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A GROUP-BASED APPROACH TO REPARATIONS

by

ELIZABETH DWYER

Under the Direction of Andrew I. Cohen, PhD

ABSTRACT

This paper attempts to offer a group-based approach to reparations for slavery. I argue that by appealing to a group-based approach to reparations, one can avoid some of the significant problems associated with attempting to justify reparations on an individual level. I argue that, properly formulated, a group-based approach can avoid problems of identification, the non-identity problem, as well as misgivings about appealing to the notion that groups can have a moral standing that is not merely the aggregation of the moral standing of the individual group members. In order to show that a group-based approach is a viable solution to these issues, I appeal to Larry May's account of groups.

INDEX WORDS: Reparations, Group Harm, Larry May, Discrimination

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ELIZABETH DWYER

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By

ELIZABETH DWYER

Committee Chair: Andrew I. Cohen

Committee: Christie Hartley

Sandra Dwyer

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College of Arts and Sciences

Georgia State University

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1 INTRODUCTION

Despite the ratifying of the thirteenth amendment in 1865, which codified an end to the enslavement of Africans in the United States, the conditions surrounding the lives of African-Americans today is, at best, bleak. Today, African-Americans face discrimination, incarceration and poverty at much higher rates than white Americans. Surely one would agree that the slaves, after being freed, were due some sort of compensation for the injustice they endured for hundreds of years. Despite attempts, however, no reparations were ever paid.[1] And if it is true, as some suggest, that the current situation for African-Americans has its origins in slavery, the subsequent Jim Crow era, and the fact that reparations were never paid to the freed slaves, one might argue that African-Americans today have justified claims to reparation.

The literature on reparations for African-Americans is extensive, and some authors argue that it is impossible to justify claims to reparations for slavery. Chandran Kukathas, for instance, argues that in order to justify reparations claims, one must be able to clearly identify both the victim of the injustice as well as the perpetrator of the injustice. Given the immense difficulty in identifying both agents in the case of slavery, Kukathas argues that the paying of reparations for slavery cannot be justified.

Nahshon Perez is also critical of our ability to justify reparations for past injustices. According to Perez, because the descendants of the original victims of the injustice would not exist had the injustice not occurred, then are not harmed by the injustice. The non-identity

[1] Perhaps the most famous attempt to provide reparations for slavery is William Sherman's 40 acres and a mule plan. In the nineteenth century, the American Colonization Society attempted to institute a resettlement plan for freed slaves. The plan included resettling freed slaves to Liberia. In 1866, Representative Thaddeus Stevens introduced a reparations bill. In 1989, Representative John Conyers first introduced a bill to establish a commission to study both the present-day effects of slavery on living African-Americans, as well as the appropriateness of potential reparations payments. Conyers has introduced this bill in each congressional session since 1989.

problem according to Perez raises significant problems for our ability to justify reparations for past injustices.

In my paper, I will respond to the critiques made by both Perez and Kukathas, and show that it is possible to justify reparations for some historic injustices, specifically in the case of slavery in the United States. I will argue that using a group-based approach to reparations, one can avoid the issues raised by Perez and Kukathas. That is, by conceptualizing the claims to reparations as a group-based claim, one can avoid two particular problems associated with trying to defend reparations on the individual level. The first is the non-identity problem, and the second is the challenge of identifying which parties have claims to reparations.[2] I will also attempt to respond to critics who are critical of such group-based approaches. Jan Narveson for instance is critical of the notion of group responsibility, and argues that group, or collective responsibility, ultimately reduces to the responsibilities of individuals.

To show that it is possible to justify a group-based claim to reparations for slavery, I will rely on Larry May's account of groups. According to May, groups are individuals in relations. More specifically, these relations structure individuals' actions, interests and intentions. Appealing to a group-based account of reparations, I argue, can help avoid some issues that surround attempts to justify reparations on the individual level. As a *group*, African-Americans are worse off socially, politically and economically than white Americans. On average, African-Americans are less educated, poorer and more likely to be incarcerated. While I will not be able to establish the claim here, my argument assumes that, as some suggest, the inequality that exists

[2] Kukathas also argues that in order to justify reparations, one needs to identify two agents: the agent responsible for the injustice, and the victim of the injustice. And so, a complete defense of reparations for slavery must include both a defense of a group-based approach when it comes to responsibility and harm. However, my paper will focus only on the harm aspect. That is, my paper will focus on a defense of a group-based approach to claims for reparations for slavery by the group who has been harmed as a result of the injustice. While I will touch on issues of responsibility as it applies to the critique of Jan Narveson in section 3.3, questions of group-based responsibility are outside of the scope of this paper.

between these two groups (the systematic discrimination and disadvantaging of African-Americans) likely has its roots in both the injustices of slavery as well as the failure to repair for these injustices. Because there have been few (if any) substantial attempts to repair the injustice of slavery, this particular injustice has endured into the present (and will likely continue to endure until attempts are made at repair).

However, while I aim to demonstrate how my group-based approach can avoid some issues that arise when trying to justify reparations on the individual level, issues arise when trying to defend the idea that groups can make moral claims. As some argue, only individual persons can have and make moral claims, while groups, properly speaking, can do neither. To say that a group has a moral claim, according to some critics, requires that we posit an entity above and beyond the individuals that make up the group.[3] To posit such an entity however, requires metaphysical speculations that are difficult, if not impossible to prove. Other critics maintain that, a group's moral claim is merely the aggregation of the moral claims of the individuals that make up the group.[4] In defending my group-based approach to reparations, I will also demonstrate how May's account of groups also avoids worries from both sides of the issue surrounding groups and moral claims. While May's account of groups does not require the positing of a metaphysical entity above and beyond the individuals that make up the group, May's account can also make sense of how group-based claims are not *merely* the aggregation of individuals' claims.

[3] Graff (1994), for example, argues in order to say that a group has moral claims is to subscribe claims to a fictitious entity. Vincent (1989) also raises worries for positing a group status that is independent of the status of its group members.

[4] For example, Narveson (2002), whose position will be explored in more detail, offers this position in his article "Collective Responsibility." Other authors such as Wellman (1995) and Griffin (2003) also argue that groups do not have moral standing that does not reduce to the moral standing of their individual members.

In Section I of my paper, I will examine the critiques as put forth by the critics I mention above. I will examine Kukathas' critique as it relates to identifying the relevant agents regarding claims to reparations for historic injustices. I will then examine Perez's issues with justifying reparations claims for historic injustices, namely the non-identity problem. Finally, I will turn to Narveson's critique concerning group-based notions, such as collective responsibility and collective harm. In Section II, I will examine May's account of groups. Specifically, I will show how May's account can be thought of as middle position between those who think groups have no moral claims, and those who think that groups can have moral claims independently of the individual members that make up the group. In Section III, I will attempt to demonstrate how May's account can respond to the challenges raised by the critics discussed in Section I. Finally, in Section IV, I will consider and respond to some objections that one may pose to my account.

2 CRITICS

2.1 Chandran Kukathas and the Problem of Agency

In his article "Who? Whom? Reparations and the Problem of Agency," Kukathas explains that claims to reparation are a special type of claim. Unlike claims of distributive justice, the claims put forth are not that claims regarding an unfairly structured institution. Rather the claims are "that particular wrongs were committed and that it is the further injustices that were consequent upon them that need to be rectified" (Kukathas 2006, 332). When one makes a claim to reparations, one claims that she has been wronged by another. As a result of the harms suffered, one is due reparation. Or as Bernard Boxill puts it, one has a right to reparation when one has been harmed as a result of another's transgression (Boxill 2003).

