

Racial Justice, Acknowledgement, and Collective Memory

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In the previous chapter¹ I argued that the material legacies of past injustices toward African Americans remain with us in the form of severe racial inequality that, as a matter of justice, must be addressed. Because the historical origins of present-day patterns of racial inequality are important for the proper description of, and arguments to rectify, racial inequality, I find the language of reparations appropriate to this case, though I also argued that the relevant model of reparations is not one where payments are directed to individuals. Rather, reparations should be seen as a “political project” that includes public policies aimed at confronting racial inequality.

Yet inequality of wealth, income, and opportunities are only one class of inequality, only one manifestation of the legacies of the past. They are the most readily measurable and tangible ones, but these distributional issues do not exhaust the issues of justice raised by our racial past. As Iris Young (1990, chap. 1) has pointed out, too often liberal theories of justice have focused on distributional issues, and when confronted with questions that do not fit the “distributive paradigm” they either attempt to redescribe non-distributional matters to fit the paradigm, or they define the issue as not being an issue of justice at all. I agree with Young that justice involves non-distributional questions, and in this chapter I focus on questions of collective memory, symbolism, and state speech as issues of justice. I argue that justice requires, in light of the legacies of the past, that the state acknowledge the harms of the past and reaffirm the equal citizenship and equal moral worth of all citizens. It must reject the racist practices and norms of the past and the symbolic and cultural expressions associated with them. It must memorialize the past so as to convey the appropriate interpretations and evaluations. This applies to the federal

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government and state and local governments, as well as the major institutions of civil society that purport to uphold the fundamental values that are consistent with a liberal society.

There is a wide array, a diverse repertoire, of practices that can convey rejection of the injustices of the past, contribute to appropriate memorialization, and affirm the equal citizenship of all. While these, I suggest, are matters of justice, it is not clear that justice requires a specific enactment or expression, or some particular combination of acts. Here I focus on some of the more obvious candidates: truth commissions, apologies, and the use of various kinds of memorials. All of these, I will argue, have been used to some extent with respect to the history of African Americans in the United States, and especially in connection with the Jim Crow era and the civil rights movement. As with reparations, while too little has been done at the federal level, there are a number of promising cases and developments at the state and local level, and in civil society. There is now what we might call an established practice of acknowledgement, which often includes apology, other symbolic expressions, and memorialization. However, at the same time, there continues to be political conflict over the interpretation of the past, conflict that often reflects a resistance to endorsing civic equality and indeed often a nostalgia for the era of racial hierarchy. Hence there are competing narratives, competing interpretations of the past and (therefore) of the present, and to some extent, this is as it should be. But the extent to which a significant portion of citizens cling to the symbols of racial hierarchy, and certainly to the extent that the state seems to endorse their view of things, to that extent we still have far to go toward a racially just society.

Liberalism, Acknowledgement, and Memory

While it is true that liberal theory has often had too little to say about the nonmaterial issues involved with acknowledgement and collective memory, it has had some things to say related to these issues, and it has the resources to say quite a bit more. In claiming this, I contradict the view of some theorists who are generally pessimistic about liberal theory's capacity to encompass these matters. For example, Jeff Spinner-Halev argues that liberal theory is ill-equipped to deal with cases of historic or (to use his preferred term) enduring injustice for a number of reasons, one of which, of particular relevance to the case of African Americans and racial justice, is that past injustice often creates mistrust on the part of a historically victimized group. Spinner-Halev argues that "there is reason to be skeptical as to whether liberalism has the tools to fix these injustices" (2012, 79). He suggests, for example, that "[a]cknowledgement and apology... lie outside of the usual liberal framework of justice, since they are not about rights or the redistribution of wealth" (2012, 87). I think that this reflects an impoverished view of liberalism, its normative commitments, and its theoretical resources.

I have a more sanguine view of the resources of liberal theory to address the nonmaterial manifestations of massive injustices, such as the kind of mistrust that Spinner-Halev sees as being beyond the reach of liberal theory. This is in part because I do not think that liberal theory is concerned only with the protection of rights and the distribution of wealth. I agree with Jacob Levy (2000, 230) when he writes that certain versions of liberalism have "some difficulty" with symbolic issues that concern recognition and status, but this has more to do with the traditional focus of liberal theory than liberalism's theoretical resources, as Levy's own discussion of symbolism and apologies makes clear. Indeed, liberalism has always been concerned with (equal) status, particularly equal status as citizens, as well as such values as honor, respect, and recognition. Its origins in the seventeenth century lie in part in a reaction to inherited, and

unequal, status characteristic of feudalism. However imperfectly realized, liberalism has always been committed to the idea of the equal moral worth and equal status of all citizens.

In contemporary liberal theory, the importance of equal respect is exhibited in John Rawls's affirmation that "perhaps the most important primary good is that of self-respect" (Rawls 1999, 386). Although Rawls focuses on self-respect, he believes that the basic structure of society, and the political regime, have a great deal to do with it. While of course self-respect cannot be distributed (equally or otherwise) in a straightforward way, what can be distributed is what Rawls calls "the social basis of self-respect," the way in which social and political institutions can publicly convey the equal status and worth of all citizens. Rawls argues, for example, that the equal basic liberties enjoyed by all citizens affirms this equal status, and helps provide the social, public, basis of self-respect (see generally Doppelt 2009; Eyal 2005; Thomas 1977-78).

Now Rawls, operating within ideal theory, focuses on the features of the basic structure of society, as regulated by his principles of justice, to provide the social basis of self-respect. Indeed, he thinks that his theory's capacity to underwrite this important good was a significant argument in its favor. But of course, in the context of a history of injustice, where that injustice was often justified and perpetuated by denying equal status and respect to members of a subordinated group, the generic equality of, say, basic liberties is insufficient to provide the social basis of self- (and other-) respect. Justice requires that those whose equal status has been systematically denied be reassured that the present political regime is committed to their equal status. This is important not only for members of the oppressed group, but also for all members of society, especially those who harbor nostalgia for the prior order or who merely harbor attitudes and beliefs associated with that order.

Tim Waligore (forthcoming) has argued persuasively along these lines. Waligore suggests that, in the context of a history of denial of equal citizenship, particularized means of publicly conveying the equal status of all is required so that all citizens know, and are assured of, their equal status. It is not enough for the policies to change; what is needed is specific expressions of assurance by the state. In this context Waligore briefly takes up an issue that I discuss in greater detail below, involving official state uses of the Confederate Flag. In the absence of assurance, and, even worse, the presence of such state symbolic expression that sends the opposite message, members of the historically oppressed group will have little reason to be assured that the political regime is committed to their equal status.

So under non-ideal conditions, affirming the equal status of all citizens requires affirmative expressions to counter the historically dominant narrative of unequal status and subordination. This, in turn, requires that the past be acknowledged and remembered, which leads to the importance of collective memory. In recent years a number of philosophers and political theorists have explored the moral requirement to remember (see, for example, Booth 2006; Margalit 2002), and some, especially Melissa Williams (1998) and Jeffrey Blustein (2008), have explored the importance of memory in the wake of systemic injustice. Williams argues that the memory of past injustice is part of what justifies political institutions that ensure representation of historically oppressed groups. And Blustein argues that past wrongs such as the Tulsa Race Riot of 1921 (which I discuss below) places demands on subsequent generations to take responsibility for, and address the legacies of, these group-based harms (2008, chap. 3). In any case, it is clear that the three ideas of equal status, acknowledgement of past injustice, and collective memory, are closely related. In the context of past injustice, the wrongs must be

acknowledged and the equal status of victim and victim groups affirmed, and the past must be memorialized in appropriate ways.

