

Reparations: The Problem of Social Dominance

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Abstract

In theory, reparations provide redress for past injustices. They reflect political attempts to seek to balance the scales of justice in the wake of crimes against humanity, gross human rights abuses, and other tortious state action. As one of the more politically salient legal academic subjects, however, it is clear that the sociopolitical processes within and between states greatly influence when, why, and how reparations are used. Reparations theorists have done an excellent job developing vital models for use by states to provide warranted redress. Roy L. Brooks and Eric Yamamoto, both of whom have contributed to this journal in the past, have developed the Atonement and Social Healing models of reparations respectively.

Key words :

reparations, redress, past injustices, political attempts, justice, gross human rights abuses, other tortious state action, sociopolitical processes, vital models, the Atonement, Social Healing models

REPARATIONS: THE SOCIAL DOMINANCE PROBLEM

In theory, reparations provide redress for past injustices. They reflect political attempts to seek to balance the scales of justice in the wake of crimes against humanity, gross human rights abuses, and other tortious state action. As one of the more politically salient legal academic subjects, however, it is clear that the sociopolitical processes within and between states greatly influence when, why, and how reparations are used. Reparations theorists have done an excellent job developing vital models for use by states to provide warranted redress. Roy L. Brooks and Eric Yamamoto, both of whom have contributed to this journal in the past, have developed the Atonement and Social Healing models of reparations respectively.

This article extends the discourse on reparations by examining how and why reparations fall short of the well-developed systems these and other reparations scholars have created. In my first article assessing past reparations programs, I evaluated the quality of several prominent programs from the perspective of past victims of injustice and their moral agency and social empowerment during and after program development.¹ That research indicated that few programs were successful in reversing the tragic consequences and social disadvantages stemming from past injustices. This article explores how the social status of victims may affect whether and to what degree redress is made. In other words, it asks how and why a group of victims' place in a society's social hierarchy might affect the quantity or quality of reparations provided by a state.

The Meaning of Social Dominance

Social dominance theory provides an insightful investigation into social inequality across human societies.² As a multilevel integrative theory of intergroup relations, Social Dominance Theory combines broad social analysis with examinations of human psychology.³ Social dominance theory was developed in the 1990s and stands out due to its comprehensive effort to:

Understand the process producing and maintaining prejudice and discrimination at multiple levels of analysis, including cultural ideologies and policies,

1) For my initial efforts using this approach see *The Good, The Bad, And The Ugly: Moral Agency And The Role of Victims in Reparations Programs*, 31 U. PA. J. INT'L. L. 257 (2009)

2) Felicia Pratto, Jim Sidanius & Shana Levin, *Social Dominance Theory and the Dynamics of Intergroup Relations: Taking Stock and Looking Forward*, 17 Eur. Rev. Soc. Psychol. 271, 271 (2006).

3) *Id.*

institutional practices, relations of individuals to others inside and outside their groups, the psychological predispositions of individuals, and the interaction between the evolved psychologies of men and women.⁴

It provides a general theory that applies across societies and relates to group interactions of all kinds though the theory includes a particularized analytical model specifically applicable to "societies producing stable economic surplus."⁵

The theory maintains that "human societies tend to organize as group-based social hierarchies in which at least one group enjoys greater social status and power than other groups."⁶ This phenomenon appears to be universally observable across human societies irrespective of governmental structure, economic and social complexity, or belief system.⁷ In human societies, dominant group members enjoy a disparate share of what theorists identify as "positive social value."⁸ This consists of important resources like wealth, quality housing and healthcare, abundant food, political power, leisure, and education.⁹ Correspondingly, subordinate group members bear a disparate share of "negative social value" such as "substandard housing, disease, underemployment, dangerous and distasteful work, disproportionate punishment, stigmatization and vilification."¹⁰

According to Social Dominance Theory, societies with stable economic surplus include three distinct systems of group based hierarchy; an age system, a gender system, and an arbitrary-set system.¹¹ Under the age system, "adults have a disproportionate social power over children."¹² The gender system reflects a disproportionate distribution of "social, political, and military power"¹³ to men over women.¹⁴ For the arbitrary set system, groups constructed on some basis other than the human life cycle "have differential access to things of positive and negative social value."¹⁵ Arbitrary set groups relate to social distinctions that correspond to identity characteristics like "nationality, race, ethnicity, class, estate, descent, religion, and clan."¹⁶ Across societies, the intensity, degrees, and level of violence used to maintain hierarchy

4) *Id.*

5) *Id.* at 273

6) *Id.* at 271–272.

