

Racial Liberalism

CHARLES W. MILLS

LIBERALISM IS GLOBALLY TRIUMPHANT. THE ANTIFEUDAL EGALITARIAN ideology of individual rights and freedoms that emerges in the seventeenth and eighteenth centuries to oppose absolutism and ascriptive hierarchy has unquestionably become, whether in right- or left-wing versions, the dominant political outlook of the modern age. Normative justifications of the existing order as well as normative critiques overwhelmingly use a liberal framework. Debate typically centers on the comparative defensibility of “neoliberal” or free market conceptions versus social democratic or welfarist conceptions of liberalism. But liberalism itself is rarely challenged.

Within liberalism there are rival perspectives on the moral foundations of the state and the ultimate basis of people’s rights. For a century and a half from the 1800s onward, the utilitarianism of Jeremy Bentham, James and John Stuart Mill, and Henry Sidgwick was most politically influential. But the World War II experience of the death camps and the global movement for postwar decolonization encouraged a return to a natural rights tradition that seemed to put individual personal protections on a more secure basis. Not social welfare but “natural,” presocial individual entitlements were judged to be the superior and infrangible foundation. Thus, it is the language of rights and duties— independent of social utility—most strongly associated with the earlier, rival social contract tradition of 1650–1800, particularly in John Locke’s and Immanuel Kant’s versions, that is now ubiquitous.¹ Unsurprisingly, then, especially with the revival of social contract theory stimulated by John Rawls’s 1971 *A Theory of Justice*, contractarian (also called deontological) liberalism has now become hegemonic.

But in these myriad debates about and within liberalism, a key issue tends to be missed, to remain unacknowledged, even though—

CHARLES W. MILLS is John Evans Professor of Moral and Intellectual Philosophy at Northwestern University. He works in the general area of oppositional political theory and is the author of four books, most recently *Contract and Domination* (Polity, 2007), cowritten with Carole Pateman.

or perhaps precisely because—its implications for the rethinking of liberalism, and for the world order that liberalism has largely rationalized, would be far-ranging. Liberalism, I suggest, has historically been predominantly a racial liberalism (Stokes and Meléndez), in which conceptions of personhood and resulting schedules of rights, duties, and government responsibilities have all been racialized. And the contract, correspondingly, has really been a racial one, an agreement among white contractors to subordinate and exploit non-white noncontractors for white benefit (Mills, *Racial Contract*). Insofar as moral debate in contemporary political theory ignores this history, it will only serve to perpetuate it.

Race and the Social Contract

Let me begin with some general points about the social contract. The concept is, of course, to be taken not literally but rather as an illuminating metaphor or thought experiment. We are asked to imagine the sociopolitical order (society, the state) as being self-consciously brought into existence through a “contract” among human beings in a presocial, prepolitical stage of humanity (the “state of nature”). The enduring appeal of the metaphor, despite its patent absurdity as a literal representation of the formation of sociopolitical systems, inheres in its capturing of two key insights. The first (against theological views of divine creation or secular conceptions of an organicist kind) is that society and the polity are artificial, human constructs. The second (against classical and medieval views of natural social hierarchy) is that human beings are naturally equal and that this equality in the state of nature should somehow translate into egalitarian sociopolitical institutions (Hampton, “Contractarian Explanation,” “Contract,” and “Feminist Contractarianism”).

For the Lockean and Kantian contracts that (in conjunction and in competition) define the mainstream of the liberal tradition—

but not for the Hobbesian contract—moral equality is foundational.² The social ontology is classically individualist, and it demands the creation of a polity that respects the equal personhood of individuals and (whether in stronger or weaker versions) their property rights. Basic moral entitlements for the citizenry are then juridically codified and enforced by an impartial state. Economic transactions are, correspondingly, ideally supposed to be non-exploitative, though there will, of course, be controversy about how this concept should be cashed out. So fairness in a broad sense is the overarching contract norm, as befits an apparatus ostensibly founded on principles antithetical to a non-individual-respecting, socially aggregating utilitarianism. The moral equality of people in the state of nature demands an equality of treatment (juridical, political, and economic) in the liberal polity they create. The state is not alien or antagonistic to us but the protector of our rights, whether as the constitutionalist Lockean sovereign or the Kantian *Rechtsstaat*. The good polity is the just polity, and the just polity is founded on safeguarding our interests as individuals.

But what if—not merely episodically and randomly but systematically and structurally—the personhood of some persons was historically disregarded and their rights disrespected? What if entitlements and justice were, correspondingly, so conceived of that the unequal treatment of these persons, or subpersons, was not seen as unequal, not flagged as an internal inconsistency, but accommodated by suitable discursive shifts and conceptual framings? And what if, after long political struggles, there developed at last a seeming equality that later turned out to be more nominal than substantive, so that justice and equal protection were still effectively denied even while being triumphantly proclaimed? It would mean that we would need to recognize the inadequacy of speaking in the abstract of liberalism and contractarianism. We would need to acknowledge that

race had underpinned the liberal framework from the outset, refracting the sense of crucial terms, embedding a particular model of rights bearers, dictating a certain historical narrative, and providing an overall theoretical orientation for normative discussions. We would need to confront the fact that to understand the actual logic of these normative debates, both what is said and what is not said, we would have to understand not just the ideal, abstract social contract but also its incarnation in the United States (and arguably elsewhere) as a nonideal, racial contract.

