

Contractarianism as Method: Rawls contra Mills

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Charles Mills



John Rawls

Charles Mills' watershed piece *The Racial Contract* published in 1997 has received a great deal of critical acclaim. It is the first attempt to employ contractarianism to analyze the emergence and development of white supremacy. Mills outlines in an insightful and lucid manner how modern (Western) political structures and relations (at the very inception of their formation) incorporated white supremacy as a definitive political system.

Mills further argues that racism (or more precisely white supremacy) is pivotal to the development of the modern philosophical tradition of contractarianism. Consequently, Mills suggests that what is in order is a reconsideration of contractarianism beyond the constraints of the traditional social contract to the submerged notion of "the racial contract." The dominance of white supremacy requires, therefore, unveiling the presence of the Racial Contract. Part of the complexity in unraveling the racial contract's material function and intrinsic locus as a determinate global political system, for Mills, is due to the ideological illusions which emanate from the intellectual tradition of social contractarianism. Charles Mills confronts

contractarianism “in the spirit of a racially informed *Ideologiekritik*.”¹ By subjecting contractarianism, particularly John Rawls, to a racialist critique, Mills wants to demonstrate how Eurocentrism encumbers contract theory and its commitment to egalitarianism. The development of his racial contract theory, Mills argues, constitutes an ideological assault on contractarianism and its marriage to white supremacy.

Despite Mills’ “racially informed *Ideologiekritik*,” I find a striking parallel between Mills and Rawls. Both Mills and Rawls, on the one hand, support a liberal democratic outlook that demands racial equality and an end to white supremacist racial privilege. On the other hand, however, both Mills and Rawls accept the inevitability of class inequalities. In both cases, there is an acknowledgement that class inequalities will continue to persist in a just democratic society. Mills and Rawls give voice to the need for changing institutions in order to realize their respective notions of justice. The broader implication of Rawls and Mills’ position is the acceptance of liberal democratic capitalism with the aim of state regulation, but not eradication, of class contradictions.

While there is a structural difference in how Mills and Rawls employ contractarianism – in my estimation – there nonetheless exists a functional (ideological) unity, that is, bourgeois liberalism. While Mills’ naturalized account of the contract is structurally different from Rawls’ idealized, hypothetical account of the contract, both Rawls and Mills adhere to a liberal political philosophy which occludes the reality of inequalities at the level of bourgeois productive relations. Hence, neither Rawls nor Mills comes to terms with the significance of the class structure of capitalism and the nature of capitalist exploitation in limiting the possibility for a just democratic society.

My central argument can be summed up as follows. *Prima facie*, Racial Contract theory represents an ideological critique of contractarianism. Yet, the theoretical foundation for Racial Contract Theory is, in fact, contractarianism. Therefore, what we have in the form of Racial Contract Theory is a contradiction between *intended*

I would like to thank Ann Cudd, Rex Martin, Robert Antonio, David Smith and Mark Silcox for their helpful comments which contributed to the final version of this paper. Special thanks are due to Greg Meyerson and John McClendon, whose insights helped me tremendously in thinking through various parts of this paper.

¹ Charles Mills, *The Racial Contract* (Ithaca, New York: Cornell University Press, 1997): 129.

ideological *functions* and *objectively* rendered ideological *practices*. By adopting contractarianism, Mills' racial/racist critique undermines his ideological (external) critique.² While Mills finds conceptual problems with contractarianism as a political tradition, he does not reject contractarianism in toto. Once Mills retrieves contractarianism from its racist past with his "racially informed *Ideologiekritik*," Mills – similarly to Rawls – concludes that the only historically feasible solution to the problem of white supremacy is liberal democratic capitalism.

In the first section, I compare the structural differences in Rawls' and Mills' employment of contractarianism. In the second section, I examine the differences between Rawls' original position and the formation of the Racial Contract according to Mills. In the third section, I demonstrate that Rawls and Mills reach similar conclusions concerning distributive justice. The fourth section demonstrates that Rawls and Mills both argue that liberal democratic capitalism (or what Rawls terms, property-owning democracy) is the only reasonably favorable democratic society. In the fifth section, I conclude that the "racially informed *Ideologiekritik*" of Mills is undermined by his acceptance of contractarianism as a heuristic method.

² Here I make a distinction between an internal and external critique. By internal critique, I mean an examination which accepts a work on its own terms in order to determine whether its claims and assumptions are consistent within a particular philosophical tradition. An external (ideological) critique by its very nature is an external assessment which is directed at the fundamental presuppositions and assumptions grounding a particular theses, paradigm or theoretical framework. If and only if the fundamental presuppositions, assumptions and presumptions engaged are foundationally different than those informing the critique then what results is an external criticism. Consequently, I argue that an ideological critique is synonymous with an external criticism. An external criticism is a critique, which is foundationally different from the ideology under review. If the critic, however, shares the same ideological commitments with the ideology under scrutiny, what occurs is an internal criticism and, therefore, we do not have an ideological critique. Instead the criticism may be either an *empirical* critique, at the level of observation and factual matters, or a *conceptual* critique calling into question its coherence, logical reasoning, theoretical consistency, systemic conceptual contradictions and interpretative evaluations adjoined to a given formulation, thesis, paradigm or theoretical framework. Now it is important to note that conceptual or empirical criticisms may not be absent from an ideological critique. In this case, whatever empirical or conceptual criticisms are made derive from ideological differences or fundamental divergences in worldviews. My discussion of internal critique draws on the work of William R. Jones and John H. McClendon III. See William R. Jones, *Is God A White Racist?* See also McClendon, "Black and White contra Left and Right? The Dialectics of Ideological Critique in African American Studies," *APA Newsletter – Philosophy and the Black Experience* 2(1) (Fall 2002). For differing interpretations of Mills' *Racial Contract*, see Lewis Gordon, "Contracting White Normativity," *Small Axe: A Journal of Criticism* 2(2) (September 1998): 166-174; Anthony Bogues, "Race and Revising Liberalism," *Small Axe: A Journal of Criticism* 2(2) (September 1998): 175-182; Kevin Graham, "Race and the Limits of Liberalism," *Philosophy of the Social Sciences* 32(2) (June 2002): 219-239; Mechthild E. Nagel, "Reforming the Contract?," in *Racial Liberalism and the Politics of Urban America*. Edited by Curtis Stokes and Theresa Meléndez. East Lansing: Michigan State University Press, 2003.

Contractarianism as Method: Rawls contra Mills

Rawls self-consciously adjoins himself to the tradition of contract theory, particularly, Locke, Rousseau, and Kant. Despite his identification with this tradition, Rawls is concerned with moving his analysis to a higher level of abstraction from his predecessors. As Rawls explains,

My aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract found, say, in Locke, Rousseau, and Kant. In order to do this we are not to think of the original contract as one to enter a particular society or set up a particular government. Rather, the guiding idea is that the principles of justice for the basic structure of society are the object of the original agreement. They are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the terms of association.³

Now what is instructive here is the fact that in the classical contractarian tradition, the contract was the means by which *potential* members of civil society become *actual* members within civil society. What Rawls seems to say, in contrast, is that the notion of a social contract as the initial stage constitutes the determinate basis for a discussion among equals, in conditions of fairness, on the very principles of how to enter and cooperate in society. It requires social cooperation to derive the principles that, in turn, govern social relations.