This theme is, not surprisingly, prominent in the transitional justice literature as well. Many arguments for acknowledging and incorporating into the collective memory of society the wrongs of the past focus on the loss of esteem or respect on the part of the victims, and the need to restore and reaffirm these. As Rejeev Bhargava puts it, “The demand that past injustices be forgotten does not address this loss of self-esteem. Indeed, it inflicts further damage... Proper remembrance alone restores dignity and self-respect to the victim” (2000, 52-53). And of course this applies not only to individual victims, but also, in cases where individuals are victimized on the basis of their group membership, to members of the entire group—even those born after the era of *de jure* subordination.

In a sense, the literature on transitional justice can be seen as working out the implications of liberal theory in the nonideal circumstances of past human rights abuses, and more recent work on liberal theory and past injustice is catching up to its insights. The two streams of thought converge on the conclusion that, in the context of a history of systematic injustice, symbolic expressions and actions are often required to convey the message that all citizens are now to be treated as civic equals. In the balance of this chapter, I examine a variety of ways in which this is being done, might be done, or is failing to be done in the case of African Americans in the United States. Each of the practices and expressions I examine below—truth commissions, apologies, memorials—can play a role in acknowledging the wrongs of the past and contributing to a public memory that rejects the norms of the prior era and thereby affirms the norms of moral and political equality. I argue that, while justice may not require a specific expression or action, some such expressions or actions are required by justice, and others

prohibited. The specific cases taken up in this chapter represent some of the main options that are available in the U.S. context for acknowledging the past and contributing to an appropriate collective memory—or, in some cases, actively resisting doing so by embracing symbols associated with historic injustice. In combination with addressing the material legacies of racial injustice through policies of reparation, these expressions of acknowledgment and their contribution to collective memory go a long way toward addressing the legacies of racial injustice.

Much, though certainly not all, of what I discuss in this chapter concerns “state speech,” including the symbolic and expressions by the state via flags, monuments, memorials, and museums. As I have indicated, I will argue that justice requires certain kinds of state expression, and prohibits others, so it should be clear that I reject the notion that the state should be neutral, or should try to avoid endorsing certain values or norms as opposed to others. I believe that the state cannot be neutral, in that it must (if only implicitly) endorse some views rather than others. Furthermore, I agree with Corey Brettschneider (2012) that it should not try to be neutral. Rather, a liberal, democratic state may and should endorse the view that citizens are free and equal. It should promote this view, and should attempt to persuade all citizens to it, especially those who hold incompatible views. Some observers, however, see a danger in the state performing this role. For example, Ruti Teitel (2000, chap. 3) worries that a state’s attempt to establish an “official” truth about the past may have illiberal consequences. It may quash alternative interpretations or perspectives. But the state may, through memorialization, endorse a view of the past, and yet still leave plenty of room for differing interpretations. And even while it rules out of bounds views of that past that, say, glamorize those who defended racial hierarchy, it need not violate the rights of those who still hold those views. As Brettschneider suggests, it

can and should try to persuade citizens that such views are wrong without prohibiting them from expressing their views. Whether the state should prohibit certain kinds of private speech, such as “hate speech,” that is incompatible with equal citizenship—this is an important and complex issue, but one that I do not take up here. My focus is on what justice requires on the part of the state with respect to affirming the equality of all citizens in the wake of a history of injustice.

Truth Commissions

One way to acknowledge the past and begin to construct appropriate collective memory is through a truth commission. Truth commissions, according to Priscilla Hayner (2002, 14), are officially sanctioned temporary institutions that focus on a pattern of abuses in the past and submit a report at the end of their investigation. Truth commissions usually are created as part of a regime transition to confront and expose the abuses of the prior regime. The main idea behind truth commissions, like other transitional measures, is that after a period of systematic abuses, merely ceasing the harms is not enough. Justice requires an explicit confrontation with the past, and truth commissions provide a process through which this can be done.

Advocates of truth commissions have identified many functions that they can serve (Minow 1998, 88; Crocker 1999), but some of the more important ones are: to expose the truth about the abuses of the past; to officially acknowledge the harms done to the victims; to provide a forum in which victims can testify about their experiences; and to reconcile groups that were in an antagonistic relation with each other, as in a case where one is favored, the other disfavored, by the prior regime. They provide, in the words of Thomas Nagel, both knowledge and

acknowledgement (Weschler 1990, 4). As reflected in the name of South Africa's well-known commission, they seek both truth and reconciliation.

While, according to Hayner's conception, truth commissions are creatures of regime transition and are officially sanctioned, there are other, similar institutions that can be thought of as quasi-truth commissions. For example, some commissions are unofficial, but nevertheless seek to expose the crimes of the past, as in the cases of the commissions in Guatemala, Brazil, and Uruguay (Teitel 2000, 80; Hayner 2002, 21). And some commissions focus on the more distant past and are not a part of a regime transition, as in the case of Australia's investigation of its assimilationist practice of removing aboriginal children from their families and placing them with white families (Hayner 2002, 17-19). In the cases of these various truth commission-like institutions, the goals remain essentially the same: to expose and acknowledge the past; to promote reconciliation; and, as Michael Ignatieff puts it, "to reduce the number of lies that can be circulated unchallenged in public discourse" (quoted in Boraine 2000, 151).

The best-known truth commission, and the one that has received the most scholarly attention, is the South African Truth and Reconciliation Commission (TRC), which played an important role in that country's transition from the apartheid regime to a multiracial democracy. A number of features set the TRC apart from previous commissions. First, the TRC had a legislative mandate, giving it a great deal of what Elizabeth Kiss has called "democratic legitimacy" (Kiss 2000, 84; see also du Toit 2000, 129; and Minow 2000, 252). While most previous commissions had been creations of the executive branch, the TRC was the result of a more democratic process, and therefore commanded more moral authority. Second, the TRC process was extremely public. Its hearings were generally televised and broadcast on the radio, and a widely watched weekly television program showed highlights of its proceedings. This

meant that the TRC was an event experienced by the entire country, giving rise to many discussions about the issues it raised. It also meant that victims of apartheid who testified often reached a very wide audience; that victims who did not testify nevertheless saw their experiences reflected in those of others; that the perpetrators of human rights abuses who testified informed the entire nation about their actions; and that white South Africans came to know the horrors of apartheid.

The arguments in favor of truth commissions, and the South African TRC in particular, are of two kinds. The first is pragmatic and consequentialist in character, resting on the effects that truth commissions are able to achieve, and the second is more principled, holding that truth commissions are required by justice (Allen 1999; Dyzenhaus 2000). The first kind of argument relies heavily on empirical observation about the effects of a commission, and in the case of the South African TRC, that evidence appears to be decidedly mixed. Many of the early assessments of its effects were positive, but as some commentators have pointed out they were often based upon anecdotal evidence and may have been influenced by wishful thinking (see Hamber 2001; Chapman and van der Merwe, 2008, viii). In recent years more systematic research has emerged on the effects of testifying before the commission and on the broader societal impact of the TRC. Contrary to the hopes expressed by some observers such as Martha Minow (1998; 2000) that giving and hearing such testimony would be therapeutic, research has failed to find such positive effects (Kagee 2006; Stein et al. 2008). Yet studies also suggest that in society at large the TRC was successful in laying the foundations for future and on-going reconciliation (Stein et al. 2008; Gibson 2004).