Consider the major divisions in the political philosophy of the last few decades. In *Liberalism and the Limits of Justice*, Michael Sandel makes the point that Rawls's *A Theory of Justice* is important because—apart from carrying the Kantianism-versus-utilitarianism dispute to a higher theoretical level—it was central to not one but two of the major political debates of the 1970s and 1980s (184–85), left or social democratic liberalism versus right or laissez-faire liberalism (Rawls versus Robert Nozick) and liberalism or contractarianism versus communitarianism (Rawls versus Michael Walzer, Alasdair MacIntyre, Charles Taylor, and Sandel himself). A third major debate, initiated by Rawls's essays in the 1980s and culminating in *Political Liberalism* (1996), could be said to be the debate of the two decades after 1990 on comprehensive versus political liberalism. In their domination of the conceptual and theoretical landscape, these overarching frameworks tend to set the political agenda, establishing a hegemonic framing of key assumptions and jointly exhaustive alternatives. One locates oneself as a theorist by choosing one or the other of these primary alternatives and then taking up the corresponding sociopolitical and normative picture, adopting the defining terms, and making the argumentative moves characteristically associated with it. So though other theoretical and political alternatives are not logically excluded, they tend to be marginalized.

But there is another debate—one that has been going on for hundreds of years, if not always in the academy—which is, in a sense, orthogonal to all three of the foregoing and is arguably more pressing than any of them: the conflict between racial liberalism (generally known as just liberalism) and deracialized liberalism. Racial liberalism, or white liberalism, is the actual liberalism that has been historically dominant since modernity: a liberal theory whose terms originally restricted full personhood to whites (or, more accurate, white men) and relegated nonwhites to an inferior category, so that its schedule of rights and prescriptions for justice were all color-coded. Ascriptive hierarchy is abolished for white men but not white women (Pateman) and people of color. So racism is not an anomaly in an unqualified liberal universalism but generally symbiotically related to a qualified and particularistic liberalism (Mehta; Sala-Molins). Though there have always been white liberals who have been antiracist and anti-imperialist, whose records should not be ignored (Pitts), they have been in the minority. Indeed, the most striking manifestation of this symbiotic rather than conflictual relation is that the two philosophers earlier demarcated as central to the liberal tradition, Locke and Kant, limited property rights, self-ownership, and personhood racially. Locke invested in African slavery, justified Native American expropriation, and helped write the Carolina constitution of 1669, which gave masters absolute power over their slaves (Tully; Arneil; Armitage; Bernasconi and Mann). Kant, the most important ethicist of the modern period and the famous theorist of personhood and respect, turns out to be one of the founders of modern scientific racism, and thus a pioneering theorist of subpersonhood and disrespect (Eze; Bernasconi, “Who” and “Kant”; Mills, “Kant's *Untermenschen*”). So the inferior treatment of people of color is not at all incongruent with racialized liberal norms, since by those norms nonwhites are less than full persons.

If this analysis is correct, such inequality, and its historic ramifications, is arguably more fundamental than all the other issues mentioned above, since in principle at least all parties to the many-sided political debate are supposed to be committed to the nonracial moral equality of all. Thus, the rethinking, purging, and deracializing of racial liberalism should be a priority for us—and in fact the struggles of people of color for racial equality over the past few hundred years can in large measure be most illuminatingly seen as just such a project. As Michael Dawson writes in his comprehensive study of African American political ideologies, “The great majority of black theorists challenge liberalism as it has been practiced within the United States, not some abstract ideal version of the ideology. . . . [T]here is no necessary contradiction between the liberal tradition in *theory* and black liberalism. The contradiction exists between black liberalism and how liberalism has come to be understood in practice within the American context” (13).

Yet the need for such a reconstruction has been neither acknowledged nor acted on. Rawls and Nozick may be in conflict over left-wing versus right-wing liberalism, but both offer us idealized views of the polity that ignore the racial subordination rationalized by racial liberalism. Rawls and Sandel may be in conflict over contractarian liberalism versus neo-Hegelian communitarianism, but neither confronts how the whiteness of the actual American contract and of the actual American community and its conception of the good affects justice and conceptions of the self. Late Rawls may be in conflict with early Rawls about political versus comprehensive liberalism, but neither addresses the question of the ways in which both versions have been shaped by race, whether through an “overlapping consensus” (among whites) or a “reflective equilibrium” (of whites). From the perspective of people of color, these intramural and intrawhite debates all fail to deal with

the simple overwhelming reality on which left and right, contractarian and communitarian, comprehensive or political liberal should theoretically be able to agree: that the centrality of racial exclusion and racial injustice demands a reconceptualization of the orthodox view of the polity and calls for radical rectification.

The “Whiteness” of Political Philosophy, Demographic and Conceptual

Political philosophers in general, and liberal contractarians in particular, need to take race seriously. Unfortunately, for a combination of reasons, both externalist and internalist, they have not done so. Demographically, philosophy is one of the very whitest of the humanities; only about one percent of American philosophers are African American, and similar or even smaller numbers are Latino, Asian American, and Native American.³ So while the past two decades have generated an impressive body of work on race, largely by philosophers of color though with increasing white contributions, it has tended to be ghettoized and not taken up in what (by conventional criteria) are judged the trend-setting sectors of the profession: the prestige journals and graduate programs and the writings of the most prominent figures in the field. Basically, one can choose to do race or choose to do philosophy. A manifestation of this marginalization is that Brian Leiter’s biennial online *Philosophical Gourmet Report*, an unofficial and controversial but widely consulted list of the top graduate programs in the field and top departments for particular areas of specialization, has no entry for issues of race in its most recent (2006) version. This is not a respectable philosophical subject. Nor do ads in *Jobs for Philosophers*, the profession’s official newspaper of available employment, usually include race as a desired area of specialization in their job descriptions. So though Africana philosophy and critical race theory are formally recognized by the American Philosophical

Association as legitimate research areas, which represents progress, they remain marginal in the field, far more so than issues of gender and feminism, a manifestation of the greater proportion of (white) women in the profession (about twenty percent).⁴

