-American colonisers, who were predicated by the "true faith," forced the enslaved to convert and evangelise, i.e. to forget their African roots (Alex Haley's moving text reveals the full significance of this process). But cultural resistance continued, even clandestinely, especially in communities in South Carolina. And the reinterpretations, the cultural re-creations of the Blacks of that country, fundamentally took place within the churches of Christian Protestantism. The Civil War led to the abolition of slavery and, with it, the Ku Klux Klan, segregation and non-citizenship. The heroic struggles of these discriminated-against people culminated in the Civil Rights Movement, which shook the world and inspired blacks elsewhere to organise and fight for their rights.

An active and creative minority, victorious in its main demands, the Black community in the United States accepted and rejected a series of terms of self-identification: Coloured, Negro, Black, Afro-American, African-American. The last two terms caught our attention because of the contradiction existing within them.

3 The Category of Afro-Americanity

The terms Afro-American and African-American refer us to a first reflection: that Blacks only exist in the United States and not in the whole continent. And another, which points to the unconscious reproduction of the imperialist position of the United States, which states that they are "THE AMERICA". After all, what about the other countries of South, Central, Island and North AMERICA? Why consider the Caribbean as something separate, if it was there that the history of that AMERICA began? It is interesting to look at someone who leaves Brazil, for example, and says he is going to "America".

All of us, from any region of the continent, carry out the same reproduction; we perpetuate the imperialism of the United States, calling its inhabitants "Americans". And what are we, Asians?

As for us blacks, how can we achieve an effective consciousness of ourselves as descendants of Africans if we remain imprisoned, "trapped in a racist language"? In contrast to the aforementioned terms, I propose Amefricans to designate all of us (Gonzalez, 1988c).

The political and cultural implications of the category Amefricanity are, in fact, democratic; exactly because the term itself allows us to overcome territorial, linguistic and ideological limitations, and opens new perspectives for a deeper understanding of that part of the world where Amefricanity manifests itself: AMERICA as a whole (South, Central, North and Insular). Beyond its purely geographical character, the category Amefricanity incorporates a whole historical process of intense cultural dynamics (adaptation, resistance, reinterpretation and creation of new forms) that is Afrocentric, that is, that has as its reference models such as Jamaica and the Akan, its dominant model; or Brazil and its Yoruba, Bantu and Ewe-fon models. Consequently, this leads us towards the construction of a whole ethnic identity. Needless to say, the category of Afro-Africanity is closely related to those of Pan-Africanism, "Négritude", "Afrocentricity" and so on.

Its methodological value, in my opinion, lies in the fact that it allows the possibility of recovering a specific unity, historically forged within different societies which was formed in a certain part of the world. Therefore, Amé-frica, as an ethnogeographic system of reference, is a creation of ours and of our ancestors on this continent where we live, inspired by African models. Consequently, the term amefricanas/amefricanos designates an entire lineage: not only that of the Africans brought through the slave trade, but also those who arrived in AMERICA long before Columbus. As before, the amefricanos from the most diverse countries continue to play a crucial role in shaping that amefricanidad, which, in the Diaspora, identifies a shared historical experience that needs to be properly recognised and carefully studied. Although we belong to different societies across the continent, we know that the system of domination is the same in all of them – that is, racism, that cold and extreme construction of the Aryan explanatory model, whose presence is a constant at all levels of thought, as well as a part of the most diverse institutions of these societies.

As noted at the beginning of this work, racism establishes a racial and cultural hierarchy that opposes Western white "superiority" to Black African "inferiority". Africa is deemed the "dark" continent, without a history of its own (as Hegel put it); thus, Reason is white, while Emotion is Black. Accordingly, given their "subhuman nature". the socio-economic exploitation of amefricanos throughout the continent is regarded as "natural." However, thanks to the work of African and Amefrican authors – Cheikh Anta Diop, Theóphile Obenga, Amílcar Cabral, Kwame Nkrumah, W. E. B. Du Bois, Chancellor Williams, George G. M. James, Yosef A. A. Ben-Jochannan, Ivan Van Sertima, Frantz

Fanon, Walter Rodney, Abdias do Nascimento, and so many others – we know how much the violence of racism and its practices have stripped us of our historical legacy, our dignity, our history, and our contribution to the advancement of humanity in the philosophical, scientific, artistic and religious fields. We know how the history of African peoples was brutally altered by the violent European expansion, which never ceased to underdevelop Africa (Rodney), and how the trafficking of enslaved peoples brought millions of Africans to the New World …

From a historical and cultural perspective, it is important to recognise that the Amefrican experience differed from that of Africans who remained on their own continent. When our brothers and sisters in the United States adopted the self-designation Afro-/African-Americans, they also characterised a denial of that rich experience lived in the New World and of the consequent creation of Améfrica. Moreover, there is the concrete fact that our African brothers and sisters do not consider them to be truly African. The active forgetting of a history marked by suffering, humiliation, exploitation, and ethnocide points to a profound loss of identity, though this identity is quickly reaffirmed elsewhere (which is understandable given the racial pressures within their own country). Yet one cannot overlook the heroic resistance and the creativity involved in the struggle against enslavement, extermination, exploitation, oppression, and humiliation. Precisely because, as descendants of Africans, the African heritage has always been the great revitalising source of our strength. Because of all this, as Amefricans, we have specific contributions to make to the Pan-African world. By embracing our Amefricanity, we can overcome an idealised, imaginary, or mythologised vision of Africa and, at the same time, turn our gaze toward the reality in which all Amefricans of the continent live.

"All language is epistemic. Our language must contribute to the understanding of our reality. A revolutionary language must not intoxicate, must not lead to confusion," Molefi Kete Asante teaches us, creator of the Afrocentric perspective. Thus, when the self-designation Afro-/African-American occurs, the real gives way to the imaginary, and confusion is established – (Afro-/African-Americans, Afro-/African-Colombians, Afro-/African-Peruvians and so on), as well as a kind of hierarchy: Afro-/African-Americans occupy the foreground, while the Garifuna of Central America or the "Indians" of the Dominican Republic, for example, are relegated to the last place (after all, they don't even know that they are Afro-/African-descendants …). From there, the question arises: what do the Afro-/African-Africans think?

It is worth noting that, in their eagerness to see Africa in everything, many of our brothers and sisters from the United States, who are now discovering the richness of Bahia's cultural creativity (like many Latinos in our country), hurry to travel en masse to Salvador, seeking to discover "survivals" of African cultures. And the deception occurs in two ways: first, in the evolutionist (and Eurocentric) view of "survivals," and second, in the blindness to the creative explosion of something unknown – our Amefricanity. For all these reasons, and many more, I believe that politically it is much more democratic, culturally much more realistic, and logistically much more coherent to identify ourselves through the category of Amefricanity and to self-designate as Amefricans: from Cuba, from Haiti, from Brazil, from the Dominican Republic, from the United States, and from all the other countries of the continent.

"A liberation ideology must find its experience within ourselves; it cannot be external to us and imposed by others – it must be derived from our particular historical and cultural experience" (Asante, 1988, p. 31). So then, why not abandon the reproductions of an imperialism that massacres the peoples of this continent and other parts of the world, and reaffirm the particularity of our experience in AMERICA as a whole – without ever losing awareness of our debt and the deep ties we have with Africa?

In a moment when the ties among descendants of Africans throughout the continent are tightening, when we, Amefricans, more than ever, recognise the great similarities that unite us, Asante's proposal seems to me even more relevant today. Especially if we think of those who, in the not-so-distant past, gave their testimony of struggle and sacrifice, opening paths and perspectives so that today we can carry forward what they began. That is why I insist on the category of Amefricanity, which has blossomed and been structured over the centuries that mark our presence on this continent.

Already in the era of slavery, it manifested itself in rebellions, in the development of strategies of cultural resistance, in the creation of alternative forms of free social organisation, whose full expression can be found in the quilombos, cimarrones, cumbes, palenques, marronages and maroon societies, spread across various locations throughout the continent (Larkin Nascimento, 1981). And, even earlier, in the so-called pre-Columbian America, Amefricanity already manifested itself, decisively shaping the culture of the Olmecs, for example (Van Sertima, 1976). To recognise it is, ultimately, to recognise a gigantic work of cultural dynamism that does not take us toward the Atlantic, but instead brings us from there and transforms us into what we are today: Amefricans.

Notes

1 I dedicate this work to Marie-Claude and Shawna, sisters and fellow Amefricans, who greatly encouraged me in the development of this idea. This is also a tribute to the Honourable Abdias do Nascimento.
2 Here, this term is used as a mix of the word Black with Portuguese
3 "*Desbundar*" can mean to lose control or composure, or it can be used to express astonishment or amazement. It can also be used in the sense of enjoying one-self and "flip out."

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3 Thinking after Gaza

Vladimir Safatle

Dehumanisation, Trauma, and Philosophy as Emergency Brake

When I received the honorable invitation to deliver the inaugural lecture of our Department, I initially proposed another topic of discussion. My initial idea was to speak about the tradition of critical thought to which I have been linked since I was a philosophy student, sitting in the same place you now occupy. I refer to that tradition which mobilized dialectics to understand the impasses of the process of national formation and development, with its lags between idea and actuality.

This same tradition rigorously dedicated itself to rethinking the guiding potential of critical thought through the recovery of dialectical logic, precisely at the historical moment when this same dialectic was being rejected in the central countries of global capitalism. I wanted to speak about the reasons behind this interesting lag of a critical tradition that emerged in a peripheral country precisely when dialectics was being rejected as a critical model on the other side of the Atlantic.

To speak of this lag is in order to better reflect on our place of thought, as well as the crises of the present and their transformative potential. That was also my way of paying homage to the superlative work developed in our Department by figures such as Paulo Arantes, Ruy Fausto, José Arthur Giannotti, and also Michel Löwy and, in a more distant—yet no less important—way for the shaping of this debate, by Rubens Rodrigues Torres Filho, and, above all, Bento Prado Júnior, to whom I owe much more than I could express here. Names I hope all of you will come to know and learn to admire.

However, days later I asked the Department to change the title of my welcome lecture to those entering this course. At first, it might seem that this change was the result of the impact of pressing news events, as if it were a capitulation of philosophy to reading the newspapers. However, it concerns something fundamental about what we ultimately ought to understand by "philosophy." This change is, in its own way, my attempt to fulfill what is expected of an inaugural lecture—namely, a reflection on the nature of philosophical activity and the singular way each of us engages with it.

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Michel Foucault once warned against those who end up understanding philosophy as a "perpetual reduplication of itself, an infinite commentary on its own texts without relation to any exteriority."[1] As if it were possible to describe the motivational system of a philosophical text simply through negotiations with problems inherited from other philosophical texts, in a kind of closed chain of textualities that traverse time like an untouchable block. As if it were desirable to read philosophical texts in order to elucidate their internal orders of reason, without taking into account their responsiveness to socio-historical contexts and events.

I would like to begin by suggesting another understanding of philosophical activity. This understanding I learned from another professor who greatly influenced me, to whom I would also like to pay tribute here: Alain Badiou. It sees in philosophy a certain kind of listening to events capable of producing the collapse of the present time. This formulation insists, at the outset, that philosophy would be a listening oriented to its exteriors, as if it were the case to affirm that it is "a reflection for which any foreign material is suitable, or we could even say that only foreign material is suitable."[2]

This phrase is from Georges Canguilhem. I believe it is the best phrase for those beginning a course in philosophy. Because it provides a good answer to the problem of philosophy's proper object. Is there a set of objects we might call "philosophical objects," just as we say there are objects and phenomena proper to economics, literary theory, or sociology? But if such a set of objects exists, could a philosopher speak of a literary text, make considerations on an economic problem, or reflect on, for example, the nature of social roles? In doing so, would they cease to be a philosopher?

When Canguilhem says that only material foreign to it is suitable for philosophy, it is to remind us of a specificity of philosophical discourse: it has no objects proper to itself. In a certain sense, philosophy is an empty discourse, because there are no strictly philosophical objects—which may explain why there can be no theory of knowledge without deep reflections on the workings of at least one empirical science, no aesthetics without art criticism, no political philosophy without listening to political facts, not even ontology without logic. In all these cases, philosophy borrows objects from the outside, absorbing knowledges whose development does not directly pertain to it.

But the lack of proper philosophical objects does not mean the absence of properly philosophical questions. That philosophy is an empty discourse does not mean it is irrelevant. On the contrary, that is its real strength. For there is a way of constructing questions that is proper to philosophy, and this mode admits practically any and every object. The defining characteristic of a philosophical question is its way of asking how a phenomenon or object becomes an event. That is, it is not simply a matter of functionally describing objects, nor of justifying their existence, nor of giving them reasons for existence through reflections on what ought to be.

In truth, philosophy attempts to understand how the emergence of certain objects and phenomena produces modifications in our way of thinking, in the broadest possible sense. Because an event is not merely an occurrence. It is what problematizes the continuity of time, requiring the emergence of a new way of acting, desiring, and judging. It is always a rupture that reconfigures the field of possibilities, leading us—even if we use the same words as always—to inhabit a completely different world.

Ultimately, it is of such events, and only of them, that philosophy deals. For this reason, it would not be incorrect to say that every philosophical experience is necessarily tied to a historical event—it is the philosophical resonance of an event. Thus, Cartesian philosophy is bound to the philosophical impact of modern physics. It is the elaboration, to its ultimate consequences, of the dissolution of the pre-Galilean closed world and the advent of an infinite universe of homogeneous, quality-less space.

Hegelian philosophy, in turn, can be seen as the product of the emancipatory aspirations of the French Revolution, with its tensions and challenges. In other words, each original philosophical experience arises from the elaboration of the crises of its time—whether that crisis is brought by political events, by shocks to our scientific paradigm, by aesthetic experiences carrying a force of rupture in language, or by new orders of desire. The central point here is this: such crises are produced by events that carry the force of instituting what has until now been subtracted from representation. An institution driven by that which can question our way of organizing names and belongings.

However, here I would like to speak of fidelity to another form of event. And here I follow a path that is not Alain Badiou's. For it is possible that an era is marked by events that are not potential bearers of new forms of relation, but rather are the expression of the dimension of the intolerable. We usually call such events "catastrophes." And anyone who wishes to think from events must also be capable of bringing thought to a halt in the face of catastrophes.

To stop—not as someone cultivating incommunicability or paralysis—but as someone who understands that it is a matter of announcing the final sign of an era that can no longer persist in any form. The term, from Greek, carries a significant etymology: *kata*, "down," *strephein*, "to turn"—initially used in tragedy to indicate the moment when events turn against the main character. That is, the moment when the story is forced to change direction violently.

Where is Gaza?

I say this because our present faces a catastrophe of this nature, and in my view it would be obscene to use this inaugural lecture to speak about anything else—as if this catastrophe were not among us, corroding our days, screaming before our dogmatic slumber. If I were to speak about something else, I would be telling you that philosophy can ignore pain, can be indifferent to the dismemberment of bodies and the genocide of populations—

which, in my view, would be a terrible way to begin a philosophy course. I would be teaching indifference and giving the impression that we can continue doing our work as if nothing were happening. Decidedly, it is not by silencing pain that one begins to think philosophically, but by listening to it, by making thought pass through it.

The catastrophe I am speaking of is associated with a place. It is called Gaza. I would like to begin by reminding us that there are several meanings to the phrase, so often used today, "all thought is thought from a place." After all, must we necessarily particularize places, or should we show how certain specific places allow us to grasp the functional totality of the social system of which we are a part? Does thought from a place have its normative force limited to the place from which it emerges?

Some believe that we must accept a limitation of thought to the condition of a point of view—as if I were necessarily bound to the place I occupy, which would define my point of view; a place that another could not occupy, or a place that limits my claims to speak to anyone and everyone. This is what some call "situated thought." But I would understand the idea that "all thought is thought from a place" in a different way.

For it is the task of all thought to think from its capacity to be affected by certain places that function as symptoms of the social totality. There are places that are like symptoms, in the sense of places where a global contradiction is made explicit, where an expelled truth returns, causing the entire body to falter. A symptom is that which makes it impossible for us to look away, for it brings forth something that can only be ignored by creating a mechanism of "not wanting to know"—a system of silencing and erasure that always fails, and the more it fails, the more violent it becomes.

If that is the case, "all thought is thought from a place" is not necessarily a proposition that determines that only those in a certain (geographic, social) place can think certain situations. Rather, it reminds us that there are places that any and all thought aspiring to a content of truth cannot ignore, cannot look away from. There is what we could call a "universality of struggle," which consists in aligning oneself with a place we do not come from, inhabited by people who do not share our social identities nor necessarily our ways of life. Nevertheless, we know that the possibility of a humanity yet to come—and I believe this idea makes more and more sense—depends on our aligning ourselves with them and thinking from their places. For our time, that place is Gaza.

Someone might begin by questioning the meaning of this exceptional status given to Gaza, even though we are witnessing the largest massacre of civilians in the entire 21st century: 32,700 people so far. While all wars combined between 2019 and 2022 killed 12,193 children, 12,300 children were killed in just the first four months of the war in Gaza. At this very moment, 50% of Gaza's population—that is, 1.1 million people—are experiencing "catastrophic hunger," the highest level of hunger according to the Integrated Food Security Phase Classification (IPC). "This is the largest number of people ever recorded as victims of catastrophic hunger anywhere, at any time," according to the words of the Secretary-General of the United Nations.

But it is not this magnitude that makes Gaza the point of departure for all thought that seeks to think the catastrophe that marks our time. After all, we could fall into that macabre and senseless exercise of comparing exterminations and genocides. On this point, I can only make the words of anthropologist Luis Eduardo Soares my own. Faced with the juxtaposition of genocides—which aims only to limit our capacity to feel the intolerable when it is before our eyes—he stated in a memorable text: "pains are not comparable, they are the same."[3] Yes, it's true. There is no reason to compare pain, because, as of yet, there are no scales in supermarkets for intensities of pain, no scream meters, no thermostats for exploding buildings. One does not compare what is the same.

In truth, what makes Gaza the starting point for thought in our time is the conjunction of four processes: repetition, desensitisation, dehistoricisation, and legal void. I would like to speak of each of them, for I understand that they are not merely reactions to what comes from Gaza, but global devices of governance to be applied, on an indefinite scale, against populations placed in extreme vulnerability. That is, Gaza concerns all of us because we are facing a kind of Global Laboratory for new forms of governance. As we have seen at other moments in history, practices and devices of state violence and subjection developed in specific locations are gradually generalized in situations of crisis. When thinkers such as Berenice Bento say that there is a "Palestinization of the world,"[4] these words must be taken seriously.

Allow me to suggest a brief macro-historical analysis to contextualize what I have in mind. We are facing an unprecedented conjunction of crises that cannot be resolved within the capitalist system that generated them: ecological, demographic, social, economic, political, psychic, and epistemic crises. Crises that tend, to a large extent, to stabilize and become the normal regime of governance—like the long political crisis of liberal democratic institutions over the past twenty years, or the prolonged economic crisis that has been in the justificatory horizon of the economic policies of our countries and institutions since 2008.

These crises have not prevented the preservation of the foundations of neoliberal economic management, nor the deepening of its logic of concentration and silencing of social struggles. On the contrary, we might even say that they have provided the ideal ground for the realisation of such processes. This dynamic of crisis normalisation points to a mutation in our forms of governability, as these can increasingly normalise the use of exceptional, violent, and authoritarian measures within social management processes, given that we live in a state of continuous fear.

Faced with a situation of this nature, some possibilities present themselves to us. One is the structural transformation of the conditions that generated such a system of interconnected crises. Another is the generalisation of the paradigm of war as a means of crisis stabilisation. This second option—the one that currently seems the most "natural" to us—requires the generalisation of the logic of infinite war as a paradigm of governance. Infinite war enables a kind of perpetual forward march, one that never ends, in which continuous disorder becomes the only condition for the preservation of an order that can no longer guarantee stable normative horizons.

Amid social decomposition, war allows for some form of cohesion, while naturalising, repeating, and generalizing levels of violence and indifference that would be unacceptable under other circumstances. This helps us understand why, at this historical moment, there are no longer even multilateral mediation bodies like the UN. Gaza marked the de facto end of the United Nations as a binding authority, since even a ceasefire resolution from its Security Council is met by the State of Israel with sovereign indifference.

But beyond the generalisation of the possibility of wars of conquest between states, with their redrawing of cartographies, the fundamental fact I would like to draw attention to with regard to the paradigm of infinite war is the reorganisation of civil society according to the logic of war. This means a form of social management based on the militarisation of subjectivities—subjectivities that come to naturalize execution and extermination, that organise themselves as militias, that identify with the hollow virility of the armed weak, that transform indifference and fear into central social affects.

This also requires the construction of enemies who can neither be defeated nor should be—eternal enemies who must periodically remind us of their existence through a terrorist attack, a spectacular explosion, or a policing issue elevated to the status of a state risk. Finally, to militarize subjectivities also means to implode all possible bonds of solidarity in the name of defending "my threatened community," "my identity at risk," which—being at risk—can justify the worst violence, as if it held sovereign power over life and death against an enemy who merges with the Other.

What I would like to argue with you is that this process has as its turning point the macabre operation we now witness daily—namely, making people feel nothing about Gaza. That is the real social experiment: to desensitize subjects to catastrophes, to lead people to no longer feel indignation or act to stop them. If this becomes possible, then Gaza will merely be the first chapter in a generalized social implosion.

Desensitisation

What effectively led me to change the topic of my inaugural lecture was a scene I would like to recall for you. It is the scene of the Al-Rashid Street massacre, in which more than 100 Palestinians were killed by the Israeli army while they were searching for food. As Benjamin Netanyahu said about that massacre: "It happens." That is, something to be seen as just another ordinary event, not worthy of much attention.

However, this massacre occurred twice. First, through the physical elimination of a population reduced to the condition of a starving mass, fighting for physical survival. The second was through the images. The visual document that traveled the world was the reduction of this population to moving dots, marked as one marks a target in a video game. The perspective is not the human perspective of falling bodies. It is the cold perspective of the drone, which renders bodies indistinguishable entities—moving dots, blurs on a screen.

What counted as documentation was a surgical, desensitized image from the drone's perspective—but from the drone's perspective, these people were already dead. They were points and nothing more. This was the second massacre—the symbolic massacre—perhaps even more intolerable than the first, because it expresses the reduction of the human to a threshold between nothing and something, a reduction to a point.

This monstrous image, however, revealed the truth of a process of desensitisation that is an inescapable dimension of our discourses on justice—it is their constitutive blind spot. Our normative principles of justice and reparation necessarily contain blind spots—zones of desensitisation and dehumanisation. In these places, nothing is seen; there is a fundamental demand to block the collective work of mourning, public grief, and indignation.

That is why places like Gaza are constituent elements of our political order—they have always existed and, in varying intensity, continue to exist. What Gaza does is, in a certain way, to amplify this logic, to expose it raw in all its brutality. To this day, there has been no ideal of justice without blindness, no defense of the physical integrity of some without the erasure of others. This could not be different in a world subject to the unlimited expansion of a system of production in which the possibility of radical equality is structurally denied.

It is striking to observe this desensitisation not only in global political discourse but also in philosophers who appear to be committed to the highest emancipatory aims of critical thought. On November 13, 2023, key figures in contemporary Critical Theory—this same Critical Theory to which I feel attached—such as Jürgen Habermas, Rainer Forst, Nicole Deitelhoff, and Klaus Günther saw fit to publish a text on the Palestinian conflict and its consequences, entitled "Principles of Solidarity".

Starting by placing all responsibility for the situation on the attacks by Hamas, as if everything had begun on October 7, 2023, the authors defended the Israeli government's "right of retaliation" and made procedural remarks about the supposedly controversial nature of the so-called "proportionality" of its military action. The text ends by asserting that it would be absurd to assume "genocidal intentions" on the part of Israel's far-right government, calling everyone to be deeply vigilant against "antisemitic feelings and convictions behind all forms of pretexts." Well, what I can say on April 3, 2024, is that, so far, no one has apologized for this macabre article.

What interests me here is how such an article demonstrates that universalist principles of justice can very well be used strategically to atone for local ghosts of responsibility in the face of past catastrophes, producing a bizarre desensitisation through moral arguments. It shows how fidelity to a historical trauma—the sense of responsibility toward the past—can lead us to a deep desensitisation in the present. Above all, it shows how the memory imperative that the German people underwent was not a process of elaboration and reflection. In truth, it was a process of conditioning. Reflection occurs when we understand, for example, that:

> Rage is discharged on the helpless who attract attention. And since the victims are interchangeable according to the context—vagrants, Jews, Protestants, Catholics—any of them can take the place of the murderer, in the same blind lust for killing, as soon as it becomes the norm and feels powerful as such.[6]

This is a passage from *Dialectic of Enlightenment* by Adorno and Horkheimer. It reminds us that we must not fix our gaze on the actors of social oppression, for they may change places. The experience of oppression is not sufficient for the production of emancipatory and just practices. On the contrary, it can often lead merely to the justification of practices of communal self-preservation in the face of the constant remembrance of past violence. "We were violated, and therefore we have the right to anything, so that not even the shadow of that violence ever returns." And we could recall many moments in which past oppression ended up justifying immunisation practices.

It will then mobilize all resources and forces to immunize groups, reinforce security, and build borders. Not by chance, apartheid was created by a people—the Afrikaners—who had previously been victims of the first systematic use of concentration camps with extermination practices. When we fail to reflect on processes, we train ourselves into a stagnant imaginary. Instead of understanding structurally the dynamics of violence and extermination with their possible rotation of agents, we fix ourselves on static images and representations—even if the former oppressed are now massacring new oppressed.

Against this, we must remember that "genocide" occurs whenever the organic link of populations to the *genos*, to what is common to us, is denied. When the commander of the Israeli armed forces says that on the other side there are "human animals," he expresses—pedagogically—genocidal intent. When the president of Israel says there is no difference between civilians and combatants and then subjects the entire Palestinian population to collective punishment; when Israeli government ministers affirm the plausibility of using nuclear bombs against Gaza and face no punishment beyond being excluded from future cabinet meetings; when we discover plans for the mass displacement of Palestinians to Egypt; when the Minister for Social Equality and Women's Empowerment says she is "proud of the ruins of Gaza" and that 80 years from now every baby should be able to tell their grandchildren what the Jews did there—we are not merely faced with genocidal intentions, but with one of the most sordid and intolerable declarations of the glorification of violence imaginable. This is indeed a clear and unforgivable expression of genocidal practice. None of this has even led to pressure to remove these individuals from government.

Genocide is not tied to any absolute number of deaths—there is no number at which genocide begins to count. It concerns a specific form of state action in the erasure of bodies, in the dehumanisation of the pain of populations, in the desecration of their memory, and in the silencing of public mourning that strips such populations of their belonging to the *genos*.

And it is no use invoking the spurious theory of the human shield in this context—a classic of colonialism against the violence of the colonized. Even accepting, for the sake of argument, that an armed group had taken a population hostage and used it as a shield, that does not give anyone the right to ignore that population and treat it objectively as complicit, or as someone whose death is a mere collateral effect. As of now, no one has invented the right to massacre.

Allow me to emphasize one further point in this debate. What the history of the State of Israel shows us is that a nation-state cannot be built as the guardian of the memory of a collective trauma without later degrading itself. We know how the entire process of the creation of Israel—a unique and singular process—was carried out based on the memory of the trauma of the Holocaust catastrophe and on the global consciousness that nothing similar should ever happen again. We also know how traumas can build social bonds. The sharing of the violence to which one was subjected, the remembrance of grief and loss—these are powerful elements in the creation of all kinds of ties.

Identification with collective trauma consolidates identities and lifts subjects out of vulnerability, for the community created through the sharing of trauma has the power to produce the sharing of collective memories and provide the basis for struggles. But there are two moments in the social bond to collective trauma—and this is only the first. For there is a second moment in the social bonds produced from the sharing of trauma, and it must be carefully avoided. For when managed by the nation-state, the duty of memory regarding trauma necessarily opens space for the authorisation of violence against all that is associated with the trauma, both inside and outside the nation. It is not the nation-state that can be the guardian of social trauma, but the community.

It is up to the community, in truth, to prevent the state from appropriating trauma, in order to ensure that the experience of trauma does not lose its social power to create bonds that do not yet exist—bonds of communities without limits or borders. Power that comes from the certainty that trauma must never again be repeated, anywhere—much less in territories I have illegally occupied.

Dehistoricisation and Legal Void

But there is something else that is striking in the text signed by Habermas and company. It concerns its dehistoricisation and its indifference to the legal void to which the Palestinians are subjected. Some would like to begin this entire discussion from the terrible attacks of October 7 carried out by Hamas. My criticisms of Hamas have been repeated many times over the past years, and my absolute rejection of indiscriminate actions targeting civilians is unconditional.[7] But depriving populations of the history of their struggles is part of the very practice of desensitisation.

Palestinian women and men have fought for decades against periodic and indiscriminate massacres, against a social condition of statelessness—without a state, without territory—constantly subjected to precarious life, to death without malice. The fundamental characteristic of life in Gaza is the brute repetition of massacre: Operation Summer Rains, in 2006; Operation Autumn Clouds, also in 2006; Operation Cast Lead, in 2008; Operation Pillar of Defense, in 2012; Operation Protective Edge, in 2014; armed conflict in 2021. These are merely the most recent acts of violence against Palestinians living in Gaza, repeated constantly and met with the same indifference.

One may claim that all these operations were exercises of Israel's right to defend itself against a group that wants to eliminate it. However, this form of self-defense is no defense at all. Let us conduct a basic exercise of projection. What will happen after the so-called Israeli "military actions" in Gaza? Will Hamas be destroyed? But what exactly does "destruction" mean here? On the contrary, isn't this precisely how Hamas grew—namely, in the wake of unacceptable acts of collective punishment and international indifference? And even if Hamas's leaders are killed, will there not be other groups that emerge, fed by an ever more brutal spiral of violence? It is important to start from the historical fact that all previous attempts to annihilate Hamas militarily have only increased its strength, for such military actions have created the ideal narrative framework for it to appear, in the eyes of a large portion of Palestinians, as the legitimate representative of resistance to occupation.

As if that were not enough, I cannot claim a right to self-defense when I am dealing with reactions coming from a territory I have illegally occupied. Contrary to what some may believe, there is international law, and it states clearly what must be done. International law recognizes Palestine as having the legal status of an "occupied territory," an occupation deemed entirely illegal by UN Resolutions 242 and 338 for over 50 years. That is, the best form of defense is to respect international law and return the occupied territories. However, in Gaza, the law ceases to have the force of law.

In fact, leaving a people without law, without state, without citizenship is a practice of constructing legal voids that brings us back to the insurmountable colonial core of our modern societies. Our societies remain colonial.

The central question is: "against whom?" One can speak of the persistence of colonialism because we are faced with a sovereign power that decides when the law applies and when it is suspended, in which territory it holds and in which it is impotent. Some call this "democracy." But this is merely the distribution of a geography of law typical of colonial relations.

That is why I would conclude by vehemently deploring those academics who call themselves guardians of postcolonial thought and who shamefully remained silent in the face of a typical colonial catastrophe—who issued perfunctory statements, who seem more outraged by issues of pronouns than by bodies buried under the rubble of bombs. Anyone who wants to think critically must be willing not to place their personal interests ahead of the necessary engagements.

I truly suspect that the postcolonialism of some ends at the boundaries of the Diversity Committee of *Magazine Luiza*. And I would like here to acknowledge the deep coherence and intellectual honesty of those academics—such as Judith Butler, Nancy Fraser, and Angela Davis—who suffered the harshest retaliation and stigmatisation for showing solidarity with the Palestinian tragedy at a moment when solidarity has become one of the rarest weapons.

In my view, I believe that some of these people understood that, in such times, philosophy must function as an emergency brake. You must be familiar with that fragment from Walter Benjamin: "Marx says that revolutions are the locomotive of world history. But perhaps things are different. Perhaps revolutions are the act by which the human race traveling in this train applies the emergency brake."[8] In a moment in which the organic connections between the last bulwarks of Western civilisation and extermination, the last bulwarks of democracy and catastrophe, become increasingly clear, it is worth remembering that the true revolutionary gestures are those that decide to pull the emergency brake.

For this reason, I would like to end this inaugural lecture by appealing to the language spoken by the inhabitants of Gaza. The language that was the language of my ancestors but was never spoken in our homes—the language I never heard because its silence represented the belief that there would be a perfect integration into the West.

At a moment of disintegration, I therefore wish to end with that language—silenced by the belief in an integration that never took place as promised—as if it were a matter of retrieving from the ruins that which was excluded from our voice so that this silenced language might bring forth the pain of unfulfilled promises and the continuity of struggles. With the language of the inhabitants of Gaza, I would like to recall that there is no freedom without land, and that there is no possible life without freedom:

لا حياة بدون حرية (lā ḥayāt bidūn ḥurriya).

Notes

1 Foucault, Michel. *Dits et écrits*. Paris: Quarto, 2001, p. 1152.
2 Canguilhem, Georges. *O normal e o patológico*. Rio de Janeiro: Forense editora, 2000, p. 12.
3 Soares, Luis Eduardo. "As palavras apodrecem," *site A Terra é Redonda*.
4 Bento, Berenice. "Defensores de Israel usam antisemitismo como instrumento de chantagem," *Folha de São Paulo*, January 18, 2024.
6 Adorno, Theodor, and Horkheimer, Max. *Dialética do Esclarecimento*. Rio de Janeiro: Jorge Zahar, p. 160.
7 See, for example, Safatle, Vladimir. "O suicídio de uma nação e o extermínio de um povo," *Revista Cult*, October 2023.
8 Benjamin, Walter. *O anjo da história*. Belo Horizonte: Autêntica, p. 230.

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4 Epistemic Restitution and the South African Black Consciousness Movement

George Hull

Putting right past or current wrongs is not always just a matter of material transfers and expressive acts, such as apologies. Sometimes, it needs to incorporate an epistemic component as well: a process of restitution which considers those on the receiving end of injustice in their capacity as knowers.

While epistemic justice tended earlier to be conceived of purely in forward-looking terms—as the development of a set of personal or institutional virtues,[1] or as a society's striving to attain a distributive ideal[2]—it is now also theorized as forming the basis of backward-looking claims for reparation or restitution.[3] Regarding colonial injustices specifically, writers from the 'Modernity/Coloniality/Decoloniality' school have asserted that overcoming the legacy of colonial subjugation not only involves, but *is primarily*, an epistemic process[4]—though these same writers have received criticism for relying on the assumption that different ideas, values and beliefs are *proper* or *inherent to* different geographical identity groups.[5]

In this chapter, I argue that the founding theoreticians of the South African Black Consciousness Movement can be constructive and illuminating conversation partners for contemporary theorists working towards a defensible approach to *epistemic restitution*.

Some of the history of the struggle against South Africa's discriminatory apartheid regime is widely known. From the mid-1980s to the mid-1990s, in Stephen Ellis' words, 'South Africa became the setting for a global morality play in which public opinion in many countries sympathised with opponents of apartheid' (Ellis 2012: 209). What is less widely understood is the extent of ideological divergence and contestation between the various organisations combatting segregation and apartheid in South Africa over the twentieth century. In a multitude of periodical articles, pamphlets, books, and communiqués, thinkers from organisations like the Non-European Unity Movement (NEUM), the Pan-Africanist Congress (PAC), the South African Communist Party (SACP), and the African National Congress (ANC) articulated and argued for different analyses of South African society. They disagreed about what the most salient societal groups were, what kind of liberation some or all these groups were in need of, and what was to be done to achieve this liberation. The 1980s and early 1990s, when a 'low-

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intensity civil war' engulfed South Africa, were witness to violent policing and brutal counter-insurgency actions from the National Party government.[6] They were also witness to lethal confrontations between South African groups opposed to apartheid—in Johannesburg townships,[7] on university campuses,[8] in rural KwaZulu/Natal.[9] Ramped up by government *agents provocateurs* and misrepresented by the government as purely 'tribal' or 'ethnic' conflicts,[10] these confrontations were, in part, rooted in the liberation movements' ideological differences.[11]

Here, I will investigate the history of the struggle against apartheid purely as history of ideas. I argue that the first-generation Black Consciousness Movement thinkers, including Stephen Bantu Biko, Nyameko Barney Pityana, and Themba Sono, staked out a distinctive and original path in a terrain dominated by variants of Marxism and variants of nationalism. While agreeing with nationalists like Anton Muziwakhe Lembede of the Congress Youth League (CYL) and Robert Mangaliso Sobukwe of the PAC about the importance of a cultural revival and the importance of Black South Africans' overcoming feelings of inferiority, they did not agree that these should form part of the awakening or coming into its own of a *race* or *nation*. Concurring with Marxists in the SACP and NEUM that the most salient divisions in South African society were social positionings arising from entrenched power relations, they parted ways with the Marxists by denying that these positionings were purely, or even primarily, along lines of economic class. Under the heading 'spiritual poverty', which they contrasted with 'material want', the first-generation Black Consciousness Movement writers homed in on a form of injustice which was not just psychological but *epistemic*. They outlined their ideas about how to address and overcome 'spiritual poverty' through an 'inward-looking process' which, though it involved the targeted and temporary exclusion of White South Africans from certain settings during the struggle for emancipation, did not amount to the formation of a self-contained nation or national group. Their avowed ultimate goal was an 'open society' (South African Students' Organisation 1971: 11), in which a 'joint culture' would develop on the basis of 'free participation by all members [...] catering for the full expression of the self' ('Frank Talk' 1970a: 20).

Because the first-generation Black Consciousness Movement writers were plainly not Marxist, and because in developing their distinctive analysis of apartheid injustice they drew on some of the concepts and theoretical moves of nationalists who went before them, scholars have often interpreted Black Consciousness in South Africa as a form of nationalism. In an influential early study, Gail Margaret Gerhart claimed that with the emergence of the Black Consciousness Movement, 'none of the goals of orthodox nationalism had changed': the Black Consciousness intellectuals had merely 'arrived anew at the diagnosis and cure originally devised by Lembede and Mda in the 1940s under the rubric of "Africanism"' (Gerhart 1978: 272, 285). Anne Katherine Heffernan has also described 'Black Consciousness ideology in the early 1970s' as 'in part a remaking of Africanism, Anton

Lembede's nationalist philosophy' (Heffernan 2019: 12). Some scholars even attribute to Steve Biko, the leading Black Consciousness Movement theorist, the same racial inherentism which is undoubtedly present in Lembede's writings (see Smith and Lester 2022: 147).

Here, I argue that Black Consciousness Movement thought was not a form of nationalism, and that the nationalist framing favoured by some influential interpreters has obstructed understanding of the distinctive type of response to apartheid which the Black Consciousness Movement represents. Far from being racially inherentist, the Black Consciousness Movement thinkers insisted on a revisionary definition of 'Black people' in terms of a social positioning: namely, being subjected to certain types of racialized injustice in South Africa. Since the primary racialized injustice which the Black Consciousness Movement thinkers diagnosed and sought to overcome was an *epistemic* injustice, today their writings can most fruitfully be brought into conversation with, not nationalist political movements, but rather contemporary theories of epistemic injustice and its remedies.

Beyond Material Deprivation

The first South African organisation to adopt a Black Consciousness Movement ideological orientation was the South African Students' Organisation (SASO). The decision to form SASO as a breakaway from the National Union of South African Students (NUSAS) was taken in December 1968, following a walkout by Black students in protest at segregated accommodation at the NUSAS conference in Grahamstown the previous July (MacQueen 2018: 8–9). This and other experiences of marginalisation prompted many Black students to reflect anew about what organisational shape their opposition to the apartheid regime should take (Mangcu 2012: 125–126, 167–169).

Stephen Bantu Biko, elected first president of SASO at its founding conference held at the University College of the North in July 1969, wrote a regular column, 'I Write What I Like', under the *nom de plume* 'Frank Talk', for the *SASO Newsletter* (published from 1970 until 1976), which continued to appear after Nyameko Barney Pityana took over from him as SASO president in 1970 (Mangcu 2012: 167–169, 176–177). In his column for the June 1971 issue, Biko noted that, following the National Party government's banning of the ANC and the PAC in 1960,

> a dangerous vacuum has been created […] and ever since there has been no co-ordinated opinion emanating from the black ranks.
>
> ('Frank Talk' 1971: 10)

However, in his 'I Write What I Like' column the previous September, Biko had made clear that his concerns about the extant anti-apartheid organisations extended well beyond their leaders' absence from the scene—

in exile abroad, or imprisoned on Robben Island—and consequent inability to shape and mobilize opinion. 'A number of the organisations now currently "fighting against apartheid"', he wrote,

> are working on an oversimplified premise. They have taken a brief look at what is, and have diagnosed the problem incorrectly. They have almost completely forgotten about the side effects and have not even considered the root cause. Hence what ever is improvised as a remedy will hardly cure the condition.
>
> ('Frank Talk' 1970b: 15)

By the time SASO emerged, the two South African liberation movements with the broadest reach, the ANC and the All-African Convention (AAC), had both fitted themselves into overarching alliances whose leadership analysed the South African situation through a lens of materialist political economy. The Congress Alliance, which comprised the South African Congress of Democrats (SACOD), the South African Coloured People's Organisation (SACPO) and the South African Indian Congress (SAIC), as well as the ANC (Everatt 2009: 98), took its ideological lead from the underground SACP. The NEUM, to which the AAC, alongside the Anti-CAD[12] and the Anti-Segregation Council (a splinter from the Natal Indian Congress), was affiliated, followed a heterodox or 'Trotskyist' Marxist line propagated by the obsessively secretive Workers' Party of South Africa (WPSA).[13] Both the Trotskyist NEUM and the Moscow-aligned Congress Alliance took the view that apartheid political and social relations were fundamentally the expression of capitalism in its imperialist phase. Both believed that a revolution ushering in socialist relations of production was the only sure path away from apartheid. Where they differed was that the NEUM favoured moving directly into a working class-led socialist revolution, while the Congress Alliance held that in South Africa a 'national democratic revolution'—with bourgeois involvement—was the indispensable first stage of a 'two-stage revolution', whose eventual outcome would be socialism.

This explains why, when Biko proceeds to cash out his medical student's metaphors of misdiagnosis and prescription of an ineffective remedy, he insists that

> [o]ne should not waste time here dealing with manifestations of material want of the black people. A vast literature has been written on this problem.
>
> ('Frank Talk' 1970b: 15)

It is not that he denies or discounts the importance of 'material want'. Nor does he deny that 'apartheid has been tied up with [...] capitalist exploitation' ('Frank Talk' 1970b: 15).[14] But Biko believes there is another aspect of Black South Africans' situation which has been neglected, even though it may be yet more serious than the material aspect:

> Material want is bad enough, but coupled with spiritual poverty it kills. And this latter effect is probably the one that creates mountains of obstacles in the normal course of emancipation of the black people.
>
> ('Frank Talk' 1970b: 15)

Biko believed his diagnosis of 'spiritual poverty' applied quite generally, across many areas of Black South Africans' experience during apartheid. But it will help us achieve an initial understanding of what Biko means by this phrase, if we focus to begin with on what he says about the spiritual sphere, almost literally: about Black South Africans' beliefs about relations with supernatural beings.

