Philosophical Approaches to Racism:
A Critique of the Individualistic Perspective

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This essay examines the question of what serves as the most effective philosophical approach to a definition of racism. It is more specifically concerned with developing a strategic critique of the dominant individualistic or motivational model of racism. The case is made for an institutional approach to the definition of racism.

W. Thomas Schmid, in his "The Definition of Racism," defends the motivational definition of racism but rejects the behavioral and the cognitive definitions. He argues that the motivational definition is philosophically superior to the other two approaches because it captures the true essence of racism. I argue two main points in this paper: (1) Contrary to Schmid's contention, both the behavioral and the cognitive definitions appear as disguised versions of the motivational approach, and (2) the motivational approach is deficient in certain instances because it takes an individualistic or, rather, an atomistic approach to racism. Furthermore, this motivational approach is unable to explain the historical persistence and institutional manifestation of racism despite the fact that most people claim allegiance to certain abstract universal principles regarding the equal moral status of all human beings. Accordingly, I contend that it is not the case that any plausible philosophical analyses of racism should follow the model of an a priori philosophical analysis of nonnatural metaphysical notions, such as the Good in ethics or Beauty in aesthetics. Schmid does not say that he intends to treat racism as similar to these notions. However, he suggests that genuine acts of racism tend to share a common essence of an intention to harm. In suggesting this, he follows the method of defining a concept by isolating its intrinsic features. I disagree with Schmid's strategy since, on my view, racism best qualifies as a sociocultural phenomenon.[1] This means that any proper philosophical analysis of racism should assimilate the model of a critical philosophical analysis of other sociocultural phenomena, such as nationalism and sexism. Hence, instead of employing an a priori philosophical method of analysis, we can adopt a naturalistic approach and utilize information from the social sciences, sociology, history, law and economics, and so forth in an effort to understand the nature of certain sociocultural phenomena. But we should acknowledge that an appeal to naturalism in the context of sociocultural phenomena does not entail a complete rejection of a priori analysis or of its validity in this or any other context. The point is simply that the validity of certain sociocultural concepts depends on whether we can define these concepts in terms of specific cultural, social, or historical practices. The main objective is to connect sociocultural concepts with

human practices, a move similar to the attempt to provide an operational definition of certain empirical concepts by connecting them with an identifiable physical operation.

Motivational Racism

Racism, according to the motivational approach, is "*the infliction of unequal consideration, motivated by the desire to dominate, based on race alone.*"[2] Schmid favors this approach, for he claims that it best captures what is morally objectionable about racism, that is, the desire to harm an individual, solely on the basis of race. Furthermore, he also favors this approach because, in his view, it adequately accommodates the distinction between "true racism," which he defines as the desire to harm or dominate others solely on the basis of race, and "ordinary racism," which he sees as a universal feature of human biology. Regarding the motivational approach, Schmid states:

> I will argue that this is the best approach to understanding the concept of racism, at least insofar as we are concerned with identifying the type of racism that is morally most objectionable. An important virtue of this definition is that it calls our attention to the positive intention of the racist and of racist acts (rather than calling attention to its lack of fairness). On this view, the racist is not merely a person who "prefers his own," he is someone who wishes to *put down* the other race, who wishes to suppress them and assert his own superiority, whether it is through an act of overt violence, such as lynching, or through an act of verbal violence, such as the hurling of a racial epithet.[3]

On Schmid's preliminary view, then, the essential feature of racism is the intent to cause harm or to dominate others solely on the basis of race. Failure to extend equal consideration to others, namely, unfair treatment of others, does not properly qualify as an act of racism. Even the racially based denial of access to resources is not an act of morally objectionable racism. According to Schmid, the white motorist who shouts "you damn nigger" to the black motorist qualifies as racist in the morally objectionable sense of the term because the intent of this motorist is "not failure to share a good but the deliberate infliction of a harm (or at least the intent of that) and the intended imposition of racially-based subordination."[4]

Schmid furthers develops the motivational approach to a definition of racism, stating that once we understand racism to be the racially based desire to harm or dominate others, we will inevitably come to realize that it fundamentally conflicts with the principle of human equality. The principle of equality, Schmid claims, does not emerge from the idea of simple equal consideration but involves two more fundamental elements. These elements are (1) "the proposition of all humans (and ethnic and racial groups) as essentially factually equal, capable of self-government and rational judgment; (2) the willingness to extend to all humans and human groups the same basic rights, and not to seek to institute conditions of perpetual

superiority over them."[5] As far as Schmid is concerned, "true racism," specifically understood as "[t]he racist denial of the principle of human equality," "is not merely an attack on the rights of the other person to fairness, it is an attack on their very personhood."[6] The denial of fairness may be an unfortunate inconvenience, but the racially based intent to harm or dominate gravely assaults the personhood of the other and, as such, is a paradigm case of morally objectionable racism. Again, bad racism is not a failure to share goods equally with others but is, rather, the racially based intent to harm or dominate others.

Motivational Racism and the Problem of Intention

On my view, and particularly within the context of racism, the decisive establishment of intention is not always morally significant. What has moral significance is the outcome of actions and not necessarily the intentions motivating these actions.

It is my contention that the first paradigm of racism is problematic because it misleadingly magnifies the role of intention in acts of racism. Consider Schmid's example of the white motorist who shouts "you damn nigger" at a black motorist with the intent to cause harm. According to him, it is the intent to cause harm that is morally objectionable. Let us also consider a progressive white motorist who jokingly shouts "you damn nigger" at a black motorist without the intention to cause harm. Let us also assume that the black motorist in the second case suffers harm as a result of the words directed at him. In each case, the black motorist is harmed by the language directly addressed to him. The only difference, on Schmid's view, is that the second motorist, the progressive, liberal white motorist, does not intend to cause harm to the black motorist. Thus, Schmid would be forced to conclude that the second case fails to qualify as a case of morally objectionable racism. This conclusion seems somewhat strange owing to the fact that in both cases the black motorist experiences harm as a consequence of what each white motorist says.

At this point, I want to digress in order to consider critically whether or not intention is necessarily important for establishing moral culpability. In everyday life, as well as in the legal system, there exists the view that we should assign blame on the basis of moral responsibility. And we access the degree of moral responsibility in terms of intention, the idea being that an individual who intends the immoral consequences of his actions is morally culpable whereas an individual who does not intend the consequences of his actions is less morally culpable. Although I concede that establishing intention is crucially important in certain circumstances, it is not necessarily the case that all harm done results from the intentional behavior of individuals. Indeed, there is significantly serious harm that is often not the result of intentional behavior. Consider a situation where individual A aims a stone at individual B believing that the trajectory of the stone will take it a safe distance away from B. A jokingly throws the stone and, to his surprise, it strikes B in the head, fatally wounding him. Certainly in this case, there is an event involving two individuals. B was struck by A. Now, we want to know

whether or not *B*'s death is an accident or an intentional act on the part of *A*. To the extent that *A* had no knowledge that the stone would drastically change course and strike *B*, we would accept that *B*'s death was an accident. In other words, *A* did not intend to kill *B*. But the fact that intention plays a crucial role in this context does not entail that it does so in all cases of harm. Perhaps it would help clarify matters to review Hart's classification of intentional acts.

Hart distinguishes between (1) "intentionally doing something," (2) "doing something with further intention," and (3) "bare intention."[7] First of all, let us examine what it means to "intentionally do something." An individual intentionally does something if that individual sets out to do it. In the above example, if *A* aims the stone at *B*, throws the stone and wounds *B*, then *A* has wounded *B* intentionally if and only if *A* set out to wound *B*. However, if, as stated in the example above, *A* believes that the trajectory of the stone will take it a safe distance away from *B*, *A* has not wounded *B* intentionally because he did not set out to wound *B*. Second of all, let us examine what is meant by "doing something with a further intention." An individual does something with a further intention when he sets out to do something intentionally in order to bring about some other event. If *A* intentionally aims the stone at *B* and throws it, and if he throws it with the intention to cause harm to *B*, then he throws the stone with the further intention of wounding *B*. Third of all, let us examine the notion of "bare intention." An individual has a bare intention to do something if he desires to set about doing it in the future but refrains from taking steps in the present toward its occurrence. Individual *A* has a bare intention to throw the stone and harm *B* if he plans to do so next week, but has not yet secured a stone nor taken action to cause fatal harm to *B*. With Hart's helpful classifications of intention in mind, let us examine a number of proposals to deemphasize intention in the establishment of moral culpability. This examination should at least reinforce the plausibility of analyzing behavior by employing an alternative nonintentional framework.

James Rachels, arguing for the morality of euthanasia, rejects the distinction traditionally drawn between active and passive euthanasia, that is, the distinction between intentionally and unintentionally killing someone, on the grounds that both forms of euthanasia have the same result, that result being the death of a person. According to Rachels, the appeal to intention does not play any morally relevant role in determining the rightness or wrongness of euthanasia. Rachels's strategy is to focus on the fact that, on either view of euthanasia, one obtains the same results. Ultimately, Rachels concludes that "the intention is not relevant to deciding whether the *act* is right or wrong, but instead it is relevant to assessing the character of the person who does the act, which is very different. A pure heart cannot make a wrong act right; neither can an impure heart make a right act wrong."[8] Here, I agree with James Rachels's view that, in these types of situations, intentions are not as morally significant as they are in other situations. The consequences of one's actions, from a moral perspective, are more significant than whatever intentions motivate one's actions. However, as Rachels

claims, intentions do bear on the character of an individual, that is, one's intentions can indicate the kind of person one is.

Owen Fiss also argues that intention is not necessary in holding a school board liable for segregation. He maintains that whether or not a school board intends to segregate schools, we should hold it culpable for segregation resulting from its policies if this segregation was foreseeable and avoidable. Fiss's strategy, like Rachels's, is to focus on the harmful effects of behavior, whether or not the behavior is intentional. Fiss develops his position by focusing on the explanatory difficulties raised by the notion of intention. He maintains, for example, that we gain very little by attaching intention to a school board. "The concept of segregative intent," he asserts, "gives very little direction to educational administrators."[9] And he adds that he finds the notion of segregative intent unhelpful precisely because it cannot distinguish "harm which is certain from that which is uncertain."[10] Fiss's most radical challenge to intention in the establishment of moral culpability, to be revisited later, is that organizations are not literally persons. What Fiss is saying is that, even if we were to take our moral vocabulary at face value, we could not apply this vocabulary to organizations, since organizations are not ontologically on a par with individuals. Hence, Fiss claims that "[a]n organization has neither an intention nor a will."[11] As a result, many forms of harm that, with the requirement of intention in place, would go unchallenged can be more effectively challenged once this requirement is removed.