Because of the specific nature of reparative claims, Kukathas argues that the justification of such claims relies on one's ability to identify two types of agents. In order to justify claims to

reparations, one must be able to identify both the agent to whom reparation is due (the victim of the wrongdoing), as well as the agent who owes reparation (the perpetrator or transgressor who committed the wrong). Kukathas writes,

> When the issue is one of justice in restitution, identifying those who are to be held liable or entitled to compensations is crucial, because the question is not simply one of how the benefits and burdens should be distributed in a good society, but rather a question of who owes what to whom…. (Kukathas 2006, 332)

In his analysis, Kukathas examines which types of agents are relevant in issues of reparative justice. Kukathas notes that there are two types of agents that "can make, or be asked to fulfill moral claims" (Kukathas 2006, 332). These include individuals and groups. Group agents include (among others) families, tribes, companies, and governments. So then, when dealing with issues of rectification, claims to reparation can be made by either individuals or groups against either another individual or group.

Take the following example. Gladys steals Mark's bicycle. In this case, one individual (Gladys) has wronged another individual (Mark) by stealing his bike. Mark then has a claim to reparation against Gladys. Put another way, Gladys owes reparations to Mark. Given that one can identify both the agent who has been wronged, as well as the agent responsible for the wrongdoing, reparations (or, at least some sort of compensatory justice) can be justified in this case.[5] However, Kukathas cautions that while it might be easy to identify the relevant agents in such cases, establishing the extent of responsibility and entitlement "can get progressively more difficult…as time goes on" (Kukathas 2006, 334). Let's say Gladys and Mark die and several generations pass. Imagine also that Gladys never returned the bike to Mark, and as such, the bike has been passed down to Gladys' great granddaughter. Does Mark's great grandson have a claim against Gladys' great granddaughter?

[5] Of course, this is a low-stakes case, as stealing another's bike (in many cases) does not count as a serious transgression or harm. At the very least however, Mark has a claim against Gladys that she return Mark's bike.

Assuming that descendants of victims of past injustices can rightfully claim reparations, one must then identify the individuals who are the descendants of victims of past injustices.[6] However, Kukathas cautions that, depending on who counts as a descendant of a past injustice, this could include a "worryingly large number" of people: "It would be a very large number if we considered anyone a descendant of a victim if he or she could identify any ancestor who had suffered injustice" (Kukathas 2006, 335). Additionally, one encounters trouble when dealing with individuals that have a mixed ancestry, such that one is both a descendant of a victim of a past injustice, as well as a descendant of a perpetrator of the injustice.

Given the difficulties that exist when attempting to identify individual descendants of victims of past injustices, one might suggest looking to groups as candidates for reparations. Kukathas also recognizes the advantage of doing so. Identifying groups, he writes, give us, "An entity that is easier to isolate and distinguish from other potential claimants because it has persisted over a greater length of time and because tracing an ancestry will not be a problem. Moreover, the most serious injustices of the past, which cry out for rectifications, were committed against groups or people as members of groups." (Kukathas 2006, 336)

However, despite the appeal of looking to groups as candidates for reparations, Kukathas raises similar problems to the ones raised when attempting to identify individual descendants. First, it is important to identify which groups count as candidates for reparations. While one might argue that African-Americans as a group are descendants of victims of past injustice, one must also justify the exclusion of other groups that are also descendants of victims of injustice. Given that the histories of many groups include subjection to severe injustices, one would need

[6] While this is a big assumption to make, this is an assumption that Kukathas makes in order to set the stage for his criticism. His point here is that, even if we can, in some way, justify that descendants of victims can make claims to reparations (which he would probably ultimately deny), we're still left with the issues of identifying the harmed parties and the responsible parties. This then is the problem he lays out in the rest of his paper.

to determine which groups are entitled to reparations claims, as well as why these groups and not others are entitled to such claims. Without some justification, nearly all groups with histories of facing injustices would be entitled to reparations. Given the fact that many groups have such histories, this would result in a "worryingly large number" of groups receiving reparations. Additionally, one must determine who ought to be counted as a member of the group in question. Considering the complex histories and identities of groups and their subgroups, this makes identifying who counts as a member of the group in question difficult. Such groups might have committed injustices themselves and individual members of such groups might be of mixed descent (Kukathas 2006, 337).

2.2 Nahshon Perez and the Non-Identity Problem

In *Freedom from Past Injustice*, Nahshon Perez is critical of our ability to justify reparation for historic injustices. Indeed, in the conclusion of his book, Perez discusses the right to a "clean slate" (Perez 2012, 137). Here, Perez argues that the descendants of the wrongdoers have no relation to the historic injustice, and so those that were born after the injustice do not have an obligation to offer reparations (Perez 2012). Moreover, the descendants of the victims who were wronged as a result of the injustice, have no relation to the injustice (or perhaps, are related in such a way that makes it incredibly problematic to justify claims) and so have no claim to reparations themselves.

In his book, Perez discusses many difficulties that arise when trying to justify reparations for historic injustices. Given these problems, Perez argues that justifying the reparations for historic injustices is, if not impossible, incredibly difficult. One of the difficulties that arise when trying to justify reparations for historic injustices is the non-identity problem. The non-identity problem, according the Perez, is such that, while we can say that those who were directly

wronged as a result of the injustice are harmed, we cannot extend the notion of harm to include the descendants of the original victims. In other words, descendants of the original victims cannot be harmed by the original injustice (Perez 2012).

To explain the challenge of the non-identity problem, Perez begins with the assumption that existence is better than non-existence (Perez 2012).[7] It follows then, that, if one's existence is causally connected with, or determined by some event, that event did not harm that person. Indeed, had the event not occurred, that person would not exist. It follows then that the event in question, given it is necessarily tied to one's existence, did not make one worse off (Perez 2012). And if the event did not make a person worse off, then it seems that person can have no claim for damages against persons responsible for it.

To explain this problem more concretely, take for example the injustice of slavery. In the case of slavery, given that the descendants of the original victims would not exist had the injustice of slavery not occurred, the descendants of the original victims (that is, living African-Americans) are not harmed by the original injustice. Assuming that harm is a necessary condition for reparations, given that living African-Americans are not harmed by slavery, living African-Americans have no claim to reparations for the injustice. Here it might be important to note that the non-identity problem concerns particular individuals. While it is possible that, had the injustice of slavery not occurred, there may be African-Americans currently living in the United States, these individuals would not be *the same* individuals who currently exist.

While discussing the non-identity problem, Perez also discusses two tactics philosophers have taken in trying to overcome the non-identity problem: the identity solution and the timing

[7] While Perez takes this as non-controversial, some philosophers hold the opposing view. For instance, David Benatar in his book *Better to Have Never Been* argues that coming into existence is actually a significant harm.

solution (Perez 2012).[8] The identity solution, according to Perez, attempts to overcome the non-identity problem in the following way: Groups can have "intergenerational identities." (Perez 2012, 27) That is, groups can share characteristics that span over generations--characteristics such as a common culture, language, religion and history. Given that this identity is intergenerational, a group identity can precede a past wrong and endure beyond it. That is, in instances in which a group was harmed, it is possible that the group's identity existed *prior to* the injustice and that the group remains identifiable both prior to and after the injustice (Perez 2012).

Groups with an intergenerational identity, Perez explains, can be harmed in ways that not only harm the individual members as individuals but also harm the identity of the group (Perez 2012). Given that identity as a group member may be essential to the identity of the individuals in the group, historic injustices, by harming the identity of the group, also harm the identity of the individual group members. Perez writes, "Such current harms may include emotional distress, the feelings of insult and humiliation that current members of the group feel (….)" (Perez 2012, 28). Proponents of the identity solution, according to Perez argue that in some instances of such group harm, "the ability of the group's current members to function in their respective societies is harmed as a result of this identification with the victims of the past wrong" (Perez 2012, 28). Given that groups and their current members can be harmed in such ways, proponents of the identity solution argue that it is indeed possible to justify claims to rectification on the behalf of descendants of a historic injustice.