7) *Id.* at 271.

8) *Id.* at 272.

9) *Id.*

10) *Id.*

11) *Id.* at 273.

12) *Id.*

13) *Id.*

14) *Id.*

15) *Id.*

16) *Id.*

differ, as do the boundaries of membership in age, gender and arbitrary set groups.¹⁷

The structured analysis of arbitrary set dominance represents one of the most salient features of Social Dominance Theory for the purposes of this article. Its researchers point out that:

according to Social Dominance Theory, group-based social hierarchy is produced by the net effects of discrimination across multiple levels: institutions, individuals, and collaborative intergroup processes. Discrimination across these levels is coordinated to favour dominant groups over subordinate groups by legitimising myths, or societal, consensually shared social ideologies.¹⁸

Accordingly, while “the naked use of force, intimidation, and discrimination on the part of dominants against subordinates”¹⁹ is one aspect of group hierarchy, Social Dominance Theory examines how social myths and ideologies legitimate existing hierarchy within the social framework.²⁰ Theorists identify two social myth and ideological types regarding social dominance. Hierarchy enhancing legitimizing myths support inequality through “moral and intellectual justifications”²¹ of social inequality and group based domination.²² These myths support the view that inequality is “fair, legitimate, natural, or moral.”²³ Just world beliefs, meritorious karma, the Divine Right of Kings, Manifest Destiny, etc. all represent examples of myths and ideologies that support social dominance.²⁴ Counter ideologies and social myths that undermine social hierarchy are designated as hierarchy-attenuating legitimizing myths.²⁵ Human rights, egalitarian religious themes, socialism, and feminism are identified among hierarchy attenuating myths.²⁶ In both accounts, the myths rest within the world views and behavioral patterns of the culture.²⁷ In the next section, the article examines seminal cases to discern hierarchy legitimizing and hierarchy attenuating ideologies used by the Court.

Beyond the ideologies rationalizing social hierarchy, Social Dominance Theory also examines institutional and individual practices and behaviors that reproduce and maintain hierarchy.²⁸ By

17) *Id.* at 274.

18) *Id.* at 275.

19) *Id.*

20) *Id.*

21) *Id.*

22) *Id.*

23) *Id.*

24) *Id.* Although these myths and ideologies enjoy less support today than they did in earlier periods they illustrate the powerful force that ideology holds in maintaining and even enhancing social hierarchies.

25) *Id.*

26) *Id.*

27) *Id.*

28) *Id.* 276–81.

deploying these myths and ideologies institutions can function as hierarchy enhancing or hierarchy attenuating forces themselves.²⁹ Hierarchy enhancing institutions also reproduce and maintain social hierarchy through their allocation of more positive social value to dominant groups.³⁰ Financial institutions, government security organizations, and corporations all represent hierarchy enhancing institutions.³¹ Criminal justice systems serve a special role in maintaining arbitrary set group dominance since “compared to dominants, subordinates are over represented in prison cells, torture chambers, and execution chambers across many different societies.”³²

Hierarchy attenuating institutions may diminish but seldom balance the effects of hierarchy enhancing institutions.³³ These institutions provide disproportionate assistance to members of subordinate groups.³⁴ Religious organizations aiding the poor, civil and human rights organizations, and welfare organizations are considered hierarchy attenuating institutions.³⁵ Across societies, these organizations usually fail to balance the effects of their hierarchy enhancing counterparts as they lack resources, legal support, force, and other bases of power.³⁶ Theorists maintain that hierarchy enhancing institutions play a critical role in maintaining social dominance because of their resources, reach, longevity, internalized replicating norms, and shield against personal culpability.³⁷ This leads to substantial sex and arbitrary set discrimination across societies in “employment, housing, retail markets, health care, and education.”³⁸

Individual discrimination also furthers social dominance. When individual decisions repeated across a large scale reflect hierarchy enhancing myths in employment, education, and criminality they “stabilize group based inequality.”³⁹ The authors explain:

The structure of society itself, then, facilitates discrimination by individuals. People in high-power groups usually have more things of positive social value they can allocate to others, and more power to ensure that things of negative social value are allocated to people in other groups. For example, rich people have more means than poor people to prevent or contest zoning [planning] decisions that locate undesirable things near their homes.