The justice-based argument for truth commissions is less vulnerable to the vicissitudes of empirical findings. It holds that truth commissions help to establish reasonable terms for

reconciliation, which include acknowledgement of past wrongs and an assurance that the norms that permitted the wrongs to take place have been rejected. In this vein, Jonathan Allen writes: "Some of the claims concerning the tasks of truth commissions are better understood as moral claims than as empirical statements... It is not that no reconciliation is possible without truth, but, rather, that morally justifiable reconciliation requires the disclosure of truth and some concern to see justice served" (Allen 1999, 317). Many scholars have emphasized the role of truth commissions in acknowledging the past (Kiss 2000; du Toit 2000), and have suggested that this acknowledgement is morally necessary in order to reaffirm the equality, dignity, and rights of the victims of the previous regime. If the abuses of the past are unacknowledged, then the new regime can reasonably be viewed as continuing to deny the equality and dignity of the victims of the previous regime. As du Toit has argued, simply following a forward-looking approach, granting legal equality but ignoring the past and its present-day effects, would have been entirely inadequate from a moral point of view: "The TRC reflects a moral and political diagnosis that--at least in the case of victims and perpetrators of gross human rights violations--a general and formal restoration of citizenship alone would not be sufficient. Something more needed to be done: justice required a particularized procedure of public acknowledgement to restore human and civic dignity" (du Toit 2000, 134).

In the case of the United States, many observers have noted that public discourse on race suffers from a lack of historical context or perspective. To take just two examples: in his book, When Affirmative Action Was White, Ira Katznelson has argued that many policies of the federal government during the twentieth century contributed to the racial inequality that continues to exist, and yet, he notes, this history is largely forgotten in debates about affirmative action and other race-conscious policies. Hence discussions of racial justice suffer from what he

calls "historical amnesia" that limits the scope of public debate and weakens the case for policies aimed at reducing racial inequality (2005, 161). Similarly, political theorist Thomas McCarthy has argued that the United States has never had a public confrontation with its racist past, and this failure continues to (mis)inform public debate on racial issues. Even today, African Americans and whites have markedly different understandings of the past, with the former being well aware of its impact on the present, while the latter, by and large, have factually inaccurate information about the past and present regarding issues of race. The justification of remedies to address the legacies of our racist past, McCarthy suggests, requires "a serious upgrading of public memory to provide the necessary background for public justification of a historical sort. From this perspective, then, there is a political need for historical enlightenment" (2002, 641).

Hence, there is arguably a need in the United States for both greater knowledge and greater acknowledgement about our racial past and present. In one sense, of course, the relevant facts of our past are well known to anyone with even a passing knowledge of American history. In another sense, however, as McCarthy shows, drawing on public opinion research, many white Americans have profoundly inaccurate pictures about the past and the present with respect to race. Many believe that the past has not decisively shaped, for example, the present distribution of wealth and income, and indeed many believe that African Americans are much better off in material terms than they in fact are. A kind of public education is required to provide Americans with the knowledge necessary for informed opinions about issues of racial justice. In addition to the need for more information and knowledge, however, there is the need for a public mechanism of acknowledgement. That is, public consciousness must be informed not merely by knowledge about the past and present, but by an acceptance of the responsibilities that this knowledge should create. Acknowledgement is required to affirm the dignity of victims of

injustice, and to create the preconditions for effective policies to overcome those injustices. Since there has been too little public acknowledgement of the past, and only half-hearted (at best) commitment to undo its legacies, African Americans can reasonably conclude that the conditions for a just reconciliation have not been created. At the same time, whites may wrongly feel entitled to their privileged position.

A truth commission could help address these problems. Ideally, like the South African TRC, it would have a legislative mandate and would educate the public about the brutality of our racial past—and the way in which that past continues to shape our society. It would thereby, one would hope, "reduce the number of lies that can be circulated unchallenged in public discourse," or, to put it less tendentiously, it would provide some historical context for discussions that so badly need it. Yet the early decades of the twenty-first century, one might think, is too late for such a commission. Anything of this sort would be more properly characterized as what Hayner calls an "historical truth commission," undertaken not as part of a transition but in an attempt to reveal the truths about an ugly chapter in a society's past. Even so characterized, however, there is little political will for such an undertaking.

Some commission-like institutions have arguably already contributed to the needed examination of the past, and the creation of such institutions is now a well-established practice that may bode well for the future. Sanford Levinson (2000) has suggested that the hearings of the Civil Rights Commission, and of administrative agencies and Congressional committees, may be thought of as playing roles akin to truth commissions. The Kerner Commission report, issued in 1968 in response to the urban riots of the previous years, can be seen as a quasi-truth commission, though the process that produced it was not as public as a truth commission would normally be, and it had only executive, not legislative, mandate. And since 1989 Congressman

John Conyers has introduced legislation to create a commission to study the issue of reparations to African Americans. It is modeled on similar legislation that created a commission to study the internment of Japanese-Americans during World War II, and led to the Civil Liberties Act of 1988 which provided an apology and reparations to the surviving internees.

The clearest case of an attempt to focus on race at the national level in the recent past is President Clinton's Initiative on Race. This initiative involved 1400 conversations on race across the country, in which about 18,000 people participated. However, the initiative's impact was limited by a number of factors. First, it was not really an independent commission, but rather an advisory board; real control of the initiative remained with the White House staff. Second, the initiative was a creature of the executive branch rather than the legislature, limiting its claim to democratic legitimacy. Third, the initiative framed its discussion in terms of multiculturalism and the claims of not only African Americans but also Hispanics, Asians, and other immigrant groups; it therefore failed to focus on the issue of the legacies of slavery and Jim Crow. Fourth, media attention was limited, often focusing on the issue of whether the advisory board included a member who opposed affirmative action. Finally, the release of the advisory board's report was overshadowed by the scandal involving President Clinton's affair with Monica Lewinski. On the whole, then, the initiative has been viewed variously as either empty symbolism or a missed opportunity, but in any case it clearly failed to perform the important functions of a truth commission described above (see One America in the 21st Century [1998]; Loury 1997; Goering 2001; Kim 2000; Kim 2002).

Yet as Kiss (2000, 92-93) has suggested, the greatest prospects for truth commission-like efforts to acknowledge the racial wrongs of the past may be at the local, rather than the national, level. One such case is Oklahoma's investigation of the Tulsa Race Riot of 1921. The riot,

which has been well explored by historians (see Ellsworth 1992; Madigan 2001; Hirsch 2002; Brophy 2002), involved an attack by whites on Greenwood, a thriving black neighborhood, that resulted in the destruction of a 35-block area, leaving over a thousand residences destroyed and over ten thousand blacks homeless. The riot, which lasted for sixteen hours, also left a number (the exact figure is disputed) of blacks dead and hundreds injured. Local law officials failed to protect the black population from the onslaught and were complicit in other ways. In 1997 the state legislature established a commission to investigate the riot, and in 2001 the commission issued a report which, among other things, recommended reparations to survivors and their descendants. The state legislature rejected these recommendations, and instead established a corporation to provide scholarships to descendants. In one sense, then, Oklahoma's actions are an important acknowledgement of state complicity in a particularly ugly chapter of racial violence, but its failure to enact reparations for victims and their descendants undercuts its claim to have adequately addressed the legacies of the riot. In the words of Alfred Brophy, "The legislature seemed willing to take any action so long as it did not spend money on survivors" (2006b, 245). The state acknowledged that "there were moral responsibilities at the time of the riot which were ignored and ha[ve] been ignored ever since," but contrary to what Brophy (2006b, 245) claims, it is not clear that this amounts to an apology.

