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Thomas Paine on Agrarian Justice and Reparations

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The issue of reparations has been one of the most enduring debates in American history.[1] Historically, the demand for justice for African Americans for centuries of slavery, segregation, and discrimination has covered several distinct categories of redress, including *reparations* as compensation for wrongful injury, *compensation* for loss suffered for any reason, and *restitution* by way of relinquishing gains that were derived from wrongdoing, but not necessarily that of the beneficiary.[2] While legal efforts by former slaves to seek compensation for their labor date back to the revolutionary period, the first serious public considerations about government assistance to support victims of slavery arose in the context of General Sherman's famous Special Order No. 15 promising "40 acres" (and Thaddeus Stevens would add "a mule") to freed slaves, proposals to compensate freed slaves with confiscated Confederate land,[3] and the creation of the Freedmen Bureau by Congress during the Reconstruction period following the Civil War.[4] This was followed in the last decade of the nineteenth century by failed efforts to establish a pension for former slaves. The issue of reparations would emerge seriously again with the civil rights movement of the 1950s and 1960s in the form of Martin Luther King Jr.'s call for compensation for unpaid slave labor and Charles Forman's 1969 "Black Manifesto," which demanded $500 million be paid in reparations by America's "White Christian Churches and Jewish Synagogues" to fund the creation of a "Southern Land Bank," African American–controlled media outlets, and an African American university.[5]

The question of reparations resurfaced in 1989 in the wake of the Civil Liberties Act, which provided compensation for surviving Japanese-American victims of internment, when Representative John Conyers introduced the first version of what is now known as HR 40, a measure calling for Congress to create a commission to study the matter of reparations for African Americans. The turn of the century witnessed renewed interest in reparations with the publication of Randall Robinson's *The Debt: What America Owes to Blacks* (2000) and more recently Ta-Nehisi Coates's much-publicized advocacy of reparations in a lengthy and substantive article in *The Atlantic*.[6]

The debate about reparations is unavoidably complex. Arguments in support of reparations vary in their theoretical orientation, including communitarianism,[7] critical republicanism,[8] Robert Nozick's version of libertarianism,[9] and a constitutional-legal approach.[10] Even among supporters of the idea of reparations some focus on reparations for slavery,[11] while others emphasize redress for the injustice of segregation[12] or for more recent forms of discrimination such as relating to housing.[13] There is also disagreement over whether reparations ought to be paid to individuals or disbursed to African American–controlled groups and programs.[14]

The opposition to reparations in America includes both practical concerns about the potential enormous costs of reparations and theoretical (sometimes counterfactual) objections,[15] but arguably the most influential argument against reparations is the normative claim that individuals today cannot be held morally responsible for past injustices.[16] Advocates of reparations often identify some form of the characteristically liberal conception of the autonomous self as the main theoretical source of this objection to reparations insofar as liberalism typically denies personal responsibility for historical acts, tends to dismiss any connection between injustices of the past and social inequalities in the present, and distrusts the concept of constitutionally protected group rights.[17] As Anthony Cook describes it, the "liberal ontology of individual autonomy" presupposes "pre-social spheres of privacy and property rights that thwart and negate redistributionist claims or requirements of individual

fault and causation that relieve communities of responsibility for the past."[18] There thus seems to be a strong presumption among many scholars that liberal ideas about property rights and individual moral responsibility are particularly antagonistic to the concept of reparations for historic injustices.

Paine and Reparations

One important exception to having this tendency to dismiss classical liberalism as a support for reparations is Bernard Boxill, who nearly two decades ago made the case for a Lockean argument for reparations. Boxill argued effectively that John Locke, "the first great liberal philosopher," would, "if he reasoned consistently from his principles" regarding the right of inheritance, likely endorse reparations for African Americans.[19] I want to suggest that Thomas Paine is another important early liberal resource for reconsidering the issue of reparations. Paine has long been celebrated or condemned, depending on one's political persuasion, for his model as the intellectual *engagé* in the American and French Revolutions, but in more recent times there has been renewed interest in Paine as a serious political theorist in the classical liberal tradition.[20] In particular, Paine's political economy has been subject to considerable debate among scholars. Some commentators see Paine as the bourgeois champion of laissez-faire individualism and the minimalist "night watchman" conception of government.[21] Others identify Paine as an intellectual forerunner of working-class radicalism and the social welfare state.[22] However, commentators seldom fully appreciate the significant evolution in Paine's thought that signaled an important paradigm shift from a model of government based almost entirely on protection of pre-civil individual rights, especially property rights, in his early works such as *Common Sense* (1776) through to a reformed liberal model of social welfare in his later *Rights of Man, Parts I and II* (1791–1792), and finally the more seasoned Paine's conception of political economy in his last major work, *Agrarian Justice* (1796), in which he advocated the creation of a "National Fund" designed to compensate the landless poor for the dispossession of their natural right to a share in common ownership over natural property.

For Paine, insofar as the system of landed wealth in European countries originated in a massive act of theft hardened into custom and law over centuries of oppression, then, the only way to restore legitimacy to the social contract is by the institution of an expansive system of reparations to the millions of landless poor who are victims of this historical and structural injustice. Herein Paine outlined a complex political structure that placed the claims of private property in perpetual negotiation with the needs of a democratic society, whose commitment to equality is challenged by the effects of historical injustice and inequitable economic development. That is to say, Paine modeled an idiom for discussing and debating reparations that is rooted in the liberal tradition of natural rights theory.

At this stage, I need to make a few points about my scope and methodology. The debate about reparations is controversial and deeply divisive. It is far beyond the aim or scope of this article either to address fairly all objections to reparations or to present a comprehensive argument in favor of reparations. Rather, I seek to shed some light on a specific aspect of this debate relating to the possible connection between the characteristically liberal idea of natural rights and at least one approach to reparations illuminated by reflection upon Paine's natural rights philosophy. I am not arguing that Paine's proposals in *Agrarian Justice* are directly applicable to slavery. As author of the 1775 pamphlet "African Slavery in America," Paine is often credited as one of the first prominent abolitionists in American history.[23] In this early tract, Paine advocated that emancipated slaves be given land "upon reasonable rents" so that "all may have some property, and fruits of their labours at their own disposal . . . with civil protection."[24] By insisting on the need to "repair these injuries" caused by slavery, Paine is one of the first thinkers to recognize African Americans as a people to whom American governments have an obligation.[25] However, it is reasonable to enquire why Paine later chose to focus his theorizing on historical inequities experienced by European peasants and seemed to leave other questions such as reparations for slavery to be addressed through logical extension. One reason

is biographical inasmuch as Paine's mature thoughts on reparations in 1796 were the product of years of reflection upon the generational effects of poverty in his adopted homeland of France. Sadly, the later years of Paine's life after his return to America were troubled and philosophically unproductive. As such, we have no record of Paine applying the principles of the National Fund to the issue of reparations for slavery in America. But we do know that Paine resumed his antislavery efforts when he returned to the United States as evinced by his public call for, and his private efforts to persuade President Jefferson to support, banning slavery in the Louisiana Purchase territories.[26] Moreover, the radical tradition dating back to Paine's *Agrarian Justice* was recognized as an ideological inspiration for a later generation of abolitionists such as William Lloyd Garrison, who adopted Paine's motto "Our Country Is the World, Our Countrymen Are Mankind" as one of the anthems of the antebellum antislavery movement.[27]