29) *Id.* at 276.

30) *Id.*

31) *Id.*

32) *Id.*

33) *Id.*

34) *Id.*

35) *Id.*

36) *Id.*

37) *Id.* at 277.

38) *Id.*

39) *Id.* at 278.

Group segregation and gender role differentiation also mean that privileges and responsibilities are allocated unequally across arbitrary-set groups and gender. This does not mean that people's actions are determined by their position in the social structure. Rather, a hierarchical structure implies that the ease of performing actions that maintain or enhance inequality is greater than the ease of performing actions that attenuate the hierarchy.⁴⁰

Accordingly, social dominance functions at the ideological, institutional, and individual levels. Across these levels, the rationalizing structures of the society itself perpetuate dominance. Institutions and individuals readily replicate dominance without thought while challenging dominance requires social participants to "swim upstream." This asymmetrical relationship is not simply a reflection of an individual or an institution's designation as dominant or subordinate since the social structure and cosmology shared by dominants and subordinates reinforce domination.⁴¹ Members of subordinate groups may adopt and espouse hierarchy enhancing ideologies that legitimate their subordination while members of dominant groups may embrace hierarchy attenuating ideologies.⁴² Ultimately, "within stable social systems, dominants and subordinates will agree with respect to legitimizing myths more than they will disagree."⁴³

This ideological consensus forms the shared agreements that maintain and perpetuate status quo social hierarchy as the bases of group subordination implicitly and even explicit affirmed by the dominant and subordinate groups.⁴⁴ Accordingly, peaceful changes to the intensity or structure of dominant relationships begins with an ideological shift. Preceding the Civil War in the United States a substantial antislavery movement challenged and refuted the religious and popular claims that Africans were soulless and subhuman. The prior popularized concept of African soulless sub-humanity represented a legitimating myth that provided the explanation or rationale for black's reduction to chattel and enslavement. Its rejection was followed by the common myth that blacks were Hamites cursed by God in the book of Genesis to serve white masters.

Accordingly, the abolition movement's

40) *Id.*

41) *d.* at 279.

42) *Id.* at 276. In most cases, the majorities of each group are expected to show greater endorsement of the ideologies most favorable to their group.

43) *Id.* at 40.

44) Although enslaved black preachers and religionists celebrated the story of Moses and God's deliverance of Israel as a basis of hope for their plight the societal view that slavery was approved of by God and their appointed lot was not overwhelming rejected. See C. Eric Lincoln, *Black Religion and Black Radicalism*

fundamental challenge was to the religious and philosophical denial of black humanity and the entitlement to the freedom under God asserted by whites. Using accepted Christian texts and authorities, abolitionists promoted black humanity and membership in the Christian community free of any eternal curse. President Lincoln appealed to those arguments in support of his opposition to slavery and to provide additional support for the Civil War. While this did not largely persuade American Southerners, it was sufficient to garner troops and maintain the Northern war effort. Absent this shared sensibility in black humanity, it is hard to imagine the war being fought.⁴⁵ The abolitionist, however, did not undermine the ideologies of white supremacy and black inferiority that were commonly held in the North. Accordingly, after the Civil War, slavery was rejected in law and in the dominant religious myths but black inferiority was widely held which was reflected in racial segregation and open discrimination in housing, employment, education, financial services, public accommodations, medical services, political office, criminal justice, and a host of other societal activities.⁴⁶