In *A Theory of Justice*, Rawls proposes a conception of justice that he terms, “justice as fairness.” His theory of justice has the following aims: first, to establish certain principles of justice as the rational choice or preference of individuals placed in a hypothetical situation in which they are ignorant of their personal qualities and their place in society; second, to show that the principles thus chosen correspond to our considered judgments of justice and injustice; third, to show that these principles can feasibly be adopted as a public conception of justice; and, lastly, to provide a “standard whereby the

³ John Rawls, *A Theory of Justice* (Cambridge, Massachusetts: Harvard University Press, 1999): 10.

distributive aspects of the basic structure are to be assessed.”⁴ The basic structure of society constitutes the subject matter of political justice. The basic structure of society refers to “the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation.” Rawls further explains that the basic structure of society includes the “political constitution with an independent judiciary, the legally recognized forms of property, and the structure of the economy (for example, as a system of competitive markets with private property in the means of production), as well as the family in some form.”⁵

We should take notice of how Rawls’ philosophical anthropology contains the elements of methodological individualism, rational choice theory, and consensus politics (or what he refers to as reflective equilibrium). All three in tandem function to postulate what constitutes the process of arriving at a just society based on fairness. So despite not resorting to the fictional account, employed by preceding social contract theorists of some sort of state of nature, Rawls nevertheless resorts to what are arguably fantastic, mythical premises regarding human nature, and its ideal expression in normative principles for a theory of justice.

Rawls does not assume, as we find in Marx for example, that social contradictions have prevailed in a way which enables class conflict to predominate over an abstract consensus as the motive force of history. Given Rawls’ ahistorical approach it is sufficient to presuppose such normative principles are intrinsically rooted in human nature itself. Hence, humans abstracted from their real (material) advantages or disadvantages would be rationally inclined to pursue a course of self-interested social cooperation. Here Rawls does not allow the competitive character of capitalism to override the rationalist presumption of rational choice theory and the social equilibrium gained from methodological individualism. By abstracting away the real, material and historical process of the capitalist mode of production, Rawls manages to return to the civility of the original position where competitive rational self-interest conjoins with “disinterested” social cooperation under the veil of ignorance. Being removed from what Marx refers to as “real men in real life material practice,” Rawls embraces a pluralism of

⁴ Rawls, *A Theory of Justice*, S.2, 8.

⁵ Rawls, *A Theory of Justice*, S. 2, 6.; Rawls, *Justice as Fairness: A Restatement*. Edited by Erin Kelly (Cambridge, Massachusetts: Harvard University Press, 2001): S. 4, 10.

a liberal sort where each person seeks to balance individual claims to social primary goods with broader social interests. According to Rawls, primary goods would include basic rights and liberties, freedom of movement and occupation, powers and prerogatives of office, income and wealth and, lastly, self-respect.

Now, Mills emphatically rejects Rawls' methodological approach because it is a "purely hypothetical exercise."⁶ Mills finds Rawls' project flawed because it dispenses with "the historical claims of classic contractarianism and focuses instead on the justification of the basic structure of society."⁷

The Racial Contract is employed, quite similar to Rawls' contract in "the spirit of the classic contractarians – Hobbes, Locke, Rousseau and Kant."⁸ Mills argues that the great virtue of the classical tradition – from Hobbes to Kant – was that "it provided seemingly straightforward answers both to factual questions about the origins and workings of society and government and to normative questions about the justification of socioeconomic structures and political institutions."⁹ Here Mills wants to highlight how classical contract theorists viewed the contract as both descriptive and prescriptive. While Mills rightly finds contractarianism as ahistorical, he sees his job as inculcating it with historical content by naturalizing the contract "to *explain* the actual genesis of the society and the state, the way society is structured, the way the government functions, and people's moral psychology."¹⁰ The Racial Contract, therefore, underwrites the modern social contract. The Racial Contract reconstructs the social contract as "a nonideal contract" which is "a contract of group domination." And the Racial Contract is "holistic, anti-atomistic in nature, being explicitly predicated on human collectivities, dominating and dominated."¹¹

Unlike Rawls' hypothetical, idealized contract, contractarianism functions, for Mills, "not merely normatively, to generate judgments about social justice and injustice, but descriptively, to *explain* the actual genesis of the society and the state, the way society is structured, the way the government functions, and people's moral

⁶ Mills, *The Racial Contract*, 10.

⁷ Ibid., 4-5.

⁸ Ibid., 5.

⁹ Ibid., 4.

¹⁰ Ibid., 5.

¹¹ Ibid., 6; and "Race and the Social Contract Tradition," 446.

psychology.”¹² Mills suggests that a naturalized account of the contract has the merit of explaining the actual historical development of the white supremacist polity – “an unjust, *exploitative* society ruled by an oppressive government and regulated by an immoral code.”¹³ Once we see that the Racial Contract underwrites the social contract, we are in a better position to see that white supremacy has not been an anomaly; rather, it is the norm in liberal democratic societies. Whether we look at the United States, Britain or South Africa, for example, the norm has been such that there has been a racially differentiated distribution of duties, rights and liberties.¹⁴

Mills suggests “by looking at the *actual* historically dominant moral/political consciousness and the *actual* historically dominant moral/political ideals, we are better enabled to prescribe for society than by starting from ahistorical abstractions.”¹⁵ Mills rightly points out that “ahistorical abstractions” – that is, abstractions divorced from material reality – cannot be the starting point for the social transformation of the world.

While social consciousness – from a materialist philosophical perspective – is a reflection of social being, it may be a more or less correct, more or less distorted reflection. We cannot understand the distorted character of social consciousness (that is, political ideals and consciousness) without first examining the “real individuals, their activity and the material conditions of their life.”¹⁶ As Marx noted in this regard, the point of departure cannot be “what men say, imagine, conceive, nor from men as narrated, thought of, imagined, conceived, in order to arrive at men in the flesh.” Rather, the correct method starts from “real, active men, and on the basis of their real life-process demonstrating the development of the ideological reflexes and echoes of this life-process.”¹⁷ Ironically, Mills’ contractarian method commits the same mistake of “ahistorical abstractions” which he attributes to Rawls, by abstracting away the real, material and historical process of the capitalist mode of production in his discussion of white supremacy. Mills posits that white supremacy can be understood as autonomous or

¹² Ibid., 5.

¹³ Ibid., 5.

¹⁴ Ibid., 93.

¹⁵ Ibid., 92.

¹⁶ Marx, *The German Ideology* in *Collected Works of Marx and Engels*, Vol. 5 (New York: International Publishers, 1976): 11.

¹⁷ Marx, *The German Ideology*, 36.

rather in abstraction from capitalist class exploitation – a point we will return to later in the essay.

Comparing Contracts: Rawls' Original Position and Mills' Racial Contract

I. Rawls' Original Position

The classical tradition beginning with Hobbes starts from a pre-political condition (the “state of nature”) in order to establish the rational, natural necessity for civil (bourgeois) society and the state in addition to addressing the nature of political obligation and the kind of responsibility that rulers have to their subjects. Rawls, however, refurbishes the notion of a “state of nature” with a hypothetical original position where parties operate behind a veil of ignorance. In fact, Rawls writes,

In justice as fairness the original position of equality corresponds to the state of nature in the traditional theory of the social contract. This original position is not, of course, thought of as an actual historical state of affairs, much less as a primitive condition of culture. It is understood as a purely hypothetical situation characterized so as to lead to a certain conception of justice.¹⁸

While Rawls' original position is, of course, a modification of the original presuppositions of the classical tradition within social contract theory, Rawls does not escape the tradition's ahistorical approach to the social relations of capitalism and the notion of a state of nature that marks the work of Thomas Hobbes, John Locke and Jean-Jacques Rousseau.¹⁹

¹⁸ Rawls, *A Theory of Justice*, 11.

¹⁹ Karl Marx, *Grundrisse: Introduction to the Critique of Political Economy*. Translated by Martin Nicolaus (New York: Vintage Books, 1973): 83. For example, Engels writes, the state, from the standpoint of social contract theory, is “nothing more than the idealized kingdom of the bourgeoisie” that type of state came “into existence as a bourgeois democratic republic.” See Frederick Engels, *Anti-During: Herr Eugen Duhring's Revolution in Science* (New York: International Publishers, 1939): 24, 26, 152-54, 281. For more recent commentaries on Marx's critique of contractarianism, see Lawrence Wilde, “Marx against the social contract,” in *The Social Contract from Hobbes to Rawls*. Edited by David Boucher and Paul Kelly. (New York: Routledge, 1994): 164-174; Allen E. Buchanan, *Marx and Justice: The Radical Critique of Liberalism*. New York: Rowman and Littlefield, 1982.

