

Understanding Discursive Framings of Reparations for Slavery and Jim Crow

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“Framing is about getting language that fits your worldview. It is not just language. The ideas are primary—and the language carries those ideas, evokes those ideas.”

— GEORGE LAKOFF¹

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1. GEORGE LAKOFF, DON’T THINK OF AN ELEPHANT!: KNOW YOUR VALUES AND FRAME THE DEBATE 4 (Collette Leonard et al. eds., 2004). Lakoff discusses the effectiveness of the Republican party’s framing of political issues. *Id.* at 16 (“Conservatives, through their think tanks, figured out the importance of framing, and they figured out how to frame every issue.”). Lakoff contends that Democrats and progressives must employ their own frames rather than engage frames that reinforce conservative worldviews. *See id.* at xii.).

I. FRAMING REPARATIONS

A meaningful reframing can be an effective tool for social change. The work of cognitive scientist and linguist, George Lakoff, explores the relationship between language use and the way we understand the world around us. Pertinent to the discussion of slave redress and reparations is the significance of discursive framing as a means of both promoting and dispelling worldviews.² The *manner* in which we communicate particular ideas reveals much about how we conceptualize that subject. How we frame impacts the effectiveness of our messaging to others.³ As Lakoff indicates, “[F]acts matter enormously, but to be meaningful they must be framed in terms of their moral importance.”⁴

Why is understanding framing significant to our understanding of the discourse surrounding slave redress and reparations in the United States? Understanding the different frames used by academics, advocates, and lawyers matters because more than half of Americans, and the majority of White Americans, oppose reparations as a means of redress for slavery and Jim Crow laws.⁵ In 2004, a study reported that 96% of White participants opposed reparations.⁶ That number only dropped to 81% in 2016.⁷ To put ideas into action, we must be prepared to face critics and opposing arguments with a persuasive discourse that effectively communicates why reparations are necessary and just. Finding the correct frame may provide the best chance of success for meaningful reparative efforts.

This Article investigates a range of perspectives and proposals for reparations paid to Black Americans for the atrocities of slavery and Jim Crow laws, with particular attention to how each advocate frames their argument. Addressing the frame employed by each writer may facilitate

2. *See id.* at xv (“In politics our frames shape our social policies and the institutions we form to carry out policies. To change our frames is to change all of this.”).

3. *Id.* (“Frames are mental structures that shape the way we see the world. As a result, they shape the goals we seek, the plans we make, the way we act and what counts as good or bad outcomes of our actions. . . . Reframing *is* social change.”).

4. GEORGE LAKOFF, *THE ALL NEW DON’T THINK OF AN ELEPHANT!: KNOW YOUR VALUES AND FRAME THE DEBATE* xiv (Joni Praded ed., 2d ed. 2014).

5. *See* Carrie Blazina & Kiana Cox, *Black and White Americans are Far Apart in Their Views of Reparations for Slavery*, PEW RSCH. CTR. (Nov. 28, 2022), <https://www.pewresearch.org/fact-tank/2022/11/28/black-and-white-americans-are-far-apart-in-their-views-of-reparations-for-slavery/> [<https://perma.cc/RST4-PZWH>].

6. Desmond S. King & Jennifer M. Page, *Towards Transitional Justice? Black Reparations and the End of Mass Incarceration*, 41 *ETHNIC & RACIAL STUD.* 739, 745–46 (2018) (citing Michael C. Dawson & Rovana Popoff, *Reparations: Justice and Greed in Black and White*, 1 *DU BOIS REV. SOC. SCI. RSCH. RACE* 47, 62 (2004)) (discussing the integration of reparative measures into a larger transitional justice scheme in light of overwhelming opposition primarily from the White American public).

7. *Id.*

a more robust understanding of the desired outcomes, the means promoted to achieve those outcomes, and how these differing discursive frames might help or hinder progress in the face of opposition.

II. INITIAL QUESTIONS

A few preliminary questions lay the foundation for reparations discourse. First, should reparations be given? Or, stated differently, are reparations owed? A more complex question underlying whether reparations are owed is this: if reparations are owed to a section of the American population, why is this so? What are the logical and moral rationales underlying these assertions? A simple answer may be that the atrocities committed against Black people in this country by the United States government caused immense and enduring harm. However, the way advocates of reparative measures conceptualize and arrive at the answers to these questions is more nuanced. As this Article explores discursive frames in more depth, it will discuss how the frames employed by those advocating for reparative measures might fare against or feed into the oppositional frames.

