

LORI WATSON: Hi, everyone. I just wanted to start off by making sure to thank Micah, especially for all his hard work, and the University of Virginia Law School for their ostentatious hosting. Blaine, as well, I would like to say thanks for including me in what is a dream conference. I have the great pleasure of introducing two former teachers of mine. If you stick around in philosophy long enough, you can introduce your teachers. Larry Krasnoff from the College of Charleston. I'm going to interrupt. Tony, Cécile, hi. Laborde up top. And Tony-- I'm sorry. From Oxford. And Tony Layden from Illinois at Chicago. This will be our Race, Religion, and Ideal Theory session. And with that, we'll turn it over to Larry.

LARRY KRASNOFF: This seems to be on. We got that. Yeah, I think that's right. How about that? That seems good. All right, thank you. Like everybody else, I want to thank the organizer, University of Virginia, for having us, but especially Micah, Lori and Blaine. So I mean, Lori was my student in a class on ethics in like 1993 or 1994. She was an undergraduate. I was saying, it was one of those combined classes and had Master's degree students. Let's just say that the Master's degree students were not as good as Lori, but that's another matter. They were still good.

And to Micah and Blaine, too. I mean, Micah, I got in touch and invited him to give a talk at our school a few years ago. He says he's been trying to reciprocate for a long time, so I appreciate him doing that. But I appreciated before that he said some very, very nice things on the internet about an article that I wrote about *Political Liberalism* in like 1998. It's a really long time ago now. And then I realized from talking to him that he and Blaine and Jonathan Quong had all been at Oxford at that time, and Oxford was the land of Jerry Cohen. And Jerry Cohen did not think that Rawls was the most important way to go in political philosophy, but they all kind of went their own Rawlsian way. And they said very nice things about that particular article, so it's kind of like they're the graduate students I did not know that I had because I don't teach at undergraduate college, and I don't have graduate students. So it's really nice to be here for that reason.

I also want to thank my fellow panelists for the papers that they wrote, which I already learned a lot from and hope to learn a lot more. Both Cecile's papers and Tony's papers, they're great, and I think they really blend well. I mean this is the actual panel. You never when you're at a conference that it's going to be a panel that we're all talking about things that I think they're clearly related. At the same time, I think we're not all saying the same things, and that's a good thing too. One way to frame, I think, the differences is that we're each in some sense taking up a kind of objection that Rawls did not, maybe could not, take up something about race in one way or the other. And then we're trying to find resources in Rawls' theory in which a Rawlsian could address such matters.

But I think we theorize the question of what it is that isn't taken up, wasn't taken up, should have been taken up, a little bit differently. It may be-- and I feel panelists can correct my misperceptions later-- but it seems to me that Cécile is sort of saying that Rawls needs a better theory of the concept of race itself. And Tony's sort of saying that Rawls might need a better theory of the nature of racial injustice itself, as opposed to economic injustice. And I'm saying that the problem is something about the way that Rawls treats the history of racial injustice and the role that it plays in the theory. I don't think, by the way, those criticisms or worries are in any way exclusive. We should be concerned about all of them, and so there doesn't necessarily have to be disagreement even as we do different things.

I never know these days. I came from an old time when people just read, and I think I agree with everybody now that that's not a good thing to do. On the other hand, you all have read. I kind of want to just let you ask questions right now, so what I did was a kind of compromise thing. I did an outline, which is like a PowerPoint, but it's on paper. Because all I do on a PowerPoint is put words on screen, so this is just that. There's no images or anything fun if I deal with PowerPoint, so I might as well just give you an old handout. So I'm going to talk through the handout, but I'm going to try to do that fairly quickly. So if you read the whole paper, great. If you read that, this is just a reminder. If not, hopefully you can follow the different points. I'll talk fairly quickly through the points, and obviously, we can address them later in discussion. OK.

So the point about the history of racial injustice, that's how I understand the force of Charles Mills and others' objection. Again, it's not the only way. I do think there's a family of objections that have come along that said that Rawls should have taken up race in a different way. Now again, when I read *Theory of Justice*, I'm generally a little suspicious of people who say now that people in the olden days did not think about race or talk about race. This is America. Everybody's been talking about race for hundreds and hundreds of years, and it's just a question of the ways that they're doing it. And I'm not sure we should necessarily assume that our way of doing it is the best. I know that sounds like a grumpy old man remark, but I always want to say about that is like, if I'm grumpy, it's not because I'm old. It's just because I'm grumpy. I was grumpy about our times when I was young about those times. I could be grumpy about these times now.

But I think that we should take pretty seriously that the *Theory of Justice*, of course, did try to address racial injustice in important ways. We talked about in David's talk earlier about the post-war liberal consensus and about progressivism. And there is such a thing called Great Society liberalism, and I always think of Rawls as basically a part of that, and you can't say that Great Society liberals were not talking about race. But it is true, and this is, I think, the way I understand the force of Mills' objection, that racial injustice, and particularly the history of racial injustice, I think can be taken up only in a particular way in Rawls' theory. And that's in, you might say, at the last stage of in the implementation or application of the theory.

Rawls wants to, in some sense, lay out a set of liberal ideals, and then he proposes a deliberative mechanism through which we can live up to those liberal ideals, and then we'll have to apply it. When we do apply that deliberative framework, Rawls is explicit that facts, the general social facts, are relevant here. And so to me, facts about the racial injustice, and particularly and especially the history of racial injustice, are exactly the kind of relevant social facts that should be taken into consideration.

In the full paper-- it's not on the handout-- the example I use is police stops. If we're thinking about what kinds of police practices, what kinds of traffic stops we want to permit and not permit, I think it's extremely relevant to our deliberations about such matters that there's been a particular history of racist interactions between police and citizens of color. And that therefore we might choose very particular restrictions on what police can and can't do in the light of that history. To me, that's a way in which within this kind of broad framework, the facts about historical injustice and the legacy of racial injustice, the legacy of that history, matter and can matter.

So I think a Rawlsian can bring facts about the history of racial injustice into Rawlsian deliberations, but only at that last stage of argument. And I take Mills' objection to be saying, yeah, but there's a problem perhaps prior to that. Can we actually defend liberal ideals if, in fact, the historical reality is that there hasn't been a general social or political commitment to those liberal ideals? There's a way in which that appeal sort of rings hollow. So that's the first part of the outline if you're following along with the numbers.

Then, I think I want to say, I tried to put this in the language of Rawls talking about stability. And here, I'm modifying a little bit what Rawls actually means, but I think in appropriate way. I think it's best to see Mills' objection that somehow the history of the failure of liberal societies to live up to their commitments, their egalitarian commitments when it comes to matters of race, I think that somehow invalidates or might threaten liberal ideas themselves. I think that should be seen as a kind of challenge to stability. And remember, stability here is a very special thing for Rawls. It may sound like when you bring up the idea of stability, it means are your political institutions going to fall apart. But really it's more of a kind of almost psychological matter. I mean, Part 3 of *Theory of Justice* is basically a very long argument in moral psychology.

And basically the problem of stability really is basically how can our independent commitment to political values or to a conception of justice in *Theory of Justice* terms, how can we square that with all the other commitments that we have. Given all the ways we grow up, and the way that we develop, and the things we end up caring about, are we really going to care about political ideals for their own sake? Are we really going to develop an independent conception of justice? And is that going to cohere with the other values that we have? *Political Liberalism* takes this up in a more kind of rationalist mode, but it's really the same kind of question.

Mills' objection is a little bit different. So again, in Rawls' terms, the problem of stability is basically the coherence between political values and non-political values. How can we understand them as psychologically connected but also rationally connected in the account of *Political Liberalism*? Because that's really what the comprehensive doctrines do. In Rawls' account, the job of a comprehensive doctrine is supposed to explain why, from your individual point of view, an individual comprehensive doctrine's point of view, how can you affirm an independent commitment to political values, and how can you reason politically without appealing to your comprehensive values in a way that, nonetheless, your comprehensive values themselves endorse. That's the problem. I guess I don't have to review all that for this audience. But I think it's a really important argument, and it's obviously central to what Rawls does, so I can't really emphasize it enough.

So that's the particular problem of stability, but I think Mills, in some sense, could be seen as raising a challenge of stability in a broader sense. What's that challenge? It's basically between understanding the supposed independent force of liberal moral ideals. Which, by the way, Mills repeatedly says that he does, that he thinks that liberal egalitarian ideals on their own are justified. They make full sense to him. He wants to endorse them. But the question is, how can we do that in the light of a history of a long failure to live up of people who say that they do that or speak in terms of those values, but actually don't carry them out in practice, at least when it comes to matters of race, but not only to matters of race. Because there's a kind of cognitive dissonance to that we have to then account for, a kind of incoherence that we have to overcome. And again, that's a kind of challenge to stability.

And the question is, how can we address that. And Mills' idea is that we need to have a lexically prior account of reparative justice. And what that would really do is force liberal societies to face up and make amends for the history, and then we could proceed presumably to endorse liberal ideas, having kind of resolved this dissonance. OK. We'll come back to what that means and how you would carry it out a little bit later. So that's the challenge. OK.

Now, I think it's also true-- and this is the third point in the outline-- that what's supposed to be Rawls' considered argument about stability in *Political Liberalism*, because *Political Liberalism* is also framed as a better version-- I won't go through the particular argument for this or why this is-- but *Political Liberalism* is conceived as a better version of the argument for stability than the one in Part 3 of *Theory of Justice*. He's rewriting it for a particular reason. It certainly seems that from a Mills point of view, that this kind of argument would not be helpful. This is stability that doesn't address his own particular challenge. Why is that? Well, it seems that-- and we'll begin to qualify this in a little bit-- it seems that a lot of the argument for liberal values in *Political Liberalism* or the original independent, because that's what we're doing here is giving an independent argument for liberal values, that argument depends on historical argument drawn from the nature of religious toleration.

This is where Cécile's paper is so relevant to this panel. And it seems pretty clear and obvious historically that liberal societies did not just generalize from egalitarianism or tolerance on matters of religion to matters of race. You could say that there's something admirable about what liberals did about religion in the post-Reformation period. You cannot say that there was something admirable going on in the treatment of race. I see this all the time. This is part of all. It's built into the history.