However, it is perhaps more appropriate to describe Paine's contribution to the reparations debate in America in terms of its relevance for the historical inequality including not only slavery but also segregation as well as more recent discrimination. Obviously, Paine's concept of natural shared property is not morally translatable to the horrors of slavery: denying individuals and groups access to shared property is in no sense morally equivalent to claiming property in the bodies of other human beings. Similarly, slavery was not a gradual structural process like the dispossession of the poor in Europe but was, as Alexis de Tocqueville judged, a form of "spiritualized despotism and violence."[28] But as some supporters of reparations have noted, there is perhaps a disadvantage in basing the argument on slavery alone because it is too distant in the past and raises questions about the culpability of people today.[29] For instance, William Darity and A. Kirsten Mullen argue that the debate about reparations "must include contemporary, ongoing injustices."[30]

I hope to show that Paine is well suited to contribute to this broad approach to thinking about the issue of reparations. For example, the racial wealth gap in America, which is often viewed as

a good metric for inequality, arguably is the product of generational poverty and discrimination. Paine was acutely sensitive to how unjust practices of dispossession can become the structural basis for generational socioeconomic inequality. His argument for distributive justice by way of the National Fund can with some modification account for a concept of inequality that persists long after the end of legal slavery.[31] Paine also challenges proponents of natural rights theory to reflect upon the moral meaning of property by offering a sophisticated political vocabulary for discourse about historic injustices that draws on a distinctly liberal vernacular and in this sense broadens the intellectual context of contemporary debates about reparations.

"Non-Ideal" Theory

As recent studies have shown, the central ideas of liberalism such as "rights" and "property" were highly contested and fluid concepts in the eighteenth century.[32] Thus, while remaining sensitive to the dangers of anachronism, it is also important to recognize that there is much we can learn by recovering the complexity of intellectual traditions in order not only to explain and conceptualize our normative intuitions but also to understand and critique contemporary theory and practices. In this regard, several landmark studies in the history of political thought compel us to reconsider the issue of racial and sexual inequality in foundational political theories such as liberalism.[33] Perhaps the most important aspect of Paine's thought that pertains to reparations today is the extent to which it exemplifies what philosopher Charles Mills identified as "non-ideal" theory—that is, a "naturalized" contractual model designed to explain how unequal societies come into existence.[34] I will propose that Paine's argument for a "National Fund" in his *Agrarian Justice* is a prime example of the emancipatory potential of non-ideal contract theory.

For Paine, the practical impossibility of ever completely reconciling individual private property rights derived from labor or purchase, on the one hand, and the common shared right to "natural property," on the other, leads to what I call *the politics of*

adjustment. This version of historically aware liberal politics is based on the moral imperative to restore a measure of natural equality without abandoning the benefits of economic productivity accruing from a system of private property. At the same time, Paine affirms the normative commitment to remedy the injustice of excluding any group in society from the shared benefits of commonly owned natural resources. Paine thus provides a unique vantage point in liberal political theory that makes it possible to reconsider the dominant interpretation of that tradition; for inasmuch as Paine's contract theory exposed the origin and continuing structural causes of inequality, his use of the contract motif potentially challenges the conventional authority claims used to justify socioeconomic inequality.

Paine's innovative version of the non-ideal contract not only sanctioned but also actually required a regularized system of redistributing wealth as a means to repair historical injustice targeting identifiable disadvantaged groups in society. Needless to say, Paine's theoretical model for addressing economic inequality through government actions does not respond to all possible objections to reparations for historical injustice, nor does Paine provide a great deal of practical guidance about how reparations could be implemented in a way that is effective and equitable to all parties in liberal democratic societies today. Recovering Paine's idea of "national justice" may, however, offer a recognizably liberal response to some of the standard theoretical objections to reparations that seem too often to practically foreclose meaningful discussion of this important topic. Before examining Paine's potential contribution to the contemporary debate about reparations, we must consider the main features of his teaching about property and rights.

From the Night Watchman to the Welfare State

The central premise of Paine's political theory in his 1776 pro-independence pamphlet *Common Sense* is a version of John Locke's natural rights philosophy. Paine contrasted Locke's account of the origins of government and society with "some writers" (most

likely Thomas Hobbes) who "have so confounded society with government, as to leave little or no distinction between them."[35] Whereas the Hobbesian version of natural rights theory presupposes that there can be no justice, and even no society at all, without the sovereign's governing sword, Paine followed Locke by insisting that society and government "are not only different, but have different origins" (CS 66).[36] Society is the sphere of voluntary interaction that covers economic, social, and familial intercourse directed primarily by natural individual desires and interests. Government, in contrast, is emphatically artificial, "produced by our wickedness," and designed to restrain "our vices" (CS 66). Society binds a community together through promoting happiness and uniting affections, whereas government "creates distinctions" based on individual legal claims. In sum, society is "a patron" and government is "a punisher" (CS 66).

While Paine insists that society is "in every state a blessing" and government at best "a necessary evil," these distinct conditions reflect two aspects of the economic foundations of political society (CS 66). Paine followed Locke in affirming that a system of voluntary exchange of goods and even currency does not require the coercive power of the state.[37] Paine's account of the origins of government in *Common Sense* is Lockean in that it presupposed a negative original commons, by which no part of the earth belongs to any one individual exclusively of the rest of humankind.[38] The negative original commons in Locke's state of nature meant that acquiring property requires labor but does not demand the consent of others to justify private property derived from the original common. For Paine, the first concern of settlers "in some sequestered part of the earth" (CS 67) would be about acquiring property to satisfy their needs. But the intrinsic limits of physical labor drive individuals unavoidably into cooperation: "The strength of one man is so unequal to his wants, . . . that he is soon obliged to seek acquaintance and relief of another, who in his turn requires the same" (CS 67). The economic necessity that compels individuals to leave the "state of natural liberty" means that government in its essence is as limited in scope as society is comprehensive in the

range of economic and social activities it includes. The first governments were emphatically minimalist, only issuing "regulations" enforced purely by public esteem (CS 68). Paine's account of society allowed for a range of economic activities, what Locke calls "promises and bargains for truck," that do not depend on the institution of civil government but rather presuppose the rational capacity "for truth and keeping of faith" among people (CS 67).[39] Insofar as government is a "necessary evil," for the early Paine it at least has the virtue of simplicity in its proper goal—namely, to protect the rights of personal security and property.

Paine's most extensive philosophical examination of the origin and meaning of natural rights is contained in his two-part *The Rights of Man* (1791, 1792).[40] This landmark work is notable not only as it illuminates Paine's political theory but also in its being an eloquent response to Edmund Burke's scathing attacks on the French Revolution. In contrast to Burke's argument that political rights derive from conventions that harden over time, Paine countered that if one attempts to trace the origin of rights back "by precedents drawn from antiquity," the effort is doomed to result in infinite regression, for each generation in the past had ancients of their own, just "as we shall also be ancients in our turn" (RM 215). Given the impossibility of discovering through historical examination when the rights of man assumed reality, the logical default is that these rights must be natural, for here "our reason finds a home" (RM 215).