Rawls argues that the principles of justice that should regulate the basic institutions of society are those that would be agreed to by persons reasoning in what he terms, the original position. The agreement reached in the original position, Rawls admits, is hypothetical. It is hypothetical because Rawls is concerned with what the contracting parties “could, or would, agree to, not what they have agreed to,” and it is ahistorical because “we do not suppose the agreement has ever, or indeed ever could actually be entered into.”²⁰

This “initial position” is an arena for rational deliberation about principles of justice in which all contracting parties are equal. “The idea of the original position is to set up a fair procedure,” Rawls explains, “so that any principles agreed to will be just.”²¹ We are to imagine a group of individuals in the original position who are rational, mutually disinterested, and who deliberate behind a thick veil of ignorance. While there are no limits on what general information is available to the parties in the original position, a thick veil of ignorance obtains which denies each person knowledge of what their conception of the good actually is, and of their particular circumstances – that of society, their social and economic status, their race, gender or their endowment of “natural assets” such as talents, skills and abilities. Since everyone in the original position is ignorant of the position he or she would occupy in the alternative social arrangements proposed, then one must allow for the possibility of occupying any position. By removing sources of bias and requiring unanimity, Rawls hopes to find a solution that is acceptable to everyone from a position of equality, that is, that respects each person’s claim to be treated as a free and equal being.²²

Parties in the original position are called upon to construct and then to choose the principles of justice that they would prefer to determine the basic structure of their society, in which they are to spend their entire lives. The original position, therefore, provides for impartial conditions under which rational, self-interested agents can agree to “the fair terms of social cooperation (as expressed by principles of justice) whereby the basic structure is to be regulated.”²³ These principles of justice express the nature of

²⁰ Rawls, *Justice as Fairness*, 16-17.

²¹ Rawls, *A Theory of Justice*, 118.

²² Rawls, *Justice as Fairness*, 15.

²³ *Ibid.*, 80.

persons as free, rational and equal beings. Moreover, these principles of justice would not favor anyone's particular view of the good, nor would they favor anyone's particular set of social circumstances. The choice among alternative social arrangements will occur in two steps. First, the individuals will have to decide what strategy to adopt in selecting the political conceptions of justice. Second, given a particular strategy, a particular social arrangement (based on the political conceptions of justice selected) must be chosen.

There are two possible choices in terms of reasoning strategies: the *maxima* strategy (choosing the social arrangement with the best situation for the best-off individual) and the *maximin* strategy (choosing the social arrangement with the best situation for the worst-off individual). Rawls claims that the deep conditions of uncertainty in the original position created by the veil of ignorance, as well as the fact that the stakes are so high, namely our lifetime prospects, mean that the appropriate principle of rational choice for contractors is a maximin principle.²⁴ Once the maximin strategy is adopted, Rawls argues, individuals in the original position compare the worst-off positions within alternative social arrangements according to social primary goods (such as basic rights and liberties, powers, opportunities, wealth and income) associated with each position.

It is important to see that, from Rawls' standpoint, a white-supremacist polity would not be chosen under the original position. On the basis of the constraints imposed in the original position, a racist social arrangement would be considered unjust. If people pondered living in a multi-national or multi-racial state under racist principles, Rawls could argue that some would not be treated as free and equal persons. In fact, these injured parties would be seriously disadvantaged, indeed deeply harmed, by the existence of racial exclusion, discrimination and segregation. Since anyone could feasibly be in the shoes of the injured parties, the racist principles would have to be vetoed.²⁵

II. Mills' Racial Contract

²⁴ The maximin strategy is isomorphic to cost-benefit analysis. For a Marxist critique of cost-benefit analysis, see Michael Ball, "Cost-Benefit Analysis: A Critique," in *Issues in Political Economy: A Critical Approach*. Edited by Francis Green and Petter Nore (New York: The Macmillan Press, Ltd., 1979): 63-88.

²⁵ Rex Martin, "Rawls," in *Political Thinkers: From Socrates to the Present*. Edited by David Boucher and Paul Kelly (New York: Oxford University Press, 2003): 503.

Mills finds Rawls' reflective starting point (the original position) particularly repugnant, characterizing it as nothing more than a "prescriptive thought experiment."²⁶ By employing a color-blind approach in the original position, Rawls, in effect, ignores the material reality of white supremacy and how it has shaped modern liberal democratic societies. Mills pointedly explains,

... even if Rawls declares (as he would) that race is morally irrelevant to personhood, and that knowledge of it is accordingly stripped from us by the veil of ignorance, policies prescribed on this basis will not be sufficient in the real-life, nonideal polity of the United States to redress past inequalities. Failure to pay attention to this history will then just reproduce past domination, since the repercussions of white supremacy for the functioning of the state, the dominant interpretations of the Constitution, the racial distribution of wealth and opportunities, as well as white moral psychology, conceptions of self-respect, willingness to sacrifice, and notions of entitlement, are not examined.

He continues:

In other words, one does not confront a history of racial domination by ignoring it, since to ignore it is just to incorporate it, through silence, into the conceptual apparatus, whose genealogy will typically ensure that it is structured so as to take the white experience as normative.²⁷

So, whereas Rawls is operating with a conceptual framework that makes equality and consent the norm, Mills insists that inequality and domination are the principals governing modern civil society. Therefore, the recognition of inequality and domination must be the starting point for any theory to be relevant to today's unjust society.

Because Rawls' project is nothing more than a "hypothetical exercise," Mills proposes a literal, historical contract which "has the best claim to being a historical fact."²⁸ In contrast to the hypothetical, idealized reconstruction contract of Rawls, Mills

²⁶ Mills, *The Racial Contract*, 19.

²⁷ Mills, "Revisionist Ontologies," in *Blackness Visible*, 108.

²⁸ Mills, *The Racial Contract*, 20.

proposes “a group domination contract which is exclusionary rather than genuinely inclusive.”²⁹ So, the origin of the Racial Contract, we are informed, is “clearly historically locatable in the series of events marking the creation of the modern world by European colonialism and the voyages of ‘discovery’ now increasingly and more appropriately called expeditions of conquest.”³⁰ Mills further notes,

Although no single act literally corresponds to the drawing up and signing of a contract, there is a series of acts – papal bulls and other theological pronouncements; European discussions of colonialism, “discovery,” and international law; pacts, treaties, and legal decisions; academic and popular debates about the humanity of nonwhites; the establishment of formalized legal structures of differential treatment; and the routinization of informal illegal or quasi-legal practices effectively sanctioned by the complicity of silence and government failure to intervene and punish perpetrators – which collectively can be seen, not just metaphorically but close to literally, as its conceptual, juridical, and normative equivalent.³¹

These “series of acts” provide the chief momentum for the emergence of global white supremacy; that is, European domination of the planet as a whole, and, more narrowly, white supremacy in particular nation-states such as Australia, the United States or South Africa.

The Racial Contract, according to Mills, is a domination or exclusionary contract which provides a conceptual framework for understanding the reality of group domination, particularly white supremacy. Contrary to the claims of Rawls and other contract theorists, it is not a contract in which all citizens are free and equal persons. Rather it is a contract in which whites as a group are dominant over the subordinate nonwhite population. Nonwhites are thus the *objects* rather than the *subjects* of the

²⁹ Mills argues that the Racial Contract is a “useful model contract.” See Mills, “Race and the Social Contract Tradition,” *Social Identities* 6(4) (2000): 446. However, there is good textual evidence to support my view that the Racial Contract is a literal, historical contract for Mills. See Mills, *The Racial Contract*, 4, 19, 20, 30, 98. For a similar argument, see J. L. A. Garcia, “The Racial Contract Hypothesis,” *Philosophia Africana* March 2001 4(1): 27-42.

³⁰ Mills, *The Racial Contract*, 20.