I live in Charleston, South Carolina. It's built into the history. It's built into the history of my own institution, which is a public university. It was originally a municipal college that was founded by a Catholic bishop, a Huguenot minister, and a Sephardic rabbi in the 1770s. That's pretty darn progressive when it comes to matters of religion. And we work in an institution whose buildings were built by slaves. So there you go. That's the kind of dissonance that we're talking about here. You've got a particular record on religion doesn't seem to extend to matters of race, so how are these set up.

So this is what I take to be the challenge. I take the first half of the paper, which is basically trying to lay out what I take to be the best version of Mills' objection. And then the second half of the paper, I try to respond to it from a Rawlsian point of view. So now, we move on to that part.

The first and really the most important point I want to make here is that I do read the argument of political [INAUDIBLE] in a particular way, in a particularly, you might say, strong Hegelian way. I'm of the mind, also in Hegel interpretation, that Hegel's argument is supposed to be-- because there's sometimes a Hegel interpretation, like you get sometimes in Robert Pippin and such that, well, there can't be a fully sort of rationally justifying argument in a deep sense, so we need to give a kind of historical argument for various practices of one sort or another. And that's sort of second best, but the best that we can do. And I think that's a bad way to read Hegel. I think Hegel thinks that actually historical argument is the best possible rational justifying argument, and you're not taking Hegel very seriously until you actually encounter and think through that particular claim. And I think there's a kind of Hegelian argument in Rawls, and Rawls says many more positive things about Hegel than you might think since he's just mostly described as Kantian.

So what am I saying there? I don't think the historical argument is the whole argument. I think the historical argument is an illustration of what's supposed to be a deeper point. The historical experience that Rawls is pointing to is supposed to have taught us a lesson about the very nature of political institutions and the kind of justification that they can and can't have. I think that's important. And then the stuff about the fact of reasonable pluralism is not really just about Catholics and Protestants fighting with each other. It reveals something actually really pretty fundamental about the very nature of practical reasoning. So that's the claim, at least. So you take that seriously.

And I want to say Rawls is making a deeper argument, and the deeper argument, again, is about the difference between political and comprehensive reasoning and the ways that they need to be related and carried out. The idea of public reasoning is not, again, just some historical legacy, but it's built into the very nature of what political institutions do, which is basically restrain our conduct with rules of one sort or another. And here, I mean, I go very fast over this.

But I'm persuaded that by a kind of like [? Rex ?] [? Lara ?] style argument about the absolute fundamental character of juridical rules to regulate conduct in any way, that we can't even speak of ourselves as acting freely in any way without already talking about rules that we would all impose on ourselves. And again, since they are imposed on us, the only way we can justify these things is by seeing them as some sort of product of mutual justification. So that fundamental idea, which I take Simone to have talked about this morning, is built into the very idea of a juridical institution from the beginning. And that conceptual argument is deeper than any particular historical claim.

So then the idea of the rest of the paper is to take that idea of mutual justification as public reasoning as the core Rawlsian idea and to say that it's not invalidated by Mills' objections. That's the argument. Why is that? Because, well, there's first the kind of historical argument, which you might question that actually that was never actually completely falsified by the history of American and even European juridical practices. Again, the very idea of mutual justification is part of what it means to justify juridical rules, and so the institutions that take that up are committed to it even as they might fall short of their commitments in various ways.

So I think there is a difference between, say, slavery violating the moral autonomy, which is simply an ignoring of the ideal of moral autonomy, and what I think we now take to be a badly reasoned legal opinion like *Plessy v. Ferguson*, which is not living up to the ideals of mutual justification, but still in some sense paying some formal if incoherent respect to them. That's a controversial claim obviously, but I can try to say more about it. That's the first part of the response.

The second part of the response is to-- what are we up to? We're up to Part 6, so really the last part. It's that I don't think actually we could carry out a project of reparative justice, a political project that would mean something substantively. And if we get outside the practices, the democratic practices of mutual justification that we're talking about, and public reasoning, I think that they are going to be essential to understanding what makes any sort of project of reparative justice makes sense. That's at least what I argue here. Why is that? I do think actually it's possible to isolate an account of reparative justice that really is independent of that, if you think of it in a purely tort based sense as private harm.

So if we could say, OK, we wouldn't need this kind of thing if you individuals can come to some authority and say, this is the particular damage that I suffered, this is what would make me whole. In doing that, you actually don't have to engage in democratic practices of mutual justification to specify some sort of substantive conception of justice in that case. But I don't think that will actually work. I mean, we could try to quantify exactly for a given person what the effects of the racial wealth gap are on them and their economic prospects. But there are going to be all sorts of questions about who exactly is entitled to reparations, do you have to be the historical descendants of slaves, do you simply have to be a person of color, of what color.

There are lots of claims about the historical effects of racism on the present prospects of people. And so doing this without coming to some real political agreement carried out through real deliberative processes that we would endorse as answering those questions I think is going to be difficult or impossible. So it's not like I'm saying we should not do reparations, although I do have various forms of skepticism about them. But I think that any kind of account of what's going to make reparations the right ones is going to have to proceed within the constraints of Rawlsian constraints on public reasoning.

So in that sense, I don't think there really is possible a completely lexically prior account of reparative justice that would actually answer the questions that we want to answer about addressing the history of racial injustice. I favor something much more piecemeal, and the police example from the beginning is kind of one that I would hold on to and go back to. I would prefer that we examine a whole range of practices in our society, and ask ourselves what kind of inequalities are there, and what kind of practices could remedy those inequalities, and make the practices more egalitarian. And in doing that, I think we should, and on Rawls' account, are totally entitled to point to social facts about the history of racial injustice as part of our decisions about what would improve the situation.

This is going to be a piecemeal and ongoing process because the effects of racial injustice, the history of racial injustice, are felt in so many different sectors of our society. In policing, in education, in voting, and on and on and on. I don't think reparations-- this is part of the skepticism about reparations-- I don't think there's any sort of cash silver bullet for this. It's going to be an ongoing process. In doing that, I think ultimately the idea of Rawlsian mutual justification is going to survive in that, and it's going to be needed to guide us as we do this in this ongoing process.

Grumpy old man point: I mean, I do think that people now sometimes talk as if we're going to have some sort of new reckoning with racial injustice, and we're talking about racial issues in a way that we've never talked about before. And there, I'm skeptical. I mean, again, we've been talking about these things for hundreds of years, and I do think that we're going to keep on talking about them. Again, it's a lot of work. It's hard work. It's ongoing work. It's not going to be done easily or finished through some sort of religious conversion on the part of white people or anybody else. It's just an ongoing political process. But when it comes to understanding the nature of the political, you can't really do that much better than some of the things that John Rawls wrote. Thanks.

LORI WATSON: OK I think we're ready for you Cécile, if you can hear us. You're muted though I think.

CECILE Can you hear me?

LABORDE:

LORI WATSON: Now I can.

**CECILE
LABORDE:**

Great. Thank you. Thanks a lot to Micah for inviting me, and thanks to Lori for sharing. I'm just sorry I couldn't join you in person. So my paper is called "Rawls, Race and Religion." So in the work of Rawls, race and religion are distinct categories that pertain to different normative universes. So to be sure, they share a crucial feature. They're both morally arbitrary when it comes to the treatment of persons as free and equal. As Rawls says, we are confident that religious intolerance and racial discrimination are wrong or unjust. But while neither racial nor religious difference should affect the equal distribution of rights and opportunities, they otherwise raise distinct moral stakes within liberal theories of justice.

So what I want to do in the talk is first to provide an analysis of Rawls' bifurcated treatment of religion and race. And then I explore what this Rawlsian bifurcation obscures. And then I show that Rawls' non-ideal theory about religion reveals more about his theory of race than critics have perceived. And finally, I try to explore ways in which Rawlsian-inspired analysis can come to grips with the deep interconnection of race and religion in social life. So there are four sections: one, religion; two, race; three, Rawls' bifurcation; and four, Rawlsian permutations, as I call them. OK.

So starting with the religion. Unlike many liberal philosophers, Rawls had a vivid sense of the importance of religious faith for individuals and of the permanence of religion as a social fact. So he wrote an undergraduate thesis in Christian ethics at Princeton and intended to join the seminary. Soon after the end of the war, he rejected the main doctrines of Christianity, but retained the kind of fideism of faith independent of but not hostile to or inconsistent with reason. So there is continuity between Rawls' early Protestant theology and the *Theory of Justice*.

In both, we find the search for morality defined by interpersonal relations, rather than pursuit of the highest good; a vision of community based on respect for the separateness of persons; and a rejection of society as a bargain between egoistic individuals. And in both, we also find a deep commitment to religious toleration and abhorrence of the evil of religious persecution and state enforced religious conformity. And Rawls' political philosophy from the 1950s onwards sought to articulate political rather than moral solutions to the problem of community, a problem which after reading Rousseau, he located in bad institutions rather than in human sin and pride. So religious beliefs have a dual Janus-faced presence in Rawls' work. They appear both as an expression of human personhood and as in potential tension with political justice.

So briefly on the two points. First, then, religious beliefs are a core expression of a basic moral power shared by all persons, so the capacity to form and develop a conception of the good. And it's respect for that power that justifies the lexical priority of equal basic liberties in Rawls' *Theory of Justice*. And Rawls' explicitly presented the priority of liberty as a generalization of the ideal of religious toleration. Religious commitments, on his view, are special because they are binding absolutely, and they are not susceptible to be altered by coercive intervention or persecution, as they are the product of the relational exercise of human reason.

This is why when modeling the choice of principles of justice in the original position, Rawls argues that the parties, not knowing which beliefs and commitments they would end up with, but knowing that this might be non-negotiable, that's why they will not gamble with the protection of equal freedom of conscience. The scope of freedom of conscience, however, is vague in Rawls' theory. The argument he deploys only justifies a basic prohibition against state religious persecution, rather than a substantive ideal of equal religious liberty. It's also unclear, I think, how the normative case for the toleration of religious beliefs goes through to the protection of all moral commitments.

Rawls simply grounded the priority of liberty on the intuitive idea of the importance of belief to human persons, and that was his bedrock, conviction. So he starts from an intuition about the respect due to holders of sincere religious beliefs, and then he generalize this onto a broad principle of moral freedom. So to treat persons as free and equal just is to respect their capacity to hold religious and moral commitments.