While the identity solution attempts to overcome the non-identity problem, Perez suggests that solution has problems of its own. Perez's main criticism of the identity solution is that, the solution only works if the current identity of the group is the *same* as the identity of the group when the group suffered the injustice. Otherwise, it is not possible to say that the group

[8] This paper will focus on the former of the two solutions.

that currently exists (and the group's current members) is harmed as a result of the historic injustice (Perez 2012). Given the fact that group identity is fluid, rather than static, it is not likely that the identities of group are ever the same over a number of generations. Moreover, in cases in which a group suffers an injustice, it seems likely that the injustice will alter the identity of the group in some significant way. And in cases in which the identity of a group chances over time, the group that currently exists is a *different group* (Perez 2012). And if the group that currently exists is a different group from the one that suffered the injustice, then the currently existing members cannot claim rectification for the injustice. In instances in which the group's identity changes, the identity solution is unable to overcome the non-identity problem (Perez 2012).

2.3 Jan Narveson and Problems with Group Responsibility

The next critic I will examine is Jan Narveson. Narveson's critique takes a slightly different approach than the approaches of the authors examined above. While the positions I examined above focus on justifying reparations, Narveson focuses on the group-based approach I wish to take in overcoming the difficulties raised by the other authors. Specifically, Narveson is critical of the notion that we can hold collectives or groups responsible for making reparations. And while Narveson's position focuses on the responsibility side of reparations, I will later demonstrate how his critique has implications for notions of group-based accounts of harm.

In his article, "Collective Responsibility," Naverson argues that collective responsibility is ultimately explained by and attributable to the responsibility of individuals. Any action that one recognizes as a 'collective action' is ultimately the aggregation of individual action (Narveson 2002). It follows then that any responsibility tied to such action is ultimately the

responsibility of individuals. In other words, ‘collectives’ cannot be responsible for the actions of individuals (Narveson 2002).[9]

In his analysis, Narveson examines two types of collective action. The distinction between the two kinds of actions hinges on whether or not each individual’s action could take place, even if the rest of the group did not exist. For example, imagine fifty people raising their hand at a certain time. Each of the fifty individuals could have raised their hands at that specific time, even if the other 49 individuals did not exist (Narveson 2002). On the other hand, if we imagine the actions of players in a sporting game, each individual player is able to act, say score a goal, block, tackle, etc, because there are others playing the game. These individuals are acting within the context of a collective (Narveson 2002). They are playing a game that is structured by rules that enable us to apply terms such as scoring, blocking, etc. While Narveson acknowledges that in these sorts of actions, membership in collectives has some causal role in an individual’s action, it is individuals who ultimately decide how to act (Narveson 2002).

For these reasons, Narveson argues that we ought to reject the notion of collective responsibility, that is, the notion that collectives are “irreducibly responsible” for their actions. Using genocide as an example, Narveson takes aim at those who argue that some actions are irreducibly collective. In the case of genocide, Narveson argues that even if all those who are killed belong to one particular group, and all those who did the killing belong to another group, genocide is *not* irreducibly collective (Narveson 2002). That is, genocide is an action that can be reduced to individual actions. And given that it is possible to reduce this kind of collective action to the actions of individuals, Narveson argues that this allows us to hold the individuals who acted responsible (Narveson 2002). Maintaining that responsibility for some collective action is

[9] It seems to me that Narveson, while discussing collective responsibility, is actually conflating two notions of responsibility, namely guilt and liability. I discuss this conflation in greater detail in section 3.3.

irreducible, raises difficulties with doing just this. Narveson argues that the most significant problem for those who want to argue that genocide is irreducible, is that it becomes difficult, if not impossible to hold individuals responsible. And if individuals are not responsible, then individuals cannot be punished (Narveson 2002).

While Narveson's critique focuses on collective or group responsibility, his critique has interesting implications for notions of group-based harm. Most central to Narveson's analysis is the idea that individuals are fundamental, and so, any moral predicate that one applies to a collective ultimately applies to the individuals that make up such collectives. To say then that, African-Americans, as a group, have a claim to reparations for slavery, is to say that, ultimately, this group-based claim is ultimately the aggregation of the claims to reparations of individual African-Americans. And so, even if one were to (for the sake of brevity, perhaps) call the claim to reparations for slavery a "group-based claim," in reality, such a claim amounts merely to an aggregation of individuals' claims to reparations (and so, is not a group-based claim in any interesting way). And while offering a group-based approach is intended to avoid some of the criticisms surrounding justifying claims to reparations on the individual level, such an approach, ultimately, is subject to the same criticisms.

In this section, I have examined some of the most important criticisms surrounding attempts to justify claims to reparations. Specifically, I have examined the criticisms of Kukathas, Perez and Narveson. As I suggested earlier, it is my position that, by appealing to a group-based approach to reparations, one can avoid some of the criticisms discussed in Section I. In the following section, I will examine Larry May's account of groups; an account that I take to be a plausible candidate for justifying reparations on a group level. My analysis here will focus on how May's account can be thought of as a middle position between those who argue that

groups (and any predicate we apply to groups) are merely aggregations of the individuals who compose the group, and those who are argue that groups (and any predicate we apply to groups) can be independent of the individuals who compose the group. In Section III, I will examine how May's account is able to avoid the criticisms outlined in Section I.

3 MAY'S APPROACH

In order to defend the position that groups can have and make moral claims (claims to reparations, specifically), I turn to Larry May's account of groups.[10] In *The Morality of Groups*, May argues that the structure of social groups "plays such an important role in the acts, intentions, and interests of members of groups, that social groups should be given a moral status different from that of the discrete individual persons who compose them" (May 1987, 3). In his book, May attempts to defend what he calls a "middle position". On the one hand, May's middle position is opposed to the view that the moral status of social groups is not distinct from the aggregate moral standing of the individual members of the group.[11] On this view, groups themselves do not have moral standing; only the individuals who compose the group have moral standing. On the other hand, May's position is also opposed to the view that the moral standing of groups is entirely separate from the moral standing of the individual members.[12] According to May, the relationships between members of a social group are distinct from those relationships that exist between members outside of the social group, and as such, social groups ought to be given a different moral status than simply a moral status that reflects the aggregation of the individual members' moral standing. However, because the relationships are between the

[10] While I rely on May's articulation of his account in May (1987), his account of groups, as it pertains to my thesis remains largely unchanged. For example, see Chapter 2 in *Genocide* (May 2010) for a more recent articulation of May's account of groups and group harm.
[11] Throughout this section, I will refer to this view as the "group-as-aggregates" view.
[12] Throughout this section, I will refer to this view as the "groups-as-full moral agents" view.

members of the group, the moral standing of the relationships themselves is not entirely separate from the moral standing of the individual members.

In the first chapter of his book, May discusses the nature of social groups. It is here that May defends his middle position against both the groups-as-aggregates view, and the groups-as-full moral agents view. As an example of the groups-as-aggregates view, May examines Lon Fuller's view that social groups exist only as creations of the legal imagination (May 1987). According to Fuller, while it is reasonable to call a collection of individuals a 'group' because there is a *unity* to the collection, this unity is mistakenly believed to resemble the unity of a person. According to Fuller, unity is "always a matter of subjective convenience" (May 1987, 11). For example, one may, for the sake of convenience, refer to a collection of hams hanging in a butcher shop as a unit. However, it is clear that the unity among the collection is not the same as the unity that is attributed to each of the individual hams.[13] Similarly, the unity attributed to groups of individuals is not the same as that which is attributed to the individuals themselves (May 1987).