A second primary question is, what is owed? Importantly, to decide what is owed, it is worth assessing how one arrives at such a determination. What is owed depends on the ultimate objective asserted by each proponent of reparations.⁸ The framing of the issue is dictated by the purpose or objective. This Article does not seek to summarize existing proposals, nor does it attempt to weigh the value of different proposed methods. Rather, it focuses on the concepts underlying arguments for reparations by exploring the discursive frames used in advocacy. Additionally, it discusses the ways in which particular frames situate the relationships between the key players of reparative measures, including Black Americans, White Americans, and the United States government.

A third concern related to reparative measures may involve the question of how to execute reparations. How should reparations be distributed? How should they be quantified or qualified? What is enough?⁹ However,

8. *See generally* WILLIAM A. DARITY JR. & A. KIRSTEN MULLEN, FROM HERE TO EQUALITY: REPARATIONS FOR BLACK AMERICANS IN THE TWENTY-FIRST CENTURY 256–70 (2d ed. 2020) (proposing a “detailed program of reparations” to recompense Black Americans after generations of racism).

9. In this case, the frame implemented relates to assessments of practicality, assessments of barriers, and assessments of the appropriate scope of reparative measures,

this Article focuses only on the first two questions presented above: (1) Why are reparations owed? and (2) What is owed? These foundational questions and how their answers are influenced by discursive frames are discussed further in the following Sections.

III. WHY ARE REPARATIONS OWED? DRAWING A LINE FROM PAST TO PRESENT

Several arguments opposing calls for Black Reparations concern the framing of harm. For example, the following arguments tend to arise in questioning the legitimacy of redress through reparations: (1) America today is multi-ethnic, and most Americans have no connection—direct or indirect—to slavery; and (2) there is no evidence that living individuals have been harmed by an institution that ended over 150 years ago.¹⁰ Underlying these arguments is the assertion that what happened in the past has no bearing on the conditions of today. Stated differently, there is no presently existing harm to Black Americans caused by the institution of slavery or Jim Crow laws. The frame rejects a causal relationship.

Olúfẹ̀mi O. Táíwò warns of the difficulty in finding and describing a direct cause-and-effect connection between slavery and modern existing harm when the effect of racial injustice is “baked into the structure of the society.”¹¹ Trying to communicate the cause-effect relationship between slavery and modern racial injustice raises “existential worries.”¹² Táíwò’s awareness of this communicative difficulty reflects Lakoff’s analysis of pre-existing frames. Lakoff explains that “causation” in the English language is cognitively limited.¹³ It is a frame of direct causation. In communicating some of the major issues of our time, we must find and engage new frames of systemic causation.¹⁴ Interestingly, advocates for reparative measures

actions, or policies. Addressing practicality concerns often involves, for better or for worse, comparing and contrasting other reparative efforts that have been implemented throughout history. See ROY L. BROOKS, *ATONEMENT AND FORGIVENESS: A NEW MODEL FOR BLACK REPARATIONS* 99 (2004) (referring to precedential reparations models).

10. David Horowitz, *Ten Reasons Why Reparations for Slavery is a Bad Idea for Blacks—and Racist Too*, 31 *BLACK SCHOLAR*, no. 2, 2001, at 48, 48.

11. OLÚFẸ̀MI O. TÁÍWÒ, *RECONSIDERING REPARATIONS* 130 (2022).

12. See *id.* at 127–30.

13. See LAKOFF, *supra* note 1, at 36–37 (“No language in the world has in its grammar a way to express systemic causation . . . As a result, we lack a concept that we desperately need.”).

14. See *id.* (“Reframing is changing the way the public sees the world. . . . Because language activates frames, new language is required for new frames. Thinking differently requires speaking differently.”).

seem to have found effective ways to meaningfully invoke the concept of systemic causation, albeit in slightly different ways from one another.¹⁵

Roy Brooks describes the lasting harms of slavery that are “embedded in the fabric of our society” and present in the form of systemic racism.¹⁶ Framing harms in this manner conceptualizes the consequences of slavery and the Jim Crow era as something incapable of being removed with the passing of time.¹⁷ Harm is carried along with society even when the institutions causing the harm change.