³¹ *Ibid.*, 20-21.

agreement. In a rather long and complex citation Mills offers the following as a “preliminary characterization” of the Racial Contract:

The Racial Contract is that set of formal or informal agreements or meta-agreements . . . between the members of one subset of humans, henceforth designated . . . as “white,” and coextensive . . . with the class of full persons, to categorize the remaining subset of humans as “nonwhite” and of a different and inferior moral status, subpersons, so that they have a subordinate civil standing in the white or white-ruled polities the whites either already inhabit or establish or in transactions as aliens with these polities, and the moral and juridical rules normally regulating the behavior of whites in their dealings with nonwhites or apply only in a qualified form (depending in part on changing historical circumstances and what particular variety of nonwhite is involved), but in any case the general purpose of the Contract is always the differential privileging of the whites as a group with respect to the nonwhites as a group, the exploitation of their bodies, land, and resources, and the denial of equal socioeconomic opportunities to them. All whites are *beneficiaries* of the Contract, though some whites are not *signatories* to it.³²

The Racial Contract, we are told, is a set of meta-agreements between whites to categorize non-whites as subpersons of inferior moral and legal status relative to whites. Consequently, the racial polities established on the basis of this contract grant privileges to whites as a group. So, *all* whites benefit from the contractual agreement, although they may not have given their expressed consent to it. This contractual agreement gives whites as a group the right to exploit the bodies, land and material resources of non-whites as witnessed, for example, in African slavery and the expropriation of the lands of indigenous Americans in the United States.

While the Racial Contract is presented as a literal, historical contract, Mills expends much effort infusing the ahistorical concept of a “state of nature” with historical content. Rather than reject the “state of nature” wholesale, Mills modifies it. “The racialization of the contractarian apparatus thus manifests itself,” Mills writes, “in a pre-

³² Mills, *The Racial Contract*, 11.

socio-political state of nature that is *real* and permanent for nonwhites but either hypothetical or just temporary (and in any case long past and not usually that bad) for whites.”³³ As Mills explains,

The non-European state of nature is thus *actual*, a wild and racialized place that was originally characterized as cursed with a theological blight as well, an unholy land. The European state of nature, by contrast, is either hypothetical or, if actual, generally a tamer affair, a kind of garden gone to seed, which may need some clipping but is really *already* partially domesticated and just requires a few modifications to be appropriately transformed – a testimony to the superior moral characteristics of *this* space and its inhabitants. (Hobbes’s paradigmatically ferocious state of nature may appear to be the exception, but . . . it is really only literal for non-Europeans, so that it actually confirms rather than challenges the rule.)³⁴

In what sense can the state of nature be considered as “real” or “actual” in Mills’ eyes? Are we to believe that Africa (before the encroachment of European colonialism and imperialism) actually existed in a “state of nature”? Perhaps, Mills is showing its pristine function for Europeans and its use as racist ideology when applied to the Other. He couldn’t possibly be suggesting that Africans actually lived in a “state of nature.”

Nonwhites, from Mills’ vantage point, do not simply move from being residents of the “state of nature” to citizens of civil society, from natural man to civil man. Rather, the Racial Contract emerges with a preliminary conceptual partitioning and corresponding transformation of human populations into “white” and “nonwhite,” that is, persons and nonpersons respectively.³⁵ This process of racialization operates differently depending on the type of society being formed, for example, whether it is a white settler state or colonial rule. If we are talking in terms of a white settler state such as the United States or Australia, the “state of nature” comes to represent a real and permanent pre-political state for nonwhites. As Mills explains further,

³³ Mills, “The Racial Polity,” in *Blackness Visible*, 129; emphasis added, SCF II.

³⁴ Mills, *The Racial Contract*, 46-47.

³⁵ *Ibid.*, 12-13.

The establishment of society thus implies the denial that a society already existed; the creation of society requires the intervention of white men, who are thereby positioned as already sociopolitical beings. White men who are (definitionally) already part of society encounter non-whites who are not, who are “savage” residents of a state of nature characterized in terms of wilderness, jungle, wasteland. These the white men bring partially into society as subordinate citizens or exclude on reservations or deny the existence of or exterminate.

However, in the case of colonial rule,

. . . admittedly preexisting but (for one reason or another) deficient societies (decadent, stagnant, corrupt) are taken over and run for the “benefit” of the nonwhite natives, who are deemed childlike, incapable of self-rule and handling their own affairs, and thus appropriately wards of the state. Here the natives are usually characterized as “barbarians” rather than “savages,” their state of nature being somewhat farther away (though not, of course, as remote and lost in the past – if it ever existed in the first place – as the Europeans’ state of nature).³⁶

Does the usage of a “state of nature” accurately explain the encounter of Europeans imperialists and colonialists with non-Europeans?

Rather than start with the an ahistorical, original position, in which all individuals are rational, free and equal, Mills argues that the starting point should be a racial state of nature (which presupposes the existence of inequality in the form of racial domination and exploitation). So, we discard the myth of a civil society and state in which all citizens are free and equal. And our starting point becomes a “racial state of nature” based on the naturalization of whiteness which gives rise to the reality of the white supremacist polity; a political system with a particular power structure of formal and informal rule, socioeconomic privilege, and norms for differential distribution of material wealth and opportunities, benefits and burdens, rights and duties.³⁷

³⁶ Ibid., 13.

³⁷ Ibid., 3; italics added.

Mills further demonstrates – by way of Hobbes, Locke, Rousseau and Kant – how the real inequalities of the Racial Contract underwrite the apparent equality of the social contract. In the classical social contract tradition, Mills argues, “the *literal* state of nature is reserved for nonwhites; for whites the state of nature is *hypothetical*.”³⁸ The state of nature is presented as a hypothetical state when used to describe whites or Europeans. Yet, European and Anglo-American missionaries, explorers, settlers and imperialists see non-whites as “savages” and “barbarians” who actually live in a natural state – characterized as a wilderness, jungle or wasteland.

As evidence to support his claim, Mills compares Hobbes’ ideal, hypothetical state of nature to the actual, anthropological state of nature. In the *Leviathan*, Hobbes posits that the state of nature (the natural condition of mankind) is a state of perpetual struggle, a war of all against all, to use his famous phrase. Hobbes further assumes that all human beings are by nature equal. We are equal in the sense that all humans possess enough strength and skill so that any human being has the capacity to kill any other. “For as to the strength of the body, the weakest has strength enough to kill the strongest,” writes Hobbes, “either by secret machination or by confederacy with others.”³⁹ Hobbes’ description of the state of nature is deservedly famous and well worth quoting in full. He writes,

In such condition, there is no place for industry; because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious buildings; no instruments of moving, and removing, such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish and short.⁴⁰

When confronting the historical improbability of the existence of a state of nature, Hobbes remarks,

³⁸ Mills, *The Racial Contract*, 66.

³⁹ Thomas Hobbes, *Leviathan: Or the Matter, Form and Power of a Commonwealth Ecclesiastical and Civil*. Edited by A. P. Martinich (New York: Broadview Press): 93 (13.1).

⁴⁰ Hobbes, *Leviathan*, 95-96 (13.9).

It may peradventure be thought there was never such a time nor condition of war as this; and I believe it was never generally so, over all the world; but there are many places where they live so now. For the savage people in many places of America . . . have no government at all, and live at this day in that brutish manner, as I said before.⁴¹

So, Native Americans (“the savage people in the many places of America”) become the only real-life example which Hobbes can point to as illustrative of the state of nature. The use of Native Americans as an example, for Mills, points in the direction of a “tacit racial logic” in Hobbes’s *Leviathan*.

The Racial Contract can be seen as an attempt to rectify the racial problematic which hangs over Rawls’ hypothetical, idealized contract. Its function is to supplement the omission of race from the social contract. Mills captures this point eloquently: “If we see the racial contract as establishing the racial polity, white supremacy, then the task of the ideal contract should be how to dismantle white supremacy and realise justice.”⁴²

Rawls and Mills on Distributive Justice

Rawls argues that, in choosing principles of justice, individuals behind the veil of ignorance seek to ensure that they will have the best possible access to what he terms social primary goods. Social primary goods are goods that are directly distributed by social institutions, like income and wealth, opportunities and powers, rights and liberties, and, lastly, the social bases of self-respect. So the parties in the original position are trying to ensure the best possible access to primary social goods that enable them to lead a worthwhile life, without knowing where they will end up in society. Rawls believes that people in the original position would choose two basic principles of justice – one of equality, one of inequality:

⁴¹ Ibid., 96 (13.11)

⁴² Mills, “Race and the Social Contract Tradition,” 456.