It seems here that worries concerning unity are in some sense related to concerns surrounding identity. So when one talks about the "unity" of some entity, one is talking about, in some sense, what makes the entity the same entity over time. This might help make sense of the

[13] The hams hanging in a butcher shop example is Fuller's, not mine. For reasons surrounding Quinean concerns, one might reject the example, because hams are not natural kinds, and as such, we cannot assign references to them. According to Quine, we can assign references to only those entities for we have a clear identity criterion. Assigning references to an entity then, requires that one be able to identify the entity over time and under different circumstances. For this reason, it might make sense to say that only "natural kinds" are the kinds of things that can have references. Natural kinds are kinds that are individuated by some underlying structure. If hams are not a natural kind, then it seems that the example could be easily replaced with a similar example involving some natural kind. The more pressing problem however, is whether groups are natural kinds such that we assign references to them. May's conception of groups might allow us to make sense of this particular problem. When we say that Gulf Oil Company left Pittsburgh, this statement refers to "an organizational structure whereby several persons, who are members of Gulf Oil Company, are designated as those who will decide where all of the members will work" (May 1987, 12). According to May, the use of this statement can be justified "by reference to the decision structure which related and partially transformed the actions of individual board members and employees of this corporation" (May 1987, 12-3). Our reference then does not apply to a group per se, rather the reference applies to the organizational structure.

distinction between individual/group unity. That is, Fuller's assertion that the unity of an individual entity is distinct from the unity of a set or collection of entities. And while there is a unity to individuals such that we can say that some person is the same person at both times x and y, this does not (for the most part) hold for groups.

It seems that for Fuller and other proponents of the groups-as-aggregates view, it very unlikely that groups can have identities, such that we would be warranted in saying that a certain group at time x is the *same* group that existed at time y. Given that groups are merely aggregates of the individuals who compose them, if the aggregations changes (that is, if the membership changes), then the group itself changes. And though groups are merely an aggregation of the individuals who compose them, for purposes of convenience, we can treat a particular aggregation of persons as a unit, for example some corporation X, even though the aggregation is continuously changing.

Contra Fuller, May argues that Fuller's analysis fails to take into account the different types of unity among collections. According to May, one significant difference between types of unity is the impact that such unity can have on the individuals in a particular group (May 1987). So while the fact that the location of one ham does not impact the capabilities of another, in other sorts of units, "the fact that one member stands in a certain relationship to other members does make a difference in terms of what that person can accomplish" (May 1987, 12). If we think of this in terms of identity, then the fact that one identifies the collection of hams as group (the collection of hams has an identity as a group), does not affect the capabilities of the individual hams. However, by identifying a collection of individuals as a group, this can affect (as I will discuss below) the capabilities or interests of the individuals that compose the group.

After examining the issues surrounding the groups-as-aggregates view, May examines both the position of Emile Durkheim (who May takes to be one of the chief defenders of the groups-as-full moral agents view) as well as the position of Peter French. According to Durkheim, individuals cannot help but being influenced by the traditions and collective beliefs (embodied in the moral customs and laws of societies) of previous generations. According to Durkheim, such collective beliefs, as well as their influence on individuals, are independent of the beliefs and influence of contemporary individuals (May 1987). And because these social forces begin to influence individuals at such an early age, the influence becomes beyond the control of individuals (May 1987). Moreover, while collective beliefs and traditions are passed on to succeeding generations by individuals, specific individuals cannot change either the beliefs or the traditions (May 1987).

According to Durkheim, the collective beliefs and traditions of a social group are so deeply embedded in the psychologies of the groups' members that such social groups come to "have a life of their own" (May 1987, 19). In other words, such social groups become irreducible and independently real in their own right (May 1987). While May agrees that social traditions and relationships among group members have a reality that is different from the reality of individuals, May argues that these relationships are not entirely separate from the individuals in the relationship and as such, it is not sufficient to establish that groups have an independent reality (May 1987).[14]

[14] According to Durkheim, social facts exist internal to and external to individuals. For this reason, it would be incorrect to say that social facts exist independently of *all* individuals. His claim seems to be more modest in that these social facts exist independently of any *particular* individual. Methodologically, in order to properly study such facts, one needs to abstract these facts from the individuals through which they are realized. On this account, it seems that the notion of social groups is a social fact; it's a fact of our social life that individuals form and identify with particular social groups. So then, while groups exist independently of any particular individual member, it is not the case that the group exists independently of all its members. It also seems that Durkheim would maintain that the relations among groups are a social fact, such that these relations exist independently of any particular individual; though it is not the case that such relations exist independently of all individuals. If the above portrayal

May also examines Peter French's views, which he classifies as an example of the groups-as-full moral agents view.[15] French distinguishes between two types of social groups: aggregate collectivities and conglomerate collectivities. According to French, aggregate collectivities are merely collections of people, such that the group's identity is dependent on the membership of the aggregate; a change in the membership of the aggregates changes the identity of the aggregate (May 1987). According to French, this sort of collective is subject to a reductive analysis; it can be understood as merely an aggregate of the members who compose the group. Thus, according to May this sort of group can be easily handled by methodological individualists.[16] On the other hand, unlike the identity of aggregate collectivities, the identity of conglomerate collectives is not dependant on the membership of its members; a change in the membership of a conglomerate collectivity does not entail a change in the identity of the group (May 1987). Given that such a group cannot be understood as merely an aggregation or summation of the members who compose it, this sort of group cannot be easily handled by methodological individualists. While May finds this distinction useful, he offers a friendly amendment to French's position.

In making this amendment, May notes French's distinction between the two types of aggregate collectivities. On the one hand, random aggregate collectivities include individuals who just happen to in the same place as the same time. Individuals waiting for the bus at a bus stop fall into this category. On the other hand, there are aggregates that are more appropriately

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of Durkheim's view is correct, the distinction between his view and May's view becomes less clear. Perhaps the distinction is one of methodology. While Durkheim suggests that, in order to properly study social facts, such as relations between group members, we ought to abstract from the individuals through whom social facts are realized, however, May argues that such social facts are not entirely separate from the individuals through whom these facts are realized. Given that the relationships among group members exist between members, we ought not to abstract from the individuals in these relationships. See Chapter 1 in May (1987) for his discussion of Durkheim's view.

[15] While the term used here is mine, and not May's, May does classify French's position in the way that I have suggested here. That is, as a position that maintains that groups themselves can have moral standing in the same way that individuals can.

[16] That is, those who hold the view that all social phenomena can be explained and reduced entirely to individuals.

defined in terms of a shared feature or characteristic. Such aggregates include mobs and teams (May 1987). According to May, this second class of aggregates cannot be adequately understood as a mere aggregation of its members. May suggests that the structure of the group allows its members to either engage in joint action, or to have common interests (May 1987). So while French's position is focused on fixed membership as a criterion for distinguishing types of social groups, May amends French's position to suggest that the structure of a group is what distinguishes types of social groups.