Now, religious beliefs hold this special place in Rawls' thinking because they are the natural product of the exercise of human reason. Rawls did not subscribe to the opposition that David Hume and some of today's liberal philosophers draw between faith and reason. In his early work, he insisted on applying the same analytical standards in Christian ethics as a moral argument generally. In both cases, he postulated that there existed a universally correct moral point of view, but he was skeptical about whether his truth could be reliably identified because of the burdens of judgments.

Human beings would naturally reach different conclusions about religious and moral truth. That's true even in well-ordered societies or in just societies. Where most sources of oppression and injustice have been removed, burdens of judgment will persist, and there is no expectation that individuals will converge on the truth or untruth of religion. So reasonable pluralism is a permanent feature of the public culture of democracy. Religions are there to stay, even in the just society.

Second point more briefly because it's very well known. In Rawls' later work, this concern for religious pluralism came to the fore of his preoccupations as he became aware of the potential tension between religious pluralism and political stability. So that's the second salient feature of Rawls' conception of religion. He worried that the principles he articulated in *Theory of Justice* were simply the political department of the comprehensively liberal philosophy of life. Secular, skeptical, rooted in controversial views about individual autonomy. And this was problematic because political authority should not be imposed on citizens by appeal to reasons they could not accept.

So he then sought to show that the principles of liberal justice could be presented as purely political principles, free standing from any comprehensive doctrines, and therefore not sectarian. They could be endorsed by all citizens from the perspective of their own reasonable doctrines via an overlapping consensus. So religious pluralism contained by political liberal principles is a structural feature of the just society.

Section two, race. So the concept of race receives much more schematic treatment than that of religion in Rawls' writings, or lack of for which he's been much criticized. There's hardly any reference in his work to the history of racial oppression, the inequalities it has generated, or to the place of racial equality in his vision of liberal justice. And the prima facie reason for this is quite simple. For Rawls, questions of race, if they pose acute political problems, didn't seem to pose philosophical problems. And this is because, by contrast to religious beliefs, racist beliefs are always unreasonable beliefs, which can be discounted without loss in political justification.

So Rawls considered segregation and slavery as so self-evidently wrong that he makes them exemplars in his expositions of reflective equilibrium. Race and sex are natural characteristics, on the basis of which inequalities could never be justified because such inequalities could never be to the advantage of people of color or women. And this is by contrast to inequalities in talent and good fortune, which will persist in the just society and should be subject to the difference principle. So there is no race in the just society, race as a social-political axis of subordination. And this is how Rawls retrospectively justified the absence of race in his writings, which mainly focus on ideal theory.

So there's an ongoing debate initiated by Charles Mills, of course, about whether Rawls' deliberate focus on ideal theory is sufficient to explain or exonerate his silence on race. So briefly, there are three main critiques. First, ideal theory is ideological in the sense that it legitimizes colorblindness in actual conditions where race is socially salient as a structural marker of oppression and subordination, and it validates the perspectives of members of privileged groups. Second, ideal theory is set to fail to be action guiding. It provides no guidance as to how we are to change the institutions, practices, and norms of racial subordination prevalent today. It doesn't tell us whether affirmative action or reparations are legitimate. And third, ideal theory is useless even as an ideal. And here, the thought is that a colorblind race-free society is so radically different from our own society that it is unclear how realistic a utopia it is. And here, the critique is that Rawls underestimates the stickiness of racial structures of oppression.

So in what follows, I want to sidestep this debate about the uses of ideal theory-- and this is taken up by Larry and Tony in their paper-- and I want to focus on non-ideal theory instead and the implication of Rawls' bifurcation of race and religion in his non-ideal theory. So section 3, Rawls' bifurcation.

So here, we have two different normative universes so to say. So religion refers to individual beliefs related to ethics and the good life and worthy of respect in virtue of their tight connections with personal agency and subjectivity. The apt political response to religious beliefs is one of toleration and the protection of freedom. Religions also have a dark face connected as they are to uncompromising, totalizing claims on political life. However, liberalism is compatible with religious disagreement, provided believers converge on a shared thicket of purely political principles.

The concept of race pertains to a different intellectual universe for Rawls. It only exists in the minds of unreasonable racists, those who grant ethical salience to morally arbitrary biological traits, such as skin color. By definition, the just society will have eradicated inegalitarian racial distinctions. So Rawls privileges religion over race because of the persistence of religion in the justice society and its relevance to ideal theory. However, I want to suggest that the primacy of religion also affected his non-ideal theory. And Rawls had a tendency to religionize problems, so he tended to interpret political life through the lens of religious toleration, disagreement, and pluralism. So the problem with Rawls' non-ideal theory, as I said, is not so much his philosophy as rather his implicit sociology. There are three instances of this mistake.

First, Rawls tended to interpret political conflict as primarily a conflict between competing belief systems. So his main source here, famously, is a somewhat sketchy genealogy of the emergence of toleration in the aftermath of the European wars of religion. Now to be sure, regarding Europe, Rawls endorses a political solution to problems that have their origin in doctrinal disputes, so he's clear that liberalism did not emerge as the political theology of a reformed Protestantism. Protestants, Rawls is keen to insist, were as sectarian and intolerant as Catholics, so it's only after the properly political experience of forced coexistence and *modus vivendi* that intolerant groups came to accept liberalism in time. So that's European story.

But by contrast, when in *The Law of Peoples*, he turns his attention outside the Western world to theorize a non-liberal but decent society, he imagines a society bizarrely called Kazanistan. So in Kazanistan, there is no politics. There's only really culture and religion, or a kind of homogenized Islam. Kaznistan has not experienced any pluralism, colonization, immigration, or any modicum of diversity, so no public culture has emerged that is separate from the comprehensively religious background culture of civil society.

Some have criticized Rawls for racializing non-western peoples. But equally plausibly, we could say that he simply religionizes them, so he applies to them his conception of religion as a homogeneous comprehensive doctrine of political ethics tightly regulating the lives of its adherents. So it's perhaps also because Rawls held a philosophical conception of politics that he unconsciously perhaps came to endorse a neoconservative thesis of a kind of clash of civilizations between the West and the rest.

The second consequence of Rawls' privileged focus on religion in his non-ideal theory is that he exaggerated and idealized the political power of public reason and speech, including in unjust societies marked by deep racial inequalities. To be sure, we now know that Rawls was deeply troubled by structural racial injustice, as recent research on his campaign against the Vietnam draft while at Harvard, research by Brandon Terry, has shown. However, in his published writings, there is a gap between this deeply critical view of the injustice of the US basic structure and the fairly sanitized view of the process of social change that he describes.

So Rawls approvingly refers to speeches by abolitionists and Civil Rights activists, such as Martin Luther King, to show how religious convictions could play a transformative role in liberal public reason under certain circumstances. But it didn't interrogate his faith in the power of public reason and speech in the first place. So famously, he construed civil disobedience as only permissible in religious societies. Implying that the US was one ignored the more radical facets of the Black Nationalism movement, and he kept faith in the transformative power of the public reasoning of the Warren court.

The third implication of Rawls' privileging of religion over race is that he seemed to believe that the issue raised by the former could help with the latter. He seemed to hope that his theory of religious toleration offered a paradigm that could be applied to the resolution of racial conflict, as he briefly suggests in the original introduction to *Political Liberalism*.

So one stimulating interpretation of this proposed by Benjamin Herzberg is that racial resentment is analogous to religious conflict, in the sense that they both stem from the fear of difference. And the fear of difference undermines the social trust needed for citizens' reciprocal commitment to the just society and the mutual sacrifices that it requires. So the lesson that Rawls took from the wars of religion was that a modus vivendi between conflicting sects was unstable so long as Protestants did not believe that Catholics could be trustworthy citizens and, of course, by vice versa. And Herzberg speculates that Rawls saw similarities with race relations in 1970s and 1980s America. So many white Americans influenced by the racializing anti-welfare rhetoric of the Reaganite right thought that Blacks could not be trusted to cooperate within a fair welfare state. So white racism was fed by distrust of underclass, a code name for Black, or shirkers.

To be sure, for Rawls, the fear of racial difference is never reasonable, so the racists are, in fact, the ones who default on their obligation to treat others as free and equal. They are the real shirkers. By contrast, the fear of religious difference can sometimes be reasonable, as some religious beliefs are patently incompatible with liberal justice. This explains once again why Rawls found the issues raised by religious pluralism more philosophically probing than those raised by racial conflict, but his solution was at bottom the same for both. Only a public commitment to the political principles of justice could reassure or provide mutual reassurance to those who feared that religious and racial difference would threaten the fairness of political cooperation.

So now moving to my final section, which is on Rawlsian permutations. So what I try to do in this final section is to argue that Rawls' bifurcated theory, despite its drawbacks, contains valuable conceptual and normative insights, which can be redeployed within a more complex account. So race, for Rawls, is what I shall call a third-person notion. So racial beliefs only express irrational and unreasonable attitudes about the moral status of others. They must be combated in the non-ideal world so as to achieve racial equality. Religion, in turn, is a first-person notion. So religious beliefs express the personhood and subjectivity of those who hold them, and they must be protected in the name of liberty and the protection of the moral power. So religious beliefs are endorsed by the subjects themselves, whereas racial identities are assigned to agents by others.

And I want to introduce another way of combining this fairly standard liberal insight, one that preserves the ethical valence of the first-person versus third-person distinction, as well as the distinctions between freedom, subjectivity, and equality, but without conflating them with the categories of race and religion. Hence, the idea of Rawlsian permutations. So let me to conclude, then, just explore three such permutations.

Well, first, you might think, well, religion can be a third-person notion too, and thereby it can also be subjected to a regime of equality. From a European perspective, Rawls' bifurcation of race and religion is a bit odd. While in the US, race denotes biological ancestry and the legacy of slavery and segregation suffered by African Americans primarily, in Europe, the historical victims of racism have been Jews and Muslims. And as these categories fused elements of ritual nationality and ethnicity with racial phenotype, the simple characterization of religion as first-person belief is not tenable. Religious identity is not always a first-person identification. It can also take the form of a third-person assignation and function exactly like race, as a negatively connoted, externally assigned identity that is used as a basis for wrongfully unequal treatment.