Richard Posner argues that the criminal law need not depend upon the notion of intention. He considers intention to be a vague mentalistic psychological notion. He proposes replacing intention with an economic analysis or explanation of an agent's behavior in terms of what it is rational for the agent to do.[12] Posner offers the following as an example of his position:

> [O]ne might begin by suggesting that some people have a "taste" for obtaining a college education but then show that this taste is instrumental to a more general goal; call it income maximizing. The propensity to attend college will now be seen as a function of the cost of college and of the effect of college in raising one's lifetime income. Ideally, one could predict whether people would go to college even if one knew nothing about their thoughts on the subject; and then one might stop talking, in analytical work at least, about people "wanting" to go to college or "thinking about" going to college. People would still have desires and thoughts, but these would be strictly epiphenomenal.[13]

Posner eliminates troublesome mentalistic notions, such as intention, from explanations of human behavior. Instead of explaining actions in terms of intentions, he explains actions as being undertaken to maximize resources. Consequently, actions are not the final products of a causal chain of mental events.

Finally, Barbara Wootton rejects the traditional view that the criminal law seeks to punish wrongdoers. The common view is that criminal law requires mens rea as necessary for punishment, meaning that only those

guilty of intentionally committing prohibited acts should be punished. Wootton maintains that instead of focusing on punishing only those who intentionally cause harm, we should focus on preventing socially harmful acts from occurring. Accordingly, if it is true that the criminal law seeks to prevent harmful acts from occurring, then intention is not important because many harmful acts are committed unintentionally or, at least, by blameless persons. Wootton favors a system of strict liability. On this view, once prohibited acts are committed, offenders are not excused from punishment, even if it is the case that the offenders did not intend to commit prohibited acts. The emphasis on intention, instead of focusing on harmful consequences regardless of the mental state of the offender, leaves unnoticed the fact that many people are hurt or killed by individuals who have no intention to harm others. According to Wootton:

> A man is equally dead and his relatives equally bereaved whether he was stabbed or run over by a drunken motorist or by an incompetent one; and the inconvenience caused by the loss of your bicycle is unaffected by the question whether or not the youth who removed it had the intention of putting it back, if in fact he had not done so at the time of his arrest.[14]

Wootton further adds that negligent, careless, and indifferent acts tend to cause more harm than intentional and deliberate acts. Far from being a necessary element in all types of situations, Wootton claims that certain situations render intention "irrelevant and obstructive," particularly cases of negligence in motoring offenses.

I offer the preceding examples to lend some plausibility to the idea that moral liability can be established even if intention is deemphasized. To deemphasize intention does not preclude making moral judgments. I do not claim that the above-mentioned positions are immune to criticism. What they do show, however, is why intentions do not always determinably decide moral wrong. If it is true that, as Schmid claims, morally objectionable racism is a matter of causing harm to an individual, then the two white motorists mentioned earlier both caused harm and are guilty of morally objectionable racism regardless of the presence or absence of moral intent.

Behavioral Racism

Now the challenge is to determine whether the behavioral and cognitive approaches to racism only identify attacks on other people's right to fairness as acts of "ordinary racism," or whether these approaches can also definitionally incorporate morally objectionable racism. I shall be arguing that both behavioral racism and cognitive racism as well also cause serious harm to other persons. Although this harm and domination may not be intentional, the effects are the same as harm or domination that is intentionally motivated. Let us start with behavioral racism.

Following Peter Singer, Schmid construes the behavioral definition of racism as the "*failure to give equal consideration, based on the fact of race*

alone."[15] He finds this definition deficient because it fails to distinguish "true racism" from "ordinary racism." We recall that, for Schmid, "true racism" is motivational racism, that is, the racially based desire to harm or dominate others. However, he maintains that the racially based failure to extend equal consideration does not sufficiently qualify as racism. Schmid presents the example of a store manager who targets black youths as potential shoplifters. He concedes that the store manager holds racist beliefs, that is, his failure to give equal consideration is racially based. Surprisingly, Schmid claims that the store manager is not guilty of morally objectionable racism precisely because he bases his beliefs about black youths on empirical evidence, which establishes that black youths tend to engage in shoplifting more than white or Asian youths. Furthermore, according to Schmid, the store manager behaves as he does only for the sake of "good business" and not necessarily because of a racially based intention to cause harm or to dominate other persons.

Schmid's reasoning is severely flawed. We recall that he considers the motorist who shouts "you damn nigger" at a black motorist guilty of morally objectionable racism because the racial epithet "nigger" communicates racial inferiority and causes harm to the black motorist by insulting his pride. To be consistent, Schmid should also consider the store manager, who suspects all black youth who enter his store to be potential shoplifters, as engaging in morally objectionable racism. Like the white motorist who utters the racial epithet "nigger," the store manager's decision to target black youths as potential shoplifters communicates to them that, because they are black, it is reasonable to suspect that they possess a flawed character, that is, they are merely potential shoplifters or just common thieves. Furthermore, what this act of suspicion communicates to innocent blacks is that they, too, are guilty without having been given the chance to demonstrate otherwise. The store manager's behavior harms them by assaulting their moral dignity, moral autonomy, and personhood. We should note, however, that one need not maintain that the store manager's behavior will necessarily lead to these consequences in every situation. However, it is sufficient that the potential exist for such consequences to result in order for the store manager's behavior to be considered morally objectionable.

First, I will appropriate Hannah Arendt's distinction between "real enemies" and "objective enemies" to illustrate the manner in which blacks can suffer harm as a consequence of being targeted as potential shoplifters. "Real enemies" are those persons who openly and actively challenge a political system. Organized opponents of a political regime communicate their desire to engage in political dissent. In such cases, there might be evidence indicating that certain individuals are involved in subversive activities. In the case of "objective enemies," there is no evidence that a specific group of individuals is engaged in subversive activities. Indeed, perceived "objective enemies" of a state or a society do not have to be found guilty of subversive activities in order to be seen as guilty. The "objective enemy," according to Arendt, "is never an individual whose dangerous thoughts must be provoked or whose past justifies suspicion, but is perceived as a 'carrier of tendencies' like the carrier of a disease."[16] Arendt interprets the idea of the

"objective enemy" as a carrier of tendencies as referring to persons who are ethnically or culturally different.[17] In the context of blacks suspected of being shoplifters, we can similarly draw a distinction between real shoplifters and objective shoplifters. There is no disputing that the fact that persons caught shoplifting should be punished. However, the practice of targeting blacks as "objective shoplifters" indicates the perception that blacks, whether for ethnic, biological, or cultural reasons, are predisposed to shoplifting. The harm is that blacks, regardless of education or socioeconomic status, discover that they are being singled out and targeted as "objective shoplifters." This realization harms them precisely because it attacks the dignity of innocent blacks. When seen as objective shoplifters and, in some cases, as "objective enemies" of society, blacks get the message that they are excluded from the moral community.

Bernard Boxill has introduced the notion of "dignitary harm." Dignitary harm is, according to Boxill, "the sense of wounded dignity, inferiority, and stigma experienced by [blacks]."[18] He has applied this notion in the context of school segregation, but it also applies in other areas. Indeed, one can correctly argue that, to the extent that blacks are perceived as "objective shoplifters," they are morally segregated from white shoppers. Here, the segregation manifests itself in the way in which store managers treat black shoppers differently from white shoppers.

Clearly, then, the store manager subtly communicates to blacks that they are racially inferior by demonstrating a certain willingness to view them as morally deficient, solely on the basis of their race. The problem here is that, even if there were empirical evidence showing that a certain group of persons has a higher rate of arrest for shoplifting, this could not serve as a justification for stripping innocent individuals of their moral autonomy. Furthermore, one can always raise questions regarding the reliability of such evidence.[19] It might very well be the case that store managers tend to report shoplifting incidents involving black youths because of a desire to cause harm to blacks. Store managers who share a negative impression of blacks might tend not to report acts of shoplifting committed by white youths, but might readily publicize similar acts committed by black youths as a way of confirming the general stereotype that blacks are criminals. Since questioning the evidence regarding black criminality might seen somewhat unusual, I will briefly expand on this issue which, we should note, is part of the more general issue of the proper interpretation of criminal statistics.[20]

We can first focus on the different social, economic and political factors that play a role in connecting race with crime. Robert Sampson and William Julius Wilson[21] advocate studying the link between crime and race from a macro-sociological perspective. For example, instead of interpreting crime on the basis of "individual-level attributes" such as race, they recommend focusing on structural issues, such as the persistence and concentration of poverty. On this view, a huge concentration of poverty in urban areas can render communal safeguards that would normally deter crime totally ineffective. Since it is the case that huge black populations are concentrated in these kinds of environments, this fact can ultimately lead to a misleading

connection between blacks and criminality. In these circumstances, statistics that could be read as establishing a criminal predisposition in certain groups could also be interpreted as indicating a general increase in poverty, as well as the desperation and dislocation of those subjected to this poverty. Indeed, the basic thrust of Sampson's and Wilson's thesis

> is that microsocial patterns of residential inequality give rise to social isolation and ecological concentration of the truly disadvantaged in ghetto communities. This in turn leads to structural barriers and cultural adaptation that undermine social organization and hence the control of crime.[22]

Examining the issue of crime statistics from a different perspective, John Hagan and Ruth Peterson have noted that there has been a long tradition of collecting specific criminal statistics on blacks in comparison to other ethnic groups. This practice may partly explain the general impression that we know more about crimes committed by blacks in comparison to other groups.[23] There is also some evidence indicating that police arrest practices can explain "racial disproportionality in less violent crimes." Sampson claims that police decision making during arrests, especially in situations dealing with less serious forms of delinquency, indicates the presence of discrimination in comparison with more serious violent crimes where police decision making is limited.[24] Skolnick argues that there is a general tendency for police officers to view certain groups as "symbolic assailants." This practice can lead to conflicts resulting in the higher incarceration rates of minority males.[25]

Statistics indicating the racial disproportionality in crime can also be questioned on the grounds that ethnic and racial classification of criminals by police officers may lead them to classify any suspect who is either a non-native speaker of English or who uses a nonstandard style of English as being black. Furthermore, individuals who do not share Caucasian physical characteristics would be similarly classified as black. Lastly, criminal statistics can be questioned by examining whether or not certain individuals accused of a crime are legal residents or citizens of the United States.[26] Large criminal figures attributed to blacks may be due to the policy of including crimes committed by illegal aliens in the same category as crimes committed by nonwhite citizens.

There are also problems with the general perception of black youths as potential criminals. To the extent that Schmid accepts evidence indicating a greater disposition on the part of black youths to commit crime, he neglects to question this general perception. Here, one would expect that a proper analysis of the store manager's attitude would focus on the social construction of black criminality. Although talk about the social construction of black criminality may seem suspect, social scientists have adequately documented the way in which blacks become the objects of misleading politically motivated targeting.[27]

This appeal to the notion of the social construction of black criminality is not an attempt to deny that blacks commit crimes. Similarly, this notion is

not meant to suggest that black criminality is a mere "invention" or "illusion." The notion of the social construction of black criminality is here understood as the creation of certain discursive structures, narratives, and conceptual grids used for different social, cultural, and political purposes. Hence, the emphasis is on the cultural mythology surrounding black criminality. Below, I discuss some examples of this mythology.

