

Reparations and the End of Empire

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DPIR Alumni Event: The Engagement of Theory

Reparations and colonialism

Fourteen Caribbean countries have announced plans to seek an apology and reparations from Britain, France, and the Netherlands in relation to the wrongs of the colonial period.

Baldwin Spencer, PM of Antigua and Barbuda: “Our constant search and struggle for development resources is linked directly to the historical inability of our nations to accumulate wealth from the efforts of our peoples during slavery and colonialism”.

This follows the UK Government’s decision to pay £20 million in damages to living victims of abuse during the Mau Mau uprising in the 1950s. It is also in the wake of the 2010 publication of the Saville Report into the events of Bloody Sunday, and the subsequent apology made by the British PM.

The moral case for reparations

Four questions:

- 1) Who was harmed by, and who benefited from, historic colonialism?
- 2) Can the involuntary receipt of benefits give rise to reparative obligations?
- 3) Can responsibility for injustice be inherited from previous generations?
- 4) Should reparations be limited to the direct victims of colonial abuse?

Past and present

Three forms of morally relevant connection with the past:

- Entitlement: when one agent has possession of property to which another is morally entitled.
- Benefit: when one agent is benefiting, and another is disadvantaged, as a result of the automatic effects of an act of historic injustice.
- Responsibility: when one agent is responsible for an ongoing injustice in connection with another, understood in terms of an ongoing failure to fulfill rectificatory duties over time.

The distributive significance of historic injustice depends upon whether our account of distributive justice is backward-looking or forward-looking.

Entitlement and inheritance

Can present day generations be said to have inherited entitlements to property currently in the possession of others?

Such an account need not rely on counterfactual speculation.

Key question: what kind of entitlements can be inherited in this way? Money? Cultural property? Territory? Entitlement to compensation?

Conventional wisdom holds that entitlement based claims must, at best, be related to tangible assets, and are likely to lapse over time in relation to territory.

Benefit

Two questions about compensation:

- Who, if anyone, is advantaged or disadvantaged as a result of historic injustice?
- Why does this matter?

Debating Empire

Nick Lloyd: ‘the greatest experiment in paternalistic imperial government in history’. British rule left a still-persisting legacy of ‘a number of priceless assets’, including the English language, governmental structures, and logistical infrastructure. ‘Far from damaging India, British imperial rule gave it a head start’.

Niall Ferguson: “Prima facie... there seems a plausible case that the Empire enhanced global welfare – in other words, was a Good Thing.” “To imagine the world without the Empire would be to expunge from the map the elegant boulevards of Williamsburg and old Philadelphia; to sweep into the sea the squat battlements of Port Royal, Jamaica; to return to the bush the glorious skyline of Sydney; to level the steamy seaside slum that is Freetown, Sierra Leone; to fill in the Big Hole at Kimberley; to demolish the mission at Kuruman; to send the town of Livingstone hurtling over the Victoria Falls. “

Debating Empire

Piers Brendon's “moral audit” of the British Empire:

“The moral balance sheet of the British Empire is a chaotic mixture of black and red...All balance sheets require interpretation; but it seems clear that, even according to its own lights, the British Empire was in grave moral deficit”, pointing not only to the historic “catalogue of gross imperial wrongdoing” but also the fact that “much of the imperial legacy was failed states and internecine strife”.

The Counterfactual Observation

Two distinct questions:

- 1) Was historic colonialism justified?
- 2) Are the lasting effects of colonialism harmful?

Ellen Frankel Paul: “If not for the slave trade, most of the descendants of the slaves would now be living in Africa under regimes known neither for their respect for human rights, indeed for human life, nor for the economic well-being of their citizens. The typical denizen of one of these states, I dare speculate, would envy the condition of the black teenage mother on welfare in one of this country’s worst inner cities. Starvation, war, tribal depredations, infant mortality, disease, and hopelessness are the standard condition of many regions of Africa, for example, Ethiopia and Somalia.”

The non-identity problem

Unjust actions can make a difference to who actually exists in later time periods, since they affect the circumstances in which procreation takes place. Each individual grows from a particular pair of cells. If their parents had mated at a different time, it is almost certain that a different pairing would have taken place, resulting in a different person. Were it not for the acts of injustice in question, present day individuals would not exist. So how can they claim that they have been harmed?