And this is what sociologists call the racialization of religion. In law, of course, you can be discriminated against on religious grounds, even if you do not endorse the imputed beliefs and attitudes, or indeed if you don't identify at all with a targeted group. So this kind of discrimination raises questions of equal social status, not of freedom of religion. And many of the political conflicts that European publics categorize as religious, particularly concerning Muslims, are sometimes better understood in terms of the race rather than the religion paradigm. So in third-person terms, as I've argued in different places.

Now, some US theorists working in the broadly Rawlsian liberal tradition have also noted the relevance of the race paradigm for controversies about state and religion. So Chris Eisgruber and Larry Sager have argued that the Establishment Clause of the US Constitution should be read in the light of equal protection. So just as the officially sanctioned separation between the races carried a message of inferiority and disparagement to African Americans, likewise the public endorsement of religion carries a special charge or violence, given the role of religion in defining civic identity in the US.

So I think it's therefore incorrect to claim, as many critics of Rawlsian liberalism do, that the Rawlsian framework has no resource to address the racialization of religion. I think it does, provided that the normative concerns, which Rawls connected to third-person assignment are applied not only to racial but also to religious categories.

Second permutation. So of course, religion is not often just reducible to a third-person identity, but even as a first-person commitment, which it often is, it can be subjected to a regime of equality, not simply liberty and toleration. As we saw earlier, Rawls extended freedom of conscience to all moral convictions, yet only justified the minimalist conception of the consequent right. Later Rawlsian theorists have argued that mere commitment to non-persecution by the state is inadequate in the face of reasonable religious claims for public presence and accommodation in structurally unequal public spheres.

So they've argued, for example, that liberal neutrality is compatible with more robust forms of equality. For example, via the Rawlsian notion of fair equality of opportunity as applied to religion, and that's been argued in different ways in work by John Quong, Alan Patten, and others, such as myself. Now in these discussions, the special weight accorded to religious belief, qua belief, and conscience is not often tightly justified. And in practice, religious commitments are often included within a broader looser category, which includes claims of culture.

The minority rights literature originated not in reflection about religion, but in debates about multiculturalism and the rights of Aboriginal and immigrant communities in countries such as Canada. He therefore invited a broader view of the normative salience of religion away from the narrow Rawlsian focus on ethical conscientious obligations and towards broader discussions of the relevance of claims of identity, integrity, and community. So I think it is also incorrect, therefore, to say that liberal egalitarians are wedded to a narrowly Protestant ethical conscience-based conception of religion. And this is certainly not true of the extensive literature on cultural rights and multiculturalism.

But as religion fades into culture and culture into ethnicity, there is no reason on principle why racial identities cannot also benefit from egalitarian recognition on first-person grounds. To be sure, a race doesn't exist as a natural fact, but rather as a social relation of third-person inferiorization. However, the negative racial identities invented by racists have often come to acquire positive social balance for their victims through the building of communal solidarity to resist domination or through processes of reversal of stigma. African American identities, for example, are not only third-person, but also first-person positive affirmations seeking equality of recognition in societies that have privileged dominance coded as white attitudes, norms, and traits. And theorists of racial identity disagree about whether the endpoint of the struggle for racial equality should be the colorblind and Rawlsian idea of de-racialization, or whether it should encompass a vision of pluralistic polity along multiple dimensions, including racial dimensions.

And this takes me to the third and final possible Rawlsian permutation I wish to highlight. So this proposes that race is not only an object, but also a frame or prism of political theorizing. So just as one's religious beliefs shape one's subjectivity, including one's political subjectivity, so can one's racial positioning. So for Rawls, the only subjectivity that mattered was religious subjectivity. As we saw, that's what grounded the moral respect due to persons. However, he also thought that religious subjectivity should be configured to be compatible with the political conception of justice. So ultimately, liberal subjects must obstruct from their religious subjectivity to acquire the standpoint of citizens.

The political violence of racial subjectivity is different it seems to me. As advocates of standpoint theory have suggested, it's the situatedness of subjectivities, not the capacities for obstruction, that is relevant to theorizing justice. Victims of injustice have an epistemic advantage over others, insofar as they have what Du Bois called the double consciousness. So they can see society both through the eyes of the dominated and through the eyes of the dominant. So members of dominant groups, by contrast, occupy a partial perspective. It's partial because it's one where race doesn't matter. So they suffer from what Mills called white ignorance, an epistemic rather than a moral flaw. This is not to say that the racial consciousness of the dominated should be authoritative in public deliberations about injustice, but it's rather that they shouldn't be disqualified at the outset as particular or partial by contrast to the spontaneously universal and impartial standpoint of members of dominant groups.

So to conclude, I tried to do two things in this talk. First, I tried to bring to light Rawls' bifurcated analysis of religion and race and show that how the primary interest he had in religion generated blind spots in his non-ideal theory. Second, I tried to show how the implicit interpretive categories relied on by Rawls, first person versus third person, equality versus freedom and subjectivity, can be redeployed so as to capture the complexity of the social and moral experiences of religion and race. So once we disaggregate the concepts of race and religion, we can complexify the interpretive and normative tools we have to reformulate a liberal egalitarian theory suited for non-ideal conditions and their multidimensional, indeed, intersectional injustices. Thank you.

TONY LAYDEN: At the risk of being once a teacher, always a teacher, I'm going to correct Lori and say that a sign that you have been in the profession a very long time is when you can publicly take up a dispute with a former colleague at a conference honoring your teacher and be introduced by your student, which is the position I find myself in. So this is a paper that is mostly engaging with Charles Mills' Tanner lectures, which were his final version of mixing it up with Rawls in the service of his larger project about thinking about racial justice. And these were a set of remarks meant to think with him about that, and where I thought we disagreed, and where we agreed.

The part of the Tanner lectures I'm interested in aren't that much different from things he's said in published writing. So the sort of basic take I think he takes to Rawls is that first, mainstream political philosophy has been shamefully and often willfully silent on issues of racial injustice. That's a longstanding theme of Mills' work, and in that he's building on a long tradition of Black radical thought. I think he's exactly right about that. The second point is that amongst mainstream political philosophers who were shamefully silent on racial injustice was John Rawls. I'm going to quibble with that though, except a key piece of that. And then sort of interestingly, given how strident his critiques of Rawls were, Mills always wanted to come back and say, but I actually think liberal egalitarian theories of justice are more or less on the right track, and all we need to do, though, as an important and vital thing is to supplement justice as fairness with some non-ideal principles of racial justice.

And what I want to suggest is that Mills is right to think that Rawls doesn't have enough to say about racial justice, but he's wrong about where the problem lies in Rawls' theory because I think he's misunderstanding a key thing of how Rawls' theory works. So I'm going to try and go through that, and the result of that is that the fix to Rawls' theory is different than the one Mills thinks is there. And my hope in doing all that was-- I wrote this paper when Charles was still alive-- and my hope was to convince him to stop writing about Rawls and go back to writing about race because I think his work on race was just phenomenally awesome, and I just wanted him to do more of it. And this was meant to be a kind of permission like, stop talking about Rawls. You guys can be on the same page, but this is the way to go forward. OK.

So what does Mills think the big problem with Rawls is? Well, he thinks it's ideal theory. Of course, ideal theory is a fraught term these days. It's one of those terms that has been stretched beyond usefulness I think, so we have to say, well, what is Mills mean by it. Well, Mills has a view of ideal theory that I think is also like a march of sins where ideal theory is a theory that describes an ideal society. So you have ideal theory that describes a perfectly just society, and Mills in the Tanner lectures sort of tries to make his point about racial justice and racial injustice by drawing a diagram that looks sort of like this. And then says, well if you depart from a perfectly just society, you get to a nearly just society, and then an unjust society. And way, way out on the edge of this continuum is some oppressive societies, which are really, really unjust. And then he sort of lines this up with ways of thinking about race, and he says, so a just society would obviously be non-racist. And of course, if you're doing a theory for a non-racist society, you don't need principles of racial justice because it's not a racist society.

But then he says, there's this distinction we should make between the way in which race affects a nearly just society, which is you would have a society with racism. And that would be bad, but you'd have things to say about it even with an ideal theory. But the problem is that societies like the US aren't just societies with racism. They're racist societies, and being a racist society for Mills means you're oppressive. You're way, way out on the edge of this continuum from justice through injustice to oppression. And so that model here is that ideal theory can tell us something about a just society. Maybe it can help us think about nearly just societies, but it's pretty useless when talking about oppressive societies.

And the image that I think Mills has is basically a streetlight. Ideal theory is like a street lamp, and it illuminates some space and maybe a bit of a penumbra, but further out down the field, you get these sort of dark spots in the middle of the block where the street lamp doesn't reach. And so what you need, if you're going to illuminate issues of racism and racial oppression is something called non-ideal theory, and that adds a new light and illuminates the oppressive space. I mean, that's I think the way a lot of people think about ideal theory and non-ideal theory, and how they might fit together, and why you need non-ideal theory. I don't think that's the way Rawls thought about it. And weirdly enough, to see how Rawls thought about it, it helps to see that Mills is underselling how bad oppression is. On Mills' view, according to something like this diagram, oppression differs from mere injustice because it is a matter of degree. It's just injustice worse.

But I think it's really important, and most people who've theorized well about oppression, radical feminists, critical race theorists, others, have made a big point about the fact that oppression is a particular kind of injustice. And so it differs from unfair distributions of goods by being a form of injustice that involves arbitrary forms of rule and power. So oppression involves some people dominating other people. Distributive injustice involves some people having more than their share of some good. But those are really different kinds of ideals. And one thing to notice is once you see that there are these kind of structural differences between these kinds of injustice, what happens is not that ideal theory illuminates some but not all, but we get a picture where an ideal theory is illuminating some space of a non-ideal world. The idea is you have an ideal of justice. That ideal of justice tells you something about a form of injustice where that's lacking, and so we might have different ideals that talk about different kinds of non-ideal space, different kinds of injustice.

And so the question we need to ask about Rawls' theory or any ideal theory is not is it ideal or not, which is the question that Mills asks, but rather what ideal does it have, and does that ideal illuminate the space of the non-ideal space we're interested in. So if you think of justice as an equal distribution, then you're going to illuminate unfair distributions, but you may not notice anything about oppression because that's not the ideal you're looking at the world from. If, however, you think of justice as reciprocal relations of power, then you'll illuminate oppression. And so the question is, which of these two ideals do we find injustice as fairness. And if we find the ideal of justice as reciprocal relations of power, then the problem with Rawls' theory isn't going to be that it's ideal. It's going to be something about the kind of ideal it has. So the question is, where is justice's fairness shining its light, as opposed to whether its light is strong enough to get all the way out to oppression.