Philosophers of color are absent not just from the halls of academe but from the texts also. Introductions to political philosophy standardly exclude any discussion of race,⁵ except, perhaps, for brief discussions of affirmative action. Historical anthologies of political philosophy will present a lineup of figures extending from ancient Greece to the contemporary world—from Plato to NATO, in one wit's formulation—but with no representation of nonwhite theorists. Almost to the point of parody, the Western political canon is limited to the thoughts of white men. Steven Cahn's *Classics of Political and Moral Philosophy* (2002), for example, a widely used Oxford anthology of more than twelve hundred pages, includes only one nonwhite thinker, Martin Luther King, Jr., and not even in the main text but in the appendixes.⁶ So it is not merely that the pantheon is closed to nonwhite outsiders but that a particular misleading narrative of Western political philosophy—indeed, a particular misleading narrative of the West itself—is being inculcated in generations of students. The central debates in the field as presented—aristocracy versus democracy, absolutism versus liberalism, capitalism versus socialism, social democracy versus libertarianism, contractarianism versus communitarianism—exclude any reference to the modern global history of racism versus antiracism, of abolitionist, anti-imperialist, anticolonialist, anti-jim crow, antiapartheid struggles. Quobna Cugoano, Frederick Douglass, W. E. B. DuBois, Mahatma Gandhi, Aimé Césaire, C. L. R. James, Frantz Fanon, Steve Biko, Edward Said are all missing.⁷ The political history of the West is sanitized, reconstructed as if white racial domination and the oppression of people of color had not been central to that

history. A white supremacy that was originally planetary, a racial political structure that was transnational, is whitewashed out of existence. One would never guess from reading such works that less than a century ago “the era of global white supremacy” was inspiring “a global struggle for racial equality” (Borstelmann 15, 21). One would never dream that the moral equality supposedly established by modernity was in actuality so racially restricted that at the 1919 post-World War I peace conference in Versailles, the Japanese delegation's proposal to insert a “racial equality” clause in the League of Nations' covenant was soundly defeated by the “Anglo-Saxon” nations (including, of course, the United States), which refused to accept such a principle (Lake and Reynolds, ch. 12).

Moreover, not just the political theorists of the struggle against racism and white supremacy are jim crowed but, even more remarkable, justice itself as a subject is jim crowed. Contemporary political philosophy, at least in the Anglo-American tradition, is focused almost exclusively on normative issues. Whereas the original contract theorists used the contract idea to address questions of our political obligation to the state, contemporary contract theorists, following Rawls, only use it to address questions of social justice. So how, one might ask, could white political philosophers possibly exclude race and racial justice as subjects, considering that racial *injustice* has been so central to the making of the modern world and to the creation of the United States in particular? The answer: through the simple expedient of concentrating on what has come to be called “ideal theory.”

Ideal theory is not supposed to contrast with nonideal theory as a moral outlook contrasts with an amoral, realpolitik outlook. Both ideal and nonideal theory are concerned with justice, and so with the appeal to moral ideals. The contrast is that ideal theory asks what justice demands in a perfectly just society while nonideal theory asks what justice

demands in a society with a history of injustice. So nonideal theory is concerned with corrective measures, with remedial or rectificatory justice (Roberts). Racial justice is pre-eminently a matter of nonideal theory, of what corrective measures are called for to rectify a history of discrimination. By the apparently innocuous methodological decision to focus on ideal theory, white political philosophers are immediately exempted from dealing with the legacy of white supremacy in our actual society. You do not need affirmative action—and you certainly do not need reparations—in a society where no race has been discriminated against in the first place. In fact, if the social constructionist position on race is correct and race is brought into existence through racializing processes linked with projects of exploitation (aboriginal expropriation, slavery, colonial rule), then a perfectly just society would be raceless! By a weird philosophical route, the “color blindness” already endorsed by the white majority gains a perverse philosophical sanction. In a perfectly just society, race would not exist, so we do not (as white philosophers working in ideal theory) have to concern ourselves with matters of racial justice in our own society, where it does exist—just as the white citizenry increasingly insist that the surest way of bringing about a raceless society is to ignore race and that those (largely people of color) who still claim to see race are themselves the real racists.

The absurd outcome is the marginalization of race in the work of white political philosophers across the spectrum, most strikingly in the Rawls industry. The person seen as the most important twentieth-century American political philosopher and theorist of social justice, and a fortiori the most important American contract theorist, had nothing to say about the remediation of racial injustice, central to American society and history. His five major books (excluding the lectures on the history of moral and political philosophy)—*A Theory of Justice*, *Political Liberalism*, *Collected Papers*,

The Law of Peoples, and *Justice as Fairness: A Restatement*—together total over two thousand pages. If one were to add together all their sentences on race and racism, one might get half a dozen pages, if that much. Indeed, perhaps the single most remarkable indicator of the marginality of race in Rawls’s thought is that even the phrase *affirmative action*—referring to the most important postwar measure of racial justice in the United States—never appears in his writing.

The secondary literature on Rawls also ignores race. In *The Cambridge Companion to Rawls*, for example, edited by Samuel Freeman, not only is there no chapter on race and racial justice, but there is no section or subsection of any chapter dealing with these issues. *Perspectives on Politics*, one of the official journals of the American Political Science Association, published a fifty-plus-page symposium in 2006 on Rawls’s legacy, the work of several contributors (Ackerley et al.), that barely had two paragraphs on race. So the focus on ideal theory has had the effect of sidelining what is surely one of those matters of “partial compliance theory” that Rawls conceded at the start of *A Theory of Justice* (8) was “pressing and urgent”: the analysis and remedying of racial injustice in the United States. The racial nature of the liberalism of Rawls and his commentators manifests itself not (of course) in racist characterizations of people of color but in a racial avoidance—an artifact of racial privilege—of injustices that do not negatively affect whites.

In sum, the seeming neutrality and universality of the mainstream contract is illusory. As it stands, it is really predicated on the white experience and generates, accordingly, a contractarian liberalism that is racially structured in its apparatus and assumptions. Deracializing this racial liberalism requires rethinking the actual contract and what social justice demands for its voiding. It forces us to move to nonideal theory and to understand the role of race in the modernity for

which the contract metaphor has seemed peculiarly appropriate.