The longstanding ideology of black inferiority then became the rationale and legitimating reason for racial discrimination commonly practiced across the country. That ideology was largely upheld by the Supreme Court in the *Plessy v. Ferguson* decision that upheld the constitutionality of state mandated racial segregation despite the Fourteenth Amendment's Equal Protection Clause promising African Americans equality under the law. Reversing America's pervasive practices of racial discrimination, therefore, required that the ideology justifying those practices be rejected. This took place, initially, in Northern cities like Chicago and New York where African Americans who held middle class professions began to challenge the common practices of racial discrimination in restaurants, theatres, and public places.⁴⁷ It was critical in these early cases that the plaintiffs demonstrate an otherwise middle class identity except for their race. Likewise, plaintiffs who were lighter in complexion with excellent diction were sought out. The goal was to show white juries and media that "respectable" people who did not appear inferior, other than their racial identity, were being denied equal treatment. This produced significant advancements in large northern cities regarding public accommodations although housing and, to a lesser degree, education were still far from

45) Paul Finkelman, *Defending Slavery* (2003).

46) See, C. Vann Woodward, *The Strange Career of Jim Crow* (2001), Thomas Sugrue, *Sweet Land of Liberty* (2008), Douglas Blackmon, *Slavery by Another Name* (2008), Gerald Astor, *The Right to Fight* (1998), Ira Katz Nelson, *When Affirmative Action Was White* (2006), Harriett A. Washington, *Medical Apartheid* (2008).

47) Thomas Sugrue, *Sweet Land of Liberty* (2008)

integrated. World War II substantially aided in this effort.

The war produced a significant labor shortage in American industry that opened up new employment opportunities in northern cities for skilled and unskilled labor. Although African Americans still experienced overt discrimination in hiring, promotion, and termination, the jobs were still far superior to the menial labor jobs they were previously limited to. The war also created opportunities for African American servicemen to gain training and experiences in leadership and in developing valuable skills. Moreover, despite segregation in the military and openly discriminatory practices the military raised African American servicemen's views of their own capabilities and expectations for American society. All these factors provided a foundation for the Civil Rights Movement and the refutation the black inferiority myth that was so widely held. Civil Rights leaders and champions were chosen who were more articulate, intelligent, educated, respectful, disciplined, non-violent and as well or better attired than their typical white American counterpart. These leaders were then shown, in the United States and around the world being violently beaten and attacked by white policemen, dogs, and mobs before being jailed for exercising the rights that America claimed were available to all of its citizens. Over a period of roughly ten years, this movement gave weekly if not daily attention to middle class African Americans whose persistence, fortitude, self-restraint and courage undermined the widespread stereotypes of "Negro" laziness, ignorance, and intemperance. These images, speeches, and campaigns lead by Martin Luther King Jr. and many others implicitly refuted the myth of the "Negro" as scourge popularized by the film *Birth of the Nation* or as ignorant, shiftless, lay about and fast talking hustler spread through minstrel shows, radio, and then television.⁴⁸ Ultimately, the implicit message from a decade of nightly news and the growing black middle class dispersed across the country chipped away at the myths and ideologies of "Negro" identity that formerly justified the lawful and common open discrimination against African Americans. This ideological shift led to a social shift driven by a series of federal civil rights laws that proscribed many past practices of racial discrimination. Even though white racial dominance in the society was neither explicitly rejected nor functionally eliminated, "White Supremacy" as an overt ideology or social practice was largely renounced.

This renunciation, however, fell far short of redress for the preceding century of open racial discrimination or the nearly two and a half centuries

48) See Donald Bogle, *Toms, Coons, Mulattoes, Mammies, and Bucks* (2001).

of slavery before it and the society lacked any interest in providing reparations for African Americans. Just as the end of the era of American slavery included calls by African Americans and others for reparations for the freedman, the end of the century of Jim Crow was also marked by calls for reparations. In neither case, however, were reparations ever seriously considered by the United States government or the broader society. Rather than a random occurrence or strictly a consequence of American political realities this paper asks whether America's failure to provide reparations for African Americans reflects a larger phenomenon in reparations cases globally. Namely, whether social dominance determines if, when, and to what degree reparations are provided for victims of historic or other injustices.