In his contribution to a volume edited by the Reverend Basil Moore—first president of the University Christian Movement, an incubator of Black Consciousness Movement thought (MacQueen 2018: 36)—Biko notes that when Christian missionaries first came to Southern Africa, they found 'indigenous people' whose

> religion in its essence was not radically different from Christianity. We also believed in one God, we had our own community of saints through whom we related to our God.
>
> (Biko 1973: 42)

Yet, '[b]y some strange and twisted logic', the missionaries 'argued that theirs was a scientific religion and ours a superstition—all this', Biko adds wryly, 'in spite of the biological discrepancy which is at the base of their religion' (Biko 1973: 42). Not only was the religion of indigenous Southern Africans 'a superstition'; it was also, according to the Christian missionaries who, by the mid-twentieth century, were in charge of most institutions providing a literate education to Black South Africans, 'heathen and immoral', 'inferior', 'reeking of "witchcraft"'—as Sabelo Stanley Ntwasa, a student at the Federal Theological Seminary, Alice, and Basil Moore put it in their co-authored contribution to the same volume (Ntwasa and Moore 1973: 24–25).

'No wonder', then, Biko had observed in his September 1970 *SASO Newsletter* column, that 'the African child' exposed to a 'distorted, disfigured' version of the religion into which he was initiated at home

> learns to hate his heritage in his days at school. So negative is the image presented to him that he tends to find solace only in close identification with the white society.
>
> ('Frank Talk' 1970b: 17)

A vivid description of the impact which distortive, negative depictions of Africans' religions prevalent in school, church and the broader public sphere during an individual's upbringing could have is to be found in South African teacher and novelist Es'kia Mphahlele's memoir, *Down Second*

Avenue. Writing in Nigeria in the late 1950s, having departed from apartheid South Africa in 1957 when in his 30s, 'What I do know,' reflected Mphahlele,

> is that about eight out of every ten educated Africans, most of whom are also professed Christians, still believe firmly in the spirits of their ancestors. We don't speak to one another about it among the educated. But when we seek moral guidance and inspiration and hope, somewhere in the recesses of our being, we grope around for some link with those spirits.
>
> (Mphahlele 2004: 54–55)

Exposed in authoritative contexts from an early age to 'the assumption by whites that "ancestor worship" was necessarily a superstition and that Christianity is a scientific religion' ('Frank Talk' 1970b: 19), for the 'educated Africans' Mphahlele poignantly describes, the religion they had been initiated into in the home was—by the time of their adulthood—not a public religion, with clearly delineated rituals and beliefs, of which they had a firm conceptual and habitual command. While it had not disappeared from their minds completely (they 'still believe firmly in the spirits of their ancestors'), the religion the 'educated Africans' had been initiated into in the family returned to them in adulthood as something private, even secret ('[w]e don't speak to one another about it among the educated'), something murky and almost inaccessible ('somewhere in the recesses of our being'), on which their grasp was at best partial or inchoate ('we grope around for some link').

In the light of this specific example, it is possible to understand better some of the formulations with which Biko fleshes out his general diagnosis of 'spiritual poverty'. In a paper first delivered in 1971 at the Ecumenical Lay Training Centre, Edendale, he writes that during colonisation, 'the African began to lose a grip on himself and his surroundings' (Biko 1978a: 41). Under cross-examination at the SASO/BPC Trial in May 1976,[15] Biko averred that

> the Black man in himself has developed a certain state of alienation. He rejects himself [...] This arises out of his living and it arises out of his development from childhood.
>
> (Arnold 1978: 19)

This 'state of alienation', which Biko also describes as a condition of 'run[ning] away from themselves' (Biko 1973: 41), is not solely affective—though it can certainly have affective components, as in Biko's description of Black South Africans during apartheid who were 'completely defeated, drowning in [their] own misery [...] bearing the yoke of oppression with sheepish timidity' ('Frank Talk' 1970b: 16). The 'spiritual poverty' which Biko consistently presents as a more serious problem than 'material want' is, in large part, a state of *epistemic* deprivation. Addressing a SASO leadership training course in late 1971, Biko emphasized 'the terrible role played by our education and religion in creating amongst us a false understanding of ourselves', meaning that 'Black Consciousness' must involve 'correcting false images of ourselves in terms of Culture, Education, Religion, Economics' (Biko 1978b: 52).

The 'false images' creating what Biko views as a 'false understanding' of themselves on the part of Black South Africans extend well beyond religious rituals and beliefs about the supernatural. For example, in Biko's opinion,

> a lot of attention has to be paid to our history if we as blacks want to aid each other in our coming into consciousness [...] More has to be revealed, and stress has to be laid on the successful nation-building attempts of men such as Shaka, Moshoeshoe and Hintsa.
>
> (Biko 1973: 44–45)

The new historiography he envisages would correct versions of the Southern African past which 'disfigure and distort it', presenting indigenous political leaders as nothing but 'thieves', 'superstitious trouble-makers', and 'cruel tyrants who frequently attacked smaller tribes for no reason but for some sadistic purpose' (Biko 1973: 44).

The 'coming into consciousness' Biko wanted his Black compatriots to achieve included a cultural and ethical revival. For example, he writes, 'We must seek to restore to the black man the great importance we used to give to human relations', as this is one of the 'features of our black culture to which we must cling' (Biko 1973: 45). Despite the fact that 'in school' this 'whole cultural background is summed up in one word—barbarism'—and despite its 'appalling misrepresentation' in the public sphere more generally, Biko insists that 'we also have to realise that the basic tenets of our culture have largely succeeded in withstanding the process of bastardisation' (Biko 1973: 44–45). In the home, and perhaps also in the half-inaccessible recesses of individuals' minds, as in Mphahlele's description of religious beliefs, Biko believes 'the richness of our cultural heritage' has endured and could be restored to full consciousness—not, however, as 'a static culture', but as a starting point for 'innovation', which is 'part of the natural development of any culture' (Biko 1973: 45).

Themba Sono, who became the third SASO president in 1971, wrote a thoughtful retrospective analysis of the Black Consciousness Movement twenty years later, during South Africa's democratic transition.[16] In his discussion of SASO's first president, the Black Consciousness Movement's most influential theorist, who was to be murdered in police detention in September 1977, Sono makes clear that Biko rejected 'the crass materialism of scientific socialism' (Sono 1993: 89, 125). Biko and SASO's relationship with liberalism, however, was in Sono's opinion more complex. On the one hand, the early Black Consciousness Movement never disavowed the goal of a country in which all individuals would have equal rights and opportunities; and so, for all its 'radicalism', it remained 'fundamentally liberal' (Sono 1993: 6). On the other hand, Biko and those who thought like him fundamentally disagreed with the strand of liberalism which implied that, in a country shaped by colonial conquest, segregation and apartheid, sufficient progress towards this goal could be achieved simply by repealing discriminatory laws and integrating the society at 'liberal multiracial wine and cheese parties' (Sono 1993: 23). It is this strand of South African liberalism—associated in SASO members' eyes with NUSAS—which 'Frank Talk' had castigated in the August 1970 'I Write What I Like' column, under the heading 'Black Souls in White Skins?' ('Frank Talk' 1970a).

Consequently, although Sono is comfortable calling the first generation of Black Consciousness Movement adherents 'black liberals', he adds that these were liberals who believed a 'black liberal "liberation"' was needful—a process of liberation, with a liberal society as its ultimate goal, which would involve 'a fundamental and radical transformation of the society' (Sono 1993: 7–8). In other words, creating a genuinely liberal South Africa was going to require a liberatory process, particularly for Black South Africans, which would not simply happen gradually and of its own accord once discriminatory laws had been repealed and the society integrated.

What we can add to Sono's account of the early Black Consciousness Movement leaders' thinking, now that we have reviewed Biko's discussions of 'spiritual poverty', is that the liberation they envisaged as required to bring about a genuinely liberal and egalitarian society was to a significant degree *epistemic*. It would need to involve countering the false and distortive mainstream representations of the culture, values, religion and history of Black South Africans, which led them to 'lose a grip on themselves', reject their own identity, even 'run away from themselves'. The envisaged liberation was to be, in large part, 'an inward-looking process', as Biko put it in a paper presented to a student conference held in Cape Town in January 1971 (Biko 1972: 198). 'The interrelationship between the consciousness of the self and the emancipatory programme', he said in his address to the SASO leadership training course later that year, 'is of paramount importance' (Biko 1978b: 49).

The second SASO president, Barney Pityana, reiterated the crucial epistemic dimension of the kind of emancipation the Black Consciousness Movement was working towards in his contribution to the volume edited by the Reverend Basil More cited above. 'Black Consciousness', he writes, 'has identified […] the great myth designed to rob the black man of his soul and his human dignity' (Pityana 1973: 60). He goes on to state: 'It is the liberating effect of […] self-knowledge and awareness that we refer to as Black Consciousness' (Pityana 1973: 60). Indispensable for this kind of liberation, Pityana had declared in the paper he presented at the January 1971 Cape Town student conference, was 'a self-examination and a rediscovery of ourselves' (Pityana 1972: 180).

Backing Out of the Inherentist Cul-de-Sac

An influential current of historical commentary views Black Consciousness Movement political thought as a variety of Africanism or African nationalism. Nationalism is an identity-based approach to politics, which advocates for the political autonomy or sovereignty of a group of people based on the nationality they putatively share.

Gail Margaret Gerhart, who gives a comprehensive statement of this view of the Black Consciousness Movement in her book from the late 1970s, *Black Power in South Africa*, writes that 'nationalism inevitably seeks expression through the creation or maintenance of a nation-state, that is, a polity based on the self-willing "nation" and dedicated to the protection of its identity and interests' (Gerhart 1978: 11). One might quibble with what she says here by countering that a nationalist movement can aim for political self-governance which falls short of statehood. But what is more important for our purposes is that by claiming that Steve Biko was a 'nationalist thinker' who, like the leading theorists of the Congress Youth League and the PAC, contributed 'to the evolution of orthodox African nationalism' (Gerhart 1978: vii) in South Africa, Gerhart presents Black Consciousness Movement thought as attributing a common national identity to a constituency of people and mobilizing that constituency to aspire to self-governance on this identitarian basis. This reading has been taken up more recently by Anne Katherine Heffernan, who writes in her historical study of student politics in the Limpopo province in northern South Africa that 'Black Consciousness ideology in the early 1970s was in part a remaking of Africanism, Anton Lembede's nationalist philosophy' (Heffernan 2019: 12), though 'Black Consciousness had always subscribed to its own brand of Africanism' (Heffernan 2019: 140).

The equation of Black Consciousness Movement political thought with Africanism has not gone uncontested. Themba Sono, the third president of SASO, explicitly contrasts 'Black Consciousness' with '*African* Consciousness, a completely different kettle of fish' (Sono 1993: 61). '[T]he Black Consciousness idea', he wrote in the early 1990s, faced a challenge in the shape of the 'historic pulling power of the PAC idea—i.e. Africanism/Africanity'—partly because 'the concept of "African consciousness"' was a more 'emotional, and hence easily digestible, concept': 'not so the BC philosophy' (Sono 1993: 72, 118). He notes also that the group of people on which the Black Consciousness Movement's defining concerns centred tended to differ in scope from that of the Africanists (Sono 1993: 61).

On the interpretation of Black Consciousness Movement thought which I argue for in this chapter, it is not a variety of Africanism or of African nationalism, or indeed of any other kind of nationalism; and that is not only because the identity group it advocates for is not properly described as 'African' (in the narrow South African sense) or not properly a national group or nationality. Rather, it is because Black Consciousness Movement thought fundamentally is not an identity-based approach to politics. Rather than advocating for a new political arrangement which bestows proper autonomy upon an insufficiently empowered nationality or other identity group, the first generation of Black Consciousness Movement thinkers were primarily concerned with putting right a harmful wrong, overcoming an injustice which they thought was identical to a widespread psychic malaise among Black South Africans in the late 1960s and early 1970s. This wrong or injustice, as we saw in the previous section, is sometimes described as being a 'spiritual' form of deprivation, on top of and potentially more harmful than the undoubted 'material' deprivation experienced by Black South Africans during apartheid. At other times, it is described as being an 'internal' form of oppression, on top of and potentially even more serious than the manifold 'external' forms of oppression endured by Black South Africans—as in Biko's testimony at the SASO/BPC Trial, when he responded to a question from the defence lawyer by saying:

> I think the Black man is subjected to two forces in this country. He is first of all oppressed by an external world through institutionalized machinery, through laws that restrict him from doing certain things, through heavy work conditions, through poor pay, through very difficult living conditions, through poor education—these are all external to him—and secondly, and this we regard as the most important, the Black man in himself has developed a certain state of alienation. He rejects himself, precisely because he attaches the meaning White to all that is good; in other words he associates good—and he equates good—with White. This arises out of his living and it arises out of his development from childhood.
>
> (Arnold 1978: 19)

It is true, however, that some of the central themes of the Black Consciousness Movement writers—the significance of psychological barriers, especially inferiority complexes, the need for cultural restoration or reassertion—are foreshadowed in the writings of nationalists who emerged within the Congress Alliance over the preceding two decades. It will help us home in on the distinguishing marks of Black Consciousness Movement political thought, if we contrast it with these nationalist currents.

The 1940s saw intense industrialisation and urbanisation in South Africa, when many Black South Africans moved, either temporarily or permanently, from rural areas to the urban centres of the Transvaal province to work in heavy industry or on the mines. A cluster of dynamic young men in the ANC urged its leadership to harness the young, growing urban population to force the recalcitrant minority government to change course by means of strikes, boycotts, and protests, manifesting strength of numbers. These included Nelson Rolihlahla Mandela, Jordan Kush Ngubane, Ashby Peter Mda, and Walter May Ulyate Sisulu. Their centre of operations was the CYL, launched in

1944 at the Bantu Men's Social Centre in Johannesburg; and the Youth League's pressure for a change of strategy bore fruit in the 'Programme of Action', adopted at the ANC national conference in Bloemfontein in December 1949, which laid the groundwork for the 'Defiance Campaign', a series of strikes and boycotts accompanied by protests and civil disobedience, ultimately launched in 1952 (Gerhart 1978: 47, 50, 83–84, 105).

As important as the change in strategy urged by the CYL was the new 'Africanist' ideology formulated by its first president, Anton Muziwakhe Lembede. Lembede, a brilliant autodidact and lawyer with a Master's degree in philosophy, wrote in a 1947 article for *Inkundla ya Bantu* of the need to

> dispel and disperse the inferiority complex which blurs our sight and darkens our horizon. The inferiority complex is a psychological malady; the opium that dulls our mental faculties and represses our physical energy.
>
> (Lembede 1996c: 96)

For Lembede, the *only* remedy for this 'inferiority complex' was 'African Nationalism'. In this article, entitled 'In Defence of Nationalism', he quotes approvingly the nineteenth-century Italian nationalist Giuseppe Mazzini before declaring: 'African Nationalism is to be pursued with the fanaticism and bigotry of religion' (Lembede 1996c: 96).

Borrowing freely from the writings of European romantic nationalists, Lembede argued in the pages of *Ilanga lase Natal* that

> [e]ach nation has […] its own peculiar contribution to make towards the general progress and welfare of Mankind. In other words each nation has its own divine mission.
>
> (Lembede 1996a: 85)

A nation's 'divine mission' or 'divine destiny', as Lembede also calls it, is—even before it has been realized in concrete cultural achievements, artistic production or social mores—made manifest as a 'spirit' present and detectable in individual members of the nation in question, but not in members of other nations. This metaphysical version of nationalism supplied the Youth Leaguers with a deep doctrinal justification for their discomfort with the ANC's participation with political groupings representing other racial groups, in what would become the Congress Alliance. 'The Leader of the Africans', declared Lembede in a 1946 statement of the 'Policy of the Congress Youth League' for *Inkundla ya Bantu*,

> will come out of their own loins. No foreigner can ever be a true and genuine leader of the African people because no foreigner can ever truly and genuinely interpret the African spirit which is unique and peculiar to Africans only. Some foreigners Asiatic or European who pose as

> African leaders must be categorically denounced and rejected. An African must lead Africans.
>
> (Lembede 1996b: 91–92)

Lembede, therefore, had a racial conception of the nation. Which nation one belongs to, and which national spirit is accessible to one, depends on whose loins one has sprung from. It is in the blood. Indeed, Lembede used the words 'race' and 'nation' interchangeably: he ends his Mazzini-inspired 'Defence of Nationalism' with the exhortation, 'We must develop race pride' (Lembede 1996c: 96).

Lembede went out of his way to offend the Non-European Unity Movement, stating, on the basis of his metaphysical racial nationalism, that

> [c]o-operation between Africans and other Non-Europeans on common problems and issues may be highly desirable. But this occasional co-operation can only take place between Africans as a single unit and other non-European groups as separate units. Non-European unity is a fantastic dream which has no foundation in reality.
>
> (Lembede 1996b: 92)

The implication of Lembede's metaphysical nationalism was that African, Indian, White, and perhaps also 'Coloured' South Africans would need to take charge of their own separate national liberations, each in line with their own distinctive national 'spirit'.

The NEUM reacted with predictable outrage to the CYL's exclusivist racial nationalism. In her memoir, NEUM activist Phyllis Ntantala recalls that the 'Society for Young Africa (SOYA)'—'a youth organisation, mostly African'—was launched 'under the auspices of the All-African Convention […] to counter the rabid racism of the Youth League'. 'SOYA', writes Ntantala,

> brought logic and reason to the South African situation. SOYA taught young people that it was not the whites who were the enemy of the blacks, but the capitalist system which exploited both black and white workers.
>
> (Ntantala 1993: 149)

Many within the ANC were also uncomfortable with the 'Lembedist […] concept of nationalism emphasizing race-consciousness', because 'such an emphasis seemed perilously close to a black version of Afrikaner ideology' (Gerhart 1978: 90)—i.e. what the ANC had been campaigning against. Indeed, according to his close friend and colleague A.P. Mda, Lembede had drawn inspiration from the version of nationalism articulated by future National Party prime minister H.F. Verwoerd in his regular column for *Die Transvaler* (Gerhart 1978: 53). Lembede 'appropriated some of the ideas of Afrikaner nationalists for his version of African nationalism', such as future state president Nicolaas Diederichs' views on the divinely ordained distinct common cultures shared by different nations (Msumza & Edgar 1996: 22). What is more, during the Second World War, Lembede 'saw nothing wrong with quoting certain ideas of Hitler and Mussolini with approval' (Gerhart 1978: 53).

In 1944, *Inkululeko*, a newspaper associated with the Communist Party of South Africa (CPSA), ran a report on a speech by Lembede which stated, '[I]f one were to close one's eyes, one would certainly think one was listening to Hitler broadcasting from Berlin' (Msumza & Edgar 1996: 20). However, the Defiance Campaign of the early 1950s, based on the Programme of Action pushed for within the ANC by the hardline nationalist faction, demonstrated that the nationalist ANC had a capacity for mass mobilisation and mass action which the CPSA could only dream of. By the late 1950s, the Communist Party, which had relaunched following its banning as the underground SACP, had developed a very different orientation towards African nationalism—partly with the help of new theory from the Soviet Union.

On and off since the 1920s, Party-approved theoreticians of Marxism-Leninism in Moscow had shown recognition that national liberation movements in the colonies of Western powers and the governments of post-colonial states could prove to be useful allies of the USSR in the international arena, given their opposition to Western imperialism (Filatova 2012: 509, 515). Yet the colonies and former colonies were rarely more than semi-industrialized and, most awkwardly of all, anti-colonial struggles were standardly led, not by peasants or proletarians, but by modest capital-holders—the petty bourgeoisie. Should the USSR, then, be urging these countries, despite their goodwill towards the USSR, to embrace the capitalist development models recommended by the West as a necessary economic stage to be traversed before they could emerge as members of the socialist international bloc?

Conveniently—all too conveniently—the answer turned out to be: No. A 'national democratic revolution', said the new theory, led by elements of the anti-imperialist 'national bourgeoisie', under the supervision of the local communist party, and assisted by the 'world proletariat', could give rise to a society which would go through a transitional period of industrial 'non-capitalist development' before attaining socialism proper (Filatova 2012: 516–520).

On the face of it, the theory of 'national democratic revolution' had little relevance to South Africa, which had become self-governing in the nineteenth century and by the end of the 1950s was highly industrialized with a large working class. The missing theoretical piece, for SACP theorists, was the theory of 'internal colonialism' or 'colonialism of a special type'. Here they could borrow from a liberal Afrikaner with socialist sympathies, Leo Marquard, who during the Second World War had published, under a *nom de plume, The Black Man's Burden*, a book which concluded that in South Africa

> the ruling class consists of Europeans to whom the non-European masses must pay tribute [...] What the ruling class in Britain is to the population of South Africa, the ruling class in South Africa is to the non-European population of Southern Africa.
>
> ('John Burger' 1943: 251)[17]

The new SACP Programme, adopted in 1962, states that, although 'South Africa is not a colony but an independent state', nonetheless in South Africa,

> [a] new type of colonialism was developed, in which the oppressing White nation occupied the same territory as the oppressed people themselves and lived side by side with them.
>
> (South African Communist Party 1963: 43)

The Communist Party's internal colonialism thesis says that the 'White nation' exhibits all the features Lenin associated with an imperialist economy[18]—concentration of capital or monopoly, hunger for new export markets, a relatively privileged 'labour aristocracy'[19]—while 'the oppressed people' within the same territory constitute a super-exploited proletariat comparable to the impoverished workers in Europe's overseas colonies (Hudson 1986: 25–26).

With the internal colonialism thesis in place, the SACP could argue that in South Africa an internal 'national democratic revolution' against 'the oppressing White nation' was the indispensable first stage in a two-stage revolution leading ultimately to socialism. In the light of this new ideological framing, a characterisation of South Africans oppressed by apartheid as a nation or nations fighting for national liberation was suddenly very attractive to SACP thinkers. After all, the theory of the 'national democratic revolution' had been developed to fit a paradigm case in which 'the oppressed nation' needed to liberate itself from 'the oppressing nation' (Hudson 1986: 10). From the early 1960s until South Africa's democratic transition in the 1990s, the SACP's journal *The African Communist* ran pieces supporting this line—warning, for instance, in 1985, against the heterodox National Forum's suggestion that

> the regime's crisis-management policies makes it possible or necessary to jettison the national struggle in favour of 'class struggle against racial capitalism'.
>
> ('Denga' 1985: 71)

The shift from opposing a nationalist construal of the South African struggle to endorsing it was eased by Lembede and the ANC Africanists' having adopted the Ghanaian Pan-Africanist Kwame Nkrumah's view that 'Africans are naturally socialistic as illustrated in their social practices and customs' (Lembede 1996b: 93). Despite his lifelong opposition to Marxism and resistance to Communist entryism in the ANC, Lembede had in 1946 gone so far as to close an article for *Inkundla ya Bantu* with the exhortation, 'After national freedom, then, socialism' (Lembede 1996b: 93).[20]

Once the two jigsaw pieces, (i) the theory of the 'national democratic revolution' (NDR), by which the USSR gave itself permission to profit from the international support of petty bourgeois-led anti-colonial movements and postcolonial governments in barely industrialized Global South countries, and (ii) the theory of 'colonialism of a special type' (CST), by which the SACP gave itself permission to piggyback on the mobilizing power of a petty bourgeois-led nationalist movement in a highly industrialized African country, were both in place, 'the programme for the national democratic revolution', as historian Irina Filatova writes,

> connected the SACP and the ANC into a simple scheme: the ANC, as a national liberation movement, implements the national-democratic revolution, and the SACP supports and directs it from the vantage position of the 'vanguard' of the working class. It does so by the power of its ideology and by virtue of its members playing the leading role in the NDR.
>
> (Filatova 2012: 527)

Dual membership enabled Communists to occupy leading roles in the ANC and leading members of the ANC to be recruited into the Communist Party. By the time of the ANC's banning in 1960 and its turn to armed struggle shortly thereafter, prominent figures in the ANC who were also SACP members included J.B. Marks, Govan Mbeki, Moses Kotane, Nelson Mandela, Duma Nokwe, Joe Matthews, and Walter Sisulu (Ellis 2012: 20–23, 33–34; Filatova & Davidson 2013: 299–302; Lodge 2021: 319, 323–324). After the turn to armed struggle, the SACP sometimes recruited operatives who falsely believed they were working for the ANC, when they were in fact reporting directly to the SACP (Ellis 2012: 216).

'During the 1950s', writes Tom Lodge, author of the definitive history of the SACP,

> the party's influence within the ANC was consolidated through a vanguardist recruitment strategy […] SACP ideologues succeeded in shaping the ANC's programmatic orientation […] This programmatic vision helped to determine the ANC's key strategic and campaigning decisions.
>
> (Lodge 2021: 337)

As the activities of the ANC's armed wing, uMkhonto weSizwe, became more central, the SACP members who 'controlled its command structures' increasingly took on operational as well as ideological control (Lodge 2021: 324).[21]

In 1969, at its conference in Morogoro, Tanzania, the ANC officially endorsed the 'internal colonialism' analysis and the 'two-stage revolution' programme formulated by the SACP. Thereafter, the Congress Alliance's programmatic 1955 Freedom Charter was increasingly presented as the blueprint for a national democratic society, in economic terms intermediate between bourgeois capitalism and socialism. For example, an article in the ANC journal *Sechaba* entitled 'The Freedom Charter Is Our Lodestar' declared that

> the Freedom Charter is not a socialist document but a national democratic document. The Freedom Charter is based on the historic realities of our country, and one of those realities is that all Black people, workers and non-workers, are nationally oppressed and are consequently involved in a national democratic revolution.
>
> ('Comrade Mzala' 1985: 6)

A tendency also emerged within the ANC to deflect inquiry into the nature, scope and identity of the nation or nations to be liberated by a 'national democratic revolution'; this was done by foregrounding the provisionality, even instrumentality, of the nationalist stage. A letter from an anonymous reader clearly well acquainted with the Marxist-Leninist canon printed in the July 1975 issue of *Mayibuye*, another ANC journal, commended the anonymous author of a *Mayibuye* article series entitled 'Our Struggle' for their statement that 'after national liberation of the Blacks, the question of class and social emancipation of all South Africans, irrespective of race, will come to the forefront more sharply than now' (Anonymous 1975: 9). This letter was reprinted by *The African Communist* in its issue for the first quarter of 1976.

The Congress Youth League, under the intellectual leadership of Lembede, had embraced a racial inherentist nationalism. Lembede believed that Africans differed by nature in significant respects from other racial or national groups, and that a distinctive African 'spirit' was transmitted to Africans only, via biological reproduction.[22] The SACP, by contrast, and the ANC in exile, which, as we have seen, came increasingly under Communist ideological and operational control, espoused what amounted to an instrumental nationalism. The SACP identified itself with the nationalism of the ANC in order to avail itself of the ANC's mobilizing power, and in terms of long-term strategy for the sake of the ultimate destination of a putative two-stage revolution of which the national revolution would be the first stage. To the extent that the SACP's instrumental nationalism lent tacit support to Lembedist racial inherentism, it is fair to call it a strategic inherentism or 'strategic essentialism'.[23]

A third current of nationalism came to expression among the ANC Africanists, who could not reconcile themselves with the Freedom Charter and in the late 1950s split off to form the PAC. The PAC, founded in April 1959 in the Orlando Communal Hall, venerated Lembede, who had died suddenly in 1947 at the age of 33 (Gerhart 1978: 82, 181). The PAC's first president, and its foremost theoretician, teacher and Methodist lay preacher Robert Mangaliso Sobukwe, had joined the CYL while a student at the University College of Fort Hare (Gerhart 1978: 183–184). In his October 1949 'Address on Behalf of the Graduating Class', he had stated in romantic nationalist terms that 'all the nations of the world take their turn at the field-glass of human destiny' (Sobukwe 1993a: 21). Nine years later, as president of the PAC, Sobukwe explicitly echoed Lembede in his 'State of the Nation' speech, calling the PAC an 'organisation that has its roots among the masses, and whose leadership comes from their loins' (Sobukwe 1993c: 50).

The official bone of contention between the PAC and the Congress Alliance was the Freedom Charter's declarations that 'South Africa belongs to all who live in it, black and white', and that 'the land shall be shared among those who work it' (Congress of the People 1985: 16). The 1959 'Pan Africanist Manifesto' differentiated between the 'indigenous peoples' of Africa and 'the European imperialist exploiters' who committed 'land robbery' (PAC 1993a: 66–67). Repudiating the Freedom Charter, it names as a 'fundamental princip[le]' that 'the dominion or sovereignty over and the dominion or ownership in the whole territory of the continent rest exclusively and inalienably in the indigenous people' (PAC 1993a: 75–76). The PAC committed itself to the pan-Africanist ideal of 'one African nation, stretching from Cape to Cairo, Madagascar to Morocco'—'a United States of Africa' (PAC 1993a: 73, 76).

The PAC's foregrounding of indigeneity to the African continent as a basis for land-ownership rights and for membership of an African nation had unmistakeable affinities with Lembede's biological inherentist racial nationalism. While Sobukwe emphasized these in his rhetoric—the reference to 'loins', addressing PAC members as 'Sons and Daughters of the Soil' (Sobukwe 1993b: 24)—the African nationalism which Sobukwe had theorized and which the PAC adopted as its official position was at its core a head-on rebuke to Lembede. Sobukwe's new African nationalism asserted 'the biological unity of the human species' and rejected 'the myth of race' (Sobukwe 1993b: 30). 'The Africanists', Sobukwe clarified,

> take the view that there is only one race to which all belong, and that is the human race. In our vocabulary, therefore, the word 'race' as applied to man, has no plural form.
>
> (Sobukwe 1993b: 30)

The 'multi-racialism' of the Congress Alliance was to be rejected because

> the term 'multi-racialism' implies that there are such basic inseparable differences between the various national groups here that the best course is to keep them permanently distinctive in a kind of democratic

> apartheid. That to us is racialism multiplied, which probably is what the term truly connotes.
>
> (Sobukwe 1993b: 34–35)

Discarding Lembede's vision of separate national liberations for separate racial nations along the lines of each one's distinctive and biologically transmitted spirit, Sobukwe articulated the PAC's goal as being

> government of the Africans by the Africans for Africans, with everybody who owes his only loyalty to Africa and who is prepared to accept the democratic rule of an African majority being regarded as an African.
>
> (Sobukwe 1993b: 35)

What led to this thoroughgoing ideological betrayal of Lembede, the anniversary of whose death the PAC commemorated as 'African Heroes' Day' (PAC 1993b: 93)?

It may be tempting to give a cynical answer to this question, as the PAC's trenchant anti-Communism had won it some sympathy from white Liberal Party members who might be useful to the young organization. Patrick Duncan, Benjamin Pogrund and Randolph Vigne, for instance, were three influential white newspapermen from the Liberal Party who sympathized strongly with the PAC (Gerhart 1978: 215; Lodge 1994: 110; Daitz 2019: 228–232). The PAC's stress on indigeneity as a basis for rights, on the one hand, and its non-racial definition of 'African', on the other hand, may have been in clear conceptual tension with each other; but they certainly enabled the organization to portray itself as more exclusivist to some audiences and less exclusivist to others.

However, by the late 1950s the concept of *race* had lost almost all credibility, both as a taxonomic category in human biology and as a basis for politics. Even National Party ideologues felt compelled at this time 'to rest their case for "separate development" mainly on cultural rather than physical differences' (Fredrickson 2002: 3)—on '"national identity" rather than skin color' (Gerhart 1978: 5). It is therefore reasonable to suppose that the PAC theoretician Robert Sobukwe, in formulating his innovative non-racial definition of 'African', was making a good faith attempt at a running repair to Lembede's Africanism, patching it up so that it could make a plausible theoretical showing on the post-Second World War scientific and political scenes.

That is not to say that the running repair was a success. Sobukwe's definition of 'African' faces three main problems. First, it appears to allow white owners of tracts of African land to cancel their status as land-thieves, not by disencumbering themselves of any land, but merely by changing their mental attitude and allegiance—which is surely contrary to the position of the Africanists who broke with the ANC over the Freedom Charter. Second, it contains a circularity, because it bases the meaning of 'African' on the meaning of 'rule of an African majority', as though one could know what 'rule of an African majority' means before one knew what 'African' means. Third, it entails that those Black African South Africans who had endorsed the Cape Colony's non-racial franchise with property and education qualifications, and wanted this qualified non-racial franchise to be extended to the entire Union of South Africa, were not so much politically misguided as literally *unAfrican*—since the majority of voters on such a qualified roll, at that time, would have been white. What this third point makes plain is that Sobukwe's innovative definition of 'African' runs together questions about what substantive political doctrine is correct with questions about what national or continental identity an individual has. It is this conflation which generates the unacceptable entailment that these early twentieth-century Black South African liberals were not in fact African.

Black Consciousness and Epistemic Restitution

The Black Consciousness Movement theorists were aware of this history of contestation in South Africa during the 1940s and 1950s over what kind of nationalism should inform the struggle against apartheid.

They came to political consciousness in contexts where this contestation was not only abstract and intellectual, but also informed high-stakes activism and shaped individuals' life courses. For example, Steve Biko's older brother, Khaya Biko, had been a deeply engaged member of the PAC and had been expelled from Lovedale College and was later imprisoned for his PAC activities in the Ginsberg township in King William's Town where Biko grew up (Mangcu 2012: 14–15).

The Black Consciousness Movement theorists drew on and revived certain elements of the contesting nationalisms, fitting those elements into a new and original configuration—as they also did ideas from elsewhere, such as the writings of Frantz Fanon and those of the US Black Power campaigners. In common with Lembede and Sobukwe, Biko and Pityana stressed that there was a very important psychological or 'spiritual' aspect to the oppression Black South Africans were subjected to under colonialism, segregation and apartheid. While they agreed with the SACP and Marxist-leaning ANC thinkers that capitalist exploitation and resultant racialized material inequality were one important problem with South African society, they consistently attributed more significance to 'spiritual poverty' and insisted that the latter needed to be addressed as a priority. However, where the Black Consciousness Movement thinkers differed from Lembede and the CYL, Sobukwe and the PAC, and the Congress Alliance, was that they did not think *nationalism* was an adequate or effective response either to the material or to the psychological ('spiritual') aspects of apartheid oppression.

Themba Sono, writing about the Black Consciousness Movement a quarter of a century after the fact, highlighted its intellectual indebtedness to US Black Power thought. An example of this is a passage from the 1971 'SASO

Policy Manifesto' clearly inspired by similar wording in Stokely Carmichael and Charles Hamilton's classic *Black Power*,[24] published four years earlier (Sono 1993: 41):

> SASO accepts the premise that before the Black people should join the open society, they should first close their ranks, to form themselves into a solid group to oppose the definite racism that is meted out by the White society, to work out their direction clearly and bargain from a position of strength.
>
> (South African Students' Organisation 1971: 11)

This statement does not envisage the permanent splintering of a self-contained nation from the rest of South African society. It corresponds more with Sono's own description of a 'black liberal "liberation"' as a necessary precondition, in South Africa, of an inclusive, 'fundamentally liberal' society (Sono 1993: 6–7)—'the open society'. Equally significant is that the temporary closing of ranks is described as necessitated, not by an inherent distinctness such as Lembede's biologically transmitted national 'spirit' (Lembede 1996b: 91–92), but rather by a particular kind of injustice of which the group in question is a target—a 'definite racism that is meted out by the White society'.

Steve Biko's very first 'I Write What I Like' column, for the August 1970 *SASO Newsletter*, responds to the accusation that such a closing of the ranks would constitute 'racism' on the part of Black South Africans with an illuminating comparison:

> What blacks are doing is merely to respond to a situation in which they find themselves [...] the objects of white racism. We are in the position in which we are because of our skin. We are collectively segregated against—what can be more logical than for us to respond as a group? When workers come together under the auspices of a trade union to strive for the betterment of their conditions, nobody expresses surprise [...] Nobody accuses them of separatist tendencies. Teachers fight their battles, garbagemen do the same [...] Somehow, however, when blacks want to do their thing the liberal establishment seems to detect an anomaly.
>
> ('Frank Talk' 1970a: 20)

Just as members of a trade union are united as an interest group by aspects of their social positioning—their occupation, their employer, the conditions under which they are required to work—so, Biko indicates, Black South Africans were united as an interest group by aspects of their social positioning—the subordination, discrimination and disadvantaging they were subjected to in apartheid South Africa on the basis of their perceived race. Just as it is incorrect to characterize members of a working-class occupation group co-operating to undo exploitative working conditions as a national group aspiring to splinter off as a separate nation, so it is no less incorrect to characterize members of a group subjected to the same skin colour-based discrimination who are working to overcome that discrimination as a separatist nationalist movement.

Granted, the parallel has its limits. We saw earlier that the Black Consciousness Movement intellectuals prescribe discarding and replacing false images of Black South Africans' history, culture, religion and economic systems, in order to achieve accurate self-consciousness, as a remedy for a 'spiritual poverty' whose manifestations include 'losing a grip on oneself' and even 'running away from oneself'. While trade-union mobilisation may involve a measure of consciousness raising, this would typically be regarded as prior and instrumental to the work of overcoming an injustice—essential to convince union-members of the necessity of strike action to rectify exploitative working conditions, for example—rather than as the work of overcoming an injustice in itself.

What is more, Biko gives a very specific explanation for SASO's 'tough policy of non-involvement with the White world'—its position that, in the context of apartheid South Africa, 'a lot of good can be derived from specific exclusion of Whites from Black institutions' (Biko 1972: 196–198). In his address to a SASO leadership training course in December 1971, he said:

> We are aware of the terrible role played by our education and religion in creating amongst us a false understanding of ourselves. We must therefore work out schemes not only to correct this, but further to be our own authorities rather than wait to be interpreted by others. Whites can only see us from the outside and as such can never extract and analyse the ethos of the black community.
>
> (Biko 1978b: 52–53)

Is this not Biko's admission that he does see Black South Africans as constituting a national group, and in Lembedist style regards its national spirit as undetectable to outsiders such as White people?

That is certainly the conclusion Neville Alexander, a Trotskyist theorist who had been in the NEUM, drew from this and similar statements. Writing in the mid-1980s, he classified the Black Consciousness Movement's answer to 'the national question' as a 'variant of the colonialism of a special type thesis' (Alexander 1986: 80). Unlike the 'four-nations' version of CST—i.e. the Congress Alliance's default position that Coloured, Indian, White and African South Africans were national groups each in need of its own national liberation—on the Black Consciousness Movement analysis, according to Alexander, 'there are two nations in South Africa, an oppressing white and an oppressed black nation' (Alexander 1986: 80–81).

However, SASO had taken a leaf from the PAC's book and given an explicit, revisionary definition of a racial label in its 'Policy Manifesto'. This revisionary definition, very different from the PAC's, is one of several places where the Black Consciousness Movement thinkers unquestionably made an original theoretical move and certainly were not following U.S. Black Power thought—as Sono, despite the general thrust of his retrospective study, is forced to admit (see Sono 1993: 41).[25] SASO's redefinition was not of 'African', as with the PAC, but of 'Black people':

> We define Black people as those who are by law or tradition, politically, economically and socially discriminated against as a group in the South African society and identifying themselves as a unit in the struggle towards the realization of their aspirations.
>
> (South African Students' Organisation 1971: 10)

On SASO's definition (or, more accurately, the first part of it), all people racially discriminated against in South Africa—whether 'African', 'Coloured', or 'Asian'—are Black. But, contrary to Alexander's interpretation, that was not because SASO was asserting the existence of a nation or national group whose *scope* was different from those of the nations contemplated by Lembede—a nation of 'Africolasians', in Harry Nengwekhulu's recollection of the South African Institute of Race Relations' portmanteau formulation (Heffernan 2019: 142). Nor was SASO simply following the PAC's lead by reconceiving the *nature* of national identity as occurrent psychological aspiration rather than inherent biological characteristics. It is a strange kind of nation which could go in and out of existence, or change radically in size, depending on whether *other* people were discriminating against its members—and on how many of them they were discriminating against. Just like Biko's comparison with a trade union for an occupational group, the (first part of the) SASO definition of 'Black' does not assert an identity biologically or aspirationally intrinsic to a group of people, but rather notes the social positioning of a group of people. Specifically, it notes a group's subjection to racialized injustice, and it defines that group in terms of this subjection.

If 'Black' on the SASO definition is properly an *identity* at all, it is not a national or racial identity, but an *injustice-based identity* (see Hull 2017a: 150). Even in their statement of how we are to understand the term 'Black', the Black Consciousness Movement theorists bring to the fore the need for a societal injustice to be put right, rather than asserting the need for a nationality to achieve autonomy or national liberation. This is why I believe it is wrong to see the first-generation Black Consciousness Movement thinkers as advocating, not just nationalism, but any kind of fundamentally identitarian or identity-based politics. To the extent that they do highlight an identity, it is an identity which reduces to, which is even *defined in terms of*, injustice. Righting a wrong, overcoming an injustice, consistently emerges as the Black Consciousness Movement's animating political purpose.

As we have seen, while they by no means discount 'material' exploitation and deprivation, the primary racialized injustice which the Black Consciousness Movement theorists highlight as needing to be put right is a 'spiritual' or *epistemic injustice*. The 'false images' circulating in the apartheid South African mainstream of Black South Africans' history, and the religious, economic and ethical concepts, ideas and practices prevalent in their communities, had created—according to the Black Consciousness Movement theorists—a situation where Black South Africans were not only misunderstood by others, but in some cases 'began to lose a grip on' (Biko 1978a: 41) themselves. Why would putting right an epistemic injustice of this type necessitate 'specific exclusion of Whites' (Biko 1972: 198)?

To answer this question, let us return to the concrete example from Es'kia Mphahlele's memoir of the 'eight out of every ten educated Africans' who 'still believe firmly in the spirits of their ancestors' (Mphahlele 2004: 54). Through an 'inward-looking process', in mutually reinforcing conversation with others who had been introduced to the same supernatural beliefs in the home, but had also 'lost a grip' on them through repeated exposure to the mainstream message that these beliefs were a 'superstition' whereas Christianity was 'scientific', some of these individuals might come to be able to articulate publicly and crisply what previously had been inchoate, private, even a cause for shame. For some, these beliefs might then become the basis for participation in a sharply defined cultural practice, where previously they had been consigned to 'the recesses of [their] being' (Mphahlele 2004: 55). '[S]ome link' they currently 'grope around for' (Mphahlele 2004: 55) might become a definite religious practice at which they are adept. If this is an instance of the kind of 'conscientization' Biko and Pityana have in mind when they advocate an 'inward-looking process' (Pityana 1972: 180; Biko 1972: 198; Arnold 1978: 62), this example helps us see why it might be described as both helping 'the black man come to himself' ('Frank Talk' 1970b: 16) and as 'speaking about what that man [already] knows' (Arnold 1978: 62)—as 'a self-examination' culminating in 'a rediscovery of ourselves' (Pityana 1972: 180).