So I think and I've argued before-- and I'm not going to argue now-- that justice as fairness does, in fact, offer us a theory of justice as reciprocal relations of power. And so it, in fact, is concerned with oppressive forms of injustice. I can defend that later if you want. And I realize that's controversial. That's not the way everybody reads Rawls. But I think that's not where the problem lies. But then the question is, insofar as we're looking at oppression in justice as fairness, because we're theorizing justice and reciprocal relations of power, is Rawls thinking about racial injustice. And I think the answer there is no. I mean, that's sort of clearly the case, and I think Mills is right to point this out, and this then places a burden on someone who wants to think through justice generally and particularly racial justice with Rawls' tools.

I mean, it's clear that *A Theory of Justice* is a book about political and economic oppression, or political and economic relations of power and what it would be to make those reciprocal, not a theory about racial relations of power. So one question you might ask is, well, why. He wrote this book on *A Theory of Justice*-- this is what Mills would say-- how could he not have written a book about racial justice. What was he thinking? How could he be that blind? Well, there are lots of possible answers for this question.

One that I think Mills favors is that, well, racial oppression wasn't so bad. I mean, he favors this as an interpretation of Rawls. He doesn't obviously think that he didn't think this himself. So he sometimes thinks that Rawls was, like many white liberals, not sufficiently concerned with issues of race or didn't think it was that bad. That it's the idea that the US was a society with racism, not a racist society. I don't think that's right about Rawls. There's lots of historical evidence that that wasn't the case, that he was quite concerned politically with racial injustice. There's evidence in the text, et cetera, et cetera. So let's reject that as a possible explanation of why there isn't more about racial injustice in *A Theory of Justice*. Because if that was true, we would just think, OK, he had a deep moral flaw. Rawls had a deep moral flaw.

A different view, and this is I think the one Cécile also mentioned, is that you could think that race is a serious political problem, but not a particularly difficult philosophical one. That is, you could think that race is just a sort of obviously arbitrary moral category, and the clear obvious thing to say about any form of racial injustice is that it's unjust because arbitrary from a moral point of view and unreasonable, and that's a vital political problem. As a citizen, you should be fighting against it in the 1950s, and '60s, and today. But as a philosopher, there's not much to say. It's sort of clear what the answer is. Whereas, economic oppression, religious pluralism, these things, look like they're political. They're hard philosophical problems. And so as a philosopher, you're looking for the hard philosophical problems to work on. You might work on political oppression and economic oppression and leave aside race.

To have that point of view, you don't have to think of racism as a purely individual matter of individual discrimination. You could have a view of racism as a structural problem, but still think of race as a pre-political, natural category. So if you think of race as a natural or pre-political category, this then leads to some people in one racial category as being systematically disadvantaged, not because of the sort of particular actions of individuals, but because the structure sets that up to disadvantage them. You would still think that racism is not a hard political philosophical problem. It's a serious political problem, not a hard philosophical problem.

And some of what Rawls says, like there's this paper about what Rawls' interventions in debates about the Vietnam War and the exemption for college students in the '60s, and he was moving that the Harvard faculty adopt this position against college exemptions to the draft because they were racially biased, looks like a case of him seeing that there's a structural issue about racism in American society. But he's still, I think, thinking of it there as a natural category. So that's how I think you could end up ignoring racial oppression, because you think of race as a pre-political category.

But if you've read your Mills, if you've read the Black radical tradition that he's drawing on, if you've sort of seen how race works like sex and gender does in radical feminism, then you'll know that that's wrong. That's just the wrong way to think about race because, as Mills has told us many, many times, race is a political category. So it's not just that race is systematically affected by politics, but the racial system is part of the basic structure of a society. The way the class system is, the way the political system is, the way the gender system is. And so whether or not we have a society that's racially structured, it is itself a political matter.

I mean, I take it that that second line, that race is a serious political problem but not a difficult philosophical one, is still today, my guess is, the majority position amongst white political philosophers. It was certainly the dominant, I mean, overwhelmingly majority position amongst white political philosophers in the 1950s and '60s. So it seems likely that that's the view Rawls had. It is unfortunate that it is, I think, still more prevalent than it should be. And if you are of the view that race is a natural category that's being systematically disadvantaged, then go read a lot of Charles Mills. It's all I can say. That's how I learned it. OK.

So why does this matter to thinking about Rawls? Well, think about the way Mills thinks about racial oppression. Mills describes the oppressive racial system as founded on the distinction between persons and subpersons. A racial system creates a hierarchy between two classes of individuals, persons and subpersons, where persons are white, and some persons are non-white. And it's not just that it assigns personhood to people who are white pre-politically, but in assigning people personhood, it makes them white, and in assigning people subpersonhood, it racializes them. That's, in some sense, no different than a class system that takes away resources from poor people. And also in depriving them of those resources, makes them poor. OK.

So our racial system works by creating a system of persons and subpersons, and political theory and ideal political theory is ideological generally by giving us a theory of justice among persons. And a theory of justice among persons in a world where there are persons and subpersons is going to ignore racial oppression. That I think is Mills' diagnosis of why mainstream political philosophy has been shamefully silent on issues of racial oppression. OK.

Note here, there are two kind of problems here that coming up with a theory of persons has. One is in a world where there are persons and subpersons, a theory of persons is not a theory of everyone, of justice among everyone. So it's an exclusion/inclusion problem. But there's a thing that's worse than that, which is that in a society where there are persons and subpersons, being a person is being a dominator in a hierarchical situation. Being a person, like the privileges you get, the status you have, the security you have, is all formulated on the status you have vis-a-vis subpersons. And so if you get rid of the person/subperson divide in society or in your thinking, the sort of standard repertoire of ways that persons come to secure their rights, their status, and so forth are no longer available.

And so it's not just a matter of broadening the scope of the pie. It's not a matter of adding people of color and stirring. As feminists used to say about liberal feminism, it was just adding women and stirring. It's going to require radically changing the structure of the position. OK. Why does that matter? Why does it matter that mainstream political theory forgot to or willfully decided not to theorize racial oppression by thinking about persons? Because this is a conference on Rawls, why does this matter for Rawls?

Well, now let's turn to the two principles of justice. So for the few of you who don't have the two principles of justice etched on your brains, here they are. And notice each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, et cetera, et cetera, et cetera. I won't read them all. But notice here we have in Rawls-- and this is from the restatement I think, so this is not an early formulation from the '60s or '70s. This is a formulation from the end of his life. What we have here is a theory of justice for persons. Now, I don't want to say that Rawls was using person as code for white person because I don't think he was. But if after 30 years of work and race theory, if after a more than century old Black radical tradition pointing out the way in which theories of persons are ideological, you can't hear that there's a problem there, I would suggest you haven't been listening.

And why does this matter? I mean, so you might think, OK, so there's a problem, you should have used a different word. That word is tainted by some bad theory. But I think the problem is deeper, and one of the reasons I think the problem is deeper is because I think one of the real powerful features of justice as fairness that's often underappreciated is the emphasis it places on rhetoric and public justification. A theory of justice that gives us tools to talk to one another as citizens to justify things about our world and critiques of our world, that's-- The point of the two principles is not to give managers a way to organize society. The point of the two principles is that they give us ways to talk to each other as fellow citizens.

And the reason for that for Rawls is because for Rawls, as he says in the early paper "Justice and Fairness," justice is a condition where we face each other openly. And so you have to ask yourself how do we face each other openly, given that we know, as Larry's pointing out, there's this history and present of racial injustice. Given that we know that political theories of persons have been used for centuries as ideological cover for racism, colonialism, imperialism, et cetera. Because I think in order to face one another openly, we have to be trusted. If I'm going to make an argument about justice using the two principles of justice, the person I'm making it to has to be able to trust that I am making an argument where I'm committed to standing on level ground with them, that I'm not slipping in some ideological thing that's going to allow me to keep my dominant privileged position.

And so I think it's not enough to say, well, the words, we just change the word, or we didn't really mean that, or Rawls wasn't racist, or the various other things some people defend Rawls by saying. I want to suggest that what we need is rather than trying to fix this purely semantically, what we need is what I'll call a preamble to the two principles. And this is my best attempt to figure out how to say this. Notice the idea here is, there is this deep problem in Rawls' theory once you recognize how racial oppression works. That problem is structural, but it's the structure of the ideal that's the problem. It's not the fact that it's an ideal theory. And so what we need is a different ideal, not ideal principles.

So how do we get a different ideal? Well, I want to suggest one way to do that would be to adopt a preamble to the two principles. And this is my best shot at this. I'm not sure this works at all, but you'll help me figure out whether or not it does hopefully. So here's the principle, and the point of this is to undo the person/subpersonhood thing. So no one has the status of a subperson, which is to say that number one is to be exploited, disrespected, or effectively disenfranchised on the basis of or by the processes that form them into their membership in a racial or other socially significant identity character. Put that on a bumper sticker. The full status of person is guaranteed to every human being.

So the one thing to note here is that the exploited, disrespected, and disenfranchised are the three-- Mills has these three principles of non-ideal racial justice, and they basically are principles against racial exploitation, racial disrespect, and racial disenfranchisement. So this was meant to explicitly say how you get to worries about Black wealth gaps, about the carceral state, about disenfranchisement, violations of voting rights, and their fair value out of the two principles. I mean, I think you can get them out of the true principles if you recognize that everybody's a person, but we need to say that everybody is a person basically. And then once you've done that, it's much easier to make those arguments directly.

So what's the advantage, then, of adding this preamble? Well, one is it makes racial justice more visible in the ways I just suggested. Once we've taken racial hierarchy off the table of our account of justice, we're in less danger of-- Mills says at the beginning of *The Racial Contract*, when white folks say justice, they mean just us. So we want to avoid that wherever possible. And so one way to do that is to add this kind of preamble. We say, look, we're committed to not endorsing the person/subperson hierarchy. And once we do that, we see how racial injustice is there and a problem.