Narratives and mythology about black criminality survive in many different areas of society. As early as 1915, D. W. Griffith, in his film *The Birth of a Nation,* used the idea of black criminality as a metaphorical structuring device, not only to frustrate the political ambitions of blacks but also to forge solidarity among whites.[28] Indeed, the idea of the black rapist continues to hold currency even today. In the 1988 presidential campaign, one of the candidates used the example of the black convict Willie Horton to communicate the idea that his opponent was soft on crime and that, if the latter won the election, the public would face the threat of violent black criminals' being released early from prison. Two other cases demonstrate the social, cultural, and political uses of black criminality. In a case that received extensive media coverage, a white male from Boston reported that while he and his wife were returning home from Lamaze classes, they were violently attacked and robbed by a black male, who subsequently shot his pregnant wife. After the Boston police arrested and interrogated large numbers of young black males, it was later revealed that the story of being attacked by a black male was a fabrication, and that the husband actually committed the crime.

The Susan Smith story serves as another example of the social reality of the mythology of black criminality. Susan Smith murdered her sons by driving her automobile into a lake. She appeared on national television, and crying uncontrollably, claimed that a black male had carjacked her automobile with her two sons still in it. Under close scrutiny, her story was found to be unreliable, and it was later revealed that she had killed her children and had invented the story of the black male carjacker. The damage had already been done, since Smith had tapped into a rich cultural reservoir of ideas regarding black criminality. I mention the preceding cases precisely to underscore the extent to which people's perceptions about black criminality are not necessarily grounded in evidence. Again, the notion of the social construction of black criminality requires that we examine the different media that construct the public perception of black criminality, including crime docudramas, television, radio, and films.[29] Indeed, to the extent that most people depend on the media for information about crime, there appears to be no direct relationship between the public perception of crime and actual crime.

The above discussion is significant because of the damage individuals can suffer as a consequence of knowing the less than admirable perceptions others hold about them. Clearly, a black individual finding himself in such an unfortunate and shameful situation of having been presumed guilty and already suspected as being an "objective criminal" can suffer an assault upon his self-respect and dignity. And, if we were to follow the logic of Schmid's position, we are similarly led to conclude that the store manager's

behavior has the same consequences as those generated by the white motorist's actions. They both cause harm, even if the store manager denies being intentionally motivated to cause harm solely on the basis of race. At this time, it would be instructive to consider Schmid's possible response to the preceding considerations.

Schmid could challenge my critique by questioning the inference that two actions with the same consequences share the same moral status. For example, consider a situation in which a manager promotes a hardworking and productive employee because he thinks that the promotion serves the general good of the company. There is a second hardworking and productive employee who receives a promotion because her manager thinks that she deserves a promotion and that the promotion is in recognition of the employee's hard work. Here we have two acts with similar consequences. One manager promotes an employee on utilitarian grounds and the other promotes an employee on Kantian grounds, namely, on the grounds that the employee had a legitimate moral right to the promotion. Certainly we would not want to conclude that these two actions are morally the same because they brought about the same results, the promotion of an employee. From a moral perspective, they are different precisely because the grounds of justification are different. The utilitarian justification seems invalid, for we share a basic conviction that individual employees should be rewarded on the basis of merit. Rewarding and punishing employees on the basis of what is in the company's best interest may lead to situations in which if punishing an innocent employee would improve the morale and productivity of the other employees, then, on utilitarian grounds, this action would be morally justifiable. However, this decision would be immoral to the extent that it contradicts a basic moral conviction that innocent individuals should not be treated solely as means to an end. Things are quite different in Schmid's examples.

Comparing the scenario involving the motorist and the manager, the motorist intentionally seeks to inflict harm whereas the manager does not intentionally seek to cause harm. On my view, we can correctly bracket the issue of intention once we realize that the manager causes the same harm as the motorist to the extent that a black individual can suffer the same "dignitary harm" in either case. However, if we were to reintroduce intention into the picture, then, even if the manager has no intention to cause harm, he still cannot deny knowledge of the avoidable consequences of his actions, particularly the "dignitary harm" suffered by blacks who know that they are being targeted as criminals. George Graham, in another context, has argued that "something can be done intentionally even when it is not done with the intention of doing it" and he further adds that "*foreseen avoidable consequences of intended doings should count as intentional.*"[30]

The difference between the case involving the motorist and that involving the manager closely resembles the difference between killing and letting die. The individual who allows a person to drown although he could have saved him acts, morally speaking, no differently than the individual who actually kills a person. At the risk of repetition, let us further develop this point.

The store manager may be engaging in a more obnoxious form of racism than the motorist in that the store manager prefers complacently to hide behind empirical evidence allegedly indicating the natural criminal potential of black youths. Here, he refuses to assume responsibility for his decision. His racism is a camouflaged racism, since he causes harm to people of a different race but hides behind statistics. He comfortably executes his harm while hiding behind the rhetoric of objective empirical evidence. One would think that any store manager desiring to respect the dignity and moral autonomy of innocent blacks would institute universal, inexpensive safety procedures, such as posting signs announcing the mandatory prosecution of all shoplifters, installing security cameras, or even designating certain employees as safety representatives in charge of security.

But barring such practices, the otherwise clandestine practice of targeting blacks as potential shoplifters punishes innocent blacks for the actions of other blacks. Blacks do not target all whites for the wrongs committed by individual whites. To the extent that whites target blacks as a group for wrongs committed by individual blacks, whites enjoy an advantage over innocent blacks forced to live with the burden of moral suspicion. The harassment endured by blacks imposes burdens that whites do not have to assume. Innocent blacks involuntarily endure the humiliation and paralyzing stress that accompanies unfounded moral suspicion. The moral suspicion that innocent blacks endure eventually mutates into a form of social harassment of blacks. It forces them to live with the realization of knowing that they are always guilty, never welcome, and simply viewed as trouble. It is hard not to see that moral suspicion of blacks can lead to their exclusion from fully participating in society. Behavior that contributes to individuals' lacking goods and services essential to the pursuit of their conception of the good life is an attack against their personhood and, thus, qualifies as harm.

Clearly, then, behavioral racism can be as damaging as motivational racism. Denying goods and the desire to cause harm or to dominate are not as completely unrelated as Schmid maintains. Morally objectionable racial domination can also take the form of denying others goods necessary for the free pursuit of their conception of the good life. Constitutional provisions or social practices that arbitrarily privilege one race over another, even if there is no intent to cause harm or dominate, can cause harm and eventually lead to domination.

It is conceivable that in defense of Schmid, one can argue that all that he has to do is to acknowledge that, in certain cases, denying someone goods is equivalent to intentionally harming them. Thus, Schmid can keep his position intact by developing a broader conception of intentional harm.[31] In developing a broader account of intentional harm, Schmid would preclude the claim that motivation is explanatorily inert in certain cases involving harm.

However, I do not consider this response strong enough to repair Schmid's position. Again, we can imagine a situation in which a school board claims that black students are better served by attending schools in predominantly black neighborhoods and that white children are best served by attending schools in predominantly white neighborhoods. The

schools board favors separate education but does not desire to segregate intentionally on racist grounds, that is, on the belief that blacks are inferior to whites. Indeed, the schools board even defends its policies as being consistent with the goals of black political nationalism and of black cultural nationalism. However, let us assume that, despite its efforts to best serve both black and white children, the policy of separate education results in black schools' receiving less financial, administrative, and material support than white schools. Predominantly white schools would then be adequately maintained whereas black schools would fall into disrepair. Eventually, the poor material and financial condition of black schools would take a heavy toll on the efforts of teachers to teach effectively. Now, in this scenario the school board does not intend to harm blacks. Its policies, however, would still result in harming black children by denying them a good that they have a right to, namely, education. But even more significantly, one can argue that, to the extent that the black children perceive that they do not attend school with white children and that white schools receive more financial and material support from the school board, black children woud suffer an even more damaging harm. They might suffer a sense of moral inferiority, that is, they might come to perceive themselves as less worthy than other children. Being called by an offensive name is painful, but the harm suffered from a sense of moral inferiority is even more devastating. The harm suffered is greater and more devastating than merely suffering from the "loss of educational contacts." As Boxill points out, "The black child who grows up feeling that he is less worthy of consideration than a white person just because he is black is psychologically sick. He is as certainly harmed as if he had cancer."[32] The above considerations adequately establish that denying individuals goods and services without the intent to cause them harm can still harm them and, sometimes, more severely so than intentional harm. Furthermore, these considerations also show that individuals can suffer severe harm when they come to think of themselves as unworthy of equal moral consideration.

Schmid also considers the example of an employer who refuses to hire blacks because he is more comfortable with members of his own racial group. Schmid claims that although this individual is engaging in racist behavior, he is not a racist because he is guilty only of failing to extend equal consideration on the basis of race alone. Furthermore, he claims that this employer is no different from the majority of human beings precisely because "his prejudice is based on a feature of human nature which may run so deep, and be so universal, that to call it 'racist' would be to weaken the moral weight of the word, and fail to identify what is truly distinct and morally significant about racism."[33] Schmid claims that it is a known fact that many human beings prefer being with their own ethnic or racial group to being with people whom they perceive, on ethnic or racial grounds, to be "other" than themselves, to be "strangers." Thus, Schmid considers the employer who prefers hiring members of his own ethnic group to be, at worst, unfair but certainly not a "racist" in the morally objectionable sense. The most he is guilty of is "ordinary racism," a form of racism that allegedly afflicts all human beings. Before proceeding, we should note that Schmid's

easy attribution of "ordinary racism" to all human beings is problematic. I think that it would be more correct to claim that no one is immune to racism, but it does not follow that "ordinary racism" is a feature of human nature and, thus, afflicts all human beings.

If we were to accept Schmid's contention that "true racism," that is, morally objectionable racism, is the desire to harm or to dominate others, we similarly should conclude that the employer who refuses to hire blacks because they are not members of his racial group is guilty of practicing morally objectionable racism. In addition to suffering harm when racial epithets are directed at them, blacks also suffer harm as a consequence of practices generated by what Schmid calls "ordinary racism." For example, in the United States, many residential communities practice segregation because whites prefer not to live with blacks. Many blacks who attempt to move into predominantly white neighborhoods are unsuccessful because a network of various institutional practices prevents them from doing so. These practices are various and can include denying black people loans or refusing to show black people houses in white neighborhoods. Let us examine other ways in which these types of institutional practices harm blacks.

Many people obtain information for all kinds of jobs through personal contacts and/or by word of mouth.[34] These personal contacts can include family, friends, neighbors, and acquaintances. Whites enjoy greater access to jobs than blacks and, since whites and blacks often live in segregated communities, whites have more extensive networks of personal contacts and, as a result, have greater access to employment information than blacks. Because blacks often live in racially segregated communities, they suffer the disadvantage of having less access to employment information. Here, a practice resulting from what Schmid calls "ordinary racism" causes blacks severe harm by maintaining a situation of white advantage and privilege in place. Even if "ordinary racism" is not responsible for the practice of segregated housing, it nevertheless has such a severe negative impact on blacks that it mutates into a form of hurtful "true racism," that is, morally objectionable racism.