It seems that, on May's account, difference in (organizational) structure *always* distinguishes the different types of social groups. It seems that most fundamentally, there are two classes of collectives on May's account: Aggregations (whose moral status would be reduced to the moral status of the individuals who make up the aggregation) and groups (whose moral status does not reduce merely to the moral status of the individuals who make up the group).[17] In the case of an aggregation, the aggregation is structured such that the individuals who make up this collective do not have common interests. More specifically, while the individuals may have the *same* interest, it is not an interest they hold in virtue of being a member of the aggregation. All of the individuals waiting for the bus, for example, might share the same interest: that the bus arrives on time. But this interest is one that each individual holds as an individual, and not an interest they hold in virtue of being a member of a particular collective. And for any collective that does not have common interests (and not merely the same shared interest), it is not a group in any morally relevant sense.According to May, the relations between the members of a group ought to be the focus of our analysis of groups. These relationships, May suggests, have an

[17] Groups then are distinguished based on differences in organizational structure. Moreover, differences in organizational structure (typically) correspond to whether the group is based on voluntary or involuntary group membership. Groups based on voluntary membership are typically much more organized than groups based on involuntary membership. How the members of these two types of groups are harmed is discussed later in this section.

ontological status that is distinct from the ontological status of the group's individual members (May 1987). According to May, these social relationships "have a reality in that they structure or unify a group of individual human persons so that these persons can act and have interests in different ways than they could on their own…. [T]he relationships themselves are not reducible to psychological, or other, features of individual human persons" (May 1987, 23). However, while these relationships are not reducible to individual members, they are not entirely separate from the individual members.[18] As such, any analysis one gives of these relationships can abstract from neither the group nor its individual members.

After discussing the reasons for rejecting both the groups-as-aggregates view, and the groups-as-full moral agents view, May then offers his middle position. As previously suggested, May argues that relations among groups and their members ought to be the focus of our analysis when it comes to groups (May 1987). Moreover, May puts emphasis on how these relations are manifested by their effects. Specifically, May is concerned with how the structure of, or the relations among members, enables group members to perform actions or have interests that they could not on their own (May 1987). According to May, the moral status of social groups is grounded in the relations among group members. That is, a group has a moral status insofar as these relations allow collections of persons to either engage in joint action or to have common interests (May 1987). This is the key characteristic of social groups. Furthermore, in order to either engage in joint action or to have common interests, it needs neither be the case that, 1) The

[18] Here it might be important to note what May has in mind by a group being "irreducible." Given that May's analysis is concerned with a group's moral status, it seems to me that by being irreducible, a group's moral status is not *merely* the aggregation of the moral statuses of all the individual members of the group. An (overly simplistic) example here might be helpful. Imagine that Garima and Sophie are the members of a group with an irreducible moral status. This means that the moral status of this group is not merely Garima's individual moral status, plus Sophie's individual moral status. While the moral status of this group is not independent of the moral status of its two members, its moral status is also not identical merely to the aggregation of the individuals' interests either. Moreover, by trying to reduce the moral status of a group to merely an aggregation of its individual members, an analysis we attempt to give of the actions, intentions, or interests of the group will be lacking. Fully explaining some interests require making reference to the relations among individuals.

group is organized in such a way such that there is a decision-making procedure; nor 2) The membership of the group is fixed, that is, the members of the group remain constant (May 1987).

According to May, in order for a collection of persons to be considered a social group, the relations among the members of the collection must be structured such that the members must be capable of either acting collectively or having collective interests. Here then, it is important to flesh out May's discussion of group interests and harms to groups. May has in mind here is relying on a fairly common definition of harm; harm is a setback to one's interest (May 1987). It follows then, that a collection of individuals can be harmed only if the relations among the members allow the individuals to have collective or group-based interests. In order to coherently say that some group has been harmed, that is, that the group's interest has been set back, the group must first be capable of having some interest. It's important to emphasize here that May is not arguing that the groups themselves can have interests independently of the members of the group. A group only has interests because it is composed on individuals who are related to one another. However, group-based interests are interests that individuals cannot have on their own. Such interests are interests individuals can have only in virtue of being related to others as members of a group.[19] Each member of the group has an interest, not in virtue of being individual, but in virtue of being a *member of a group*.[20] Group interests are, according to May best understood as a group-based concept, because, such interests cannot be fully explained without reference to a social group, its structure, or the relations among members.

[19] Below, I discuss discriminatory stereotyping as an example of a group-based harm. Having an interest in not having such harmful treatment attached to group membership is an interest one can only have as a member of a group.

[20] However, it is important to note that such group-based interests are not merely an aggregation of the interests of each individual member.

Furthermore, according to May, in order for a group to have an interest, it need not be the case that the group is capable of collective action. It need not be the case that the group is organized in such a way such that the group has some sort of a decision-making procedure such that it can engage in collective action (May 1987). As May suggests, being capable of collective action is not necessary to ground the moral status of groups, because groups can be acted upon (May 1987). That is, members of groups can be harmed by the actions of others. Given that harm here refers to a setback of one's interests, susceptibility to harm presupposes that one is capable of having interests. So long as a collection of persons can have been harmed, that is, so long as it is capable of bearing interests, then this collection ought to be considered a social group and ought to be given moral standing. May writes,

> But given that having an interest does not require complex organizational structure, decision-making procedure, or even the capacity for action, it will turn out that a wide range of social groups can be harmed, and should be recognized as having at least some form of standing to make legitimate moral or legal claims. (May 1987, 113)

Having an interest is typically thought to justify one's ability to assert a claim. So then, if a collection of persons indeed is related such that the members can have a collective interest, then this collection, or group of persons are in a position to justifiably assert a claim. Such claims can include claims for redress in the event of some harmful treatment (May 1987).

While May argues that a group can be harmed only if it is capable of having interests, May also argues that a group can have collective interests only if there is enough coherence to the group, such that the group can have an "identifiable status" (May 1987, 115). May seems to suggest that groups can have an identifiable status either internally, that is, the members of the group feel a sense of solidarity with one another, or externally, that is, outsiders identify the members of the group as belonging to the group (May 1987). May writes,

> Either solidarity characterizes the feelings of the members toward each other, thereby creating empathetic reactions of all to the harm of some members, or indiscriminate treatment of individual person as group members by outsiders creates a risk of similar treatment of all members of a group. (May 1987, 115)

Regardless of whether a group is internally or externally coherent, May suggests that when one member of the group is directly harmed, all other members of the group are also harmed, albeit, indirectly or vicariously (May 1987). That is, their interests are not set back directly by whatever was the cause of the directly harmed group member. Rather, their interests are set back indirectly. To understand how interests can be set back indirectly, it might be helpful to look at examples of the indirect set back of the interests of group members in both internally and externally coherent groups.

If the group is internally coherent, and if one member of the group is directly harmed, then other members of the group will be indirectly or vicariously harmed because they strongly empathize with the member who was directly harmed. An example of this sort of harm might include harms done to family members. Given that the interests of an individual is intimately tied with the interests of her son or daughter (the interests of her son or the interests of her daughter are, in some sense, *her* interests), this person's interests are indirectly set back when her son or daughter is directly harmed.

On the other hand, if the group is externally coherent, and if a member is directly harmed, then other members are harmed indirectly in that the harmful treatment could just as easily have been directed at any of the other members (May 1987). In some cases, individuals are harmed as a result of being treated, not as an individual, but as a member of a group. An example of this type of harm is mistreatment due to stereotyping. When one is a victim of stereotyping, the treatment that one faces is not a result of anything particular about one as an individual. Rather, one is suffering such treatment because one is being regarded *as a member* of a particular group.

Given that one is being harmed qua *group member*, any other member of the group could have just as easily been a victim of the mistreatment.[21] For example, if a job candidate Susanne is not selected by a potential employer solely on account of her membership in a particular group, then, for any other members of the group, were one to have applied for the same job, one would also have suffered the same mistreatment. May writes, "The individuals not directly affected can be said to be indirectly or vicariously harmed in that their status is adversely affected by what has occurred to their fellow members" (May 1987, 115).