Burke famously dismissed "metaphysic rights" of nature as politically irrelevant until "emerging into common life, like rays of light which pierce into a dense medium," they "undergo such a variety of refractions and reflections, that it becomes absurd to talk of them as if they continued in the simplicity of their original direction."[41] It is only "the rights of men under governments" in particular communities that produce "advantages."[42] For Paine, in contrast, natural rights constitute the logical and moral "foundations of all civil rights" in any polity (RM 217). He drew from the principle of natural equality the radical conclusion that as for "every child born" today, "the world is as new to him as to the first man that existed"

(RM 216).[43] Being born equal, all individuals partake in the "common interest [that] regulates their concerns, and forms their laws" (RM 266). Instead of the cooperative economic activities highlighted in *Common Sense*, Paine now emphasized the problem of inequality, which he attributed to the "excess and inequality of taxation" caused by bad government policies (RM 269). So badly has unwise tax policy distorted the natural harmony of economic interests in society that "a great mass of the community are thrown thereby into poverty and discontent" (RM 269). Government, then, is not just the "necessary evil" described in *Common Sense* but becomes, in the context of *ancien régime* France (not to mention Georgian England), a positive evil as the prime cause of severe economic inequality.

It is perhaps fair to wonder whether Paine's decree that every generation begins the world anew is in principle more antagonistic toward the idea of reparations than is Burke's historically grounded argument. But I believe we can address this concern in a few ways. First, Paine's emphasis on the freedom of each generation to govern and shape their social and political reality did not reflect a dismissal of intergenerational moral responsibility. Rather, for Paine, natural equality provides a normative standard to measure and critique the inequality produced by legal conventions and economic practices. In this sense, reparations could be justified as a mechanism to operationalize the capacity of each generation to start life afresh and with real equal opportunity. Second, Burke's historicized conception of society arguably offers little genuine support for reparations inasmuch as, for Burke, the moral condemnation of past injuries is typically neutralized by what he would take to be the salutary social effects of institutions and conventions originally produced by these injuries (an original conquest, for instance). Thus, Burke would probably reflexively reject any attempt at reparations that threatens to vitiate historically grounded political settlements that in his view have coalesced into viable national institutions.

In the closing section of *Rights of Man, Part II*, Paine proposed a series of reforms that would serve the double purpose of

(1) ending the government practices that produced extreme inequality in the first place and (2) providing some measure of immediate poor relief. Enlightened governments must restore equity to the revenue-raising system by introducing progressive taxation and eliminating the historical "poor rates" so as to shift the tax burden from the middle classes to the more affluent segments of society. Paine also demanded dramatic cuts in military spending and the elimination of patronage positions littered with corrupt "placemen" (RM 342). Arguably Paine's most radical proposals in *Rights of Man* are his plans for poor relief. These measures include direct annual payments to the elderly, a government donation of twenty shillings upon the occasion of each wedding and new birth, government subsidies to support the education of poor children, and the establishment of workhouses that would effectively guarantee full employment at least in the nation's capital (RM 350). Perhaps what is most remarkable about Paine's anti-poverty proposals is that he interpreted these policies as "not of the nature of a charity, but of a right" (RM 337). Paine's message, then, coming out of the *Rights of Man* is that economic inequality is a problem that revolutionary governments will need to address in the transitional phase in the progress from feudalism toward the establishment of the natural rights republic.

Agrarian Justice and Historic Injustice

Paine's last major work, *Agrarian Justice* (1796), signifies a radical extension of the social welfare themes of the *Rights of Man*.[44] However, Paine's chief antagonist was no longer the British conservative Burke but rather the proto-communist French revolutionary Gracchus Babeuf, who conspired to produce a popular revolt against the government of the Directory in 1795. Paine's fundamental argument is that the system of landed property in economically advanced countries has deprived the vast majority of inhabitants of their "natural inheritance" to the common property of the nation (AJ 477). The revenue source Paine introduces as the mechanism to indemnify the victims of landed property is a "National Fund" supplied by a "ground rent" system of estate taxes on landed holdings (AJ 477, 476).

In contrast to earlier works in which Paine adopted Locke's negative original commons by which no one by nature owned anything in the external world, in *Agrarian Justice* Paine's argument shifted by introducing the Grotian conception of the positive original commons in which everyone by nature does have some claim to part of the original commons (AJ 472).[45] Paine declares there are two kinds of property: (1) "natural property" that comes from the "Creator of the Universe," such as earth, air, and water; and (2) "artificial property," which is the "invention of men" (AJ 472). The kind of property produced by labor is in this view "artificial," whereas "natural property" represents the positive original commons. Paine dismissed the possibility of establishing equality respecting "acquired" property because doing this would require that "all should have contributed in the same proportion, which can never be the case" (AJ 472). But with the concept of natural property, Paine now identified a kind of property for which full private ownership is morally impermissible.

The traditional objection to the positive original commons was that it would require the entire human race to consent in order for any individual to acquire property rights in any particular thing.[46] But Paine's adoption of the positive original commons model in *Agrarian Justice* reframed the issue of consent: why would individuals consent to their own permanent dispossession of that to which they enjoy a natural right with everyone else? The dichotomy between society and government that had been so prominent in Paine's early writings is replaced in *Agrarian Justice* with the bifurcation involving "civilization" and "nature." "Civilization" is the term Paine used to identify the socioeconomic condition in which the majority of people no longer have access to natural property that originally belonged to all. The main purpose of Paine's "reformed legislation" is "to preserve the benefits of what is called civilized life, and to remedy at the same time the evil which it has produced" (AJ 474). Perhaps surprisingly given his previous enthusiasm for progress in *Rights of Man*, Paine now declares that the proposition that civilization produces happiness is one "that may be strongly contested" (AJ 474).[47]

The central feature of Paine's critique of civilization is the moral problem of inequality. Paine asserts that poverty is "a thing created by that which is called civilized life. It exists not in the natural state" (AJ 475). Unlike the equality enjoyed by those such as the "Indians of North America," who live in the "natural and primitive state of man," civilized life is characterized by dazzling "splendid appearances," as well as shocking "extremes of wretchedness" (AJ 474). Paine does not deny that the "natural state is without those advantages which flow from agriculture, arts, science and manufactures" (AJ 475). But for Paine, the human misery caused by poverty reflects an important psychological injury that seems to arise precisely because the inequality is relative. The class divisions in civilized countries with this comparative dimension have such a scarring effect on the development of human personality that Paine insists the life of "an Indian is a continual holiday, compared with the poor in Europe" (AJ 475).[48] Thus, civilization stands accused of producing conditions for millions of people "in every country in Europe" that means they are "far worse" off than if they had been born before civilization began (AJ 475).

Civilization is a paradox for Paine. On the one hand, a return to the natural condition is both impossible and undesirable because "man in a natural state, subsisting by hunting, requires ten times the quantity of land to range over to procure himself, than would support him in a civilized state, where the earth is cultivated" (AJ 475). Thus, in heavily populated civilized lands only one-tenth of the inhabitants would survive the return to nature. On the other hand, civilization ensures that the rich and poor are "like dead and living bodies chained together" in social conditions in which the poor become like a "hereditary race" (AJ 482, 484). But neither the benefits nor the evils of civilization can be determined on purely utilitarian grounds because reason tells us that every individual is by nature a "joint-life proprietor with the rest in the property of the soil and in all its natural production, vegetables and animals" (AJ 476). How, then, did the idea of landed property and the subsequent massive economic inequality arise?