Compensation and counterfactuals

Four claims about counterfactuals:

- 1) All claims about harm and benefit necessarily make reference to some counterfactual state.
- 2) There are multiple such counterfactuals. There are an infinite number of ways in which an act of injustice might not have taken place.
- 3) We should not necessarily make reference to the most probable counterfactual. The key is to identify the morally relevant counterfactual.
- 4) In cases of exploitation, the morally relevant counterfactual is one whereby the same kind of interaction took place, but where it was consensual and non-exploitative.

Counterfactuals and colonialism

In opposition to the Counterfactual Observation, the question which needs to be asked is: “Would current generations be better off had historic interaction between colonial powers and their colonies been characterized by consensual and non-exploitative relations”, not “Would current generations be better off had there been no interaction between colonial powers and their colonies?”

The baseline in the former case is much higher than the baseline in the latter case.

The problem of involuntary benefit

- Did David Hume have an obligation to pay for repairs to his house in Edinburgh?
- Hume: Allowing legal obligations to arise in this way through the involuntary dispute of an apparent benefit would, Hume argues, reflect “a doctrine quite new and... altogether untenable”.
- Does it follow from this that one cannot acquire moral obligations to others through the involuntary receipt of benefit?



Benefiting from Injustice

Beneficiary Principle (BP): Agents can come to possess obligations to lessen or rectify the effects of wrongdoing perpetrated by other agents by benefiting, involuntarily, from the wrongdoing in question.

Driveways

“While I am away on vacation, my neighbour contracts with a construction company to repair his driveway. He instructs the workers to come to his address, where they will find a note describing the driveway to be repaired. An enemy of my neighbor, aware, somehow, of this arrangement, substitutes for my neighbor’s instructions a note describing *my* driveway...”

(Fullinwider: 2002, 75-6)



More driveways

Before I went on holiday, I wrote a letter to the very same driveway repairer, asking for my drive to be repaved, in exchange for £1,000. However, I forgot to post the letter. On my return, I see my driveway and am delighted by it. There is a knock at my door. I assume it is the driveway repairer, seeking payment. I open the door with a smile on my face, holding an envelope of cash. It is my neighbour. She explains the situation. She asks if I will give her the envelope.

Normative argumentation

My claim: refusing to hand over the envelope violates a moral imperative against **taking advantage of wrongdoing at the expense of its victims**. Taking advantage need not be an active act – it can consist of a passive refusal to disgorge benefits.

What's wrong with taking advantage?

The individual's duty not to benefit from another's suffering when that suffering is a result of injustice stems from one's moral condemnation of the unjust act itself. Taking our nature as moral agents seriously requires not only that we be willing not to commit acts of injustice ourselves, but that we hold a genuine aversion to injustice and its lasting effects. We make a conceptual error if we condemn a given action as unjust, but are not willing to reverse or mitigate its effects on the grounds that it has benefited us. The refusal undermines the condemnation. Being a moral agent means being committed to the idea that justice should prevail over injustice.

Responsibility – nations and overlapping generations

Three claims:

- 1) The failure to rectify injustice is unjust
- 2) Nations can, in some cases, be held responsible for the effects of the actions of their leaders.
- 3) Nations are composed of overlapping, rather than successive generations.

Conclusion: Responsibility for the failure to rectify injustice can be transmitted across generations.

Inheriting claims to reparation

If we accept that the failure to fulfil reparative obligations is itself an act of injustice, and that this responsibility can roll down across generations, it follows that present day descendants of the victims of injustice may be harmed not only by the automatic effects of the act of injustice itself, but by the ongoing failure to rectify the act of injustice. This can be extended to include harm caused by a failure to inherit reparative payments.

Example – A is the heir of B. B is owed compensation from C from an act of injustice. The failure to pay compensation to A one second before her death harms B.

This complicates things considerably...

The engagement of theory

Three grounds for disagreement:

- 1) Empirical dispute
- 2) Normative dispute
- 3) Realist dispute: the scale of colonial wrongdoing

Q: if the Saville Inquiry was the appropriate response to Bloody Sunday, what is the appropriate response to the British Empire?

Raking over the ashes

The bonfire of papers: “In Northern Rhodesia, colonial officials were issued with further orders to destroy "all papers which are likely to be interpreted, either reasonably or by malice, as indicating racial prejudice or religious bias on the part of Her Majesty's government". Detailed instructions were issued over methods of destruction, in order to erase all evidence of the purge. When documents were burned, "the waste should be reduced to ash and the ashes broken up", while any that were being dumped at sea must be "packed in weighted crates and dumped in very deep and current-free water at maximum practicable distance from the coast".” (The Guardian, 29/11/2013)