Systemic harm is evoked with effective framing in a 2019 speech by Nkechi Taifa at Columbia Law School, which was later transcribed and published in the *Columbia Journal of Race and Law*.¹⁸ In her call for reparations, Taifa implores readers and listeners to “open the casket” and give attention to a dark history that is often buried and hidden from the public conscience.¹⁹ The powerful call for reparations to Black Americans begins with a familiar question, “What is owed, if anything, to the descendants of the enslaved whose kidnappings, and torture, and uncompensated labor helped ensure the survival of colleges, and universities, and banks”²⁰ Although posed as a question of “what,” Taifa’s statement sheds light on the question of “why” by laying out the consequences of past actions on the condition of our society today.²¹ Emphasis is given to the string of despicable acts perpetrated against Black individuals by the United States government.²² These acts, beginning with the kidnapping and transportation of Africans to the United States, include “vicious colonization, cultural

15. See *supra* text accompanying notes 14–15; *infra* text accompanying notes 17–24.

16. Roy L. Brooks, *Framing Redress Discourse*, in RECONCILIATION AND REPAIR: NOMOS LXV 79, 86 (Melissa Schwartzberg & Eric Beerbohm eds., 2023) (“Slavery’s lingering effects can be summarized in two words: *systemic racism*. In other words, slavery’s presence today is most tellingly felt in patterns of racial degradation embedded in the fabric of our society.”).

17. See generally *id.* at 83 (“In fact, the racial differentials are little changed from the end of Jim Crow in 1972, and in some instances they have gotten worse.”).

18. Nkechi Taifa, *Let’s Talk About Reparations*, 10 COLUM. J. RACE & L. (SPECIAL ISSUE) 1–2 (2019).

19. *Id.* at 23.

20. *Id.* at 3.

21. See *id.* at 23–25 (citations omitted) (discussing modern-day consequences of systemic racism rooted in past acts of slavery).

22. *Id.* at 22 (“[T]he 14th Amendment imposed the obligations of the United States citizenship upon the African in America without his or her informed consent, or the benefits of that citizenship, and without any meaningful discussion of political alternatives inherent in the international right to self-determination.”).

rape, economic exploitation, mental bondage, and terror,” the inability to own land or testify in court, and subjection to at-will punishment by those in power, including lynching.²³

Taifa digs her heels into a frame that engages the concept of systemic harm by explaining the accumulation of wealth and privilege that exists in the United States as a consequence of the institution of slavery.²⁴ This wealth, which resulted from what Taifa describes as “stolen labor,” resulted in the unjust enrichment of the government and countless industries.²⁵ Rather than conceptualizing slavery, Jim Crow era oppression, and modern racial injustice as distinct events, Taifa discursively draws a line from the ratification of the Constitution to the modern day to describe a continuous stream of harm brought upon Black Americans by the United States government.²⁶ The power of establishing this frame immediately in reparations discourse is that it directs a listener to understand a causal link between the atrocities committed decades and centuries ago to the harms felt by Black Americans today.

A frame suitable to systemic harm is similarly employed by Olúfẹ̀mi O. Táíwò, although articulated more directly using the concept of accumulation.²⁷ Táíwò explains that history is not simply a distinct and distant point in time that is disconnected from the present.²⁸ Rather, everything flows from the past to the present to the future.²⁹ Accumulation is therefore the process of advantages or disadvantages built up over time.³⁰

Whether embedded in the fabric of society and carried along through generations, a string of events that flow continuously from one to another, or a process of accumulation, the frames used by Brooks, Taifa, and Táíwò all manage to evoke systemic harm. In this way, they work to combat

23. *Id.* at 2–3, 23–26 (first citing Rachel L. Swarns, *272 Slaves Were Sold to Save Georgetown. What Does it Owe Their Descendants?*, N.Y. TIMES (Apr. 16, 2016), <https://www.nytimes.com/2016/04/17/us/georgetown-university-search-for-slave-descendants.html> [<https://perma.cc/2NT7-LTA6>]; then citing W.E.B. DU BOIS, *BLACK RECONSTRUCTION IN AMERICA: 1860-1880*, at 10 (1935); and then citing Campbell Robertson, *A Lynching Memorial is Opening. The Country has Never Seen Anything Like it*, N.Y. TIMES (Apr. 25, 2018), <https://www.nytimes.com/2018/04/25/us/lynching-memorial-alabama.html> [<https://perma.cc/V83X-6TY5>]).

24. *Id.* at 6.