We need to be clear about the way in which one should understand the notion of "negative racial impact," that is, the notion that there can be racist effects in the absence of intentionally racist actions. I use the notion of "negative racist impact" in a way similar to Gertrude Ezorsky. Negative racist impact results from neutral policies that further the effects of past overt discrimination and that encourage the general perception of blacks as inferior to whites by contributing to the exclusion of blacks from skilled jobs or to their segregation in menial jobs. Ezorsky writes:

> The adverse effect on blacks of . . . neutral practices . . . contributes to the perpetuation of racist attitudes. Individuals growing up in a society where blacks are visibly predominant in the lowest jobs tend to believe that blacks naturally belong there.
>   When the adverse impact of bias-free practices occurs in a society, where generally speaking, such impact is in significant part either a result of overt racism, or a contribution to its perpetuation, then that

impact is appropriately called *racist impact*. Such impact is characteristic of institutional racism. It is important to remember that those who administer procedures may not personally have racist attitudes.[35]

Notice that, even in the absence of the desire to cause harm or dominate, those practices generated by "ordinary racism" entail a greater harm than mere offense. Indeed, most blacks would gladly ignore isolated cases of racial epithets being directed at them. However, they would correctly consider behavior such as that of the store manager or the employer to be causing them serious harm. Being called a "nigger" is offensive, but being excluded from a community and being denied opportunities to secure a good job are indisputably more hurtful than being offended.

In fact, many thinkers suspect that the greatest harm suffered by blacks is not the direct personal harm caused by individual whites but, rather, it is the denial of housing opportunities and the exclusion from the job market resulting from seemingly neutral policies. As put recently by Stephen Steinberg,

> [t]he essence of racial oppression is not the distorted and malicious stereotypes that whites have of blacks. These constitute the *culture* of oppression, not to be confused with the thing itself. In the United States the essence of racial oppression—*our* grand apartheid—is a racial division of labor, a system of occupational segregation that relegates most blacks to work in the least desirable job sectors or that excludes them from job markets altogether.[36]

This harsh reality of racism is completely absent from Schmid's analysis. Indeed, it seems that the best he can do is explain what he construes to be the tendency of people to associate with their own kind just as another innocent and universal human characteristic.

Let us further examine precisely in what way the behavior that denies blacks employment opportunities can also be harmful. Here, I want to briefly discuss the conception of the self that is common to Locke, Hume, and Smith. This brief discussion is a response to Schmid's claim that only the racially motivated desire to harm or to dominate others assaults the moral personhood of those that one harms. We recall his claim that "[t]he racist denial of the principle of human equality is not merely an attack on the rights of the other person to fairness, it is an attack on their very personhood."[37] But preventing individuals from securing property also constitutes an assault on their moral personhood. Hume claims that accumulating and maintaining property secures pride and self-love and can lead one to become the object of love of those who are similarly situated. However, both the lack of property and the inability to accumulate it ensure that one will become the object of scorn and hatred of others and even of one's self. On this view, self-respect, self-pride and self-love require material grounding, for they are not innate. Hume also emphasizes the connection between, on the one hand, a healthy and moral sense of personhood, self-respect, self-pride, and self-love and, on the other hand, the love of

others. Again, he holds that lack of property causes one to become the object of hatred and ridicule. Although Hume talks about pride, by making the appropriate adjustments, we can substitute self-respect, with the result that one's personhood is reinforced through the ownership of property. Hume states that "[t]he relation, which is esteemed the closest, and which of all others produces most commonly the passion of pride is that of *property*."[38] If it is true, as maintained by Locke, Hume, and Smith, that property contributes to the objectification of the person in terms of pride and love, then it is reasonable to conclude that the lack of property contributes to the objectification of the person in terms of contempt and hatred. This latter point offers a persuasive explanation for the tendency to objectify blacks in terms of their being contemptible, lazy, and stupid. This stereotyping is the result of the prior exclusion of blacks from the accumulation and maintenance of property, particularly by those persons who prefer not to associate with blacks. Again, it is not as easy as Schmid claims to separate the notion of "true racism" from "ordinary racism." Unlike the past, when regimes of racial control were unsophisticated and overt, it is no longer necessary for whites to impose legally sanctioned violence upon blacks in order to keep them in a position of social and economic inferiority. Given that racism is a pervasive feature of the everyday life of society, behaviors appearing benign and unmotivated by the racially based desire to harm or dominate other persons can cause more damage than deliberate and racially motivated behavior.

At this time, I wish to critically focus on structural deficiencies plaguing Schmid's position. First, we see that he concentrates on isolated events and does not consider the consequences of patterns of events or, rather, bundles of practices that produce negative racial impact. Furthermore, he fails to acknowledge a crucial moral difference between personal preferences and the public treatment of individuals. No one can be forced to do what he or she does not want to do. Thus, we allow individuals to act on their personal preferences in their private lives. However, in the context of public life, we do not allow individuals to act on their personal preferences. From the moral point of view, we share the intuition that the interests of all individuals are equal and, hence, no individual can claim that his/her interests are more important than those of another individual. Consistent with this intuition, we do not honor external preferences that entail inflicting harm on others.

Consider a situation in which an employer refuses to hire blacks because his customers prefer to be served only by whites. They are simply uncomfortable being around blacks and fear that the presence of black employees would encourage other blacks to mistakenly believe that they are welcome. If the employer shares these views, then, in the name of good business, he will not hire blacks. For Schmid, this is simply a case of behavioral racism and is not morally objectionable racism because the employer's behavior is free of the desire to either harm or dominate blacks. However, blacks would suffer tremendous harm if most employers adopted this type of policy. In this situation, the relevant significant facts do not pertain to whether or not different employers deliberately intend to harm or to

dominate but to the devastating racial impact of catering to the racist preferences of customers. Again, whether or not the employer intended to cause harm does not bear directly on the severe consequences suffered by blacks. To say that the employer should not be held liable for the harm caused to blacks because it was not intended is analogous to saying that a drunk driver who unintentionally kills someone should not be held liable for the result of his actions. If a number of employers were to engage in this kind of action, and even if they were to claim that individually they have not committed immoral acts, their actions would collectively produce immoral consequences. Hence, it would seem that the collective effect of their actions cannot determinably be reduced to isolated units of individual behavior. At the risk of repetition, if we truly want to develop a valid theory of racism, it would seem that such a theory should include the severe harm that is often unintentional but is still more devastating than intentional harm, such as directing racial slurs at an individual.

Since this point directly contradicts the core of Schmid's position, it requires further development. Although Schmid personally would not support policies that harm blacks, the logic of what he considers a paradigm case of racism essentially permits tolerance of a form of behavior that imposes upon blacks a vicious poverty, a wretched situation that would certainly threaten the rightful pursuit of their chosen life plan. To the extent that store managers choose not to hire blacks, the group as a whole will suffer some degree of economic hardship. Thomas Sowell argues that "[i]f a group is paid less, or employed or promoted less often, because it is disliked by employees, co-workers and customers, then it may continue to suffer low wages and higher unemployment rates even if its current capabilities are equal to those of others." Sowell's point addresses cases in which blacks are not employed and if, as he later claims, "[t]he functioning of the market will not tend to eliminate such differentials," then clearly blacks are more severely harmed when denied employment opportunities even if only on the grounds of behavioral racism.[39]

The denial of employment opportunities frustrates the desires of blacks to control their lives. However, no practice that abandons individuals, especially those who have already suffered unjustifiably, to a closed circle of crippling poverty is justifiable on the grounds that it is a general feature of human life.[40] The rights of blacks to a minimally decent life far outweigh the behavioral racist's right to hire whomever he chooses. The right to a fair opportunity in life overrides the racist's desire to be free of what he considers "black contamination." To the extent that the uninhibited exercise of his desire hurts blacks, and despite the absence of intention to cause harm, there is no major moral difference between the behavioral racist and the motivational racist. Let us now examine the cognitive approach to racism to see if it is totally distinct from Schmid's category of "true racism."

The Cognitive Approach

The cognitive approach provides a third definition of racism, defining it as *"unequal consideration, out of a belief in the inferiority of another race."*[41]

Schmid also finds the cognitive definition of racism to be deficient. He uses Huck Finn and the Christian missionary as paradigmatic cases of those who believe that blacks are the natural inferiors of whites and are natural slaves. Again, he concludes that although both Huck Finn and the missionary hold racist views, they are not guilty of the more morally objectionable form of racism, that is, the desire to harm or dominate other persons on the basis of race alone. He writes:

> Despite the intuitive appeal of the cognitivist definition of racism, I believe [that the motivational approach] which places the motivational issue ahead of cognitive one, is to be preferred. On this view, belief in the essential factual inequality of the races is not necessarily racist, nor is action based upon that belief; the belief is so only to the extent that it was arrived at or retained through the domination motivation.[42]

Schmid also seeks to distinguish cognitive racism from motivational racism, maintaining that the former involves an element of distorted perception. Consider an individual who at first truly believes that blacks are the equals of whites. This same individual, while under pressure from those holding the opposite view, and on the basis of questionable evidence, rejects his earlier belief that blacks are the equals of whites. His change in view ultimately leads him to embrace white supremacy. In surrendering his autonomy, the individual embraces motivational racism. Schmid describes the case as follows:

> It indicates how racism can bring about and then harden a systematic distortion of perception in the racist herself—a distortion of perception which has weakened her ability to function as an autonomous person.[43]

Schmid claims that one can compare and contrast cognitive racism with motivational racism to distinguish a "true racist" from an apparent racist. According to him, the cognitive racist who is willing to change his mind regarding the inequality of other races, when presented with evidence to the contrary, is not a true racist. However, the cognitive racist who stubbornly refuses to change his beliefs, even when confronted with evidence contradicting the inequality and inferiority of other races, is a true racist. This conclusion follows if for no other reason than that the cognitive racist seeks to continue a condition of domination over others on the basis of their race. Note here that Schmid's underlying assumption is that the "true" racist is the individual who desires to harm or dominate others on the basis of race alone. Let us now review Schmid's own account of the implications of his claim that the motivational definition of racism is the correct definition of racism. After this, we need to investigate whether cognitive racism can completely incorporate motivational racism, for this success would render it as objectionable as motivational racism.

First, Schmid reminds us that a behavioral racist is guilty of violating the principle of equal consideration, not the principle of equality. Violating the principle of equality would at least entail asserting one's racial

superiority or seeking to dominate people of other races. Second, Schmid asserts that the cognitive racist is guilty of violating the first element of the principle of equality, the principle of equal perception, but not the second element. This is the case since the cognitive racist has no desire to preserve the practice of dominating people of other races. Finally, Schmid offers a final definition of racism. "Racism at its core," Schmid maintains, "is not a function of intellect so much as of the will to oppress and dominate another people, based on their race. It is characteristically expressed not in acts of preferential beneficence to people perceived as 'one's own,' nor even in unequal treatment based on belief in the innate factual inequality of persons of the other race(s), but in acts of subjugation and harm."[44]

I have already indicated why, contrary to Schmid's view, behavioral racism entails the same or even greater harm than does motivational racism. Here, I also suggest that Schmid's claim about the cognitive racist, who is not a "true" racist but guilty only of violating the first element of the principle of equality, makes cognitive racism a form of moral schizophrenia. The cognitive racist does not accept that all humans are essentially equal, capable of self-government and rational judgment. However, he is willing "to extend to all humans and human groups the same basic rights, and not seek to institute conditions of perpetual superiority over them."[45] He denies one thing, yet acts as though this very thing is true. If one group fails to extend the capacity for self-government and rational judgment to another group on the basis of race but attempts to communicate to the perceived inferior group that it does not desire to harm or dominate it, the latter group will find itself in an uncertain moral situation.