The original source of this inequality is labor, which Paine concludes is the source of the improvement made to the earth through cultivation. More precisely, the source of landed wealth derives from the fact that "it is impossible to separate the improvement made by cultivation from the earth itself" (AJ 476). Paine rejects the right of first occupant because a given laborer "had no right to locate as his property in perpetuity any part of it" (AJ 476). Ownership of land became possible only when the value of the improvement created by labor so far exceeded the value of the earth at that time "as to absorb it" (AJ 477). Is Paine in agreement with Locke that labor created the value that added something to a common resource that thereafter produced a morally valid claim to private ownership?[49] There is clearly some truth to this notion insofar as Paine calculates that cultivation has increased the value of the earth "ten-fold" (AJ 477). This figure is, however, considerably less than the thousandfold increase in value produced by labor in Locke's assessment.[50]

Nevertheless, for Paine the undeniable advantages produced by cultivation do not outweigh the fact that the "landed monopoly" characteristic of civilization "has produced the greatest evil" (AJ 477). The great problem of economic inequality comes down to the apparent inseparability of the improvements made by cultivation of the negative commons from the value of the earth itself as the positive commons. This condition sets up the contest of rights claims between "the common right of all" that became "confounded into the cultivated right of the individual" (AJ 477). Labor does not entail the extinguishment of the "common right of all," but it does, in Paine's view, generate a logically and temporally subsequent individual right to the "acquired" property produced by labor. Paine concludes that the coexistence of these "distinct species of rights" is permanent "so long as the earth endures" (AJ 477). The attempt to reconcile these "distinct species of rights" is what I call Paine's *politics of adjustment*, according to which public policy must be directed toward remedying the historical inequality that rests upon the dispossession of a major part of the nation's right to the shared resources of natural property.

The National Fund is a new way to finance the social welfare system that does not rely on progressive taxation and spending cuts but rather is supplied exclusively by an estate tax levied on the inheritors of landed property. While Paine reiterated that justice for the dispossessed is a matter of "right, not a charity" (AJ 477), in *Agrarian Justice* this right is grounded in a historical claim to reparations for damages done, as every proprietor "owes to the community a ground rent . . . for the land which he holds" (AJ 476). The moral obligation imposed on the direct beneficiaries of land ownership, however, presupposes the continuing protection of their property rights by the community. The estate tax plan operates on the assumption that the dispossessed majority of the population can be indemnified for their loss "by subtracting from property a portion equal in value to the natural inheritance it has absorbed" (AJ 478).

The National Fund plan is elegant in its simplicity. The inheritors of every landed estate will pay a 10 percent tax on the value of the estate upon the death of the owner, and more than 10 percent if the owner dies without any direct heirs or close family. The primary beneficiaries of the National Fund would be disabled people—those "totally incapable of earning a livelihood"—and seniors over the age of fifty, all of whom would receive £10 annually (AJ 481–82). In keeping with the earlier proposals in *Rights of Man*, Paine declares that the National Fund "will furnish the rising generation with means to prevent their becoming poor" by providing a £15 start-up fund for each newly married couple (AJ 483). Paine judges that this payment to the "rising generation" is a strategic social investment by the community, for "[w]hen a young couple begin the world, the difference is exceedingly great whether they begin with nothing or with fifteen pounds apiece" (AJ 483). Paine stipulates that the benefits must be universal in order to avoid creating "invidious distinctions" (AJ 478).

The overall purpose of the National Fund is unambiguously redistributionist as Paine predicts that within every thirty-year generational cycle, the entire "capital of a nation, or a sum equal thereto, will revolve once" (AJ 479). But rather than seeing this

approach as a prudential public policy intended simply to defuse class antagonisms, Paine viewed the National Fund reparations scheme in terms of a revolutionary conception of distributive justice: "not a man or woman born in the Republic but shall inherit some means of beginning the world, and see before them the certainty of escaping the miseries that . . . accompany old age" (AJ 487). Paine assumed that the egalitarian imperative in *Agrarian Justice* was a function of restorative "national justice," which would find advocates "in the heart of all nations" (AJ 484, 487).

Reparations and the Politics of Adjustment

Perhaps the most important theoretical innovation in Paine's redistributionist model in *Agrarian Justice* is the adumbration of what Charles Mills identifies as "non-ideal" contract theory. According to Mills, liberal contract theory typified by Locke, based on a conception of the property-owning, autonomous individual, has historically both concealed and justified racial and sexual inequality. However, Mills concludes that there is still much of value in the idea of contract, especially as a way to model the internal dynamics of inequality in liberal societies.[51] In Mills's reformulation of liberal contractarianism, non-ideal theory signifies not only a normative concept but also a descriptive device enabled to explain the actual origin of the state and society. Non-ideal theory explains how unjust, exploitative conditions came into existence, and as such the non-ideal contract motif does not conceal or ratify inequality but rather serves to explain and expose the problems of actual non-ideal polities.[52] As such, the critical function of the non-ideal contract, in Mills's view, offers an important theoretical resource for examining basic liberal intuitions about justice.

My aim in what follows is to illustrate how Paine's use of a non-ideal contract provides the basis for a distinctively liberal approach to reparations, an idea toward which liberalism is normally viewed as being antagonistic.[53] While in *Agrarian Justice* Paine did not directly confront the issue of slavery, the interpretive value of non-ideal theory includes the conceptual flexibility not only to account for gradual deviation from baseline economic equality but also to

address the exclusion of certain groups from national prosperity. Paine's foundational concept of equality is ontological, not legal, as he invokes "the unity of man . . . that all men are born equal" (RM 216). As an early advocate of abolition, Paine was fully aware that the legal idea of the nation in the United States at the time of the American founding did not recognize the full humanity of African American slaves.[54] However, in Paine's version of popular sovereignty each generation finds itself in "an eternal NOW,"[55] and each is charged with reexamining the social contract to determine if the system of social inclusion is consistent with the egalitarian foundations of society.

Much as racial inequality involves legal and informal discrimination based on ascriptive characteristics, similarly Paine believed that economically disadvantaged groups are the product of social distortions arising from a system of private ownership, rather than as the result of biological differences or of individual choices and talents. Paine's argument in *Agrarian Justice* obviously does not capture the violence of slavery, but Paine's phenomenology of rights claiming provides a theoretical grounding for recognizing how past injustice produces effects that endure into the present through structural problems that require a national, as opposed to local or ad hoc, remedy. But is it anachronistic to apply Paine's model for combating inequality based on agrarian landed wealth to a complex capitalist society like the United States today? I suggest it is relevant for several reasons. First, in Paine's account landed wealth represents a broad range of social advantages that flow from economic power, including education, skills, employment opportunities, and better physical health. Paine thus recognized socioeconomic inequality not only in material terms of landlessness but also in the broader context of diminished social capital. As such, Paine's targeted approach to dealing with socioeconomic inequality mirrors the complexity of the modern debate wherein proponents of reparations often insist on the deficiency in using a traditional income gap as the sole measure for the effects of slavery without also compensating for past and continuing discrimination.[56] Second, while what we mean by wealth and inequality includes more

factors than in the past, Paine's basic principle of shared societal benefits remains applicable. For instance, while the wage gap indicates that African Americans earn roughly two-thirds what White Americans earn, the total wealth gap between African Americans and White Americans is much greater with the median household wealth of African American households being only 7 percent that of White households.[57] Reducing this wealth gap, which includes wide variance in the rates of homeownership and home equity, as well as ownership of stocks, bonds, and retirement savings, is often advanced as one rationale for a policy of reparations.[58] Moreover, it is well documented that official federal government practices such as "red lining" neighborhoods continued well into the 1960s and deliberately deprived millions of African Americans of the possibility of homeownership, which is the most important form of wealth for the average American.[59]