25. *Id.* at 28 (citing Michael Harriot, *Yes, You Can Measure White Privilege*, ROOT (Apr. 14, 2017), <https://www.theroot.com/yes-you-can-measure-white-privilege-1794303451> [<https://perma.cc/YDC7-UVHB>]).

26. *See id.* at 19 (“We are the descendants of Africans kidnapped and transported to the United States with the explicit complicity of the United States government and every single arm of the United States lawmaking and law-enforcement machinery.”).

27. *See* Táíwò, *supra* note 11, at 25.

28. *Id.* at 24.

29. *Id.*

30. *Id.* at 25.

arguments made in opposition to reparative justice, which frame the issue of reparations in a manner that rejects a causal relationship between past atrocity and present harm.

Still, other arguments against reparations attempt to reframe harm, or a lack thereof, by comparing the present condition of American descendants of enslaved Africans and modern-day Africans.³¹ The argument that “Blacks are better off than Africans” suggests that while harm may have occurred, it has been offset by a series of benefits, thus there is nothing left to remedy.³² These types of arguments require that advocates communicate within their discursive frames that some harms are intangible, unquantifiable moral harms that stripped enslaved peoples of their autonomy and choice.³³ As Randall Robinson explains, “We understand tragedy when buildings fall and masses of people die in cataclysmic events. We don’t understand tragedy that cannot be quantified arithmetically, requiring more than a gnat’s attention span.”³⁴ It is this inability to readily understand abstract, cumulative, systemic harm that makes effective framing so important.

IV. WHAT IS OWED?

A general discussion of what is owed when considering reparations often comes down to literal or practical suggestions, including direct cash payments, educational funds, and an apology accompanied by some other tangible act to bolster the sincerity of that apology.³⁵ For the purpose of this Article, however, the question of “what” is not simply which specific, practical measures are advocated for—apology or cash, trust funds or a museum of Slavery, a one-and-done policy, or an ongoing structure of policies and practices. In discussing the framing of arguments for reparations, the “what” is relational. It concerns the ways in which advocates discursively frame the relationships between the relevant parties, how they understand

31. *Id.* at 129 (addressing the argument that some Black Americans are better off than Africans, so there is no harm to repair).

32. *Id.*

33. See Taifa, *supra* note 18, at 22 (arguing that one of the many things taken because of the institution of slavery was choice: “If the African were free, no one—not even the ex-slave holder—could define the African’s future status for him or impose a status on him.”).

34. RANDALL ROBINSON, *THE DEBT: WHAT AMERICA OWES TO BLACKS* 217 (2000).

35. See generally DARITY & MULLEN, *supra* note 8; BROOKS, *supra* note 9, at 98–179 (discussing a myriad of proposals for reparative measures).

the objectives of reparative measures, and how they communicate the underlying justifications for employing the measures proposed.

As previously described, “[f]rames are mental structures that shape the way we see the world.”³⁶ Framing may also be a proactive strategy to create a shared understanding and motivate collective action.³⁷ Framing claims for reparations entails understanding the relevant parties and which objectives are sought.³⁸ Because reparations discourse involves persuading relevant actors to take action, this section focuses on the frames employed by reparations advocates in arguing for particular measures.

We look to opposition arguments to see why the framing of the victim-perpetrator and victim-beneficiary relationships require special attention in reparations discourse. One argument is that only a tiny minority of White Americans ever owned slaves, and others gave their lives to free them.³⁹ Another argument is that the Black reparations claim is one more attempt to turn African Americans into victims,⁴⁰ which “sends a damaging message to the African American community.”⁴¹ A final argument frames reparative justice as an indictment against the morality of White Americans.⁴² White Americans fight back by separating current racial inequities from slavery.⁴³ Current inequities are often attributed to Black autonomy by critics—they “have only themselves to blame.”⁴⁴

36. LAKOFF, *supra* note 1, at xv.

37. See Rhoda E. Howard-Hassmann, *Getting to Reparations: Japanese Americans and African Americans*, 83 SOC. FORCES 823, 824 (2004) (quoting Doug McAdam, John D. McCarthy & Mayer N. Zald, *Introduction: Opportunities, Mobilizing Structures, and Framing Processes – Toward a Synthetic, Comparative Perspective on Social Movements*, in COMPARATIVE PERSPECTIVES ON SOCIAL MOVEMENTS 1, 6 (McAdam et al. eds., 1996)).