I suspect that the role of social dominance in these cases often functions at an implicit level without an explicit consideration of groups' standing in the social hierarchy. However, when societal members and government officials consider the question of reparations the contemporary social standing or social value of the former victims in the society is commonly known. As with other aspects of life, subordinate group members will not typically be viewed or treated in the same way that dominant group members will. In fact, some theorist may argue that justice itself dictates this discrepancy in treatment, benefit, or award. A fairly recent example of this can be seen in the structure of the September 11 Victim's Compensation Fund (VCF).

When the fund was established two primary schemes were contemplated. The first provided compensation to all victims of 9/11 at a preset level irrespective of their income. The second connected compensation with the victim's age and income level. The final method chosen provided a mix of these approaches by including a base benefit for all those killed in the tragedy of roughly \$250,000 of non-economic damages.⁴⁹ The most significant awards, however, were for economic damages that were then distributed using an age and income matrix.⁵⁰ These awards ranged from \$300,000 for a sixty five year old making \$10,000 per year to \$2,669,889 for a twenty five year old making

49) See Distribution Plan Information at http://www.justice.gov/archive/victimcompensation/distribution_plan.html. The scheme provided first responders and military personnel with distinct benefits depending on their unit of service. See *An Explanation of Economic Loss Calculations for FDNY or NYPD Victims; An Explanation of Economic Loss Calculations for Military Victims; An Explanation of Economic Loss Calculations for Port Authority Fire and Police Victims at Presumed Loss Calculation Tables Before Any Collateral Offsets*, revised on August 27, 2002 at http://www.justice.gov/archive/victimcompensation/loss_calc_deceased.html

50) *Presumed Loss Calculation Tables Before Any Collateral Offsets*, revised on August 27, 2002 at http://www.justice.gov/archive/victimcompensation/loss_calc_deceased.html

\$125,000 per year.⁵¹ This award structure was governed by the wrongful death compensation laws of the victim's jurisdictions. These laws reflect the way the legal system values different societal members according to prevailing social dominance ideologies. Under it, preexisting social hierarchies that determine economic, political, and educational opportunities become the basis of predicting life outcomes and earning potential to provide awards. The economic value of victim's lives is calculated based on the society's assessment of their present earning potential and predicted future worth. Persons at the top of America's race, class, and gender hierarchy are worth the most and in turn receive the highest awards while those at the bottom are worth the least and receive the lowest amounts. Consistent with Social Dominance Theory, the approach seems natural in that the award conforms to our present and predicted future experiences of the world. People are not equally valued by society while living nor are they in death. The VCF was a unique federal creation, however, and its designers were not legally obligated to follow the state law scheme. Politically, however, pressure was placed on the congressional drafters of the legislation to differentiate the awards consistent with the income, wealth, and lifestyles of the different victims. Ultimately, victim's social value in death was no greater than their societally prescribed place in life.

In reparations claims, a similar phenomenon may be observed. In the United States reparations for the formerly enslaved blacks never enjoyed political support. Although original awards were made under field orders during the Civil War by General William Sherman, they were rejected by President Andrew Johnson and repealed. Johnson ensured that plantation owners had their lands returned to them, instead. Later efforts by blacks to request a pension as reparations for formerly enslaved persons organized by Callie House, a washwomen, seamstress and former slave herself, resulted in her arrest and conviction for fraud based on her representation to blacks that some form of redress could be forthcoming—an idea that the court saw as ludicrous.⁵²

The societal value on black life immediately following the Civil War and in 1916 at the time of House's conviction was very low.⁵³ Using social dominance measures of positive and negative social value African Americans remain at the bottom of America's racial hierarchy. This relative positioning

