

Reparations in Historical Perspective

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Abstract

While researching a forthcoming book titled *Taxation and Slavery in Colonial America*, it has become abundantly clear that colonial legislators tapped into their unbounded legal imaginations when shaping colonial taxation—and, in turn, colonial societies—in ways that supported, entrenched, and perpetuated chattel slavery. For instance, colonial legislators used tax measures to buy slaveholders' cooperation in meting out the most draconian punishment available—death—as a means of asserting and maintaining control over enslaved persons. Legislators also used import duties to stanch the inflow of enslaved persons and instead encourage White immigration—all in the name of calibrating the racial balance of colonial societies to ensure Whites' ability to dominate. Underscoring the imaginative aspects of these legislative endeavors were repeated experimentation and tinkering with tax measures until legislators settled on methods deemed most conducive to entrenching and perpetuating slavery.

As I approach the time to write the conclusion to this book, my thoughts are turning to the connections between this history and present-day reparations movements. Many of the extant contributions to the debate over reparations confine themselves to what is possible or feasible under current US constitutional law and doctrine. But these artificial constitutional constraints have been imposed by a judiciary seemingly more bent on maintaining White heteropatriarchal hegemony than on seeking racial (or other forms of social) justice. My presentation will explore—and seek feedback on—the notion that the reparations movement (as well as allied movements for civil rights and social justice) should rethink the decision to confine themselves to what is currently possible or feasible in favor of battling for fundamental changes to the Supreme Court and/or the US Constitution that would permit today's legislators to be equally imaginative in redressing historical wrongs and their repercussions as colonial legislators were when first imagining and implementing systemic racism in America.