A Liberal Argument for Reparations

One prominent communitarian advocate of reparations observed that it would take nothing less than a "paradigm shift" in liberalism to occur in order to render that intellectual tradition capable of remedying racial inequalities.[60] Paine's argument for "national justice" does suggest such a qualified paradigm shift with a complex reformulation of liberal rights theory that expands on, without completely replacing, inherited normative intuitions about property. On the one hand, Paine offered a full-throated traditional liberal defense of private property, or as he puts it, the "cultivated right of the individual" (AJ 477). Even as he asserted the common right to the use of "natural property," Paine insisted, "I equally defend the right of the possessor to the part which is his" (AJ 477). Not only did Paine defend private property, he did so upon characteristically Lockean grounds that labor or "improvement made by cultivation" (AJ 476) is the true source of wealth. Paine concluded that it is precisely because the value of improvements on natural property is so transformative that a return to the natural state existing before the advent of "cultivation, art, [and] science" would diminish the common stock such that perhaps only "a tenth part"

of a nation's inhabitants would survive the process (AJ 475). While Paine acknowledged that the historically unequal accumulation of property is often "the effect of paying too little for the labour that produced it" (AJ 485), he did not deny that labor both produces an exclusive claim on the improvements made and is the source of improved economic and material conditions generally.

However, Paine's treatment of labor has at best only a problematic relation to the case for reparations. Insofar as the improvements made by labor are capable of acquiring an exclusive proprietary right, then it is theoretically possible to construct a claim for compensation for the unpaid and underpaid exploited African American labor that historically generated so much of America's wealth. But there are at least two difficulties with this line of argument. First, Paine acknowledged that it is very difficult to measure the value of this stolen labor because "it is impossible to proportion exactly the price of labor to the profits it produces" (AJ 485). In addition to acknowledging this practical problem, Paine is also sensitive to the moral argument that there may be no direct connection between those deprived of payment for past labor and any individuals living today. Although accepting the obvious moral culpability of individual slaveholders, Paine did not believe that individuals today are responsible for past historic injustice, for "the fault . . . is not in the present possessors" of property; rather, "the fault is in the system," which in the case of feudalism in Europe may have begun to create inequality imperceptibly but gradually assumed terrifying formality with the "agrarian law of the sword" (AJ 478). The temporal character of Paine's natural rights philosophy thus seems to limit reparations to the immediate victims of the horrors of slavery without necessarily ascribing responsibility to its historically indirect, economic beneficiaries.

However, the chief significance of Paine's paradigm shift on property rights lies in the potential to reconsider reparations not solely in terms of compensation for stolen labor but also more radically as recognition of the denial of common ownership of natural property. In Paine's terms, slavery and segregation deprived African Americans of the benefits derived from the land they

themselves conjointly owned by an inextinguishable natural right. The concept of common natural property lends itself singularly well to reparations because unlike private property or state-owned property, which may be understood to involve a right possessed by a natural or an artificial person such as a corporation, common property is always a right possessed by flesh-and-blood individual persons.[61] Thus, reparations claims deriving from historical exclusion from access to the use of common property can never be satisfied by symbolic gestures or formal apologies. Even as harm and damages may be determined on the basis of identifiable group characteristics, the actual reparations must be directed toward repairing damage done to real, natural individuals.

Paine's account of natural property presupposes that determining the value of labor is, historically speaking, only part of economic justice, which requires balancing the undeniable "value of improvement . . . that is individual property" (AJ 476), and the coequal claim of common ownership of "the earth itself," including "the property in the soil" and "all its natural productions, vegetable and animal" (AJ 476). Reparations would, then, amount to a payment of the "ground rent" that is owed by the beneficiaries of the public or private enterprises historically developed by African American labor. Thus, instead of trying to determine reparations based on the valuation of past labor by current measures—an immensely difficult task—Paine's approach allows us to think of reparations in terms of the deprivation of access to resources to which individuals had a right and for which the current valuation can be determined independently of the value of past labor. Exploited labor of slaves is embedded in the historic debate that contextualizes reparations, but labor is not the sole determining factor in the legitimacy of reparations.

Moral Responsibility

Perhaps the most influential argument against reparations is the claim that individuals today, even if beneficiaries of past injustice, are not themselves morally responsible for past actions and therefore cannot be legitimately expected to pay for damages. As

Richard Epstein put it, "Why should my tax dollars go to compensate for wrongs that I did not commit?"[62] As we have seen, central to the case for reparations is (1) the idea that the cause of socioeconomic inequality among African Americans is structural and rooted in historical injustice and (2) the principle that the entire national political community today shares responsibility for historical and continuing injustices. Paine's redistributionist argument in *Agrarian Justice* also presupposes that the cause of inequality is structural. Poverty is not the product of personal conduct: for Paine, "the fault is in the system" (AJ 478). Thus, the individual today is arguably even more absolved of direct responsibility than is true with opponents of reparation such as Epstein inasmuch as Paine would reformulate Epstein's objection to individual responsibility for reparations in terms of the more radical challenge to reparations posed by Jeremy Waldron's "supersession thesis"—namely, why should someone's tax dollars go to compensate for past wrongs when that individual's labor and investments have actually increased the value of natural resources and improved in absolute terms the material conditions of everyone in my society?[63]

Paine's rejection of individual responsibility for reparations for historical injustice derives from his conclusion that the economic forces that produced civilization inevitably created socioeconomic inequality because the benefits of labor are enjoyed primarily by the few and the rest are deprived of the right to use common resources that the dispossessed rightfully in part own. Paine hoped that the redistributionist scheme behind the National Fund would gradually restore equality to society "without diminishing or deranging the property of any of the present possessors" (AJ 478). By this he meant an estate tax directly affects only inheritors, not the "present possessors" per se. While Paine was mindful of the goal to minimize the punitive effect of reparations as experienced by the landed class, he was nonetheless insistent on society's corporate responsibility for establishing and maintaining the system of private property. He insisted, "All accumulation, therefore, of personal property, beyond what a man's own hands produce, is derived to him by living in society; and he owes every principle of

justice, of gratitude, and of civilization, a part of that accumulation back again to society whence the whole came" (AJ 485). The social character of property means that it is as "impossible for an individual to acquire personal property without the aid of society, as it is for him to make land originally" (AJ 485). What does Paine mean by saying that an individual alone—for example, someone shipwrecked on the proverbial desert island—cannot "acquire personal property"? The suggestion seems to be that the individual in this situation would simply be exercising the use right to common property shared in principle by everyone in the human race and would thus not acquire an exclusive right to possess the earth, water, and so on. Personal or private property rights are, then, definitionally social or relational.