... the persons in the initial situation would choose two rather different principles: the first requires equality in the assignment of basic rights and duties, while the second holds that social and economic inequalities, for example inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society.⁴³

The first principle of justice – the principle of equal basic rights and liberties – deals with the distribution of basic political and civil liberties. Rawls states this first principle as follows: “Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.”⁴⁴ Rawls specifies that these liberties include the following: freedom of thought and liberty of conscience; political liberties (for example, the right to vote and to participate in politics) and freedom of speech and assembly, as well as freedom of the person, which includes freedom from psychological oppression and physical assault and dismemberment (integrity of the person); and finally, the right to hold personal property and freedom from arbitrary arrest and seizure as defined by the rule of law.⁴⁵ The second principle is a principle of distributive economic justice. Rawls succinctly states the principle as follows: “Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least advantaged members of society.”⁴⁶ This principle expresses an important idea. It tells us that justice permits social and economic inequalities; it does not require an equal distribution of primary social goods. The first half of this principle Rawls calls the *principle of fair equality of opportunity*. This principle says that the opportunities to obtain jobs, positions and political offices should be open to all people. In other words, a caste system or an aristocracy in which people are locked into their social or economic niche would not be just, even if the least advantaged were taken care of. There should be

⁴³ Rawls, *A Theory of Justice*, S.3, 13.

⁴⁴ Rawls, *Political Liberalism* (New York: Columbia University Press, 1996): 5.

⁴⁵ Rawls, *A Theory of Justice*, S. 11, 53.

⁴⁶ *Ibid.*, 72, 266.

no intrinsic barriers to moving from the least advantaged to the most advantaged. This feature of society is certainly one that we all would want if we were behind the veil of ignorance and did not know where we would land in the social and economic hierarchy. The latter half of the second principle is the *difference principle*. He calls it this because it focuses on the difference among people. This principle states that social and economic inequalities should be arranged so they result in everyone's advantage. What does this statement mean? Obviously, if people are unequal, then those who have more are already reaping an advantage. So, the difference principle implies that those who are on the short end of a situation of inequality also should gain more benefit from it in the long run compared to a society in which there was less inequality. Indeed, this is what is meant by Rawls saying that such inequalities should be to the "greatest benefit of the least advantaged."

As formulated, the two principles of justice appear to be directed towards an egalitarian society. Rawls assigns a "lexical order" to the principles of justice, meaning that a prior principle is to be fully complied with before later ones are considered. This priority means that in applying a principle (or checking it against test cases) we assume that the prior principles are fully satisfied. Hence, in seeking a principle of distributive justice, a well-ordered society should secure the basic liberties as well as fair equality of opportunity. The very lexical priority of the equal liberty principle seems to emphasize Rawls' concern for the value and significance of each individual and the maximization of liberty for every one. Similarly, in the case of the second principle, we are given the vision of a just society. The difference principle coupled with the stress on fair equality of opportunity, that is, equality of opportunity that minimizes the advantages of natural talents and social circumstances, is posited as essentially egalitarian as long as it works out to the advantage of everyone, particularly the least advantaged. Yet C. B. MacPherson is right to note that it is a curious fact "that a theory of justice [e.g., Rawls' Justice as Fairness] which starts from egalitarian premises should be mainly concerned with enquiring what justifies an inequality of life prospects as between members of different social classes."⁴⁷ Here MacPherson brings to our attention that Rawls' theory of justice is built on the contradiction between formal juridical equality and class inequality

⁴⁷ C. B. MacPherson, "Rawls' Model of Man and Society," *Philosophy of Social Science* 3 (1973): 341.

rooted in the bourgeois relations of production. It is Rawls' belief that social and economic inequalities, that is, class inequalities, are "presumably inevitable in the basic structure of any society" and will persist even when existing social injustices have been removed.⁴⁸

The broader implication of Rawls' political philosophy, particularly with respect to the difference principle, is the substitution of distribution for production relations as the point of departure for political economy. Any theory of distributive justice abstracted from determinate production relations fosters the misconception that distributive justice is not historically determined. Rawls, at least at the juncture when he published *A Theory of Justice* in 1971, held that his normative principles were transhistorical and not subject to the specificity of any given mode of production. Yet the underlying or background assumptions Rawls draws from, concerning inequality, ostensibly derive from a free competitive capitalist economy. A distributional analysis of capitalism views it as a conflict between two classes over the shares of a net product. This conflict finds its expression in an inverse relationship between wages and profits. However, profits are derived from the production of surplus value, through the exploitation of labor during the production process. The surplus value which workers produce far exceed the value of their means of subsistence, that is, the value of their labor-power, which the capitalist buys by paying wages. The resulting surplus value is appropriated by the capitalist and falsely justified as the productivity of capital. The distribution between wages and profits is then derived from the relations of production. Wages are *advanced* as a precondition of production, and profits, as the form of surplus value in exchange, are the result of production, itself a conflict between capital and labor over the labor process. By focusing on distribution in abstraction from production relations we are left blind to the underlying social relations between the class of capitalists, who monopolize the means of production and buy labor-power with money-capital, and the dispossessed class of workers, who sell their labor-power in order to survive.

Moreover, Rawls' idea to "maximize the expectations of the least favored position" does not take into account that increased capitalist production (accumulation

⁴⁸ Rawls, *A Theory of Justice*, 7; see also, Milton Fisk, "The State and the Market in Rawls," *Studies in Soviet Thought* 30(1985): 347-64; Kai Nielsen, "Morality and Ideology: Some Radical Critiques," *Graduate Faculty Philosophy Journal* 8(1-2) (1981-82): 189-267.

and expanded reproduction) is the consequence of investing surplus value (profits) into more constant capital at a proportion greater than variable capital (or labor power). The expansion of capitalist production requires the increase of surplus value either in its absolute or relative form. Increased surplus value is parasitic on the exploitation of labor-power. The objective position of the least favored, the proletariat, cannot be altered by virtue of how capitalist development and expansion rest on the exploitation of the proletariat.⁴⁹

Now, Mills does charge Rawls' political liberalism with being infected with abstract egalitarianism. Mills further argues that, in the instance of Rawls, we have a clear instance in which his normative principles of justice are couched in universal, abstract language. The retreat of mainstream normative moral and political theory from the nitty-gritty material world, Mills complains, can be seen in the fact that John Rawls, one of the most important American philosophers working in the late twentieth century, constructs a theory of justice in which he does not take up a substantive discussion of American slavery and its legacy. The problem, for Mills, is the abstractness of Rawls' political philosophy, more particularly "an idealizing abstraction that abstracts away from the crucial realities" of modern liberal democratic societies such as the expropriation of Native American lands, African slavery, Mexican annexation, Chinese exclusion and Japanese internment. Consequently, when reading Rawls' *A Theory of Justice*, there is no sense in which white supremacy had and continues to structure one's life and affects one's life chances in modern bourgeois society.⁵⁰ Rawls' hypothetical, idealized contract occludes the reality of what Mills terms "racial exploitation," that is, an *unequal distribution of material wealth and opportunities, benefits and burdens, rights and duties* with respect to race.⁵¹

In Rawls' defense, it could be argued that racism as an instance of white supremacy can only be eradicated if all racial barriers to full African American participation, for example, in a property-owning democracy, are eliminated. The destruction of racism, from the standpoint of Rawls' principles of justice, is a matter of

⁴⁹ Kai Nielsen, "On the Very Possibility of a Classless Society: Rawls, Macpherson and Revisionist Liberalism," *Political Theory* 6(2) (May 1978): 191-208.