38. *Id.*

39. See Horowitz, *supra* note 10. Horowitz expresses the idea that White Americans today have no moral obligation to pay a debt for something they are not directly responsible for. See *id.* Horowitz also claims that the renewed focus on “what some Americans may have done to their ancestors” burdens Black Americans with a “crippling sense of victimhood.” *Id.*

40. *Id.*

41. *Id.*

42. White Americans’ opposition to symbolic reparations “serves as a buffer to protect their view of self.” Ashley V. Reichelmann, J. Micah Roos & Michael Hughes, *Racial Identity, Reparations, and Modern Views of Justice Concerning Slavery*, 86 PUB. OP. Q. (SPECIAL ISSUE) 547, 568 (2022). By acknowledging the legacy of slavery, White Americans would be required to confront their status and privilege and the relationship between that unjust enrichment and the atrocities of slavery. *Id.* (citing Joe R. Feagin, *Documenting the Costs of Slavery, Segregation, and Contemporary Racism: Why Reparations Are in Order for African Americans*, 20 HARV. BLACKLETTER L.J. 49, 50 (2004)). “Legitimizing myths” acts as a means by which White Americans can attribute present injustice or inequity to the failures of Black Americans rather the system from which Whites benefit. *Id.* at 569.

43. *Id.* at 568.

44. *Id.*

These arguments frame potential reparative measures as establishing a relationship between innocent White Americans and Black Americans. The frame implies that the relationship is without merit because White Americans will have to pay the price for harms they did not directly cause or for which Black Americans have self-inflicted.⁴⁵ These oppositional arguments simplify the relationships involved in reparative justice as a means of promoting the principal assertion that reparations are unreasonable.⁴⁶ However, this conceptualization problematically ignores the multiple relationships that are necessarily invoked in reparatory frames.⁴⁷ First is the relationship between the victim and the direct perpetrators of injustice.⁴⁸ Second, is the relationship between those harmed and the non-perpetrator beneficiary of the atrocities committed by the perpetrator, or White Americans who have enjoyed wealth and privilege at the expense of Black suffering.⁴⁹ J. Angelo Corlett grapples with the tension between these

The findings indicate that attaining racial justice for slavery is not as simple as appealing to the factual nature of its legacy, or the amorality of acts committed against Black people. White opposition to symbolic reparations demonstrates that dissent is not about resources or time passed. It is about feelings of deservingness, those of White Americans' current successes and the perceived inability of Black Americans to bridge the inequality gap.

Id. at 569 (citing Heather A. O'Connell, *The Impact of Slavery on Racial Inequality in Poverty in the Contemporary U.S. South*, 90 SOC. FORCES 713 (2012)). The data came from surveys of 2,857 people to assess their perceptions of "slavery's lasting effects, what justice is, and if it has been/can be achieved, due to both differing socio-historical experiences and current social positioning." *Id.* at 554, 552.

45. See Horowitz, *supra* note 10.

46. J. ANGELO CORLETT, RACE, RACISM AND REPARATIONS 207 (2003) ("It simply will not do, morally speaking, for one to argue that reparations are not owed because today's U.S. citizenry is 'innocent' of any act of slavery or oppression against African Americans. For this line of argument ends up as a 'might-makes-right' mentality, as it assumes without argument that a government that for generations ignored and denied demands for justice has rightful cause for not paying what it owes to those against whom it has committed atrocities such as slavery and Jim Crow.").

47. *Id.* at 194.

48. This is the relationship between the direct perpetrator—the United States government and slave owners—and those harmed—enslaved individuals, Black Americans living under Jim Crow, the descendants of those individuals, and non-descendant Black Americans currently existing in a system of racial injustice and the government or slave owners. See *id.* at 194 (rejecting any argument that the government of today is a separate entity from the government responsible for endorsing slavery and Jim Crow laws). "The continuity through time of the U.S. government defeats the idea that collective moral liability responsibility fails to accrue to the current U.S. government." *Id.* at 203.