What would not help in such a process, it is plausible to suppose, is the vocal participation of individuals who had never experienced such a degree of mismatch between the values, practices and beliefs they were initiated into in the home and the mainstream public and authoritative discourse about these values, practices and beliefs. Such people would at best have nothing to contribute to the conversation, and at worst would reproduce conventional authoritative discourses.

It is instructive to compare what the philosopher Miranda Fricker, writing several decades after the Black Consciousness Movement thinkers, had to say about the mid-twentieth-century women's movement's response to—in Fricker's coinage—*hermeneutical injustice*. Fricker defines hermeneutical injustice as

> *the injustice of having some significant area of one's social experience obscured from collective understanding owing to a structural identity prejudice in the collective hermeneutical resource*.
>
> (Fricker 2007: 155)

Describing the 'method of consciousness raising through "speak-outs"', at which members of the American women's movement encouraged 'sharing of scantly understood, barely articulate experiences' (Fricker 2007: 148), Fricker writes:

> Put a number of people together who have felt a certain dissonance about an area of social experience, and factor in that each of them will have a different profile of immunity and susceptibility to different authoritative discourses, and it is not surprising that the sense of dissonance can increase and become critically emboldened.
>
> (Fricker 2007: 168)

During these 'speak-outs', according to Fricker, sometimes 'the hermeneutical darkness [...] suddenly lifted' on an area of women's social experience such as 'post-natal depression' or 'sexual harassment', for the articulation and communication of which authoritative public discourse in the mid-twentieth century provided no, or else at best misleading and distortive, conceptual resources (Fricker 2007: 149).

Biko might have pointed out that no one accused participants in these 'speak-outs' of nationalist or separatist tendencies, though they did specifically exclude men!

Some of the hitherto obscured or distorted social experiences articulated and raised to self-consciousness by the kind of inward-looking process envisaged by the Black Consciousness Movement theorists would have applied to all or almost all Black South Africans: for example, articulations of experiences of racism, and perhaps also elements of the modern urban culture of Black South Africans which Barney Pityana calls a 'soul-force' 'culture orientation [...] which would enable them to remain human beings' in 'the Black ghettos' (Pityana 1972: 181). But in other cases, this would not have been so. For example, many Black South Africans classified as Indian and Coloured under apartheid would have been initiated into Hindu or Muslim, rather than traditional African or Christian, religious beliefs and practices in the home. Though he sometimes writes specifically about ethical beliefs and values prevalent in African indigenous cultures (see Biko 1978a)—and from time to time is inconsistent in his use of the broader term 'black' and the narrower term 'African' (see Smith and Lester 2022: 147)—Biko generally takes care to clarify that out of Black Consciousness's 'inward-looking process' would crystallize beliefs and values not from one culture, but from a plurality of 'cultures' ('Frank Talk' 1970b: 17). When discussing the 'interrelationship between man and man in the black world', he does not only refer to African 'indigenous cultures', but also remarks: 'Many a hospital official has been confounded by the practice of Indians who bring gifts and presents to patients whose names they can hardly recall' ('Frank Talk' 1970b: 17). The 'Editorial' about 'the question "who is black?"' in the second issue of the *SASO Newsletter* exclaims, 'By all means be proud of your Indian heritage or your African culture' (South African Students' Organisation 1970: 1–2), making clear that cultural differences are not a barrier to sharing a common Black identity as this is defined by SASO.

'Black', for the first-generation Black Consciousness Movement theorists, does not designate a *race*, in the classical sense, and it does not designate a *nation*, for the reasons reviewed earlier. We can now add that 'Black' is not the name of a *culture*, because those who were subjected to racialized discrimination and oppression under apartheid were of *many cultures*. What is more, Biko stresses that 'innovation'—'freedom [...] to innovate'—'is part of the natural development of any culture' (Biko 1973: 45). And he makes clear that, once distortive mainstream images of certain cultures have been countered and the attendant 'inferiority complexes' addressed through 'an inward-looking process', in a society exhibiting 'mutual respect for each other and complete freedom of self-determination there will obviously arise a genuine fusion of the life-styles of the various groups' ('Frank Talk' 1970a: 16). This vision contrasts sharply with Lembede's picture of separate nations all attaining their own cultural apotheoses along the pre-set lines of their own inherent, biologically transmitted and unique national spirits.

This vision of the first-generation Black Consciousness Movement thinkers must entail that it is possible, and acceptable, for individuals to disavow, upon reflection, some of the concepts, values and beliefs they were initiated into during their upbringing and of which they may attain a full, undistorted grasp during an 'inward-looking process' of conscientisation. It is one thing to grasp a concept or understand the full implications of a belief or moral principle. It is quite another thing to *adopt* a concept, value or belief, to *endorse* it wholeheartedly in one's own voice. It is one thing to realize that the values and beliefs one was introduced to in the home are horribly distorted and maligned 'when in school [one's] whole cultural background is summed up in one word—barbarism' (Biko 1973: 44). It is another thing entirely, after one has appreciated that these values and beliefs are in no way barbaric but in fact a reasonable attempt at making sense of the world and human life, to take the qualitatively distinct step of regarding all the values and beliefs in question as wholly *true* and *correct*. 'As people existing in a continuous struggle for truth', Biko himself writes, 'we have to examine and question old concepts, values and systems' (Biko 1973: 41). Returning once more to the vivid illustration in Mphahlele's memoir, the stage at which an 'educated African' attains a firm grasp (rather than an inchoate groping) in full consciousness (rather than in the recesses of their being) of their belief in the spirits of their ancestors *might* be the stage at which they can avow this belief publicly (rather than not speaking about it) and participate in practices based upon it. It *might*, however, be the stage at which they are able to interrogate this belief systematically enough to realize that they can hold on to it no longer.

This element of the Black Consciousness Movement theorists' approach, though plainly entailed by their anti-inherentism, is sometimes obscured by their own use of the term 'non-white'. The SASO definition of 'Black people' technically does not count *all* those subjected to racialized discrimination under apartheid as 'Black', but only those who also 'identify […] themselves as a unit in the struggle towards the realisation of their aspirations' (South African Students' Organisation 1971: 10). Individuals who satisfy the first part of the SASO definition but not the second are, in Black Consciousness Movement terminology, 'non-white'. As Biko put it to the participants in a SASO leadership training course in 1971,

> the fact that we are all *not white* does not necessarily mean that we are all *black*. Non-whites do exist and will continue to exist for quite a long time. If one's aspiration is whiteness but his pigmentation makes attainment of this impossible, then that person is a non-white.
>
> (Biko 1978b: 48)

It is certainly consistent with Black Consciousness Movement theory to reserve a term for people who have not yet been conscientized by an 'inward-looking process' and still labour under the 'false images of themselves' which may make them 'lose a grip on [themselves] and [their] surroundings' and 'find solace only in close identification with the white society' ('Frank Talk' 1970b: 16–17; Biko 1978a: 41). However, there are at least three problems with the Black Consciousness Movement category 'non-white'. First, it is unclear why pejorative use of this apartheid label would be appropriate to pick out what the Black Consciousness Movement writers elsewhere make clear is an unjust form of deprivation—'spiritual poverty'. Second, the application of what is really a diagnostic term requires too much intricate knowledge of an individual's life history, self-image and motivations for 'non-white' to be used for routine classification.[26] Third, it is a clumsy catch-all category which does not differentiate between individuals still labouring under a false image of cultural content and conscientized individuals who have a clear image of that cultural content but have decided to distance themselves from some or all of it.

Perhaps for some of the above reasons, Biko barely uses the term 'non-white' in the series of essays which constitute the primary theoretical canon of the Black Consciousness Movement. When he does use the term, he does so inconsistently. For example, elaborating on the nature of 'non-white' behaviour, he writes: 'by seeking to run away from themselves and to emulate the white man, blacks are insulting the intelligence of whoever created them black' (Biko 1978b: 49). Evidently, he was in the event unwilling to rescind the designation 'Black' from anyone who satisfied the first part of the SASO definition merely because they did not satisfy the second part.

As Michael Nassen Smith and Claire-Anne Louise Lester point out,

> it is clear how the category of 'non-white' could be used in practice to police 'Black' people's actions and thoughts, particularly when these

> challenge how leaders of the movement have defined 'Black values' or strategic imperatives.
>
> (Smith and Lester 2022: 147)

'In addition', they note,

> the term 'non-white' has a pejorative tone resonant with the concept of a 'race-traitor'. This makes it a particularly effective mechanism to close off conversation and instil compliance among a group of people who may be genuinely committed to social justice and racial equality.
>
> (Smith and Lester 2022: 157)

Sono describes how in practice, in some Black Consciousness Movement organisations, the accordion concepts 'Black' and 'non-white' were expanded and contracted as needed to enforce a 'regime of political correctness […] mercilessly unsympathetic to apostates or perceived heretics' (Sono 1993: 85). But he notes this was a regrettable departure from 'the philosophical promises of the doctrine' (Sono 1993: 85).

It should come as no surprise that some elements of Black Consciousness Movement theory remained rough around the edges, or that its terminological choices are open to challenge. The youthful thinkers of South Africa's Black Consciousness Movement were, amid difficult practical circumstances, articulating an innovative analysis of the wrongs of apartheid and a new and different approach to overcoming them. The first-generation Black Consciousness Movement theorists advocated a cultural revival, but they uncoupled culture from the nationalist—often racially inherentist—bodies of thought which had hitherto monopolized culture as a basis for resistance. They saw the salient divisions in South African society as positional or structural, rather than national or racial—injustice-based, rather than identity-based; but they parted ways with the Marxist theories which had hitherto monopolized this idea by asserting that material or economic divisions were secondary to 'spiritual poverty', a psychological, and more exactly *epistemic*, form of deprivation. The danger of lapsing into inherentism or 'ethno-essentialism' (Naicker 2025), which bedevils contemporary approaches to epistemic restitution and intellectual decolonisation,[27] was precisely what key elements of Black Consciousness Movement theory were introduced to guard against: *joint culture, fusion of lifestyles, open society*, and a purely positional definition of *Black*. The first-generation Black Consciousness Movement thinkers' innovative approach to apartheid South Africa's complex injustices remains, half a century later, a helpful resource for contemporary thinkers addressing the problem of epistemic restitution.

Notes

1 See Fricker 2007; Anderson 2012.
2 See Fricker 2015; Coady 2017.
3 See, for example, Almassi 2018; Lackey 2022; Horsthemke 2025.
4 See Ndlovu-Gatsheni 2020; Mignolo 2021.
5 For example, Veeran Naicker (2025) and Michalinos Zembylas (2025) have criticized the 'decoloniality' theory of Walter D. Mignolo, Sabelo J. Ndlovu-Gatsheni, and others, for being premised on an indefensible 'ethno-essentialism'.
6 See Murray 1987: 296–298, 332–336; Ellis 2012: 248–253
7 See Malan 1991: 297–319
8 See Heffernan 2019: 180–181.
9 See Jeffery 2019: 142–144.
10 See Mafeje 1986: 100
11 For example, sociologist Martin Murray wrote that '[t]he schism between the UDF and AZAPO/National Forum had ideological roots' (Murray 1987: 294). Black Consciousness Movement-aligned sociologist Xolela Mangcu has written of himself 'as a survivor of the violence of the 1980s when ANC-aligned organisations brooked no ideological or philosophical disagreement. I lost many friends in the ensuing mayhem' (Mangcu 2014: 267).
12 The Anti-CAD was founded in 1943 to oppose the Smuts government's plans for a Coloured Affairs Council (CAC) and ultimately a Coloured Affairs Department (CAD). For background on the application of the racial label 'Coloured' in South Africa, see Martin 2000.
13 See Soudien 2019: 94–95.
14 Biko explicitly endorses the analysis that 'the colour question in South African politics was originally introduced for economic reasons'; but he adds that, 'while the race problem started as an offshoot of the economic greed exhibited by white people, it has now become a serious problem on its own. White people now despise black people, not because they need to reinforce their attitude and so justify their position of privilege but simply because they actually believe that black is inferior and bad' (Biko 1973: 36–37).
15 SASO and the Black People's Convention (BPC) organized 'Viva FRELIMO' rallies in 1974 'to celebrate FRELIMO's ascension to power in Mozambique'. After intervening in the rallies, 'police raided the offices of SASO and BPC and arrested numerous officials' who were subsequently 'charged under the Terrorism Act' (Badat 1999: 132).
16 Sono was expelled from SASO in 1972 for advocating co-operation with the leaders and political systems of bantustans—the semi-autonomous ethnic 'homelands' which the National Party government was establishing—to further the Black Consciousness programme (Heffernan 2019: 54–55). In his memoir, Sono describes how subsequent events, in his view, have vindicated his proposal at that time (see Sono 1993: 126).
17 See also Marquard 1957, in which he states that 'South Africa [is] in reality a colonial power, but […] this fact [is] disguised by the circumstance that her colonial subjects [live] within the physical boundaries of the mother country' (1).
18 See Lenin 2010.
19 See Davies 1973, for a manful attempt to demonstrate that the white working class in apartheid South Africa counted as a 'labour aristocracy' in the technical sense of Marxist-Leninist political economy.
20 In mid-twentieth-century South Africa, writes Gerhart, 'communists borrowed the language of orthodox nationalism' and 'orthodox nationalists professed a vague socialism' (1978: 88). A.P. Mda, who took over as leader of the Africanists following Lembede's premature death, also advocated for socialism (Gerhart 1978: 130). See also Everatt 2009: 55–56.

21 Leading Communist Ben Turok wrote in his memoir that 'it was easy for a small group like ours to exert much influence in the mass movement without giving away our existence'. '[N]o party', in his view, 'has managed to insinuate its presence and influence on such a scale'; the SACP had created 'a system without precedence in the history of national liberation movements' (Turok 2003: 44, 118).

22 I use the term 'inherentism' rather than the more familiar 'essentialism', because what is primarily at issue is not whether certain features are *defining features*, or features without which *X* would no longer be *X*, but rather whether the features in question are *possessed by nature* (as opposed to through choice, training or upbringing). For more discussion of terminology in this area, see Blum 2002: 217–218.

23 Poststructuralist theorist Gayatri Chakravorty Spivak famously stated, 'I think we have to choose […] strategically, not universal discourse but essentialist discourse' (Gross and Spivak 1985: 183).

24 Carmichael and Hamilton (1967: 44) had written: 'The concept of Black Power rests on a fundamental premise: *Before a group can enter the open society, it must first close ranks*. By this we mean that group solidarity is necessary before a group can operate effectively from a bargaining position of strength in a pluralistic society'.

25 The political theorist Robert Fatton Jr. delivers a more balanced appraisal than Sono's, judging that 'it would be wrong to exaggerate the black American contribution to the Black Consciousness Movement' (Fatton 1986: 75). Emphasizing '[t]he intellectual originality of Black Consciousness', he observes that 'Black Power ideology', though certainly an important influence, 'had to be adapted and reconciled with [South Africa's] peculiar social conditions' (Fatton 1986: 75, 136).

26 On this point, see also Hull 2017b: 579, 584.

27 An example would be Mignolo 2021—for critical commentary, see Chetty 2023. See also Hull 2025.

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Part II

Working Through the Past in Academic and Legal Settings

5 Teaching as Memory Making

Conceptualising Critical University Pedagogy in the Wake of #RhodesMustFall

Daniel James and Franz Knappik

In 2015, a student protest at the University of Cape Town ignited the #RhodesMustFall movement, which quickly spread to Oxford and inspired similar actions across universities in South Africa, the United Kingdom and the United States (Chantiluke et al. 2018; Daniel & Platzky Miller 2022). The movement offered a rare instance of mobilisation across the Global South-North divide, grounded in shared colonial entanglement – as symbolised by the figure of Cecil Rhodes, whose legacy is inscribed in both Cape Town and Oxford.

Initially focused on removing colonial symbols, #RhodesMustFall soon expanded into a broader critique of how universities relate to their own histories. It brought to light how commemorative practices–such as monuments, naming traditions, and curriculum design –become sites of struggle between dominant and marginalised perspectives. In doing so, the movement exposed important connections between memory and pedagogy, showing how academic institutions function not only as sites of knowledge production, but as custodians of selective collective memory, typically aligned with dominant interests.

At its core, #RhodesMustFall was a conflict over memory (Samset 2022). It posed urgent questions: whose histories are told, whose are forgotten, and how do these narratives form our sense of justice in the present? The movement exemplified counter-memory in action – disrupting dominant narratives by foregrounding marginalised perspectives, both symbolically and pedagogically.

In South Africa, the Rhodes statue at the University of Cape Town was removed within a month. As we are writing, the statue at Oriel College, Oxford, is still on its feet – perhaps tellingly. Yet the movement left its traces on teaching practices, too. It lent new momentum to longstanding efforts to diversify curricula and to undo structural ties between academia and systems of oppression. As these efforts now face an escalating backlash across Europe and the United States, the topics addressed by #RhodesMustFall are as urgent as ever.

This article introduces a collective memory perspective on critical university pedagogy, drawing on #RhodesMustFall's dual focus on

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commemorative symbols and curriculum. Much of critical pedagogy engages with the past – by addressing historical injustices, re-examining academic institutions' entanglement in them, and amplifying the contributions of historically marginalised groups. We propose that these practices can be conceptualised as forms of collective memory work. Educators and academic institutions, we suggest, are "memory makers" (Kansteiner 2002): they shape collective understandings of the past both within universities and in wider publics.

Our aim is exploratory and programmatic: to make a first attempt[1] at articulating how a collective memory lens can enrich reflection on critical historical pedagogy. After motivating this approach (section 1), we examine moral demands on collective memory (section 2) and epistemic standards (section 3). These include accuracy, i.e. memory's doing justice to the past (3.1); testimonial status (3.2), i.e. the role of memory objects as conveying knowledge about the past; and epistemic productivity (3.3–3.5), i.e. the potential of memory to foster epistemic agency by questioning entrenched norms and engaging with transformative narratives. As an example of epistemic productivity in critical historical pedagogy, we discuss Angela Davis's *Lectures on Liberation* (3.5). By way of conclusion, we discuss how a mnemonic perspective relates to currently popular approaches that frame critical education as a "reparative pedagogy" aiming at "epistemic reparations" (section 4).

A few clarifications are in order. First, while #RhodesMustFall and related movements often invoke "decolonisation" and "decolonial pedagogy", these terms have proven vulnerable to co-option – particularly in the Global North (e.g. Doharty et al. 2021; Saramifar in this volume; Tuck & Yang 2012). Symbolic reforms like syllabus changes matter, but they must not displace demands for material transformation. To signal both commitment to reform and caution about terminology, we use "critical pedagogy" rather than "decolonisation".

Second, our disciplinary home is philosophy. Our examples draw from its history – a field long complicit in colonial thought and slow to engage with its legacies. Canonical philosophers like Locke, Kant, and Hegel contributed to racist and colonial ideologies (Arneil 1996; Bernasconi 1998; Pitts 2009; Mills 2017[2005]). While the field has begun to reckon with this past, philosophical pedagogy still urgently needs methodological rethinking. At the same time, the challenges philosophy faces resonate across disciplines (see, for example, on anthropology: Harrison 1991; Sanchez 2018; Venkatesan 2024; on sociology: Meghji 2020; Bhambra & Holmwood 2021; on psychology: Phiri et al. 2023). We therefore expect that the collective memory angle that we introduce here can be fruitful also for other disciplines besides philosophy.

Third, our institutional perspectives are shaped by our locations in Germany and Norway – contexts in the Global North with colonial pasts. This affects our assumptions, for example, in treating curriculum reform as expanding the Western canon rather than replacing it, as may be more appropriate in postcolonial societies. We hope this article can open space for future dialogue across such contexts.

Fourth, we do not propose a collective memory framework to replace existing approaches to critical pedagogy, but to enrich them. While it may help address limitations in current frameworks (e.g. multicultural inclusion; see Coulthard 2014), our goal is to open up new conceptual tools and invite further discussion on their complementarity.

Finally, we do not claim that memory work is the *sole* function of historical pedagogy. Rather, we argue that it is a significant, but under-recognised one, deserving of closer attention.

1 Introducing and Motivating a Collective Memory Approach to Critical Pedagogy

Over the last decades, many societies have become deeply involved in processes of reckoning with their past. Questions about how historical atrocities and injustices – such as the Holocaust, colonial slavery, European colonial conquest, racial segregation, and Stalinism – should be publicly remembered have become major issues of debate (Huyssen 2003; Blight 2009; Olick 2013). At the same time, scholars across disciplines including anthropology, sociology, history, literary studies, and psychology have developed a strong interest in how groups and societies remember. This convergence has led to the emergence of Memory Studies as a vibrant field of multidisciplinary research (Erll 2011a; Kattago 2016; Olick et al. 2023).

Memory Studies emerged during the 1980s and 1990s, drawing on pioneering work such as Maurice Halbwachs's concept of "collective memory."[2] Responding to public negotiations over how to interpret traumatic pasts, foundational contributions – such as Pierre Nora's "lieux de mémoire" (Nora 1984–1992), James Young's work on Holocaust memorials (1994), and Jan and Aleida Assmann's research on cultural memory (Assmann 1992, 1999) – shaped the field. More recent work has expanded to cover memory in contexts of migration, globalisation, transitional justice, and postcolonial conditions (e.g. Brito et al. 2003; Erll 2011b; Creet & Kitzmann 2014; Özyürek 2023; Zimmerer & zur Lage 2025).

A guiding assumption of much work in Memory Studies is that collective memory is intimately related to the shared *identities* and *values* of the groups that maintain them (e.g. Assmann 1992; Gillis 1996; Heersmink 2023). It is not a neutral reservoir of historical information, but a network of practices, objects and individual actions and attitudes that *finds meaning* in the past (Halbwachs 1994[1925]: 282, 1997[1950]: 175; Assmann 1992: 77, 1999: 134f.). Collective memory shapes collective identities by grounding emotions such as pride, resentment, or remorse, and because it is bound to group perspectives, different communities often remember the same events in contrasting ways – collective memory is essentially perspectival (Halbwachs 1997[1950]; Assmann 1992; Roediger 2021).

Because of these ties to identity and affect, collective memory plays powerful social and political roles: legitimising or subverting political orders (Assmann 1992: 70f., 85f., 1992: 70f.), fuelling conflict, or enabling reconciliation (e.g. through Truth and Reconciliation Commissions). At the same time, it has often been stressed that memories, societies and identities are not homogeneous, especially not in the globally connected, multicultural and post-migrant societies of our present age (Kansteiner 2002; Erll 2011b; Creet & Kitzmann 2014; Özyürek 2023). Instead, various memories of contested pasts coexist and compete, often linked to antagonistic relations between dominant and marginalised groups, or between rival factions during and after armed conflicts.

The dynamics and antagonisms surrounding interpretations of the past become especially visible at the level of the *artefacts and practices* which embody collective memories – for example, public monuments and memorials, museums and exhibitions, anniversaries and holidays, commemorative speeches and plaques, archives and history books. Such objects represent changing modalities of memory that can be studied in their own right. They are also regularly the topic of public debate, both about new artefacts (e.g. public consultations for the design of new monuments and memorials) and about existing ones that have come to be seen as morally or politically objectionable. It is therefore not surprising that much scholarship in Memory Studies has focused on this external dimension, on collective memory 'in the world' (Olick 1999; Hirst & Manier 2008: 184).[3]

Mnemonic artefacts and practices have been interpreted as forms of *communication*, where *memory makers* produce tangible or intangible artefacts which convey messages about past events and persons (typically articulated by narratives: Wertsch 2002) to *memory consumers* (Kansteiner 2002) or *recipients*. Memory makers are often public institutions or initiatives from civil society who communicate in the name of communities or of society as a whole (Kukla 2022). Memory recipients are first and foremost the targeted audiences, which can again be societies, or more restricted groups, for example the residents and visitors of a city (as in the case of museums or statues). However, mnemonic communication can also be entirely informal, as when contents of collective memory are spread through everyday conversations. Moreover, such communication *can* serve to transmit information that the recipient had not been aware of before, but it can also bring to awareness contents that everyone involved was already familiar with (as in rituals: Wheelock 1982: 58f.). Finally, this model does not imply that memory recipients simply passively absorb the signals that are communicated. Rather, they can engage in complex reception processes (Kansteiner 2002: 192) and become involved in memory making themselves.

This framework allows us to reconceive critical university pedagogy as a form of memory work. The #RhodesMustFall movement helps illustrate this. By targeting both statues and curricula, it invites us to see syllabi and teaching materials as mnemonic artefacts – akin to museums or memorials. A course on the history of modern philosophy, for example, helps construct collective memory by how it selects and frames thinkers and texts. Teachers and institutions can be seen as memory makers, students as recipients and co-creators of memory. And just as a history exhibition can confirm or challenge identities of groups to which it speaks, a course on the history of modern philosophy can confirm or challenge, among both teachers and students, identities – for example, hegemonic conceptions of present societies as results of the unique success history of Western modernity in which all injustices, if they exist at all, are just temporary aberrations (cf. Mills 2007).

Once critical university pedagogy is seen from a collective memory angle, it becomes possible for debates on such pedagogy to build on a wealth of existing research in Memory Studies. Topics such as the interplay between memory and identity (Assmann 1992; Wertsch 2002; Heersmink 2023), the political uses of memory (Assmann 1992; Mukherjee et al. 2018), engagement with atrocity histories (Young 1994; Michel 2015; Araujo 2020; Zimmerer & zur Lage 2025), and memory in post-migrant societies (Rothberg 2009; Creet & Kitzmann 2014) all become directly relevant to debates on curriculum and teaching.

Moreover, this perspective also encourages experimentation with pedagogical formats and audiences. In philosophy, for example, it remains very rare to use exhibitions or city tours to teach intellectual history. If educators start seeing themselves as, among other things, memory makers, this can prompt them to adopt such formats and reach broader publics.

Finally, the collective memory perspective allows to connect ontological and normative discussions in Memory Studies and related philosophical work (Assmann 1992; Olick 1999; Margalit 2002; Blustein 2008, 2014; Hirst & Manier 2008; Campbell 2014; Heersmink 2023; Lim & Lai 2024) to critical pedagogy. This makes it possible to build a systematic framework for understanding the role of teaching in wider social processes where historical knowledge, narratives, identities, symbols and affects are elaborated and negotiated. It also allows to ground norms that can guide the critique of existing practices, as well as the didactic choices and strategies of critical pedagogic work.

This final point – the normative potential of a memory-based framework – is the focus of the following sections. Conceptualising pedagogy as memory work allows us to derive both moral and epistemic considerations from key elements of collective memory. Some of these normative considerations allow to systematically reconstruct and spell out points that have also been thematised in existing frameworks, and to bring out their force more clearly by using widely held views about collective memory as analogy (cf. sections 2, 3.1 and 3.2). In other cases, the collective memory approach brings into focus new demands and potentials (cf. subsections 3.3–3.5).

2 Moral Constraints

2.1 Introducing the Notion of Moral Obligations for Collective Memory

The idea that collective memory is subject to moral assessment is widely accepted – both in philosophical discourse (Ricœur 2003; Margalit 2002; Campbell 2014; Blustein 2008, 2014) and in public debate. This is particularly salient in cases of historical wrongdoing, where descendants of wrongdoers are seen as having a moral obligation to remember in ways that acknowledge injustice, honour victims, and sensitises towards ongoing legacies of the crimes.

The paradigmatic example is Germany's culture of Holocaust remembrance, which includes memorials, museums, school curricula, survivor testimonies, and other elements. While this culture emerged slowly – initially resisted by widespread denial and silence – it is now broadly accepted across Germany's democratic political spectrum that remembering the Holocaust is a moral imperative (Radzik 2014). Despite its shortcomings – such as persistent antisemitism in Germany, the delayed recognition of non-Jewish victims, and lacking clarity about what lessons Germany is willing to take from its genocidal past (Becker 2024) – the basic view that forgetting the Holocaust would constitute a grave moral failure remains widely shared.

Similar moral claims underpin efforts to memorialise colonial slavery in countries such as France, the UK, the US, and the Netherlands. These campaigns, along with controversies surrounding monuments to slaveholders and colonial figures, are driven by a sense that failing to acknowledge past atrocities – or glorifying perpetrators – is itself a moral wrong (e.g. Vergès 2005). Survivors and descendants of victims may have valid reasons to forego remembrance – for example, worries about retraumatisation and about an unproductive fixation with the past (Fanon 2021[1952]: 200–205; Matolino 2020) – and it is less clear whether uninvolved groups have a duty to remember atrocities (but see Margalit 2002: 71f., 83; Blustein 2008: 212ff.). Yet that the descendants of perpetrators are obliged to remember the atrocities that their ancestors have committed is a view that much debate about the politics of memory explicitly or implicitly relies upon.

Importantly, the existence of this obligation does not necessarily depend on legal or moral responsibility for past actions. While institutions like states or universities may be continuous entities that can be held accountable, societal-level obligations often extend beyond institutions. For example, Germany would fail to live up to its duty to remember the Holocaust if remembrance were exclusively a matter of official action by institutions that have persisted since the time of National Socialism. While such action is needed, there seems also, and perhaps more importantly, to be a moral need for society as a whole to face the past and keep its memory alive. A similar sentiment was expressed by Norway's Truth and Reconciliation Commission regarding the forced assimilation of Sami, Kven and Forest Finn people, calling for "a shared solid basis of knowledge in the entire population" (Sannhets- og Forsoningskomisjonen 2023: 633).

In summary: there is a widely shared view that descendants of wrongdoers bear a moral obligation to create and sustain collective memory that recognises past atrocities – even if they cannot be held directly responsible for those acts. This raises the question of what grounds such obligations, a question that we turn to in the next subsection.

At the same time, it is essential to stress that remembrance alone does not exhaust the moral obligations arising from historical injustice. Calls to remember must be accompanied by demands for material reparations and structural reform. We return to these broader questions in section 4.

2.2 Examining the Grounds for Moral Obligations to Remember

In the most detailed discussion of the ethics of memory to date, Blustein (2008, 2014) distinguishes *deontological* and *expressivist* accounts:

a (a) A first deontological account that Blustein offers builds on Taylor (1994) to argue that severe wrongdoings to groups harm the collective identities of victims, and that descendants of perpetrators must help repairing those identities by offering recognition to the group, for example through acknowledging the past wrongdoing as such (Blustein 2008: 163f.). However, in light of contributions by Davis (1971a) and Rogers (2009) that highlight the social and cultural resilience of victim groups (cf. James & Knappik forthcoming b), it is problematic to assume that these groups require assistance from perpetrators' descendants to repair their identities. Victim groups – such as many Indigenous communities in the US – often respond instead with an attitude of "refusal", viewing calls for dialogue or reconciliation as strategies that reinforce a settler-colonial order (Simpson 2017).

b (b) Blustein (2008: 219ff.) adds a further deontological consideration: we may owe memory to the victims themselves, a thought that has been developed more fully by Stemplowska (2022). However, the assumption that there are genuine duties towards persons who no longer exist has been found metaphysically implausible by others (Scarre 2014).

c (c) In expressivist terms, remembrances or failures to remember can be morally valuable or wrong insofar as they can express morally good or bad attitudes of the agent – such as respect for others, or disrespect and feelings of superiority (Blustein 2014; Lim & Lai 2024). Yet this account struggles to ground *obligations* to remember: one can fail to provide due remembrance without holding morally wrong attitudes, especially in the context of existing exclusionary patterns of selective collective memory (e.g. teachers who exclude non-white and non-male authors from their syllabi because they unquestioningly stick to the traditional canon).

Hence, while these three approaches capture important moral dimensions of remembrance, they also face significant challenges. In response, we propose a shift in perspective: obligations to remember, we suggest, can be seen as grounded in duties to challenge ongoing and prevent future injustices. This proposal is based on two observations: memory practices themselves often instantiate injustices; and they can either support or challenge persisting injustices and recurrences of earlier wrongs in societies more broadly.

First, within memory practices, inequalities in attention (Smith & Archer 2020), visibility, empathy, credibility (Fricker 2007), and the capacity to speak and be heard (Spivak 1988) – along with unequal material and political access to the creation and circulation of memory – can constitute ethical (Young 1990), epistemic (Tanesini 2018; Lackey 2022; Altanian 2024), and affective injustices. These asymmetries obscure both the historical suffering and the contributions of marginalised groups.

Second, injustices within memory practices foster collective *ignorance* or amnesia that sustains broader injustice. When the public in a formerly wrongdoing society lacks awareness of its historical responsibilities – and their connection to present inequalities – this can reinforce a perception of the status quo as legitimate and just (Mills 2007), thereby reducing the prospects for change, and increasing the risk that similar wrongs occur again.

We suggest that these two connections between collective memory and injustices ground duties to combat patterns of exclusion and erasure in collective memory. Collective amnesia and distorting memories concerning the past wrongdoings of one's own group are paradigmatic forms of unjust memory practices: they silence the voices of victim groups and suppress their memories from public discourse. Hence, those who benefit from unjust memory practices – especially formerly wrongdoing groups – and those who influence and control them – for example, public institutions, but also bad faith actors who actively promote exclusionary and distorting politics of memory – can be seen as bearing duties to improve these practices (cf. Young 2011). They stand under an obligation to build more inclusive and less distorting memories that acknowledge past wrongs and allow for fair participation of victim groups in the production and circulation of collective memory.

2.3 Moral Obligations for Collective Memory, Applied to Academic Disciplines

Our proposal to see critical university pedagogy through a collective memory lens allows us to apply the moral considerations discussed above to the responsibilities of academic disciplines. In recent years, growing research has exposed how deeply many disciplines are entangled with historical injustices. Some, such as ethnology and anthropology, were explicitly shaped by colonial agendas. As we mentioned in the introduction, canonical figures in philosophy like Locke, Hume, Kant, Hegel, Tocqueville, and Mill promoted racial hierarchies, defended colonial rule, or endorsed slavery. Support for sexism, antisemitism, and similar forms of prejudice, oppression and exclusion, too, is often found in the work of canonical thinkers.

These were not merely abstract ideas. Locke and Mill served in colonial administrations; Heidegger was actively involved in National Socialism. Hegel's ideas were cited by apologists of slavery and influenced US assimilation policies through figures like W.T. Harris, a Hegelian who served as US Commissioner of Education (Beisecker & Ervin 2024). And importantly, the way philosophy was practiced, too, was deeply affected by the prejudiced theories espoused by many canonical thinkers. The philosophies of thinkers such as Kant and Hegel contributed to a narrative that erased non-European traditions from the philosophical canon. In the 18th century, it was common in the West to study traditions like ancient Indian and Chinese philosophy as genuine forms of philosophical thought. By contrast, Kant and Hegel firmly established a narrative that saw philosophy as a uniquely European achievement (Park 2013; Lu-Adler 2023).

Finally, many institutional actors such as universities – that still exist – actively profited from slave labour, collected artefacts and human remains from colonised groups, and promoted pernicious lines of research such as "race science" and eugenics.

Such historical entanglements of academic disciplines and actors remain often unacknowledged and forgotten and attempts to confront them face active resistance. The case of institutions is symptomatic: while some of them, such as UCL and Harvard, have begun investigating their historical roles, these efforts are limited and often politically fraught. At Harvard, staff working on slavery remembrance were reportedly pressured "not to find 'too many descendants'" and later laid off altogether (Gibson 2025). Notably, this occurred just days after Trump's second inauguration, highlighting how historical amnesia is not only a matter of structurally unjust memory practices, but also of bad faith actors deliberately pursuing denialist politics of memory.

Moreover, many universities have yet to initiate any reckoning at all with their responsibilities, including the skeletons in the cupboard – quite literally, in the case of human remains from colonised regions stored in the basements of university anthropology departments. And even where investigations are underway, they still need to build collective memories about their complicities – both within institutions and in public discourse (not to mention further steps such as restitutions).

Persisting amnesia, denial and resistance towards more inclusive practices of memory reflect injustices in academic memory cultures and in academia more broadly, where formerly victimised groups continue to be subject to exclusion and marginalisation. Such connections were powerfully highlighted by movements like #RhodesMustFall and are presently dramatically illustrated by the racist hostilities that many academics in the US experience in connection with the far-right censorship of Critical Race Theory (Briscoe & Jones 2024).

There is thus evidence for unjust memory practices in academia, connected to broader persisting injustices. Given our above account, this supports the idea that academic actors, too, face obligations to revise practices that selectively remember only the bright sides of disciplinary and institutional histories. This applies especially to the groups who benefit from such injustices at the level of memory practices – primarily, formerly wrongdoing groups, whose members often draw concrete material benefits from persisting group-based inequalities in attention, recognition, credibility and similar in academic contexts; and to actors who have particular influence over the formation of collective memory, such as academic departments, journals and professional associations (also where they have no direct historical liabilities).

A collective memory perspective on critical university pedagogy allows to see that such injustices and corresponding obligations also apply to the level of academic teaching. Eurocentric canons and syllabi, sanitised interpretations of compromised authors, views of disciplinary boundaries that exclude topics like racism and sexism from the scope of reputable subjects of inquiry (as is still often the case in philosophy), and whitewashing narratives about the history of the West and its sciences are still omnipresent in academic teaching. They all contribute to pedagogic memory practices which perpetuate longstanding injustices, for example by denying (at least implicitly) intellectual respectability to non-Western groups or by selectively emphasising those aspects of the past that confirm a positive self-conception of dominant groups (while no similar benefits are granted to marginalised groups). Given the above account of obligations to remember, it follows that institutional actors and formerly wrongdoing groups bear duties to change this, and to build more just forms of pedagogic memory making.

Besides helping to articulate this point, the collective memory angle on critical university pedagogy helps to see that beyond diversifying the curriculum along lines of gender, race, ethnicity and similar – which is an essential part – critical pedagogy faces a number of further tasks to live up to its mnemonic obligations. It needs to develop critical accounts of institutional and disciplinary pasts, more balanced interpretations of entangled authors and their legacies, more representative selections of texts as basis for teaching, more reflected strategies for integrating such texts and topics into the classroom, as well as teaching practices that take seriously topics of race, gender, colonialism, slavery and similar as topics of academic inquiry across many disciplines.

3 Epistemic Standards

3.1 Accuracy

Collective memory is also governed by epistemic standards, the most basic being its claim to be "faithful to the past" (Ricœur 2003: 26). When it misrepresents past events, it can be criticised on epistemic grounds.

Philosophers have noted that this standard cannot be captured solely in terms of a requirement that the contents of memory need to be true, or instances of knowledge. Even memories consisting entirely of beliefs or claims that count as knowledge can still *distort* historical reality by offering a one-sided account that leaves out important aspects. Therefore, authors like Blustein (2008) and Campbell (2014) propose a standard of *accuracy*, understood as truth (or knowledge) plus whatever it takes for memories not to be distorting.

Before turning to accuracy in more detail, it is worth noting that separating *epistemic* from *moral* standards of collective memory is to some extent artificial: the question of whether a given narrative is distorting or not is arguably intertwined with non-epistemic values (Anderson 1995; Campbell 2014). Racist or chauvinistic values can motivate distorting narratives, while more inclusive values may promote more faithful narratives (Mills 2007, 2013). Accordingly, denialist and self-righteous accounts are open to both moral *and* epistemic critique. With that caveat in mind, our focus here is on the epistemic aspect – for instance, in what sense denialist narratives are not only morally objectionable but also epistemically inadequate.

So what does it take for memories not to be distorting? Blustein and Campbell invoke terms like 'significance' and 'being worth remembering' (Blustein 2008: 213f.; Campbell 2014: 35-38), but offer limited clarification. We think that it is possible to get clearer about the notions of accuracy and significance by drawing on the work of Elizabeth Anderson, who addresses related issues in the context of *theories* (Anderson 1995). She discusses a book by the Nation of Islam, *The Secret Relationship between Blacks and Jews*, which cites Jewish investments in slave trading and slave ownership. Even if the factual claims are true, the account is distorting: it fails to provide the broader context necessary for assessing their significance. For example, Jewish participation in the slave trade was minimal compared to other groups. In other words, the book fails to offer a representative picture of the truths which are significant in this context.

By a "significant truth", Anderson means "any truth that bears on the answer to the question being posed". An account that is not distorted, but captures the "whole truth", has to offer "a representative enough sample of such truths that the addition of the rest would not make the answer turn out differently" (Anderson 1995: 40). The implicit "question being posed" in the example is: "Do Jews deserve special moral opprobrium or blame for their roles in the Atlantic slave system or bear special moral responsibility for that system's operations?" (Anderson 1995: 40).

Anderson addresses the epistemology of theories, not of memory, but her example is directly related to collective memory, as it promotes a revisionist narrative of Jewish and Black history. In other cases, the connection is less straightforward, as collective memory and acts of remembrance do not always directly respond to *questions*. To extend Anderson's analysis to collective memory in general, it will help to look at it from a somewhat different angle. While its factual claims may all be true, a distorting account like the one about Jewish involvement in slavery conveys either explicitly or implicitly evaluations that are *false* – e.g. the evaluation that Jewish people deserve special blame for transatlantic slavery.

The example also illustrates one characteristic way in which distortions often are promoted: The facts that are stated by the historical account serve as evidence in support of the false evaluation, which figures as actual or suggested conclusion. The lack of contextualisation that Anderson highlights can be seen as a failure to take into account any of the available countervailing evidence that would disprove that conclusion.

Besides evaluating the alleged Jewish involvement in slavery in terms of moral blame and responsibility, the narrative promoted in the book also puts forward a false *explanatory* claim: on this account, Jews made an important causal contribution to slavery. Here, too, the factual statements function as non-representative sample of evidence that suggests a major causal connection where there is none.

If adapted this way, Anderson's analysis can be applied to collective memory quite broadly. For collective memories typically involve *narratives* (Wertsch 2002) that have both an *evaluative* and an *explanatory* function. Past events are remembered as achievements or injustices; historical figures as heroes, villains, or victims. Memory also assigns causal roles and moral responsibility – e.g. abolition monuments credit white saviours (such as Schœlcher, Wilberforce, or Clarkson) or enslaved people as agents. Finally, public remembrance places people and events in a hierarchy of visibility, implying that this person or event is one of a limited number who *deserve* this level of public visibility.

Such evaluations and explanations may be explicit, e.g. in commemorative speeches, but often they are implicit, e.g. in the format of remembrance (commemorative statues of historical figures, for example, normally communicate that the represented figure deserves being honoured or celebrated: see, for example, Lim (2025).