It also, as I said, broadens the scope of who is a person. But because we broaden the scope of who is a person, we change the means that persons have to secure their status. In a racialized system where white people get to be persons, and they force non-white people to be subpersons, white people get to count on having less competition for economic positions. They get to count on other people taking care of their needs. They get to count on their security being secured by the containment and surveillance of other people. They get to count on their votes counting for more. In a non-racial system, in a system that's racially just where there aren't subpersons, those aren't methods you can count on anymore. And so we have to think much harder about how we maintain economic security, how we maintain physical security and safety, how we maintain voting rights, and the sense of sovereignty that comes with having political liberties.

So one way to think of that is that rather than just raising the floor of the racially disenfranchised, disrespected, and exploited, racial justice is going to require lowering the ceilings. White people are going to give stuff up. We're not going to be able to get the things we think of as entitled to by justice in the same way. So this is not just a plea for colorblindness. I mean, racial justice would have structural implications for our society, and this is a way of trying to make that point clear within the two principles of justice. So that's the proposal.

Having come up with this in the end of this paper, I was sort of like because, on one hand, I think I can't see why this doesn't work, but I also can't believe that it does work. Given the depth of the problem, it feels too easy. And so I'm sort of left like, does this work. Well, I don't know. So I'll end there with a Rawls shrug emoji. Thank you.

LORI WATSON: OK. I'll take the list of questions. I'll tell you why it works later.

TONY LAYDEN: OK. Oh, great. Lori's going to tell me how it works later, she said.

LORI WATSON: Christie, Derrick, Catherine, Simon, Nate, yeah. OK. So Christie, Derrick, Catherine, Simon, and Nate. Is there anybody else?

TONY LAYDEN: Gina's got her hand up.

LORI WATSON: Oh, Gina, sorry I didn't see you. OK. So we'll go in that order. Christie.

CHRISTIE I just have a comment for Tony Layden. It's about the preamble, the principles of justice, and [INAUDIBLE]. But I
HARTLEY: was just thinking that because you want the preamble to cover more than just racial oppression, you might need to extend the idea. Oh, thank you. Because there are other ways of being subordinated as on the basis of social group membership. So for example, Young not just talks about exploitation, but also talks about marginalization, powerlessness, stigmatization, stereotyping, systematic violence, and that sort of thing. So insofar as you do want to include the preamble and presumably have it be more extensive than just covering racial oppression, you might think about ways of being a little bit more precise when you're thinking about the particular sort of conditions that need to be excluded in the social background.

TONY LAYDEN: Yeah, no, I think that's right. I mean, I think there are different forms of oppression that work in a broad family structurally similarly, but structurally very differently. So I think, for instance, gender oppression doesn't work by creating subpersons. It creates a different category of dominators and subordinates. And so what you'd have to say, and where you'd have to say it in the theory to get gender justice into justice as fairness, is different than where you'd have to get it to undo the fact that it's a theory of justice for persons. But I take your point that like those three categories-- I mean, those three categories, as I said, are sort of dictated by Mills' principles, but I think you're right. In general, I think either I should get rid of the three and just have a kind of general thing of there shouldn't be subpersons, or that list should be longer. But you know, it would be a better bumper sticker if it was just nobody should be a subperson.

CHRISTIE Right. So when I was reading it too I didn't know if the right contrast was between persons and subpersons, but
HARTLEY: persons and maybe some other more general category that would capture better people who were subordinated on the basis of social class membership.

LORI WATSON: Derrick.

DERRICK Yeah, thank you for that great panel. So I want to try to put Tony and Larry into conversation with one another
DARBY: with these two related questions. I like your slides, Tony. They help put a spotlight on what's going on here, but I was a little concerned that the spotlight image is not quite because it's missing something I think is important for Mills. You can be trying to put a spotlight on unfair distribution, or you can put a spotlight on oppression, as you were suggesting. And so you think ideal theory helps us do one thing, and for Mills, non-ideal theory helps us do another.

But I think that the real basic concern that Mills ultimately had was that ideal theory didn't give us the tools-- I like what you said about that-- the tools to get from our currently unjust circumstances to a more just set of circumstances. So the tools weren't up for the job essentially, and so for that reason, he proposed non-ideal principles of corrective justice. And as you say, you know, unfortunately, most of the work he's done has been critical, not positive, so he hasn't really delivered the goods for us ultimately. We get the concern about ending exploitation, ending racial disrespect, and so forth, but that doesn't stand up to the things that we have etched on our brains that Rawls has given us. And I think Mills would admit that.

So I wondered if you could maybe just give us another take on what you've established that really puts that question more to the fore about Mills is concerned with having principles that can get us from injustice to justice. Now, the connection with Larry is this. I'm always happy to hear people talk about Part 3 of *A Theory of Justice*, which is under-discussed. The concerns about moral psychology are so central. And Larry, you drew a conclusion I think I agree with, but I was surprised at how you got there and what you didn't say. So for Rawls, the principles of justice were good essentially because they could help secure a sense of justice among people who were not friends or family, but yet had to cooperate with one another.

And I think a worry about Mills, at least the worry that I've had, is that his proposed principles of corrective justice ultimately wouldn't be able to secure a sense of justice. And if that's the case, they wouldn't yield the kind of stability that Rawls was concerned to argue that his principles would deliver. So maybe that could be a place for you two to have some kind of conversation here about Mills around these questions of whether the proposed principles Mills gives to get us from injustice to justice could be the basis of stable cooperation and secure a sense of justice among people who aren't friends or family and, in fact, people who had strong ideological commitments in so many ways. So anyway, that was a little windy, but you get the point.

TONY LAYDEN: Do you want to start? OK, sure. Yeah, that's all helpful. So I guess one thought I had was to go back to this morning's discussion and this idea of mid-level principals. Something Sabine was suggesting this as a way of thinking about the voting rights stuff, and we need these principles to get from the ideal of equal citizenship to when we fight this particular battle or we ask the court to do this or that. And I wonder if the way to think about Mills' corrective principles of justice are as something like-- So if you're going to translate Mills' corrective principles into my Rawlsian structure, the place they play is as mid-level principles. That is, that are now like completely follow from the ideal of justice as modified in what I said.

So now, the principle against racial exploitation, I think of that as like a mid-level principal. So the thought is, we have this ideal. The ideal says you can't have racial exploitation, so that gives us a actionable principle, eliminate forms of racial exploitation. And now, we're in a society and we're like looking around and we say, oh, this is a form of racial exploitation. We should figure out how to get rid of it. Obviously, then you would want more said about that. I would love to hear more said about how to do that. But that would be one way of getting from the unusable ideal to something that looks more usable in the moment when what we need is correction.

Then I think going to this question about the sense of justice, part of what happens when you develop a sense of justice is you have a sense of yourself as a citizen, as a free and equal member of a fair system of cooperation. And what you would need to show on, I think, this kind of amended view of mine is that the institutions-- Well, you would have to figure out what the institutions are of a just democratic society that would produce a sense of justice that was non-racialized. Because I mean, I take it if we look at the kinds of institutions we have in this society, they produce a racialized sense of justice amongst white people, which isn't a sufficient sense of justice and isn't what Rawls had in mind with a sense of justice.

So you know, then you could then argue, I guess, that the institutions of American Democracy, one of the ways in which they are flawed-- because they are flawed in many ways-- is that their pedagogical value is to create a kind of racialized conscience among white people, and let them off the hook by making them think that that consciousness is a sense of justice. Now if we're talking together about this, and we're invoking roles as principals, now we can't turn a blind eye to that if you had this preamble.

Or that something like the preamble would prevent you from turning a blind eye, or let someone who wanted you to alert you to that to say, hey, this is the structure of this. This is how these things are working, and we need to take the current controversy of the moment. We need our public schools not to create a white sense of justice. We need our public schools to create an anti-racist sense of justice, and that requires a different teaching, and a different school integration, and all kinds of other things like that. I don't know if that is enough of an answer. It's the beginning.

**LARRY
KRASNOFF:**

I don't know if you wanted to respond to that before I go in, or should I just go. So I'm taking your questions in reverse order. So on the second part, you're totally right. I messed up even what I intended to do in my discussion of Part 3. I mean, that point about reciprocity was actually supposed to be in there, and I kind of lost it. Now, good thing, actually during his talk, Tony did a version of that. That's just what part of the meaning of what justice *is* to face each other openly and to be able to have that exchange. That's part of why the Mills' argument can be seen as a stability because basically we're just supposed to believe that justice creates this sense of reciprocity, and if it turns out that people historically were not committed to it, it's like, well, what kind of reciprocity are you talking about here. And so, yeah, the stability breaks down, and we can't psychologically make sense of that. So that's right.

Now, I do think-- and I'm not really going to respond to the spotlight stuff so much, but I do think you wanted us to have get into exchanges-- I think Tony and my proposals are pretty different. And so what I think is that, well, what is the Rawlsian framework supposed to do. It's supposed to set up a forum for political deliberation. One of the most important things that political deliberation does, because it aims at reciprocity, is that it identifies features of inequality and then asks how can they be justified. Because, of course, remember, in life there are more many forms of inequality, and the question is what society does with them and how we should understand them.

And so of course there are going to be inequalities, and so we have to have a conversation about the inequalities that exist and come to terms that we can say, we can live with this. I think we should just do this-- so this is a criticism of Mills-- I think we should just do this piecemeal. That's when we come up with forms of inequality. Basically we should have a conversation about that, and one of the most important things that we should have in our conversation is pointing out the history of racial injustice and how it shaped those inequalities. And that's part of that conversation. When we finish that conversation, there should be some sort of reciprocity.

I'm worried about reparations not doing that because the white people can say, well, we paid. So we're not going to have any more conversations with you because you just gave us a bill. Because that's not what the conversation is supposed to be about. That's not what we're looking for. Now obviously, Mills is not going to like that because what I'm getting rid of, I'm saying, there's an important work of reparation going on in the confrontation of and justification of inequalities, but I'm not giving him the lexically prior thing.

Now, here's the thing. Tony's proposal gives him the lexically prior thing because there it was in the preamble. It's a preamble. But to me, in my categorization, the preamble is purely symbolic. It does not do any reparative work. It basically says, we really meant, or we should have meant to say. When we said persons, we really meant we should have said that sort of thing beforehand. Now, I want to say also historically it's like they knew that in the beginning. When Jefferson said persons, he knew what the F he was talking about. Because free Black person is a thing in colonial and jurisprudence. It's there. Is it generalized? No. Is it lived up to? But free Black person, that's a thing. It's just did we take that seriously and live up to it.