49. *Id.* at 205.

relationships.⁵⁰ Rather than adhere to a frame that distinguishes between the United States government as a perpetrator and White Americans as unengaged beneficiaries, Corlett frames those bearing the responsibility of owing reparations as a collective:

[F]ault and guilt accrue to the U.S. government in its complicity or contribution to U.S. slavery and Jim Crow. And that the U.S. government acted according to its wants and desires, with virtually unfettered voluntariness and with knowledge of the foreseeable consequences of its actions and policies is hardly questionable. So there is little doubt that the U.S. government bears the brunt of liability for the harms and wrongdoings of past generations of slavery and Jim Crow. That current U.S. citizens would end up paying for such reparations (should they be morally required) is congruent with the points made in chapter 8 that both collectives and individuals can sometimes be held liable for wrong doings—even though they are not at fault or responsible for the harms that eventuate from them.⁵¹

Similarly, Robinson combats opposition framing by conceptualizing the perpetrator, or the one who owes, as a collective “America” explaining,

[W]hen the black living suffer real and current consequences as a result of wrongs committed by a younger America, then contemporary America must be caused to shoulder responsibility for those wrongs until such wrongs have been adequately compensated and righted. The life and responsibilities of a society or nation are not circumscribed by the life spans of its mortal constituents. Social rights, wrongs, obligations, and responsibilities flow eternal.⁵²

With these relationships in mind, we look at the frames employed in arguing what is owed to Black Americans by the United States government, White Americans, or society as a whole.

One strikingly common frame in reparations discourse is a compensatory debt frame.⁵³ This debt frame is employed frequently in works by William Darity, Jr. and A. Kristen Mullen.⁵⁴ In addition to consistently describing reparations as a debt owed to Black Americans, their arguments and discussion are replete with terms such as “invoice” and “billing” as instruments delivering the notice of debt to the United States government.⁵⁵ Robinson is another advocate who fervently employs this frame:

Let me try to drive the point home here: through keloids of suffering, through coarse veils of damaged self-belief, lost direction, misplaced compass, shit-faced resignation, racial transmutation, black people worked long, hard, killing days, years, centuries—and they were never paid. The value of their labor went

50. *See id.* at 194–95.

51. *Id.* at 198.

52. ROBINSON, *supra* note 34, at 230.

53. *See* DARITY & MULLEN, *supra* note 8, at 22–23, 245.

54. *See id.* at 245.

55. *Id.* at 257.

into others' pockets—plantation owners, northern entrepreneurs, state treasuries, the United States government.

Where was the money?

Where *is* the money?

There is a debt here.⁵⁶

Robinson further reinforces the compensatory debt frame with the related concept of a statute of limitations, explaining that he knows none that “legally or morally that would extinguish” the debt.⁵⁷ What does Robinson make of the passing of decades between the institutions of slavery and Jim Crow laws and the present time? “[T]he United States government and white society generally,” he explains, “have opted to deal with this *debt* by forgetting that it is owed.”⁵⁸

Taifa engages a debt frame, including the concept of unjust enrichment, in proposing four elements for a robust reparative strategy: (1) a formal acknowledgment and unfettered apology for the dehumanization and atrocities of enslavement; (2) recognition that injury has continued and manifests today; (3) commitment to redress by the federal government and by corporations and institutions that enjoy unjust enrichment; and (4) some agreed upon form of actual compensation.⁵⁹ Interestingly, in discussing what is owed to Black Americans in a reparations scheme, Taifa implies that a debt is owed to Black Americans by the United States government.⁶⁰ However, Taifa also refers to the obligatory nature of reparations as a debt in a way that brings White Americans into the fold.⁶¹ Everyone who benefits from American citizenship, even recent immigrants, is obliged to pay part of that debt even if they played no role in creating it.⁶² This kind of debt is inherited.⁶³

Debt is used a second time as a means of confronting the opposition argument that slavery ended a long time ago and, therefore, it is too far removed from the present day to rationally deserve any monetary reparations.⁶⁴

56. See ROBINSON, *supra* note 34, at 207.

57. *Id.*

58. *Id.* at 221.

59. See Taifa, *supra* note 18, at 18.

60. See *id.* at 27.

61. See *id.* at 28.

62. *Id.*

63. See *id.*

64. *Id.* at 29.

Taifa responds that the debt is owed; it should have been paid before and is now past due.⁶⁵ Finally, despite the fact that their proposal is similar to an atonement model in that it calls for a formal apology,⁶⁶ Taifa expresses reparatory justice as essentially compensatory by stating, “It doesn’t matter whether you are wealthy or you are poor,” all Black Americans are owed the same reparations.⁶⁷

Taifa invokes multiple relationships in her compensatory frames: an interpersonal relationship where the government is a perpetrator; a lender-debtor relationship that implicitly places individuals, victim and non-victim, across from one another; and a tort-unjust enrichment relationship.⁶⁸ Under the last two frames, the non-victim is not necessarily a perpetrator but one who enjoys the spoils of an atrocity committed against another group and is therefore obligated to give up something.⁶⁹ In these two frames, non-government beneficiaries are placed at odds with the victims.