Deracializing Racial Liberalism

My suggestion is, then, that if we are going to continue to work within contract theory, we need to use a contract that registers rather than obfuscates the nonideal history of white oppression and racial exploitation: the domination contract (Mills, *Racial Contract*; Pateman and Mills, chs. 3, 4).

Adopting the Domination Contract as a Framework

Even in the liberal tradition, contract theory has long been criticized for its emphasis on agreement. David Hume pointed out long ago that force rather than popular consent was the origin of most governments; he concluded that the metaphor of the contract should be abandoned. Rousseau, on the other hand, had the brilliant idea of incorporating the radical critique of the contract into a subversive conception of the contract itself. In his *The Social Contract*, Rousseau maps an ideal polity. But unlike any of the other classic contract theorists, he earlier distinguished, in *Discourse on the Origins of Inequality*, a nonideal, manifestly unjust polity that also rests on a contract but that “irreversibly destroyed natural freedom, forever fixed the Law of property and inequality, [and] transformed a skillful usurpation into an irrevocable right” (173). So this, for Rousseau, is the actual contract that creates political society and establishes the architecture of the world we live in: a class contract among the rich. Instead of including all persons as equal citizens, guaranteeing their rights and freedoms, this contract privileges the wealthy at the expense of the poor. It is an exclusionary contract, a contract of domination.

Rousseau can be seen as initiating an alternative, radical democratic strain in con-

tract theory, one that seeks to expose the realities of domination behind the facade and ideology of liberal consensuality. He retains the two key insights captured by the contract metaphor, the constructed nature of the polity and the recognition of human moral equality, but he incorporates them into a more realistic narrative that shows how they are perverted. Some human beings come to dominate others, denying them the equality they enjoyed in the state of nature. Carole Pateman’s *The Sexual Contract*, which analogously posits an intramale agreement to subordinate women, can be read as applying Rousseau’s innovation to gender relations. Drawing on Rousseau and Pateman, I in turn sought in my *The Racial Contract* to develop a comparable concept of an intrawhite agreement that—through European expansionism, colonialism, white settlement, slavery, apartheid, and jim crow—shapes the modern world. Whites contract to regard one another as moral equals who are superior to nonwhites and who create, accordingly, governments, legal systems, and economic structures that privilege them at the expense of people of color.

In all three cases, the contract is an exclusionary one among a minority of the population rather than a universal and inclusive one. As such, it acknowledges what we all know to be true, that real-life societies are structured through and through by hierarchies of privilege and power. The concept of a domination contract captures better as a metaphor the patterns of sociopolitical exclusion characterizing actual modern polities and puts us in a better position for dealing with the important normative questions of social justice. Rather than a fictitious universal inclusion and moral and political egalitarianism, this revisionist contract expresses the reality of group domination and social hierarchy. By contrast with an ideal-theory framework, the domination contract is firmly located on the terrain of nonideal theory. Not only does it point us toward the structures of injustice that need to

be eliminated, unlike the evasive ideal mainstream contract, but it also recognizes their link with group privilege and group causality. These structures did not just happen to come into existence; rather, they were brought into being and are maintained by the actions and inactions of those privileged by them.

The idealization that characterizes mainstream liberalism is descriptive as well as normative, extending to matters of fact as well as subvarieties of justice. It is not only that the focus is on a perfectly just society but also that the picture of our own society is carefully sanitized. The contract in its contemporary incarnation does not, of course, have the social-scientific pretensions—the contract as *ur*-sociology or anthropology—of (at least some variants of) the original. Yet I would claim that some of the key factual assumptions of the original contract still remain in modern versions. It is not—the standard reply—just a necessary disciplinary abstraction, one that goes with the conceptual territory of philosophy but rather, in the phrase of Onora O’Neill, an idealizing abstraction, one that abstracts away from social oppression (Mills, “Ideal Theory”). And in this case it is a white abstraction.

Consider Rawls. He says we should think of society—not an ideal society, but society *simpliciter*—as a “cooperative venture for mutual advantage” governed by rules “designed to advance the good of those taking part in it” (*Theory* 4). But Rawls is a citizen of the United States, a nation founded on African slavery, aboriginal expropriation, and genocide. How could this possibly be an appropriate way to think of the nation’s origins? Only through a massive and willful ignoring of the actual history, an ignoring that is psychologically and cognitively most feasible for the white population. Or consider Nozick. He begins his book with chapters reconstructing how, through the voluntary creation of what he calls “protective associations” in the state of nature, a “dominant protective association” eventually emerges through invisible-hand processes,

and it becomes the state (chs. 1, 2). He concedes, of course, that things did not actually happen this way but claims that as a “potential explanation” the account is still valuable, even if it is “law-defective” and “fact-defective” (!): “State-of-nature explanations of the political realm *are* fundamental potential explanations of this realm and pack explanatory punch and illumination, even if incorrect. We learn much by seeing how the state could have arisen, even if it didn’t arise that way” (7–9). But what do we learn from such reality-defective hypothetical accounts that could be relevant to determining racial social justice in the United States? How does a reconstruction of how the state in the United States did *not* arise assist us in making normative judgments about how it *did* arise, especially when the latter process is never discussed?

In the United States, these assumptions and conceptual devices—the state of nature as empty of aboriginal peoples, society as nonexploitative and consensually and cooperatively founded, the political state illuminatingly conceived of as arising through the actions of an invisible hand—are unavoidably an abstraction from the European and Euro-American experience of modernity. It is a distinctively white (not colorless) abstraction away from Native American expropriation and African slavery and from the role of the state in facilitating both. It is in effect—though at the rarefied and stratospheric level of philosophy—a conceptualization ultimately grounded in and apposite for the experience of white settlerdom. Making racial sociopolitical oppression methodologically central would put us on very different theoretical terrain from the start.