Furthermore, May argues this type of harm is a group-based harm because "it is not reducible to the aggregate harms and claims of the individual members of the group" (May 1987). In other words, in order to properly explain the harm faced by some member, one must make reference to some social group, or one of its features. In the case of Susanne, in order to properly explain her mistreatment, one must make reference to her membership in a particular group. If Susanne is not selected because she is (identified by the employer as) African American, then Susanne is not an African American who happens to be a victim of mistreatment. Rather, Susanne faces mistreatment *because* she is African American. The constitutive features of her identity as an individual are irrelevant to her mistreatment; her membership in a particular group is the only characteristic that is being treated as important. In this case, Susanne is being reduced to a token of the type "African American" (May 1987, 116). So then, in order to properly explain Susanne's mistreatment, one must make reference to her membership in a particular social group.

[21] Of course, if a particular case of mistreatment due to stereotyping of one group member occurs in Denver, then clearly another group member that is in Pittsburgh at the time that the stereotyping take place could not have *just as easily* been a victim of this particular instance of stereotyping. So time and location will obviously play some role in constraining which members are more and less likely to experience this indirect harm.

Adverse stereotyping of this sort gives rise to a group's collective interest in not having such mistreatment attached to (perceived) group membership. Again, the interest a collection of individuals have in not having mistreatment attached to group membership is only properly explained by making reference to a particular social group or one of its features. For this reason, this sort of interest is a groups-based or collective interest. And if a collection of individuals can have a collective interest, then this is sufficient to say that the collection is a social group, and as such, can have moral standing.[22]

In the case of reparations for slavery, being subjected to the sorts of discrimination examined above might plausibly be said to be among the sources of the unequal status of African-Americans. Such discrimination might be said to be the cause of the fact that, as a *group*, African-Americans are worse off socially, politically and economically than white Americans. Such discrimination might explain why, on average, African-Americans are less educated, poorer and more likely to be incarcerated. Moreover, if such discrimination, as some social scientists have suggested, has its roots in slavery, Jim Crow segregation, as well as the

[22] While all groups that can have collective interests have moral standing, May makes an interesting distinction between harms to corporate groups, and harms to ethnic or minority groups. These groups are importantly distinct in two ways. The first distinction surrounds the voluntariness of membership. While one chooses to join a corporation, one does not choose to be born into a particular ethnic or minority group. So then, one's identity is bound up in being members of an ethnic or a minority group in ways that the identities of individuals in corporate groups are typically not. While one can cease to be a member of a corporation, it seems that one cannot cease being African American. Secondly, ethnic and minority groups are not strongly organized, while corporations are highly organized. Given its complex organizational structure, when a corporation is harmed, there are procedures in place such that some individuals are harmed more directly than others. In unorganized groups, when the group is harmed, all members are harmed. Again, take the example mistreatment due to stereotyping. All members are of a group are harmed (either directly or indirectly) by stereotyping. That is, all members are indiscriminately perceived in terms of some unfavorable characteristics, and as such, are all just as likely to be harmed as are those members that are directly harmed. Again, while both voluntary and involuntary groups have moral standing on May's account, because groups based on involuntary membership are less organized than voluntary groups, they ought to be afforded more protections than groups based on voluntary membership. What seems to be playing the normative role here in how we afford protections to groups is harm, and choice. Groups based on involuntary membership are not afforded more protections because they did not choose to be a member of the group. Rather, such groups are given a afforded more protections because such groups lack a complex organizational structure to distribute the harms that the group faces. See Chapter 6 "Harming Groups" in May's book for a more in depth discussion of ways different types of social groups can be harmed, and the protections that ought to be afforded to them based on these differences.

failure to make substantial attempts at reparations for these injustices, then the group-based harm suffered by African-Americans today is (at least partially) causally linked with these injustices.[23] And if such injustices indeed can be plausibly linked to the harms suffered by African-Americans today, then it seems that by being subjected to such harms, African-Americans, as a group, can make a claim to reparations for these historic injustices. Again, while the harms suffered and the claims to reparations, are ultimately faced by and belong to individuals, given that neither the harm nor the claims to reparations can be properly explained without reference to some social group, both the harm and the claims to reparations are best conceptualized as group-based. In this section, I have explained Larry May's account of groups. Specifically, I attempted to elucidate how May's account can be thought of as a middle position between those who endorse a group-as-aggregates view, and a group-as-full moral agent's view. Moreover, I have attempted to elucidate how May's account can make sense of a group-based account of reparations for slavery. In the following section, I will attempt to demonstrate how May's account can avoid some of the criticisms that were examined in Section I.

4 RESPONSE TO CRITICS

4.1 Kukathas

Given the difficulties Kukathas raises regarding our ability to identify individuals who are due reparations, we ought to, as I've suggested, look to groups as candidates for reparations. While a group-based approach is able to avoid such issues, such an approach also seems appropriate given the fact that (as Kukathas suggests) the most heinous historic injustices were those committed against groups. So then, in the case of slavery, one ought to look to African-

[23] For some examples, see Galor, Moav and Vollrath (2009) "Inequality in Landownership"; Ihlanfeldy and Sjoquist (1990) "Job Accessibility and Racial Differences in Youth"; and Bertocchi and Dimico (2014) "The Historical Roots of Inequality."

Americans, as a group, as a candidate for reparations. Rather than trying to identify which particular contemporary African-Americans are harmed as a result of the historic injustice, I have argued that such harm is best conceptualized as a group-based harm. Because individual African-Americans are harmed as group members, the harm that they face is only properly explained by an appeal to group membership.

However, while we might be able to identify the group to whom reparations are due, in order to carry out a reparative policy, one might argue that we must identify which individuals are to count as members of the group. So while African-Americans as a group are owed reparations, one needs to determine which individuals are to count as members of the group. Recall that Kukathas raises worries for our ability to do this. As Kukathas suggests, groups have complex histories and identities, and this makes identifying who counts as a member of the group in question difficult. Such groups might have committed injustices themselves and individual members of such groups might be of mixed descent (Kukathas 2006). A related concern is that the identities of groups are not static, and fluctuate through time (Kukathas 1992).

Here, it seems that such an issue may be more concerned with how to institute reparations policies that might result from taking a group-based approach, rather than the approach itself. Given that I am offering a group-based approach to reparations, it seems to me that we merely need to identify the groups to which reparations are due. In the case of reparations for slavery, African-Americans, as a group, are owed reparations. However, one might be concerned with identifying which individuals ought to count as members of a group, such that one can say that it is these individuals (and only these individuals) that ought to benefit from a reparations policy. While I do not intend to offer any suggestions on actual reparations plans, given that it seems to me that the best policies are not policies that will be implemented by giving money directly to

individuals, such a worry seems unfounded. It seems that the most productive reparations policies will be policies that are more group-based in nature. Such policies might include directing greater funding for education in underserved communities with large African-Americans populations.[24]

4.2 Perez

In Perez's book, Perez offers the non-identity problem as a reason for why justifying reparations for historic injustices is problematic. Given that individuals would not have existed had the injustice not occurred, individuals cannot said to be harmed as a result of the injustice, nor can they be said to have claims to reparation. Moreover, while we might think that groups can have intergenerational identities that exist prior to and following the injustice, it seems unlikely that such injustices would not substantially change the identities of the group in question. And if the identity of the group has changed, then the group that currently exists is not the same group as the group that was harmed.