So you're saying, OK, well this is what we really should have said all along. We really mean it, but this time we really mean it. But that does no reparative work for me. It's merely symbolic. And I am a big grumpy person about symbolic acknowledgments of the history of racism and things like that. When I see those sort of things, I just don't know. There's the piece that-- I don't know. Who was it? Graham Wood in *The Atlantic* just wrote about land acknowledgments and how meaningless they are. It's like I'm all over that. I'm totally all over that. So please don't.

LORI WATSON: I want to invite Cécile to add to this conversation because obviously your paper is germane to everything that's just been said, and I know that since you're on video you might not feel a part of our conversation. So I want to make sure you're included.

CECILE Yeah, thanks. Can you hear me?

LABORDE:

LORI WATSON: Yes.

CECILE Yeah. I'll just make two points of connection between my argument and Larry's and Tony's perhaps. What I find really interesting in Larry's exposition is that slightly different sense of stability from that used by Rawls. And so Rawls thinks of stability as requiring a kind of congruence between people's comprehensive conceptions and the political conception of justice, and what you interestingly suggested is that we might think of different kind of congruence that would be required for stability. And that'd be a congruence between people's adherence to political conceptions of justice on the one hand, and their racialized subjectivities on the other hand. And insofar as they live in racialized societies where racial oppression is pervasive, it's going to be difficult for them to reconcile the public commitment to justice with their subjectivity. So I find that really a promising way of thinking through the moral psychology of political stability under ideal conditions.

But he raised an interesting question about when exactly within the Rawlsian construct do we need the concern for stability. When does it kick in? Because the usual understanding of that is it only kicks in when there is a certain amount of compliance with principles of justice already. And so the question is, should we be concerned about stability under conditions where racial oppression is still rife. So I was just wondering is stability relevant under non-ideal conditions. So does it only kick in when you already have an ideal, just society? And then Rawls was concerned about the long term conditions for the stability of that society.

My comment to Tony, it's interesting how in my paper, I think of kind of persons as the category of moral thought that grounds the priority of freedom of conscience, for example. But it's interesting in your presentation, you also show that historically the category of persons has functioned as a form of assignation, as a way of designing subpersons, as well as persons. And the worries this kind of creates for me is connected to a very interesting book that Anne Phillips has just published on equality. And she basically says that any attempt at categorizing who equality is for is bound to create exclusive categories. So as long as you have the terms of persons in even your preamble, it kind of raises alarm bells because even saying that no one should be a subperson raises the possibility that there might be such things. So she has a very radical view of equality with our foundation. That is, we don't even need to define the category to which equality should apply. So it'd be a more radical view of what you were getting to, I think.

LORI WATSON: All right. So we are at Catherine. Where did you go? There you are.

CATHERINE: Thanks. I really liked all of these papers, but my question's for Tony. So it's sort of similar to Christie's question. When I saw the preamble, my initial thought is that status hierarchies can be based on other things besides personhood or subpersonhood. And the way I was understanding that is sort of like a moral equality claim. So this hierarchy, this racial hierarchy, is based on a difference or an apparent alleged difference in fundamental moral value. I'm wondering if you mean something more than a value claim when you're distinguishing between those two categories. That's the first question.

And then the second question is about what you said at the end, that securing status requires lowering ceilings, not just raising floors. And I wonder what the ceiling is, and what the floor is. If you could just say a little bit more about that, that'd be helpful. Thanks.

TONY LAYDEN: Yeah, I think. So let me start with the first. So I mean, I guess this is also in reply to something Larry said. I think there's a sense in which I do think you do have to do theories of justice piecemeal. That is, the theory of justice you want depends on the injustice you're trying to understand and give a response to. And so insofar as gender injustice and oppression is structured differently than racial injustice and oppression, the tools for theorizing one may not work exactly well for the other. So I don't want it to be an all purpose. I didn't want the preamble to be an all purpose fix for all kinds of injustice that you think justice as fairness doesn't account for. I think the ways to account for gender oppression in justice as fairness are slightly different.

So this was, as the title of the paper is and because the occasion in which I was writing it, I was really thinking about how to make it an anti-racist theory. And making it an anti-racist theory may not yet make it a fully feminist theory or fully a theory for dealing with disability or what have you. So I think piecemeal justice, in that sense, is important. There are going to be clear connections in thinking through why gender as a political system helps you understand what it would be like to think of race a political system. So I'm not saying they're completely separate, but I do think we shouldn't just think there's one kind of thing called oppression and solving it is solving it everywhere.

CATHERINE: I see that. But just talking about race, it seems like we can acknowledge that members of all racial groups are equal in terms of fundamental moral worth. And I'm wondering, are you trying to capture more than that.

TONY LAYDEN: Yeah, right. Yeah, I was going to get there in a second, but let me just finish on the piecemeal thing, and then I'll get to that. So the way I disagree with Larry is I think if you take the piecemeal thing too far, what you end up doing is having to say again and again, oh, no, but that's also racist, but that's also racist. And so you put this burden on people to complain about the same thing again and again because you haven't fixed it. And then the problem is that people think, well, didn't we fix that last week, right. We have to talk about race some more. It's like, yeah, because there's still racism. So I think you have to think about how to undo it root and branch. That's hard. Maybe it's impossible, but you have to at least see that the bits come from a system.

I don't think in terms of the underlying ground for equality. I don't think Rawls thinks that way. I don't think Rawls has a fundamental theory of moral equality. I don't think he's interested in a fundamental theory of moral equality. I think he's thinking about what it means to treat fellow citizens as free and equal and going from there. There's nowhere in *A Theory of Justice* where he tells us why we should do that. That's why it's the appropriate basis for a democratic society. That's just a given for him.

And so, in some sense, there's nothing more than moral equality because moral equality is just not on the radar screen of the things that are governing Rawls' interest or concerns or responses and mine following him in that space. So another way to put this is, I think if you want to understand what it is to hold the Office of Citizen, to use David's language from earlier, if you think that holding the Office of Citizen is to occupy a position in a racial hierarchy, you are fundamentally mistaking what it is to hold the Office of Citizen in a democratic society. You're historically accurate, but you fundamentally misunderstood what's attractive about the conception of a democratic society.

And so then the question is, can you think of it some other way, and what does that look like. And then we have to work that out, and we do it by starting bold and say, no racial hierarchies. And then we get into the mid-level stuff, no racial exploitation. And then we get into the fine grained stuff, unencumbered ballot access. And we change up the nature of the carceral state. When you think about all the particular ways in which racial injustice infects our daily, weekly, and monthly relations to one another, and think about how our commitment to get getting rid of that requires us to change all that.

On the ceilings and floors, the ceiling is just all the ways that white people in a racist society benefit from racism. So benefit materially because of racial wealth gaps. Benefit materially because of legacies of racist policies in college admissions that mean that there are all these white people who get into Harvard because their parents went to Harvard, not because they would have gotten in on a fair competition. White people get their neighborhoods. They get the feeling of security in their neighborhoods because the police state keeps Black people away from them. They get the feeling of influence in politics because the state keeps Black people out of the voting booth.

You can't do that. In a non-racist society, you can't do that. So now I'm stuck with I have to win in a fair competition. I have to think about my security in a way that guarantees the security of all and doesn't involve surveillance, and containment, and so forth. I have to think about exercising my political liberties in a space where I don't have privileged access to them. And that's that lowered ceilings, so that's what I had in mind.

LORI WATSON: Simon.

SIMON MAY:

Thanks to everyone, all three. I guess my question is for Tony as well, but I want to kind of take as a departure point Cécile's comment about Rawls' naive sociology about the wars of religion in the 16th and 17th centuries. Because I think that's right. I think it's right as a criticism of Rawls, and more importantly, as a point about having an accurate analysis of social relations and social functions and the how societies evolve. And my worry is that a similar mistake may be made by the idea of a racial system, that we may have this loose and vague notion that there's a racial system in the same way that in the 16th century and the 17th century, there was a religious system. And what does it consist in? Well, it consists in some people assigned to this category, and some people are assigned to that category. And now obviously, the stuff you put on the overhead is not the articulation of a theory. It's the dinosaur theory. It's big, it's small.

But the question it raises in my mind is, what is the ontology of the racial system I'm familiar with the ontology of an economic system. I'm familiar with the ontology of a political system. I'm familiar with the ontology of a legal system. I'm familiar with the ontology of just brute violence. And then the question is, what aspects of social reality in addition to those elements do we need to identify and understand to understand the full complexity of the race caste system. And the same point about the gender caste system. And with Susan Okin's critique about the family, aha, all right, now we need to include the family as an element of a social ontology.

And I'm very happy to do that. I'm very happy to say, the systems of racism in our society do not merely reduce or do not merely consist in political, economic, legal, just pure violence type of relations. I'm skeptical that they're not fundamentally those, but I'm happy that there may be other things in addition. And my worry is that to say, well, on top of all the economic and social and political and legal stuff, there's this ethereal categorization of people of color as subpersons and white people as persons.

I mean, I know historical circumstances where that's true. I know the transatlantic slave trade. That is subhuman human. The British South Africa police had a standing order to shoot San bushmen on site as vermin. Tasmanian Aboriginals were wiped out as vermin. That's very clearly true. But this is just one particular type of form that systems of racism or caste hierarchy or gender hierarchy can take. When a Black executive on Wall Street doesn't get a taxi stopped for him, that's not being treated as a subperson. It's discriminatory, it's disrespectful, and all sorts of things. But it's not what is-- I mean, it's not the Tasmanian Aboriginals being treated as vermin. It's something else.

And I think if we explode the idea of person/subperson to be our analysis of the extra elements we need in our social ontology, we're getting back into a naive sociology of the kind of, well, the Catholics were subpersons, or heretics or devil spawn, or whatever. It's not so much a question as an expression of frustration with reality.

TONY LAYDEN:

I mean, I'm not entirely sure about the ontology of language, so this is probably not the moment to do it. But I'd like to have a conversation with you about what you mean by that and what I'm missing. I just tend to not metaphysical categories in my politics. I don't like them in my philosophy generally, but I think I learned that from Rawls. But leave that aside.