It is hard not to appreciate the tangled contradictions and artificialities of such a position. As a colonial officer, Leonard Woolf, said about the British treatment of the colonized, "[w]e treat them as inferiors," but "tell them that they are their own equals."[46] In these situations of double communication, members of the perceived inferior group find themselves forced to live with the constant threat that members of a dominant group, viewing them as less than moral equals, could either inflict deliberate harm or unintentional harm without confronting resistance. The perception of being morally unequal communicates to members of the racially subordinated group that they enjoy, at best, a morally uncertain status. This moral uncertainty not only can extract a devastating psychological toll on members of the subordinated group, but can also interfere with an individual's pursuit of his life goals and plans. This treatment is not only unfair but hurtful and keeps one group in a position to protect its interests at the disadvantage of members of another racial group. One group is free to tackle whatever obstacles confront it, whereas the other group must involuntarily live with an uncertainty that assaults the enthusiastic pursuit of its interests.

Now, it is generally the case that a failure to perceive people of a certain race as capable of self-government and rational judgment can lead to a form of paternalism that can permanently make them dependent upon the mercy and kindness of others. Note that this concern to protect perceived moral unequals, despite its benign motivation, can entail devastating consequences for the involuntarily protected. If certain individuals appear to

be incapable of self-government and rational judgment, then, even if one does not deliberately seek to harm them or to dominate them, the prior perception of them can lead one to exclude them from making decisions for themselves on the grounds that they need protection. Indeed, systems of racial oppression operate on the assumption that there are natural differences between a dominant group and a subordinate group. The dominant group very rarely claims that it deliberately intends to harm or dominate the other group.[47]

One major deficiency in Schmid's position is his contention that the best account of racism requires a literal appeal to intention. Although the appeal to intention is acceptable in certain incontestable situations in which one individual directly harms another, particularly cases in which there is firm agreement concerning what has occurred, most situations of severe racial harm and domination are not adequately explained by appeal to intention. However, in order to avoid any possible misunderstanding, I want to digress in order to revisit this issue. My rejection of Schmid's position is not that he appeals to intention and that there really are no intentions. Rather, my claim is that the intentional model cannot handle certain severe cases of harm. Hence, I do not seek to eliminate the notion of intention but rather to limit or to restrict its domain of application. This position requires further explanation.

Eliminative materialists maintain that intention is part of our commonsensical folk psychological theory of the mental. One strategy of eliminative materialists is to attack the notion of intention on the grounds that the term "intention" names an empty class. This ontological strategy leads many to argue that mental entities, as well as intentions, are of a "dubious ontology." Other thinkers even warn that it is impossible to get into people's minds to establish whether or not we can find intentions there. Instead of attacking the issue of intention on strictly ontological grounds, I support Daniel Dennett's position that we should not scrap our mental folk psychological vocabulary. Even if commonsense folk psychological notions such as intention are scientifically invalid, we should avoid, on instrumentalist grounds, all the massive inconveniences associated with displacing our traditional folk psychology. Since evaluating rationality, predicting people's behavior and, in certain uncontested cases, assigning moral liability for individual actions all require the vocabulary of folk psychology, we should maintain our means of predicting and explaining behavior by using this vocabulary. Dennett's instrumental defense of folk psychology enables us to hold on to the notion of intention and provides us with a "fictional model of humans as beings that entertain propositional attitudes and perform intentional acts. We employ this model of rationality because it is more easily grasped than the actual complex workings of the human 'machine.'"[48] But we should notice that even in following Dennett's lead, intention cannot explain all cases of harm, since some harm is not intentional, that is, not the direct result of a desire to harm others.

Let us return to our discussion of cognitivist racism and examine why the failure to satisfy the requirement of intention, as required by Schmid's paradigm of "true racism," is unable to address a certain kind of harm. The

belief that cognitivist racism is not "true racism" adequately explains why dominant racial groups engage in policies of benign neglect. Dominant groups can argue that a subordinate racial group lacks the capacity for self-government and rational judgment and can conclude that it is not the responsibility of dominant groups to help the subordinate group. More often than not, dominant groups complacently maintain that they have no interest in either harming or dominating the subordinate racial group. However, what they fail to realize is that this policy of benign neglect is just as negatively effective as a policy of deliberate domination. Dominant groups often claim that members of subordinate groups should solve their own problems. Hence the question, "Can a subordinate group solve its problems when it lacks the requisite resources?" Here, the "blind" policy of not causing harm succeeds in inflicting devastating harm on a particular group of persons. It allows certain members of society to suffer only because they belong to a different racial group, while privileged groups remain complacent in a "morally benign" position, urging neither intentional nor unintentional assistance for those groups needing assistance.

Furthermore, enthusiastic appeals to respecting the self-determination of a subordinate group can become morally empty. As Will Kymlicka states, "When people are unable to deal effectively with life, respecting their self-determination may amount in practice to abandoning them to an unhappy fate. Saying that we ought to respect people's self-determination under these circumstances becomes an expression of indifference rather than concern."[49] Ronald Dworkin also states that it is "the final evil of a genuinely unequal distribution of resources" that some individuals "have been cheated of the chance others have had to make something valuable of their lives."[50] This perspective is absent from Schmid's way of thinking. Indeed, he fails to observe the way in which a dominant group often explains the suffering of a subordinate group in terms of the subordinate group's self-inflicted incompetence; benign neglect inevitably mutates into the syndrome of "blaming the victim." Clearly, the purpose of the preceding discussion is to underscore the importance of understanding and analyzing racism as a social phenomenon and not as a transcendental essence immune to human influences.

Schmid's position is also flawed from two other perspectives. As stated earlier, he employs a common formalistic approach. Many philosophers assume that employing an a priori method entails defining a concept by providing the necessary and sufficient conditions governing the application of that concept. Moving from semantics to ontology, the above view requires that every concept claim an essence. This basic philosophical approach treats a concept as a self-creation capable of a certain self-subsistence while existing in total independence of human thought and action. However, in the case of the concept of "racism," any a priori approach will be deficient. Of course, I am not denigrating the legitimacy of traditional philosophical approaches to semantic and ontological issues involved in the definition of concepts and in the identification of their referents. What I am claiming, however, is that these traditional approaches are not fully applicable to sociocultural concepts or, rather, to temporal

concepts. A sociocultural concept names a phenomenon whose nature requires apprehension in time, hence the need to appeal to historical, cultural, and social factors. Racism as a phenomenon is the product of human actions, beliefs, perceptions, and the like. As such, it claims no autonomous ontological status but is, rather, a social construction, one that is dependent upon human beliefs, practices, goals, values, and so forth. Thus, any effort to treat racism as an abstraction will prove unhelpful. Racism is not a predicate determinably explicated in the actions of isolated individuals who are randomly and arbitrarily harming and dominating other persons on the basis of race alone. Racism also emerges from a complex network of institutional practices that are sustained, in part, by webs of shared agreements, preferences, and goals. Schmid seeks to capture the core feature of racism, but the institutional nature of racism undermines any such attempt. Let us look more closely at institutional racism.

Understanding Institutional Racism

Racism, understood as a social reality, is a phenomenon primarily dependent upon intersubjective agreements and collaboration. It changes as social, political, and economic conditions change. It is not a stable entity, not a natural object but, rather, a constructed phenomenon that is constantly undergoing alteration and reconstruction.[51] Its repetition is a function of human practices, beliefs, desires, and the like. Stuart Hall writes that racism

> [is] not a permanent human or social deposit which is simply waiting there to be triggered off when the circumstances are right. It has no natural and universal law of development. It does not always assume the same shape. There have been many significantly different *racisms*— each historically specific and articulated in a different way with the societies in which they appear. Racism is always historically specific in this way, whatever common features it may appear to share with similar social phenomena.[52]

I specifically want to expand on the notion that racism is not a natural kind in the same way in which gold is a natural kind. Racism claims no essence appreciably similar to gold, which has, for example, a certain unique molecular structure. Hence, treating racism as having a core, as if it were a natural, is ontologically misleading. To this extent it bears noting that we should view racism dynamically and even dialectically. Sivanadan remarks that

> [r]acism does not stay still; it changes shape, size, contours, purpose, function—with changes in the economy, the social structure, the system and, above all, the challenges, the resistances to that system.[53]

As a distinctively sociocultural phenomenon, racism is malleable to the shifting interests, goals, and so forth of a society. Focusing on the otherwise dynamic aspects of racism enables us to explain various features of social

reality. My point, then, is that there can be no successful analysis of racism exclusively generated by an a priori method of philosophical approach that does not take into consideration the social and cultural character of racism.

Racism, from another perspective, better qualifies as a cluster concept rather than a concept with sharply defined boundaries, that is, one that designates an independently existing and identifiable underlying essence. The notion of cluster concepts comes from Wittgenstein's idea, in the *Philosophical Investigations*, that certain things bear a family resemblance to each other. He uses the notion of a game to demonstrate his point. Our concept of game includes Olympic games, ball games, card games, and so on. On close analysis, there is no single identifiable thing shared by these different games, there is no single core to these games. Wittgenstein maintains that "we see a complicated network of similarities, overlapping and crisscrossing: sometimes overlapping similarities, sometimes similarities of detail."[54] Certain games require skill, whereas some others require both skill and luck. Racism is a cluster concept precisely because a cluster of different features constitutes racism. Consequently, no individual or action can completely satisfy all of the different features of racism.