A more successful case of acknowledging the past is Florida's confrontation with a similar riot, the Rosewood Massacre of 1923. Rosewood was a town of nearly two hundred black residents that was destroyed in a week of violence perpetrated by a white mob that grew as the days passed. Many blacks were killed and the rest were driven out of town, never to return. Every black residence was burned, and local whites appropriated the property. Local law enforcement did little to protect the victims, and, as in Tulsa, no one was ever prosecuted. After

the massacre was brought to light by journalists and began to receive media attention, the Speaker of the Florida House created a committee of historians to investigate. In response to the committee's report, in 1994 the Florida legislature passed the Rosewood Claims Bill, which was modeled on the Civil Liberties Act of 1988. The Florida act provided for compensation to the few remaining survivors of the massacre, and additional funds to compensate the families of victims for the loss of their property. It also created a scholarship fund for descendants and for "minorities in general." The act acknowledged the events of the massacre, but Barkan characterizes the state's acceptance of moral responsibility as "implicit," so it is not clear that the act amounted to an apology, as he claims (2000, 298). Still, as with Oklahoma's response to the Tulsa riot, Florida's actions seem to have been an important form of acknowledgement. "Because of the passage of this bill," said one descendent of a victim of the massacre, "when I hear something like 'America the Beautiful' or 'God Bless America,' it has a different meaning... It has a real meaning now" (quoted in Finan 1995, 30; see generally Barkin 2000, 296-99; Dye 1996; 1997; D'Orso 1996; Rosewood Forum 1994).

Unofficial truth commissions can play a similar role, even without any governmental sanction to back them up. Consider the unofficial truth commission that examined the Greensboro Massacre of 1979. This case involved the attack by members of the Nazi Party and the Ku Klux Klan on a racially mixed group of demonstrators, killing five and wounding ten others. As in the other cases just discussed, lack of police protection played an important role in the massacre, and indeed there is evidence of actual coordination between the police and the attackers. Two criminal trials resulted, one state, one federal, but in both cases all-white juries acquitted the accused. A civil trial in 1985, however, found that both the City of Greensboro and the Klan and Nazi defendants were jointly liable, and the city paid \$400,000 in settlement. In

2000 two civic organizations approached the International Center for Transitional Justice, which advises transitional regimes around the world, and asked for assistance in a truth-seeking and reconciliation project. The ensuing process took place without any governmental involvement—indeed, the city council voted along racial lines to oppose the commission. Still, a commission committee was selected, and hearings were held that gave survivors, as well as a few police officers and Klansmen, an opportunity to testify. The resulting report documents the events and the city's complicity in them. One survivor of the attack who testified at the hearings concludes her reflections on the process by claiming that the report "made a significant impact on Greensboro" and that the process undertaken there "can serve as a model for other similar projects in the country" (Bermanzohn 2007, 109; see generally Wypijewski 2005; Magarrell and Wesley 2008).

There has also been an effort to create an unofficial, statewide truth commission in Mississippi. The Mississippi Truth Project, initiated in 2008, has held public meetings and small-group gatherings that discuss issues of race in Mississippi. Its goal is to create a commission that will focus on the period of 1945-75, and report on the crimes and abuses that took place during this period. The commission's mandate will also be to examine the state of race relations and racial inequality today. The commission was to begin its work in 2010, but it is unclear whether the commission was ever created or how far its work progressed (see Labuda 2011; Lamont 2010).

However imperfect each of these undertakings may have been, they suggest that there is now an established practice of examining and acknowledging the race-related wrongs of the past. Regardless of whether there is ever anything like a comprehensive truth commission at the federal level, these local efforts may play an important role in bringing to light, and raising

public awareness of, our racial past. Even discussions of whether to undertake an examination of the past may be fruitful. Still, one should not be too sanguine. These efforts are few and far between, especially in light of the number of incidents of racial violence in our history. Furthermore, by focusing on individual events they may convey the false impression that the incidents they examine are aberrations or isolated incidents. And it remains the case that, overall, there is probably too little official acknowledgement of the past, and that our racial past inadequately informs public discourse on race-related issues today.

Apologies

Apologies are another way in which wrongs of the past can be acknowledged and their legacies addressed. In the context of interpersonal relations, an apology serves several functions: it acknowledges that certain events took place; the apologizer accepts responsibility for his or her actions; and expresses regret about those actions (Kort 1975; Gill 2000; Davis 2002; Smith 2008). In the process, the apologizer affirms the validity of the norm that was violated, acknowledges the dignity and respect due the victim, and makes a commitment not to repeat the wrong in the future (Govier and Verwoerd 2002). In cases of a serious wrong, the very continuation of the relationship may depend on the acknowledgement performed through an apology. That is, in the absence of an apology following a serious wrong, it might be unreasonable for the person who performed the wrong to expect the other party to continue in the relationship because the latter has no assurance that the former has in fact rejected the act in question and affirmed the norm it violated. In that absence, the victim has no assurance that such acts will not be repeated in the future.

This familiar practice in interpersonal contexts has become, particularly over the last two decades, a prominent feature of public life. Many official apologies have been offered by governments, heads of state, corporations, religious bodies, and civic organizations for wrongs that the organizations have committed in the past—sometimes the distant past. To mention just a few examples: Germany and Japan have apologized for many of their actions during World War II, such as the Holocaust, the attack on Pearl Harbor, and the treatment of Korean "Comfort Women;" the Catholic Church has apologized for many of its past misdeeds, such as the Crusades and the Counter-Reformation; and Canada, New Zealand, and Australia have apologized for their treatment of indigenous peoples. In the American context, the United States government has apologized for its internment of Japanese-Americans during World War II; it has apologized to Native Hawaiians for the takeover of Hawaii in 1893; and President Clinton apologized for inaction during the Rwandan genocide (Nobles 2008). The proliferation of public and official apologies has led some observers to declare that we live in "The Age of Apology" (see Brooks 1999; Gibney et al. 2008).

Yet some have questioned whether the extension of the practice of apologies from the interpersonal context to larger-scale collective, institutional, or state apologies makes any sense at all (see, for example, Smith 2008). Janna Thompson has suggested that such apologies are problematic because the individuals who would do the apologizing may owe their very existence to the wrongs for which they would apologize. Can they sincerely regret events and actions in the absence of which they would not exist (Thompson 2000; see also Levy 2002)? Another objection to such apologies is that they involve certain individuals apologizing for the actions of other individuals. There seems to be something odd about this. In the interpersonal context, one can express regret about the actions of others or events in which one has played no role, but one

cannot really apologize for them. An apology is appropriate only when one apologizes for actions one has actually performed (or failed to perform). How can a member of one generation apologize for the actions of members of prior generations? It was on these grounds that Prime Minister Howard of Australia (in)famously refused to apologize to aboriginals for their treatment at the hands of prior Australian governments (Zutlevics 2002).

Following others, I would argue that both of these objections rest on an overly individualist interpretation of what is going on in collective apologies (see Harvey 1995; Cunningham 1999; Joyce 1999; Weyeneth 2001). When such apologies are offered, the individuals apologizing do so, not qua individuals, but as representatives of the corporate bodies or institutions that they serve and represent. There are many other ways in which such corporate or collective bodies are thought of as persisting through time, even after all of the individuals who comprise them at one point have been replaced with others. Hence legal contracts between corporations survive changes in personnel; international treaties remain binding after a change in government; and indeed constitutional and legal provisions remain in force in the absence of positive action to change them (Zutlevics 2002). "If states make treatise and accept obligations of reparation, then they should also be able to make genuine apologies" (Thompson 2008, 38). It is true that, in moving from the interpersonal to the collective level, certain features of apologies either drop out or are significantly altered. For example, the feelings, beliefs, and attitudes of the apologizer are of course of great importance in the interpersonal context. These, however, have less importance in collective apologies; here, the subjective states of the apologizer matter much less, if at all, because they are not apologizing as individuals but as representatives of organizations and institutions.