How does Paine's account of the social character of property elucidate aspects of the modern American debate about reparations? By emphasizing the social character of property and the structural, as opposed to personal, causes of inequality, Paine presented an argument for reparations that entailed societal, or as Paine described it, "national," responsibility to repair damages caused by the system of private property. However, identifying the structural causes and collective responsibility for reparations is only one aspect of the reparations debate today. Does the traditional ambivalence of liberal theory toward the notion of group rights not make it difficult to conceive how a philosophical liberal could argue for reparations for a particular group (African Americans) to redress specific past unjust acts or practices (slavery, segregation, discrimination)? At first glance, Paine seems to be a poor model for group rights inasmuch as his redistributionist policies appear to fall into the category of general anti-poverty programs marked by the principle of universality.

However, Paine was actually highly sensitive to ascriptive group characteristics, and thus he endorsed an approach to reparations that is in principle adaptable to include the category of disadvantaged racial or ethnic groups. For Paine, history—not nature—accounts for the injustice of inequality. The ontological status of human equality is expressed through "the unity of man"

(RM 216), but civil inequality unnaturally dissolves this unity. It is inequality produced by civilization that creates distinct socioeconomic groups. Natural equality does not, in Paine's view, contradict group claims to justice insofar as human solidarity means that "man is always related to society" (AJ 481). Society, which contains distinct socioeconomic groups, is itself a product of history, not nature. Paine's awareness of the profoundly historical dimension of injustice led him to conclude that the loss of benefits rooted in past acts produces pernicious effects experienced in the present. He declares all that can be done today "is to remedy the evils and preserve the benefits" (AJ 475).

The logic of Paine's politics of adjustment rests on the premise that, historically speaking, civilized life "has absorbed the property of all those it dispossessed, without providing, as it ought to have been done, indemnification for that loss" (AJ 478). Logically, if the loss is experienced in groups, so too should the remedy be group indemnification. The direct beneficiaries of Paine's National Fund are identifiable economically disadvantaged groups such as those individuals with disabilities, the elderly, the unemployed, and young married couples. If Paine endorsed reparations for groups defined by ascriptive characteristics pertaining to age, ability, and stage of life, could we not also in principle extend his reparations argument to racial or ethnic groups when the effect is the same—namely, to produce and perpetuate socioeconomic disadvantages?

Supporters of reparations today claim that systematic discrimination against African Americans originating in the historical injustices of slavery and segregation continues to cause damage and produce disadvantages in present times.[64] Indeed, it is common in the current reparations debate to take the criteria relating to the socioeconomic disadvantages that Paine applies to the elderly and disabled people, such as poorer employment opportunities, lack of equity in capital, and diminished education and health outcomes, as precisely the same criteria used to assess the harmful impact of socioeconomic inequality on African American people.[65] But does Paine's apparent commitment to the principle of universality undermine the justification for

targeted-group benefits? I suggest not insofar as Paine designed his benefits proposals to avoid or reduce "invidious distinctions" (AJ 478) among people rather than deliberately to preclude specific remedial-group categories. The payments from the National Fund go to all unemployed people, all newly married couples, all new parents, all disabled people, and so on regardless of their means. That is to say, benefits would go to all individuals who fall within a defined group, including in principle a racial or ethnic group. In this way, Paine's proposal parallels Martin Luther King Jr.'s vision of reparations in terms of a "massive program by the government of special, compensatory measures."[66]

How specifically would a Paine-inspired version of reparations differ from a general anti-poverty program? Reparations would not fall within the scope of a general anti-poverty program because they are tied directly to repairing damage caused by an identifiable past and to some extent continuing injustice.[67] So, opponents of reparations who argue that general welfare programs serve the function of remedying past injustice misunderstand the idea of reparations.[68] The objective of reparations would not be achieved by increasing public assistance for all poor people, just as the purpose behind Paine's plan to provide support for disabled persons is not achieved by a general welfare program. In both cases the cause of the economic disadvantage is unique. Socioeconomic inequality for African American people may differ in origin and effect from inequality among other Americans, much as the economic challenges facing those Paine identified as the elderly and infirm, for instance, are distinct from those experienced by people in different conditions and at another stage of life. The targeted-group approach to tackling the problem of socioeconomic inequality is conceptually flexible enough to calibrate historically based problems with specific opportunities for improvement. In Paine's proposal for the National Fund, judgments about the application of the fund to various programs and specific objectives would need to be the result of public deliberation and discourse about the unique historical factors that contributed to economic inequality in each nation.

Conclusion

Rather than touting the pristine, androgynous, and ethnically anonymous individual of classical liberal contract theory who acquires property through labor or exchange without fear or favor, Paine offers a theoretical approach to understanding inequality as a product of a number of actual socioeconomic factors such as educational opportunities, good housing, and psychological support networks that bear in addition to economic wealth. Does Paine's general approach to remedying structural socioeconomic inequality account for the historical context of slavery in America? Paine's fundamental conviction that poverty is not natural, that it is a historical product of "civilization," made him sensitive to the dangers of an exploitative conception of property emerging in certain unjust historical circumstances. Paine certainly subscribed to the notion that civilization produces artificial hierarchies. He even drew the analogy between socioeconomic inequality and race: "The great mass of the poor in all countries are become an hereditary race" (AJ 484). By a "hereditary race," Paine seems to indicate not only a group of people distinctly characterized by poverty in material terms. Rather, Paine's analogy between poverty and race also reveals his sensitivity to the complex psychology of "status" as a kind of property inasmuch as the landed classes promote an ideal human type that enjoys both economic affluence and a host of social factors that contribute to an exclusive conception of personhood and citizenship. For Paine, "the great mass of the poor" living under feudalism are considered by their rulers to be less than fully human and inherently unequal to them. Paine, therefore, viewed private property as a potentially amorphous concept that can absorb the social pathologies that make it possible, in lieu of remedial effort, to justify a massive system of exclusion from the benefits of shared resources.

I have proposed that there is nothing in Paine's thought that would render it intrinsically incapable of addressing the problem of the historical effects of slavery and discrimination. Paine was keenly aware that when there is no fundamental norm to limit the exclusive individual property right, an unhealthy concentration of

wealth is unavoidable. He also recognized that the concept of private property can itself incorporate prejudices about supposedly inherited group characteristics. Paine thus implicitly contrasted the ontological grounding of a shared right to "natural property" with the "artificial" inequality produced by cultivation. By emphasizing the need to reconcile through direct government action the valid moral claims of individual private property, on the one hand, and the common ownership of natural property, on the other, Paine's version of liberalism points toward a way to identify the problems produced by a conception of property that contradicts a morally and logically prior right inhering in all inhabitants of the nation to not be excluded from the benefits of common resources and some equitable measure of the economic achievements of the national community.