I do think I get the point, and so yeah, I mean, there are obviously different ways to treat people, other human beings, as fundamentally lesser. And then some dominant group treating them as vermin and shooting them on site is one. Kneeling on their necks for nine minutes because of their counterfeiting is another. Shooting them in 20 times in the back as they're running away because you feel afraid as a police officer is another. The conditions in our jails are another. So I mean, I think the Black executive hailing a cab is the wrong place to look for racism in the US, and it's a bad function of too many elites talking about racism. That that's the kind of case we go to too often when thinking about racism.

Like just as sexism is what happens to women, not men, not what happens to women in comparison to men, racism is what happens to people of color, not to white people, not what happens to them in comparison to white people. So that's, I think, where you have to start your sociology. And there are many people, many much more qualified and knowledgeable than me, to articulate how to do that.

So part of the point of the racial category for Mills is that it allows him to show two things. One is it allows him to show how political theory gets to be ideological while being universal in a different way than the way a feminist said that about relying on heads of households, relying on men as citizens, et cetera, et cetera. Another sort of key idea of Mills' is-- I think Larry talked about it-- is the idea of white ignorance. So one of the ways in which racial systems work is by inculcating an epistemic deficit in the dominant group so that we are unaware of, we are ignorant of, the racial system. That's what allows it to function amongst well-meaning otherwise nice people.

White ignorance is, I think, a different kind of phenomenon than class domination. And I mean, in class dominant systems, there isn't this kind of ignorance that there is a class system. There's a reliance on it. I mean, if you're at the top of a class hierarchy, that's a sort of fact you know about yourself. You know about what that means, you know what you get from it, and so forth. You may be ignorant about what sustains it, and you may be ignorant about whether you deserve to be where you are in it. But I think that's another place where there might be an important, in your language, ontological difference. But I'll just stop there.

LORI WATSON: I'm just going to pause for a moment to acknowledge that it's 3:30. I think if people want to stay and continue these lines of questioning, we're happy to do that. But also if people have classes or other commitments that they need to get to, you shouldn't feel held captive. So how does that sound, Micah? Are we--

MICAH Yeah, it's fine. We've got a show coming up [INAUDIBLE]. There are [INAUDIBLE].

SCHWARTZMAN:

LORI WATSON: OK. So I just wanted to acknowledge that it's trained and to me that respect for persons entails acknowledging time constraints. Excellent. So we have Nate, Gina, and Sabine. And sorry, Simon, you're going to have to tackle Tony later and convince him. And if we could just keep questions to question length of time. Yeah, and answers to answer length.

TONY LAYDEN: It's more my fault than theirs.

NATE: All right. So here's a question length question. Hi. I'm directly in front of you actually.

TONY LAYDEN: Oh, sorry.

NATE: I still have a mask on.

TONY LAYDEN: Disembodied voices coming from who knows where.

NATE: This is actually to the panel because all three of your talk sort of crystallized a version of Mills' critique that I didn't hear you address, and it's the one I think he has. So if we take the idea seriously that injustice creates identity categories, and therefore that people who are socialized and racialized and everything else into societies with a history of injustice are therefore-- They take the first-person perspective on their identity categories, and they're valuable to them. But in this society, we have a different kind of person than a society that has not been marked by that injustice or by any injustice. So if you give me principles of justice for a society that has no history of injustice, they will be principles for a different kind of person than the kind of person that we are.

And so that, I think, is Mills' critique. It's the wrong kind of society, and therefore it's the wrong kind of person that you're theorizing about. And so in the future, you can't just treat people whose identity categories are what they are because of injustice by fixing the injustice. In fact, repair is almost the wrong conceptual paradigm. We're going to repair race itself, if you take the sort of Mill's view of the construction of race. So given that the history leads to identity categories, and therefore two different persons, you need different principles.

LARRY KRASNOFF: So I mean, this is probably going to seem to flat because I want to take up in the second part what I think is the force of the idea there. But I want to say there, persons is a very thin, sort of abstract category. It's purposely made like person who has agency, and it has a conception of the good and can respond to the demands of others and form a sense of justice. That's all what it means. We can talk about who has been assigned to be in that category of being able to do that and what the implications of not assigning some persons to do that are, but that's separate questions.

Now what I want to say is that because the interesting stuff that happens is at the person's at the level of the specific on the ground, like persons and their rich identities. I mean, I actually think this will say something to Simon's question. It's that one problem I have with the racial system thing is that, again, I do think the reality of the persons and subperson, well, it's a system in that way. But first of all, again, there's lots of effects of racial injustice in all sorts of ways, but if there's anything that's really systematic, it's like I want another word when people talk about systematic or structural here.

Because the point I think you're making is exactly right, although I don't think actually Mills is that good at emphasizing it. I mean, I think you actually said something that may be different from things that he says. I mean, society is racialized in the sense that a Black person, no matter what they do, they're a Black person. It's filled with all sorts of ideas. Now, not every identity, in fact, most identities that we associate, are not subperson.

There's all sorts of other things that are associated with Black identity, and of course, this is why it is a first-person category, and each person-- I mean, I need to stop talking in the first person since this isn't my identity, but I can run it on Jewish person. There's just all sorts of received things. I have to decide for myself which things I'm going to identify with or not identify with, why, and what that means, and how that relates to the rest of the community. And if I adopt some weird idiosyncratic conception of what it means to be Jewish that's at odds with everybody else's, that's going to be really weird, and there'll be cognitive dissonance of various sorts or something like that.

But that's why I say I want to say we deal with that, again, at the later level. Because then we're thinking about, well, are there different types of persons, do people have different kinds of experiences. And because, again, the conception of justice is all supposed to take that into account. So I think we do have to take into account that there are lots of different kinds of persons in a racialized society, but we have to do that sort of on the ground in a particular way later, not by criticizing the theory's notion of person, which is abstract and begins in that way. I mean--

LORI WATSON: Can I just take moderator's, Larry, to interject. I know you're next. I don't think that takes deeply seriously enough Charles's critique. It's not that there's this concept of person, and it's unequally applied. It's the very concept itself is racially constituted. It's like the feminist critique of man, or the Black Feminist critique of white feminism. It's that the concept of a woman is constructed against the inferior.

LARRY KRASNOFF: That is correct. That's correct. And I think this is different from this. I think that's absolutely correct that Mills says that, and I disagree with it. I disagree. I mean, I'm the argument from the political. And actually I mean, the stuff that Tony said earlier about the moral equality not being in a political value, and this is the value of democratic citizenship, that was wicked good. I mean, I agree with all of that. We have some disputes about what happens later, but that's right. So I mean, I am I am committed to rejecting that claim, but I know that is absolutely the critique. OK.

LORI WATSON: Gina.

GINA SCHOUTEN: [INAUDIBLE]

LORI WATSON: Oh, did I just do something bad there? Sorry, I got all focused on defending Charles.

TONY LAYDEN: I don't know if Cécile wanted to say anything about Nate's point.

LORI WATSON: Sorry.

TONY LAYDEN: I don't know if she did.

LORI WATSON: Hi.

CECILE LABORDE: Yeah, briefly. I think that I try to bring up that point in the last section of the paper. It seems to me that Mills asks really interesting questions about who is epistemically competent to theorize injustice. That is, to offer a diagnostic of injustice. And Rawls had a lot to say about religious subjectivity, but very little about racial subjectivity. And when he talks about white ignorance, yeah, he precisely tries to show that some people don't have the epistemic position, whereby they may not be in the best position to fully describe what it is to be the victim of injustice. So I think that's quite a profound point actually about who theorizes justice, and what is the constituency of the justice producers and of the describes of injustice.

LORI WATSON: Gina.

GINA SCHOUTEN: My question about, Larry, your sort of diagnosis of Rawls' problem being the [INAUDIBLE]. So the thought that he would [INAUDIBLE] a framework, and then apply them, and then only in the last stage do we really do this in light of the history and sociology of racism. I was just wondering if that sequence is itself the problem or just the way he executes it, because I mean-- Oh, thanks. I'm sorry.

So it seems like if we want to use reflective equilibrium to do the work of refining the ideals, then we can already be cognizant of the history and sociology of racism. Because we want to know, is this an appropriate ideal. Can it do the right kind of condemnatory work when applied to a society with this kind of racial dynamics or something like that? And if it can't, then that's a problem for the ideals because we want them to be applicable to such a society. And I mean, even if what you're trying to do is like discern the ideals, Rawls still asks, would this ideal adequately impugn religious intolerance.

So asking the question about whether the ideal does the right condemnatory and prescriptive work in circumstances that have this kind of history and sociology of race seems like it's fair game, even at the point of theorizing the ideal. So I wondered if there's something wrong with the sequence or just a blind spot in the way it was applied, that in this case, we didn't really take on the History and sociology of racism at the step of theorizing the ideals.

LARRY KRASNOFF: So it's tricky because I kind of argued-- I wasn't arguing that there was something wrong with the sequence. I was arguing that this is the way we should understand Mills' objection to Rawls, precisely because he agrees. I'm also trying to make sense of Mills' claim that he agrees with liberal moral ideals. Again, we kind of resist even moral ideals completely in this. So in that sense, I was trying to reconstruct a criticism of Rawls as proceeding in those stages. So then, again, I mean, this is going to be repetitive, but it is absolutely fair to challenge. I claim that the ideals come from a conceptual analysis of the very idea of the political, and I claim, in response to Lori, that is independent of the history.

Now, it is absolutely totally fair and right for you to challenge me and say, no, that's not right. It's like, there's something wrong with your argument, and it is vulnerable to this kind of historical criticism. I mean, I'm open to that, but I mean I'm trying to reject it precisely because I'm trying to stay on the particular track that I think Rawls was on. So I mean, we would just have to argue about whether the claim about what the political is and what mutual justification reciprocity are, we would have to say if those ideas are completely infected by the history. And if they are, then my argument's no good either. In that sense, I totally agree with you, but we have to go through the details, and we could do that later I guess.

LORI WATSON: In light of the time, I'm going to close it down. We do have to honor the time of the shuttle guy who's probably not paid overtime.

MICAH [INAUDIBLE]

SCHWARTZMAN:

LORI WATSON: Yeah, so thank you, everyone. And thank you, our speakers. And sorry you aren't here, Cécile. We owe you drinks.