Finally, notice that besides biased evidence selection, mnemonic artefacts can distort through other means, too, including *frames and thick ethical terms*. Frames shape how audiences interpret figures or events in relation to their values (Elliott 2017: 116). Thick ethical terms combine description with ethical judgement (Elliott 2017: 120ff.).

These devices often work together. Consider the Robert E. Lee monument in Richmond, Virginia, removed in 2021. Lee is portrayed as stoic and noble, referencing the Lost Cause narrative – which reframes the Confederacy's actions as a defence of state autonomy rather than of slavery (Leib 2004). This frame helped post-Reconstruction white audiences reclaim pride and dominance. The ethically thick term "Lost Cause" itself, widely invoked by revisionist historians and politicians, implied heroism against overwhelming odds. Meanwhile, the statue omitted Lee's role as a slaveholder. It failed to present directly relevant facts about his actions and motivations. Together, the frame, omission, and ethically terminology conveyed a false evaluation of Lee as noble, and a false explanation of the Confederacy's warfare.

To wrap up this part of our discussion, we suggest that *accuracy* as epistemic standard for collective memory can be understood as follows. An instance of collective memory is accurate if and only if the beliefs or claims it contains amount to knowledge, and it is not distorting. That an instance of collective memory is distorting means that it contains or suggests false (a) evaluations and/or (b) explanations of aspects of the past.[4] In promoting these evaluations/explanations, memories can employ biased selections of evidence (where available evidence which speaks against those evaluations/explanations is left out of the picture), misleading frames, ethically thick concepts, and other devices.

This epistemic lens on collective memory also has implications for critical pedagogy. There are various contexts in which the standard of accuracy is hard to meet for teachers in existing institutions, as there are established historical narratives, adopted and disseminated by generations of teachers, that *are* profoundly distorting and *do* employ claims which are arguably false. In particular, the criterion of non-distortingness allows to criticise exclusionary canons and syllabi on epistemic grounds, besides the moral grounds discussed in the previous section.

In the case of philosophy, exclusionary canons have distorted historical reality, first, by presenting (explicitly or implicitly) white male thinkers as the sole contributors to philosophical development. This view, which is false both as evaluation of achievements and as explanation of intellectual history, relies on highly selective evidence and ignores historical influences from outside Europe. Arab philosophers profoundly shaped medieval European thought. Wolff and Leibniz engaged with Chinese philosophy. And the European Enlightenment may have drawn from Indigenous American thought via texts like Lahontan's *Dialogues avec un sauvage* (1704) (Graeber & Wengrow 2021).

Furthermore, standard teaching often sanitises canonical texts (Bernasconi 2003), portraying modern philosophy as uniformly progressive. This suggests false evaluations based on unrepresentative samples of texts which are taken to contain the philosophical 'core' of those authors. Such distortions are also favoured by the failure to include traditions – such as Black Radical traditions – that could serve as correctives in such regards (Mills 2013).

Finally, these omissions also impair the explanation and philosophical understanding of the views that are examined in teaching. Recent scholarship on topics like race and gender in canonical thinkers not only uncovers new dimensions, but also improves our understanding of "*core*" topics like freedom, morality and recognition (James & Knappik forthcoming b).

Hence, through the standard of accuracy, a collective memory perspective on teaching allows to articulate further normative considerations bearing on how we teach historical topics. Exclusionary canons, biased text selections, and misleading portrayals are not just morally troubling – they are epistemically unsound.

3.2 Testimonial Status

Accuracy is a normative *requirement* for collective memory that is rooted in the very structure of collective memory – qua memory, it aims at truth about the past, and qua its narrative organisation, it aims at adequate evaluations and explanations of the past; inaccurate memory violates epistemic norms and is intrinsically criticisable. There are further standards that can be used to epistemically assess collective memory which are *optional* achievements that memory can aim at and obtain, ways in which collective memory can be *epistemically valuable*. One such optional epistemic value is the *testimonial* status that mnemonic artefacts and practices can have. For example, exhibitions and commemorative plaques, but also teaching and textbooks about history can serve as sources of testimony that transmit knowledge about the past to their audiences (Kukla 2022).

In order for there to be collective memories about past events that group members did not themselves witness (e.g. events before their birth), and in order for collective memory to spread across groups and persist across generations, it is crucial that there be a testimonial infrastructure consisting of such artefacts and practices which transmits knowledge and narratives about the past. However, this does not mean that each particular mnemonic artefact aims at testimonial status, or can be criticised if it does not constitute a source of testimony. To see this point, we can turn to Quill Kukla's discussion of the testimonial status of memorials. Kukla remarks that "[t]he historical content of such artefacts tends to be fairly simple: these people died, this battle was won" (Kukla 2022: 241), and often, the actual historical information that is conveyed is even more limited. Thus, Kukla describes the Berlin Memorial to the Murdered Jews of Europe as presenting itself "as collective testimony to [...] shared knowledge about the deaths of millions of Jews during the Holocaust" (Kukla 2022: 236). But strictly speaking, not even such extremely generic information is provided by the memorial itself. Yet the memorial's lack of testimonial status is not a shortcoming, for it is simply not the point of this or similarly abstract memorials to transmit knowledge. Instead, there are various non-epistemic dimensions that play a role here, such as emotional impact, aesthetic value, and political meaning. Testimonial status should therefore be seen as an optional value that mnemonic artefacts and practices *can*, but *need not*, aim at and possess.

Applied to critical pedagogy, it seems clear that testimonial status is an epistemic value that plays a central role in teaching, because the transmission of knowledge from teachers to students is one important function of education. Indeed, education can be seen as constituting a testimonial economy in which curricula and syllabi play an important role. At least often, the texts and authors contained in such selections are presented as possessing the testimonial status of reliable or expert sources. But this also means that curricula that represent only a particular social group signal that members of other groups normally do *not* possess comparable testimonial standing. Along these lines, a collective memory perspective on critical pedagogy connects to theories of *epistemic injustice* (reviewed in Kidd et al. 2017) that have been recently very popular in debates about critical pedagogy (e.g. Stopford 2024).

In the next subsection, we turn to a further optional epistemic value for collective memory, which we refer to as productivity. There are also further candidates for relevant epistemic values, for example understanding, but we leave it to further work to explore them (cf. also section 3.5 below for an epistemic-ethical candidate, "re-membering").

3.3 Introducing Epistemic Productivity

Consider a further philosophical commentary about the Berlin Holocaust memorial:

> Some [memorials] invite us to be participants in framing the meaning. Some memorials are zones of ambiguity, posing questions rather than making statements. The Holocaust Memorial in Berlin is a vast assemblage of over 2,700 different-sized concrete blocks arranged on a sloping four-acre site, among which visitors wander at will. What do the blocks represent: victims, ghosts, gray-uniformed soldiers, the walls and towers of extermination camps, gravestones? All or none of these, as the visitor should determine. In the middle of the complex, the visitor may feel lost amid the concrete blocks, an experience evocative of social deracination and loss of bearings. This is a memorial that enfolds the viewer, making her temporarily a part of it, divorced from the outside world with its familiar landmarks. Its […] intentions are to provoke thought and feeling but not to dictate any specific thoughts and feelings; its […] effects are consequently as various as visitors' reactions to it.
>
> (Scarre 2019: 25f.)

Among the individually different reactions that Scarre refers to, we propose that one important class is epistemic in nature. The memorial poses questions, Scarre writes, and many visitors will themselves leave the memorial with questions – not only questions about how to interpret the symbolism of the memorial, but also questions about the Holocaust itself, its victims, and the relations they and their families, communities, countries, towns and neighbourhoods have to it. Often, visitors will simply wish to learn more about the Holocaust, and many do so by visiting the Information Centre underneath the memorial. For others, the visit may be an inspiration to read books and watch movies, or to start an oral history project in their own family. All these are forms of *epistemic agency*, actions that can lead to the formation of new knowledge and insight. It is the potential for triggering such processes of inquiry that we refer to as the epistemic *productivity* of mnemonic artefacts.

Besides the indeterminacy aptly described by Scarre, there are also other ways in which acts and artefacts of remembrance can foster epistemic agency among their visitors. For example, the so-called "Wehrmacht exhibition" that was shown in several German and Austrian cities between 1995 and 1999 (followed by a second exhibition between 2001 until 2004) targeted the previously dominant myth of the 'unblemished' Wehrmacht, which had denied that the German army was involved in the Holocaust and other crimes and held instead that its behaviour was morally irreprehensible. The exhibition refuted this myth by providing ample documentation, including pictures taken by soldiers themselves, of the role that Wehrmacht soldiers played in the Holocaust and other atrocities (Heer et al. 2008; Hamburger Institut für Sozialforschung 2021). This argument caused an enormous amount of debate in both public and private spheres – in the words of one scholar, the controversy stands out as "no prior controversy about the Nazi legacy" in Germany "had engaged virtually all facets of society, from the Federal government down to individual families" (Nugent 2014: 250). Precisely because it made a strong historical case for a narrative that challenged previous collective memory, the exhibition managed to obtain a high degree of epistemic productivity – provoking engagement and discussions, new questions and new insights, as well as uncomfortable conversations between different generations in the same families (Nugent 2014: 257).

When epistemic productivity is achieved through a counter-hegemonic narrative, we can talk about a *transformative* memory that brings about an aspect change in the way the audience perceives relevant sides of reality – in this case, something as intimate and personal as the histories of their families. In a related context, that of genealogical explanations, Foucault talks about a "counter-memory" (Foucault 1977: 160) and describes its epistemic potential (referring to his own genealogical projects) as follows:

> [T]he investigation makes use of 'true' documents, but in such a way as to furnish not just the evidence of truth but also an experience that might permit an alteration, a transformation, of the relationship we have with ourselves and our cultural universe: in a word, with our knowledge.
>
> (Foucault 1991: 37)

The epistemic contribution of counter-memories consists not only in the knowledge that they themselves transmit but, first and foremost, in their transformative impact that allows recipients to revise their habitual perception (what if my father or grandfather was a war criminal?) and become attentive to new problems and questions.

3.4 Epistemic Productivity and Transformative Memory

How can we better understand the transformative aspect of epistemic productivity in the context of collective memory? Discussing Foucauldian genealogy, José Medina locates the transformative potential of counter-memory in "challenging established practices of remembering and forgetting by excavating subjugated bodies of experiences and memories, bringing to the fore the perspectives that culturally hegemonic practices have foreclosed" (Medina 2011: 12). As he emphasizes, this potential is intimately tied to memory's perspectival nature, which we highlighted in section 1. Shifting perspectives enables new ways of seeing, inquiring, and ultimately understanding the past.

As we will suggest below, Medina's claim can also be understood in terms of *perspectival clashes* that arise from unearthing marginalised viewpoints. Memory work thereby generates what he calls "epistemic friction" – "the mutual contestation of differently normatively structured knowledges which interrogates epistemic exclusions, disqualifications, and hegemonies" (Medina 2011: 22) – between hegemonic and marginalised perspectives. As Medina puts it, "[t]here is a plurality of lived pasts and of knowledges about the past that resist unification and create friction" (Medina 2011: 24). Transformative memory, in this sense, involves renegotiating whose perspectives are considered legitimate, which questions are prioritised, and what counts as worthwhile inquiry into the past.

To develop this idea further, we turn to Elisabeth Camp, who across several publications has explored how perspectives function as cognitive tools structuring our interpretation of the world (Camp 2013, 2017a, 2017b, 2019). According to Camp, perspectives are cognitive structures that shape how we perceive, explain, and navigate the world. They provide, as she puts it, "an ability to 'go on the same way' in assimilating and responding to whatever information and experiences one encounters" (Camp 2017a: 6). Rather than functioning like propositional attitudes with truth conditions, perspectives act as intuitive frameworks shaping perception, interpretation, and epistemic engagement. They structure thought across different contexts while offering a stable yet flexible framework that integrates new information without losing coherence.

Perspectives are partly voluntary but not fully under our control; while we can attempt to adopt a new perspective, fully internalising it is not guaranteed. Moreover, perspectives are not arbitrary: they are shaped by external constraints such as statistical distributions, causal structures, and practical considerations. A perspective may, for instance, determine whether anger or admiration is seen as fitting in a given scenario, providing a structure of justification for emotions and judgements. Lastly, while perspectives influence what we notice as salient, their epistemic aptness can still be assessed in terms of accuracy and coherence within a given domain.

While Camp's account explains perspectives as cognitive tools, Ege Yumuşak (2024) argues that it overlooks their social function – specifically, their role as shared epistemic frameworks that structure inquiry, discourse, and identity. She contends that Camp's focus remains on individual, idiosyncratic modes of interpretation, whereas social perspectives function as a "social currency" structuring epistemic interactions and determining how knowledge is categorised and compared. Yumuşak proposes an "agenda view" to better capture these social aspects, emphasising that perspectives unify around inquiry-structuring questions rather than merely clustering individual dispositions. Building on what she calls Camp's "filter" view, Yumuşak argues that while this account captures the interpretive role of personal perspectives, it fails to explain their role in shaping epistemic commitments and structuring alliances or oppositions in social discourse. Specifically, the filter view, by treating perspectives as loose clusters of dispositions without a unifying core, struggles to explain why perspectives are treated as stable, shareable, and socially meaningful in ordinary discourse. Yumuşak contends that perspectives are not just patterns of attention and interpretation but sites of epistemic commitment defined by zetetic orientations – the guiding questions that shape inquiry. As such, social (as opposed to personal) perspectives structure how groups remember and make sense of the past.

Crucially for our purposes, a central issue is that Camp's view struggles to explain perspectival clashes, such as the opposition between a feminist and an anti-feminist perspective. Yumuşak illustrates this with the example of Jen, a feminist, and "This Serial Harasser", who might share similar interpretive dispositions (such as noticing instances of sexual harassment) without sharing a feminist perspective. The filter view lacks a unifying component that explains why certain perspectives stand in systematic opposition. It treats perspectival clashes as mere disagreements in belief or interest, rather than as fundamental conflicts in epistemic orientation – differences in the very questions that guide inquiry, evidence selection, and justification. Moreover, the filter view struggles to explain the internal unity of social perspectives like a "feminist perspective". It can only identify overlapping dispositions among individuals without explaining what makes these dispositions constitute a specific social perspective. It is possible, under the filter view, for feminists to share only a few dispositions each without a common core.

To overcome these limitations, Yumuşak's "agenda view" sees social perspectives as inquiry-structuring questions that form an agenda. This view shifts the focus from interpretation to the *zetetic* role of social perspectives in directing inquiry. The agenda view aligns with ordinary language use, where perspectives are treated as internally unified and shareable. When someone ascribes a social perspective (such as a feminist perspective), they assume a shared orientation beyond individual interpretations. The agenda view accounts for this unifying feature through shared inquiry-structuring questions. On this basis, it also explains clashes between perspectives as conflicts between opposing *zetetic commitments*. In the case of the feminist and the serial harasser, they are guided by fundamentally different questions (e.g. "How can we stop gendered oppression?" vs. "How can I undermine mechanisms of recourse for sexual harassment?") even if their attentional dispositions overlap.

This reconceptualisation of perspectives as inquiry-structuring questions rather than mere interpretive filters has significant implications for understanding memory's epistemic productivity. In the agenda view, perspectives do not simply shape interpretations of the past; they determine which inquiries into the past are considered worth pursuing. Returning to Medina, we can now see transformative memory as a site of epistemic friction where competing perspectives collide. Transformative memory thereby enables a renegotiation of the agendas that structure historical inquiry, unsettling which social perspectives on the past are granted legitimacy. Often, this also means that subjects must engage in new inquiry, rather than remaining within the habitual certainties acquired under dominant perspectives – as illustrated by the example of the Wehrmacht exhibition discussed above.

In sum, transformative memory is epistemically productive first and foremost because it reshapes the underlying agendas of collective remembering. Through the friction between hegemonic and marginalised perspectives, transformative memory work exposes which questions have been foreclosed, which perspectives have been excluded, and what commitments shape our interpretive starting points. The agenda view of perspectives helps explain how these clashes are not simply about object-level disagreement, but about who gets to define what counts as a valid way of knowing the past. This makes transformative memory a key site for contesting the epistemic terms of collective life.

3.5 Transformative Memory in Critical Pedagogy: The Case of Angela Davis

Having analysed the epistemically productive character that artefacts of collective memory can possess, especially when they convey transformative memories, we now turn to pedagogy. Applying the standard of productivity to this context, we submit, reveals a crucial potential for critical pedagogy. Fostering epistemic agency is a central goal of pedagogy: there is widespread agreement that teaching must aim not only at transmitting knowledge but also at enabling and motivating students to engage in inquiry. In this regard, the notion of transformative memory offers a particularly fruitful tool for methodological reflection. When teaching historical topics, counter-hegemonic narratives can challenge certainties and habits, make new problems and questions salient, and unsettle predominant agendas.

A compelling example of how transformative memory can inform philosophical pedagogy is Angela Davis's engagement with Frederick Douglass's narrative of liberation (cf. James & Knappik forthcoming b). In 1971, during her imprisonment, supporters published the first two lectures from a course she taught as Acting Assistant Professor of Philosophy at UCLA in 1969, under the title *Lectures on Liberation*. Davis approaches topics such as freedom and recognition not only through canonical authors, but centrally by engaging Douglass's *The Life and Times of Frederick Douglass*. Interpreting stages of Douglass's emancipation, she draws on European thinkers like Hegel, Marx, and Sartre to explicate the philosophical themes implicit in his account, while – in what she calls a "dialectical" approach – confronting their ideas with Douglass's narrative (Davis 1971b: 46).

This confrontation begins with Davis's observation of "one of the most acute paradoxes present in the history of Western society" (Davis 1971b: 45): while freedom has long been central to Western political thought, its lived reality has been "permeated with the most brutal forms of unfreedom, of enslavement" (Davis 1971b: 45). By contrast, Black literature reflects "the consciousness of a people who have been denied access to the real world of freedom" (Davis 1971b: 45). In Davis's account, this consciousness exposes not only the failure of the application of freedom but also the inadequacy of its very conception in Western political thought. Although freedom is often framed as a universal ideal, it has in reality been systematically restricted to white people while denied to Black people and other marginalised groups.

By bringing this paradox to light, Black literature reveals the gap between the ideal of liberty and the reality of racialised oppression, a gap that remained obscured within the received perspective of the "Bourgeois ideological tradition". At the same time, Davis credits Douglass and other Black thinkers writing from the perspective of the formerly enslaved with an important revision: a "crucial transformation of the concept of freedom as a static, given principle into the concept of liberation, the dynamic, active struggle for freedom" (Davis 1971b: 47).

According to Davis, illuminating the concept of freedom in light of the political struggles reflected in Black literature allows for a deeper and more accurate understanding of what freedom entails. As she puts it, "[t]he history of black literature provides [...] a far more illuminating account of the nature of freedom, its extent and its limits, than all the philosophical discourse on the subject in the history of Western society" (Davis 1971b: 45). Davis's "dialectical" philosophical pedagogy thereby exemplifies the epistemic friction at the heart of transformative memory. By choosing to remember not only Hegel, Marx, and Sartre but, in dialogue with them, also and primarily Frederick Douglass, Davis unsettles hegemonic perspectives and opens new ways of seeing, inquiring, and understanding the history of philosophy.

Recall that, for Medina, the transformative potential of memory lies in "challenging established practices of remembering and forgetting by excavating subjugated bodies of experiences and memories, bringing to the fore the perspectives that culturally hegemonic practices have foreclosed". Similarly, Davis, in her philosophical reading of Douglass's narrative, unearths the perspective of the enslaved and, by confronting it with the "history of

Western ideas" (Davis 1971b: 45), generates epistemic friction through perspectival clashes. In doing so, she creates space for renegotiating whose perspectives are deemed legitimate, which questions should be prioritised, and what counts as meaningful inquiry into the history of philosophy. Davis's approach thus anticipates many concerns in contemporary critical pedagogy, including those pursued by proponents of a "reparative pedagogy" (cf. section 4).

Moreover, Davis's recovery of Black philosophical contributions excluded from dominant memory can also be seen as an instance of what Joshua Myers, drawing on Ngũgĩ wa Thiong'o, calls *re-membering* (Myers 2023: 130, 192): the active retrieval, reconstruction, and reconnection of dismembered traditions of Black thought. Myers frames *re-membering* as a form of intellectual resistance to the Western university and its role in conserving colonial and racialised knowledge systems. As a mode of cultural recreation, it extends beyond the epistemic productivity we have been discussing: it may represent a further normative standard that collective memory can aim for, for memory, combining epistemic and ethical dimensions.

There can be little doubt that attending Davis's course was a transformative and epistemically productive experience for her students. Through her mnemonic politics – her decisions about which authors of the past to include and which perspectives to represent – Davis made salient the relevance of Black authors like Frederick Douglass to questions and topics that were (and often still are) taught through canonical white figures. This likely encouraged many students not only to (re-)read Douglass and other Black luminaries, but also to compare the ideas taught in their philosophy classes with their own lived experiences and the historical realities of marginalised and oppressed groups (cf. Lu-Adler 2023: 350f.).

Moreover, Davis's discussion of Douglass in *Lectures on Liberation* has inspired other scholars to take seriously Douglass's contributions as a philosopher (for a review, cf. Sundstrom 2023). There is every reason to think that for many listeners and readers, Davis's *Lectures* indeed shifted perspectives and agendas – as did her activism and later writings, which also served as a source of inspiration for #RhodesMustFall (Daniel & Platzky Miller 2024 n. 12).

Finally, the potential for epistemic productivity in *Lectures on Liberation* remains for us to tap into. With its accessible and engaging style, the text is an ideal reading for courses in political philosophy and the history of modern philosophy. As it contains an intriguing discussion of how Hegel's master–slave dialectic illuminates Douglass's account of his liberation (in the famous scene where he fights the slave breaker Covey; cf. James & Knappik forthcoming b), the *Lectures* are well suited as a companion piece to Hegel's account. Combined with extracts from Hegel's later lectures in which he builds on the master–slave dialectic to justify slavery (James & Knappik forthcoming b), they make tangible for students how Hegel's text itself can be seen from clashing perspectives – on the one hand, the abolitionist perspective of the enslaved; on the other, the legitimising perspective of those groups who profited from slavery. In our own teaching experience, Davis's text has offered particularly fruitful possibilities for classroom discussion and student engagement. A collective memory perspective helps to conceptualise the dynamics at play in such teaching, as well as to identify resources like Davis's *Lectures* that have a high potential for epistemic productivity by confronting and challenging received perspectives and agendas.

4 Concluding Critical Reflection: Critical Pedagogical Memory Work as "Epistemic Reparations"?

By way of conclusion, we wish to briefly consider how the collective memory perspective that we have started to develop in previous sections relates to currently popular framings of critical pedagogy as an epistemic form of reparations. The topic of collective memory has itself come repeatedly up in debates about reparations, not only because it normally is a precondition for material reparations (Blustein 2008: 21), but also insofar as memorialisation is itself often counted as a form of reparation (e.g. Walker 2010; Blustein 2014: 229; Neumann & Thompson 2015), also by international law documents (Walker 2010). This idea is consistent with the trend towards restorative conceptions of reparations which see it as the main goal of reparations to rebuild relationships and re-establish recognition (Walker 2006). Memorialisation – in ways that acknowledge responsibilities and express respect for victims and their descendants – has been described as one suitable tool to achieve such restorative goals (Walker 2010).

At the same time, current proposals for reparative approaches to pedagogy hold that sufficiently inclusive and socially transformative forms of pedagogy can be a further tool for achieving reparations, insofar as they enable processes of healing and of building a more just future (e.g. Iyer 2022; Paulson 2024; Sriprakash 2023; Sriprakash et al. 2024; Manning 2024; for a call for "epistemic reparations" in the context of #RhodesMustFall, cf. Daley 2018). This includes also changes in the way teaching engages with the past. As one recent discussion of the approach puts it:

> Approaching the teaching of the past via multiple narratives is probably the element of reparative pedagogies most established in the literature, with agreement among authors about the importance of this approach […] The acknowledgment and visibility of histories and knowledges that have been systematically excluded from dominant historical narratives and classroom spaces are important acts of representation and recognition […] However, while Sriprakash et al's call for 'reparative remembering' requires and includes the expansion of representations of the past and of the historical narratives being voiced, with an explicit

> attention to creating space for silenced and elided pasts, it also for calls for more. It demands ways of working with these more representative narratives of the past that 'generate a new collective recognition of the injustices of multiple pasts'.
>
> (Paulson 2024, citing Sriprakash et al. 2024)

Critical historical pedagogy as memory making could then be thought of as a place where these two lines of thought meet: it could amount to a form of reparation both qua form of memorialisation and qua form of reparative pedagogy.

While we welcome the increased focus on reparations in recent debates and fully share the goal of epistemic justice, we believe that framing critical historical university pedagogy as a form of reparation should be resisted. Our argument leaves open the possibility that other practices may more appropriately qualify as "epistemic reparations" (cf. Lackey 2022).

In particular, we would like to point to three problems. The first problem is conceptual. Reparations are meant to compensate for wrongdoing – to level the playing field by addressing structural disadvantages that persist as a result of past harms. When academic institutions reduce or cease their sanitisation of history, their denial of complicity, or their exclusion of non-white perspectives from curricula, they merely stop engaging in the kinds of intellectual practices that supported and legitimised colonial atrocities. This is not reparation; it is simply halting the further tilting of the field. In Malcolm X's well-known analogy, it is pulling the knife out a few inches – it does not amount to healing the wound, removing the damage, or compensating for the violence.

Second, reparations are compensations made by wrongdoers or their successors to victims or their successors. Yet in the case of critical pedagogy, the work of reimagining curricula and making teaching more morally just and epistemically accurate and valuable is largely carried out by members of historically marginalised groups – not by those who have long benefitted from exclusionary practices. As an example of epistemic reparations in pedagogy, Sriprakash (2023: 789) cites the National Indigenous Youth Education Coalition (NIYEC) in Australia. Their #LearnOurTruth campaign "calls on schools to take the pledge to teach First Nations histories in school". As Sriprakash presents it, the epistemic reparation lies not so much in what schools do in response, but first and foremost in the activist work of NIYEC itself. That such efforts are initiated and sustained by those already harmed is a testament to their resilience, as well as a striking indictment of institutional inertia. Yet conceptualising such activism as "reparations" effectively inverts the logic of redress: it casts victims as the agents of reparation, repaying themselves – a remarkably comfortable arrangement for the wrongdoers.

Third, terms like "epistemic reparations", though well-intentioned, invite misuse. To be fair, authors such as Paulson and Sriprakash emphasise that symbolic changes must be accompanied by material reparations, including measures like affirmative action in higher education. But the very act of framing symbolic actions as reparations opens the door to cheap compromises. As we noted in the introduction, similar concerns arise with terms like "academic" or "epistemic" decolonisation: metaphorical usage can soften demands and enable institutions to offer symbolic gestures in place of structural change. In connection with this latter terminology, Eve Tuck and K. Wayne Yang warned a few years ago that

> [t]he too-easy adoption of decolonizing discourse (making decolonization a metaphor) is just one part of that history [of colonisation] and it taps into pre-existing tropes that get in the way of more meaningful potential alliances. We think of the enactment of these tropes as a series of moves to innocence […] Such moves ultimately represent settler fantasies of easier paths to reconciliation.
>
> (Tuck & Yang 2012: 3f.)

The notion of "epistemic reparations" in pedagogy is itself metaphorical, and risks falling into the same dynamics that Tuck and Yang warn against. To be clear, we do not mean to suggest that advocates of reparative pedagogy are motivated by "settler fantasies". But the tropes Tuck and Yang identify – "moves to innocence", "easier paths to reconciliation" – are likely to shape the political dynamics surrounding both critical pedagogy and broader calls for reparation. Once pedagogic reforms are achieved that qualify as "epistemic reparations", actors on the side of the wrongdoers may point to these symbolic efforts as evidence that the work is done – thereby deflecting demands for material reparation while soothing their own moral discomfort.

By contrast, a collective memory framework that avoids the reparations metaphor allows us to foreground how critical pedagogy can support material reparations, particularly by reshaping public understanding of history. Robert Gooding-Williams has described the connection between these topics in a passage that deserves being quoted at length:

> Consider, for example, the view held by many (though not all) African-Americans that the (comparatively) low, average socioeconomic status of African-Americans, because it is due to the cumulative effects of racial slavery and antiblack racism, is an injustice for which African-Americans deserve compensation. Some white Americans will dismiss this assertion of injustice […]. Still, were these whites to learn something of American racial slavery and of its impact on African-American life, they could begin to see that the argument for reparations is plausible, and begin to share with the African-Americans who advance that argument a common moral ground for further deliberations. In other words, through the study of African-American social history, they could begin

> to acknowledge the cogency of the considerations in light of which many African-American black persons, in reflecting on that history, have insisted that being black in America involves collective injustice. Supposing that they augmented this study with inquiry into the central themes of African-American political thought (as it has evolved, say, from the writings of Martin Delaney to those of Martin King), they could enlarge the common ground by beginning to recognise the range and force of African-American perspectives on other race-related issues.
>
> (Gooding-Williams 1998: 33)

In this view, critical pedagogy contributes to the movement for reparations not by presenting itself as a form of reparation, but by confronting historical responsibilities, correcting distorting narratives, and incorporating traditions and perspectives that have long been marginalised. By providing transformative memories, the teaching of historical topics – such as Black social and intellectual history – can expand the range of considerations that appear cogent to the successors of wrongdoers, and shift the arguments they are able to recognise as plausible. As we have tried to show, this is a dynamic that a #RhodesMustFall-inspired approach to critical pedagogy as memory making allows us to better conceptualise and understand. In the face of a growing authoritarian onslaught on the university – one that seeks to exclude marginalised perspectives and erase the memory of past injustice – the ideas of #RhodesMustFall remain more vital than ever.[5]

Notes

1 An emerging body of literature examines intersections between collective memory and history education at schools (e.g. Carretero et al. 2012; Macgilchrist et al. 2015; Psaltis et al. 2017; Figueiredo et al. 2018; Wang 2018; Paulson et al. 2020). But to our knowledge, there has been no sustained interest in a collective memory angle to critical university pedagogy yet. (For a recent exception, see Manning et al. 2024; but cf. section 4 below on their view of memory as reparation.)

2 Halbwachs published two monographs on the topic (1994[1925], 2017[1941]). His manuscripts for a third monograph were edited posthumously in 1950, and later critically re-edited (Halbwachs 1997[1950]). In English translation, only the first edition of the posthumous monograph (Halbwachs 1980), and the second monograph together with selections from the first monograph (Halbwachs 1992), are so far available.

3 This contrasts with strands of psychological and sociological research which examine the counterpart of collective memory 'in our heads', as system of coordinated individual beliefs, emotions and other attitudes towards the past, e.g. Schwartz & Schuman 2005. For attempts at integration, cf. Kansteiner 2002; Hirst & Manier 2008.

4 The two criteria partially overlap, since both rule out *explicit* false assessments and explanations. Readers who find this problematic can restrict the non-distortingness condition to those cases where false evaluations and explanations are *suggested* but not explicitly made. Our account presupposes that memory can be perspectival (cf. section 1) and still obtain a form of objectivity. We assume that

the relation between both sides can be understood along the lines of accounts of objectivity in feminist epistemology (such as Anderson's in her 1995 article), but developing this point is beyond the scope of this chapter.

5 For helpful comments and discussion, we are grateful for audiences and organizers at the following events: talk in online series "Re-reading the Canon", organized by Björn Freter, SOAS London, October 2022; workshop "Bridging Divides: Rethinking Reparative Politics through a North-South Dialogue", organized by Bianca Sola Claudio and Filipe Campello, Centre for Global Cooperation Research, University of Duisburg-Essen, Duisburg, November 2023; Radboud Annual Continental Philosophy Conference, "Canon and Critique", organized by Manja Kisner, Aoife McInerney and Katrine Smiet, March 2025; and 6th Annual Moral and Political Philosophy Workshop at Dartmouth College, April 2025. For valuable feedback on a draft of this paper, we thank David Plunkett, Elizabeth Harman, Sukaina Hirji, Sophia Dandelet, Nicholas Southwood, Darien Pollock, and Kate Nolfi. Besides, we are indebted to Eric Bayruns García for a set of generous and incisive written comments.

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6 Seeking Structural Transformation beyond Individual Repair

Women's Human Rights as a Reparative Legal Category

Mariana Prandini Assis

The 1993 United Nations World Conference on Human Rights, held in Vienna, was one of the largest global gatherings ever convened to address the full scope of human rights. In preparation for it, an international committee within the Global Campaign for Women's Human Rights – a coalition of approximately 900 women's organisations from all over the world – organized the Tribunal on Violations of Women's Human Rights (Bunch 1995). The Tribunal aimed to draw attention to personal accounts of rights violations that, while rooted in lived experiences, were anything but exceptional. After two years of preparatory work, it brought together women from 25 different countries to share their testimonies in a day-long event observed by over a thousand spectators. At that historical juncture, women's human rights were yet to be recognized as an international legal category.

Most of the testimonies focused on violence against women: incest, female genital mutilation, trafficking for prostitution, rape, and domestic violence.[1] The strategy was, as Elisabeth Friedman notes, "to cohere the experiences of very differently situated women into a single 'frame'" (2003, 321) – one capable of demonstrating that violence against women was not anecdotal or peripheral, but a global and systemic issue that required specific redress. Despite their different contexts, the women suggested converging structural causes for their abuse – from sexism and religious belief to poverty – and pointed to a wide range of responsible actors, including individual perpetrators, state institutions, and the broader architecture of global capitalism (Friedman 2003). The testimonies not only exposed direct experiences of harm but also illuminated the regimes and conditions that sustained them: from Latin American dictatorships to the apartheid regime in South Africa to the neoliberal crisis unfolding in 1990s Poland.

These accounts offered names and faces not to center the personal as such, but to reveal the political (and structural) dimensions of harm. They presented violence not as a private or exceptional matter, but as a manifestation of broader social, political, and economic patterns. In doing so, the Tribunal advanced a framing of women's human rights violations that went beyond individual redress, demanding attention to the structural conditions that enable such violations. While this focus on violence against women

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risked reducing the complexity of women's struggles to a single unifying category, it is nonetheless significant that it foregrounded violence as a structural issue rather than the prevailing narrative of a merely interpersonal or domestic one. In this respect, feminist activists were pioneers in developing a legal category that would open pathways to structural transformation alongside individual repair.

Take, for example, the testimony of Maria Olea, from Chile, who began by recounting how she fled her country to save both her own life and her children's, after receiving no support or protection from the authoritarian regime as a victim of domestic violence. Her journey continued in the United States, where she sought support under refugee law and, upon denial, became undocumented, living in precarity with her children. Her account reveals not just an individual man's violence, but a complex network of legal norms, political regimes, and informal practices and rules that collectively produced the injustice she endured. Maria's story is emblematic of the kind of harm that cannot be addressed through individualized legal remedies alone.

At the time, many feminists participating in the overflowing NGO workshops held in parallel to the Vienna conference expressed skepticism about human rights law's ability to address these deeper, structural harms (Friedman 2003). Yet, this critical stance did not prevent them from engaging strategically with the legal field. On the contrary, women's rights activists pushed forward a legal and discursive agenda that challenged the individualist core of the human rights framework from within, opening possibilities for a more expansive understanding of what reparation could mean.

This chapter takes this tension – between structural critique and legal engagement – as its starting point. It examines how the category "women's human rights," as formulated and mobilized by feminist activists and scholars, has evolved into a reparative legal category, one that challenges the conventional individualism of human rights discourse by insisting on the structural dimensions of harm. Drawing on Dianne Otto's insight that human rights discourse served as both a grassroots language and a formal legal grammar for a range of emancipatory struggles (Otto 1993, 1996), I investigate how, despite its liberal underpinnings – "clearly framed for the protection of individuals against the state or society" (Adams 1997, 502) – human rights discourse has been taken up by marginalized groups in ways that radicalize its terms and expand its reach. I claim that feminist legal mobilisations are a central part of this history. Through them, the language of rights has been reoriented to speak not only of individual injuries but of the broader conditions that produce vulnerability and inequality.

The chapter is organized as follows. First, I revisit the foundational features of human rights discourse, with a focus on its individualistic logic and its implications for legal redress. I then examine key feminist interventions in the field that have re-signified this framework, showing how attention to gender and sexuality has compelled the recognition of structural injustice.

Finally, I turn to the Inter-American Court of Human Rights, analyzing how certain landmark decisions on violence against women reflect, and help institutionalize, this reparative legal framing. In doing so, I show how the category of women's human rights operates not only as a claim to justice for individual victims but also as a tool for reimagining legal responsibility in structural terms.

Human Rights as Individual Rights Above and Against the State

Human rights language is conventionally traced to the late eighteenth century, with the proclamation of the so-called "eternal rights of man" in the aftermath of bloody revolutions (Adams 1997, Moyn 2010). Samuel Moyn (2010), however, draws an important distinction between the "rights of man" – invoked in the French, Haitian, and American revolutions, and disseminated by radical figures such as Thomas Paine, Olympe de Gouges, and Toussaint Louverture, extending beyond European and North Atlantic elite contexts – and the modern notion of human rights as we understand and apply it today.

This distinction turns on the relationship between rights (whether natural, of man, or human) and the state. Both natural rights and the "rights of man" were inseparable from sovereignty: they were granted or guaranteed by the state to those recognized as its citizenry.[2] Human rights, by contrast, claim to transcend the state, offering protection for individuals above and beyond it, including, when necessary, against it. In Moyn's genealogy, human rights only became widespread once detached from sovereignty's claims, a shift linked to the waning of decolonisation. The two earlier ideas – natural rights and "rights of man," both tied to the state – therefore differ crucially from human rights, a far more recent political and philosophical phenomenon.[3]

Drawing on Hannah Arendt's classic formulation of "the right to have rights," Moyn argues that she was correct in distinguishing rights as "the first prerogative of citizens" from rights as "the last chance of humans." While the former discourse shaped early modern revolutions and nineteenth-century politics, the latter only crystallized in the 1940s, laying the foundations for a subsequent transnational movement. The two discourses, though similar on the surface, implied very different politics: "the one implied a politics of citizenship at home, the other a politics of suffering abroad" (Moyn 2010, 12).

Writing against most human rights historians – who treat their subject as "a saving truth, discovered rather than made in history" – Moyn offers an alternative account in which human rights are understood as a recent and "powerful transnational ideal and movement" (Moyn 2010, 6–7). This historical framing is the starting point for the argument developed in this chapter, not only because it is empirically more persuasive and theoretically sharper, but also because it illuminates the individualist architecture that feminist actors would later contest and rework – transforming women's human rights into a legal category that links individual protection to structural reparation. In this account, contemporary human rights discourse begins formally with the 1948 United Nations Declaration. Yet despite its foundational moment, human rights gained real momentum only in the 1970s, emerging from the collapse of earlier state-based and internationalist utopias. They "came to define people's hopes for the future as the foundations of an international movement and a utopia of international law" (Moyn 2010, 7).

This individualism is widely acknowledged in the literature. Michael Ignatieff (2001)observes that, for the first time in 1948, individuals – regardless of race, creed, gender, age, or status – were granted rights that could be invoked to challenge unjust state laws or oppressive customary practices. Similarly, Moyn (2010) describes modern human rights as a form of internationalism revolving around the individual, while Miller, Roseman, and Rizvi (2019) emphasize that the doctrine primarily structures relationships between individuals and states, even as it provides tools to contest those very structures. Other commentators, such as Adams (1997) and Brown (2004), have pointed out that the "autonomous self" or "unencumbered individual" lies at the conceptual core of human rights, and that activism in this field often presents itself as a defense of the individual against the collective power of culture, the state, or other social forces.

The acceptance of individuals as subjects of international law via human rights discourse was not an automatic outcome of the 1948 Declaration but unfolded over subsequent decades. Key political developments drove this shift from a discipline centered on relations between states to one concerned with suffering individuals who should be protected through the assertion of individual rights. Scholars disagree, however, on which events were most decisive. For Moyn (2010), they include Jimmy Carter's embrace of human rights in US foreign policy in 1977 and the waning of decolonisation. For Belinda Cooper (2010), the Nuremberg trials and, later, the flourishing of NGOs and international criminal courts in the 1990s were pivotal. For Anthony Anghie (2013), milestones in international law-making, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), were central. Whatever the emphasis, individuals have become one of the defining subjects of international law.

Today, human rights occupy a prominent place "in international relations and international law and, more broadly, in theorizing about the character of international justice" (Anghie 2013, 64). They offer direct international "individual protection against the state" (Moyn 2010, 4), even if such protections remain dependent on state consent.[4] The European Human Rights System, for instance, allows citizens of member states to appeal directly to the European Court of Human Rights. Similarly, the ICCPR and the ICESCR enshrine an expansive catalog of individual rights - life, free speech, fair trial, political participation, freedom from torture and discrimination, liberty and personal security, among others.

Michael Ignatieff, a leading liberal historian of human rights, makes no concessions on this individualist emphasis. In his 2001 Tanner Lecture series, *Human Rights as Politics and Idolatry*, he insists that "human rights is a language of individual empowerment," and that "when individuals have agency, they can protect themselves against injustice" (Ignatieff 2001, 322). For him, the core of the Universal Declaration is a moral individualism rooted in the European natural law tradition, designed to "safeguard individual agency against the totalitarian state" (Ignatieff 2001, 329). Attempting to dilute this individualism to accommodate communitarian perspectives is, in his view, a mistake: "rights discourse *is* individualistic" (Ignatieff 2001, 335).

The same individualist logic surfaced in debates over whether self-determination should be included in instruments such as the ICCPR and the ICESCR.[5] Louis Henkin, a prominent US human rights scholar, complained that anticolonialism had "swallowed up" the original purpose of human rights cooperation: "there was no suggestion that this was a right of the individual" (Moyn 2010, 201–202).

Human rights discourse thus rests on an individualistic core, amounting to a minimal agenda of individual protection. This minimalism has underpinned the global appeal of human rights (Moyn 2010, Anghie 2013), but it has also shaped the scope of legal remedies, tending to prioritize restoring the individual victim over addressing the structural conditions that produced the harm. Yet, as Moyn (2010, 20) emphasizes, the values enshrined in human rights protections are historically contingent. This minimalism has been strategically appropriated by movements as varied as Indigenous rights campaigns, efforts to hold multinational corporations accountable, and initiatives to define ecocide as an international crime. Such projects may challenge, transform, or subvert the individualist core – or simply expand it – asserting that human rights can serve ends beyond individual protection.

It is in this latter category that I locate the feminist project of developing the category 'women´s human rights.' Feminist legal thinking has long critiqued the individualism of rights, yet it has never abandoned rights language. On the contrary, rights have been central to women's struggles for equality throughout modernity. Olympe de Gouges, during the French Revolution, offers an early example: she not only contested the oxymoronic category of 'passive citizens' attributed to women through public debate, but also enacted the rights she demanded, appearing and writing in public life as an active citizen (Rancière 2004).