This study has tried to illustrate that Thomas Paine's effort to establish the social character of property provides a kind of model for how liberal theory can reconsider how to repair the damage caused by historical injustice through comprehensive remedial state action. In this respect, Paine challenges many of our assumptions about the liberal tradition and calls on us to be sensitive to the conceptual fluidity and diverse rhetorical fields that form the intellectual contours of a foundational political theory such as liberalism. While Paine's treatment of property rights provides a fertile ground for reflections upon reparations, it is also unavoidably limited with respect to both how we contextualize the horrors of slavery and how we negotiate the important practical questions that would necessarily arise in public discussion about reparations today. Paine's account of distributive justice offers neither a comprehensive argument for reparations nor a response to all possible objections to reparations in the American context today. But arguably, despite these limitations, Paine shows how characteristically liberal vocabulary and concepts can be a constructive element in meaningful debate about an important question such as reparations often arbitrarily dismissed in the current context as alien to the theoretical foundations of the American liberal tradition.

Notes

1. Of course, the debate over reparations for the Atlantic slave trade extends beyond the United States, also to include nations in Latin America, Europe, the Caribbean, and West Africa (see Ana Lucia Araujo. *Reparations for Slavery and the Slave Trade: A Transnational and Comparative History* [London: Bloomsbury Academic, 2017]).
2. David Lyons, "Reparations for Slavery and Jim Crow: Its Assumptions and Implications," in *The Oxford Handbook of Philosophy and Race*, ed. Naomi Zack (Oxford: Oxford University Press, 2007), 507–8.
3. Peter C. Myers, *Frederick Douglass: Race and Rebirth in American Liberalism* (Lawrence: University Press of Kansas, 2008), 145–47; and Bernard R. Boxill, "Black Reparations," in *The Stanford Encyclopedia of Philosophy*, Summer 2016 ed., ed. Edward N. Zalta, https://stanford.library.sydney.edu.au/archives/sum2012/entries/black-reparations/.
4. See W. E. B. DuBois, *The Souls of Black Folk* (New York: Dover, 1994 [1903]), 9–24.
5. Martin Luther King Jr., *Why We Can't Wait* (New York: Harper & Row, 1964), 152; and Boris Bittker, *The Case for Black Reparations* (New York: Random House, 1973), 159–75.
6. Ta-Nehisi Coates, "The Case for Reparations," *Atlantic Monthly* 313, no. 5 (May 21, 2014): 1–62, http://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631.
7. Anthony Cook, "King and the Beloved Community: A Communitarian Defense of Black Reparations," *George Washington Law Review* 68, no. 5–6 (July/September 2000): 959–1014.
8. Magali Bessoni, "From Reparations for Slavery to International Racial Justice: A Critical Republican Perspective," *Global Justice: Theory Practice Rhetoric* 9, no. 2 (2016): 178–98.
9. According to Robert Nozick's "entitlement theory," a rectification program may be justified if the current distribution of wealth came about originally as the result of a violation of individual rights (see Robert Nozick, *Anarchy, State, and Utopia* [New York: Basic Books, 1974], 153). But cf. Alasdair McIntyre's critique of liberal individualism precisely on the grounds that it rejects reparations for historical injustice by means of a concept of the self "detachable from its social and historical roles" (Alasdair McIntyre, *After Virtue: A Study in Moral Theory*, 3rd ed. [Notre Dame, IN: University of Notre Dame Press, 1981], 221).
10. Bittker, *Black Reparations*.

11. Randall Robinson, *The Debt: What America Owes to Blacks* (New York: Dutton, 2000); and W. Burlette Carter, "True Reparations," *George Washington Law Review* 68, No. 5–6 (July/September 2000): 1031.
12. Bittker, *Black Reparations*, 28; and Robert Fullinwinder, "The Case for Reparations," in *Redress for Historical Injustices in the United States: On Reparations for Slavery, Jim Crow and Their Legacies*, ed. Michael T. Martin et al. (Durham, NC: Duke University Press, 2007), 131.
13. Jonathan Kaplan and Andrew Valls, "Housing Discrimination as a Basis for Black Reparations," *Public Affairs Quarterly* 21, no. 3 (July 2007): 255–73.
14. Bittker, *Black Reparations*, 71–86; and William Darity and A. Kirsten Mullen, *From Here to Equality: Reparations for Black Americans in the Twenty-First Century* (Chapel Hill: University of North Carolina Press, 2020), 264–66.
15. The counterfactual argument rejects reparations on the (rather perverse) grounds that the recipients of reparations for slavery today would not have existed as a people if not for slavery. See Michael Levin, "Reverse Discrimination, Shackled Runners, and Personal Identity," *Philosophical Studies* 37, no. 2 (February 1980): 143; Christopher W. Morris, "Existential Limits to the Rectification of Past Wrongs," *American Philosophical Quarterly* 21, no. 2 (April 1984): 176–77; and Derek Parfit, "Future Generations: Further Problems," *Philosophy & Public Affairs* 11, no. 2 (Spring 1982): 113–72.
16. Richard A. Epstein, "The Case against Black Reparations," *Boston University Law Review* 84, no. 5 (December 2004): 1177–92; David Horowitz, "The latest civil rights disaster: Ten reasons why reparations for slavery are a bad idea for black people—and racist too," *Salon.com*, May 30, 2000, https://www.salon.com/2000/05/30/reparations/; Morris, "Existential Limits"; and Levin, "Reverse Discrimination." Another influential version of this objection is Jeremy Waldron's argument that the historic wrongs committed by the ancestors of individuals living in settler societies today have been "superseded" by changing circumstances that now enjoin joint ownership with indigenous peoples (Jeremy Waldron, "Superseding Historic Injustice," *Ethics* 103, no. 1 [1992 October]: 20–28).
17. Cook, "King and the Beloved Community," 959, 965–68; and Carter, "True Reparations," 1028–29.
18. Cook, "King and the Beloved Community," 1012.
19. Bernard R. Boxill, "A Lockean Argument for Black Reparations." *Ethics* 7, no. 1 (2003): 63.

20. E.g., Robert Lamb, *Thomas Paine and the Idea of Human Rights* (Cambridge: Cambridge University Press, 2015); Clement Fatovic, *America's Founding and the Struggle over Economic Inequality* (Lawrence: University Press of Kansas, 2015); Gregory Claeys, *Thomas Paine: Social and Political Thought* (London: Routledge, 1989); and Jack Fruchtman, *The Political Philosophy of Thomas Paine* (Baltimore: Johns Hopkins University Press, 2009).
21. E.g., Joseph Dorfman, "The Economic Philosophy of Thomas Paine," *Political Science Quarterly* 53, no. 3 (September 1938): 386; Eric Foner, *Tom Paine and Revolutionary America* (Oxford: Oxford University Press, 1976), 146; Michael Foot and Isaac Kramnick, eds., "Editor's Introduction," *The Thomas Paine Reader* (London: Penguin Classics, 1987), 26–27; Craig Nelson, *Thomas Paine: Enlightenment, Revolution and the Birth of Modern Nations* (New York: Viking Penguin, 2006), 290; Harvey J. Kaye, *Thomas Paine and the Promise of America* (New York: Hill and Wang, 2006), 136; and Michael J. Thompson, *The Politics of Inequality: A Political History of the Idea of Economic Inequality in America* (New York: Columbia University Press, 2007), 145, 159–60.
22. E.g., William Christian, "The Moral Economics of Tom Paine." *Journal of the History of Ideas* 34, no. 3 (September 1973): 367–68; Claeys, *Thomas Paine: Social and Political Thought*, 99–100; John W. Seaman, "Thomas Paine: Ransom, Civil Peace and the Natural Right to Welfare," *Political Theory* 16, no. 1 (February 1988): 122; Michael Zuckert, "Two Paths from Revolution: Jefferson, Paine, and the Radicalization of Enlightenment Thought," in *Paine and Jefferson in the Age of Revolutions*, ed. Simon P. Newman and Peter S. Onuf (Charlottesville: University of Virginia Press, 2013), 252–53; and Fatovic, *America's Founding*, 221–60.
23. Robinson, *The Debt*, 24, 51.
24. Thomas Paine, "African Slavery in America," in *The Thomas Paine Reader*, ed. Michael Foot and Isaac Kramnick (London: Penguin Classics, 1987), 55.
25. Paine, "African Slavery," 55. Boxill ("Black Reparations") ascribes this status to Thomas Jefferson, although Paine's proposal predated by several years Jefferson's discussion of the state-supported colonization of emancipated slaves in his *Notes on the State of Virginia* (Thomas Jefferson, *Notes on the State of Virginia* [New York: Penguin Classics,1999], 145).
26. As Adam Rothman observes, Paine also proposed that land in the Louisiana Territories be given to free people of color (Adam Rothman,