The domination contract, here as the racial contract, thus provides a way of translating into a mainstream liberal apparatus—social contract theory—the radical agenda and concerns of political progressives. It offers a competing metaphor that more accurately represents the creation and maintenance of

the sociopolitical order. The white privilege that is systematically obfuscated in the mainstream contract is here nakedly revealed. And the biasing of liberal abstractions by the concrete interests of the privileged (here, whites) then becomes transparent. It is immediately made unmysterious why liberal norms and ideals that seem attractive in the abstract—freedom, equality, rights, justice—have proved unsatisfactory, refractory, in practice and failed to serve the interests of people of color. But the appropriate reaction is not (or so I would claim anyway) to reject these liberal ideals but rather to reject the mystified individualist social ontology that blocks an understanding of the political forces determining the ideals' restricted and exclusionary application. The group ontology of the domination contract better maps the underlying metaphysics of the sociopolitical order.

If the actual contract has been a racial one, what are the implications for liberal theory, specifically for the desirable project of deracializing racial liberalism? What rethinking and revisions of seemingly colorless, but actually white, contractarian liberalism would be necessary?

Recovering the Past: Factually, Conceptually, Theoretically

To begin with, it would be necessary to recover the past, not merely factually but conceptually and theoretically, in terms of how we conceive of and theorize the polity. The idealizing white cognitive patterns of racial liberalism manifest themselves in a whitewashing not merely of the facts but also of their organizing conceptual and theoretical political frameworks. The contractarian ideal is classically social transparency, in keeping with a Kantian tradition of a *Rechtsstaat* that scorns behind-the-scenes realpolitik for ethical transactions that can stand up to the light of day. But the centrality of racial subordination to the creation of the modern world is too explosive to be subjected

to such scrutiny and so has to be retroactively edited out of national (and Western) memory because of its contradiction of the overarching contract myth that the impartial state was consensually created by reciprocally respecting rights-bearing persons.

For the reality is, as David Theo Goldberg argues in his book *The Racial State*, that modern states in general are racialized: “race is integral to the emergence, development, and transformations (conceptually, philosophically, materially) of the modern nation-state” (4). What should have been a *Rechtsstaat* is actually a *Rassensstaat*, and the citizenry are demarcated in civic status by their racial membership. The modern world order, what Paul Keal calls “international society” (1), is created by European expansionism, and the conquest and expropriation of indigenous peoples is central to that process: “non-Europeans were progressively conceptualized in ways that dehumanized them and enabled their dispossession and subordination” (21). So race as a global structure of privilege and subordination, normative entitlement and normative exclusion, is inextricably tied up with the development of the modern societies for which the contract is supposed to be an appropriate metaphor, whether in the colonized world or the colonizing mother countries. A model predicated on the (past or present) universal inclusion of colorless atomic individuals will therefore get things fundamentally wrong from the start. Races in relations of domination and subordination centrally constitute the social ontology. In their failure to admit this historical truth, in their refusal to acknowledge (or even consider) the accuracy of the alternative political characterization of white supremacy, mainstream contractarians reject social transparency for a principled social opacity not merely at the perceptual but at the conceptual and theoretical levels.

If this is an obvious general reality that contemporary white Western contract theorists have ignored in their theorizing, it is a

truth particularly salient in the United States (and its denial here is, correspondingly, particularly culpable). For, in the historian George Fredrickson's judgment, "[m]ore than the other multi-racial societies resulting from the 'expansion of Europe'" the United States (along with apartheid South Africa) can be seen as "a kind of *Herrenvolk* society in which people of color . . . are treated as permanent aliens or outsiders" (xi–xii).

The founding of the American New World, peculiar in comparison with the origins of the Old World European powers, cuts both ways for the contract image. The youth of the United States as a nation, its creation in the modern period, and the formal and extensively documented establishment of the Constitution and the other institutions of the new polity have made the social contract metaphor seem particularly apt here. Indeed, it might seem that it comes close to leaving the metaphorical for the literal, especially given that the terrain of this founding was conceptualized as a "wilderness," "Indian country," a "state of nature" only redeemed by a civilizing and Christianizing European presence. But if the general metaphor of a social contract comes closest to being nonmetaphoric here, so does the competing metaphor of a racial contract, because of the explicit and formal dichotomy of Anglo racial exclusion, more clear-cut and uncompromising than racial exclusion in, say, the Iberian colonies of the Americas, where *mestizaje* was the norm. The opposition between white and nonwhite has been foundational to the workings of American social and political institutions (the United States Congress made whiteness a prerequisite for naturalization in 1790, and social and juridical whiteness has been crucial to moral, civic, and political status). As Matthew Frye Jacobson points out, "In the colonies the designation 'white' appeared in laws governing who could marry whom; who could participate in the militia; who could vote or hold office; and in laws governing contracts, indenture, and

enslavement. Although there were some exceptions, most laws of this kind delineated the populace along lines of color, and the word 'white' was commonly used in conferring rights, never abridging them. . . . [W]hat a citizen really was, at bottom, was someone who could help put down a slave rebellion or participate in Indian wars" (25). Similarly, Judith Shklar writes that citizenship in the United States has depended on "social standing" and that white men defined their citizenship "very negatively, by distinguishing themselves from their inferiors. . . . [B]lack chattel slavery stood at the opposite social pole from full citizenship and so defined it" (2, 15–16).