Spinner-Halev (2012, chap. 4) sees a number of problems with official apologies, but his main argument seems to be that apologies are supposed to be transformative, to create a new reality, yet they often fail to perform the work that their most ardent defenders claim for them. Instead, Spinner-Halev suggests that greater emphasis should be placed on acknowledgement than apology. Apology takes place at a moment in time, he suggests, whereas acknowledgement requires an ongoing process. I agree with Spinner-Halev that apologies involve acknowledgement, and that there are other ways to acknowledge without apologizing. As I emphasize throughout, there is an array of ways to acknowledge. But sometimes an apology is one important way to acknowledge; an apology can do specific work that other ways of acknowledging cannot, in both an interpersonal and an institutional contexts.

Spinner-Halev's argument that apologies often fail to be transformative presupposes that the main argument for apologies is based on their consequences. But this is only one argument for apologies, and even this argument is stronger than Spinner-Halev suggests. I would emphasize two main arguments in favor of such apologies in appropriate circumstances, and these are essentially special cases of the more general arguments in support of transitional measures: that they in fact achieve the desirable goals of addressing resentment and other barriers to reconciliation, and that they help put in place conditions necessary for the reasonable terms of reconciliation. The first argument is largely empirical and psychological, the latter more an issue of justice. The first is utilitarian and consequentialist, the other more principled and focused on the more purely expressive aspect of apologies.

One goal of apologies is to make people feel better, and thereby facilitate reconciliation between the offender and the offended parties. But do institutional apologies achieve this goal, or are they merely "'political correctness' at its silliest" (Weyeneth 2001, 29)? The evidence that

we have suggests that apologies do in fact make a positive difference and contribute to reconciliation. The fact that victim groups often demand an apology reflects its importance to them (Harvey 1995). Sometimes victims see compensation alone as an insufficient response to past wrongs when they are not accompanied by an apology (Weyeneth 2001, 31-32). Perhaps the strongest evidence that we have on this issue comes from James Gibson's (2004) study of the South African Truth and Reconciliation Commission. Gibson found that South Africans were much more likely to perceive amnesty for apartheid officials to be fair if the perpetrator apologized for his actions (2004, 277). While the available evidence remains incomplete, there is certainly some evidence to support the notion that apologies can matter and can make a positive difference (Blatz, Schumann, and Ross 2009).

Yet the argument for apologies does not depend entirely on empirical evidence. Like other transitional measures, apologies can be justified in terms of their role in creating reasonable terms of reconciliation. And indeed apologies have been prominent in contexts of regime transition and other cases where serious human rights violations have occurred (Cunningham 1999; Nobles 2008, Appendix). These apologies can play the same roles in large-scale contexts that they perform at the interpersonal level: where serious and widespread human rights violations have occurred, the humanity, dignity, and equality of the victims and victim-groups may be in need of reaffirmation (Gibney and Roxstrom 2001). At the same time, human rights norms and the victims' membership in the community are also reaffirmed (De Greiff 2008). Such a reaffirmation may be necessary for victims and victim-groups to reasonably believe that a transition has taken place, and that the new regime rejects the practices of the prior one. Hence an apology, as with other transitional mechanisms of acknowledgement, both helps to constitute and provides evidence of the regime transition. This argument for apologies does not rest on

their immediate consequences but on their intrinsic features. As an expressive act, apologies help to create the conditions under which reconciliation is reasonable, and in their absence it may be quite reasonable for members of oppressed groups to doubt the commitment of the political regime to their equal status, which in turn may undermine its political legitimacy.

What does all of this imply for racial justice in the United States? It certainly suggests that apologies may be an appropriate way for the society to acknowledge the history of slavery and racial oppression. And indeed there have been some such apologies. In particular, President Clinton has apologized for the Tuskegee syphilis experiments conducted by the United States government, in which black men, infected with syphilis, were permitted to go untreated (Harter, Stephens and Japp 2000). The United States Senate has apologized for its failure to pass anti-lynching legislation during Jim Crow (Poe 2007). And the House of Representatives has apologized for slavery (Fears 2008). While significant, both individually and cumulatively, none of these actions satisfy the "gold standard" of an apology—which would involve both houses of Congress passing, and the President signing, an official apology acknowledging the history of racial injustice in the country.

The model that proponents of an apology have in mind is the Civil Liberties Act of 1988. This act followed the creation of a commission by Congress to review the facts surrounding the internment of Japanese-Americans on the west coast of the United States during World War II, and to recommend appropriate remedies. The act offered an apology to the internees and provided compensation of twenty thousand dollars to the victims who were still alive at the time of the passage of the act (Brooks 1999, Part 4). This act has a number of virtues, but the most relevant one in the present context is that it included an apology in a law that was passed by both houses of Congress and signed by the president. Hence it is not merely an utterance by a head of

state or another official, but carries "the full weight" of a government apology that results from a deliberative process (Noble 2008, 5). As I mentioned above, since 1989, Congressman John Conyers has proposed the establishment of a commission, modeled on the one that led to the 1988 act, to look into the history of injustices to African Americans. It would propose appropriate remedies, potentially including both an apology and reparations.

While many advocates of an apology (and reparations) for slavery and Jim Crow have been disappointed by the failure of the Conyers bill to pass, it is a mistake to focus exclusively on an apology by the United States government as a measure of progress on this issue. Rather, as with reparations, many important developments have been taking place below the level of the federal government, in state governments, local governments, and civil society (Glynn 1997, 35). At least six states legislatures have apologized for their support of slavery (Cave and Sexton 2008). Beyond the governmental realm, many organizations have issued apologies for their past support of, or complicity in, slavery and Jim Crow. Some of these organizations have been religious, such as the Southern Baptist Convention (Glynn 1997). Others have been professional organizations; for example, the American Medical Association has apologized for its long support for discrimination against black physicians and patients (Washington 2008). Many businesses, such as banks and insurance companies, have also apologized.

So what we have here is a well-established and ongoing practice of looking to the past and apologizing for racial wrongs. As many commentators have noted, while apologies are backward-looking in that they address events in the past, they are also forward-looking in that they attempt to establish a more legitimate and just future (Joyce 1999, 171; Gibney and Roxstrom 2001, 916; Nobles 2008, 2). As Danielle Celermajer puts it, "the apology is, in its first movement, an acknowledgement of a collective failure to live up to an ideal ethical principle

and, in its second, a public, performative declaration of a new commitment, a new covenant for now and into the future (2009, 247). The practice of apologizing on behalf of governments and other institutions for their complicity in racial injustice can play an important role in creating a more racially just society. Ideally, the federal government would undertake something like what Congressman Conyers has proposed, a truth commission-like process that would result in policy prescriptions to address racial inequality and an official federal apology. But in the absence of that, the proliferation of these practices at the state and local level, and in civil society, is a promising reflection of a society attempting to grapple with its racial past.

Civil Rights Memorials and Museums

Truth commissions and apologies are limited in time. Truth commissions are, by definition, temporary institutions or processes, and apologies, while often the result of a lengthy process, are issued at one point in time. I have argued that both, either separately or together, can do a great deal to reject the practices of the past, reaffirm the dignity and equality of victim and victim-groups, and contribute to collective memory, but their temporary nature implies certain built-in limitations of their ability to do so. Societies have other, more ongoing, ways of memorializing the past, including monuments, memorials, and museums. These have long been means by which collective memory is created, and with it (sometimes) a shared national identity (Johnson 1995).

In the context of a regime transition, or in a post-conflict context, memorials and museums can play an important role in publicly establishing a historical record of the past. They can also provide a means by which to honor victims and create heroes. At the same time,

memorials and museums implicitly (and sometimes explicitly) endorse some values and norms, and condemn others. In honoring the victims of the past, they condemn the victimizers, the political regime that permitted the abuses to occur, and the ideas that justified it. Hence memorials and museums can play a particularly important and public role in symbolically rejecting the wrongs of the past and affirming the equal dignity of all (Barsalou and Baxter 2007; Megret 2010).