Slave Country: American Expansion and the Origins of the Deep South [Cambridge, MA: Harvard University Press, 2005], 32–33).

27. See Manisha Sinha, *The Slave's Cause: A History of Abolitionism* (New Haven, CT: Yale University Press, 2016), 36, 257, and 353, for Paine's legacy among abolitionists in America. I thank an anonymous referee for the *Political Science Reviewer* for drawing my attention to this connection.
28. Alexis de Tocqueville, *Democracy in America*, trans. Harvey Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000), 347.
29. Kaplan and Valls, "Housing Discrimination," 256; Fullinwinder, "Case for Reparations," 131; and Bittker, *Black Reparations*, 9–10.
30. Darity and Mullen, *From Here to Equality*, 5.
31. While in *Agrarian Justice* Paine identified the systemic character of socioeconomic inequality, he also clearly recognized the moral culpability of individual slaveholders as well.
32. See Duncan Kelly, *The Propriety of Liberty: Persons, Passions and Judgments in Modern Political Thought* (Princeton, NJ: Princeton University Press, 2011), 1–2; and Duncan Bell, *Reordering the World: Essays on Liberalism and Empire* (Princeton, NJ: Princeton University Press, 2016), 70, 62.
33. E.g., Carole Pateman, *The Sexual Contract* (Stanford, CA: Stanford University Press, 1988); and Charles W. Mills, *The Racial Contract* (Ithaca, NY: Cornell University Press, 1997).
34. Mills, *Racial Contract*, 5–7.
35. Thomas Paine, "Common Sense," in *The Thomas Paine Reader*, ed. Michael Foot and Isaac Kramnick (London: Penguin Classics, 1987), 66. Hereafter in notes and text CS and page number.
36. Cf. Thomas Hobbes, *Leviathan*, ed. Edwin Curly (Indianapolis: Hackett, 1994 [1651]), chap. 13, sec. 5–8; and John Locke, *Two Treatises of Government*, ed. Lee Ward (Indianapolis: Hackett, 2016 [1690]), *Second Treatise*, sec. 13, 19, 21.
37. Although this early Paine was appreciably more optimistic about the prospects of society without government than the more sober Locke (see Locke, *Second Treatise*, sec. 13).
38. Locke, *Second Treatise*, sec. 25–28.
39. See also Locke, *Second Treatise*, sec. 14.
40. Thomas Paine, "The Rights of Man, Parts I and II," in *The Thomas Paine Reader*, ed. Michael Foot and Isaac Kramnick (London: Penguin Classics, 1987), 201–364. Hereafter in notes and text simply RM and page number.

41. Edmund Burke, *Reflections on the Revolution in France* (Buffalo, NY: Prometheus Books, 1987 [1790]), 65–66.
42. Burke, *Reflections*, 66.
43. Here Paine parallels Thomas Jefferson's famous argument that "the earth belongs in usufruct to the living" (Thomas Jefferson, "Letter to James Madison, September 6, 1789," in *The Papers of Thomas Jefferson*, vol. 15, ed. Julian Boyd et al. [Princeton, NJ: Princeton University Press, 1950 [1789]), 392).
44. Thomas Paine, "Agrarian Justice," in *The Thomas Paine Reader*, ed. Michael Foot and Isaac Kramnick (London: Penguin Classics, 1987), 471–89. Hereafter in notes and text simply AJ and page number.
45. See Hugo Grotius, *The Rights of War and Peace, Book II*, ed. Richard Tuck (Indianapolis: Liberty Fund Press, 2005 [1625]), 420–32.
46. Locke famously argued that "[i]f such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him" (*Second Treatise*, sec. 28).
47. Fatovic (*America's Founding*, 237, 247) and Fruchtman (*Political Philosophy of Paine*, 123) argue persuasively that Jean-Jacques Rousseau's critique of civilization in the *Second Discourse on the Origins of Inequality* influenced Paine's argument in *Agrarian Justice*.
48. Contra Locke, *Second Treatise*, sec. 41, and Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, 2 vols., ed. R. H. Campbell and A. S. Skinner (Indianapolis: Liberty Fund Books, 1981 [1776]), 24.
49. For a thoughtful treatment of the potential distinction Paine makes between the *creation* of value by labor and the *increase* in value, see Lamb, *Idea of Human Rights*, 129–33.
50. Locke, *Second Treatise*, sec. 40.
51. Mills, *Racial Contract*, 6.
52. Mills, *Racial Contract*, 4–5.
53. E.g., Cook, "King and the Beloved Community," 964–68; and Carter, "True Reparations," 1028.
54. Paine, "African Slavery."
55. Thomas Paine, "Dissertation on First Principles of Government," *The Thomas Paine Reader*, ed. Michael Foot and Isaac Kramnick (London: Penguin Classics, 1987), 455.
56. Bittker, *Black Reparations*, 134.
57. United States Census Bureau, *Median Value of Assets for Households, by Types of Assets Owned and Selected Characteristics*, 2014, Data file

retrieved from https://www.census.gov/data/tables/2014/demo/wealth/wealth-asset-ownership.html.

58. Darity and Mullen, *From Here to Equality*, 31, 36, 264.
59. Coates, "Case for Reparations," 34–46; and Kaplan and Valls, "Housing Discrimination," 258–65.
60. Cook, "King and the Beloved Community," 959.
61. Crawford Brough Macpherson, *Property: Mainstream and Critical Positions* (Toronto: University of Toronto Press, 1978), 6.
62. Epstein, "Case against Reparations," 1088.
63. See Waldron, "Superseding Historic Injustice."
64. Darity and Mullen, *From Here to Equality*, 5; Kaplan and Valls, "Housing Discrimination," 256–58; and Coates, "Case for Reparations," 10–18.
65. Fullinwinder, "Case for Reparations," 130; Lyons, "Reparations for Slavery," 512; Boxill, "Lockean Argument for Reparations," 68–69; and Robinson, *The Debt*, 130–31.
66. Cook, "King and the Beloved Community," 993.
67. Bittker, *Black Reparations*, 134.
68. Epstein, "Case against Reparations," 1189.