This historical reality is completely obfuscated in the myth of an all-inclusive contract creating a sociopolitical order presided over by a neutral state equally responsive to all its colorless citizens. Far from being neutral, the law and the state were part of the racial polity's apparatus of subordination, codifying whiteness (Haney López) and enforcing racial privilege. Native peoples were expropriated through what Lindsay Robertson calls "conquest by law," the "discovery doctrine," as enshrined in the 1823 Supreme Court decision *Johnson v. M'Intosh*: "Discovery converted the indigenous owners of discovered lands into tenants on those lands. . . . Throughout the United States, the American political descendants of these [European] discovering sovereigns overnight became owners of land that had previously belonged to Native Americans" (x, 4). Blacks were enslaved in the South and racially stigmatized in the North, where they had a lesser schedule of rights—indeed, according to the 1857 *Dred Scott* decision, "no rights which the white man was bound to respect" (407). Despite the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments, post-bellum abolition did not lead to juridical and moral equalization, because the withdrawal of federal troops following the Hayes-Tilden compromise of 1877 restored southern blacks to the mercies of their former owners, and

formal segregation was given federal sanction through the 1896 decision in *Plessy v. Ferguson*, not to be overturned until 1954 (Litwack). Discriminatory legislation codified the inferior legal status of people of color; the state functioned as a racial state, enforcing segregation in federal bureaucracies, prisons, and the army (King); and national narratives and dominant white moral psychology took white superiority for granted. As the black trade union leader A. Philip Randolph put it in 1943, “The Negroes are in the position of having to fight their own Government” (qtd. in King 4). In effect, the United States was “subnationally a divided polity” (King 6), in which blacks were separate and manifestly unequal, a despised and ostracized race.

Nor has the racial progress of the last half century eliminated the racial nature of the polity. The civil rights victories of the 1950s and 1960s—*Brown v. Board of Education* in 1954, the 1964 Civil Rights Act, the 1965 Voting Rights Act, the 1967 decision in *Loving v. Virginia* that finally judged antimiscegenation laws (still on the books in sixteen states) unconstitutional, the 1968 Fair Housing Act—raised hopes of a second Reconstruction more successful than the first one but have not lived up to their promise because de facto discrimination has survived the repeal of de jure discrimination, as whites have devised various new strategies for circumventing antidiscrimination law (where it still exists and is enforced any more). Thus, Eduardo Bonilla-Silva speaks sardonically of “color-blind racism” and “racism without racists.” The 2004 celebrations of the fiftieth anniversary of the *Brown* decision were rendered somewhat hollow by the reality that schools today are more segregated than they were at the time of the decision (Orfield and Eaton; Kozol). In 2008, the fortieth anniversary of the Fair Housing Act, residential segregation in big cities with large black populations is virtually unchanged (Massey and Denton; Massey). The failure of the 1965 Voting Rights Act to prevent widespread dis-

enfranchisement of blacks has not merely local but sometimes national repercussions (e.g., black exclusion in Florida making the 2000 Republican victory possible), and the act has yet to produce black political representation in proportion to African Americans’ numbers in the population. Affirmative action is basically dead, most whites regarding it as unfair “reverse discrimination.” The disproportionately black and Latino “underclass” has been written off as an insoluble problem. Less than seven percent of the population nationally, black males are now one-third of those imprisoned. Some authors have argued despairingly that racism should be seen as a permanent feature of the United States (Bell), while others have suggested that substantive racial progress in United States history has been confined narrowly to three periods (the Revolutionary War, the Civil War, and the cold war, requiring the triple condition of war mobilization, elite intervention, and an effective mass protest movement), an “unsteady march” always punctuated by periods of backlash and retreat, such as the one we are living in now (Klinkner and Smith). So though progress has been made in comparison with the past, the appropriate benchmark should not be the low bar of abolition and repeal of jim crow but the simple ideal of racial equality.

Unsurprisingly, then, people of color, and black American intellectuals in particular, have historically had little difficulty in recognizing the centrality of race to the American polity and the racial nature of American liberalism. No material or ideological blinders have prevented blacks and other people of color from seeing that the actual contract is most illuminatingly conceptualized as a racial one that systematically privileges whites at the expense of nonwhites. “Indeed, with the exception of black conservatism, all black ideologies contest the view that democracy in America, while flawed, is fundamentally good. . . . A central theme within black political thought has been . . . to insist that the ques-

tion of *racial* injustice is a central problematic in *American* political thought and practice, not a minor problem that can be dismissed in parentheses or footnotes” (Dawson 14).⁸

But such dismissal is (as earlier documented) what occurs descriptively and prescriptively in the racial liberalism of contemporary white contractarians. If the racial subordination of people of color was obvious and matter-of-fact to racial liberalism in its original, overtly racist incarnation, it can no longer be admitted by racial liberalism in its present race-evading and calculatedly amnesiac incarnation. The atrocities of the past now being an embarrassment, they must be denied, minimized, or conceptually bypassed. A cultivated amnesia, a set of constructed deafnesses and blindnesses, characterizes racial liberalism: subjects one cannot raise, issues one cannot broach, topics one cannot explore. The contractarian ideal of social transparency about present and past would, if implemented, make it impossible to continue as before: one would see and know too much. Instead, the European colonizing powers and the white settler states they created are paradigms of what Stanley Cohen calls “states of denial,” where the great crimes of native genocide and African slavery, and their embedding in the everyday life of the polity, are erased from national memory and consciousness: “Whole societies have unmentioned and unmentionable rules about what should not be openly talked about” (45). Rogers Smith’s *Civic Ideals* documents the consistency with which theorists of American political culture, including such leading figures as Alexis de Tocqueville, Gunnar Myrdal, and Louis Hartz, have represented it as essentially egalitarian and inclusive, placing racism and racial oppression in the categories of the anomalous and deviant—a perfect correlate at the more empirical level of political science of the evasions of political philosophy.

The repudiation of racial liberalism will thus require more than a confronta-

tion with the historical record. It will also require an acknowledgment at the conceptual and theoretical levels that this record shows that the workings of such a polity are not to be grasped with the orthodox categories of raceless liberal democracy. Rather, the conceptual innovation called for is a recognition of white supremacy as itself a political system—a “white republic” (Saxton), a “white-supremacist state” (Fredrickson), a “racial order” (King and Smith), a “racial polity” (Mills, “The Racial Polity”)—and of races themselves as political entities and agents. Racial liberalism’s facial racelessness is in fact its racedness; deracializing racial liberalism requires us to color in the blanks.