In the human rights field, feminist scholars intervened to make visible and redress women's exclusion from the human rights framework – an exclusion akin to that denounced by de Gouges nearly two centuries earlier. In doing so, they not only secured women's inclusion as rights-bearing individuals, often through specific protections, but also pushed the field to recognize the structural conditions underlying gendered experiences of harm. In this process, women's human rights began to take shape as a reparative legal category: one that connects individual redress to broader structural transformation.

In the next section, I turn to feminist critiques of the individual rights framework. Even when these critiques could have justified abandoning rights altogether, most did not. Aware of its limitations, feminists instead sought to push the language of rights beyond its conventional boundaries, insisting that individual violations could not be understood – or adequately remedied – without confronting the larger political and social contexts in which they occur. This move brought structural patterns of inequality squarely into the frame of legal analysis and reparation. In the following discussion, I examine these doctrinal and political developments alongside the Inter-American Court of Human Rights' jurisprudence on violence against women.

Feminist Legal Critique of Rights and Its Translation into Women's Human Rights Discourse

Nicola Lacey has described the feminist critique of law as "an immanent critique of liberalism," one that speaks "as part of the conscience of a liberal order which has been slow to deliver the universalism which it promised" (Lacey 2004, 14), with women among those excluded from the liberal project of freedom and emancipation. One of the key limitations identified by feminists in liberalism is precisely its individualism.

This critique, however, is far from unitary or straightforward. As Lacey (2004) notes, there are at least four distinct feminist critiques of the individualism inherent in liberal legal thought. First, feminists argue that "the liberal focus on the interests, rights, and entitlements of individuals is argued to obscure our vision of systematic patterns of exclusion and disadvantage such as those which characterize women's subordination" (Lacey 2004, 20) They challenge, for example, the claim that women's underrepresentation in institutional politics, their lower wages, or their concentration in certain professions are simply the result of autonomous individual choices. Instead, feminists stress the structural factors that constrain and shape such choices, which must be acknowledged – and, where possible, remedied – when designing the rules that organize society.

Applied to rights discourse, this critique raises questions about whether and to what extent the classic formulation of individual rights can fully address women's grievances, and about how the framework of rights can move beyond a purely formal articulation of entitlements to one that accounts for the contextual factors shaping differently situated subjects' capacities to realize their rights (Lacey 2004, 20). Even as they mobilize rights discourse to secure women's inclusion, feminists remain clear-eyed about the limits of individualism to deliver its promises.

A second critique, closely connected to the first, contests the liberal conception of the rights-bearing individual as an autonomous subject who knows and freely pursues his own interests. This image neglects how social and political institutions and norms influence and shape preferences, attitudes, dispositions, and choices. Feminists highlight gendered dimensions of the supposedly neutral rights-holder, underscoring how sexual difference mediates access to and enjoyment of rights (Lacey 2004). By doing so, they open the path to interrogate the adequacy of universal individual rights to deliver justice to subjects differentiated by race, class, gender, and other axes of inequality.

A third line of critique focuses on liberalism's undervaluation of collective and public goods. In a schema where rights objects "are conceived as forms of individual property," collective goods – particularly those that cannot be owned or monetized - are marginalized (Lacey 2004, 38). Yet such goods, as Lacey notes, "may be of particular importance to women" (2004, 21)[6] and should be recognized as legitimate objects of rights protection. This concern has particular salience for Indigenous women, as illustrated by the confrontation between Domitila Barrios de Chungara, an Indigenous leader from the Bolivian mines, and Betty Friedan, an American liberal feminist, at the 1975 World Conference of the International Women's Year. Barrios de Chungara linked unpaid domestic labour and workplace exploitation to Indigenous peoples' access to land, natural resources, and autonomy – issues absent from Friedan's framework of patriarchal alienation but central to her own lived experience (Viezzer 2014). Black feminist critiques of domestic violence interventions likewise highlight the risks of an individualistic, state-centered protective approach. As Crenshaw (1991) notes, measures relying on police and criminal justice intervention may deepen harms in communities already facing systemic racism. Alternative strategies seek to secure women's safety while preserving the integrity of community ties, moving beyond the narrow frame of negative freedom.

A fourth, and related concern, is that the individual rights framework often forces entitlements into competition. One example is the case of abortion, often framed as a clash between a woman's right to choose and a fetus's right to life. Such framing closes off more nuanced, multidimensional analyses, setting up an either/or conflict that obscures the complexity of reproductive justice.

Finally, feminists have challenged the gender-neutrality of liberalism in law and legal analysis, treating sex/gender as "a basic axis of social differentiation" (Lacey 2004, 22). This critique has spurred proposals for legal norms attentive to women's specific needs—ranging from the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to national labour laws protecting employment during and after pregnancy. While such identity-based protections have their own reductionist tendencies, they represent a deliberate departure from the abstract, ungendered legal subject of liberal rights discourse.

Alongside these ontological critiques, feminists have also raised practical objections to political strategies centered on asserting individual rights. One is the "multiplication of rights" (Lacey 2004) whereby progressive aims are continually translated into new rights claims. As rights proliferate, they risk losing determinacy and competing with one another, producing fragmentation in international law (Lacey 2004, United Nations 2006). The proliferation of specialized treaties and human rights bodies can also lead to "the erosion of general international law, emergence of conflicting jurisprudence, forum-shopping and loss of legal security" (United Nations 2006, 12). Victims can be disempowered by these dynamics: Strategically navigating the multiplicity of forums, complex webs of norms, and bureaucratic arrangements requires resources and expertise that many victims lack. In such contexts, rights may be "of limited use to the politically marginalized or for the construction of claims oppositional to prevailing power relations" (Lacey 2004, 39). This complexity can also reinforce unequal knowledge-power relations that characterize the ties between feminist advocacy NGOs, grassroots organisations, and victims/survivors or their families in transnational legal mobilisation (Santos 2018).

These critiques – both ontological and practical – are significant and recur throughout feminist engagement with human rights. Yet, as argued earlier, feminists have not abandoned rights discourse altogether. As Lacey reminds us, for the oppressed, "the language of rights still represents an aspiration and ideal; it can be deconstructed only once a prior political battle has been won" (Lacey 2004, 42). Given the global reach and normative force of human rights discourse (Moyn 2010), progressive movements have found it difficult to ignore.

Thus, in the realm of international law, and to adapt Audre Lorde's metaphor (Lorde 2007), feminists have taken the master's tools not only to dismantle the master's house but also to construct a more inclusive and accommodating one. By asserting women as subjects of international law and making gender a relevant category of legal analysis, they have subverted the individualistic core of human rights and drawn attention to the structural dimensions of women's lived injustices, expanding the scope of human rights law. Their interventions have pushed adjudication to link recognition of individual harm to remedies that also address the structural conditions that produce and reproduce such harm. This is the move I describe here as transforming "women's human rights" into a reparative legal category: a form of legal recognition that, by its very nature, requires attention to patterns of discrimination, entrenched social hierarchies, and institutional practices, and that mandates reparations aimed at altering those conditions alongside compensating the individual victim.

By reparative legal category, then, I mean a framing that treats individual harms as symptomatic of broader, enduring patterns of inequality, requiring remedies that address both the individual injury and its structural conditions. Such categories do not merely add a structural dimension to individual rights; they reconfigure the very purpose of adjudication, making structural transformation an intrinsic part of legal redress. This conception draws on feminist legal and political thought's insistence that remedies must be responsive to the social hierarchies and institutional practices that produce harm (Fraser 2003), because sex and gender function as structures (Risman and Davis 2013). In this alternative paradigm, gender is understood as a set of social norms that shape human experience, while also creating and stratifying opportunities and constraints in daily life in relation to sexed attributes (Risman 2004, Risman and Davis 2013). This approach also resonates with transitional justice scholarship that distinguishes between reparations aimed at restoring the status quo ante and those designed to dismantle the very structures that enabled violations (De Greiff 2006). In this sense, "reparative" aligns with what Nancy Fraser calls "transformative remedies" – interventions that do not simply redistribute resources to the affected individual but also restructure the underlying social relations of power (Fraser 2003).

Women's human rights, as developed through decades of feminist advocacy in international law, exemplify this reparative model. They emerge from cases and campaigns that have persistently linked gender-based harms to systemic discrimination, patriarchal norms, and intersecting oppressions. As such, they shift the locus of legal responsibility: from isolated perpetrators to the institutions, policies, and cultural patterns that sustain gendered violence and inequality. This attention to structure can be seen, for example, in the work surrounding the Beijing Platform of Action. Participants of the 1995 Beijing Conference emphasized that promoting women's human rights required uprooting "structural inequalities that have impoverished women and placed their children and families at socioeconomic, cultural, and political risk" (Howard and Allen 1996, 182). They situated women's rights within broader historical and geopolitical contexts, marked by imperialism, colonialism, neocolonialism, and nationalist struggle.

Incorporating women and gender into international human rights law has therefore transformed the analysis of violations. Once individual grievances are connected to systemic patterns – such as gender discrimination, patriarchal values, structural racism, and the sexual division of labour – adjudicatory bodies cannot easily ignore them. Taking such contexts seriously requires remedies that go beyond compensating individual victims and instead address the structural conditions identified in individual cases. For example, if a Court finds that systemic sexism underlies police and judicial inaction in femicide cases, acknowledging it in a single judgment will not suffice; structural measures must accompany the individual remedy.

As the next section shows, the Inter-American Court of Human Rights' evolving jurisprudence on violence against women illustrates this shift—from early non-recognition of such violence as a specific human rights violation to the articulation of women's human rights as a reparative legal category, one that grounds the Court's authority to order "transformative measures" targeting the root causes of systemic harm.

Violence Against Women in the Caselaw of the Inter-American Court of Human Rights: From an Invisible Problem to a Structural Framing

The case *Mujeres Víctimas de Tortura Sexual en Atenco Vs. México*, decided in November 2018, reflects nearly two decades of inter-American jurisprudence shaped by feminist legal activism. It concerned the Mexican state's responsibility for the detention and sexual torture of women during the 2006 protests in Texcoco and San Salvador Atenco. Initiated by flower vendors resisting relocation from the public market, the protests led to the detention of 50 women, 31 of whom reported sexual assault. Victims included journalists, researchers, health workers, and bystanders, some accompanied by family members. The Court limited its review to the illegal detention of 11 women on May 3–4, 2006, the abuse they endured during and after detention, and the authorities' failure to properly investigate these violations.

In their testimonies, women described being insulted as "whores" and "bitches," brutally beaten until they bled, threatened with rape and murder, groped, forced to have oral sex, sing or tell obscene jokes. Several were raped by multiple officers. Female police officers also participated in beatings and threats, including warnings that the women would be raped by their male colleagues. The insults constantly invoked gender stereotypes, insisting that women did not belong in the streets but at home, cooking *tortillas* and caring for children.

The violence continued during the transfer to the detention center and upon arrival. Detainees were forced to undress publicly for medical inspection. Most doctors ignored the injuries and complaints, denied care, and in some cases mocked the victims. Due process violations compounded the abuse: the women were denied counsel during their first hearing, prevented from contacting their families, never informed of the reasons for their detention, and saw their complaints dismissed by the public prosecutor. Though all were eventually acquitted of charges such as attacking communication systems, kidnapping, or organized crime, several spent years in prison.

The Inter-American Court examined the alleged human rights violations as four sets of claims: rights to personal integrity, dignity and private life, and the prohibition of torture, in relation to the duty of non-discrimination; rights to personal freedom and defense; rights to due process and judicial protection, and the personal integrity of the victims' family members. For this chapter, I focus on the first and third sets of violations and the remedies the Court ordered, insofar as they concern violence against women.

Of the first set of issues, Mexico acknowledged responsibility for violating the rights to personal integrity, private life, and freedom from torture and physical, psychological, and sexual violence, including acts of sexual torture, degrading treatment, lack of medical care, and impact on health (Corte

Interamericana de Derechos Humanos 2018, 60). Yet it sought to limit structural implications by framing the violence of May 3–4, 2006, as both lawful and proportionate, and the abuses as the isolated misconduct of individual agents acting against the law ("*ultra vires* actions") rather than the product of state policy or command.

The Court, by contrast, structured its analysis across several dimensions. It examined the use of force by the state security agents and its impact on the right to assembly; the sexual violence inflicted on the women, and its classification as torture; and, taking a structural approach, the deployment of sexual violence as a tool of public order control. It also considered the role of gender stereotypes in the repression and in authorities' neglect of victims' complaints, and for the first time treated medical violence as a distinct human rights violation. Finally, the Court analyzed the case as one of gender-based discrimination. What follows highlights the points where the Court's reasoning most clearly reflects a structural approach to women's human rights and their articulation as a reparative legal category.

Concerning the sexual violence and its characterisation as torture, the Court affirmed that "rape constitutes a paradigmatic form of violence against women which has consequences that, in fact, transcend the person of the victim" (Corte Interamericana de Derechos Humanos 2018, 71). It further recognized that the violence suffered by the 11 victims was neither exceptional nor isolated but rather part of a broader pattern during the police operation in Texcoco and San Salvador Atenco. The Court emphasized that the violence was intended to instill fear and intimidation, deterring women from "participating again in public life or expressing their discontent in the public sphere" (Corte Interamericana de Derechos Humanos 2018, 76). In the worldview attributed to the perpetrators, women did not belong in public life but were confined to the private sphere, according to stereotypical social roles.

Crucially, the Court identified sexual violence as a deliberate tool of social control. Drawing a parallel with its use in armed conflict as a means of humiliation, punishment, and repression, the judges underscored the broader social consequences of women's rights violations: beyond harming the direct victims, sexual violence conveys a public lesson of subordination. In dialogue with the African Commission on Human and Peoples' Rights,[7] the Court found that in Atenco sexual violence operated as a "tactic or strategy of control, domination and imposition of power" (Corte Interamericana de Derechos Humanos 2018, 78). Women were publicly abused in a macabre spectacle designed not only to intimidate fellow detainees but also to warn protesters about the consequences of challenging the police's authority. In this context, sexual violence against women became a weapon to repress and contain social protest, akin to tear gas and the anti-riot team. Women's bodies were instrumentalized as tools to deliver a message about state authority and police power: through the "reification of women," state agents meant to "humiliate, frighten and intimidate the voices of dissent," treating the civilian population as an "enemy that should be subdued" (Corte Interamericana de Derechos Humanos 2018, 80).

In addition to the violence perpetrated by police agents, the Court also found that the women suffered medical violence. Doctors who should have provided care instead mistreated them in ways that were stereotyped and degrading, compounding the sexual and discriminatory violence already inflicted. The Court also addressed verbal violence, not only from police officers but also from state authorities who initially addressed the case publicly. For the judges, the language deployed toward and about the victims reflected entrenched gender stereotypes - defined as pre-conceptions about attributes, behaviours, and social roles for men and women that both sustain and result from women's subordination. Gender stereotypes, the Court emphasized, are simultaneously causes and consequences of gender-based violence, and their harm is aggravated when reproduced in public policies, official reasoning, or state discourse, as in the Atenco case.

Significantly, the Court connected the insults hurled at the women to the persistence of societal stereotypes. The police's obscenities and sexist language, which targeted the women's supposed sexual lives, their "failure" to fulfill domestic roles, and their need for "domestication," revealed profoundly machista stereotypes. The message was clear: stepping outside the private sphere – to protest, study, work, or simply be present in public – was sufficient reason to punish them with gendered forms of violence.

By recognizing the practices above as "profoundly rooted sociocultural prejudices and patterns" (Corte Interamericana de Derechos Humanos 2018, p. 82), the Inter-American Court held that the state could not remain passive or limit itself to punishing abuses after the fact. Rather, it was responsible for implementing programs, policies, and mechanisms to actively dismantle these patterns, thereby guaranteeing women's real equality and their right to fully participate in public life. In the Court's view, the absence of such measures reinforced and institutionalized gender stereotypes, perpetuating violence against women. The rights violations in Atenco were thus framed not only as breaches of individual rights during the police operation but also as failures to fulfill at least three other structural obligations: adopting norms to regulate use of police force, training security forces in human rights standards, and establishing effective oversight mechanisms.

Turning to the violations of due process and judicial protection, the Court focused on the investigation of the torture and sexual violence suffered by the 11 women, not on the criminal charges brought against them. Central to this analysis was the state's duty of due diligence in investigating sexual violence and the gender-based discrimination that undermined the process. The judges recalled the standards they had previously developed for the investigation of sexual violence – standards that require situating victims' voices at the center of judicial proceedings and acknowledging their social position. In the Atenco case, the Court rejected the framing that the assaults were individualized and isolated acts, pointing instead to the structural failures in police and discipline.

In addition, the Court found that the Mexican state not only failed to investigate with a gender perspective, but that the process itself was marred by discriminatory, stereotyped, and revictimizing declarations and actions by public authorities. Citing expert testimony, the judges stressed that discrediting victims – by high-ranking officials – not only revictimizes women but also undermines how judicial personnel handle investigations. On evidentiary standards in sexual violence cases, the Court reaffirmed a position it first articulated more than a decade earlier: the victim's testimony is crucial proof, given the nature of the crime and the difficulty in obtaining other forms of evidence. It further condemned inquiries into victims' social or sexual behaviour as manifestations of gender stereotypes that should never be accepted in judicial proceedings.

In its reparation orders, the Court, consistent with its evolving jurisprudence, went beyond individual remedies to impose "non-repetition measures" aimed at structural change. It required Mexico, within two years, to implement capacity-building on gender perspectives in policing and the discriminatory effects of gender stereotypes; to establish an independent federal observatory with civil society participation to oversee the use of police force; and to strengthen the national mechanism for investigating sexual torture against, including a diagnostic of the problem and the development of public policies to address it.

Through these measures, the Court underscored women's human rights as a reparative legal category: one that not only acknowledges individual suffering but mandates structural interventions to dismantle the discriminatory patterns that enable gender-based violence. The structural orientation of *Mujeres Víctimas de Tortura Sexual en Atenco v. México* is thus not an isolated innovation but part of a longer trajectory in the Court's jurisprudence on violence against women – one that has gradually incorporated the demands of feminist human rights advocacy in the transnational legal sphere. This slow-burning development can be traced back to 2004, when the Court first recognized "violence against women" as a distinct category in its case law.

The case *Masacre Plan de Sánchez Vs. Guatemala*, decided in November 2004, concerned the atrocities committed against a Mayan village during the Guatemalan internal armed conflict. This Indigenous community had long been targeted by state armed forces. In July 1982, as soldiers approached, the men fled, believing women and children would be spared. Instead, a carnage took place: the military raped, tortured, and murdered the women, beat children to death, and killed the remaining villagers by hurling grenades into a house before setting it ablaze. The bodies were burned, and the village looted.

Although Guatemala acknowledged responsibility, and the Court found violations of 11 provisions of the American Convention, it was only at the reparations stage that the judges directly addressed violence against women. Relying on survivors' and expert testimonies, the Court recognized the physical and psychological trauma endured by the survivors and the broader consequences for the community, given women's central role as cultural transmitters. For the first time, the Court partially incorporated feminist claims that sexual violence is not incidental, but a distinct harm rooted in gender subordination. As the ruling stated:

> The women who were the object of sexual violence by state agents on the day of the massacre and who survived continue to suffer the consequences of the attack. The rape of women as a state practice, carried out in the context of the massacres, intended to destroy the dignity of women on a cultural, social, family and individual level. These women see themselves as stigmatized within their communities and have suffered because of the presence of their attackers in the public areas of the municipality. In addition, the impunity with regards to these events has prevented women from participating in the justice process.
>
> (Corte Interamericana de Derechos Humanos 2004, 61)

Echoing feminist arguments, the Court recognized sexual violence as a specific harm, tied to a deeper structural gender inequality and producing enduring physical and psychological trauma. It ordered Guatemala to provide survivors with medical and psychological care, designed with the participation of women leaders from the community – measures aimed both at alleviating survivors' suffering while also helping them to reconnect with their community.[8]

In Penal Miguel Castro-Castro Vs. Perú (2006), the Court applied the Belém do Pará Convention for the first time in assessing the right to humane treatment and the state's duty to investigate women's human rights violations. The case concerned a brutal 1992 military assault on Castro-Castro Prison in Lima, following Fujimori's coup. Over several days, the women's pavilion was bombarded with explosives from helicopters and rooftops, while snipers shot at those attempting to flee or surrender. Many victims were pregnant, elderly, or had already suffered torture. The violence continued after transfers to other prisons, where women endured forced nudity, beatings, psychological and physical torture, and sexual assault.

The Court emphasized that women were affected differently from men: certain acts of violence were directed specifically at them, and they suffered disproportionately from others. It noted that during Peru's internal conflict, sexual violence was repeatedly used as "a symbolic means to humiliate the opposing party" (Corte Interamericana de Derechos Humanos 2006, 79). Adopting the frame advanced in international criminal law, the judges underscored that in armed conflicts, sexual violence is often deployed as punishment, repression, and a broader message to society. Accordingly, the Court drew explicitly on the International Criminal Tribunal for Rwanda's

Akayesu decision to hold that forced nudity constituted sexual violence and to classify invasive vaginal "inspections" by hooded agents as rape.

In the reparations phase, the Court awarded higher compensation to women subjected to sexual violence, underscoring that gender itself operates as a system of oppression shaping the specific harms women suffer in comparison with men. This judgment marked the beginning of the Court's engagement with feminist legal arguments and an important step toward a structural understanding of gendered rights violations.

The Court's full appropriation of the category "violence against women," as well as of an evident structural analysis, happened three years later in its paradigmatic decision on. Known as the *Campo Algodonero* case, *González y otras Vs. México* was decided in 2009 by a majoritarian female bench presided over by Judge Cecilia Medina Quiroga as the President of the Court. The case held Mexico responsible for the disappearance and murder of three young women whose bodies were found in a cotton field in Ciudad Juárez in 2001.

To address the issues raised by the Inter-American Commission and the victims' representatives, the Court undertook a detailed analysis of the legal, social, and political dimensions of the case. It examined the history of Ciudad Juárez, an industrial border city marked by intense migration movement, stark social inequalities, and pervasive criminal activity. Since 1993, the city has witnessed a rising number of disappearances and murders of women and girls. These were not only alarming in scale but also normalized and tolerated by the state, reflecting an entrenched social phenomenon. A threefold assessment of the disappearances and murders led the Court to frame them as a pervasive social problem. It pointed to the victims' profile (all young women, students or shop workers), the pattern of the crimes (kidnapping and captivity, state inaction, and the later discovery of bodies marked by sexual assault, torture and mutilation), and gendered nature of the violence (murders as a direct response to shifting gender roles in family and local economy).

For the Court, "gender" – as explicitly stated in the ruling – was the central explanatory category: it provided both motive and a lens to understand the harms inflicted. The crimes were committed because the victims were women who challenged socially assigned female roles. Establishing for the first time a judicial dialogue with United Nations instruments, the Court emphasized that the case could only be understood against the backdrop of entrenched gender inequality. Violence against women had to be analyzed not individually – through victims' personal history and social background – but structurally, as patriarchy's violent reaction to the disruption of traditional family values and gender roles by women's entry in the labour force. Violence against women, the Court concluded, is not a personal issue but a structural problem rooted in gender hierarchies and patriarchal culture.

The Court also examined the systemic failures in investigating and prosecuting cases of violence against women in Ciudad Juárez as another dimension of structural violence. Common features revealed a pattern of inaction: delay in opening investigations, negligence and irregularities in evidence collection and victim identification, loss of information, misplacement of remains, and the failure to recognize the crimes as part of a broader phenomenon of gender violence. This culture of impunity was compounded by state agents' tendency to blame the victims and reproduce widely accepted gender stereotypes to justify inaction.

For the Inter-American Court, the absence of a serious state response to the growing number of murders of women and girls in Ciudad Juárez exemplified a culture of gender discrimination within the state apparatus itself – one that contributed to its reinforcement within society, thereby enabling the perpetuation of violence against women. The judges went further, explicitly linking impunity in individual cases to a structural problem:

> This judicial inefficacy in individual cases of violence against women is conducive to an environment of impunity which facilitates and promotes the repetition of acts of violence in general and sends a message according to which violence against women can be tolerated and accepted as part of everyday life.
>
> (Corte Interamericana de Derechos Humanos 2009, 100)

In sum, the Court framed *Campo Algodonero* within a broader context where the lack of investigation and punishment of aggressions against women was the norm, itself embedded in a climate of generalized gender violence. Rejecting the individualized approach pursued by the Mexican state in its defense, the Court reaffirmed – echoing the positions of experts and human rights organisations – that the problem had to be addressed as structural. The recognition of "violence against women" had already been expanding in earlier cases, encompassing contexts such as massacres, armed conflict, and Indigenous women's claims of justice – *Campo Algodonero* consolidated this trajectory.

Drawing connections between violence and discrimination, the Court turned to the Belém do Pará Convention to ground its reasoning: violence against women is a manifestation of the historically unequal power relations between women and men. For the judges, the right of every woman to live a life free of violence necessarily entails the right to be free from all forms of discrimination. Impunity in Ciudad Juárez, they argued, was thus a double problem: it sustained violence and silenced women, because it

> sends the message that violence against women is tolerated, which favors the perpetuation and social acceptance of the phenomenon, the sentiment and sensation of insecurity among women, as well as a persistent lack of trust on their part in the system of justice.
>
> (Corte Interamericana de Derechos Humanos 2009, 102)

The Court also highlighted that women's subordination is closely linked to socially dominant and persistent gender stereotypes, a problem compounded when such stereotypes are embedded, implicitly or explicitly, in public policies and practices, especially in the reasoning and language of the police force and state authorities. In such conditions, stereotypes operate both as a cause and as a consequence of violence against women.

The case *González y otras Vs. México* was groundbreaking: it marked the first time the Court engaged in an extended translation of the category "violence against women" to the Latin American and Caribbean context, fully embracing its main elements - the structural character of the violence, the connections between gender roles, stereotypes and aggression, the need for different evidentiary standards given the nature of the harm, and the recognition of institutional violence as central for a culture of impunity.

It is important to stress that the Court's position was not the result of isolated judicial reasoning. On the contrary, grassroots women's rights activism was central to adapting the radical feminist concept of femicide to the Mexican context, where the killings of women and girls in Ciudad Juárez were named *feminicidio*. By doing so, activists exposed "the complicity of the state in the killing of women by sustaining the institutionalisation of gender inequality," and the connection of the murders to "the patriarchal regime of neoliberal capitalism that supports the *maquiladora* industry in Ciudad Juárez" (García-Del-Moral 2016, 31). Embedded in *feminicidio* as a structural critique that emphasizes the intersection of gender and class inequalities and the state's complicity in perpetuating systematic violations of women's rights.

Paulina García-Del Moral (2016, 33) traces the Court's *Campo Algodonero* ruling to the "transnationalization of the struggles against *feminicidio* that had taken place locally and nationally since the mid-1990s". Based on extensive fieldwork with local activists, she argues that the cotton field murders catalyzed a joint activism that included local feminist organisations (some founded by victims' relatives), national and international NGOs specialized in transnational legal mobilisation, culminating in the decision. The long process between mobilisation and final judgment was characterized by activists' appropriation and subversion of the language of international law. They merged the legal principle of due diligence with the structural critique of gender and class articulated by the frame of *feminicidio* (García-Del-Moral 2016, 36). The result was a watershed in the international caselaw on violence against women: by appropriating part of the activist arguments, the Court expanded "the scope of the state's duties to prevent, effectively investigate, and punish violence against women in the context of systematic patterns of rights violations resulting from these very inequalities" (García-Del-Moral 2016, 36).

Building on these notions of access to justice, due diligence, and the duty to investigate and punish violence against women, the Court also examined in 2009 the case *La Massacre of Las Dos Erres Vs. Guatemala*. [9] Because Guatemala had not yet recognized the Court's jurisdiction at the time of the events, the judges could not evaluate the specific actions of state security agents—a special army unit known as the *Kaibiles*. Nonetheless, they framed the case as one of state negligence in investigating, prosecuting, and punishing those responsible for the massacre of 251 inhabitants of the community *Parcelamiento de Las Dos Erres*. Among the victims were men, children, and women—the latter subjected to rape, sexual torture, and extreme violence so brutal that some pregnant women miscarried.

The Court held that Guatemala had an obligation to investigate the actions committed during the *Dos Erres* massacre, under the American Convention, already in force when the events occurred. This obligation was reaffirmed when Guatemala ratified the Belém do Pará Convention in 1995. Despite being aware of the cruel forms of violence against women, including torture, rape, and induced miscarriage, committed by state forces during those three days in the community, the state remained inert, failing to uncover the truth or prosecute and punish those responsible.

Expanding its previous examination of violence against women during armed conflicts, the Court emphasized that women had been specifically targeted as victims of sexual violence, a recurrent state practice in massacres aimed at destroying women's dignity at social, cultural, family, and individual levels. Within this framework, the Court found that the absence of investigations into serious violations of personal integrity, such as torture and sexual violence in contexts of armed conflict or systematic patterns, constituted a breach of the state's duty to protect human rights.

As one Court lawyer explained to me in an interview, *Masacre de las Dos Erres* is particularly significant when compared to *Masacre Plan de Sánchez* (2004). In *Does Erres*, even without jurisdiction to address the substantive facts, the Court insisted that investigations themselves must adopt a gender perspective.[10] The judges partially embraced the transnational view that sexual violence in armed conflict can operate as a weapon of war, constituting a war crime and, in some cases, an act of attempted genocide against Indigenous peoples. This approach was further consolidated in Masacres de Río Negro Vs. Guatemala (2012), where the Court explicitly stressed that during the armed conflict, women had been particularly selected as victims of sexual violence. It noted that members of the security forces carried out massive, indiscriminate, and public sexual violations, often followed by the killing of pregnant women and the induction of miscarriages. These practices, the Court argued, were intended to destroy women's dignity, but, when directed against Maya communities, they also had a symbolic effect, since Maya women were seen as responsible for the social reproduction of the group and as embodying its values (Corte Interamericana de Derechos Humanos 2012, 25).

The Court's openness to the voices of Indigenous women and their communities became even more explicit in two cases ruled in 2010, both against Mexico. The first, *Fernández Ortega y otros Vs. Mexico*, concerned with the rape and torture of Inés Fernández Ortega on March 22, 2002, the lack of investigation and punishment of the perpetrators, the absence of reparations for the victim and her family, the use of military jurisdiction to investigate the case, and the structural barriers Indigenous women face in accessing justice. While Mexico acknowledged responsibility for the violation of judicial guarantees and protection, as well as the right to personal integrity, it denied violating the Belém do Pará Convention, particularly Article 7, which establishes the right to a life free of violence, arguing that there was insufficient evidence of sexual violence.

In addressing the case, the Court explicitly recognized the structural problems faced by the Indigenous peoples because of historical marginalisation, deprivation, and exclusion within the Mexican nation-state. It pointed out that a significant portion of Guerrero's population belongs to Indigenous communities, who maintain their traditions and cultural identities while living in conditions of poverty and marginalisation. These vulnerabilities, the Court observed, are evident across various domains, including justice and health services.

This reasoning illustrates the Court's dual concern with the distributional dimension of justice - awareness of the material conditions that shape Indigenous lives – and the recognition dimension, acknowledging the importance of cultural identity. More striking, however, was its recognition of the even more subordinated condition of Indigenous women, requiring specific forms of redress. The judges acknowledged that, for Indigenous women, reporting violence itself constitutes a formidable challenge, since it involves confronting numerous barriers, "including rejection from their own communities and other traditional demeaning practices" (Corte Interamericana de Derechos Humanos 2010a, 27). In this sense, the Court's approach resembles an intersectional lens, highlighting the compounded vulnerabilities marking the life histories of Indigenous women and shaping their experiences of violence.

Remarkably, the Court's framing also acknowledged the systemic character of patriarchal state violence through the remembrance of six other rape cases that had taken place between 1997 and 2004 in Guerrero, the state where Inés's community is located, all of them perpetrated by members of the Mexican military. The Inter-American Commission characterized this pattern as "institutional military violence" and recognized it as a denial of both individual and community rights, with particularly devastating effects for women:

> "The presence of the army as a police force in Guerrero has been a controversial theme in relation to the individual and communitarian rights and freedoms, and has placed the population in a condition of vulnerability, affecting the women in a particular way"
> (Corte Interamericana de Derechos Humanos 2010a, 28).

The Court ultimately declared that Inés Fernández Ortega had been sexually assaulted and tortured by members of the Mexican Army in a context marked by institutionalized violence against individuals and communities alike. Just one day later, in *Rosendo Cantú y Otra Vs. México*, the Court again had the opportunity to address sexual violence against Indigenous women and to move more explicitly toward an intersectional approach. The victim's representatives invited the judges to recognize the layered discriminations at play, particularly "aggravated by her condition of being a girl and Indigenous in poverty, which rendered her a victim of an intersection of discriminations" (Corte Interamericana de Derechos Humanos 2010b, 29).

For the argument of this chapter, it is crucial to spell out the implications of adopting such an intersectional lens in the case of Valentina Rosendo Cantú. Since Kimberlé Crenshaw's seminal essay *Demarginalizing the Intersection of Race and Sex* (1989), intersectionality has become a key analytical tool in critical legal studies. Crenshaw's concept was originally designed to reveal how Black women's experiences were erased by the "single-axis" approach of antidiscrimination law, which addressed race and gender separately and thus failed to capture how multiple forms of subordination converge. Intersectional experiences, she argued, are "greater than the sum of racism and sexism" (Crenshaw 1989, 140) and require attention to the specific positions of subjects who inhabit overlapping sites of oppression.

Although the Court did not explicitly deploy the language of intersectionality in either *Fernández Ortega* or *Rosendo Cantú*, its acknowledgment of the multiple axes of discrimination affecting Indigenous women – gender, race, colonialism, class, and the broader structures of state and military violence – signals an important step in that direction. This mode of analysis extends the framing of violations beyond the individual to highlight the structural conditions shaping the lives of all Indigenous women in similar contexts.

Both Valentina Rosendo Cantú and Inés Fernández Ortega were active members of the Organization of the Me'phaa People (OPIM – *Organización del Pueblo Indígena Me'phaa*), founded in 2002 to confront human rights violations against Indigenous peoples. Their rapes, committed by military men within the span of a single month that year, took place in a broader climate of persecution of Indigenous communities, especially of those mobilized to hold the Mexican state accountable for the cultural and economic violence inflicted upon them.

Aída Hernández Castillo (2016), a Mexican feminist cultural anthropologist who served as an expert witness in Inés Fernández Ortega's case, provides crucial elements to connect the individual struggles of the two Indigenous women with the broader structural impact of their pursuit of justice As Hernández Castilho (2016, 163) observes, "the appropriation of discourses on Indigenous peoples' rights and human rights allowed these two women (and the women in their organisations) to reflect on the historic grievances suffered by their peoples [racism coupled with extreme violence and economic segregation] and on the specific ways they have been experienced by women" through the interaction of those systems of oppression with gender.

Her report to the Court further underscored that "sexual violation was an experience that impacted the whole community because the Me'phaa people understand that the individual and the collective are closely linked, thus the experiences suffered by one individual are lived by the whole community" (2016, 171–172). The reparations demanded by both Inés and Valentina were therefore never limited to their personal benefit: they extended to the children and women of their political organisation and communities. They demanded justice not only through the punishment of their aggressors but also through structural measures: demilitarisation of the region, reforms to increase Indigenous people's access to justice, and community-based guarantees of non-repetition. As Hernández Castillo recounts, Inés's conception of justice was expansive and deeply rooted in the needs of her community:

> to do justice does not mean throwing the soldier who raped her in jail. Rather, it means stopping the counterinsurgent violence in the Me'phaa region; demilitarizing the communities; providing security to children so they can walk through the mountain trails unharmed; having a women's shelter in the municipality of Ayutla de los Libres so that their daughters do not have to work as maids in the houses of mestizo families; knowing their rights and having a center so they can educate themselves as human rights defenders; changing the spaces of justices marked by racism and misogyny.
>
> (Hernández Castillo 2016, p. 184)

Among the transformative remedies in *Fernández Ortega*, the Court ordered the state to implement public policies that would improve Indigenous women's access to justice and promote legislative reforms limiting military jurisdiction. It also mandated collective reparations, such as the construction of a Women's Center in the Me'phaa community and the provision of adequate food and shelter facilities to ensure that studying in the city of Ayutla de los Libres could continue their education without fear (Corte Interamericana de Derechos Humanos 2010a, 94).

Similarly, in *Rosendo Cantú,* the Court ordered the state to implement "continuous training programs and courses on the diligent investigation of cases of sexual abuse against women, which include a gender and ethnicity perspective" (Corte Interamericana de Derechos Humanos 2010b, 77). By embracing the framing advanced by Inés and Valentina – one that connected the violence inflicted upon them to the structural socioeconomic and cultural disempowerment of their communities – the Court demonstrated that the individual language of human rights is not an inherent barrier to expanded analyses. On the contrary, it can be deployed to uncover the connection between individual grievances and wider social, economic, and political structures of power.

Another important development in the Court's gradual shift toward structural framings of women's human rights came with *Gelman Vs. Uruguay* (Corte Intermericana de Derechos Humanos 2011). While Campo Algodonero had underscored impunity and gender-based violence as structural phenomena, Gelman extended this reasoning into the sphere of state terror, recognizing the ways in which authoritarian regimes instrumentalized women's bodies. In this case, the Inter-American Commission did not frame one of the victims' identities as a woman as a relevant factor. Nonetheless, the victims' representatives urged the Court to declare, as it had in earlier rulings, that the state had failed to act with due diligence in preventing, investigating and punishing violence against women. They argued, in particular, that in light of the Belém do Pará Convention's definition of violence against women, the illegal detention, denial of communication, and suffering imposed upon María Claudia García Iruretagoyena de Gelman acquired heightened severity because of her vulnerable condition, namely her advanced state of pregnancy.

Several issues in the *Gelman* case are crucial for understanding the transnational development of the discourse on women's rights as human rights. These include how women are constructed as victims of state terror and the distinct gender categories mobilized in such construction. In this chapter, however, my focus is on how the IACtHR framed structural state violence – forms of state terror that occur outside the private sphere – as violence against women. In doing so, the Court displaced the individualistic core of human rights discourse and moved toward a structural and gendered understanding of state repression. The Court began its analysis by situating the case within the history of Operation Condor,[11] offering a detailed, if not fully comprehensive or critical, account of the human rights violations carried out through this transnational regime of repression. Among these violations, the judges gave particular attention to the treatment of pregnant women: they were kept alive until giving birth, after which their children were taken and given to members of the military or police force, while the mothers were killed or forcibly disappeared.

María Claudia García Iruretagoyena de Gelman was one of these women. Born in Argentina in 1957, she worked in a shoe factory and studied Philosophy and Arts at the University of Buenos Aires. At the time of her detention, she was 19 years old, seven months pregnant with her first daughter, and married to Juan, who was tortured to death. María Claudia was transferred to Montevideo, in Uruguay, where she was held in the headquarters of the Uruguayan Information Service before being moved to the Military Hospital to give birth in November 1976. Within a month of delivery, her newborn daughter was taken from her, her whereabouts concealed, and María Claudia herself was disappeared – a fate never fully clarified.

The Court treated María's case as exemplary of how state violence was enacted upon women's bodies during the Latin American dictatorships. It underscored that her pregnancy constituted a particular condition of vulnerability, and that her isolation was not protective but rather intended to instrumentalize her body for childbirth and breastfeeding, after which her daughter was taken and her own life extinguished. The judges stressed that this revealed "a conception of the woman's body that violated her free maternity, an essential part of the unconstrained development of women's personality" (Corte Interamericana de Derechos Humanos 2011, 31) and that such treatment, carried out in the context of disappearances of pregnant women and appropriation of children under Operation Condor, amounted to one of the most serious forms of violence against women, committed by state agents of Argentina and Uruguay.

Taking an approach that echoes arguments raised in testimonies before the 1993 Tribunal on Violations of Women's Human Rights with which I opened this chapter, the inter-American judges characterized the violence against María Claudia as part of systematic "state terrorism." To confront such violence, the Court held that it was not enough to investigate the facts of the specific case: it also required the removal of broader obstacles to accountability for crimes during the dictatorships, such as ensuring public access to state archives.

In parallel with these substantive expansions, the Court also began, from 2010 onward, to develop new evidentiary standards in cases of violence against women. The rulings in Rosendo Cantú and Fernández Ortega marked the first clear departure from the demand of strict corroborating evidence. This line was consolidated in *J. Vs. Perú* (Corte Intermericana de Derechos Humanos 2013), where the Court gave decisive weight to the victim's testimony, explicitly recognizing that the very nature of sexual violence often precludes other forms of proof.

Another development in the Court's jurisprudence that reflects a structural approach to individual violations concerns matters of evidence. Since at least the *Rosendo Cantú* and *Fernández Ortega* rulings, the Court has advanced new standards for evaluating evidence in cases of violence against women and, particularly, sexual violence. According to one of the Court's lawyers, I interviewed, this jurisprudential shift – especially when compared with earlier decisions such as the Loayza Tamayo case (Corte Intermericana de Derechos Humanos 1997)[12] – was in part a rejection of the victim-blaming strategy often endorsed by national courts (LeGrand 1973).

I argue that the move away from requiring strict physical evidence of sexual violence toward giving decisive weight to the victim's testimony is itself linked to the Court's structural understanding of gender-based violence. Recognizing that sexual violence typically occurs in conditions that make corroboration through traditional evidence impossible, the Court implicitly acknowledged feminist critiques of the law as designed around male standards, which erase or minimize women's experiences of harm

(MacKinnon 1982). In this way, evidentiary reform became another dimension of the Court's recognition of the impact of entrenched gender hierarchies on women's access to justice.

This shift became especially clear in *J. Vs. Perú* (Corte Intermericana de Derechos Humanos 2013), a case concerning one of the women detained in the Castro-Castro Prison under charges of terrorism, where sexual violence had been systematically used as a form of torture. Here, the Court Here, the Court explicitly articulated a transnational evidentiary standard: sexual violence, it held, is a type of aggression that "generally occurs in the absence of other people besides the victim and the aggressor" (Corte Intermericana de Derechos Humanos 2013, para. 323). Because of this, it is unreasonable to expect graphic or documentary evidence, and the victim's declaration must be considered "fundamental evidence of the fact" (Corte Interamericana de Derechos Humanos 2013, para. 323). The Court further underscored that sexual violence is often not reported at all, due to the stigma it entails, making the victim's testimony even more central. By codifying these standards, the judges moved decisively away from a narrow, positivist conception of proof and aligned themselves with feminist legal critiques, thus reinforcing their structural framing of violence against women.