While the purpose of Perez's chapter here is not to formulate necessary and sufficient conditions for what makes a collection of individuals a group (in a morally relevant sense), his analysis here seems to focus on the fact that groups can have an indefinable status internally. That is, Perez's analysis seems to focus on the fact that a collection of persons can be a group if they share some essential characteristics (such as culture, language) and that the group members identify themselves as belonging to the group. However, his analysis does not seem to fully consider the implications of the fact that a collection of persons may have an identifiable status

[24] It seems to me then, that we do not need a completely worked out theory of the necessary and sufficient conditions for group membership before instituting a reparations policy. However, given the way that May defines groups, it seems reasonable to me to suggest that, so long as one has been identified as belonging to the group in question (in cases of externally coherent groups), then one satisfies conditions for group membership.

as a group when those outside of the group identify the members as belonging to a group. In other words, groups can have an identifiable status both internally and *externally*.

Along with considering a group's identifiable status, when discussing groups and their identity, it also seems important to consider which features of a group's identity we ought to take to be morally, politically and socially relevant. While Perez does mention some of these features, one feature that he does not seem to consider is how well off a group is, relative to other groups. This relative status seems even more important when one considers that the reason for the inequality is connected with the group's treatment in the past.

In cases in which one group is much worse off (socially and politically speaking) than another group, it seems that it is plausible that this relative status might sometimes likely become (and in the case of some African American groups, has become) a feature of their understanding of what it is to be a member of the group. If we take the case of slavery and currently living African-Americans, while the status of African-Americans as a group has significantly improved since the injustice of slavery, currently, the group is still significantly worse off relative to white Americans. It seems then that this aspect of the group's identity might become and continue to be part of the group members' understanding of what it means to be a member of the group.

There seem to be two important considerations with the relative status of African-Americans as a group. First, the relative status of African-Americans today, may be said to be the result of the injustice of slavery, as well as the failure of those responsible to rectify the injustice. Moreover, the relative status of African-Americans today is more likely to be connected with their externally identifiable status as a group, than it is likely to be connected with the group's internally identifiable status.

Currently living African-Americans suffer and are disadvantaged from discrimination. Such discrimination is the treatment that individual African-Americans face when they are recognized and treated as members of a group. Stereotypes and other harmful perceptions of African-Americans as a group result in individual members being treated as mere tokens of a type. As I explained in Section II, this sort of stereotyping is an instance of a group-harm. It is a group-harm because individuals are wronged when those who perceive themselves to be outside of the group, mistreat those individuals in virtue of judgments of their group membership.

4.3 Narveson

Recall here that Narevson is critical of any notion of collective responsibility or harm. And while Narveson's view offers a forceful critique, rather than giving us reason to reject notions such as collective responsibility or collective harm, his critique illuminates the care we must take in explaining such collective notions. Here, it seems to me that Narveson's critique does not apply to May's conception of group action, group harm or group claims.

Recall that May does not argue that group-based concepts, such as group harm, are irreducibly collective. That is, May does not argue that such notions are not reducible to individuals. Indeed, May argues that such notions *are* (in some sense) reducible to individuals. However, May's point is that one cannot reduce group-based notions of harm to the harm an individual suffers as an individual. The only way to fully capture the moral import of certain individual harms is by making reference to an individual's group membership. Group notions of harm are reducible to individuals, only insofar as we understand these individuals to be *individuals in relationships*; group-based harms are harms that individuals suffer *qua group member*. So, for example, the only way to fully capture the moral import of the discriminatory treatment of contemporary individual African-Americans is by making reference to the

individuals' memberships in particular groups. Individuals who face such discriminatory treatment as not being treated as individuals, but are being treated as *members of a group*.

Furthermore, because May's account is not irreducible in the sense that is the focus of Narveson's critique, it seems that his account is also able to avoid the problems with holding individuals responsible. Recall that, Narveson argues that if we hold collectives responsible, then we will not be able to hold individuals responsible. However, if we take May's account of groups, it seems clear that we both talk meaningfully about group-responsibility, while also holding individuals responsible for their actions. The same can be said when it comes to group-based harm. While there is something essentially group-based or collective about the harm suffered by African-Americans, individual African-Americans are harmed by stereotyping and other forms of discrimination (both the individuals who are directly harmed, but also the other members who are harmed indirectly). Moreover, while there is something essentially group-based about the actions of those who perpetuate such discrimination, ultimately individuals are responsible for their actions. However, if we fail to recognize that the individuals whom we hold responsible are responsible *as group members*, then our analysis, and our holding them responsible is going to miss something important. Problems (which Narveson cites) may arise when dealing with group members who do not participate in the collective action, or with members who do nothing to stop the actions of other group members, but it seems that these problems are not reasons to reject notions of group action or responsibility.

Here, it might be important to highlight a distinction in the terms of an individual being 'responsible' for some state of affairs; a distinction that Narveson seems to be conflating. Here, Narveson seems to be conflating responsible in the sense that one is guilty for bringing about some state of affairs, and responsible in the sense that one is liable to correct some state of

affairs.[25] In the case of being guilty, one would be responsible in the sense that her actions are causally connected to a certain state of affairs. If Raul hits a pedestrian with his car, then Raul is responsible for the pedestrian's broken leg in the sense that Raul's actions brought about this particular state of affairs. However, one might also be responsible in the sense that one is liable to correct some state of affairs. Parents for example are typically held liable for the actions of their child. If a child bites the finger of another child, such that the second child then requires stiches, the parents of the biter are typically held liable for the actions of their child, even though it is not the actions of the parents, per se, that brought about the state of affairs.

Moreover, it seems that these two senses of responsibility, that is, guilt and liability are conceptually distinct. One might not be responsible to correct some state of affairs that one brought about (ignorance, here might excuse one from such moral responsibility such as in the case of the biting child). There might also be instances in which a person has some responsibility to correct some state of affairs, even if she did not bring about the state of affairs. Let's take the example of discrimination. An individual might be responsible (that is, guilty) for her individual discriminations, and as such might be responsible (that is, liable) to make amends to the persons she discriminates against. However, while this person cannot be said to be guilty of instituting a social and political structure which allows for the perpetuation of such discrimination, she might be said to be responsible for the social and political structure in the sense that she is liable for contributing to the correction of this institutional structure, as well as for providing reparations for those who are harmed as a result of group-based discrimination.[26]

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[25] Here I'm relying on the distinction between guilt and responsibility made by Arendt (1987).

[26] The case of being responsible for correcting the discriminatory institutional structure, seems to me to be a case of collective responsibility, and so, the individual *per se* would not be responsible for correcting the institutional structure. Rather, such correction is the responsibility of the political community of which she is a member. Here, I am relying on Arendt's notion of collective responsibility. The criteria for such responsibility is that the responsibility stems from something individuals did not do, and such responsibility must be based on involuntary group membership. While questions of responsibility, and particularly collective responsibility, the focus of this

In this section, I have attempted to explain how my group-based approach to reparations (based on May's account of groups) can be defended against the critiques of Kukathas, Perez and Narveson. I have attempted to demonstrate how appealing to groups in the case of reparations for slavery can avoid some of the issues that arise when trying to justify reparations for slavery on the individual level. In the following section, I will attempt to respond to some possible objections that my account may be subject to.

5 OBJECTIONS AND REPLIES

Although he thinks such an approach will ultimately fail, even Kukathas acknowledges that African-Americans, as a group, are certainly a plausible candidate for reparations. However, Kukathas worries whether "excluding the descendants of other victims of past injustice is warranted" (Kukathas 2006, 336). Given that there are other groups who are descendants of victims of serious injustices, how can one justify reparations to some groups and not others? While African-Americans were surely victims of serious injustices, other groups such as Chinese Americans and Jewish Americans, were also victims of serious injustice. Chinese Americans, for instance, faced severe discrimination, and were the victims of lynchings, riots and massacres. Furthermore, Chinese Americans also faced institutionalized discrimination at the hands of the US Government when it passed the Chinese Exclusion Act of 1882, an act which outlawed most Chinese immigration and denied Chinese immigrants citizenship (Spinner-Halev 2012). Given the serious injustices faced by Chinese Americans in the 1800s, one might argue that African-Americans are no more entitled to reparations than Chinese Americans.