At this time, I want to focus on another set of considerations that further weaken Schmid's individualistic or atomistic model of racism, while underscoring the nonindividualistic features of racism. Schmid focuses his analysis on isolated actions performed by individuals. But this approach is somewhat limited. Indeed, some thinkers have argued that we can learn more about racism if we approach it from the existential perspective of the victim. This move allows us to gain certain existential insights into the everyday life of those persons who exist in a subordinate condition, those persons who are not merely the occasional, innocent targets of random and isolated intentional acts of racial discrimination. We should note that appealing to the victim's perspective is not to suggest that victims are epistemologically privileged or that their claims are infallible. Similarly, we are not saying that all victims hold the same views about their lived condition. What we are seeking are the general themes that repeatedly emerge as victims construct narratives to render their lived experience intelligible. Furthermore, by viewing racism as a lived condition, we can better appreciate the necessity of abandoning the search for a "perfect mapping between party and injury [that] is rarely obtainable when the injury is diffuse, long-standing, and concealed, damaging the victims before they come to the remedial stage."[55]

We should also note that, when we talk about institutional racism, we are not implying that it is possible for discrimination to occur without a perpetrator. Explaining institutional racism requires a different analysis of social behavior. At the level of institutional racism or discrimination, the focus is on recurrent patterns of practices and structures of behavior, attitudes, and habits. Focusing on institutional racism enables us to see the way in which "[r]acial discrimination is historically patterned rather than idiosyncratic; it is deeply embedded in social institutions."[56] As Ezorsky has argued, a person who is not a racist can implement neutral policies that have a devastating negative racial impact. In this case, the individual

implementing the neutral policy does not act with the intention of causing harm. However, merely by acting within the context of an institution, that individual becomes involved in the implementation of policies that he/she might otherwise resist. We also recall Ezorsky's point that "those who administer procedures having racist impact may not themselves be racist, that is, they may not personally have racist attitudes."[57] Finally, we should note that, in talking about discrimination as a "condition," we are not seeking to reject reason or to embrace an unstable emotionalism. Rather the attempt is to see discrimination as something that certain individuals are born into. If racism and discrimination were simply isolated intentional acts committed by random individuals, it would be easier to identify and punish this behavior. To this end, Robert Blauner construes institutional racism as an "objective phenomenon" and not as an epiphenomenon reducible to determinate individual acts.[58] Robert Friedman similarly maintains that racism operates on four different levels: (1) Structural, meaning that it is a major feature determining the character of social structure, (2) procedural, meaning that it is embedded in policies and procedures, (3) systematic, meaning that it is present in various spheres of society such that it constitutes a system, and (4) ideological, meaning that it expresses representations that are false and misleading.[59]

Hopefully, enough has been said to justify an examination of racism and discrimination from an institutional perspective, as well as from the perspective of the victim.[60] Again, introducing the notion of discrimination as a "condition" helps to explain the stubborn persistence of racism despite equally persistent efforts to eliminate it. Let us look at Alan Freeman's notion of the perpetrator's perspective. He writes:

> The perpetrator's perspective sees racial discrimination not as a condition, but as actions, or series of actions, inflicted on the victim by the perpetrator. The focus is more on what particular perpetrators have done or are doing to some victims than it is on the overall situation of the victim class.[61]

Freeman's desire is not to mislead or baffle us when he introduces the notion of "condition" within the context of racism. Clearly, he wants to stress the historical, cultural, and social factors of racism as they are experienced by the victims and as they are viewed by the perpetrator. To this end, Freeman also offers a description of the victim's perspective that proves helpful to our discussion. He writes:

> From the victim's perspective, racial discrimination describes those conditions of actual social existence as a member of a perpetual underclass. This perspective includes both the objective conditions of life—lack of jobs, lack of money, lack of housing—and the consciousness associated with these objective conditions—lack of choice, lack of human individuality in being forever perceived as a member of a group rather than as an individual.[62]

Schmid in his haste to furnish us with a necessary and sufficient definition of racism, one for all times and places, distorts the social and cultural character of racism.

Not surprisingly, he conveniently grounds his definition of racism on the assumption that racism conforms only to the structural logic of individual moral responsibility. This atomistic model makes the individual the primary subject of moral guilt or blame. Given Schmid's requirement that "true racism" requires the intention to harm or to dominate people of other groups, then only extremists full of hatred are racists. Adopting the most strict and literal interpretation of Schmid's position, that is, that true morally objectionable racism is individualistic and requires the element of intention, makes it almost impossible to explain intentionally racism that is neither individualistic nor intentional. Schmid certainly would acknowledge that there is nonindividual racism. But it is hard to see precisely how he could attribute any major significance to this kind of racism given the fact that he recognizes only one kind of morally objectionable racism. However, to avoid misunderstanding concerning my view, I wish to argue that the claim that there is morally objectionable, nonindividualistic racism does not entail denying the existence of individual racism. What I seek to do is underscore the importance of focusing on institutional racism. Indeed, certain thinkers have argued that concerns about distributive justice and equality, especially in the context of racial discrimination, demand a nonindividualistic model of moral analysis.[63]

Before going on, it should be noted that Schmid is not alone in defending an atomistic, overt approach to racism. In this, he apparently shares an anxiety common to many philosophers who maintain that notions such as "institutional racism" are too broad in scope and often give rise to convoluted and illogical thinking. Such notions are viewed as conceptual monstrosities that may lead those seduced by their phonetic appeal to engage in muddled or fuzzy thinking. I do not wish to slander philosophers on the grounds that they do not recognize institutional racism. What I am trying to establish is that there is a tendency, in philosophy, toward suspicion of institutional approaches. This suspicion leads philosophers to employ a method similar to the one used by Karl Popper in his attempt to demarcate science from pseudoscience. Popper maintains that Marxist historiography and psychoanalysis are pseudoscientific because, from the perspective of Marxism and psychoanalysis, any evidence offered as disconfirming them can be reinterpreted as confirming them. According to Popper, everything can be explained by these theories and nothing can count as legitimate evidence against them. Likewise, those opposed to the notion of institutional racism at times argue that it supports a vulgar view that "sees" racism everywhere, in every action, policy, institution, and so on. Obviously, we should guard against this kind of global move to interpret all of social reality in terms of one grand theory or one main concept. However, the fact that one can succumb to these dangers need not intimidate us into rejecting the otherwise explanatory potency of the concept of "institutional racism."

For example, J. L. A. Garcia recently cautioned philosophers against involvement with excessively ambitious political categories, institutional

racism being an example of such a category. Not surprisingly, he favors an individual, atomistic, and intentional model of racism. He states that

> [his] proposal is that we conceive of racism as fundamentally a vicious kind of racially based disregard for the welfare of certain people. In its central and most vicious form, it is a hatred, ill-will, directed against a person or persons on account of their assigned race. Racism, then, is something that essentially involves not our beliefs and their rationality or irrationality, but our wants, intentions, likes, and dislikes and their distance from the moral virtues.[64]

Referring to the notion of racism as being rooted in the heart, Garcia obviously thinks that "individual racism is of greater explanatory import" and "more important morally." But it is my contention that the tendency to locate racism in the hearts of individuals, as both Schmid and Garcia do, cannot adequately explain the persistence of the racial subordination and discrimination.

Despite its effectiveness in assessing responsibility in specific situations involving isolated individualized or random acts of racially motivated behavior, individualistic, intentional racism, modeled on moral responsibility, proves ineffective when dealing with deeply rooted and persistent social problems. Consider, for example, the case of pollution. It is never easy to ascertain who is responsible for policies that cause environmental damage.[65] In many cases, when a large company is involved in an environmental disaster, the different employees claim that they were simply following orders. Everyone volunteers this answer throughout the chain of command. Managers and supervisors either claim that they did not give any orders to carry out the policies that led to the damage or that they had no knowledge of what was happening. When this occurs one can reasonably hold a company, or even an entire industry, responsible, instead of focusing on specific individuals. A good example of this collective approach is the recent action taken against the tobacco industry. Instead of focusing on individual responsibility, this strategy calls for punishing the whole industry in order to get good results. Another example of this collective approach is the use of economic boycotts in order to modify the behavior of companies engaging in vivisection. The collective approach becomes effective when attempts to establish individual responsibility seem rather idle. Again, in these cases, it is more appropriate to hold an entire industry responsible rather than to assign individual guilt. Here, the model of individual moral responsibility can severely burden us, since it is almost impossible to assign individual guilt. Contrary to Schmid, I maintain that we should more closely model racism on the problem of pollution, which is institutional or systemwide, rather than modeling it on the practice of determining intentional harm.[66]

There is a potentially devastating criticism that claims that the shift to the collective approach might exculpate individuals of moral responsibility. This objection is misplaced precisely because the shift to the collective approach need not entail that individuals are innocent. What it emphasizes is that the individualistic model is not always effective in enabling us to

combat many instances of immoral behavior. Hence, the shift in focus from individual to collective responsibility may result in certain individuals' escaping with minimal punishment, although they have actively participated in criminal activity. But the consequence of a few individuals' escaping punishment is to the collective approach what wearing down one's tires is to driving. We do not drive because we want to wear down our tires, we wear down our tires as a consequence of driving. Similarly, we do not focus on collective responsibility because we want to exculpate individuals of moral responsibility. Still, in some cases, individuals who have done wrong might escape with less than the ideal amount of punishment. Despite the fact that, in a few cases, certain individuals escape without receiving the punishment that they deserve, this minor inconvenience is preferable to allowing immoral behavior to go unchecked on the grounds that it is impossible, in most cases, to establish individual responsibility.

Enough has been said to establish that what is obviously missing from Schmid's account is the real issue of institutional racism, namely, those entrenched policies and practices that appear to be racially neutral but that result in devastating racial impact. Let us revisit the case of residential discrimination once again. Residential segregation has devastating impacts upon blacks because its effects, among other things, prevent them from obtaining employment information and also from gaining access to good schools. Here, there is no intent to cause harm or domination, yet this policy inflicts greater harm on blacks as a group than individual and isolated acts of racism deliberately directed at individual blacks, such as calling a black person a "nigger." Individual blacks suffer the direct impact of individual acts of racism deliberately directed at them, but blacks as a group suffer from practices that we would not specifically identify as acts intentionally orchestrated to harm or to dominate them as a group.

Stokely Carmichael and Charles Hamilton[67] articulate a conception of racism that is more insightful than Schmid's narrow individualistic model. According to them:

> Racism is both overt [individualistic] and covert [institutional]. It takes two, closely related forms: individual whites acting against individual blacks, and acts by the . . . white community against the black community. We call these individual racism and institutional racism. The first consists of overt acts by individuals, which cause death, injury or the violent destruction of property. This type can be recorded by television cameras; it can frequently be observed in the process of commission. The second type is less overt, far more subtle, less identifiable in terms of *specific* individuals committing the acts. But it is no less destructive of human life. The second type originates in the operation of established and respected forces in the society, and thus receives far less public condemnation than the first type.[68]

After offering this theoretical formulation, they present an illustration:

> When white terrorists bomb a black church and kill five black children, that is an act of individual racism, widely deplored by most segments

of society. But when in that same city—Birmingham, Alabama—five hundred black babies die each year because of the lack of proper food, shelter and medical facilities and thousands more are destroyed and maimed physically, emotionally and intellectually because of conditions of poverty and discrimination in the black community, that is a function of institutional racism. When a black family moves into a home in a white neighborhood and is stoned, burned or routed out, they are victims of overt acts of individual racism which many people will condemn—at least in words. But it is institutional racism that keeps black people locked in dilapidated slum tenements, subject to the daily prey of exploitative slumlords, merchants, loan sharks and discriminatory real estate agents. The society either pretends it does not know of this latter situation, or is in fact incapable of doing anything meaningful about it.[69]

Carmichael and Hamilton aptly capture the main thrust of institutional racism. Nevertheless, one may question their reference to the black community and the white community. However, this reference to the black community is not meant to suggest that all blacks hold the same values or views. This also applies to their reference to the white community. What they seek to establish is that, regardless of agreement or disagreement about values, the black community designates individuals who share certain historical, cultural, and social experiences. Further, though their reference to the white community is not meant to imply that all whites intentionally set out to harm blacks, Carmichael and Hamilton seek to underscore that the white community designates those individuals who control the major institutions of society, be they educational, financial, medical, legal, political, or economic. To the extent that the administration of these varied institutions results in blacks lacking access to adequate housing, health care, and education along with other, similar commodities, one can reasonably fault the community controlling them. Furthermore, on the most minimalist definition of a community, given the prevalence of residential segregation, it is clear that if the majority of blacks live in segregated neighborhoods, then they form racially distinct communities. This same point holds for whites. And from a more substantive sociological perspective, if members of the same community tend to attend the same churches, then it would seem that differences in the religious practices and styles of worship of blacks and whites more than adequately reinforce the plausibility of talking about a black and a white community, despite the internal heterogeneity of these communities.[70]

In another context, J. M. Jones offers a definition of institutional racism devoid of any trace of intentional connotations, although not necessarily rejecting individual intentional racism. According to Jones,

institutional racism can be defined as those established laws, customs and practices which systematically reflect and produce racial inequality in American society. If racist consequences accrue to institutional laws, customs or practices the institution is racist whether or not the individuals maintaining those practices have racist intentions.[71]

Jones is not claiming that all of the negative racial consequences of different practices and customs are necessarily acts of morally objectionable racism. Similarly, he is not endorsing essentialism. Institutional racism, for Jones, does not involve a set of intrinsic features. After all, there are many practices and customs that constitute racism. Institutional racism is constituted by identifiable patterns of behavior, habits, or tendencies that develop over time; most specifically, it is constituted by the effects of practices and customs that remain persistent and seemingly permanent within a society that sustain and reinforce racial inequality. At times, these tendencies and patterns appear anonymous, simply part of the natural order of things or aspects of the world that we take for granted.