⁵⁰ Mills, *The Racial Contract*, 76.

⁵¹ Mills, *The Racial Contract*, 3.

affording equal opportunity and rights without regard to race. Mills, however, could counter that Rawls' social contract is grounded on a racial contract. By failing to examine the reality of the white supremacist polity as a political system, Rawls accepts racial exploitation as just.

We should be clear that Mills in no way attempts to conflate white supremacy and class exploitation with the usage of the term "racial exploitation." In fact, Mills argues that white supremacy is not an inherent part of capitalism. Racial exploitation, Mills argues, differs from class exploitation in the following ways. First, racial exploitation is not just economic in nature. It extends to other spheres of civil society. For example, there are cultural, cognitive-moral, somatic and metaphysical dimensions to racial exploitation. Second, racial exploitation benefits all whites in general – not just the ruling class, that is, the bourgeoisie. Third, the establishment and continued existence of racial exploitation involves the voluntary agency of all whites – although to different extents. Fourth, racial exploitation is "in its paradigmatic form straightforwardly wrong by (deracialized) liberal norms."⁵²

Despite their obvious differences, Mills follows Rawls in accepting a distributive paradigm of social justice. By accepting a distributive theory of social justice, Mills focuses his eyesight on the just allocation or distribution of material goods (such as income and wealth) and nonmaterial goods (such as rights, opportunity, power and self-respect) as the solution to racial exploitation. A distributive theory of justice, in my estimation, restricts the scope of justice because it fails to see the determining role of bourgeois social relations of production.⁵³ Consequently, Mills' emphasis on distribution to the neglect of production fails to see that the former is dependent upon the latter. Mills – similar to his arch nemesis Rawls – substitutes distribution for production relations as the point of departure for political economy. Unlike Mills and Rawls, Marx conceptualizes capitalism as a determinate mode of production where internal contradictions abound. Marx's hard-nosed critical investigation of capitalist process of

⁵² Mills, "Racial Exploitation and the Wages of Whiteness," in George Yancy (ed.), *What White Looks Like: African-American Philosophers on the Whiteness Question* (New York: Routledge, 2004): 40.

⁵³ See Iris M. Young, *Justice and the Politics of Difference* (Princeton, New Jersey: Princeton University Press, 1990): 15-38. Although Young rejects the Marxist critique of distributive justice for being "too narrow" and "too vague," I think her general criticism of the distributive paradigm in political philosophy is potent.

production involves grasping the dialectical relationship between distribution and production. Marx points out,

Any distribution whatever of the means of consumption is only a consequence of the distribution of the conditions of production themselves. . . . Vulgar socialism (and from it in turn a section of the democracy) has taken over from the bourgeois economists the consideration and treatment of distribution as independent of the mode of production and hence the presentation of socialism as turning principally on distribution. After the real solution has long been made clear, why retrogress again?⁵⁴

Distributive justice has to be seen as historically conditioned by the development of the forces and relations of production and the class struggles which are engendered by this development.⁵⁵ It should be clear that a fair distribution (or distributive justice) makes no sense under capitalism.

Rawls, Mills and the Inevitability of Capitalism

Both Rawls and Mills can be seen as addressing the question of what a just democratic society would be like under reasonably favorable, but still possible historical conditions. Despite clear differences which separate Mills from Rawls, they give the same answer to this question, namely, capitalism!

Rawls argues – on the basis of his hypothetical contractarian theory of the “original position” and the veil of ignorance – for what he terms property-owning democracy as best qualified to meet his principles of justice. A property-owning democracy not only allows for private ownership of the means of production, but also

⁵⁴ Karl Marx, *Critique of the Gotha Programme in Selected Works of Karl Marx and Frederick Engels in One Volume* (New York: International Publishers, 1968): 325.

⁵⁵ The distributive paradigm – which dominates contemporary political philosophy – serves more generally to legitimate the reproduction of the capital-labor relation (that is, the exploitation of workers) as the only feasible and just mode of social production. For a Marxist critique of the distributive justice paradigm, see Paul Burkett and Mark Wohar, “Bourgeois versus Marxist Approaches to Social Justice and Social Efficiency,” *Nature, Society and Thought* 1(1): 67-93.

gives voice to democratic constitutional liberalism with an account of the priority of individual liberty, the defensible limits of egalitarianism, and the rule of law.⁵⁶

Rawls charges that a property-owning democracy best satisfies the two principles of justice because (1) the aim is to carry out the idea of society as a fair system of cooperation over time among citizens as free and equal persons; (2) state intervention restricts the emergence of a monopoly of the means of production by a small class of society; (3) it ensures the widespread ownership of the means of production and human capital (that is, education and trained skills); and (4) the emphasis falls on the steady dispersal over time of the ownership of capital and other resources mainly by way of inheritance, on fair equality of opportunity secured by provisions for education and training, as well as on institutions that support the fair value of political liberties. Even if we accept Rawls' contention that a property-owning democracy is not a form of welfare state capitalism, we still have a political economic system which rests on the private ownership of the means of production (albeit a widespread dispersal). And, therefore, we have a capitalist social formation rooted in the exploitation of labor by capital.⁵⁷

Mills – unlike Rawls – has not systematically set forth his views on the political economic implications of Racial Contract theory. However, Mills self-consciously endorses what he terms, “hybrid” liberalism. “Hybrid” liberalism would see liberal democratic capitalism as providing the means for eradicating racial justice, that is, “nobody would be unfairly advantaged or disadvantaged because of race.”⁵⁸ In support of his liberal approach to racial justice, Mills makes the following argument. With the fall of communism, Marxism is a utopian dream and no longer a viable political

⁵⁶ Rawls argues that both a liberal socialist and a property-owning democracy can both satisfy his principles of justice. However, I think it is clear from *A Theory of Justice* that he favors property-owning democracy. For further discussions of this point, see John Rawls, *A Theory of Justice*, xiv-xvi, S. 42, 242; John Rawls, *Justice as Fairness*, S.41-42, 135-140.

⁵⁷ *A Theory of Justice*, Robert P. Wolff asserts, offers “a philosophical apologia for an egalitarian brand of welfare-state capitalism.” See Robert Paul Wolff, *Understanding Rawls: A Reconstruction and Critique of “A Theory of Justice”* (Princeton, NJ: Princeton University Press, 1977): 195. See also, Edward McKenna, Maurice Wade and Diane Zannoni, “Keynes, Rawls, Uncertainty, and the Liberal Theory of the State,” *Economics and Philosophy* 4 (1988): 221-241. The leftist philosopher David E. Schweickart has curiously argued that worker-controlled socialism is compatible with Rawls' principles of justice. See his article, “Should Rawls Be a Socialist?: A Comparison of his Ideal Capitalism with Worker-Controlled Socialism,” *Social Theory and Practice: An International Journal and Interdisciplinary Journal of Social Philosophy* 5(1) (Fall 1978): 1-27.

⁵⁸ Mills, “White Supremacy and Racial Justice,” in *From Class to Race: Essays in White Marxism and Black Radicalism* (Lanham, Maryland: Rowman & Littlefield, Inc., 2003): 195.

alternative. Mills – similar to Rawls – concludes that the only possible means for eradicating white supremacy is capitalism. By implication, the struggle against white supremacy (that is, the eradication of racial exploitation) need not be anti-capitalist.⁵⁹ In fact, Mills suggests that it is possible to have a racially just society, but unjust in other ways. The only reasonably favorable democratic society possible given historical conditions, for Mills, is a “racially-democratic and de-gendered capitalism.”⁶⁰ The reality is that “for a long time to come we’re going to be stuck with capitalism and neoliberalism.” Therefore, “it is better to have a nonpatriarchal, non-white supremacist capitalism and a degendered and deracialized liberalism than what we have now.”⁶¹ How can Mills reach such a defeatist conclusion and ignore the current economic and ecological crisis facing the world?