Framing reparations as a debt may have problematic implications for furthering the objectives of reparations. One problem with framing the justification for Black Reparations as an owed debt is that it leaves open the conversation of what constitutes the payment of that debt.⁷⁰ While advocates for Black Reparations view the lingering effects of slavery, such as racial inequity, as an indication that the “debt” remains due, others argue that the debt was paid or “absolved” by the Civil War.⁷¹ Others find that the debt was paid by passing civil rights measures.⁷²

Another issue with the debt frame is that it invites a limited understanding of the objectives of reparations.⁷³ The debt frame leaves much room for

65. *Id.*

66. *See generally* Brooks, *supra* note 16, at 79–80 (describing the basic aspects of the atonement model for redressing past atrocities).

67. Taifa, *supra* note 18, at 31.

68. *See id.* at 19, 28.

69. *See id.* at 28 (“Everyone pays the debt, regardless as to whether or not they had anything to do with creating it.”).

70. *See id.* at 30–31.

71. Nikole Hannah-Jones, *What is Owed*, N.Y. TIMES (June 30, 2020), <https://www.nytimes.com/interactive/2020/06/24/magazine/reparations-slavery.html> [<https://perma.cc/7NMV-Z7CV>] (“Most white Americans felt that black Americans should be grateful for their freedom, that the bloody Civil War had absolved any debt.”).

72. *Id.* (“The civil rights movement ostensibly ended white advantage by law. And in the gauzy way white Americans tend to view history, particularly the history of racial inequality, the end of legal discrimination, after 350 years, is all that was required to vanquish this dark history and its effects. Changing the laws, too many Americans have believed, marked the end of the obligation. But civil rights laws passed in the 1960s merely guaranteed black people rights they should have always had.”); *see also* BROOKS, *supra* note 9, at 192–93.

73. *See* BROOKS, *supra* note 9, at 98–99 (“Most important, the tort model, whether in the form of litigation or legislation, is incapable of generating the one ingredient that I

interpretation and, therefore, avenues for attack by the opposition. When Black Reparations ambitions are confronted under the debt frame, critics are emboldened to engage embedded frames that fit their worldview.⁷⁴ The issue is vulnerable to being understood as merely a call for payment of unpaid labor, and the concepts of direct responsibility and direct harm are reinforced.⁷⁵

Further, compensatory frames invite listeners to engage in the mechanics of tort law.⁷⁶ One individual or entity causes harm to another and, therefore, must make the other whole by compensating the aggrieved party with a sum of money.⁷⁷ The issue is then closed. As Brooks explains, the focus on compensatory justice may overshadow a greater moral claim, making the implementation of meaningful racial progress more complex and contentious.⁷⁸ One may be encouraged to think of reparations in terms of direct or proximate cause. This militates against advocacy efforts to engage a systemic harm frame.

Táiwò addresses this framing issue by first noting that what is unprecedented about atrocities such as slavery and Jim Crow—as well as the lingering effects—is the scale.⁷⁹ Therefore, it is difficult to apply a frame of responsibility because responsibility invokes ideas of fault and cause.⁸⁰ Responsibility is the concept we appeal to “when we make the case for why someone ought to give something to someone else.”⁸¹ When considering relationships

believe is or should be the sine qua non of slave redress—namely, atonement and, ultimately, racial reconciliation.”).

74. See Allan D. Cooper, *From Slavery to Genocide: The Fallacy of Debt in Reparations Discourse*, 43 J. BLACK STUD. 107, 110 (2012) (citing DAVID HOROWITZ, *UNCIVIL WARS: THE CONTROVERSY OVER REPARATIONS FOR SLAVERY* 12–15 (2002)).

75. *Id.* at 109 (“On a philosophical level, the essential argument presented by reparations advocates is that slavery was unjust because it refused to recognize and compensate the labor of those subjected to slavery. . . . Reparations are thus a remedy for offsetting this discrepancy and restoring true value to the marketplace and to all workers who contribute to it.”).