makes calls for reparations presented to the broader society and the government very unpopular. H.R. 40, proposed legislation to create a commission to study the issue of reparations has been introduced in the United States Congress on an annual basis for more than twenty five years; following the successful passage of the Civil Liberties Act of 1988 providing reparations for victims of the Japanese internment. Efforts to merely create a commission to examine the issue—the approach successfully used by the Japanese internment reparations advocates—have consistently failed. Popular surveys bear this out showing that sixty eight percent of Americans reject reparations for African Americans and only fifteen percent support the idea.⁵⁴ Current polls also show that American are ambivalent about the award of reparations provided to Japanese internees thirty seven percent support the past awards while forty one percent of Americans, today, disagree with them.⁵⁵ In contrast, over fifty percent of Americans support the compensation given to Jewish holocaust victims.⁵⁶ While other explanations are possible, these polling results mirror America's racially based social hierarchy. The socially assessed worth of the reparations beneficiary corresponds to the level of support for the award. The substantial delay seen in providing reparations for Japanese internees may also reflect this phenomenon, as the award provided in the Civil Liberties Act of 1988 came more than four decades after the end of the internment and required significant political capital and economic resources for its development and ultimate passage.⁵⁷

Applying Social Dominance Theory globally it would seem that international reparations programs face the same challenges. In the wake of the holocaust, a drastic difference was seen in the treatment of the Jewish and the Roma survivors.⁵⁸ Despite the fact that five hundred thousand to one and one half million Romani people were murdered, the Roma were completely denied claims as holocaust survivors originally and then systematically denied claims based on alleged administrative issues so that they did not receive any benefit until decades following the war.⁵⁹ It was not until 1979 that Germany recognized the racial basis of the past

51) *Id.*

52) Mary Frances Berry, *My Face Is Black Is True: Callie House and the Struggle for Ex-Slave Reparations* (2005).

53) A social reality that many see as unchanged today. Retrieved September 15, 2016 from http://www.nytimes.com/2015/05/10/magazine/our-demand-is-simple-stop-killing-us.html?_r=0

54) Nearly sixty percent of African Americans support reparations in this situation while only nine percent of whites do. Retrieved September 15, 2016 from http://www.huffingtonpost.com/2014/06/02/reparations-poll_n_5432116.html

55) *Id.*

56) *Id.*

57) See Eric Yamamoto et al., *Race, Rights, and Reparation: Law and the Japanese American Internment* (2013).

58) Stephanie Wolfe, *The Politics of Reparations and Apologies* (2014), p.148. See also, *Romani Victims of the Holocaust and Swiss Complicity* by Ian Hancock in *When Sorry Isn't Enough* ed. Roy L. Brooks (1999).

59) Stephanie Wolfe, pp. 87, 148.

Romani mistreatment and 1988 when meaningful access to reparations from Germany was provided.⁶⁰ The most substantial award came from the legal settlements obtained in the Swiss bank class action litigation in the United States that settled in 2000.⁶¹ That award provided for \$1.25 billion for Holocaust survivors that included Romani refugees and victims of forced labor.⁶² Since that settlement, many thousands of additional survivors have been identified. Most of them will not be able to receive any award under the program. This can at least partially be attributed to the substantial difficulty the Romani faced in being recognized as legitimate reparations claimants and the four decades between the end of the war and that decision by Germany. The discriminatory views widely held against the Romani people clearly influenced their ability to receive redress and the quality and quantity of redress ultimately provided.⁶³

Australia's response to over one hundred thousand indigenous children being stolen from their homes from the 1910s to the 1970s, pursuant to federal and state laws, mirrors this phenomenon. Despite the country's 2008 apology and a call for reparations by the United Nation's Special Rapporteur on Indigenous Rights and Freedoms in 2012, Australia has failed to offer compensation or redress to the families.⁶⁴

In Australia the indigenous people continue to have a low social value using social dominance measures. Their educational, political, and economic standing conditions reflect a high negative social value. The same can be seen in their incarceration rates. While only three percent of the country's population they represent roughly twenty seven percent of all prisoners⁶⁵ and fifty eight percent of

all juveniles in custody.⁶⁶ A prominent Aboriginal leader Noel Pearson, stated the issue this way:

It's not just a matter of marginal difference: the gaps are gaping wide. It is as if there is a Third World country in the middle of the First, one showing few signs of development.⁶⁷