Wouldn’t Mills’ conception of “hybrid” liberalism fall within the purview of Rawls’ principles of justice, particularly the difference principle? In recognition of the reality of race and gender, Rawls comments in *Justice as Fairness: A Restatement*,

... distinctions of gender and race give rise to further relevant positions to which a special form of the difference principle applies. We hope that in a well ordered society under favorable conditions, gender and race would not specify relevant points of view ... [the omission of gender and race] is indeed an omission in [*A Theory of Justice*]; but an omission is not as such a fault, either in that work’s agenda or in its conception of justice. Whether fault there be depends on how well that conception articulates the political values necessary to deal with these questions. Justice as fairness, and other liberal conceptions like it, would certainly be seriously defective should they lack the resources to articulate the political values essential to justify the legal and social institutions needed to secure the equality of women and minorities.⁶²

⁵⁹ Mills, “Racial Exploitation and the Wages of Whiteness,” 42.

⁶⁰ Mills, “Carnal Knowledges: Beyond Rawls and Sandal,” in *A Question of Values: New Canadian Perspectives in Ethics and Political Philosophy*. Edited by Samantha Brennan, Tracy Isaacs and Michael Milde (Amsterdam and Atlanta, GA: Rodopi Press, 1997): 156; Mills, “Reply to My Critics,” in *Racial Liberalism and the Politics of Urban America*. Edited by Curtis Stokes and Theresa Meléndez (East Lansing: Michigan State University Press, 2003): 32.

⁶¹ Mills, “Reply to My Critics,” in *Racial Liberalism and the Politics of Urban America*, 32.

⁶² Rawls, *Justice as Fairness*, S. 18.6, 66.

If we read Rawls in a charitable manner, it is clear that his principles of justice are inconsistent with any political system based on racial injustice. Despite whatever differences separate Rawls from Mills, they are in complete agreement concerning the viability of liberalism as a solution to the problem of racial injustice.

Apropos Mills and Rawls, the removal of racism from bourgeois relations of production does not guarantee social equality (or, in contemporary parlance, equality of results) only equality of opportunity between races not classes. The equality obtained before the law, juridical equality, the hallmark of bourgeois democracy, does not remove the exploitation of those not in control of the means of production. The abject conditions of poor whites are living proof of this fact. Even if we grant that there is the material possibility of eradicating racism under capitalism, we have not eliminated social inequality based on class exploitation under capitalism. But, the reality is that the eradication of racism and national oppression is not a possibility under bourgeois democracy. Racism has its material basis in capitalist production relations. The advent of the slave trade and slavery was built on a marriage between capitalism and racism. Slavery was crucial and central to the emergence of capitalism. The international character of the slave trade and slavery was the reflection of a world capitalist market. The initial accumulation of large sums of capital, which in turn, was invested in the exploitation of European workers, derived from the trade in slaves and the plantation staple economies in the so-called New World. While racism is not reducible to capitalist class exploitation it cannot be abstracted from it; white supremacy (as forms of racism and national oppression) is grounded in capitalist class exploitation.

Is Mills' *Racial Contract* an Ideological Critique of Rawls?

Mills argues in *The Racial Contract* that his critique of Rawls is in “the best tradition of oppositional materialist critique of hegemonic idealist social theory.” Yet, we also find that Mills claims that he “criticizes the social contract from a normative base that *does not see the ideals of contractarianism themselves as necessarily problematic* [Italics, SCF] but shows how they have been betrayed by white contractarians.”⁶³ Is

⁶³ Mills, *The Racial Contract*, 129-30.

Mills' critique an "oppositional materialist critique"? If so, how can he still adopt contractarianism, which is an "idealist social theory with bourgeois democratic ideals? In my estimation, these two contradictory statements produce a tension in Mills' reputed ideological critique of social contract theory. Let us try to make sense of Mills' claims.

As we have pointed out, the fundamental aim of Mills' critique is to uncover the racist presuppositions of contract theory. Once Mills has uncovered the racist presuppositions held by "white" contract theorists, he makes an interesting move. Unlike Carole Pateman, Mills does not see contract theory as necessarily sexist or racist. Mills – in contradistinction to Pateman – finds contractarian political theory salvageable despite its conceptual *whiteness*. Mills explains:

One difference between our approaches is that Pateman thinks contractarianism is *necessarily* oppressive . . . whereas I see domination within contract theory as more contingent. For me, in other words, it is not the case that a Racial Contract *had* to underpin the social contract. Rather, this contract is a result of the particular conjunction of circumstances in global history which led to European imperialism. And as a corollary, I believe contract theory can be put to positive use once this hidden history is acknowledged. . . .⁶⁴

Domination and oppression, Mills posits, are not the necessary outcome of all contracts. Mills explains further:

The social contract, whether in its original or in its contemporary version, constitutes a powerful set of lenses for looking at society and the government. But in its obfuscation of the ugly realities of group power and domination, it is, if *unsupplemented*, a profoundly misleading account of the way the modern world actually is and came to be. [Italics, SCFII]⁶⁵

Consequently, Mills suggests that contractarianism is in need of cosmetic surgery. As such, we must move beyond the constraints of social contract theory to the submerged

⁶⁴ Ibid., 136-7n9.

⁶⁵ Ibid., 3.

notion of “the racial contract.” Repairing the damage to contract theory caused by “white contractarians” requires, therefore, unveiling the presence of “the racial contract.”

Rather than advance contractarianism as a hypothesis, Mills employs it as a methodology and conceptual framework in order to uncover the material reality of white supremacy. Racial Contract theory, therefore, does not constitute a break with democratic liberalism, so much as a modification of it. As Hegel would say, we have a process of sublation (*aufheben*) in which liberalism is both negated and preserved.

Mills himself willfully acknowledges that Racial Contract theory is in the tradition of classical contractarianism, particularly Hobbes, Locke, Rousseau and Kant.⁶⁶ Mills argues that the great virtue of the classical tradition – from Hobbes to Kant – was that “it provided seemingly straightforward answers both to factual questions about the origins and workings of society and government and to normative questions about the justification of socioeconomic structures and political institutions.”⁶⁷ Here Mills wants to highlight how classical contract theorists viewed the contract as both descriptive and prescriptive. While Mills rightly finds contractarianism as ahistorical, Mills sees his job as inculcating it with historical content by naturalizing the account “to *explain* the actual genesis of the society and the state, the way society is structured, the way the government functions, and people’s moral psychology.”⁶⁸ The Racial Contract, therefore, underwrites the modern social contract. In Mills’ hands, the Racial Contract reconstructs the social contract as “a nonideal contract” which is “a contract of group domination, it is holistic, anti-atomistic in nature, being explicitly predicated on human collectivities, dominating and dominated.”⁶⁹

So, Mills’ real intention comes to the forefront. With scalpel in hand, Mills performs cosmetic surgery on contractarianism. We can only conclude that, for Mills, the problem is not the fact that contractarianism is, more fundamentally, a form of bourgeois ideology; his concern is only that contractarianism has been corrupted by “white contractarians.”⁷⁰ What becomes immediately transparent is that Mills undermines his own claim to an “oppositional materialist critique,” Mills’ assumption is simply that

⁶⁶ Ibid., 5.

⁶⁷ Ibid., 4.

⁶⁸ Ibid., 5.

⁶⁹ Ibid., 6; and “Race and the Social Contract Tradition,” *Social Identities* 6(4) (2000): 446.

⁷⁰ See my article, “Social Contract as Bourgeois Ideology,” *Cultural Logic*, 2007.

contractarianism is formally a credible political theory; and with the injection of a Black perspective as content, the path is paved for the critique of white supremacy. Mills' Black philosophical perspective of contractarianism or his racial contract theory thus assaults white supremacy from within the confines of contractarianism. And, consequently, we are left with little more than an internal critique of contract theory at the conceptual and empirical level and *not* an ideological (or external) critique as originally posited by Mills.