The Court restated its novel evidentiary approach in cases of violence against women – an approach developed in synergy with the claims made by transnational and regional feminist mobilizers – in *Veliz Franco Vs. Guatemala* (Corte Intermericana de Derechos Humanos 2014a). Critically assessing the shortcomings of the domestic investigation, the Court held that the circumstances in which the body of the victim, 15-year-old María Isabel Veliz Franco, was found sufficed to establish that this was a case of femicide. In a stark departure from the *Loyaza Tamayo* case, the Court emphasized that the absence of certainty was itself the result of the deficient investigative process, noting that essential elements – such as evidence of sexual violence – had not been determined with due rigor. This ruling illustrates the slow but significant evolution in the Court's reasoning: from an early reliance on strict physical or testimonial proof to an active judicial role in framing particular harms as "violence against women." The scope of such harms has progressively expanded, moving beyond sexual or physical injuries to encompass broader patterns of gendered subordination.

This jurisprudential turn became even clearer in *Rodríguez Vera y Otros* (Corte Intermericana de Derechos Humanos 2014b), where the Court treated non-sexual abuses against a detained woman as forms of violence against women under CEDAW, underscoring that gender-based harms are not limited to physical or sexual injuries. Two years later, in *I.V. v. Bolivia* (Corte Intermericana de Derechos Humanos 2016), the Court deepened this approach by recognizing forced sterilisation as an act of violence and discrimination, rooted in structural patterns of gendered and racialized domination.

This transformation is visible in *Rodriguez Vera y Otros (Desaparecidos del Palacio de Justicia) Vs. Colombia* (Corte Intermericana de Derechos

Humanos 2014b). Within the context of the grave human rights violations perpetrated in the state's response to the seizure of the Palace of Justice in Bogotá, in 1985, by the M-19 Movement,[13] the Court examined the situation of Yolanda Santodomingo Albericci, one of the detained survivors. The judges concluded that several of the aggressions she suffered amounted to forms of violence against women as defined by CEDAW, even though none of them involved sexual violence. By doing so, the Court underscored that violence against women is not confined to acts of a sexual or physical nature but extends to a wider spectrum of abuses that reflect and reproduce the unequal gendered power relations structuring society. This framing marks another important shift in the Court's jurisprudence: moving beyond a narrow focus on bodily harm to embrace a structural understanding of gender-based violence.

This approach was further developed by the Court in *I.V. Vs. Bolivia* (Corte Intermericana de Derechos Humanos 2016), a case concerning the forced sterilisation of a Peruvian refugee in a Bolivian public hospital, following a C-section. Drawing on CEDAW as well as the Beijing Declaration and Platform of Action, the Court held that non-consensual or involuntary sterilisation, resulting in the irreversible loss of reproductive capacity, constitutes both violence and discrimination against women. It recognized women's right to decide freely on matters of reproductive health and contraceptive methods following their life projects, stressing that no medical procedure may be undertaken without their prior, free, full, and informed consent.

In examining the violations suffered by I.V., the judges traced their roots to structural conditions. Forced sterilisation, the Court emphasized, is not an isolated act but a practice disproportionately affecting poor, racialized, and migrant women, grounded in the historical denial of women's autonomy over their bodies and perpetuated by discriminatory gender stereotypes embedded within medical institutions. Accordingly, beyond individual compensation to the victim, the Court ordered the Bolivian state to implement permanent training programs for medical students and professionals, addressing gender-based discrimination, stereotypes, and violence.

Conclusion

Wendy Brown (2004), in a dialogue with Michael Ignatieff, offers a trenchant critique of human rights discourse for its foundational individualism. Human rights, she argues, construct a suffering subject in need of protection, and despite their self-presentation as apolitical absolutes (Koskenniemi 2010), they constitute "an antipolitical politics of suffering reduction" (Brown 2004, 460). Designed "as individual shields against power," they seem ill-suited to sustain "efforts at collaborative self-governance and power sharing" (Brown 2004, 461). Brown's diagnosis is persuasive. Yet the case law examined here suggests that women's human rights can also operate differently: not merely as protection for suffering individuals, but as a reparative legal category, one that seeks to transform structural conditions of inequality underlying individual cases. As Samuel Moyn reminds us, "the concerns now addressed through a unified package of 'human rights' have their own histories, with different chronologies and geographies" (Moyn 2010, 17).

Women's human rights, emerging from the margins of mainstream discourse and institutions, possess their own geography and grammar – posing challenges to dominant universalism much as other critical projects, such as Third World Approaches to International Law, have done (Barreto 2013). This chapter has aimed to narrate part of that history: one that, while not rejecting the liberal emphasis on choice, autonomy, and individual agency, presses human rights toward structural and reparative understandings of violations, where remedies are not limited to compensating individuals but extend to dismantling entrenched hierarchies and discriminatory patterns. Such exercises are crucial because human rights did not appear fully formed, "awaiting later internationalization" (Moyn 2010, 20). Rather, they are contingent and contested, historically constructed through disputes and redefinitions.

Equally important is to distinguish between human rights law and activism, and to grasp their "symbiotic but tense relationship" (Levitt and Merry 2009, 460). Human rights law as a doctrinal and institutional system, as Peggy Levitt and Sally Engle Merry (2009) argued, may reproduce the liberal individualist script. Yet when social movements seize human rights ideas, they often escape doctrinal limits, making claims "not necessarily in the law," and thereby expanding the very human rights domain (Levitt and Merry 2009, 459–460). In doing so, movements mobilize human rights rhetoric to build legitimacy and public indignation, while paradoxically reinforcing the authority of human rights law through pressure on government and institutions.

The analysis in this chapter shows that incorporating women and gender into human rights discourse and practice transforms both. In the case law of the Inter-American Court of Human Rights on violence against women, this shift is visible in the move from blindness to gendered harm toward reparative analyses that link individual suffering to structural inequalities and mandate state action to dismantle them. At the same time, inclusion has ambivalent effects: it may also reinforce and circulate racial or cultural stereotypes. This tension—between reparative potential and unintended reproduction of subordination—is central to assessing women's human rights as a legal category.

Notes

1 The footage of the 1993 Tribunal became the movie entitled *The Vienna Tribunal*, directed by Gerry Rogers and distributed by Women Make Movies (1994).
2 Samuel Moyn explains that "even though some of the 'rights of men' were in some sense above the state, they only appeared through the state and had

purpose because of the state […] rights were national political achievements first and foremost" (2010, 31).

3 Critical scholars such as Costas Douzinas make the same direct link between 'human rights' as articulated by the "radical tradition of natural law," "associated with Thomas Paine, the French revolutionaries, the reform and early socialist movements" and its more contemporary deployment in the 1980s "in Poland, Czechoslovakia, East Germany, Romania, Russia and elsewhere." For Douzinas, the demise of 'human rights' allegedly radical and revolutionary content came with the appropriation of the discourse by "diplomats, politicians and international lawyers meeting in Vienna, Beijing and other human rights jamborees" (Douzinas 2000, 7–8) for the purpose of drafting treaties and conventions and experts. What Samuel Moyn's genealogy, in my view, rightly shows, is that such direct linkages between a past revolutionary formulation and current understanding of human rights is problematic inasmuch as it creates a romanticized curtain that might work to hinder deeper and more accurate critiques of contemporary human rights discourse.

4 This is an important point made by Anthony Anghie in his critique of Moyn's historical account: "For me, the larger point is that states themselves consented, in however problematic and attenuated a form, to such a range of rights that impinged on their sovereignty. This is what signals a revolution in international affairs" (Anghie 2013, 70).

5 Self-determination is recognized as a right of all peoples in the first article common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Paragraph 1 of this Article provides, "All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Many other international and regional instruments also include self-determination as a protected right.

6 An even more radical critique was developed by African women in the 1990s, precisely when women's human rights were booming in the international domain, and the African continent was undergoing the International Monetary Fund's Structural Adjustment Programmes. According to Akua Kuenyehia, "the severity of the sociological conditions in African countries undergoing structural adjustment is such that it is questionable whether the whole discourse on rights and international human rights is at all relevant for African women" (Kuenyehia 1994, 422).

7 The Inter American Court referred to the African Commission's analysis of sexual violence in the context of the 2005 protests in Egypt. In this ruling, the African Commission established that the harassment, sexist insult and violence directed specifically towards women meant to silence them, and to impede them of expressing their political opinion and participating in the public affairs. For more on this case and a thorough analysis of the African Commission's caselaw regarding women's human rights, see Assis (2018).

8 The gender sensitivity acquired by the Court from the *Masacre Plan de Sánchez* case can be also identified in the ruling of the case *la Masacre de Mapiripán Vs. Colombia*, passed in September 15, 2005. Dealing with the issue of displaced communities, the IACtHR acknowledged the serious psychological consequences for the people affected, particularly the women, the youth and the children.

9 Guatemala lived under an intense armed conflict from 1962 to 1996, when the state applied the so-called "National Security Doctrine," which included military intervention to fight alleged "subversion," a category under which any individual or organisation representing opposition to the state, then described as an "internal enemy," was targeted. In 1982, a coupe d'état installed a military government in the country, and the massacre of the population through military action

became commonplace. Among such actions is the massacre trialed in this case, which happened between 6 and 8 of December 1982.

10 A few years later, in the case *Defensor de Derechos Humanos y otros vs. Guatemala* (Corte Interamericana de Derechos Humanos 2014a), the Court asserted that a gender perspective is of outmost relevance in the procedure of evaluating the risks to which human rights' defenders are subjected and in the establishment of the corresponding protective measures.

11 While the Operation Condor was an Inter-American network of state attack on everyone who was fighting for the reestablishment of democracy in the region, the Court frames it as if it was a national or, at best, regional issue, having no connection to the Cold War. The participation of the Unite States is simply rendered invisible and the Operation's history is retold, in the judgment, as if the Latin American states were the sole masterminds and executioners behind it.

12 In the case *Loayza Tamayo Vs. Perú*, the Inter-American Court of Human Rights refused to recognize that the victim Maria Elena had been raped during her detention, although she provided enough detail in her testimony of that specific violation. For the Court, "given the nature of this fact, the accusation could not be substantiated" (Corte Interamericana de Derechos Humanos 1997, pp. 28–29).

13 The *Movimiento 19 de Abril* (M-19 Movement) was a Colombian guerrilla group that appeared after the 1970 presidential elections and is deemed responsible, besides the seizure of the Palace of Justice, for the seizure of the Dominican Republic's Embassy in Bogotá and the kidnapping of the president of the Workers' Confederation of Colombia.

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Part III

Affirmative Action and Structural Change

7 Justifying Reparations against Brahminism/Casteism and European Imperialism in South Asia

Gajendran Ayyathurai

Introduction

The Indian society has endured modern racial imperialism and premodern racial casteism.

Philosophers, economists, International Relations scholars, postcolonial theorists, and others have recorded British racism and colonialism, as well as other European imperialist dispossession of the Indian Subcontinent. Problematically, such efforts have not resulted in any tangible reparations from such European powers to India. That is, the modern-day European powers have *only* risen because of their racism and imperialism, including in South Asia. Therefore, the call for reparations to such postcolonial societies is on the rise like never before. However, what remains underexamined is that the Indian Subcontinent has also been devastated by precolonial race/racism (*varna*) and caste/casteism (*jati*) that continued to ravage South Asia for a couple of millennia. For instance, a large majority of Indians are prone to race-caste-based discrimination and violent subjugation today. Segregation in food, health, housing, gender, labour, education, employment, religio-cultural institutions and practices, and so on, is on the rise paradoxically in postcolonial India. Unsurprisingly, the Indians who have faced the ancient and modern wrongs of internal and imperial racism and casteism for generations and centuries from the precolonial, colonial, and postcolonial periods have called for reparations.

This chapter elucidates reparations to the race-caste-oppressed Indigenous Indians.[1] They are the present heirs of victims of racist and casteist ancient wrongs that continue to exist in diverse vernacular regions of India. Historians and Sanskritists point to the subordination of a large majority of Indians under the invasive racist Aryans and their brahmin[2]-at-the-top-casteist order (brahmin–kshatriya–vaishya), including in the East Asian regions of North East India.[3] Although the race-caste-oppressed Indians demanded reparations during colonialism, as shown in the sections below, it remains largely unanalyzed in the humanities and social sciences in India and South Asian Studies overseas. This is also because the South Asian academic fields are predominantly controlled by the gatekeeping brahmins – non-brahmin

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students and scholars have only a marginal presence in India and beyond.[4] Not surprisingly, the understanding of ancient and medieval race-caste marginalisation and modern colonial re-marginalisation of Indigenous Indians, and their demands for recompense against race-caste oppression have been hampered. Therefore, it is time we engage in a rigorous perception of compensatory reparations in India and the Indian diaspora.

The Constitution of India prohibits casteist untouchability. It also promises affirmative action policies for education and employment training and benefits. They are often cited by self-privileging-caste groups that metaphysically and racially claim and self-identify themselves as brahmins, kshatriyas, vaishyas, and other birth-based casteist groups (including their academics, scientists, and publics) as proof of transcending *their* problems of racism and casteism. Nevertheless, it is evident that their dehumanizing violence and gatekeeping racism and casteism are alive and well, leading to the everyday devastation of a vast number of Indian citizens.[5] And that the so-called constitutional affirmative action policies have always been scuttled by the state and its bureaucracy, which have only ensured that the marginalized Indians will continue to be re-marginalized for generations.[6] For these reasons, the call by race-caste-discriminated individuals and communities for reparations is inevitable, beyond affirmative action policies. Given the unexamined nature of the demand for reparations in India and the Indian diaspora, this short study theoretically engages with the questions as follows: What are reparations in the Indian context? How can we identify the reparations from the European imperial powers to the Indians whom they dispossessed during colonialism in modern India? Why and how indispensable is the call for reparations by the victim heirs from the offender-heirs of internal racists and casteists that have transgenerationally categorized, subordinated, exploited, dispossessed, and displaced Indigenous Indians during the precolonial, colonial, and postcolonial periods?

South Asia continues to have after effects of colonial destruction. We know that many vestiges of European imperialism manifest in South Asian postcolonial societies even after close to a century of independence. This means that the projects of decolonisation will continue to have their relevance. Here, it is important to note, however, that the colonial racial dispossession combined with and vitiated the ancient race-caste wrongs in India. These unexamined themes of premodern South Asian forms of subordination and exploitation that colluded with Western racial capitalism and imperialism in the modern period are yet to take the center stage. Nonetheless, the archives of race-caste-oppressed that existed in South India from 1779 onwards point to the theft and dispossession of water, land, food, labour, and resources of Indigenous Indians who were marginalized by both Indian and Western racism and casteism.[7] There is, thus, tremendous relevance and scope to engage with two kinds of reparative policies: North–South and intra-South, in the context of India.

P. J. Marshall, in his study *The British Discovery of Hinduism in the Eighteenth Century*, has rivetingly shown the emergence of a colonialist–

casteist continuum[8] in the 1750s.[9] But it continues to bear fruit for the self-privileging-caste groups in postcolonial South Asian societies and the Indian diaspora. The very category "Hindu," and many of the civil societal institutions and practices emanating from this newly minted religion called "Hinduism," gained traction in India and Europe only through the colonialists. But with not much known, collusion of comprador brahmins.[10] Maliciously, the colonial state's acknowledgment and promotion of brahminness as Hinduness and Indianness reinforced caste segregation across the Indian Subcontinent and within the Indian diaspora, unlike the precolonial period.[11] Thus, the colonial mechanisms, such as the censuses and so on, divided Indians by birth as exclusionary, endogamic, and vertical groups of upper castes, lower castes, and untouchables as per the brahmin-male codifications.[12] They were also spatially, culinarily, culturally, religiously, educationally, and professionally segregated through violent maneuvers. The self-privileging-caste groups of brahmins, who were the inventors of untouchability and caste in ancient India, continue to be the most notorious offender-heirs of racism and casteism in modern India. They are a minority group of not even five percent of India's population.[13] Such brahmin groups' postcolonial predominance is tied up with gatekeeping, bodily violence, death, and dispossession of Indians they categorize, dispossess, and displace as untouchable women, men, and children – who are almost one-fifth of India's 1.4 billion population now.

For all aforesaid reasons, therefore, reparations in India are about the inseparable aspects of Western racial capitalism and imperialism as well as Indian race-caste (*varna-jati*) violence, segregation, and wealth accumulation. Clearly, the present race-caste-based durable inequalities, which have been set off from the precolonial and colonial periods but viciously continue to persist in the postcolonial period, are the reasons for the demands of compensatory reparations. Such memories and histories of institutions and practices of subordination, exploitation, dispossession, displacement, and continuing oppression make reparations a moral compensatory liability of the Indian race-caste offenders of the past and their heirs of the present. Although neither the European powers nor the Indian postcolonial civil society, state, and academy have taken the race-caste victims of the past and present and their heirs seriously so far, it is inevitable that they cannot erase such moral responsibilities. Therefore, it is time that multidimensional reparative policies are put in place against the European powers as well as the race-caste oppressor groups in India. Because they are accountable to recompense for all their ancient and modern wrongs against the race-caste-oppressed Indigenous Indians now.

What are Reparations in the Indian Context?

Reparations in the Indian context refer to the compensatory entitlements and rights of the race-caste-oppressed Indians. They are meant to recompense the personal and collective historic injustices of untouchability and other forms of racism and casteism against Indigenous Indians. Crucially, the Indians who have suffered precolonial, colonial, and postcolonial dispossession of body, labour, water, land (agrarian and non-agrarian), homestead, and environment are long due for re-claiming what they have been violently deprived of. In this sense, reparations are part of retributive justice. It is important to delineate *via negativa* the discourse, institutions, and practices of reparations that they are: a) *not* affirmative action policies for the benefits of race-caste marginalized Indians and their heirs through their work toward educational and employment training and allotment of benefits such as scholarship and salary; b) *not* distributive or re-distributive policies determined by the politicians, bureaucrats, and researchers/academics of race-caste oppressors, or between the oppressors (and heirs of oppressor groups) and the oppressed (and heirs of oppressed) communities; c) *not* for fictious equality, equity, tranquility, reconciliation, and restoration – the grounds and the onus for which are not on the oppressed and their victim heirs but the oppressors and their offender-heirs; d) *not* only about the present oppression of racism and casteism against Indigenous Indians and their heirs but concern historic injustices.

The aforesaid points are valid due to the evidence that there was no prior moral relationship between the wrongdoers and the victims. That is, there was never any healthy humanistic relations between caste groups, especially between brahmins and their non-brahmin others, between racists and casteists and the race-caste-oppressed Indigenous Indians who were denied self-respect and humanity, in precolonial, colonial, and postcolonial periods. Thus, the moral repair of race-caste relations is *only* imaginable and practicable in the future, *only* after prior compensatory reparations that are conspicuously established and delivered as preconditions.

In the above sense, reparations are the past and present rights of the caste-oppressed Indigenous Indians. And the retrospective duty of the race-caste oppressors. The intergenerational rights and justice of the original victims and their descendants of race-caste-marginalized Indigenous Indians for centuries are no less important. Because race and caste categories, institutions, practices, and the resultant oppression have not been invented and implemented in postcolonial India. They have existed in India since the ancient period, as per the cultural, archaeological and historical records. Therefore, reparations are not put in place only to correct the present unjust and uncivil Indian society. They are what philosophically is called "just deserts" to mete out what the oppressed and their heirs deserve through compensatory reparations. And what the oppressors and their heirs deserve through punitive measures for their historic injustices (retributivism), such as untouchability-based segregation, violence, dispossession, and displacement against Indigenous Indians.

Crucially, the oppressed and their heirs estimate and decide the monetary, psychological, and sociological reparations. Thus, retributivist and compensatory rights are primary entitlements of the race-caste-oppressed Indigenous Indians. Without the fulfillment of such rights, forging a casteless and anti-caste society of the future (that was never there in the past) is impossible. Importantly, it is the race-caste-oppressed and their heirs' decision about such plausible futures. The oppressors or the heirs of original offenders of racism and casteism do not have a say in this, prior to their compensatory reparations. Reparations in India are meant to establish justice against the crimes of untouchability and casteism that brahmins invented and imposed on non-brahmins. It is the brahmins who religiously, culturally and historically segregated the non-brahmins under them in a birth-based hierarchy of mutually opposing individuals and groups within *their* caste structure. Therefore, compensatory reparations must begin with every woman or man who identifies as a brahmin and with their brahmin heirs. In addition, reparations are also incumbent on any self-privileging-caste individual and group, such as kshatriyas and vaishyas, that also, true to the brahminical race-caste order, historically indulged in violence, dispossession, and displacement through untouchability.

It is also worth noting that reparations are human rights. Since the natural right of being a universal moral human has been violated and denied by untouchability and other forms of racism and casteism, the re-establishment of casteless identity and life that was there in pre-brahmin space and time in the Indian Subcontinent, through compensatory reparations, is a moral human right. Because the caste-oppressed Indigenous Indians have faced unimaginable hardship and violence for generations and centuries due to brahminism/casteism,[14] they are morally entitled to the human rights of reparations. That is, by virtue of their being raceless and casteless *qua* raceless and casteless Indigenous Indians. But they were *only* categorized, subjugated, exploited, and dehumanized by the brahmins who invented untouchability and lower caste subordination. Decisively, they did not culturally, religiously, or historically embrace such subjugated caste subjectivity as their own identity. Critiquing this violence of brahminism and implementing reparations are human rights that are a counter-standpoint against the offenders and the heirs of offenders, with the goal of compensation or compensatory rights.

Reparations are not a follow-up or a result of the promise of future forgiveness and reconciliation by the oppressed with their oppressors. Irrespective of the possibilities for forgiveness and reconciliation, reparations are a compensation for the past and present crime of untouchability, casteism, and racism against Indigenous Indians by self-privileging-caste groups of all kinds. In this sense, reparations are rightly backward-looking and not forward-looking. The race-caste-oppressed Indigenous Indians, who have faced the historic injustice of birth-based violence, segregation, dispossession, and displacement from their own lands, need to be given back their resources, lands, and dignity, as per their modalities, with an apology first, without any preconditions on the oppressed. Forgiveness and reconciliation might be plausible only in the future. That is, only after and with reparations as a prior condition of fulfillment by the oppressors. The loss of lives and self-respect due to the violence of brahminism/casteism for generations and centuries in India could result in the Indigenous Indians' rejection of forgiveness and reconciliation. With those who do not give up their present racist and casteist identities or who do not seek an apology for all their religio-cultural, dynastic, political, economic, and historic crime of casteism and racism.

Clearly, reparations are not charity but debt. That is, the race-caste oppressors are indebted to the race-caste-oppressed for all their loss of resources and wealth, and suffering indignities of racism and casteism. The data and findings of interdisciplinary Critical Caste Studies confirm the British racist colonial extractions of Indian wealth and the povertisation of India through immoral and imperial land appropriating acts, educational policies, and bureaucracy. But they were aided and abetted more by the casteist groups, such as brahmins, who acted as go-betweens of European colonialists.[15] This means both European colonial powers as well as casteist Indian groups ought to pay back to caste-oppressed Indigenous Indians who were prone to peasantisation and all other forms of deprivation. In this sense, both the colonialists and the casteists had prospered during modern colonialism in India *only* through their racism and casteism, which had exploited the Indigenous Indians they together subjugated by their racial collusion.[16] Thus, both colonialists and casteists are indebted to the caste-oppressed Indians. Reparations, therefore, are due from the British and other European powers that racialized and vandalized India, as well as the casteist groups, such as brahmins and others, who owe their wealth and uninterrupted prosperity in the postcolonial period to the Indians they violated and deprived of their possessions in the colonial and precolonial periods. When the reparations are implemented, they are not a charity as per the whims of the racists and casteists. Instead, compensatory reparations are debt salvation.

Identifying European Imperialists and Their Reparations

Considering the European imperialist impacts for centuries in modern India, they call for rigorous research to work out the compensatory reparations. Among others, some of the questions that help to determine the modalities of reparations against such European powers are as follows:

- What are the modes of European imperialism in India? How do we quantify the European imperial plunder of India?
- How did the European racial imperialism succeed with the collusion of brahmins and other casteists? What were the colonialist–casteist institutions, businesses, and practices that functioned to favor the racists and casteists?
- What were the European racial capitalist implications of subordinating and exploiting Indigenous Indians in the colonial and postcolonial periods?

- Why was the colonialist–casteist continuum a double-edged sword against caste-oppressed Indians? How did it dispossess and displace Indigenous Indians locally and in the modern colonial period?
- What are the postcolonial Euro-American–brahmin institutions, corporations, businesses, groups, and individuals that continue to perpetuate racism and casteism? How do they gatekeep Indigenous Indians through such collusive continuities in postcolonial India?

Due to the constraints of space, all the aforesaid questions are not engaged with in this chapter. Nonetheless, it is imperative that we begin to explore plausible options for reparations.

Clearly, every European power that amassed wealth from India through modern racial imperialism must pay back reparations. Since the race-caste-oppressed Indigenous Indians endured the worst brutalities of European imperialism, their decisions take priority over all other Indians. In this regard, a Trust of Indigenous Indians must decide the methods of compensatory reparations from all the European powers that had exploited, dispossessed, and displaced them. Here is a potential suggestion they may consider: a minimum of three percent (3%) reparation from such European powers' annual GDP in perpetuity in compensation for their centuries of imperial violence and wealth transfer from India. Reams of studies confirm the European destruction and genocides in and theft of food and other materials from the Indian Subcontinent. In fact, because of these European powers, whether it was their racist Catholic and Protestant missionaries or colonial governmental mechanisms, the Indigenous Indians had to endure the European-white-racist disrespect and violence for centuries.[17]

It is critical to know here that the white-Europeans quickly internalized the brahmin-male ideas of Aryan racism and casteism. That is, to doubly oppress the Indigenous Indians who had been suffering the (pre-white-European) brahmin colonisation in the premodern period. Therefore, the white-European colonial powers' Kantian and Lockean racial ideas and identities of dehumanisation and dispossession were put into practice in the Indian Subcontinent in collusion with brahmins to deny the moral rights of raceless and casteless identity, culture, and history of Indigenous Indians. For these reasons, the assessment of European reparatory debt to India must be done by a group of Indigenous Indians' interdisciplinary scholars from India and overseas. In addition, the global social science and humanities experts who have specialized in European imperialism and reparations could also be included in the assessment of the reparatory debt that European imperialists owe to India. This list of European powers would include the UK, the Netherlands, France, Germany, Portugal, Italy, Denmark, and others.

Identifying the Indian Race-Caste Oppressors, Oppressor Heirs, and Their Reparations

There are reams of studies which confirm the invasion/migration of brahmins from West Asia into the Gangetic Plains of India, thereafter into North India, then South India, and eventually all the way up to Southeast Asia, ever since Alexander the Great "slaughtered" the brahmins due to their casteism.[18] Crucially, they show that wherever the brahmins settled, their racist (*varna*) and casteist (*jati*) institutions and practices led to the segregation and violence against the Indians they *othered*. Archaeological, historical, sociological, anthropological, and cultural studies also emphasize that the pre-brahmin and pre-caste regions of the Indian Subcontinent were subsequently overrun by brahmin-invasion/migration and their imposition of untouchability and caste.[19] These facts enable us to identify the race-caste oppressors, such as brahmins. As said before, it is also crucial to note that brahmins imposed other casteist identities, such as kshatriya and vaishya, and so on, on others they violently subdued as low humans by birth in *their* caste hierarchy. Therefore, we are in a position to indisputably identify the casteist groups that are essential to hold them as agents of race-caste segregation and oppression, and for which they are inevitably responsible for compensatory reparations in India today.

Many Indian vernacular cultures and religions, such as Buddhism, resisted brahminism and retained their own castefree ways of life.[20] Such evidence could strengthen the understanding of all casteist groups, starting from brahmins, as well as those who were the victims of brahminical racism and casteism. Particularly, the casteist categories that were invented by brahmins to identify the Indigenous Indians contemptuously as untouchables in diverse regions and cultures of India, such as Bangi, Chamar, Madiga, Matangs, Pulaiyar, Paraiyar, and so on, show that such communities were the victims of brahminism. Although these communities were deemed as untouchables, their water, land, labour, resources, products, homesteads, and environments were stolen from them. Such race-caste-based material accumulation by brahmins and other casteists is also evidenced by the historical records and studies. Mobilizing these proofs could enable pinpointing the oppressors and their heirs, as well as the victims and their heirs of race-caste oppression during the ancient, medieval, and modern periods. This also means that there is no historical complexity in pinning down the race-caste oppressors and their reparative responsibility for all their diverse forms of race-caste violence against and privations of dispossession and displacement of the race-caste-oppressed. Therefore, compensatory reparations are not just valid only to certain Indigenous Indians in some regions in the Gangetic plains, for instance, but also to those who have been segregated in literally every street, hamlet, village, town, city, and region of India.

In the modern period, diverse colonial structures and historical records of European imperialists in South Asia serve as sources that point to a triangular modality of race-caste oppression, as shown below:

First, European white racism and imperialism also marked the modernity of the West. They had philosophical justification from Kant and Locke, and others, in the subjugation of Africa, North and South America, and Asia, as well as calibrated the collusion of white racism with Aryan racism of brahmins.[21] Albeit with a *white-on-brown* hierarchy. And the white-man's burden to conquer and vandalize through racial binaries such as oriental and occidental, white versus black, white versus brown, white-male-female versus non-white-male-female, and so on. Thus, the prime oppressors of racism in modern colonial India were European-white-racists. We have evidence of European racial institutions, businesses, and practices in the Indian Subcontinent from the sixteenth century that were meant only for European destruction and siphoning of wealth from India to Europe. They list out the European powers that vandalized India by mobilizing the data on the transfer of food grains, commercial crops and materials, precious metals, and so on. Thus, we now know how Portugal, the Netherlands, Italy, France, Denmark, Germany, Britain, and others have indulged in multiple forms of wealth theft from India, without which their continuing predominance would not have been possible as it is today. Unwaveringly, such thefts by European powers call for reparations to India.[22]

Second, the influences and inculcations of caste categories into the European-white-imperialist minds, institutions, businesses, policies, and practices were the result of brahmin-males.[23] But for the brahmin-males the European imperialists would not have acquired familiarity with the Aryan racism of brahmins and their birth-based caste segregation of Indians. Perniciously, white racism found collusive camaraderie with brahmin racism and casteism of ancient and medieval India as a reliable collaborator, below the whites, to serve as the go-betweens of their capitalist imperial motives.[24] This makes it clear that the Europeans did not invent untouchability and caste in the Indian Subcontinent. It was the brahmins, as said before. But the European-white-racists got wind of the brahmin-Aryans and their racism-casteism as an impregnable mechanism to loot India. This means that the brahmins owe compensatory reparations more than any other caste group in India for their normativisation and naturalisation of untouchability and caste structure under the European imperialists. Furthermore, brahmins indulged in the institutionalisation of exclusionary structures such as temples and more, in which they alone would have the birth-based right to be the priests in India (now overseas as well). Nevertheless, those who identify as kshatriyas and vaishyas are no less liable for retributive reparations, since they used the brahminical caste structure to place themselves as "upper caste groups" to indulge in theft of the lands, resources, and products from Indigenous Indians they also victimized as untouchables and lower castes. Here again, we have doubtless racist and casteist identities of race-caste oppressors and their heirs to be subjected to compensatory reparations in India.

Third, the colonialist–casteist continuum in the colonial modern period, and its revival of medieval and ancient racism-casteism through its brahmin collaborators, only turned out to be the double-edged sword against Indigenous Indians they together violated as untouchables. That is, through multiple brahmin–white nexus mechanisms. Sadistically, the brahmin invented categories such as the P-word (the anglicized category *pariah* is rejected as the P-word here, as is the case with the N-word), were legitimated by colonialists to reduce Indigenous Indians as unpaid labourers or as unfree wage labourers, and to deny their right to hold on to their ancestral lands they worked and owned.[25] Therefore, the colonial records and Indigenous Indians' anti-race and anti-caste resistance and writings easily serve as the sources to identify the racist and casteist brahminical continuities of oppression from the ancient to medieval to modern periods. Paradoxically, in postcolonial India, many of the categories of colonialist–casteist continuum have been sanctified by the Indian government policies, which continue the re-marginalize the victims of brahminical racism and casteism. Categories such as Scheduled Castes and so on to refer to the Indigenous Indians, who were denigrated as untouchables, that were fabricated during the British–brahmin raj (British–brahmin rule), are still in practice in the name of affirmative action policies. However, the ancient and medieval segregating racist and casteist categories, such as P-word, Bangi, Chamar, Madiga, Matangs, Pulaiyar, Thiyar, and so on, as mentioned before, ironically continue to dehumanize and deprive one-fifth of postcolonial India's population as untouchables and lower castes.

Thus, these transgenerational oppressions through brahminical backward-looking categories could also come in handy to claim the forward-looking retributive reparations for the victims and the heirs of caste-oppressed Indians in perpetuity. Because it is not just the ancient brahmins, kshatriyas, vaishyas, and other groups of a particular generation that indulged in their race-caste-based untouchability and violent appropriation of the lands and products of the Indigenous Indians they vandalized. Given the contemporary race-caste violence and theft, the present self-privileging-caste groups and their offender-heirs must be held responsible for compensatory reparations for all the unrectified past and present racist and casteist evils. In addition, such evils of the past and present would not vanish on their own with time. On the contrary, the everyday life in the Indian Subcontinent is still mired in racist and casteist violence against, and dispossession and displacement of Indigenous Indians (as is also the case with diverse religio-cultural individuals and communities) by self-privileging-caste groups. Bizarrely, the casteist discrimination, bodily violence and murder against individuals and communities that are categorized and segregated as untouchables and lower castes are on the rise in postcolonial India. This only means that for a foreseeable future retributive reparative liability is on the past offenders of casteism as well as on the present heirs of such offenders, and as long as brahminism/casteism/caste exists in India and the Indian diaspora.

Reparations against Brahminism/Casteism and Brahmincentric Accumulation

The normativisation and naturalisation of brahmincentrism[26] in the pre-colonial, colonial, and postcolonial periods call for a Critical Caste Studies analysis.[27] The perspectives of Critical Caste Studies provide counterfactual data, sources, and analyses that hitherto are not available. That is, against the racists and casteists who try to evade accusations of human rights violations by pretending about and pointing to the historical complexity of the Indian past, even as they viciously continue to rely on their "ancient racist and casteist" identities to continue to predominate in postcolonial India. The Critical Caste Studies frameworks could also establish compensatory reparations as inevitable and unassailable aspects of everyday civil societal, state, and academic engagement in South Asia today. As said before, the postcolonial Indian state's affirmative action policies are a minuscule recognition of Indigenous Indians, who have suffered untouchability, through the new pejorative category called Scheduled Castes – it was also established during the colonial period in the 1930s. Such policies have only served as a relief to the upper caste groups. That is, guarding them from being subjected to caste annihilating policies of reparations. Therefore, the questions before us are:

- What are the brahminical modes of wealth accumulation that functioned to favor the racists and casteists by subordinating and exploiting the caste-oppressed Indians in the colonial period?
- How did the self-privileging-caste governments, institutions, businesses, groups, and individuals perpetuate racism and casteism against the Indians they subjugated and impoverished in the postcolonial period?
- What are the ways the precolonial casteist and racist institutions and practices are legitimated in the present, and how should they be dismantled by making the self-privileging-caste groups do the compensatory reparations?
- How do we hold the heirs of caste oppressors who continue to benefit from *their* ancestors' caste segregation, responsible for delivering reparations?
- What are the specific details, i.e., sums of money, land, health and educational institutions, of the compensatory reparative policies?

Due to the constraint of space, the above questions are not given the due analysis they deserve. But some plausible ways to pursue the collective moral liability of reparations of the casteists are considered below.

The pre-European racism, casteism, and colonisation of self-privileging-caste groups, and their longer history of exploitation, dispossession, and displacement of Indigenous Indians, call for more reparations. Clearly, the Trust of Indigenous Indians is entitled to work out all the methods of compensatory reparations. Here is a potential suggestion they may consider: every salaried race-caste oppressor Indian, and her or his heir, must pay a minimum of five percent (5%) Anti-Caste Reparatory Tax from their gross annual income, for all their centuries of race-caste violence and wealth accumulation, in perpetuity. Needless to mention here is that the individuals and communities of caste-oppressed Indians, as they are the race-caste victims, are exempted from such a reparatory tax. Such an Anti-Caste Reparatory Tax against the race-caste oppressors and their heirs is set to begin the process of reparations. To cover the precolonial, colonial, and postcolonial race-caste violence, dispossession, and displacement in and outside the Indian Subcontinent.

Although the evil of brahminism/casteism and its centuries-old race-caste institutions and practices have favored predominantly the casteist groups, such as brahmins, kshatriyas, and vaishyas, and so on, they have not cared to rectify such dehumanizing mechanisms of race-caste exploitation in the past and present. And so, irrespective of the difficulties they might claim to be in, the self-privileging-caste groups ought to pay the reparations to Indigenous Indians now. Therefore, the federal/central Indian government must legislate for such a 5% Anti-Caste Reparatory Tax from the gross annual income of all citizens, except the caste-oppressed persons and communities. So that all the 28 regional state governments follow this Indian Federal Government Reparative Law without compromise.

In postcolonial India, the caste-oppressed Indigenous Indians have borne the brunt of hunger, poverty, health issues, lack of housing, education, and education-oriented employment because of self-privileging-caste groups and their gatekeeping. Such oppressor race-caste groups benefit from their prejudiced nepotism in and through the monopoly of the central government and state government-sponsored favorable policies of health, housing, and education. In addition, they also gain race-caste-based discriminatory advantages from private school, college, and university education, and employment in self-privileging-caste owned businesses and corporations. In fact, the seventy-seven years of Indian independence is only a misnomer. Because it has only continued the socio-economic conditions of colonial India in favor of casteist and racist groups, and against caste-oppressed Indians. Annihilating race-caste prejudice and violence and ensuring the well-being of Indigenous Indians have not occurred in the postcolonial history of India.

The putative affirmative action policies are not compensatory reparations in postcolonial India. They are meant only for notional educational and employment provisions that the race-caste-oppressed Indians could only benefit from if they work to avail themselves. Such affirmative action/reservation policies are 1) *not* meant to take away the caste- and race-based wealth of casteist and racist groups, such as brahmins and others, for retributive justice. But only for the minimum allocation of common governmental resources to provide for negligible support as a pity toward race-caste-oppressed individuals' and communities' current impoverishment; 2) *not* meant for providing enough wealth as a compensation in proportion to all the loss that caste-oppressed Indians have incurred. Furthermore, such affirmative action policies remain abysmally implemented and obnoxiously scuttled by deeming that the caste-oppressed Indians are "not qualified enough" to avail themselves. Or such affirmative action policies are viewed as reverse discrimination by oppressors. And so, the race-caste oppressors who predominate the present Indian federal and state governments, as they did during European colonialism, willfully fail to implement even such pretentious policies which are meant to hoodwink compensatory and retributive reparations from the race-caste oppressors and their heirs. Ridiculously, now there are also affirmative action policies for such notorious racist-casteist brahmin and other groups. Thus, their casteist identities and intergenerational race-caste violence assume governmental and public valorisation due to the race-caste oppressors' postcolonial prejudiced maneuvers. Thereby, such polices remain irrelevant to addressing the problems of racism and casteism in India, by not ensuring retributive justice against the beneficiaries of racism and casteism.

In other words, the casteist and racist groups in postcolonial India have not faced anti-caste and anti-race policies to prevent their casteist-racist wealth from being bequeathed to their heirs, or to transfer their wealth to the Indians they have exploited for generations and centuries uninterruptedly. More problematically, instead of the caste-oppressed, the casteists and racists retain the power to determine the educational and employment qualifications of the Indians they have categorized and discriminated against as untouchables and lower castes from the precolonial periods.[28] For these reasons, the reparations are to be determined by the caste-oppressed. And not the casteists and racists in India. As said before, this is to rectify all the casteist and racist injustices, such as inadequate food, clothing, housing, education, health, and everyday racism-casteism that the caste-oppressed have faced from the precolonial, colonial, and postcolonial periods. In this sense, reparations are also meant to serve as an unprecedented guarantee against the recurrence of casteism and racism from the self-privileging-caste groups.

As it has been shown so far, the race-caste institutions and practices have existed from ancient India. The core aspects of subordination, exploitation, dispossession, and displacement of such race-caste structures have assumed regional adaptations true to the pro-brahmin and pro-self-privileging-caste political regimes in diverse vernacular regions. This means the retributive compensatory policies in India must function at two levels: 1) The federal/central government must have constitutionally implemented all-India policies of compensatory reparations. 2) All the 28 states in India must have, in addition to the federal government's reparative policies, their own specific policies of compensatory reparations. Crucially, there must be an Indian Federal Trust of Indigenous Indians (i.e., caste-oppressed) which will determine and monitor both federal and state policies of reparations. These expert members of the Federal Trust will be drawn from the twenty-eight Indian states, with each sending two members (a woman and a man) selected by the State Trust of Indigenous Indians. The State Trust will have two members from each district within the state to decide the state's reparatory policies (apart from the central government's reparatory policies).

Both Federal and State Trusts of Indigenous Indians will not have any political party members or appointees of federal and state governments in power to prevent their party-prejudiced interventions. Both Federal and State Trusts could function for a five-year term, and will have women and men in equal proportion, but will be headed by a woman at both the Federal and State Trusts. Indigenous Indian experts in health, housing, education, and investment with proven expertise will only be the members of such trusts. They will monitor the annual allotment of European and Indian compensatory reparations.

Here is it is relevant to understand why the Indian government and Indian citizens must commit to reparations. That is, for all the historic injustices such as untouchability-based discrimination, dispossession, and displacement that were practiced in ancient, medieval, and colonial periods. This is also because untouchability and casteist-violence-oriented accumulation of wealth of the racist-casteist groups have not come to an end so far. Also, the oppressor beneficiaries of casteism, such as brahmins, kshatriyas, vaishyas, and others, continue to identify themselves as heirs of such ancient, medieval, and colonial oppressor traditions. This only makes their inherited race-caste identities, their material prosperity as offender-heirs, their longstanding transgenerational debt for all the crime of untouchability and casteism, liable to the duty of compensatory reparative justice. Thus, such heirs of offenders are guilty of casteist harm and not innocent. Likewise, the victims and their heirs of caste oppression, then and now, who have been categorized, stigmatized, exploited, dispossessed, and displaced are the ones indisputably entitled to such reparations. In this sense, we see the possibilities to implement compensatory justice of reparations.

The Federal and State Trusts of Indigenous Indians could also engage with additional policies of compensatory reparations regarding civil societal, state, and academic institutions and practices, as shown below:

Civil Societal Reparations

Debrahminizing temples: brahmin temples are quintessential spaces of caste segregation as well as gender discrimination in India and within the Indian diaspora. The ancient and medieval temples in India, and the modern temples in India, Europe, and North America have existed primarily to benefit the self-privileging-caste groups such as brahmins, kshatriyas, and vaishyas. These temples are perhaps the most race-caste-centric and untouchability-imposing institutions that make caste and gender inequalities sacrosanct.