Recognizing the Reality and Centrality of Racial Exploitation

Finally, since contemporary political philosophy is centered on normative issues, we need to look at the implications of deracializing racial liberalism for social justice. The moral appeal of the social contract is supposed to be its fairness, not merely in contrast to premodern hierarchies but, as emphasized at the start, against possible modern utilitarian abuses, the maximizing of well-being for some at the expense of others. As such, the social contract is supposed to prohibit exploitation, since the terms on which people create and enter society impose moral constraints on the realization of personal advantage. That is why the Marxist claim that liberal capitalism is intrinsically exploitative (quite apart from questions of low wages or poor working conditions) has always been deeply threatening to liberal contract pretensions of establishing a just society and why the labor theory of value (now widely seen as refuted) is subversive in its implications.

It is noteworthy, then, that in the two texts that originally staked out the boundaries of respectable left- and right-wing liberalism in contemporary American political

philosophy, Rawls's *A Theory of Justice* and Nozick's *Anarchy, State, and Utopia*, both authors loudly proclaim their fealty to Kantian prohibitions against an exploitative using of people, against treating others with less than equal Kantian respect. Rawls outlines a left-liberal or social democratic vision of an ideal polity ("justice as fairness"), in which educational resources and transfer payments from the state to the worst-off are supposed to ensure as far as possible that opportunities are expanded and class disadvantage minimized for the poorest, so that they are not exploited by those better off. Nozick develops a competing libertarian ideal ("entitlement theory"), in which Kantian principles are interpreted through the prism of Lockean self-ownership and respect for the property rights of others is the overriding principle of justice. In this framework, Rawlsian transfer payments and the idea of a fraternal sharing of natural assets constitute the real exploitation, since the more talented and productive are sacrificed, used—against Kantian principles—for the benefit of the feckless and irresponsible. Hardworking individuals whose own labor has made them what they are and produced what they have, in fair competition for opportunities open to all, are taken advantage of, exploited, by those who simply do not want to work.

Thirty-plus years later the debate continues, but the outcome is clear. Rawls may have won the battle in the left-leaning academy, insofar as *A Theory of Justice* is now canonized as the most important work in twentieth-century political philosophy. But Nozickian-Friedmanist-Hayekian ideas won the war in the larger society, and indeed the world, given the triumph of antistatism in the West since the Reagan and Thatcher revolutions of the 1980s, the 1989–91 collapse of state socialism, and the general global shift away from state-interventionist policies and toward neoliberalism. Yet what needs to be emphasized for our purposes is that, though at opposite ends of the liberal spectrum, Rawls and

Nozick both take for granted as constraining norms the equal, rights-bearing personhood of the members of the polity and the imperative of respect for them. This is not at all in dispute. So the debate centers not on these (supposedly) uncontroversial liberal shibboleths but rather on how "respect" and "using" are best thought of in a polity of equal contractors. And at the less rarefied level of public policy debates in the United States and elsewhere, the key opposing positions in part recapitulate these traditional left-right differences in liberal theory and the enduring controversies in this framework over the most defensible account of fairness, rights, entitlement, and justice.

But neither Rawls nor Nozick deals with *racial* exploitation, which radically upends this egalitarian, individualist picture, can be formulated independently of the labor theory of value, and in its blatant transgression of norms of equal treatment clearly represents ("clearly," that is, for nonracial liberalism) a massive violation of liberal contractarian ideals in whatever version, left or right (Mills, "Racial Exploitation"). To a large extent, as earlier emphasized, this is because by transplanting without modification onto American soil the European contract apparatus, both theorists in effect take up the perspective of the white settler population. Nozick's self-confessedly counterfactual account of how a state could have arisen from a state of nature and Rawls's hypothetical consensual contract both exclude the perspective of indigenous peoples. (Even when, in the last decade of his life, Rawls concedes that race and ethnicity raise "new questions," he refers only to blacks [*Political Liberalism* liii]. Native Americans and their possible claims for justice are eliminated as thoroughly from the idealizing contract apparatus as they were eliminated in reality.) Carole Pateman points out that "much contemporary political theory obliterates any discussion of embarrassing origins; argument proceeds from 'an abstract starting point . . . that had nothing to do with the way these so-

cities were founded” (Pateman and Mills 77, quoting James Tully). In effect, Nozick and Rawls assume *terra nullius*, ignoring the genocide and expropriation of native peoples.

But as Thomas Borstelmann reminds us, “White appropriation of black labor and red land formed two of the fundamental contours of the new nation’s development and its primary sources of wealth” (10). Whites as a group have benefited immensely from the taking of native territory. The unpaid labor of African slavery provided another huge contribution to white welfare, not just to the slave owners themselves but as a surplus diffused within the economy. And as numerous commentators have pointed out in recent years, the cumulative result of the century and a half of discriminatory practices following emancipation has been to give whites vastly better access to education, jobs, bank loans, housing, and transfer payments from the state. “Jim Crow was a system that institutionalized categorical inequality between blacks and whites at every level in southern society, with exploitation and opportunity hoarding built into virtually every social, economic, and political interaction between the races. . . . [In the North] it was just as effective . . . [but] constructed under private rather than public auspices” (Massey 56–57; see also Williams). The distribution of resources is racialized, the differentials increasingly recognized to be manifested more in wealth than income (Oliver and Shapiro). The 2004 figures are as follows: the median white household’s net worth (assets minus debts) is *ten times* the median black household’s; the median white household’s financial wealth (liquid and semiliquid assets, including mutual funds and pensions) is *one hundred times* the median black household’s (Mishel, Bernstein, and Allegretto 258–59).