In this context one of the noteworthy developments of the latter part of the twentieth century and the beginning of the twenty-first is the growth of civil rights memorials and museums. The growth of monuments, memorials, and museums dedicated to the civil rights movement marks “a watershed event in the representation of American history in public space” (Dwyer 2002, 32). In the past, according to Dwyer and Alderman (2008, 46), African Americans were largely ignored in most American memorials, and “when they were present, they were included in order to testify to the superiority of whites. Civil rights memorials dismantle this legacy, at once calling shame upon it and contradicting its claims. In a sense, these memorials are an extension of the Movement itself.” In the way that these memorials and museums portray the civil rights movement, and the practices of Jim Crow that it protested, an unmistakable message is sent: civil rights activists are valorized as heroes, fighting a righteous cause, and the defenders of segregation are cast as villains. While this is not entirely unproblematic, as I note below, at a basic level the messages sent are ones that affirm the equal citizenship and dignity of all. To that extent, the memorials play an important role in officially and publicly repudiating the racism of the past and endorsing the values of a liberal democratic society.

Civil rights memorials and museums vary a great deal in form, content, and focus. The Civil Rights Memorial in Montgomery, designed by Maya Lin (who also designed the Vietnam

War Memorial in Washington) presents a cone-shaped black marble table, inscribed with the important names and dates of the civil rights movement, including the killing of many activists. The Martin Luther King, Jr. National Historic Site consists of some 35 acres along Auburn Avenue in Atlanta, including King's birth home, the King Center, and a visitor's center that includes a museum depicting the civil rights movement and King's role in it. Kelly Ingram Park in Birmingham was the site of the famous confrontations between "Bull" Connor and young civil rights protesters in 1963. The park features a number of sculptures, including ones portraying German Shepard police dogs with their teeth bared, as they were when used against the protesters. The National Civil Rights Museum in Memphis was created out of the Lorraine Hotel, where Martin Luther King, Jr. was assassinated. And among the most recent additions to civil rights memorials is the Martin Luther King, Jr. Memorial on the National Mall in Washington, DC, the centerpiece of which is a 30-foot high statue of King. These are just a few of the more prominent examples of the memorialization of the civil rights movement. Others are less well-known, and include the hundreds of streets, schools, and buildings named after Martin Luther King, Jr. and other leaders of the movement.

Many of these sites have been subjected to a great deal of scrutiny both by scholars from diverse disciplinary backgrounds and by the popular press. While generally seen as a positive development in constructing a collective memory that acknowledges and records important events of the movement, a number of lines of criticism are also prominent in analyses of the memorials. First, the narrative of the movement presented by them is often quite selective and limited. Most memorials focus on the period between the Supreme Court's Brown decision in 1954 and the assassination of King in 1968 (Raiford and Romano 2006, xiv). Remarking on this aspect of May Lin's sculpture, one observer charges that this "lifts this period out of the long-

term context of African American struggle” (Upton 1999, 25). Second, the focus is often on the elites of the movement, and particularly on King himself, to the neglect of grassroots activists, women, and more radical elements of the civil rights movement, such as black nationalists. In the process, the memorials often portray the movement as being more unified than it was, as if all activists shared a single goal or set of goals. And the movement is usually portrayed as victorious, its limited goals met, and inevitably so (Dwyer and Alderman 2008, chap 1; Wilson 2001). The narrative, then, is a triumphalist one: Jim Crow defeated, racial equality achieved.

There is, of course, some truth in this narrative, but its limits are also obvious and its implications potentially troubling. One implication concerns our understanding of the past. The past that is presented, critics charge, is a sanitized one (Wilson 2001). The goals of the movement are presented as quite limited, and as such they “jettison the more encompassing visions” of the movement and “endorse the definition of the civil rights movement as a simple campaign for legal rights” (Upton 1999, 32). Some of the more radical views of Martin Luther King, Jr., such as his shift in focus to economic justice, are usually downplayed or ignored entirely (Bruyneel 2014; Inwood 2009; Raiford and Romano 2006, xviii; Upton 1999).

The other main implication of this dominant narrative is that problems of race and racism are things of the past. If the problem was de jure segregation and deprivation of basic legal rights, then the Supreme Court cases, executive orders, and acts of Congress that marked some of the movement’s most important achievements solved the problem. Any discussion of contemporary racial problems are usually “conspicuously absent” (Dwyer 2006, 16-17), so racism must be a thing of the past. The movement is a “Won cause” (Dwyer and Alderman 2008; Eskew 2001). No further activism is necessary. We are a post-racial society. These are

the implications that can be drawn from some civil rights memorials, at least according to their critics.

There are also sometimes troubling aspects to the siting of the memorials. They tend to be away from the center of the city, away from “the traditional places of civic memory—City Hall, the courthouse lawn, and Main Street” (Dwyer and Alderman 2008, 80; Dwyer 2002). Instead, civil rights memorials are situated in or adjacent to predominantly African American neighborhoods or business districts. In some cases, like the “Sweet Auburn” area of Atlanta and the area around the National Civil Right Museum in Memphis, these were thriving black neighborhoods during the Jim Crow era, and their diminished state vividly demonstrates some of the costs of integration and the things that the civil rights movement did not achieve (Upton 1999). The siting of civil rights memorials, then, often undercuts their triumphalist narrative both due to their displacements away from the center of public space and their setting in depressed African American areas of the city.

Some of the features of civil rights memorials are explicable in terms of the political and financial support on which they depend. Many of them are supported by civic leaders who wish to burnish the reputation of their cities in order to combat the rather negative images that came to be associated with them during the civil rights movement. Often the memorials also depend on corporate sponsorship (Shaw 2009). And they are supposed to attract tourists: civil rights memorials are part of a large and growing industry of “multicultural heritage tourism” (Dwyer 2004, 419). They must therefore be concerned about attracting tourists, and no doubt an uplifting message is essential to this (Dwyer 2006).

Other forms of memorialization partake of many of the same features as the kinds of memorials discussed so far. Martin Luther King, Jr. Day, a federal holiday since 1986, is an

important recognition of the importance of all that King has come to represent, and the holiday is sometimes used as an occasion to reflect on ongoing racial issues, especially in educational institutions. But the version of King that is celebrated is too often the sanitized, safe version portrayed by other memorials. And in focusing on King himself, it always runs the risk of distracting attention from other participants in the movement and the divergent visions and goals that they held.

Perhaps the most common form of memorialization is place names, and here again the most common name that has come to be attached to schools and streets is that of King. Street names have the advantage of being a part of the landscape that is experienced by many people who are not seeking out memorials. They are encountered by thousands each day. Yet many of the streets named after King in cities and towns across the country are in predominantly black areas. Naming a street after King often faces stiff opposition from whites, who see King as “belonging” to African Americans rather than to all Americans, and who fear depressed property values and diminished business from an address bearing his name. Yet to African Americans, having a street named after King remains of great symbolic importance. “Black activists envision being able to engage in commemoration as part of the democratization of society...[Naming a street after King] is conceptualized by some blacks as an antiracist practice, a way of inscribing a new vision of race relations into the American landscape” (Alderman 2006b, 218, 222; see also Alderman 2006a; 2008).

Despite their limitations, ironies, and ambiguities, civil rights memorials both reflect and help to constitute the important changes in the American racial regime over the last half century and more. They affirm the dignity and equality of African Americans, and they repudiate and disavow the practices of the past. They are, perhaps, necessarily partial, but they nevertheless

encourage further reflection and dialogue on issues of race in American society. And the activism that has brought the memorials into being can be seen as part of an ongoing effort to direct attention to issues of race. In this way, “the struggles over the memory of the civil rights movement are not a diversion from the real political work of fighting for racial equality and equal rights in the United States; they are key sites of that struggle” (Raiford and Romano 2006, xxi).