In fact, Mills embraces liberal (bourgeois) reformism as a political solution. "As my pro-contractarian argument so far should indicate," Mills honestly admits, "I want to endorse liberalism. But this is, so to speak, a hybrid liberalism, detached from what are sometimes taken to be its necessary theoretical presuppositions."⁷¹ So, Mills wants to revise liberalism. Mills argues that there are three main "theoretical presuppositions" of liberalism as a political philosophy: (1) liberalism as a set of value commitments, for example, freedom of the individual, self-realization, rights-protection; (2) the ontology of abstract individualism or methodological individualism; and (3) liberalism presupposes a certain theory of history, for example, Whig progressivism. Now, Mills suggests that there are no strong logical entailments between these three presuppositions. Therefore, he wants to marry liberal values with an alternative social ontology and theory of history, as presented in *The Racial Contract*, with the result being a "liberalism informed by racial facts."

So, now the cat is truly out of the bag! What we have in the form of Mills' racist critique is a contradiction between *intended* ideological *function* and *objectively* rendered ideological *practice*. Consequently, by adopting liberalism in the form of contractarianism Mills' racial critique goes amiss of an ideological (external) critique. We can only conclude that what Mills' critique offers us is a socio-political philosophy which incorporates liberal democratic principles but free from the "possessive individualist" assumptions. As Mills unambiguously states, "I am trying to steer a path between [Carole] Pateman and Susan Moller Okin, appropriating from Pateman the (Rousseauian) idea of a naturalized group contract that subordinates those outside the group, while denying that such subordination is *intrinsic* to contractarianism as such, and

⁷¹ Mills, "Race and the Social Contract Tradition," 455.

thus leaving open Okin's door for a positive normative use of contract theory that takes the history of group subordination into account."⁷²

Why, then, does Mills attempt to affiliate conceptually with contractarianism given his past affiliation with Analytical Marxism? With the fall of communism, Mills concludes that liberalism is the hegemonic ideology and the only game in town is capitalism! Mills pragmatically decides to rest his faith on liberal democratic principles and the anarchy of capitalism, rather than a Marxist critique of liberal democratic capitalism. In a "flight of fantasy" Mills makes the following argument to support his defense of liberal democratic capitalism:

Think about the following scenario for a moment: If the planet's socio-economic arrangements were reconstructed (by visiting alien arbitrators, say) to correct and make reparations for the immense set of historical racial injustices, national and international, that are condensed in *The Racial Contract*, then would this not be quite radical, indeed (in a perfectly commonplace sense of the term) "revolutionary"?⁷³

Mills concludes that the only possibility for the future is a "non-racist local and global capitalism" albeit one with "huge class differences."⁷⁴ This represents a huge concession on the part of Mills because it is the recognition of a future – albeit false – in which juridical equality rests upon class inequalities as reflected in bourgeois relations of production.

Mills' Racial Contract brings to the forefront the tension between the continuing existence of white supremacy and formal juridical equality which exists in liberal democratic polities. The problem, however, which confronts Mills is his inability to go beyond bourgeois social relations of production. Instead, capitalism is the "best of all possible worlds." Mills concludes that the only possible means for eradicating the tension between racial equality and substantive class inequalities is capitalism. The only reasonably favorable democratic society possible given historical conditions is a

⁷² Mills, "Reply to Critics," *Small Axe: A Journal of Criticism* 2(2) (September 1998): 195-96.

⁷³ Ibid., 197.

⁷⁴ Ibid., 198.

“racially-democratic and de-gendered capitalism.”⁷⁵ The reality is that “for a long time to come we’re going to be stuck with capitalism and neoliberalism,” therefore, “it is better to have a nonpatriarchal, non-white supremacist capitalism and a degendered and deracialized liberalism than what we have now.”⁷⁶ So, similar to Booker T. Washington before him, Mills suggest that our only option is to accommodate capitalist exploitation. But, if we can eradicate white supremacy, why can’t we eradicate capitalism also? How can Mills offer a solution beyond what currently exists when it comes to white supremacy, but not in regards to capitalist class exploitation? What evidence can he offer to make sense of this proposition? Also, if “racial” interests can be transcended, why not class interests?

Apropos Mills, the removal of racism from bourgeois relations of production does not guarantee social equality (or, in contemporary parlance, equality of results), only equality of opportunity. As I noted previously, the equality obtained before the law, juridical equality, the hallmark of bourgeois democracy, does not remove the material inequality for and exploitation of those not in control of the means of production. This is a point which Pateman at least recognizes! “Juridical equality and social inequality,” as Pateman notes, “form a coherent social structure.”⁷⁷

Despite his racist critique of contractarianism, Mills leaves us with a liberal reformist outlook fraught with the pitfalls of preserving what needs to be destroyed. The irony is that Mills presents liberalism as a radical alternative. By locating white supremacy as an autonomous entity standing apart from bourgeois social relations, Mills shows little indication of a concern for the class character of capitalism and its relationship to racism. Mills could learn much from the Afro-Caribbean Marxist C. L. R. James: “The race question is subsidiary to the class question in politics, and to think of

⁷⁵ Mills, “Carnal Knowledges: Beyond Rawls and Sandal,” in *A Question of Values: New Canadian Perspectives in Ethics and Political Philosophy*. Edited by Samantha Brennan, Tracy Isaacs and Michael Milde (Amsterdam and Atlanta, GA: Rodopi Press, 1997): 156; Mills, “Reply to My Critics,” in *Racial Liberalism and the Politics of Urban America*. Edited by Curtis Stokes and Theresa Meléndez (East Lansing: Michigan State University Press, 2003): 32.

⁷⁶ Mills, “Reply to My Critics,” in *Racial Liberalism and the Politics of Urban America*, 32.

⁷⁷ Pateman, *The Sexual Contract* (Stanford, California: Stanford University Press, 1988): 229.

imperialism in terms of race is disastrous. But to neglect the racial factor as merely incidental as [*sic*] an error only less grave than to make it fundamental.”⁷⁸

Conclusion

Mills’ critically acclaimed book, *The Racial Contract*, represents an important step in the direction of rectifying the racial problematic which hangs like a cloud over Anglo-American (or Western) political and moral philosophy. In an effort to demonstrate the centrality of white supremacy to contemporary political philosophy, Mills engages in a philosophical joust with contractarianism, particularly its modern incarnate John Rawls’ contractarianism. Although Pateman’s *The Sexual Contract* is a determinate influence on Mills’ philosophical project, he does not follow Pateman’s social-democratic critique and reject contract theory as a credible political theory. While Mills does find problematic certain conceptual and empirical assumptions made by “white” contract theorists (for example, the ontology of abstract individualism), he does not reject contractarianism *tout court*. He argues that once subject to a “racially informed *Ideologiekritik*,” contractarianism is salvageable as a heuristic method. Although non-whites are subjected to oppression and exploitation under the Racial Contract, Mills accepts the idealist presupposition of contractarianism that individuals (particularly whites) become modern political agents subject to the authority of the state as a result of some contractual agreement.

Mills’ racial contractarianism fails to resolve the contradiction between juridical equality and class inequality as reflected in the bourgeois relations of production. Consequently (this is strictly speaking a non sequitur) Mills does not see that the eradication of white supremacy is necessarily tied to the elimination of class exploitation. Therefore, Mills’ dispute with Rawls and other contract theorists is more accurately a family squabble. We can conclude that – similar to feminist contract theorists such as

⁷⁸ C. L. R. James, *The Black Jacobins: Toussaint L’Ouverture and the San Domingo Revolution* (New York: Vintage Books, 1989): 283.

Eva Kittay, Jean Hampton, Susan M. Okin and Martha Nussbaum – Mills' efforts are revisionist in content and, therefore, do not constitute an ideological (external) critique.⁷⁹

⁷⁹ See, for example, Jean Hampton, "Feminist Contractarianism," in *A Mind of One's Own: Feminist Essays on Reason and Objectivity*. Edited by Louise M. Antony and Charlotte E. Witt (Cambridge, MA: Westview Press, 2002): 337-368; Martha C. Nussbaum, "Rawls and Feminism," in *The Cambridge Companion to Rawls*. Edited by Samuel Freeman (New York: Cambridge University Press, 2003): 488-520.