Unlike Schmid, I do not hold that the paradigm case of racism is the racism of isolated individuals; it is not merely a personal problem, that is, a problem of the heart. Rather, racism has a certain structural nature, sustained and perpetrated by varied apparatuses of racial inclusion and exclusion, which in turn are reinforced by social institutions and cultural practices.

Conclusion

In conclusion, we see that Schmid embraces a radical methodological individualism, since he seeks to explain a phenomenon pertaining to social and institutional structures by reducing it to the level of individual behavior. On his view, racism is not a persistent feature of institutional structures and practices. Rather, it is morally unacceptable behavior intentionally performed by isolated individuals who desire to cause harm or dominate others on the basis of race alone. Again, with the exception of uncontrollable juvenile delinquents and pathological individuals, few whites openly confess to a desire to harm and dominate blacks. To the extent that the persistent reality of institutional racism is absent from Schmid's conceptual space, we must conclude that Schmid conveniently ignores institutional racism only to offer a definition of an artificially contrived individualistic racism. Despite the fact that Schmid does not directly argue the case for both behavioral racism and cognitive racism qualifying as disguised forms of motivational racism, I have argued that, if we were to take his position literally and understand morally objectionable racism as the intention to harm others, then behavioral and cognitive racism should be considered just as morally objectionable as motivational racism. Both forms of racism may very well lead to harm that is more severe than the harm caused by individual acts of motivational racism. So, although Schmid argues for the separation of these three kinds of racisms, I have adopted the strategy of reading them as being theoretically linked. As things stand, both behavioral racism and cognitive racism qualify as disguised forms of motivational racism. If it is true, as Schmid maintains, that motivational racism is the best philosophical account of racism, and if it is also true that what is distinctive about such racism is the intention to harm, then it would seem that Schmid would find it difficult to give an account of institutional racism within his narrow framework of motivational racism. Of course, he might be successful in

offering an account of institutional racism. But such an account would render his conservatively construed definition of motivational racism less than effective in accounting for the severe harm resulting from nonintentional behavior.

Notes

[1] David Goldberg has recently discussed the issue of there being racisms and not just one racism. According to him, "In contrast to the prevailing picture of a singular and passing racism, I [develop] a conception of transforming racisms bound conceptually in terms of and sustained by an underlying culture. Like all cultures, that which I identify as racist grows and ebbs. My undertaking is to account for the emergence, transformation, and extension, in a word, the (continuing re-) invention of racist culture, and for the varying kinds of discursive expression that it prompts and supports. The significance of any prevailing racist expression and of social relations and institutions in a racialized formation must be read against this cultural background." David Goldberg, *Racist Culture: Philosophy and the Politics of Meaning* (Oxford: Blackwell, 1993), p. 8.

Other thinkers have called attention to the dynamic character of racism. J. M. Blaut most recently states that the "dominant racist theory of the early nineteenth century was a biblical argument, grounded in religion; the dominant racist theory of the period from about 1850 to 1950 was a biological argument, grounded in natural science; the racist theory of today is mainly a historical argument, grounded in the idea of a culture history or simply culture. Today's racism is cultural racism." J. M. Blaut, "The Theory of Cultural Racism," *Antipode*, Vol. 24, No. 4 (1992), p. 290. To the extent that racism is a form of discrimination, certain thinkers have identified different kinds of discrimination. Christopher Jencks has identified four different kinds of economic discrimination: myopia, malicious, statistical, and consumer directed. See Christopher Jencks, "Thomas Sowell vs. Special Treatment for Blacks," *The New York Review of Books*, Vol. 30, No. 4 (March 1983), pp. 37–38.

[2] W. T. Schmid, "'The Definition of Racism," *Journal of Applied Philosophy,* Vol. 13, No. 1 (1996), p. 34.

[3] Ibid.

[4] Ibid.

[5] Ibid., pp. 34–35.

[6] Ibid., p. 35.

[7] H. L. A. Hart, "Intention and Punishment," in H. L. A. Hart, *Punishment and Responsibility* (London: Oxford University Press, 1968), p. 120.

[8] James Rachels, "More Impertinent Distinctions," in Robert M. Baird and Stuart E. Rosenbaum, eds., *Euthanasia* (Buffalo: Prometheus Books, 1989), pp. 63–64.

[9] Owen Fiss, *Federal Rules Decisions*, Vol. 74 (St. Paul, Minn.: West Publishing Co., 1977), p. 278.

[10] Ibid., p. 279.

[11] Owen Fiss, "The Supreme Court 1978 Term Foreword: The Forms of Justice," *Harvard Law Review*, Vol. 93, No. 1 (Nov. 1979), p. 23.

[12] Richard Posner, *The Problems of Jurisprudence* (Cambridge: Harvard University Press, 1990).

[13] Ibid., pp. 170–171.

[14] Barbara Wootton, *Crime and the Criminal Law*, 2nd ed. (London: Stevens, 1981), p. 46

[15] Quoted in Schmid, "The Definition of Racism," p. 31.

[16] Hannah Arendt, *The Origins of Totalitarianism* (New York: World Publishing Company, 1958), pp. 423–424.

[17] Arendt in footnote 96 hints at such an interpretation. Ibid., p. 424.

[18] Bernard Boxill, *Blacks and Social Justice*, rev. ed. (Lanham, Md.: Rowman & Littlefield, 1992), p. 82.

[19] Although the idea that we can question statistics regarding black criminality seems unreasonable, there is still much debate concerning what to make of this statistical information. For a good example of the controversy surrounding this issue, see Michael Levin, "Responses to Race Differences in Crime," *Journal of Social Philosophy*, Vol. 23, No. 1 (Spring 1992): pp. 5–29; Laurence Thomas, "Statistical Badness," *Journal of Social Philosophy*, Vol. 23, No. 1 (Spring 1992): pp. 30–41; Louis Pojman, "Race and Crime: A Response to Michael Levin and Laurence Thomas," *Journal of Social Philosophy*, Vol. 24, No. 1 (Spring 1993): pp. 152–154; Jonathan Adler, "Crime Rates by Race and Causal Relevance: A Reply to Levin," *Journal of Social Philosophy*, Vol. 24, No. 1 (Spring 1993): pp. 176–184; Chain Breaker Cox, "On Michael Levin's Response to Race Differences in Crime," *Journal of Social Philosophy*, Vol. 24, No. 1 (Spring 1993): pp. 155–162; Angel Corlett, "Racism and Affirmative Action," *Journal of Social Philosophy*, Vol. 24, No. 1 (Spring 1993): pp. 163–175; and Jonathan Adler, "More on Race and Crime: Levin's Reply," *Journal of Social Philosophy*, Vol. 25, No. 2 (Fall 1994): pp. 105–114.

[20] See W. D. Morrison, "The Interpretation of Criminal Statistics," *Journal of the Royal Statistical Society*, Vol. 60 (1987): pp. 1–24; Monica A. Walker, "Some Problems in Interpreting Statistics Relating to Crime," *Journal of the Royal Statistical Society*, Vol. 146 (1993), pp. 281–293; Monica Walker, ed., *Interpreting Crime Statistics* (Oxford: Clarendon Press, 1995), and Marian Fitzgerald, "Ethnic Differences" in Walker, ed., *Interpreting Crime Statistics*, pp. 158–174; and T. Jefferson, "Race, Crime and Policing," *International Journal of Sociology of Law*, Vol. 16 (1988): pp. 521–539.

[21] Robert Sampson and William Julius Wilson, "Toward a Theory of Race, Crime, and Urban Inequality," in John Hagan and Ruth Peterson, eds., *Crime and Inequality* (Stanford: Stanford University Press, 1995).

[22] Hagan and Peterson, *Crime and Inequality*, p. 7.

[23] Ibid., p. 15.

[24] Robert Sampson, "Effects of Socioeconomic Context on Official Reaction to Juvenile Delinquency," *American Sociological Review*, Vol. 93 (1986): pp. 876–886.

[25] Jerome Skolnick, *Justice without Trial* (New York: Wiley and Sons, 1966); see also Donald Black, "Police Control of Juveniles," *American Sociological Review*, Vol. 35 (1970): pp. 63–77.

[26] See Fitzgerald, "Ethnic Differences."

[27] Link and Oldendick explain the notion of social construction in the following manner. According to them:

> The concept of social construction . . . is more complex than that of simple stereotypes. Stereotypes tend to be loosely held images highly susceptible to change given new information about the target of the stereotype. Social constructions, by contrast, involve clusters of cognitive images about a target group—images or attitudes that tend to reinforce each other, thereby making the social construction more resistant to change. The stronger or more firmly held the social construction, the more resistant this set of attitudes will be to new information. It is this attitudinal resilience which makes understanding social constructions an important part of evaluating racial attitudes.

Michael Link and Robert Oldendick, "Social Construction and White Attitudes," *The Journal of Politics*, Vol. 58, No. 1 (February 1996), p. 152. For an excellent account of the sad history linking crime and race, see Stephen Jay Gould, *The Mismeasure of Man* (New York: W. W. Norton, 1981).

[28] Michael Rogin writes that "*The Birth of a Nation* use[s] black men for access to forbidden white women. The black desire for white women . . . justifies not only the political and sexual repression of blacks but also the marriage of Civil War enemies, North

and South." Michael Rogin, *Blackface, White Noise* (Berkeley and Los Angeles: University of California Press, 1996), p. 79.

[29] See Gregg Barak, *Media, Process, and the Social Construction of Crime: Studies in Newsmaking Criminology* (New York: Garland Publishing, 1994).

[30] George Graham, "Doing Something Intentionally and Moral Responsibility," *Canadian Journal of Philosophy*, Vol. 11 (1981), pp. 667, 670.