Confederate Monuments and Statues

Civil rights memorials, however, coexist and compete with another, generally older and more ubiquitous set of memorials, especially in the South. Immediately after the Civil War, both the North and the South quickly began erecting memorials to their soldiers. In the South the earliest memorials tended to be simple obelisks, usually erected in cemeteries. After the end of Reconstruction, however, more monuments began to be erected in town centers, and often featured a "common soldier" standing high atop a pedestal. Foster (1987, 44) argues that the change of site had nothing to do with reduced Northern surveillance, though this was no doubt at least a necessary condition for the shift. In any case, the early decades of the Jim Crow era was the most active period of monument construction in the South, when hundreds of memorials were erected to honor Confederate soldiers. Many of these retain their prominent position in towns large and small across the South today. In addition, there are statues of particular individuals, such as those of Confederate generals on Monument Avenue in Richmond, Virginia (see generally Piehler 1995, chap. 2; Foster 1987; Savage 1997; Widener 1982; Mills and Simpson 2003; Levinson 1998).

Interpreting the meaning and message of these monuments is fraught; they present, as Levinson puts it, "wrenching semiotic issues" (1995, 1107). At one level, they are simply memorials to fallen soldiers and therefore unobjectionable—even admirable. After all, many of them were created at great expense by civic organizations during a time when the Southern economy was still in tatters and money scarce. As such, some have argued that on the whole Confederate monuments are not necessarily racist (see Schedler 2001).

However, other interpreters draw different conclusions. Savage emphasizes that "the common soldier is... always white and Anglo-Saxon in physiognomy [which] suggests that the memorials offer up not a neutral individual body but a collective body conceived with certain [racial] boundaries and allegiances" (1994, 131; see also Savage 1997, 186-88). In the case of the statue of Robert E. Lee on Monument Avenue in Richmond, Savage argues that the monument rests on a "disguised racism" that made claims "for the prerogatives of Southern white manhood [that] were not lost on many people" (1994, 133-34). This kind of statue can easily be interpreted as "celebrat[ing] not just the veteran but also his cause. It signific[s] the South's conviction that it had acted rightly" (Foster 1987, 131).

Poole argues that the monuments were "provocative statements of Confederate nationalism... [that were] an image of defiance" (2005, 127). They reflected the idea that "the struggle for the South's peculiar institution would carry on, albeit in a largely symbolic warfare" (Poole 2005, 129). Yet Savage suggests that one of the points of the monuments was to "smash" the equation of the South with slavery, so that the monument could be focused not on the issues underlying the Civil War, but on military valor (1997, 129-30).

It remains ambiguous, then, how one should interpret the monuments. Are they merely memorials to fallen soldiers, independent of the cause for which they fought? And if not, how

are we to characterize the cause—is it slavery and white supremacy, or (as some would have it) self-determination? In themselves, the monuments are, it seems to me, indeterminate on these questions. Yet it is a mistake to attempt to glean their significance, as it were, individually, for as Savage emphasizes, their effect is cumulative (1997, 209). The fact is that the Southern landscape is filled with monuments to those who defended the old order of slavery and white supremacy (among other things). It therefore would seem reasonable (though not necessary) to interpret their continued presence as expressing nostalgia for that order. It is understandable that African Americans, and many whites, object to their continued display, at least in the places of honor and prominence that many still occupy.

While memorials to confederate soldiers are problematic, simply removing them is not the obvious solution. In this respect, there are obvious parallels to the cases of Soviet-era statues, many of which were torn down with the fall of the communist regimes in the Soviet Union and its satellites (Levinson 1995; 1998). As Levinson shows, even some dissidents under the prior regime were ambivalent about tearing down its monuments. He quotes one such dissident as lamenting that "Bolsheviks topple czar monuments, Stalin erases old Bolsheviks, Khrushchev tears down Stalin, Brezhnev tears down Khrushchev, and now this" (1998, 14). This quote reflects a discomfort with what might be considered "victor's justice," where supporters of a new regime can "erase" the prior one without regard to historical value, ambiguity, or complexity of such symbols.

What, then, ought to be done with confederate monuments? Some have been moved to less prominent positions or removed entirely. In other cases, the explanatory materials on plaques or on the base of the monument has been changed to place the monument in context rather than to valorize the cause of the Civil War. In yet other cases, the answer has been to add

additional monuments to the site. The best example of this is the addition of a statue of Arthur Ashe, the African American tennis player, to Monument Avenue in Richmond, the city of his birth—thus undermining the exclusively Confederate (and arguably white supremacist) character of that site (Leib 2006). Levinson (1995; 1998) surveys the various options, but comes to no firm or general conclusion. It seems to me that no single approach is the correct one. The disposition of these monuments often gives rise to local dialogue, as in the case of the Ashe statue, and the outcome of this dialogue ought not be prejudged or forced into a one-size-fits-all approach. Just as process is important in the creation of memorials, so too is process essential in deciding the fate of Confederate monuments. These memorials to those who fought for the "Lost Cause" of the Confederacy are problematic, but what to do with them should be seen as an opportunity for dialogue.

This kind of dialogue takes place in many cities and towns over many specific issues involving place names, the location of memorials, etc., although to call the political conflict over these issues "dialogue" may suggest that it is more genteel than it often actually is. For example, in 2013 the Memphis City Council voted to rename three city parks, two named after Confederate generals, and a third called "Confederate Park." The responses to the move were diverse. Many in Memphis, a majority black city, approved of the move. Some argued that, rather than renaming the parks, monuments to African-American leaders should be added to them. "I would like to see us adding to our history, not taking away from it" said one observer. Another suggested that restoring the names to the parks would be like honoring Nazis in Germany. Yet another thought that the whole issue was a distraction from the "real problems" of the city. The most dramatic response came from the Ku Klux Klan, which staged a march through the city in protest (Brown 2013; Branston 2013).

It would be a mistake to think that the only issue here is whether to remove monuments and place names associated with the Confederacy which have been part of the landscape for many decades. As Dwyer (2004, 427) has noted, “neo-Confederate memorial activists have been very busy) in recent years, trying to add new memorials. The best-known case of this is probably the one that involves a bust of Confederate general Nathan Bedford Forrest, who before the Civil War was a slave trader and afterward become the first grand wizard of the Ku Klux Klan. During the war he oversaw the massacre of black Union troops who had surrendered. In 2000, a group calling itself “Friends of Forrest” installed the bust on the grounds of a city-owned antebellum house this is used as a museum, in a predominantly black area of Selma. In response to public protests and pressure from the business community, the city moved the bust to a city cemetery that already had a Confederate memorial (Dwyer 2004; Dwyer and Alderman 2008, 89-93). In 2012, after years of vandalism to the bust, it disappeared, and a new round of conflict ensued over whether and how to replace it (Brown 2012).

The conflict over memorialization, then, is ongoing, with those who seek to honor the civil rights movement, its leaders and its goals vying with those who wish to retain or add to memorials to those who fought to defend the Confederacy and slavery. And this conflict is played out on the landscape itself, with civil rights memorials and Confederate memorials coexisting in an uneasy standoff. Sometimes this reaches absurd heights: in Selma there is an intersection where Rosa Parks Avenue crosses Jefferson Davis Avenue (Dwyer and Alderman 2008, 95). In any case, the overall, cumulative message of memorials in the United States with respect to issues of race and racial justice is conflicted. The nostalgia for the past coexists with support for racial equality. I find the efforts to add new memorials to the Confederacy most

troubling, but, as I've suggested, what to do with the older ones is a more complex issue because of their potential historical value and their arguably ambiguous meaning.

Most troubling, and much less ambiguous, however, are the interpretive and normative issues associated with official display of Confederate flags.