Therefore, the reparative objective should encompass stopping such spaces of segregation and enabling the degrowth of temples in India and the Indian diaspora. Crucially, the existing temples and their vast swaths of land ownership ought to be used for educational and health purposes for the Indians who have suffered untouchability and other forms of casteism. Importantly, the temple lands must be distributed to the caste-oppressed Indians who have been such temples' bonded labourers. Therefore, the Federal and State Trusts of Indigenous Indians (of the caste-oppressed) must evaluate and implement the following questions: What are the ways to redistribute brahmin-temple-based wealth to the caste-oppressed Indians? How to prevent the race-caste-centric (re) emergence of temples in India and the Indian diaspora?

Many of the top private industrial corporations in India today have colonial origins in collusion with the British and other imperialists. But for their race-caste-based capital, land usurpation, and gatekeeping, they would not have prospered as they are now. The so-called liberalisation policies of the Indian government, since the early 1990s, have dismantled and disinvested the government-owned (public-sector) corporations to promote private businesses. This means even the pretentious few governmental policies and institutions to cater to the public at large have been done away with. Instead, privatisation has given a new lease of life to the self-privileging-caste groups to prosper via government-subsidized frontier technological education in India, only to leapfrog into Silicon Valley and Euro-American-white educational institutions and businesses.[29] Thus, liberalisation and globalisation in India is nothing but the racist-casteist exclusionary prosperity of self-privileging-caste groups through global brahminism. This globalisation of caste also means the devastating re-ghettoisation of Indigenous Indians through casteist gatekeeping. Unwaveringly, therefore, the self-privileging-caste groups need to be subjected to retributive justice of compensatory reparations as per the recommendations of the Federal and State Trusts of Indigenous Indians.

State-Reparatory Policies

Debrahminizing the Indian state: After more than 75 years of Indian independence, the postcolonial predominance of brahmins and other self-privileging-caste groups continues to perpetuate race-caste discrimination and dispossession in India and overseas. Therefore, reparative efforts must involve debrahminizing the Indian state. This means anybody who identifies himself or herself as a brahmin, kshatriya, or vaishya or this or that self-privileging-caste through their very caste name, must be prevented from any state office. Instead, all such people who indulge in their self-privileging-caste identity must be prone to reparations. But this is possible only when the Indian state decenters brahmin and other self-privileging-caste groups by re-centering the caste-oppressed women and men. Therefore, there is a need for the Indian state to address the race-caste structural inequalities and systemic race-caste injustices.

It is important to note that the Indian federal and state governments' legislative, executive, and judiciary divisions are still predominated by self-privileging-caste groups. Thus, rights and laws that are supposedly meant to protect all Indians are scuttled to favor the casteist groups, as was the case in the colonial period.[30] This means postcolonial legislative, executive, and judicial departments have perpetuated intentionally, voluntarily, and with full knowledge casteist discrimination against Indigenous Indians by treating them as second-class citizens. Thus, the present so-called governmental functionaries do not have unbiased qualifications and credentials to occupy such postcolonial government offices. Instead, the self-privileging-caste groups have only continued their prejudiced predominance as their colonial and precolonial ancestors did. That is, to indulge in illicit enrichment and caste-segregating fraud and harm. Questionably, the Indian federal and state postcolonial casteist policies and prejudices let the race-caste perpetrators go scot-free, despite all their privations – as was the case with the British-brahmin raj of the colonial period that overtly functioned to favor brahmins. This also means that the argument for an Anti-Caste Reparatory Tax of 5%, as mentioned before, on all self-privileging-caste citizens becomes an even more convincing requirement today.

Academia and Reparations

The educational policies of the postcolonial Indian state, which currently favor the self-privileging-caste groups, such as brahmins, in technological and management institutes must end. This is to focus on Indian citizens who have been subjugated as caste-oppressed non-brahmin and lower caste individuals and communities. And those who have been denied democratic education policies and practices in postcolonial India so far. But there is also a need to create educational policies to aid the participation of caste-oppressed communities. For instance, scholarships, fellowships, and positions that are meant for the primary, secondary, and higher education of the Indians who have been marginalized as untouchables and lower castes so far would end the self-privileging-caste monopolies of the Indian educational system. Crucially, these are not the affirmative action policies for education and employment that are there now, but hardly served reparatory justice for the caste-oppressed Indians. Instead, the Indian government must come up with anti-caste compensatory policies to prioritize hitherto marginalized citizens in all its educational policies and departments, beyond the affirmative action policies.

South Asian Studies in India and the West has largely failed to interrogate and reject brahmincentrism in Indian education, culture, religion, economy, society, and history. This means problematically academia has also legitimated racist and casteist material accumulation as well as brahmincentric canonisation and brahminical censorship. Therefore, South Asian humanities and social sciences, as well as natural sciences, have remained the fiefdom of exclusionary minority brahmins. Some brahmin researchers, who pretentiously project themselves as Marxist historians of untouchables/ex-untouchables/*dalits* (broken or depressed people of India), have belittled casteless and anti-caste intellectuals in their prejudiced academic productions. For instance, Iyothee Thass (1845–1914) of India, whose writings reconstructed the positive history of Indigenous Indians unconnected with and antithetical to brahminism/casteism that are referred to in this study, is comparable to W.E.B. Du Bois, the anti-race philosopher and writer. Thass rejected all forms of race and caste segregation in India and beyond (including African Americans). He fought against all dehumanizing brahmin invented categories, including the P-word (i.e., *pariah*). Most importantly, Thass was the founder of the modern anti-caste Buddhist movement in the late-nineteenth-century colonial India, about which doctoral dissertations and books are being published (including by this author).[31] Questionably, however, Thass is vindictively dishonored as a "Pariah intellectual" by casteist brahmin Marxist researchers.[32] This is just not a mere foolishness or ignorance. But it is an intent to malign Thass as an untouchable, despicably with the P-word, and the movement he founded against caste/casteism/brahminism in India. Considering such bigoted brahmin predominance, it is only right that Modern Indian Studies and South Asian Studies must be the legitimate target of compensatory reparative policies, especially to undo the brahmin predominance and their brahminism/casteism.[33]

Unless anti-caste reparative policies are implemented, Indigenous Indian students and scholars will continue to suffer the brahmin pejorative theorisation and gatekeeping of Indian academia. Therefore, the students, researchers, and faculty with expertise in Critical Caste Studies must be recruited to begin with the processes of epistemic debrahminisation: that is, reading, writing, and teaching in interdisciplinary Critical Caste Studies to critique and reject brahminism/casteism by interrogating its structural-functional normativisation of caste segregation. Also, it is necessary to engage in casteless and anti-caste philosophies and practices, memories and histories, and commemoration of anti-caste thinkers, women and men. This also means uncompromising rejection of self-privileging-caste women and men who are revered in Indian philosophy but continue to serve as sources for racist and casteist ideologies. Again, unlike the affirmative action policies, the compensatory reparative academic policies must aim to end the monopoly and nepotism of predominantly brahmins and other self-privileging-caste groups. So that the vast majority of unrepresented Indigenous Indians take their due presence in Indian and Western academia.

The civil societal, state, and academic reparative policies are plausible because such institutions and practices have committed race-caste-based significant historic injustice. Thus, there is a compelling rationale to rectify through compensation. In addition, there is adequate evidence that confirms how the self-privileging-caste oppressors have intentionally, voluntarily, and with clear knowledge indulged in casteist nepotism and discrimination by identifying Indigenous Indians as untouchables and lower castes. Since such casteist identities and harms continue to be doubtlessly present, their victims and heirs of oppression are entitled to reparative compensatory justice. Therefore, there is an unwavering case in support of Indigenous Indians for reparative policies from the Indian federal and state governments, academia, and civil societal institutions.

Transgenerational Race-Caste Violence and Contemporary Reparations

Many generations that followed as heirs of such initial race-caste oppressors have also lived by their racist and casteist identities, segregation and exploitation of Indigenous Indians. Such exclusionary evils that have nurtured casteist possessions are also confirmed by ancient and medieval temples, temple wealth records such as large swaths of land, enforced settlements of casteist self-privileging-groups in villages, and archaeological and other historical materials.[34] This means untouchability-based evils of racism and casteism did not originate in the current postcolonial generation of self-privileging-caste groups who indulge in such violence that we witness in India and in the global brahminism of the Indian diaspora.[35] Instead, they have come down from ancient, medieval, and colonial modern to postcolonial periods, which only makes the compensatory retributive reparations morally valid against such race-caste traditions of immoral harms. Clearly, they are the moral responsibilities of the heirs of transgenerational race-caste offenders.

It is also crucial to note that the invasive/migrant brahmins and other self-privileging-caste groups did not have any agrarian or non-agrarian skills or rights to own the land. But they indulged in their brahminical religio-cultural fabrications to appropriate land and other wealth from the Indians they derogatorily categorized to plunder and impoverish them from their own lands. Therefore, the assertions of the race-caste-oppressed that "the land belongs to the tiller" stand as their moral right to all their possessions in contrast to the brahmins and other casteists that did not have such knowledge of the land or skills to produce grains, vegetables, meats, and so on.[36] In this sense, the land owning rights belong to those who have been the Indigenous Indian inhabitants. And not to the invasive/migrant casteists, i.e., brahmins and others, even as such wealth possession is due to their deceptive collusion between brahmin racists and casteists with the ruling regimes in the medieval period and more so between casteists and colonial racists in the modern period.

Considering the European imperial powers' countless miseries of racism, imperial destruction, and postcolonial predominance of colonial structures in the Indian Subcontinent, as is the case across the world, their reparations are also a transgenerational compensatory justice from the present European powers. Unsurprisingly, there is a compelling campaign regarding the need to calculate the economic and environmental damage of European imperialism to seek the repatriation of wealth and diverse stolen goods from the present European powers to the nations that faced destruction for generations and centuries. That is, for instance, the calculation of stolen food, agrarian and non-agrarian goods, and precious metals such as gold, silver, copper, ores (of all kinds) and so on, from South Asia to European imperial powers, as well as other consequences such as inflation, famine, resource extraction, deforestation, imposition of monoculture, and habitat loss in South Asia. But for such racist plundering of the Indian Subcontinent (and other continents), many European countries could not have become industrialized powers today. Therefore, the call for reparations and repatriation of goods stolen from the European powers is here to succeed.

In addition to the reparations of European powers, the colonial destruction of India must be recorded and displayed for posterity through the creative establishment of museums, which must display all forms of European imperialism. This is also to prevent any future Western imperialism by nurturing the public memory of past devastation and dispossession in the Indian Subcontinent. Apart from the European sections regarding modern colonialism, such museums would also feature multicultural, multireligious, and multilinguistic Indian communities of South Asia that are free from the ancient and medieval Indo-Aryan fabrication of brahmincentrism as well as modern colonial and postcolonial brahmin-white collusion. Furthermore, these museums must have sections for pre-brahmin, pre-caste, and pre-brahmin-white cultures and histories of India. That is, they would display Indigenous Indian agrarian and non-agrarian intergenerational knowledges, technologies, tools, and products during the precolonial, colonial, and postcolonial periods. Such exhibits would clearly demonstrate Indigenous Indians' oral and written, agrarian and non-agrarian expertise, homesteads and environments that contrast with both the self-privileging-caste groups and European imperialists. These memorial museums could be established through anti-race and anti-caste collaborations between Indians/South Asians and Native Americans, First Nations, Africans, African Americans, African Europeans, South Americans, North Americans, Europeans, and others.

Countering the Racist and Casteist Objections to Compensatory Reparations

It might be argued that the race-caste injustices that have ancient, medieval, and modern connections have become unclear. So that the casteist individuals or communities that have committed water, land, labour, and other resources theft and that have indulged in violent, racist and casteist crimes against Indigenous Indians are uncertain. As has been shown above, there are casteless and anti-caste intellectuals in the colonial and postcolonial periods who have demonstrated that such historic injustices in India and the Indian diaspora have come down from ancient India uninterrupted but in diverse ways. They also point to bequeathed assets, temples, temple lands, and other wealth from ancient and medieval race-caste offenders. This can be easily traced to the present institutions and practices of caste segregating Indians who continue to flaunt their ancient race-caste identities in post-colonial India. Such heirs of race-caste oppressors have inherited ill-gotten, morally questionable, and caste violence ridden transfer of wealth. Therefore, such illicit enrichment that has been generated through brahminism/casteism ought to be transferred to the caste-oppressed plaintiffs who are entitled to reparative deserts from such clearly identifiable race-caste perpetrators and their heirs in India and the Indian diaspora. Identifying such victims and heirs of caste oppression, as well as the caste oppressors and their heirs, is humanly possible to ensure such inviolable responsibilities of compensatory reparative policies for the historic injustices against millions of Indigenous Indians.

The collective moral responsibility on the part of federal and state Indian governments to enforce, for instance, the Anti-Caste Reparatory Tax of 5% from the gross national income of Indian citizens, excepting the caste-oppressed Indigenous Indians, is indisputable. This is because the colonial and postcolonial land acquisitions, and unpaid and unfree labour extractions, were from many individuals and communities that were subordinated, exploited, dispossessed, and displaced as untouchables and low castes. They were not based on the caste-oppressed Indians' consent but were (and are) immoral and violent acquisitions. Therefore, they weaken and make redundant all challenges to collective reparative responsibilities of the self-privileging-caste individuals and groups that have usurped and retain such illicit race-caste-based wealth. Crucially, ancient, medieval, and colonial modern structures, such as caste-reinforcing temples, caste segregated residential localities, and caste-based landownership of intergenerational offenders of casteism continue to exist. And they benefit present self-privileging-caste groups. Therefore, such individuals and groups must bear the burden of reparative moral liability, such as the reparatory tax.

Anti-caste and casteless intellectuals, such as Iyothee Thass, in the colonial period have shown that their casteless and anti-caste communities have been immorally inflicted with untouchable and lower caste identities, against their consent in the ancient, medieval, and modern periods. Thass and his Tamil Buddhist compatriots have demonstrated that the colonial censuses, with the collusion of the British racist imperialists and brahmins and other casteists, have tried to categorize and impose pejorative untouchable and lower caste identities on the ancient Indian Buddhist descendants. They countered such moves of the colonialists and casteists to legitimate denigrating caste categories such as the P-word, Depressed Classes, and so on, and asserted their Indian and Tamil Buddhist identity in the

1911 census.[37] They also rejected the Indian national movement and the Indian National Congress as only the outfits of "brahmin Congress."[38] Thus, they were anticipating the continuities of the colonial predominance of casteist groups into postcolonial India through the Indian national movement.

This is rightly confirmed furthermore by other casteless and anti-caste intellectuals such as B. R. Ambedkar in the colonial and postcolonial periods. Ambedkar opposed the self-privileging-caste groups and their casteist predominance since the 1910s. Thereafter, he headed the Indian Constitution-making after independence from the British imperialists. But Ambedkar clearly warned that the political independence of India and the affirmative action policies, such as those for Scheduled Castes and Scheduled Tribes who were dispossessed and displaced as untouchables and tribes, do not guarantee the dismantling of race and racism, and caste and casteism in postcolonial India.[39] This means that the postcolonial state in India has not put an end to the ancient, medieval, and colonial race-caste oppression. Intentionally, the first Prime Minister and many other government ministers, bureaucrats, judges, businessmen, academics, and others have continued to identify themselves as self-privileging brahmin and other casteist groups.[40] Therefore, the arguments and publications of anti-caste thinkers and intellectuals demonstrate that their calls for compensatory reparations continue to be relevant today.

Even if the reparations are seen by the self-privileging-caste groups as reverse discrimination for *their* past race-caste privations, they are a moral compensation in favor of the caste-discriminated individuals and communities who had suffered immoral disadvantages of such casteists and racists over a long period of time. Furthermore, such compensatory reparations are to channelize hitherto prevented distribution of goods, such as housing, nutrition, education, and employment, to the caste-oppressed and to the victim heirs. Malevolently, South Asian humanities and social sciences and natural sciences in the West, as in India, are skewed in favor of and predominated by self-privileging-caste beneficiaries of untouchability of the past and present – largely brahmins are the exclusionary single casteist group that has monopolized the educational institutions of India; that is also the case within South Asian Studies in the West.[41] Therefore, it is valid that compensatory reparations function as reverse discrimination as they can counter the casteist disadvantages, unethically enforced by the self-privileging-caste groups in colonial and postcolonial periods. Crucially, such reparatory reverse discrimination must not be restricted to just employment but also must be extended to other goods, such as in the delivery of food, housing, education, and so on, to the caste-oppressed Indigenous Indians.

Conclusion

The problems of race and caste have existed for a couple of millennia in India. They have only spread to many regions of the Indian Subcontinent and have assumed diverse forms within almost all vernacular regions. Because these social constructions never faced any resolute and sustained countering, such institutions, policies, and practices continue to rampage through Indian societies today. Among the most dehumanizing inventions in the world are untouchability and caste through the race-caste (*varna-jati*) discourse. Historical, religious, philosophical, and anthropological studies confirm that the self-privileging-caste group called brahmins – the five percent minority of the Indian population now – are the notorious inventors of untouchability and caste. Such segregationists have audaciously fabricated a brahminical race-caste structure in which brahmins will always remain at the top as the fountainhead and touchstone of racism and casteism. Fraudulently, the brahmins devised, categorized, and forcibly recruited other self-privileging-caste groups below them as kshatriyas and vaishyas. Such non-brahmin self-privileging-caste groups also execute this fracturing race-caste structure with impunity in everyday life. Thus, together these oppressor groups have consigned a large majority of Indigenous Indian women, men, and children to subhuman status, through fictitious and demeaning categories of difference, as untouchable and low caste communities, for more than two millennia. Paradoxically, however, such subjugated Indigenous Indians, their water, land, labour, products, knowledge, homestead, and environment were dispossessed. They were displaced by denying any and every moral right to their homesteads, environments, and belongings. These race-caste problems have only snowballed from the ancient, to medieval, and modern colonial and postcolonial periods. Therefore, as it is elucidated in this essay, such Indigenous Indians are owed compensatory reparations by the self-privileging race-caste oppressors.

Among other considerations, an argument is made that compensatory reparations are transgenerational responsibilities of self-privileging-caste groups, such as brahmins, kshatriyas, and vaishyas. Because, apart from the original oppressors of race-caste violence in the Indian Subcontinent, they have bequeathed to their heirs not only the intergenerational imposition of the default brahminical structure but also the wealth that has been usurped through untouchability. This means the race-caste oppressors' and their heirs' theft of Indigenous Indians' resources and products, as well as their unpaid labour must be compensated to the race-caste-oppressed today.

Crucially, such compensatory reparations for the fraud and theft of self-privileging-caste groups have no temporal limitations. Because they are backward-looking and forward-looking in perpetuity. That is, as this essay has shown, the default brahminical race-caste structure has persisted from the ancient period only due to the racist and casteist institutions and practices that have been maintained violently for a long time to the benefit of oppressors and their heirs. This only makes the backward-looking compensatory reparations logical and inevitable, considering the transgenerational accumulation of the casteist debt of oppressors. Given the enormity of the oppressors' and their heirs' debt, the forward-looking compensatory reparations must persist as a retributive justice in perpetuity. That is, superseding them is left to the decision of the victim heirs of race-caste oppression and annihilation of casteism and racism. And not to the self-privileging-caste groups that continue to exist and benefit as *varna-jati* beneficiaries of the historic injustice of untouchability stretching from the ancient Gangetic plains of the Vedic age to the modern world.

It is vital to note that retributive compensatory reparations are a moral right of the race-caste-oppressed. That is, reparations are the moral entitlements of oppressed Indians. They are their rights to demand against the dispossession of and displacement from their labour, lands, and resources. And that this moral entitlement of the race-caste-oppressed Indigenous Indians also means the oppressors and their heirs must not relinquish this duty to compensate for all their fraudulence and theft from race-caste-oppressed Indigenous Indians. Therefore, the compensatory reparations are the transgenerational moral human rights of Indigenous Indians. To set right all the human rights violations they have endured for so long.

Given the European imperial powers' vandalisation and transfer of wealth from India during the colonial period, they must also be subjected to compensatory reparations. To begin with, a three percent (3%) GDP from Portugal, Italy, the Netherlands, France, Germany, Denmark, Britain, and others must be paid as money to the Indian government with the consent and acknowledgment of the Indigenous Indians Reparatory Trust that monitors such compensatory reparations in perpetuity. The compensatory reparations from the self-privileging-caste group oppressors and their heirs will be set at five percent (5%). This will be designated Anti-Caste Reparatory Tax in perpetuity from the gross national income of self-privileging-caste individuals and groups, which will be enforced and implemented through the Indian federal government as well as the state governments. Importantly, there must be an Indigenous Indians Reparatory Trust for a term of five years at the federal government level as well as at the state government level. This trust will not have members from the ruling party or any other political party. It will have a representation of a woman and a man from every state of India at the federal level. It will monitor the implementation of both the European imperial powers' reparations as well as the self-privileging-caste groups' reparations. At the state government level, each district of the state will send a woman and a man to be members of the Indigenous Indian Reparatory Trust of the State to monitor the implementation of 5% gross national income of Anti-Caste Reparatory Tax from self-privileging-caste groups in the state. And other reparatory policies and institutions they would establish.

The Federal Trust and the State Trust of Indigenous Indians will also be responsible for the allocation of the reparation sums of money toward housing, health, education, and more for Indigenous Indians who have faced race-caste oppression. Fixing the European imperial powers' and self-privileging-caste groups' compensatory reparations are deserts decided by the caste-oppressed Indigenous Indians that deem just. And not based on the race-caste oppressors' considerations of common sense, practicality, and their re-privileging intuitions. The Indigenous Indians Reparatory Trust at the federal and state levels are not meant to make reconciliation an obligation on the victims. Instead, the future possibilities for reconciliation in Indian societies are justified only with the implementation of compensatory reparations first, followed by an apology from the race-caste oppressors seeking forgiveness from Indigenous Indians, and registering their annihilation of caste in India and the Indian diaspora.

Notes

1 Pandit Iyothee Thass (1845–1914), a casteless and anti-caste Tamil Buddhist intellectual, viewed the race-caste-oppressed Indians as Indigenous Indians whose histories are a counterfactual rejection of racism and casteism of brahminism. The Tamil Buddhist cultural, philosophical, and historical standpoints reaffirm their indigeneity preceding the brahmin invasion and violence of untouchability and caste. It is to honor such Indians, their perception and assertion, their self-identifying category "Indigenous Indians" (*poorva indiyarkal*) is used in this essay. See Iyothee Thass, "An Enquiry into the Causes for Sympathy with Indians in South Africa," *The Tamilian* VII, no. 28, December 17 (1913), 3.

2 I use lower case "b" to write brahmin/brahminism/brahmincentrism/brahminisation/brahminness. This is to interrogate the legitimacy that such categories have gained among English speaking writers, academics, and the public as well as the dictionary meanings that occlude the domineering caste power behind it.

3 For the invasive migration of brahmins in South Asia and Southeast Asia see Johannes Bronkhorst, *How the Brahmins Won: From Alexander to the Guptas* (Leiden: E J Brill, 2016). Regarding a comparative study of brahmin and Jewish orthodoxies, see Barrington Moore, *Moral Purity and Persecution in Human History* (Princeton, NJ: Princeton University Press, 2000).

4 See Gajendran Ayyathurai, "Debrahminising Diplomacy: Brahminical Misrepresentation, Globalisation of Caste and the Indian Diaspora," *The Hague Journal of Diplomacy* 20, no. 3 (2025): 607–635.

5 See Dolly Kikon, "Dirty Food: Racism and Casteism in India," *Ethnic and Racial Studies* 45, no. 2 (2022): 278–97; Uma Chakravarti, *Gendering Caste through a Feminist Lens* (Kolkata: Stree, 2003); S. Shankar, *Flesh and Fish Blood: Postcolonialism, Translation, and the Vernacular* (Berkeley: University of California Press, 2013); K. N. Sunandan, *Caste, Knowledge, and Power: Ways of Knowing in Twentieth-Century Malabar* (Cambridge, UK: Cambridge University Press, 2022); Ida Roland Birkvad, "The Ambivalence of Aryanism: A Genealogical Reading of India-Europe Connection," *Millennium: Journal of International Studies* 49, no. I (2020): 58–79; Sankaran Krishna, "A Postcolonial Racial/Spatial Order: Gandhi, Ambedkar, and the Construction of the International," in *Race and Racism in International Relations: Confronting the Global Colour Line*, eds. Anievas A, Manchanda N, and Shilliam R (London: Routledge, 2014), 151–68; Ankur Paliwal, "How India's Caste System Limits Diversity in Science – in Six Charts," *Nature* 11 January (2023), https://www.nature.com/immersive/d41586-023-00015-2/index.html; and Daneswar Bhoi and Hugo Gorringe, *Caste*

in Everyday Life: Experience and Affect in Indian Society (Switzerland AG: Palgrave Macmillan, 2023).

6 See S K Thorat and Katherine Neuman, *Blocked by Caste: Economic Discrimination in Modern India* (New Delhi: Oxford University Press, 2012); Ashwini Deshpande, *The Grammar of Caste: Economic Discrimination in Contemporary India* (New Delhi: Oxford University Press, 2011); and Trina Vithayathil, *Counting Caste: Census Politics, Bureaucratic Deflection, and Brahmanical Power in India* (Cambridge: Cambridge University Press, 2025).

7 See Anbu Ponnovium, "Foreword" in *Iyotheethasar Sinthanaikal*, ed. G Aloysius, Vol. I (Palayamkottai, Tamil Nadu: Folklore Resources and Research Centre, 2003), xxiii–x1v.

8 The colonialist–casteist continuum worked in tandem to perpetuate a self-favoring political economy of caste and race. That is, the colonialists relied on racist policies and institutions to establish their racial capitalism in India. But they succeeded more so because the casteist brahmin go-betweens greased the colonial machinery by institutionalizing caste-based accumulation within colonial apparatuses. Such mechanisms dispossessed and displaced the Indigenous Indians by pejoratively relegating them as untouchables, lower castes and tribals, and Muslims and Christians, to ensure the prosperity of the self-privileging-caste groups who colluded with the colonialists. In other words, colonialist racism and self-privileging-groups' casteism turned into a continuum of combined oppression violently shifting between one and the other, and back and forth, crushing those they marginalized.

9 P J Marshall, *The British Discovery of Hinduism in the Eighteenth Century* (Cambridge: Cambridge University Press, 1970).

10 See Gajendran Ayyathurai, "Indologie, Kasten und Gender: Ein post-brahmanischer Forschungsansatz," *Südasien,* no. 3 (2018): 22–24 and Gajendran Ayyathurai, "Germans, Casteless Tamils, and Brahminical Sciolism in Early Colonial South India," in *Nodes of Translation: Rethinking Modern Intellectual History between South Asia and Germany*, eds. Razak Khan and Martin Christof-Füchsle (Berlin: De Gruyter Press, 2024), 97–123.

11 See Gajendran Ayyathurai, "Emigration against Caste, Transformation of the Self, and Realization of the Casteless Society." *Essays in Philosophy*, vol. 22, no. ½, 2021, pp. 45–65 and See Gajendran Ayyathurai, "Buddhism's Long Fight Against Brahminism and Caste." *Himal-South Asian*, 2023. www.himalmag.com/author/gajendran-ayyathurai/.

12 Regarding how brahmins served the imperialists to impose caste hierarchy in modern India see Bernard Cohn, "The census, social structure and objectification in South Asia." In *An Anthropologist among the Historians and Other Essays* (New Delhi: Oxford University Press, 1987), 224–254.

13 See Rosalind O'Hanlon, "Caste and its Histories in Colonial India: A Reappraisal," *Modern Asian Studies* 51, no. 2 (2017): 432–61, 440; and C J Fuller and H Narasimhan, *Tamil Brahmans: The Making of a Middle-Class Caste* (Chicago: The University of Chicago Press, 2014), 6 and 10.

14 Brahminism stands for the birth-based mythological, metaphysical, structural, and everyday exclusionary claims, institutions, and practices of power of those who self-identify themselves as brahmins by insisting on their self-privileging birth, names, markers, and other accoutrements. In brahminism there is no philosophy of consent; only self-centered malignant and benign forms of othering, segregation of fellow humans, and casteist accumulation of wealth through power. Therefore, brahminism is casteism. Casteism refers to prejudiced verbal and non-verbal behaviour, malignant and benign (intentional and non-intentional, conscious and unconscious) indignities, insults, as well as having the power to indulge in blatant and violent discrimination to favor one's own self-

privileging-caste identity and group by othering women, men, children, other genders, as untouchables, lower castes, and so on.

15 See Gajendran Ayyathurai, *Tamil Buddhism and brahminism in Modern India: Deep Resistance against Caste* (Oxford: Oxford University Press, 2025).

16 See Dorothy M. Figueira, *Aryans, Jews, Brahmins* (Albany: State University of New York Press, 2002) and Divya Dwivedi, "The Evasive Racism of Caste and the Homological Power of the 'Aryan' Doctrine," *Critical Philosophy of Race* 11, no. 1 (2023): 209–45.

17 See Gajendran Ayyathurai, "Germans, Casteless Tamils, and Brahminical Sciolism in Early Colonial South India," in *Nodes of Translation: Rethinking Modern Intellectual History between South Asia and Germany*, eds. Razak Khan and Martin Christof-Füchsle (Berlin: De Gruyter Press, 2024), 97–123.

18 Johannes Bronkhorst, *How the Brahmins Won*, 9.

19 See D N Jha, *The Myth of the Holy Cow* (London: Verso, 2002); Dorothy M. Figueira, *Aryans, Jews, Brahmins: Theorizing Authority through Myths of Identity* (Albany: State University of New York Press, 2002); and Divya Dwivedi, "The Evasive Racism of Caste and the Homological Power of the 'Aryan' Doctrine," *Critical Philosophy of Race* 11, no. 1 (2023): 209–45.

20 See Douglas Ober, *Dust on the Throne: The Search for Buddhism in Modern India*. (Stanford: Stanford University Press, 2023) and Patrick Olivelle, *Ashoka: Portrait of a Philosopher King* (Noida: Harper Collins, 2023).

21 See Gajendran Ayyathurai, "Undoing Brahminism/Casteism: Toward a Post-Brahmin Philology, Literature, and History," *LIT: Literature Interpretation Theory* 36, no. 2 (2025): 128–153.

22 For instance, the UK drained the wealth of India to the tune of $ 64.82 trillion. See The OxFam Report, "Takers, Not Makers: The Unjust Poverty and Unearned Wealth of Colonialism." Oxfam International 2025. DOI: 10.21201/2024.000050.

23 See Bernard Cohn, "The census, social structure and objectification in South Asia." In *An Anthropologist among the Historians and Other Essays* (New Delhi: Oxford University Press, 1987), 224–254.

24 See C J Fuller and H Narasimhan, *Tamil Brahmans: The Making of a Middle-Class Caste* (Chicago: The University of Chicago Press, 2014) and Gajendran Ayyathurai, *Tamil Buddhism and brahminism in Modern India: Deep Resistance against Caste* (Oxford: Oxford University Press, 2025).

25 Regarding the disproportionate ownership of land in India by the Indian *swadeshis* (those who advocate indigenisation by boycotting the British/European imports, i.e., as caste-indigenizers (*swadesikal*)), who do not work the land but possess it through the *andaiya paatiyam* (neighborhood land acquisition policy), see Iyothee Thass, "Swadesa Seertirutam," *The Tamilian* II, no. 34, February 5 (1908), 3.

26 That is, the centrality that the brahmins assumed and imposed on the South Asians they violently othered by birth, caste, race, language, region, and class has been camouflaged within what they have promoted as Aryanism, Aryavarta, Hinduism, Hindu India, and Eastern spirituality.

27 See Gajendran Ayyathurai, "It is Time for a New Subfield: 'Critical Caste Studies'," *LSE Blog*, July 5, 2021 (https://blogs.lse.ac.uk/southasia/2021/07/05/it-is-time-for-a-new-subfield-critical-caste-studies/) and Gajendran Ayyathurai, *Tamil Buddhism and brahminism in Modern India: Deep Resistance against Caste* (Oxford: Oxford University Press, 2025).

28 The brahmins' predominance in various postcolonial educational institutions of India, such as the Indian Institute of Technologies (IITs), which, Ajantha Subramanian writes, function as "Iyer and Iyengar Technologies," that is, as institutions historically controlled by brahmin casteist groups. See Ajantha

Subramanian, *The Caste of Merit: Engineering Education in India* (Cambridge, MA: Harvard University Press, 2019).

29 See Gajendran Ayyathurai, "Brahmincentric Digitalization, Critical Caste Informatics, and Communication," *Communication, Culture, and Critique* (Oxford). Special Issue on Critical Caste Studies and Communication (accepted and forthcoming 2026).

30 See C. J. Fuller and H. Narasimhan, *Tamil Brahmans: The Making of a Middle-Class Caste* (Chicago: The University of Chicago Press, 2014).

31 Gajendran Ayyathurai, *Tamil Buddhism and brahminism in Modern India: Deep Resistance against Caste* (Oxford: Oxford University Press, 2025).

32 Rupa Viswanath, *The Pariah Problem: Caste, Religion, and the Social in Modern India*. New York, NY: Columbia University Press, 2014, fn. 35, 367.

33 See Gajendran Ayyathurai, "Undoing Brahminism/Casteism: Toward a Post-Brahmin Philology, Literature, and History," *LIT: Literature Interpretation Theory* 36, no. 2 (2025): 128–153.

34 See Sudalaimuthu Palaniappan, "On the Unintended Influence of Jainism on the Development of Caste in Post-Classical Tamil Society," *International Journal of Jaina Studies* 4, no. 2 (2008): 1–65.

35 See Gajendran Ayyathurai, "Emigration Against Caste, Transformation of the Self, and Realization of the Casteless Society," *Essays in Philosophy*, vol. 22, no. ½, 2021, 45–65; Diwakar, Amar. 2020. "A Silicon Valley Lawsuit Reveals Caste Discrimination is Rife in the US." *TRT World* 15. www.trtworld.com/magazine/a-silicon-valley-lawsuit-reveals-caste-discrimination-is-rife-in-the-us-39773; Prema A. Kurien, "Multiculturalism and 'American' Religion: The case of Hindu Indian Americans," *Social Forces* 85, no. 2 (2006): 723–741. DOI:10.1353/sof.2007.0015.

36 See Iyothee Thass, "It is the Laws of Manu that Today as the Bane of Agriculture," *The Tamilian* VI, no. 48, May 7 (1913), 3; Iyothee Thass, "Chennai Rajathani Vivasaya Virutikkeduti – II," *The Tamilian* V, no. 31, January 10 (1912), 3 (in Tamil); Iyothee Thass, "Poomiyaippanpadutti Taaniyaviruttiseiyum Velaalattolilaalikalae Kavaniyunkal," *The Tamilian* IV, no. 17, October 5 (1910), 3 (in Tamil).

37 See Gajendran Ayyathurai, *Tamil Buddhism and Brahminism in Modern India: Deep Resistance against Caste* (Oxford: Oxford University Press, 2025).

38 Iyothee Thass, "Kankirasukamitiyin Kaalakolam," *The Tamilian* II, no. 17, October 14 (1908), 2.

39 See Anand Teltumbde, *Republic of Caste: Thinking Equality in the Time of Neoliberal Hindutva* (New Delhi: Navayana Publishing, 2018).

40 See Bernard Cohn, "The Census, Social Structure and Objectification in South Asia" in *An Anthropologist among the Historians and Other Essays* (New Delhi: Oxford University Press, 1987), 224–254.

41 See Arjun Shankar, *Brown Saviors and Their Others: Race, Caste, Labor, and the Global Politics of Help in India* (Durham, NC: Duke University Press, 2023).

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8 Reparation Beyond Responsibility

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Introduction

Within the fields of transitional justice and the politics of memory, the concept of reparation is typically understood according to two distinct perspectives, both rooted in its legal origins. First, especially in the context of international law, the term is used "to refer to all those measures that may be employed to redress the various types of harms that victims may have suffered as a consequence of certain crimes" (De Greiff, 2006, p. 452). These measures may include "restitution, compensation, rehabilitation, satisfaction, and guarantees of nonrepetition" (Hayner, 2001, p. 171). The second meaning of the idea of reparation also derives directly from its legal definition, although it extends the concept beyond specific legal cases, aiming at broad policies and programs usually involving symbolic and economic measures of reparation for victims understood as entire groups and collectivities. In this second dimension, reparation is thus seen as the undertaking of structural measures, under the assumption that it may be possible to reshape the structural conditions that gave rise to the wrongdoings in the first place (Maier, 2003; Torpey, 2001).

At its core, the concept of reparation, in its two broad meanings mentioned above, is deeply connected to the notion that there was something defined as a crime (or violation), that there is a subject who emerges as a perpetrator (which might be an individual, a state, or a legal entity), and that there is a subject (individual or collective) who is the victim (Torpey, 2003). This reflects the evolution of reparative justice from its origins in the aftermath of the Second World War, its connection with the experience of the Holocaust as the paradigmatic case of crimes committed against humanity, and the Nuremberg Tribunals that followed (Radstone & Hodgkin, 2003; Torpey, 2001). Surely, the concept has developed in different directions over the last decades, being used to address experiences such as the transition from authoritarian regimes in Latin America, Eastern Europe, and elsewhere, as well as the violence of the colonial presence of European powers on the African continent. But in all these cases, the basic structure for understanding the politics of memory and reparation remains largely

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attached to the same legal framework connected to the idea of responsibility and responsibilisation, which ties into the very idea of legal subjectivity. It is grounded in the assumption that reparative politics must be addressed from the standpoint of an identifiable victim, for whom there is always a (responsible) perpetrator, both defined as legal subjects. This framework of responsibilisation is the cornerstone of almost all concepts of reparation.

Indeed, reparative politics has an undeniable legal dimension, since it deals with human deeds that are usually connected with criminal offenses. Given the acknowledgment of crimes and gross violations of human rights by state (and non-state) actors, the legal prosecution thereof under national and international criminal law becomes an unavoidable necessity. The legal system would not operate properly if it ignored blatant violations of its codes. This becomes more problematic, however, when, by reparation, we mean the overcoming of structural forms of injustice that reproduce – often violent – forms of exclusion.

There should be no doubts that the law must be applied in cases of illegal behaviour; however, there are well-founded doubts about whether it is the right tool to adequately address the structural dimensions of violence and social exclusion, even when heinous crimes are perpetrated against entire collectivities (Maier, 2003). Often, these forms of violence are systematically committed by institutions that can hardly be reduced to the individuals commanding them or their proxies. Furthermore, they are often rooted in social dynamics that can barely be affected by the legal responsibilisation of individuals, as these dynamics will continue to reproduce through other structural mechanisms, regardless of who occupies institutional positions. The law is an indispensable form of communication, providing the stabilisation of normative expectations in society (Luhmann, 2004a). However, it applies primarily to legal cases and operates within frameworks of responsibilisation that require the identification of legal subjects in very narrow terms. This makes the law a limited tool for addressing structural forms of injustice that are embedded in social dynamics deeply ingrained in memory and in long-standing social practices (De Greiff, 2006). Legal subjects are, at least to a certain extent, both the products of social structures and the immediate agents of human rights violations. While they should undoubtedly be held legally accountable, it seems counterintuitive to limit reparative politics to the subjective dimension of their actions.

This observation is not completely new. However, attempts to reconceptualize reparative politics as a tool for redressing systemic injustice frequently remain framed in legal terms, often limited to established schemes of legal responsibilisation focused on the idea of legal subjectivity. Even those who critically acknowledge the limits of legal adjudication in addressing structural problems insist on the same schemes of legal responsibilisation as the basic framework through which reparative politics must be activated.

In what follows, I aim to revisit the politics of memory and reparation from an alternative perspective. Drawing on the anti-humanistic tradition of systems theory and its understanding of the operation of social memory, I suggest that conceptions of reparative politics could benefit from a framework that decouples it from the very idea of responsibilisation. This does not mean that the legal system should not be employed, but rather that it should not serve as the primary framework for conceiving efforts to redress collective traumas and repair societal structures.

Reparative politics must be understood as an effort that transcends the framework of responsibilisation if it is to achieve structural alterations in the social dynamics that produce long-term forms of violence, silencing, and exclusion. Systems theory's understanding of society as a communicative process of self-recursive reproduction offers a way of understanding social structures without relying on subjectivity as the cornerstone of social interactions (Luhmann, 2005b, 2005a; Stichweh, 2000). Moreover, systems theory understands social memory not as a repertoire of information ingrained in the psychological recesses of human minds. (Esposito, 2002, pp. 19–32). Rather, social memory is understood as an operative function through which communication relies on certain distinctions that serve as a framework within which new communicative events can take place: without memory, there is no recursive communication and, thus, no society. Memory operates only and always in the present (Luhmann, 2012, pp. 349–350). But precisely because of its ever-present existence, it is so significant to the actual reproduction of society.

If society consists only of communication, understood as a recursive process of remembering and forgetting past communicative events, then all that exists in society are the frameworks through which communication is recursively and permanently reproduced. Altering social structures requires altering these frameworks – that is, the semantics through which society describes itself and its reality, which are nothing less than the very structures of social memory. To achieve forms of reparation that overcome practices of social exclusion and oppression, the multiplicity of semantics operating in society must become the focus of careful processes of remembrance and forgetting. The main argument of this chapter is that this must be done in ways that are not necessarily conceived within the language of legal responsibilisation, which relies on the rigid stylisation of the roles of victim and perpetrator.

To make this argument, I will first address some of the problems related to the politics of memory and reparation, which I regard as being tied to the idea of subjective responsibilisation. After exposing the political gridlocks within the established frameworks in the field, I will present an alternative understanding of memory based on a systems-theoretical framework and the way in which social memory operates in modern society. Finally, I will outline some of the consequences of this alternative approach for the struggles surrounding the idea of reparative justice and the politics it entails.

The Politics of Memory and Its Limits

Over the last 30 years, the politics of memory has become a highly contested field, with significant practical and theoretical implications. On a practical level, the debate over how societies should address past experiences of degradation and human suffering has undergone notable developments. Moving beyond the paradigmatic approach of criminal responsibilisation for war crimes in the aftermath of the Holocaust, new claims for reparative justice have emerged.

Victims of authoritarian regimes – such as the military dictatorships in Latin America, the communist regimes of Eastern Europe, and systems of oppression like apartheid in South Africa – have sought not only the criminal prosecution of perpetrators and direct compensation for their suffering (Girelli, 2017, pp. 87–124; Maier, 2003). They have also demanded public acknowledgment of state crimes and explicit forms of collective remembrance.