Regarding the issue of the social construction of black criminality, one can also examine this issue from the perspective of the way in which the creation of certain styles of thinking can give rise to certain groups of individuals. Ian Hacking draws a distinction between categories derived from the nature of people and other socially constructed categories. According to him:

People are alive or dead, tall or short, strong or weak, creative or plodding, foolish or intelligent. These categories arise from the nature of people themselves, although we are by now well aware how "intelligence" can be warped by quotients.

Hacking next discusses the fact that certain kinds of people come into existence when certain categories are created. These categories are not based on the nature of people, but rather are dependent upon certain kinds of practices and discursive formation. Hacking calls this position "Dynamic Nominalism." Again, he writes:

But consider the categories . . . involving madness, criminality and other kinds of deviancy. Categories of people come into existence at the same time as kinds of people come into being to fit these categories, and there is a two-way interaction between these processes.

The category of intractable black criminality functions in a manner similar to Hacking's dynamic nominalism. Once the category exists, we will find people to fit it. Ian Hacking, "Five Parables," in Richard Rorty, J. B. Schneewind, and Quentin Skinner, eds., *Philosophy in History* (Cambridge: Cambridge University Press, 1984), p. 120.

[31] This point was made by an anonymous referee.

[32] Boxill, *Blacks and Social Justice*, p. 83.

[33] Schmid, "The Definition of Racism," p. 32.

[34] See James M. Boros and J. Robert Parkinson, *How to Get a Fast Start in Today's Job Market* (Englewood Cliffs, N.J.: Prentice-Hall, 1980), and Joe R. Feagin and Clarice Booher Feagin, *Discrimination, American Style* (Englewood Cliffs, N.J.: Prentice-Hall, 1978).

[35] Gertrude Ezorsky, *Racism & Justice: The Case for Affirmative Action* (Ithaca, N.Y.: Cornell University Press, 1991), p. 10.

[36] Stephen Steinberg, *Turning Back: The Retreat from Racial Justice in American Thought and Policy* (Boston: Beacon Press, 1995), pp. 179–180. For more on this issue, see Harold Baron, "The Web of Urban Racism," in Louis L. Knowles and Kenneth Prewitt, eds., *Institutional Racism in America* (Englewood Cliffs, N.J.: Prentice-Hall, 1969), pp. 134–176.

[37] Schmid, "The Definition of Racism," p. 35.

[38] David Hume, *A Treatise of Human Nature*, ed. L. A. Selby-Bigge (Oxford, 1896), Book II, Part I, Section x, p. 365.

[39] Thomas Sowell, *Race and Economics* (New York: David McKay, 1975), p. 165.

[40] There is much evidence to establish the harmful effects of nonintentional racism on blacks; see Douglas Massey, "American Apartheid: Segregation and the Making of the Underclass," *American Journal of Sociology*, Vol. 96 (1990): pp. 329–357, and Douglas Massey and Nancy Denton, *American Apartheid: Segregation and the Making of the Underclass* (Cambridge, Mass.: Harvard University Press, 1993).

[41] Schmid, "The Definition of Racism," p. 35.

[42] Ibid., p. 36.

[43] Ibid., p. 37.

[44] Ibid., p. 38.

[45] Ibid., p. 35.

[46] Quoted in Elleke Boehmer, *Colonial and Postcolonial Literature* (Oxford: Oxford University Press, 1995), pp. 140–141.

[47] Lewis Gordon, in *Bad Faith and Antiblack Racism* (Atlantic Highlands, N.J.: Humanities Press, 1995), p. 47, has defined practices of racism and discrimination as forms of bad faith. His notion of institutional bad faith is appropriate in the context of explaining why cognitive racism merges with motivational racism. First, Gordon states that weak bad faith "signifies the web of beliefs and artifices that constitute the general spirit of seriousness that enables the individual to hide from his and others' freedom with great facility; it infects the realm of the social by congealing human reality with a prevailing, institutional condition of unfreedom, of the self-denial and discouragement of freedom. Hence we shall call this institutional bad faith." Lewis Gordon, *Bad Faith and Antiblack Racism*, p. 45.

Racism is a form of institutional bad faith to the extent that the latter is weak bad faith. Gordon writes:

> Why do we call institutional bad faith weak? We call it a weak form of bad faith simply because it expresses itself in the system of beliefs manifested by people in their everyday activities, their folkways and mores, and because such a system's maintenance and perpetuation depend on a collectivity of choices that may or may not be efforts to hide from responsibility. It is the solvable presented as unsolvable and the dissolvable presented as undissolvable. For example, Paul Robeson once observed that "In a baseball game, an umpire's decision may be based upon some prejudice *in his mind*, but a state law that makes it a crime for Negroes to play baseball with whites is a status *on the books*. A white umpire who doesn't want to face his attitude toward blacks in the face of a black who wishes to play can, instead, face his attitude toward law and custom—that he is "compelled" to obey the laws and customs of the land. Under such a circumstance, the umpire may deny that he, as a white, is in a special position to do something about the laws and customs with perhaps less risk than the black who is asking to play. The umpire may claim that he is not individually responsible for the exclusion of blacks from baseball, and that he, although white, is not responsible for *whites*.

[48] Andrew Lelling, "Eliminative Materialism, Neuroscience and the Criminal Law," *University of Pennsylvania Law Review*, Vol. 141, No. 4 (April 1993), p. 1529.

[49] Will Kymlicka, *Contemporary Political Philosophy* (Oxford: Claredon Press, 1990), p. 200.

[50] Ronald Dworkin, "What Is Equality? Part 1: Equality of Welfare," *Philosophy and Public Affairs*, Vol. 10, No. 3 (1981), p. 219.

[51] For more on the diversity of racism, see Michael Wieviorka, *The Arena of Racism* (Thousand Oaks, Calif.: Sage Publications, 1985).

[52] Stuart Hall, "Racism and Reaction," in Commission for Racial Equality, eds., *Five Views of Multi-Racial Britain* (London: Commission for Racial Equality, 1978), p. 26.

[53] A. Sivanadan, "Challenging Racism: Strategies for the '80's," *Race and Class*, Vol. 25 (1983), p. 2.

[54] Ludwig Wittgenstein, *Philosophical Investigations*, trans. G. E. M. Anscombe (Oxford: Blackwell, 1958), Sec. 66., pp. 31–32.

[55] Peter Charles Hoffer, "'Blind to History': The Use of History in Affirmative Action Suits: Another Look at *City of Richmond v. J. A. Croson Co.*," *Rutgers Law Journal*, Vol. 23 (1992), pp. 284–285.

[56] Ibid., pp. 280–281.

[57] Ezorsky, *Racism and Justice*, p. 10.

[58] Robert Blauner, *Racial Oppression in America* (New York: Harper and Row, 1972), pp. 9–10.

[59] Robert Friedman, "Institutional Racism: How to Discriminate without Really Trying," in Thomas Pettigrew, ed., *Racial Discrimination in the United States* (New York: Harper and Row, 1975), pp. 384–407.

[60] Although we would not want to consider the victim to be infallible or, from a different perspective, irrational, Fiss maintains that "[t]he perception of the victim is more important than the attitude of the perpetrator." See Fiss, *Federal Rules Decisions*, Vol. 74, p. 279.

[61] Alan Freeman, "Legitimizing Racial Discrimination through Antidiscrimination Law: A Critical Review of Supreme Court Doctrine," *Minnesota Law Review,* Vol. 62, No. 6 (1978), p. 1053.

[62] Ibid., pp. 1052–1053.

[63] See Ronald Fiscus, *The Constitutional Logic of Affirmative Action* (Durham, N.C.: Duke University Press, 1992).

[64] J. L. A. Garcia, "The Heart of Racism," *Journal of Social Philosophy*, Vol. 27, No. 1 (Spring, 1996), p. 6.

[65] Cass Sunstein has argued that the traditional compensation model based on the model of discrete injury caused by one individual and suffered by another individual is not sufficiently capable of capturing situations arising from racial and sexual discrimination. Modeling racism discrimination on those cases where the injuries are "individually small but collectively large," he proposes defending affirmative action on the basis of the notion of "risk management" and also in terms of the "principle of nonsubordination." See Cass Sunstein, "The Limits of Compensatory Justice," in John Chapman, ed., *Nemos 33, Compensatory Justice* (New York: New York University Press, 1991), pp. 281–310.

[66] David Goldberg offers the following example of a morally objectionable racist involving racist behavior that is collective and without intention. Although not a clear case of institutional racism, it still helps to shed light on the effectiveness of the nonindividualistic approach. According to Goldberg:

> Consider the case of a student newspaper that publishes cartoons stereotyping black people as cannibals and monkeys. The material continues to appear even after vocal complaints by the university community of its offensiveness, or of the harm promoted by it. The newspaper cannot escape being characterized as racist by claiming that it has no racist rules governing its operations; or on grounds that the editorial board denies that its members individually or collectively have any racist intention; or by denying that the cartoons are meant to represent a generic image of blacks. No matter the claimed intention, the perceived and actual effect of their publication are perpetuation of exclusionary racial difference. The editorial board's insistence upon publishing the material even after they have explained the standing of such images in the history of racist expression may turn on the nonracist intention of its members to buck authority, or to exercise their First Amendment rights to free expression. Nevertheless, this insistence does not simply suggest insensitivity to the interests and concerns of a group traditionally excluded on racial grounds. It indicates the continued promotion of such exclusion, no matter the intentions. Here, then, is an instance of a racist practice where the necessary and sufficient conditions for defining as such do not turn on the presence of racist intention or racist rules. Goldberg, *Racist Culture*, pp. 99–100.

[67] There are various definitions of institutional racism. For example, Robert Smith defines institutional racism "as policies and practices that, controlling for social class, subordinate blacks or maintain or 'freeze' them in a subordinate position." Robert Smith, *Racism in the Post–Civil Rights Era* (Albany: State University of New York Press), p. 53.

[68] Stokely Carmichael and Charles Hamilton, *Black Power: The Politics of Liberation in America* (New York: Vintage Books, 1967), p. 4

[69] Ibid., p. 4.

[70] We can certainly speak about a white community in the ethnic sense of the word. As David Roediger states, "As groups made the transition from Irish in America or Poles in America to Irish American or Polish American, they also became white Americans. In doing so they became white ethnics but also became less specifically ethnic, not only because they sought to assimilate into the broad category of American but also because they sought to be accepted as white rather than as Irish or Polish. In the Irish case those seeking whiteness involved constructing a pan-white identity in which Irish Americans struggled to join even the *English* in the same racial category." David Roediger, *Towards the Abolition of Whiteness* (London: Verso, 1994), pp. 187–188. Note here that Roediger's observations concerning the Irish apply to other immigrant groups from Europe.

We should also note that the notion of a white community is not necessarily dependent upon a biological conception of race. Indeed, we can understand the notion of the white race from a constitutional perspective. Theodore Allen maintains that "when an emigrant population from 'multiracial' Europe goes to North America

or South Africa and there, by constitutional fiat, incorporates itself as the 'white race,' that is no part of genetic evolution. It is rather a political act: the invention of 'the white race.'" Theodore Allen, *The Invention of the White Race: Racial Oppression and Social Control* (London: Verso, 1994), p. 22.

[71] J. M. Jones, *Prejudice and Racism* (Reading, Mass.: Addison-Wesley, 1972), p. 131.