In education "71% of Indigenous adults are likely to have attained Year 10/11 or basic qualifications, compared to 92% of non-Indigenous adults."⁶⁸ Further, only 20% have completed Year 12 or its equivalent within the educational system. The same problem applies to employment where, "Indigenous adults still experience an unemployment rate (15.1%) four times as high as non-Indigenous adults (3.8%)."⁶⁹ Food insecurity further reflects the subordination of Aboriginal peoples in the Australian social hierarchy. A recent study yielded the following results regarding access to food:

In 2004–2005, 24% of Indigenous Australians aged 15 years and over reported they ran out of food in the last 12 months, compared to 5% of non-Indigenous Australians. While Indigenous Australians living in remote areas were more likely to report having run out of food in the last 12 months (36%), this figure was also disturbingly high for those in non-remote areas (20%).⁷⁰

Much of this is related to the lower economic status experienced by Aboriginal Australians. In 2003, "the average equivalent household income of Aboriginal and Torres Strait Islander people... was only 59 per cent" of that of non-Indigenous people."⁷¹ As noted above, these indicators demonstrate that the Aboriginal people of Australia live at the bottom of their country's social hierarchy.

In turn, there is very strong political resistance to providing redress for the appalling and arguably genocidal practices against them. This corresponds with the high negative social value of the group as theorized above.

Rather than prove a claim, these few examples raise a fundamental question about reparations

60) *Id.*

61) "The \$34 million that went to the Romani survivors is a tiny fraction of more than \$60 billion that European governments and business have designated for Holocaust restitution and reparations since World War II." Retrieved March 15, 2016 from <http://forward.com/news/1259/thousands-of-romani-survivors-destitute-after-repa/#ixzz42zdU8ZJe>

62) Under this settlement, roughly twenty four thousand Romani victims of the holocaust have been awarded \$700–\$1,500. A much smaller group of two hundred or less received an awards as high as \$3,400. <http://www.swissbankclaims.com/Documents/distribution%20stats.pdf>

63) After a thirty five year campaign Norway decided to apologize and make reparations to Roma victims of exclusion and discrimination during the 1930s that lead to their deaths in Nazi death camps. Retrieved March 15, 2016 from <http://www.theguardian.com/world/2015/apr/09/norway-to-pay-reparations-to-roma-for-racist-policies-and-suffering-under-nazis>

64) Retrieved March 15, 2016 from <http://www.radioaustralia.net.au/international/radio/onairhighlights/un-urges-australia-to-pay-reparations-to-indigenous-communities>

65) According to the Australian Bureau of Statistics Retrieved March 15, 2016 from <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4517.0~2015~Main%20Features~Aboriginal%20and%20Torres%20Strait%20Islander%20prisoner%20characteristics~7>

66) According to a 2015 Amnesty International Report Retrieved March 15, 2016 from <http://www.amnesty.org.au/news/comments/37303/>

67) The Weekend Australian, December 24–25, p.20, cited in *The Problem of Aboriginal Marginalisation: Education, Labour Markets and Social and Emotional Well-Being* by Perri Campbell, Peter Kelly and Lyn Harrison. Alfred Deakin Research Institute Working Paper Series Two no. 31.

68) *Id.* at 10.

69) *Id.* at 16.

70) Browne J, Laurence S, Thorpe S (2009) Acting on food insecurity in urban Aboriginal and Torres Strait Islander communities: Policy and practice interventions to improve local access and supply of nutritious food. Retrieved March 15, 2016 from <http://www.healthinfonet.ecu.edu.au/health-risks/nutrition/other-reviews>

71) *Id.*

programs for victims of historic injustices provided by established political structures; to what degree do reparations provided or denied in such cases reflect a societal assessment of the contemporary social value of the victims. Moreover, since justice seeks to restore the status quo does restorative justice for groups suffering longstanding injustices consistently fall short due to the low social value that some groups enjoyed before or after the event warranting rectification? In turn, do reparations have to begin with a revaluing of victims as human beings of equal worth with other societal members first before appropriate reparations will be provided. It would seem that until victims' warrant for reparations is based on their shared humanity and the past denial of that humanity rather than their prior and contemporary social standing, the fight for meaningful reparations and adequate redress will remain an uphill battle for some groups.