Accordingly, the promotion of memory as a tool for addressing collective experiences of injustice and trauma has become a well-established field of expertise. NGOs, state agencies, and universities have developed programs and courses, and an entire profession has emerged dedicated to fostering moral memorialisation and establishing what we could call a memorialisation regime. In 2014, the UN Special Rapporteur in the field of cultural rights released a report for the General Assembly, proposing standards for memorialisation efforts that should establish a framework for representing past collective traumas caused by mass violations. According to the report, states and other stakeholders should "support victims and families of victims of mass or grave human rights violations, or traumatic events, seeking to commemorate the past" (UN – United Nations General Assembly, 2014). Shortly afterwards, the General Assembly passed two resolutions. One establishing the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide (United Nations – General Assembly Resolution, A/RES/69/323, 2015) and another regarding the International Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade, mandating member states to enact national legislation, implement educational programs, and adopt other policies to promote the remembrance of this specific traumatic past (United Nations – General Assembly Resolution, A/RES/69/19, 2014). All this is evidence that the politics of memory has been well established as a global regime aligned with the human rights regime.[1]

As the guardians of the memorialisation regime, experts, transnational human rights activists and trained professionals share the common assumption that identifying victims, perpetrators, and their misdeeds and remembering past atrocities are crucial steps in advancing human rights, inclusion, and democracy (David, 2020). The regime operates based on three basic principles: The necessity of "facing the past," the "duty to remember" and "justice for victims" (David, 2020, p. 41). Besides legal, criminal and financial measures of reparation, as decided by (international and national) courts, memory must be fostered through other measures, such as education reform (Fufuoka, 2023), the creation of public holidays (Radonić, 2023), the establishment of museums, the renaming of monuments and public spaces (Heath-Kelly, 2023), and the institutionalisation of cultures of remembrance (Philips & Johnson, 2003).

An important tool for promoting moral memorialisation was the establishment of official mechanisms of remembrance, particularly Truth and Reconciliation Commissions (TRCs) (Hayner, 2001). These mechanisms are often seen as a prerequisite for reconciliation, as they establish the factual conditions under which traumas occurred. In many cases, the mere acknowledgment of these facts is said to have a healing effect on victims, who seek validation of their experiences as real and meaningful. For example, in the case of the South African TRC, many families of apartheid victims chose not to pursue additional reparations, feeling satisfied with the state's acknowledgment of the violations committed under the former regime (Maier, 2003). In Brazil, the National Truth Commission (NTC) played a different role, as most facts had already been established and reparations granted by the time the commission was created. In this context, the NTC served more to coalesce civil society around the politics of memory, reintroducing issues related to the former regime into public debate (Torelly, 2018).

Also drawing on the same moral foundations, there have been further emerging claims for memorialisation seeking to address not only direct violations of human rights and their symbolic consequences in the present but also structural disadvantages regarded as enduring legacies of historical injustices (Torpey, 2001; Yusuf & van der Merwe, 2022). Victims of overarching systems of subjugation – such as colonialism, apartheid, slavery, and segregation – advanced demands for broad policies of reparation, such as land devolution, broad cash payments, or constitutional transformations aimed at reshaping their entire social conditions (Conley, 2003). As Torpey argues, these claims are frequently more "connected to broader projects of social transformations than are commemorative projects"; moreover, he understands it as "tactical political moves in a historical time that lacks the capacious, inclusive vision of progressive social change that was supplied by socialism and the American Civil Rights movement" (Torpey, 2001, p. 337). Thus, political struggles over inequalities and present injustices are reframed in the language of reparations, which is less focused on promises of an improved future based on forward-looking political projects and more centered on moral – and legal – justifications rooted in addressing the wrongdoings of the past (Baer & Sznaider, 2017, pp. 1–27).

Memory has, therefore, become a focal point of political struggle (Hodgkin & Radstone, 2003; Selimovic, 2023). The politicisation of memory is largely unavoidable. "Collective memory – that is, the active remembering together as a political collective, as well as a reference to a set of collective representations and interpretations of the past – is a deeply political phenomenon" (Mälksoo, 2023, p. 1). Memorialisation and reparation frequently give rise to new political struggles, igniting fresh forms of resistance around the policies they try to advance (Jones & Bernath, 2018). Some resist efforts toward reconciliation and reparation because such measures threaten existing power relations that are currently perceived as beneficial. Others resist policies they view as insufficient to adequately address their past experiences of suffering. At its core, however, the most common point of contention revolves around the fixation of the roles of victim and perpetrator.

In recent years, there has been a political backlash against the politics of remembrance. In the United States, controversy loomed particularly concerning public monuments related to the Confederacy. In Brazil, the National Truth Commission played a pivotal role in provoking resistance from the military, which perceived the commission as a threat to its reputation and an attempt to undermine the institution (Atencio, 2019). Similar resistance has emerged against inclusionary measures such as historical education, affirmative policies, and other efforts to address racial inequality in various countries. The politics of memory has, in fact, become a fertile ground for far-right movements, which exploit resentment by arguing that reparative policies unfairly burden individuals for crimes they did not commit.

Indeed, the subjective attribution of responsibility in the context of the politicisation of memory often disregards traditional legal standards for establishing culpability. Those who bear the costs of reparations are frequently not the same individuals or entities responsible for the violations being addressed (Maier, 2003). This disentanglement of guilt and responsibility often triggers resentment and fosters political discontent among those burdened by its costs. Under unfavorable political conditions, the roles of victim and perpetrator may not be transcended but rather revitalized.

Indeed, the concepts of victim and perpetrator have been treated through a standardizing lens (David, 2020, pp. 60–64). First, they are regarded as two clearly distinct and recognizable groups. Second, each group is assumed to be internally homogeneous – you have the victims and the perpetrators. Finally, these groups are seen as diametrically opposed to one another (Borer, 2003). On the ground, however, reality is far more complex. These are rarely two separate and homogeneous groups. As Borer (2003, p. 1090) notes, "within the group of victims, not all victims are the same." The same holds for perpetrators. Moreover, these categories are rarely easy to distinguish from one another. In contexts of deep conflict and grave human rights violations, many individuals can be seen as both victims and perpetrators.

In practice, the definition of victim and perpetrator is also a highly political matter. Examining the work of the South African Truth and Reconciliation Commission, Borer found that the commission struggled to make nuanced distinctions regarding which cases should fall under each category.

Furthermore, militants from the African National Congress (ANC) who fought against the apartheid regime often oscillated in their responses to the TRC's classification. At times, they rejected the label of victims, preferring to be recognized as freedom fighters. In other instances, they resisted being classified as perpetrators for violations committed against civilians, yet at times they accepted responsibility and offered apologies for acts deemed illegal by the commission (Borer, 2003).

The attribution of the roles of victim and perpetrator, as contingent as they are, becomes not only a subject of politicisation but also a crucial resource in power struggles. National political elites often exploit the moral framework of memorialisation to advance political agendas tied to the reinforcement of national identities. Indeed, "a traumatic element of the past is often hijacked by a state elite and (re)constructed to serve that elite's own needs" (David, 2020, p. 174). This is frequently achieved through the reinforcement of ethnic identities, which were at the roots of the conflicts which caused the violations in the first place. As Mann observes, elites are fond of replacing class with ethnicity as a form of social distinction, "capturing and channeling class-like sentiments toward ethnonationalism" (Mann 2009, p. 5).

The homogenisation of victimhood also imposes a rigid framework in which individual experiences must be simplified to conform to the model of "an ideal victim" (David, 2020, p. 15). Victim-centered reparative policies often require individuals to continuously validate their victim status, forcing them to live their lives in reverse, perpetually defined by their traumatic past. This backward-looking orientation restricts the possibility of change and, in turn, facilitates "the (re)production of nationalist ideology and the petrification of the imagined community, based on ethnicity or religion" (David, 2020, p. 200). Paradoxically, this dynamic reinforces the very divisions and root causes of the conflicts that these policies are meant to address. As David puts it:

> Memory projects sponsored by the state, such as commemorative practices, national calendars, history textbooks, and museums and monuments, even if they nominally adopt the human rights memorialization agenda, filter this content in such way as to (directly or indirectly) give additional weight to the category of ethnicity and belonging, clearly marking group attachment boundaries.

The politics of memory operates on multiple levels. It plays a crucial role in politicizing the past, sometimes reviving past traumas and conflicts, bringing them into contemporary reflection and decision-making. Legally, there is little doubt that crimes should be prosecuted in accordance with the applicable law. However, the politics of memory extends beyond legal adjudication, using the framework of victim and perpetrator identification to shape policies aimed at addressing the deep social problems and conflicts caused by collective trauma.

Memory is thus treated as a psychological collective resource – almost as if it were a social pathology in need of intervention. Accordingly, therapeutic measures of healing are devised to reconstruct social reality, considering the traumas a society has endured. The politics of memory carries thus the risk of a moralizing approach that turns it into an absolutist and inflexible way of addressing social distinctions. In this sense, it is not truly political. It leaves little room for compromise or negotiation and does not allow for defeat as part of the process. Failing to remember past crimes is equated with dismissing the sanctity of the victim, making it a morally unacceptable position.

This moralisation of politics, built around the victim/perpetrator distinction, reinforces rigid group identities. While such a framework may be understandable from the perspective of victims seeking legal justice, its ability to contribute to meaningful societal repair remains uncertain. The dynamic of moralized responsibilisation creates a totalizing and dualistic logic, making it difficult to move beyond the past. Memory, in this framework, becomes a commandment to preserve the past indefinitely, rather than a resource for transformation (Baer & Sznaider, 2017). Ultimately, this makes it harder not only to envision a future beyond historical trauma but also to address the structural dynamics that gave rise to conflict in the first place.

This is why I believe alternative approaches to understanding social memory and the framing of reparative policies are necessary. Perhaps an approach not so deeply embedded in legal reasoning – one that moves beyond the search for victims and perpetrators and the logic of responsibilisation – could be more effective in achieving lasting transformation of social structures.

Social Memory Without Subjectivity: A System-Theoretical Perspective

Systems theory offers an interesting alternative for addressing societal challenges related to past traumatic experiences. Indeed, this theoretical approach conceptualizes social memory as entirely independent of individual psychological experiences or the mere aggregation of personal memories. This is because it understands society not as the outcome of interactions between individuals but as the continuous reproduction of communication:

> The system of society is accordingly characterized, not by a specific "nature," let alone a specific morality (spread of happiness, solidarity, the harmonization of living conditions, reasoned-consensual integration, and so on), but solely by the operation that produces and reproduces society: communication.
>
> (Luhmann, 2012, p. 35)

Communication, in turn, is not understood as the mere transmission of information but rather as an operative event. Luhmann argues that conceptualizing communication as simply the "transfer of information" assumes an ontological structure that does not reflect how meaning is actually produced (Luhmann, 1995, p. 140). In reality, the understanding of information is entirely independent of the utterance that conveys it. At a fundamental level, the distinction between information and utterance, as well as the difference between utterance and understanding, are always the result of selective operations that produce a certain meaningful content while excluding a vast range of other possibilities.

Since communication relies on these selective processes, it does not depend on the psychological state of the individuals involved. Understanding occurs autonomously, often in the absence of the communication partners themselves – particularly in cases involving written language (Luhmann, 1995, pp. 162–170). While communication necessarily depends on certain infrastructural elements – such as human cognitive abilities, language, writing, and speech – it operates according to its own internal dynamics, independent of what takes place in individual minds (Luhmann, 2013a, pp. 188–195). Of course, communication needs the existence of individuals to come about, but these individuals are not understood as a part of communication itself. They are seen as psychological systems which remain necessarily outside the self-reproductive and self-referential process of communication, which is thus defined as a social system.

Communicative social processes consist of the self-observation of communication through communication itself: a continuous process in which distinctions – such as those between information and utterance – are recursively produced and understood through new distinctions. In this sense, social systems consisting of communication are *autopoietic*. They are self-referential and recursive processes which reproduce themselves exclusively on the basis of their own previously established distinctions (Luhmann, 1995, p. 143, 2012, pp. 49–55). And the distinction between a social system and its environment is also a theoretical distinction that can be made by the system itself, as it self-observes, or by a third observer, a social system as science, for instance, which observes on the basis of its own distinctions.

A systems-theoretical approach to social memory must follow the same premise: it must conceptualize memory as independent of the psychological recollections of individuals. This is not to deny that individuals have personal memories. However, these memories can only become socially relevant if they are expressed as meaningful communication within society. In other words, individual memories can only gain significance to society through the autopoietic reproduction of meaning (communication) (Esposito, 2002, pp. 16–19). Indeed, it is hard to imagine how personal recollections can acquire any meaning without relying on (social) communication, even for the individuals themselves.

Moreover, communication occurs only as actual events of distinction, so to speak, as observations of differences through differences in the present.

Communication must always connect to previous communication, but it operates exclusively in the present (Luhmann, 2012, pp. 22–23). This precludes any understanding of memory as a resource, as if it were an accumulation of information about the past. Rather, memory must be understood as an actual observation of information about the world. "Memory operates always necessarily in the present" (Esposito, 2002, p. 31). Any distinction between the past and the present is itself a temporal distinction constructed in the present by the system that observes.

For Luhmann, social memory must therefore be understood as an expression of the operational recursivity of social systems. It is the condition that allows the system, despite the constant flow of ever-new operations, to maintain its identity, by retaining meaning while forgetting everything which is not relevant for the necessary repetition of its communicative operations. As Luhmann puts it:

> Memory is not simply a repertoire of past facts but above all the organization of access to information. This organization – and not what really happened in the past – is what leads to its use in concrete operations, which can only be executed in the present.
>
> (Luhmann, 2004a, p. 137)

The memory of a social system provides for the production of redundance and coherence on the basis of the observation of its own past, ensuring that the system maintains a degree of consistency in its own functioning operations (Esposito, 2002, pp. 29–32). In other words, for a system to continue reproducing the difference between itself and its social and natural environment – while sustaining its own way of observing what it identifies as reality – it must also preserve its identity by being able to refer to past communicative operations (Luhmann, 2012, p. 351). This does not mean that the system is its memory. Memory exists only because the system operates through communication. The object of social memory is the system's semantics and the distinctions which serve the reproduction of meaning. The past that the system remembers is not an objective record of its history but rather a structure of meaningful distinctions that it retains to continue functioning according to its own self-referential distinctions, making possible the reproduction of its identity. Other observers can always introduce alternative interpretations of a system's past. And the past remains, to a certain extent, always a present fictitious systemic observation.

Some societies allow for greater or lesser degrees of variation in their communicative operations, but such variation must be managed in a way that does not compromise the system's internally reproduced operative distinction from its environment, that is, its consistency. Increased variation introduces more contingency and uncertainty, which the system must handle without allowing its self-description (identity) to collapse entirely.

The greater the system's tolerance for variation, the more it must rely on selective mechanisms to determine what to remember and what to forget (Esposito, 2002, p. 31). A system that does not forget remains trapped in the repetition of the same operations, ultimately limiting its capacity to remember because it lacks the ability to generate new distinctions. As Luhmann puts it, "the main function of memory therefore lies in forgetting, in preventing the system from blocking itself by congealing the results of earlier observations" (Luhmann, 2012, p. 349). Forgetting is thus as important as remembering for the reproduction of social memory.

Social memory can take different forms according to systems theory (Esposito, 2002, p. 37). Some societies expand their memory capacity by increasing their ability to forget past meaning, while others remember less because they lack sufficient mechanisms for forgetting. The form that social memory assumes depends on various factors. First, it depends on how society reproduces communication, whether through oral, written or digital communication. More importantly, it depends on the degree of internal differentiation of a given society. In what follows, we are going to approach the memory function of previous societal forms. But we are going to give special attention to the social memory of modern society.

The Memory of Modern Society

According to systems theories, societies may organize their reproduction in very different ways. This means that social systems can emerge within social systems, observing the previous whole system and other existing systems as their environments (Luhmann, 2013b, pp. 1–10). This is called system differentiation. Indeed, there may be many different social systems within a societal system, and these systems may relate in different ways to each other. Historically, there have been basically three different primary forms of societal differentiation: segmentation, stratification and functional differentiation (Luhmann, 2013b, pp. 1–16).

In segmentary societies, system differentiation occurs according to the reproduction of a strict "similarity of societal subsystems, distinguished on the basis of either descent (kinship) or residential communities or a combination of the two" (Luhmann, 2013b, p. 13). These societies allow for very little contingency, as their primary structure is designed to maintain uniformity among subsystems. Any deviation introduces risks that may destabilize the system's reproduction without providing compensatory mechanisms for re-stabilisation. One could surely argue that social change emerges precisely through the disruption of established structures. Communicative operations may fail due to the negation of some communicative utterance, due to conflict, or environmental pressures, but communicative breakdown does not inherently lead to the establishment of a new form of communication (Luhmann, 2004b). For communication to persist, it must rely on extremely selective structural conditions, especially on a set of established semantic distinctions that form the basis of social memory.

Segmentary societies, however, lack formal mechanisms for storing communication that can serve as selective criteria for the maintenance of consistency. Without writing, communication occurs primarily through concrete interactions, which are experienced as sequential events rather than abstract representations (Esposito, 2002, p. 40). The repetition and recognition of past operations necessary for reproducing systemic identity rely almost entirely on individual memory, preventing the emergence of an autonomous social memory. Under such conditions, social memory remains tied to concrete places, persons, and objects. A mountain, a specific elder, or a sacred object may serve as memory anchors, embodying collective knowledge and ensuring its transmission. Elders, in particular, often hold authoritative memory, functioning as the system's primary mechanism for ensuring continuity and stability (Luhmann, 2004a, p. 138).

In stratified societies – including those organized around center–periphery differentiation – social differentiation takes the form of ranked inequality among subsystems. The basic structure of this form "lies in a two-sided distinction, that between nobility and commons" (Luhmann, 2013b, p. 13). Unlike segmentary societies, where kinship serves as the primary organizing principle, stratification is based on recognized differences in wealth and power, which gradually erode any collective perception of society as an undivided whole of kin members. This shift allows for the emergence of centralized political rule and the establishment of religious institutions governed by a clergy (Luhmann, 2013b, p. 51). Every communicative operation must, in some way, relate to the reproduction of hierarchical distinctions between existing subsystems.

Stratification develops "not through the decomposition of a whole into parts," rather it emerges "as a result of an upper stratum differentiating out and closing itself off" (Luhmann, 2013b, p. 54). Social position is determined by birth, and inclusion in one social stratum implies exclusion from another. To belong to society means to belong to a specific social subsystem, with all its associated privileges and structured relationships (Hespanha, 2001; Luhmann, 2013b, p. 55). Closure occurs structurally through endogamy but is also reinforced semantically, maintained through a carefully cultivated symbolic representation of aristocratic superiority.

One of the key factors enabling stratification is the written word, which plays a pivotal role in stabilizing hierarchical structures across different domains of social life. Writing allows for the construction of a shared cultural framework that ensures the endurance of ranked distinctions. In stratified societies, social memory is primarily the memory of the upper-ranking classes. Their semantics establish the criteria for the production and reproduction of communication within the broader society. Through the management of written texts on ethics, ontology, and religion, society produces a distilled ideology, that is, a structured set of schematisations that shape how issues are framed and addressed in accordance with the dominant societal semantics. These schematisations function primarily through simple forms of distinction, which facilitate the reproduction of communication. One such distinction is the ontological binary of being/non-being, which reflects the notion of being as an expression of perfection (Esposito, 2002, pp. 114–125; Luhmann, 2013b, pp. 183–195). Another is the conflation of ethics and nature, which leads to the association of moral goodness with what is natural – that which exists in nature and is therefore seen as inherently perfect. This semantic structure reinforces the perceived moral superiority of the upper ranks, portraying their privileged position as a natural fact rather than a social construct, and thus legitimizing their dominance (Luhmann, 2013b, pp. 209–219).

Religious narratives, artistic representations of reality, and history as a source of knowledge about virtue and morals become memory resources preserved in written texts. These can be accessed through rhetorical devices and employed to reduce the burden of justification associated with maintaining existing structures (Esposito, 2002, pp. 149–171). Social memory thus reinforces the unity of society despite its internal differences, under the symbolic representation of the heads of society, its aristocratic ranks.

Things change dramatically with the long but radical shift to functional differentiation, the defining form of differentiation in modern society. "Functional differentiation is based on an operational closure of functional systems, including self-reference" (Luhmann, 2013b, p. 88). While under stratification, each subsystem must be defined in relation to others according to a hierarchical structuration of the societal order, in functional differentiation, each system generates its own self-identity through recursive self-referential operations. This occurs through the emergence of highly specialized forms of communication within each functional system, each dedicated to addressing a specific societal problem. The legal system specializes in the stabilisation and generalisation of normative expectations. The economy specializes in the provision of societal future needs. Politics in the provision of societal capacity for making collectively binding decisions. And so on.

To achieve operational closure as self-referential subsystems, functional systems must not only specialize in a societal problem (a function) but also establish a binary code that enables them to reproduce their own communication solely through reference to their internal operations (Luhmann, 2013b, pp. 90–91). In law, for example, all communication operates within the distinction between lawful and unlawful. The same principle applies to other functional systems: science (true/false), love (beloved/unloved), economy (having money/not having money), education (approved/not approved), and politics (government/opposition). Functional systems must further develop mechanisms of self-observation that enable them to maintain their operations through the structured oscillation of their code – while navigating a social environment they cannot control. This environment consists of other subsystems, none of which are subject to a common societal memory that guarantees an overarching order between them (Luhmann, 2013b, p. 105).

The internal oscillation of the code may become blocked if the system fails to achieve consistency and avoid the paradoxes inherent in its own distinctions. To prevent this, functional systems develop programs and self-descriptions that regulate the distribution of their specific binary code (Luhmann, 1995, pp. 442–448). Programs may assume the form of conditional rules of application for the codes. For instance, investment programs govern the circulation of money in the economy, legal norms define lawfulness in the legal system, and scientific theories establish criteria for truth in science. Additionally, functional systems condense certain semantic artifacts into more stable forms. These include values, which aspire to universal application and remain open to discussion and reinterpretation; scripts, which serve as heuristic rules for applying concepts and definitions; and classification schemes (schemata) that structure semantic distinctions (Luhmann, 1995, pp. 41, 317; 2013b, p. 321). Through these different levels of semantic self-observation and self-description – programs, scripts, schemes, self-narratives, and historical accounts of their own evolution – functional systems establish an internal memory.

The social memory of functional systems provides the framework for selecting relevant information while ensuring systemic consistency. This happens with the help of extremely efficient technological means, such as the printing press, mass media of communications and digital storage of information. Each system, therefore, develops layers of semantic structures that enable its self-observation, accessing an incommensurable amount of information about past operations (Esposito, 2002, pp. 187–213). The disposal of more information about past operations allows the system more options regarding what it can forget at any moment, without the risk of losing past information permanently. Systemic semantics "regulate what can be forgotten and remembered, thus determining what of the past remains present; and they hence also regulate the oscillation scope of the future" (Luhmann, 2013b, p. 106). The system must forget to be able to remember. And through forgetting, it enhances the flexibility of its internal oscillation, allowing it to process and adapt to the growing complexity of its environment. The most important feature of the systemic memory function under functional differentiation, therefore, is the expansion of the possibilities of forgetting thanks to the expansion of the system's capacity to access past information. Social systems thus can remember from a broad pool of information in the light of new selective pressure coming from the environment.

As a society shifts from stratification, "it can then no longer distribute the people who contribute to communication among its subsystems as it had been able to do under the stratification schema" (Luhmann, 2013b, p. 87). Individuals can no longer be assigned to functional systems as if they belong exclusively to one of them – such as law, economy, politics, education, religion, science, or the arts. Inclusion and exclusion are no longer determined by membership in a family, village, or social rank but rather by each individual's unique history of interaction with various functional systems throughout their lifetime. From a societal perspective, an individual biography reflects the ways in which a person has engaged with different domains over time – family, education, economy, politics, arts, sports, science, religion, and more. This personal history can be observed from the standpoint of individual self-reflection. It can be remembered, forgotten, and even subjected to processes of reinterpretation, adaptation, and enhancement (Luhmann, 1989, pp. 232–237). However, such self-reflection has little impact on how society reproduces its own communication, which operates through the recursive, self-referential processes of functional systems. Communication about an individual's history (as his personal memories) becomes socially relevant only insofar as individuals serve as meaningful addressees within the organisations and functional systems of modern society (Luhmann, 2012, p. 353).

Functional differentiation has two key consequences for the understanding of social memory. First, the pluralisation of communication across distinct functional systems leads to a corresponding pluralisation of social memory. Since modern society reproduces itself without any overarching order or central coordination, relying instead on the self-referential operations of functional systems – each guided by its own codes, programs, values, and self-descriptions – social memory also becomes highly fragmented. It is not stored in a single shared repository but is distributed across various functional domains, each with its own internal logic and selective mechanisms (Luhmann, 2012, pp. 348–358). The memory of the legal system, for instance, involves the information about past cases, scripts and schemata – such as legal theoretical concepts – as well as the self-observation of its own historical development. But all this information (stored in libraries, archives, and now increasingly in digital form) is always accessed only on the basis of the present operation of the system, according to the system's own programs and selective mechanisms.

The second consequence concerns how society observes itself as a whole. In functionally differentiated societies, communication is structurally reproduced within distinct subsystems, meaning that no single perspective can claim to represent society as a whole. Sociology, for example, observes society from within the scientific system, but its descriptions remain bound to the scientific code (true/untrue). The society that sociology (a subsystem of science) describes cannot claim universal validity across other functional domains (Luhmann, 2013b, pp. 335–345). The economy, for instance, does not adjust its operations based on sociological insight. It continues to operate through payments and the logic of financial transactions. Similarly, politics operates based on the distribution of power, largely indifferent to sociological descriptions of society; this is the same for religion, sports or the law, even if sociological descriptions may be insightful for legal reasoning or for scientific reflection about the economy, through economics.

The only mechanism capable of producing a shared reality in modern society is the mass media, which generates relevant communication by distinguishing between what is and what is not newsworthy (Luhmann, 2000, p. 18). This capacity to shape a collective perception of reality is crucial for the political system, as it enables the formation of a public opinion – an essential internal mechanism for political observation of the social environment in which political decisions are made. However, the reality of the mass media is also very limited in scope. It cannot directly influence the distinct realities produced by other functional systems, each of which continues to observe its environment through its own codes, programs, and self-descriptions (Luhmann, 2000, p. 7). While one might speak of a social memory emerging from the production of a mass culture as the result of mass media communication, this culture faces inherent limitations in bridging the deep opacity of functional memories within each system (Esposito, 2002, pp. 253–273; Luhmann, 2000, p. 102).

This raises several questions: What can mass culture do in the face of the structural autonomy and selective memory mechanisms of each functional domain? Is it anything more than a selection of information already produced by other functional systems? Can mass culture provide a functional equivalent to the encompassing social memory once supplied by religious and metaphysical descriptions of reality in previous forms of differentiation? Given the increasing fragmentation of the mass media in the last decades, and the acceleration of the flow of news and of the criteria to decide what is deemed as relevant, it seems increasingly unconvincing to suggest that mass media could serve as a collective memory in a functionally differentiated society.

Functional differentiation itself seems to undermine the very possibility of an overarching social memory as an expression of collective experience – at least in a way that could meaningfully shape the reproduction of society as a whole. If the politics of memory is expected to intervene in society's self-description to the point of altering social operations, then we must approach such expectations with far greater caution.

Memory and Reparation beyond Responsibility

What does a systems-theoretical approach to social memory contribute to the field of reparative politics and the politics of memory? To begin with, systems theory provides a compelling framework for understanding social memory as a fundamental mechanism through which societies reproduce themselves in the present. This perspective shifts the focus from memory as a static repository of past events to memory as an active process that shapes how societies interpret and structure their present reproduction. Consequently, reparative policies can be understood not merely as efforts to acknowledge historical injustices but as interventions that seek to reshape the very ways in which society understands and processes its past.

By conceptualizing social memory as an essential function of communication, systems theory bridges post-structuralist critiques of subjectivity with an empirical account of modern social differentiation. This approach offers a valuable perspective for those seeking to intervene in societal structures, whether to address historical traumas or to challenge forms of exclusion and oppression embedded in the contemporary forms of social reproduction. At the same time, if social memory is a condition for the reproduction of society at all levels, systems theory also provides important insights into how its production and reproduction unfold. These insights may lead to alternative interpretations to those that currently dominate the field of reparative politics.

For systems theory, every social system develops a memory because it must continuously test its own identity and maintain internal consistency. Social memory thus emerges as a semantic structure that regulates what is retained from past operations, ensuring the system's continuity in the present through the reproduction of the internal difference between the system and its environment. Every new operation, occurring exclusively in the present, must connect to the distinctions that made previous operations possible. The semantic frameworks that structured past interactions remain active, exerting influence on the present. Yet, the function of memory in a social system is not merely about remembering. It must also involve forgetting. Indeed, social systems must forget much more than remember. A system that remembers everything risks being paralyzed by its past, endlessly repeating what has been rather than remaining open to the contingencies of what may come. Forgetting is therefore not an incidental feature of memory but an intrinsic function of its operation.

Social memory, in this sense, is the capacity to manage both retention and forgetting. It is the selective preservation and discarding of past meanings and distinctions that continue to shape present communication. This has direct consequences for reparative politics. Any attempt to intervene in social reproduction must not only focus on remembering but also recognize the necessity of forgetting. Semantic frameworks that shape the reproduction of society may not only preserve the memory of past traumas but also perpetuate the very distinctions that originally structured them. Research on moral memorialisation suggests that rigid victim/perpetrator narratives can reinforce collective identities and social framings that contributed to historical oppression in the first place (David, 2020). Thus, reparative politics must go beyond the reaffirmation of past injustices; it must actively engage with the selective processes of remembering and forgetting that may unsettle and transform the frameworks through which society reconstructs its past and produces its future.

As Baer and Sznaider have argued, the politics of memory is often too focused on condensing past experiences, distinctions, and semantic artifacts (Baer & Sznaider, 2017). This perspective assumes that merely affirming past events is sufficient to overcome and prevent their traumatic consequences.

Yet, as they note, while past traumas shape how society constructs its self-understanding, they can also lock society in its past. A society that remembers only for the sake of remembering risks being trapped in a backward-looking existence, unable to open itself to a future that does not merely continue the traumatic experience but instead allows for renewed forms of life, despite the presence of past suffering (Baer & Sznaider, 2017, pp. 132–151). Here, the concept of social memory as a structural function that simultaneously produces remembrance and forgetting becomes especially useful. The politics of memory, rather than moralizing memory as an end in itself, could instead be understood as an effort to manage memory by consciously shaping the distinction between what is remembered and what is forgotten. The way a society remembers should not be limited to reaffirming past traumas. It should also engage with the active forgetting of social structures and semantic frameworks that originally enabled these traumatic events.

Systems theory also provides an alternative perspective on subjectivity and responsibility, with significant implications for the concept of social memory.

Within the legal system, the notion of legal subjectivity is of decisive importance. A legal subject is defined by its capacity to exercise freedom and, as such, it must carry responsibility (Luhmann, 1993, p. 56). Responsibility is the counterpart of the idea of subjective rights. It is, in fact, an expression of freedom and the reciprocity it entails. Hence, if all individuals are seen as free subjects with subjective rights, they must also accept reciprocal duties and be held accountable (Luhmann, 1993, p. 73). Within the field of reparative politics, the idea of responsibility forms the basis for the legal construction of the perpetrator, while the idea of reciprocity between legal subjects underpins the dichotomy between victim/perpetrator (Belavusau, 2023; David, 2020).

If we conceive of the politics of memory and reparation as an effort to overcome historical traumas and structural injustices, a post-structuralist social theory, such as systems theory, may offer interesting theoretical tools for understanding how the past shapes present social structures.

Yet, by using the idea of legal subjectivity to produce responsibilisation beyond the realm of the legal system, one may be confusing very different understandings of societal reproduction. If one understands social memory as being important because social discourse about the past can be relevant to the reproduction of present and future societal communication, one should be ready to accept the consequences of this idea. Namely, that society is not composed of subjects but of communication. The notions of legal subjectivity and responsibilisation are not ontological givens but rather contingent societal constructs, discursive artifacts that emerge within the legal system and remain operative only within its boundaries.

Moreover, if one remains committed to the liberal tradition in which responsibility is understood as an expression of subjectivity, then it becomes difficult to justify holding contemporary subjects accountable for historical events with which they have no direct personal relation. Personal responsibilisation plays a crucial role within the legal system, but when transposed to other social domains, it introduces the assumption that society is primarily driven by the actions of autonomous, accountable subjects. This assumption, however, stands in contradiction to the very idea of social memory as a continuous structural process, in which past experiences are carried forward through systemic communicative operations. A theoretical framework that simultaneously relies on a subject-centered conception of society and a systemic understanding of social memory attempts to reconcile two entirely different theoretical grammars.

In this regard, systems theory unequivocally rejects the notion that subjects are the foundation of society. A complex modern world society must do without any foundational principle, as there is no authoritative center to which it can turn for security or a final criterion by which society itself can be defined. Science cannot fulfill this role, nor can political ideology, the arts, love, or the law. Despite attempts by certain regional cultures, such as the European tradition, to universalize their experience of subjectivity as the standard for understanding the reproduction of legal and political systems, contemporary world society appears as an inherently diverse and complex unity – a *unitas multiplex* (Luhmann, 1997).

All forms of communication in modern society operate as distinct perspectives in recursive, self-referential processes. This means that world society necessarily accommodates multiple forms of communication, all taking place simultaneously, each asserting its own relevance within its respective domain. In modernity, as Lefort observes, the idea of a singular source of legitimacy capable of defining society as a whole makes sense only within totalitarian ideologies (Lefort, 1986).

The politics of memory and reparation must therefore account for this plurality of communicative dynamics. If its goal is to alter societal structures, it should not conceive of social memory as a collective accumulation of information but rather as the organisation of access to information across different social domains. Accordingly, the social memory that sustains and reproduces experiences of suffering does not consist of a unified, overarching interpretation of past events structured around the victim/perpetrator distinction. Instead, it emerges from the multiple communicative processes that regulate access to past operations, maintaining distinctions that might continuously shape exclusionary and traumatic relationships between individuals or groups as addressees of communication (Teubner, 2006).

Experiences of trauma are often the result of the violent exercise of state power. In cases of war and mass human rights violations, the state or politically organized collectives frequently act as central agents of violence. However, their actions are rarely reducible to the immediate political conflicts in which they are involved. Instead, they are embedded in broader social dynamics that extend beyond the specific moment of crisis. The politicisation of conflict is often itself a consequence of deeper structural mechanisms operating within society.

The politics of memory should not, therefore, abandon the principle of personal responsibilisation for crimes. In most cases, this should be impossible without violating international law and, consequently, the integrity of the legal system itself. Attempts to avoid the application of national and international law in cases of gross violations of human rights usually depend on political decisions, which are possibly violations in themselves. In systemic terms, refusing to apply the law is not an act of forgetting. It is rather often a political obstruction of the legal system's self-referential reproduction, shaped by power hierarchies.

However, reparative politics must not remain confined to the framework of legal responsibility. Thinking reparation beyond responsibilisation requires an approach that is attuned to the multiplicity of forms of social reproduction. This applies not only to different cosmologies, which remain relevant within world society, but also – and more importantly – to the functional systems that structure social life globally (Holmes, 2024).

In concrete terms, this means that reparative efforts should not be limited to political frameworks that rely on the identification of opposing collective subjects as victims and perpetrators. Instead, they must engage with more subtle semantic structures and distinctions, which are often less directly politicized or, at the very least, do not align neatly with conventional political cleavages. Moreover, forms of exclusion and symbolic violence are not confined to a particular ideological orientation. Often, they are not even confined to the group of perpetrators. In many cases, perpetrators are also victims, and victims may themselves become perpetrators, complicating any rigid dichotomy between the two (Borer, 2003).

A reparative approach that is sensitive to the diversity of social memory and its subtler forms of exclusion and oppression must, therefore, turn its attention to the structures, programs, schemata, self-descriptions, and historical narratives embedded within functional systems and their organisations.

Take, for example, the way access to education is structured. Certain social patterns of selection and evaluation can have exclusionary effects based on gender, ethnicity, or even broader cultural affiliations. The criteria used to assign grades and certify academic achievement may seem arbitrary to those who do not conform to the implicit model for which these standards were designed. In today's society, a degree is often a prerequisite for access to power, legal rights, and economic opportunities. Entire groups or categories of people may find themselves structurally excluded simply because the semantic and structural frameworks that regulate the access and reproduction of educational decisions have remained largely unchanged regarding its hegemonic frameworks.

Quota systems, such as those implemented in Brazilian public universities, exemplify an attempt to shift the self-description of the educational system by modifying its recruitment criteria, programs, and schemata. These policies have profoundly altered the demographic profile of students entering higher education, challenging long-standing exclusionary structures. Crucially, empirical evidence now demonstrates that these measures have not compromised academic excellence (Rocha-Vidigal, 2016). On the contrary, students admitted through quota systems often perform as well as, or even slightly better than, their peers who entered through traditional selection processes. This suggests that the established semantic patterns were not necessarily meritocratic but were instead the product of rigid and historically embedded distinctions that structured access to past academic achievement based on semantic structures, causing social exclusion.

In the economic system, decision-making is often structured around short-term schemata and programs, such as the three-month financial reporting cycles of publicly traded companies. These cycles dictate the allocation of investment without necessarily considering long-term sustainability, environmental risks, or the exclusionary effects they may have on specific social groups and communities. The memory function of the economy also tends to reinforce structural biases in how resources and opportunities are distributed. One clear example is the persistent undervaluation of women's labour, despite comparable levels of productivity. Similarly, recruitment patterns for leadership positions in economic organisations often reflect entrenched social hierarchies rather than objective measures of output. Corporate cultures, in turn, may perpetuate exclusionary practices through implicit norms that disadvantage certain groups, even when explicit policies claim to promote diversity and inclusion.

Management and organisation studies have documented various initiatives aimed at altering the way organisations operate to foster greater inclusivity (Okatta et al., 2024). These efforts range from internal diversity policies to external pressure mechanisms, such as public shaming and naming campaigns, which seek to hold corporations accountable for discriminatory practices vis-à-vis consumers and other economic stakeholders. Another significant approach involves influencing investment decisions by integrating ethical and social criteria into financial programming, shifting the way economic actors perceive risks and opportunities (Zumbansen, 2010). Through such interventions, the economy's memory structures – its implicit frameworks for assessing value and distributing resources – can be adjusted to disrupt patterns of exclusion and structural disadvantage, by giving new meaning to past systemic operations.

A similar dynamic can be observed in the domain of love and intimacy. Certain cultural representations of love may reinforce exclusionary norms, shaping how affection is experienced and reproduced. These frameworks often reflect hierarchical or narrow conceptions of subjectivity, historically shaped by heterosexual, male-centered perspectives, and structured according to bourgeois, Western, and European standards. Such limitations not only marginalize emerging forms of love and family but also constrain existing structures from achieving adequate self-description and self-realisation.

These semantic (and as such structural) frameworks can always be changed. New forms of describing relationships and reciprocal narratives of affection can emerge and be included in the conversation of mass media and the arts. Film, literature, and visual culture can play a crucial role in challenging and reshaping dominant relationship norms. Likewise, shifts in everyday life – whether in urban or rural contexts – can make visible new forms of family and affective bonds. The question, then, is not simply what should be remembered, but also what should be forgotten. The culture of gay pride provides a clear example of how alternative visions of family and relational structures have gained broader social acceptance, expanding the possibilities for intimate and domestic arrangements beyond historically dominant paradigms.

To think about memory and reparation beyond responsibility does not mean disregarding the importance of responsibilisation altogether. Rather, it requires expanding the scope of how memory and reparative efforts are conceived. The legal system undoubtedly plays a central role in addressing criminal actions, and its continued operation is vital for the stability of other functional systems in modern society. However, when used as the primary framework for addressing structural injustices, the legal paradigm of responsibilisation may offer less than it appears. Its focus on individual culpability often falls short in altering the deeper operational structures of other functional systems. If reparative policies are to be truly effective, they must move beyond legal responsibility and engage with the broader, more intricate mechanisms through which social memory and systemic exclusion are produced and reproduced.

Final Remarks

The semantic framework typically employed to address reparations for past violations is often confined to a political extrapolation of the language of criminal law. While this may be necessary within the legal system, it is unlikely to be sufficient when dealing with the far more complex and diffuse forms of hierarchical social distinction and exclusion. How can one meaningfully address the harm caused by centuries of aesthetic marginalisation through the language of responsibility and compensation? How can one redress inequalities in love and affective relations through legal frameworks designed for individual accountability? The narrow conception of subjectivity inherent in responsibilisation seems inadequate for a society characterized by a multiplicity of communicative forms and systemic processes, such as the modern functionally differentiated society.

The effort to remember and to repair must be seen, thus, as a multiple effort that cannot depend on broad and simplified explanations about responsibilisation across so different societal domains. If the goal is to alter deeply rooted structures of exclusion and oppression, then it is necessary to focus on the specific dimensions in which exclusionary communication operates. These mechanisms are embedded in subtle distinctions across academia, the arts, the judiciary, political institutions, and bureaucratic structures, among others. Reparation must thus assume a more finely tuned and structurally adaptive approach – one that is not only more context-specific but also less prone to political instrumentalisation.

Moreover, if we adopt a post-structuralist understanding of memory as a social mechanism that actualizes past forms of exclusion, oppression, and violence within present communicative practices, then resorting to the framework of individual responsibilisation becomes highly problematic. Legal responsibility is built upon the concept of legal subjectivity, which is fundamental to the operation of the legal system. However, when transposed to other social domains, this notion assumes that subjects constitute the foundation of society – an assumption fundamentally at odds with the post-structuralist perspective, which conceives society as a product of communication rather than of autonomous subjectivities.

If society operates as a self-reproducing system that perpetuates its distinctions through recursive communication, then framing memory and reparation solely as a matter of holding subjects accountable becomes increasingly incoherent. Repairing and reconfiguring broken chains of meaning is not about attributing blame but about intervening in the present. It requires continuous and multifaceted efforts to register and reframe suffering within the very contexts where it is socially reproduced.

Shifting the frames through which a given system describes reality can have a tangible impact on its operative structures. Social structures, in turn, may evolve and reinforce the emergence of new semantic frameworks, reshaping the ways in which social systems reproduce themselves. Remembering, in this sense, is not merely about preserving the past as a fixed entity but about inscribing new semantic pathways into the present. Reparation, therefore, depends not only on acknowledging past injustices but on actively transforming the semantics through which the reproduction of social structures takes place in the present.

It is about remembering as well as about forgetting.

Note

1 Here, I tend to prefer the notion of global regime as advanced by Fischer-Lescano and Teubner. See: Fischer-Lescano and Teubner (2004).

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