76. See Brooks, *supra* note 16, at 87.

77. See *id.* at 79.

78. See *id.* at 87 (“Notwithstanding my own argument, I consider litigation under the tort model to be fundamentally deficient. My argument is that this type of litigation essentially presents a legal claim, not a moral claim, in which the quotidian language of tort litigation—including the calculation of individual damages for millions of people—takes center stage. This approach, in my view, exaggerates the complexity and contentiousness of what ought to be a mutual movement toward racial reconciliation.”).

79. See Táiwò, *supra* note 11, at 122.

80. *Id.*

81. *Id.*

and effects across multiple generations, traditional ideas of fault do not neatly apply. Instead, Táíwò proposes the concept of liability: “To be liable is simply to be obligated.”⁸²

Even advocates who primarily engage in debt or compensatory frames sometimes give attention to alternative frames and even invoke morality, as advocated by Brooks.⁸³ Robinson weaves morality justification into an overwhelmingly compensatory argument when justifying the government’s duty to provide reparations.⁸⁴

When a government kills its own people or facilitates their involuntary servitude and generalized victimization based on group membership, then that government or its successor has a moral obligation to materially compensate that group in a way that would make it whole, while recognizing that material compensation alone can never adequately compensate the victims of great human rights crimes.⁸⁵

Corlett also acknowledges the limitations of infusing calls for reparations with the language of unjust enrichment and asserts the need for moral justification.⁸⁶ Additionally, when necessary to combat opposition, Corlett makes use of supplemental frames in order to communicate the generational nature of harms caused by slavery and Jim Crow Laws.⁸⁷

Ronald W. Walters provides an alternative to a compensatory or debt frame by conceptualizing reparative measures as a renegotiation of a social contract.⁸⁸ In doing so, Walters focuses less on compensatory considerations—such as unpaid labor, stolen land, and wealth gaps—and instead draws attention to the loss of self-determination and dignity.⁸⁹ Walters emphasizes that the objectives of reparations concern acknowledging and recognizing certain truths about racial history in the United States.⁹⁰ Walters further distinguishes from debt-centered or compensatory frames by proposing a cooperative negotiation involving those with economic power and those

82. *See id.* at 123.

83. *See* BROOKS, *supra* note 9, at 141–43 (discussing a preference for an atonement model, which is forward-looking and focused on racial reconciliation).

84. *See* ROBINSON, *supra* note 34, at 224.

85. *Id.*

86. *See* CORLETT, *supra* note 46, at 201–02 (discussing the problem with the unjust enrichment frame as a means of calculating a monetary sum owed to Black Americans). Corlett explains that the analysis applies only to those who directly benefited from an injustice, and the measurement is based on how much the beneficiary gained. *Id.* The value is “contingent on the success and failures of the market of slave holding.” *Id.* at 202.

87. *See id.* at 203 (“[I]t would seem to follow that the stolen value of the slaves’ labor ought to be recognized, naturally, as inherited by the heirs of slaves, who would by (my) definition be African Americans.”).

88. *See* RONALD W. WALTERS, *THE PRICE OF RACIAL RECONCILIATION* 170–71 (2008).

89. *Id.* at 166–67.

90. *Id.* at 171.

without.⁹¹ In this conceptual negotiation, each party understands that any compensation will be merely symbolic of what was lost.⁹² Walters looks to the rebuilding of a relationship of trust where reparative measures are a preliminary step or a “‘good faith’ gesture.”⁹³

V. CONCLUSION

Discursive frames play a role in shaping our worldview, and when used effectively, they can be efficient tools for social change. In terms of reparations to Black Americans for the atrocities of slavery and Jim Crow legislation, frames may be employed to advocate for the implementation of reparative measures. For one, frames may prove essential in combating opposition arguments that promote only concepts of limited or direct causation. The appropriate frame allows advocates to communicate a systemic harm that is not always tangible, quantifiable, or measurable. An effective frame can bolster arguments for why reparations are owed. Framing may also provide an avenue for communicating the relevant relationships and objectives underlying reparations advocacy in a way that encourages support and action by rejecting the worldview of those opposed to reparative measures. Our frames must communicate that what is owed is owed by society as a collective that includes government perpetrators, direct beneficiaries in the form of descendants of slave owners, and those who accumulated wealth through systemic oppression. The question is not simply what White Americans and the United States government owe as beneficiaries of past atrocities but how that duty is best framed.

91. *Id.* at 174.

92. *Id.*

93. *Id.*