In contrast to the Lockean-Nozickian ideal of a polity of self-owning proprietors respecting one another’s property rights and in contrast to the Kantian–Rawlsian ideal of a polity of reciprocally respecting persons

fraternally linked by their recognition of the moral arbitrariness of their natural assets, the actual polity is one in which the property rights of non-self-owning people of color are systematically violated and rights, liberties, opportunities, income, and wealth are continually transferred from the nonwhite to the white population without any recognition of these processes. If in Nozick’s and Rawls’s ideal contractarian polities exploitation is nowhere to be found, in the actual racial-contractarian polity in which Nozick and Rawls wrote it is everywhere, central, and ongoing. And, to repeat, this is exploitation in a sense that (nonracial) liberals have to admit, resting on standard (deracialized) Lockean-Kantian norms about equitable treatment, fair wages, respect for property rights, and prohibitions against using people (Wertheimer; Sample). Racial exploitation is the background constant against which other debates take place, sometimes mitigated but never eliminated, because racial exploitation is part of the contract itself.

So a racialized moral economy complements a racialized political economy in which whites do not recognize their privileging as privileging, as differential and unfair treatment. To differing extents, Rawls and Nozick appeal to our moral intuitions about fairness and what people are entitled to. But neither looks at the way race shapes whites’ sense of what is just. Yet an understanding of the contours of white moral psychology is an indispensable prerequisite for comprehending the typical framing and trajectory of public policy debates. Their “favored status has meant that whites are commonly accepted as the ‘normal’ and norm-setting” (Klinkner and Smith 7). Rawls’s left-liberal ethico-metaphysical notion that we should regard the distribution of our natural assets as pooled found no resonance in the famously individualist United States. But there is a sense, underpinning the “reasonable” expectations of the representative white person, in which whites have

traditionally thought of nonwhite assets as a common white resource to be legitimately exploited. Originally, whites saw their systemic advantage as differential but fair, justified by their superiority. Now, in a “color-blind” phase of the contract and of racial liberalism, they do not see it as differential at all, the long history and ongoing reality of exploitative nonwhite-to-white transfer being obfuscated and occluded by individualist categories and by a sense of property rights in which white entitlement is the norm.

In his research on the causes of the deepening racial inequality between whites and blacks, Thomas Shapiro found that “[white] family assets are more than mere money; they also provide a pathway for handing down racial legacies from generation to generation” (26). Since we are in the middle of the greatest intergenerational transfer of wealth in United States history, as first the parents of the baby boomers and then the boomers themselves die and pass on nine trillion dollars of assets to their children, these inequalities can only be exacerbated (5). But in Shapiro’s interviews with white families, they consistently deny or downplay this head start they get from the legacy of white supremacy: “Many whites continue to reap advantages from the historical, institutional, structural, and personal dynamics of racial inequality, and they are either unaware of these advantages or deny they exist. . . . Their insistence upon how hard they work and how much they deserve their station in life seems to trump any recognition that unearned successes and benefits come at a price for others” (13). In Cheryl Harris’s famous analysis, whiteness itself becomes “property,” underwriting a set of baseline entitlements and expectations that are part of one’s legitimate rights as a full citizen. Unsurprisingly, then, few public policy proposals so unite whites in opposition as the idea of reparations: polls show that no less than ninety-five percent of whites are hostile to the idea. And by the standards and norms

of racial liberalism they are justified in their scorn of such a proposal, which would represent a contractual violation of the founding principles of the polity.

Conclusion

Race and liberalism have been intertwined for hundreds of years, for the same developments of modernity that brought liberalism into existence as a supposedly general set of political norms also brought race into existence as a set of restrictions and entitlements governing the application of those norms. Political theorists, whether in political science or political philosophy, have a potentially valuable role to play in contributing to the dismantling of this pernicious symbiotic normative system. But such a dismantling cannot be achieved through a supposed color blindness that is really a blindness to the historical and enduring whiteness of liberalism. Racial liberalism, established by the racial contract, must be recognized for what it is before the promise of a nonracial liberalism and a genuinely inclusive social contract can ever be fulfilled.

NOTES

1. Of the “big four” contract theorists (Thomas Hobbes, John Locke, Jean-Jacques Rousseau, Immanuel Kant), Locke and Kant are the most important for liberal theory. Hobbes’s *Leviathan* conceptualizes morality and rights as conventional and argues for political absolutism, while the radical direct democracy of Rousseau’s *Social Contract*, based on the “general will,” represents more a challenge to than an endorsement of liberalism.

2. The Hobbesian model, non-liberal-democratic, is predicated on the approximate physical and mental (rather than moral) equality of self-seeking human beings in conflict with one another (the amoral state of nature as a state of war). So Hobbes’s solution of a constitutionally unconstrained state—the absolutist sovereign—is obviously uncongenial to those seeking to use the contract model to critique absolutism.

3. For oral accounts of the African American experience in white philosophy, see Yancy, *African-American Philoso-*

phers, and for the experience of black women in particular, Yancy, Introduction and "Situated." In the entire country, out of a total population of more than ten thousand professional philosophers, only about thirty black women practice philosophy. In October 2007, the Collegium of Black Women Philosophers was launched under the leadership of Kathryn Gines as an attempt to remedy this situation.

4. However, I would be remiss not to mention some positive recent developments, such as the online Symposium on Gender, Race, and Philosophy, hosted at MIT; the California Roundtable on Philosophy and Race; and SUNY Press's new book series Philosophy and Race.

5. See, e.g., Kymlicka; Bird; Wolff; Simmons.

6. Augustine is included in Cahn's anthology and, as a Berber, is a person of color by contemporary standards, but since he wrote at a time when nobody was "raced," he does not count.

7. Bogue reclaims and reconstructs the work of some of the key figures in the diasporic black political tradition.

8. The very titles of recent works by black political philosophers show the centrality of race to their normative thinking: *Blacks and Social Justice* (Boxill), *Race and Social Justice* (McGary), *Critical Social Theory in the Interests of Black Folks* (Outlaw), *We Who are Dark* (Shelby).

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