Confederate Flags

During the Civil War, the Confederate States of America adopted a flag, commonly referred to as the "Stars and Bars," composed of two red and one white horizontal stripe, with a blue field containing one star for each state of the Confederacy. However, this flag was deemed by some to be too similar to the American flag, and so the Confederate Battle Flag, with its blue St. Andrew's Cross containing the stars representing the states, all on a red field, was informally adopted as the symbol of Confederate resistance and of the Southern cause (Coski 2000; Bonner 2002). It "came to represent the Confederacy itself for most white southerners" (Poole 2005, 125). Many Confederate states also adopted new flags during the Civil War or afterward, and in the decades after Reconstruction, many Southern states adopted official flags that either incorporated or strongly resembled the Confederate Battle Flag or the Stars and Bars. Though Coski states that the "legislative records offer no clue whether the new flags were intended as references to the Confederate Battle Flag," it can hardly be a coincidence that, as he later adds, the "flag changes... coincided with the passage of formal Jim Crow segregation laws throughout the South" (2005, 79-80). Far from symbolizing a decisive transition from the white supremacy of the Old South, these flags reflected Southern resistance to the equality of African Americans,

and were to that extent appropriate symbols of Jim Crow. The Confederate Battle Flag went on to be used by white supremacist groups such as the Ku Klux Klan.

More recent controversies over flags date from 1948, when the Confederate Battle Flag was revived, after decades of disuse, when it became the symbol of Strom Thurmond's "Dixiecrat" run for the U.S. presidency on a segregationist platform. In the following years of the civil rights movement, the Confederate Battle Flag became a potent symbol of Southern segregationist resistance. It was in the 1950s that Georgia changed the design of its state flag to prominently incorporate the Confederate Battle Flag and South Carolina began flying the Confederate Battle Flag over its state capitol. Today, six states of the former confederacy have official flags that evoke, to varying degrees, the Stars and Bars, the Confederate Battle Flag, or, in the case of Arkansas, a single star intended to refer to the Confederacy. And while South Carolina, in a political compromise, removed the Confederate Battle Flag from atop its capitol dome, it continues to fly the flag on its capitol grounds, though in a less prominent position. In ten states residents may obtain a license plate for their car bearing the insignia of the Sons of Confederate Veterans, which prominently features the Battle Flag (see generally Coski 2005; Martinez, Richardson, and McNinch-Su 2001; Prince 2004; Woliver, Ledford, and Dolan 2001).

Some have argued that symbols of the Confederacy are not necessarily racist and, properly understood, should give no offence (see Schedler 1998; 2000). Yet as critics of this position have pointed out, it is difficult to maintain this position in light of the relevant history (Alter 2000a; 2000b). The display of these symbols of the Confederacy has, as we have seen, been revived at moments of Southern resistance to civil rights and racial equality. It is difficult to escape the conclusion that they are symbols of such resistance, and of opposition, therefore, to racial equality. The Southern "traditionalist" position that the flags merely symbolize Southern

heritage or culture, divorced from slavery and Jim Crow, strains credulity. To the extent that the meaning of these symbols is shaped by the contexts in which they were created and then resurrected, that meaning is inextricably linked to resistance to racial equality.

Furthermore, the notion that Southerners' support for the Confederate Battle Flag has nothing to do with racism is simply not borne out by the empirical evidence. There are now several empirical tests of the "Southern heritage defense" of Confederate symbols, which use multivariate analysis to discover whether it is racial attitudes or merely Southern pride that explains support for the Confederate Battle Flag and similar symbols. In every case, these studies conclude that racial attitudes are far more closely related to such support (Clark 1997; Reingold and Wike 1998; Orey 2004; Cooper and Knotts 2006). According to the best evidence that we have, it is simply not true that support for these symbols of the Confederacy has nothing to do with racial attitudes.

Quite apart from this empirical evidence, it is the meaning of Confederate Battle Flag that is troubling. State displays of the symbols of the old racial order violates the requirement of both transitional and liberal justice that the equal citizenship of all be affirmed. In the realm of state speech, such displays should be deeply troubling, and they are reasonably interpreted by African Americans and others as calling into question the extent to which the current political regime affirms their equal status and is committed to racial equality.

A constitutional argument along these lines has been made by James Forman (1991). Forman argues that the display of the Confederate Battle Flag by Southern state governments violates the U.S. Constitution by inhibiting speech by an oppressed group (violating the first amendment's protection of freedom of speech) and by denying citizens equal protection of the laws (violating the fourteenth amendment). Whatever the constitutional or legal merits of

Forman's arguments, the more important question for our purposes is what liberal democratic norms require—or, as Sanford Levinson puts it, what decency requires (1995, 1110; 1998, 111). The Confederate Battle Flag is "a metonym for the white South" and "a powerful symbol [of]... white supremacy" (Poole 2005, 125, 136), and as such it privileges white citizens over black citizens by expressing nostalgia for the history of black subordination. From the point of view of justice, it represents a refusal to disavow historical injustices and undermines the civic equality to which the post-civil rights movement United States is notionally committed.

It is important to keep in mind that the issue here is official, public displays of the symbols of the Confederacy (putting aside displays for educational purposes, such as in museums). In some contexts, display of symbols of the prior, human rights-abusing, regime are banned not only when done by the state and its organs, but also by private individuals. Thus, most famously, the display of the swastika in post-World War II Germany is a punishable offense. From the point of view of liberal theory—particularly in its American variant, with its strong presumption of freedom of speech—such a prohibition on private expression would be problematic (Teitel 2000, 105-08). Yet however problematic such prohibitions may be, such difficulties do not apply to official, state-sponsored speech and symbolism. Official symbolism is a matter of public policy and should reflect the commitments of the regime, so if the state itself seems to express nostalgia for white supremacy, this surely undermines its claim to be committed to equal citizenship. Even if the display of the Confederate Battle Flag is constitutionally protected free speech when done by private individuals, there is a different standard, constitutionally and morally, that should apply to state speech.

Conclusion

Political theorists, liberal and otherwise, have paid too little attention to the kinds of issues I have considered in this chapter. The question of how the state symbolically reckons with the past, how it constructs collective memory, and how it thereby includes (or fails to include) all citizens as equal members of society are extraordinarily important. If the state fails to uphold its obligations in this realm, large portions of its citizenry may find themselves devalued and humiliated, undermining what Rawls called “the social basis of self-respect.” As such, I have tried to suggest, these are issues of justice every bit as much as questions of the distribution of wealth and income, or power and authority. It is rather banal to observe that humans are social creatures, and social reality is largely constructed through language and symbols. Yet this banal observation has profound implications for how we should think about the requirements of justice.

Judged by the standard that liberal theory provides, that citizens be treated as equals, and that equality must be publicly affirmed—especially in the wake of a regime where it was systematically denied—the facts reviewed in this chapter add up to a very mixed picture regarding where we stand on issues of racial justice in the United States. Much progress has certainly been made, and there have been a great many efforts by the state and in civil society to confront the past in appropriate ways. Yet, as we’ve also seen, in many ways these efforts have been very partial and halting, and they often coexist with resistance to affirmations of equal citizenship and with nostalgia for the old racial order. Still, if it makes sense to compare progress at the level of symbolism and discourse with that of material equality, much more progress has no doubt been made in the former realm. Symbolic action of the kinds we’ve been considering are easier to engage in and to change than deeply entrenched forms of segregation and material inequality. That doesn’t mean that these forms of expression are unimportant, as

I've tried to show. But it does mean that they are easier to undertake than policies to address material inequality. Given this, it is all the more disturbing that more progress has not been made on racial justice even at this symbolic and discursive level, and that active resistance to progress on this level remains so strong.

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