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paper is articulate and defend a group-based notion of harm. And so defending this notion of collective responsibility is outside the scope of this paper.

In order to determine which groups' claims to reparations are most urgent, I suggest we look to Jeff Spinner-Halev's notion of 'enduring injustice'. Like Kukathas, Spinner-Halev notes that the number of individuals who are descendants of victims of past injustice is exceedingly large. Indeed he writes, "Nearly all of us in the Western world, if not all of us, have ancestors that have suffered grievous injustices" (Spinner-Halev 2012, 23). However, though he notes this problem, the conclusion he draws is quite different from the one Kukathas draws. Rather than undermining reparations claims, Spinner-Halev suggests that "tracing wrongs through generations, and trying to sort out the identity problem is simply a misguided way to discern which injustices should concern us today" (Spinner-Halev 2012, 23). Here, Spinner-Halev argues for a conceptual shift in the way we think about historic injustice.

In his book *Enduring Injustice*, Spinner-Halev asks, "Of the countless past injustices, how does one pick which victims of past injustice deserve redress today?" In order to answer this question, Spinner-Halev argues that one ought to shift the "conceptual ground" away from historical injustice. What is most salient in issues of historic injustice, he argues, is not that groups suffered an injustice in the past, but that the group still suffers from an injustice today (Spinner-Halev 2012). Contemporary injustices that have their origins in historic injustices are what Spinner-Halev refers to as an enduring injustice. So then, rather than focusing on which injustices from the past we ought to repair, Spinner-Halev urges one to consider which injustices from the past persist today. And while his focus is on injustice in the present, his approach is not ahistorical, as the past does matter for "how we should conceive of injustices, and how we should think of solutions to them" (Spinner-Halev 2012, 6).

According to Spinner-Halev, enduring injustices have their roots in radical injustices. Such injustices can include exile, dispossession, cultural dispossession and pervasive

discrimination. Additionally, a radical injustice can be considered an enduring injustice when it has lasted for at least two generations and seems likely to persist into the future. Slavery, and the subsequent Jim Crow era were instances of radical injustice. Because these injustices were not repaired, they have persisted into present. African American's claims to reparations are more urgent than the (potential) claims of other groups, because African-Americans continue to suffer from the failure of the responsible agent to pay what it owes.

While this conceptual shift allows one to determine which groups' claims to reparations are most urgent, one might object to such a shift. One might claim that this shift is too forward looking, and renders the history of the injustice irrelevant. African-Americans are not due reparations because of considerations of their welfare in the future, one might argue, but they are due reparations because of the past injustice inflicted on their ancestors. It is *this* injustice that reparations are meant to repair. To claim otherwise would be to miss the point of reparations.[27] However, while this criticism is powerful, it is also misplaced.

Recall that Spinner-Halev's view is not ahistorical. That is, on his approach, the history of the injustice is not irrelevant. Indeed, the history of the injustice is crucial in determining our conception of the injustice. Enduring injustices are injustices that have their roots in a historical injustice. In the case of the enduring injustice suffered by African-Americans, this injustice is slavery. Due to the failure of the wrongdoer to offer reparations for this injustice, as well as the subsequent injustices of Jim Crow laws and segregation, this injustice has endured into the present. And without some sort of attempt at repair, it is likely to endure into the future. So while this approach is, in some sense forward looking, it not exclusively so. And indeed, the history of the injustice matters a great deal in justifying the claims to reparations.

[27] Authors such as Bernard Boxill might take this line of thought.

One might also object that claims to reparation can be justified, even if the injustices suffered by the claimants do not "cry out" for repair (Spinner-Halev 2012, 23). Indeed, one might argue that all injustices deserve rectification. However, it is important to clarify that my argument is not that *only* injustices that cry out for repair deserve reparation. Rather, my argument is that these injustices should be our immediate concern. So then, while other injustices might also deserve rectification, given that the enduring injustice suffered by African-Americans clearly cries out for repair, such claims to rectification are urgent, and deserve some sort of priority.

6 CONCLUSION

In this paper, I have attempted to offer a group-based approach to reparations. Specifically, I have focused my paper on attempting to provide a group-based approach to reparations for slavery in the United States. I have argued that appealing to a groups-based approach is able to avoid some of the issues associated with trying to justify reparations on an individual level. Specifically, I examined the issues raised by Chandran Kukathas and Nahshon Perez. In order to justify such an approach, I appealed Larry May's account of groups. By appealing to May's account of groups, I have attempted to demonstrate how such an account can avoid the criticisms of both Kukathas and Perez. I also argued that May's account of groups is properly formulated so as to avoid the criticisms of Jan Narveson. Specifically, I argued that May's account of groups is able to avoid the criticisms of those, like Narveson, are skeptical of any appeals to moral predicates of groups, such as group harm and group responsibility.

REFERENCES

Arendt, Hanna, "Collective Responsibility," in *Amor Mundi*. Edited by James Bernhauer. Dordrecht: M. Nijhoff (1987), pp. 147-158.

Bertocchi, Graziella, and Arcangelo Dimico. "The Historical Roots of Inequality: Evidence from Slavery in the US." VOX CEPR's Policy Portal. 10 Nov. 2014. 05 March 2015. <http://www.voxeu.org/article/historical-roots-inequality-evidence-slavery-us>.

Boxill, Bernard R. "A Lockean Argument for Black Reparations." *Journal of Ethics* 7.1 (2003): 63-91.

Galor, Oded, Omer Moav, and Dietrich Vollrath. "Inequality in Landownership, the Emergence Of Human-Capital Promoting Institutions, And The Great Divergence." *Review of Economic Studies* 76.1 (2009): 143-179.

Graff, James A. "Human Rights, Peoples, and the Right to Self-Determination" in *Group Rights*. Edited by Judith Baker. Toronto: Toronto University Press (1994), pp. 186–214.

Griffin, James. "Group Rights" in *Rights, Culture and the Law: Themes from the Legal and Political Philosophy of Joseph Raz*. Edited by Lukas H. Meyer, Stanley L. Paulson, and Thomas Pogge. Oxford: Oxford University Press (2003), pp. 161–182.

Ihlanfeldt, Keith R., and David L. Sjoquist. "Job Accessibility and Racial Differences in Youth." *American Economic Review* 80.1 (1990): 267.

Kukathas, Chandran. "Are There Any Cultural Rights?" *Political Theory* 20.1 (1992): 105-139.

Kukathas, Chandran. "Who? Whom? Reparations and the Problem of Agency." *Journal of Social Philosophy* 37.3 (2006): 330-41.

May, Larry. *Genocide: A Normative Account*. Cambridge: Cambridge University Press (2010).

May, Larry. *The Morality of Groups: Collective Responsibility, Group-Based Harm, and Corporate Rights*. Notre Dame, Indiana: University of Notre Dame, 1987.

Narveson, Jan. "Collective Responsibility." *Journal of Ethics* 6.2 (2002): 179-198.

Perez, Nahshon. *Freedom from Past Injustices*. Edinburgh: Edinburgh University Press, 2012.

Spinner-Halev, Jeff. *Enduring Injustice*. Cambridge, UK: Cambridge University Press, 2012.

Vincent, Andrew. "Can Groups be Persons?" *Review of Metaphysics.* 42.4 (1989): 687–715.

Wellman, Carl. *Real Rights* Oxford: Oxford University Press (1995).