The survivors of the 4-3 Jeju Massacre comprise one group engaged in the long struggle for reconciliation and redress. This tragedy costs tens of thousands of people their lives as the population of entire families and villages were massacred.⁷² Many other victims were raped, tortured, or badly beaten.⁷³ Tens of thousands lost their homes and their property and many others suffered as family members of those killed or brutalized under the Guilt by Association System that affected employment, immigration, and government surveillance.⁷⁴ In the wake of this tragedy, a military government banned discussions of it for twenty years beginning in 1961; even apprehending and persecuting a well-known novelist who wrote short stories about the incident in 1978.⁷⁵

The Jeju 4-3 incident raises interesting questions regarding the aforementioned theory of social dominance. Unlike African Americans in the United States, Romani Holocaust survivors, and Aboriginal Australians, victims of the 4-3 Jeju tragedy have received significant attention from the State of South Korea regarding the incident and the need for redress since the 2000s. Specifically, a "Special Law" to determine the truth regarding the incident and restore the reputation of victims was signed by South Korean President Kim Dae-jung in 2000 that was a watershed moment for the victims and their advocates. The legislation discontinued labeling victims as "communists" and "authorized commemoration projects, including a cemetery, a museum, park and financial and medical subsidies for victims."⁷⁶ In 2003, the South

Korean government promulgated an extensive report chronicling the events and identifying some perpetrators and victims by name and South Korean President Roh Moo-hyun issued a national apology. Since that time, and an extensive museum and gravesite have been constructed, financial payments for medical treatment have been awarded to some victims and April 3 was designated a National Memorial Day.

Despite these valuable accomplishments victims and their advocates still feel that the process is incomplete because of the United States failure to participate. In their view, the United States has not acknowledged the role it played as the commanding military force during the tragedy. Moreover, the United States has not been an official part of South Korea's investigation of the issue. Advocates urge the creation of a Joint Task Force between South Korea, the United States and the Jeju people to foster reparative justice and complete what they see as a stalled process of social healing.⁷⁷

How might we understand the relative success and remaining limits of the Jeju process through the lens of social dominance? The South Korean government's response to the Jeju 4-3 incident far exceeds the reparations provided to other victims of historic injustices mentioned above. In this instance, the government has prominently honored victims of the tragedy through apology and a national day of recognition, as well as memorials and an impressive museum. These efforts send a very concrete message that these victims were wrongly killed and harmed and deserved far better treatment than they received. This elevates the status of victims and counters the past stigmatization and mistreatment that victims and their families received.

In this regard, it reverses the past vilification of victims and survivors and rejects the hierarchy enhancing ideology used to legitimize their continued subordination and mistreatment. Before 1999, past governments had labeled victims as "communists" and "guerillas" thereby justifying the violence unleashed against them under the hierarchy enhancing ideology of "national security." The twenty year prohibition on even discussing the tragedy and the concurrent branding of the victims shows social dominance at work. The past regime stigmatized survivors and limited their social opportunities, further subordinating them within the society via an ideological basis. This falls squarely within the articulated theory. Reparations were in no way possible until a new government came into power that overtly rejected the ideological justifications for the continued denial of Jeju victim's humanity and worth. Once that occurred it created the social space for substantial redress to

72) The Jeju 4-3 Incident: Investigation Report (2003), pp. 455.

73) *Id.* at 586-606.

74) *Id.* at 607-621.

75) *Id.* at 41.

76) Chang Hoon Ko, Next Steps for 4-3 Reconciliation: Jeju 4-3 Reconciliation Initiatives in Asia Pacific Context in Vol. 5 No.1 World Environment and Island Studies 2015, p.24.

77) *Id.* at 25.

occur.

Nonetheless, the reparative process remains incomplete. Beyond the efforts taken two important steps remain: 1) More meaningful compensation to assist victims of the massacre and related brutality and mistreatment; and 2) Participation by the United States in a Joint task Force examining the tragedy and proper redress. As the commanding military force, at the time, the United States has an obligation to openly examine its role in the tragedy and its responsibility to the victims today. Doing any less would raise questions about the value and worth the United States has placed on the lives of these victims that their soldiers were ostensibly deployed to protect.

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