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### Reparations for the Wrongly Convicted

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Reparations for the Wrongly Convicted

Gillian Trost

**Senior Honors Project**

**Submitted in partial fulfillment of the graduation requirements  
of the Westover Honors College**

**Westover Honors College**

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## I. INTRODUCTION

Wrongly convicted persons should be offered reparations in instances where they have suffered or faced harm as a result of their wrong conviction. Harms can include, but are not limited to, losing physical time, mental health damages, monetary harm, and damages to the person's reputation. Harms are anything that has diminished a person's quality of life throughout the conviction process and even after exoneration. Failure to offer reparations to these persons is unethical and reparations are a necessary consequence when the judicial system convicts the wrong person. Failure to offer reparations also lessens the judicial system's accuracy and reliability when convicting others in the future as well. Wrongful convictions create fear of the judicial system throughout the common good. Once a wrongful conviction occurs, it is unknown to the community surrounding that judicial system when it will happen again. This is a result of a less reliable system.

It is important to discuss wrongful convictions because many United States laws that have to do with reparations are unevenly distributed throughout the states. In other words, there is no clear goal when deciding what kinds of reparations wrongfully convicted persons should be given. Many reparations come from non-profit organizations that are not supported by the government, such as the Innocence Project. Some states even require private legislation to acquire any form of reparations (Owens & Griffiths 1284 - 1285).

From the ethical standpoint of Utilitarianism, the reparation that is the most beneficial to wrongly convicted persons and that creates the most pleasure is rehabilitation. Rehabilitation involves offering services to exonerate persons. Rather than just compensation in monetary forms. These services may include therapeutic services or skill building services that help the person excel in post-exoneration life. These services may be accompanied by monetary

compensation, but not fully reliant on just financial awards. Other forms of reparations, such as, monetary compensation, restitution, and reparations for the sake of satisfaction are not sufficient to rely on due to many factors. These factors include, lacking to fulfill a person's needs and failing to be a long term solution for the wrongly convicted person.

## II. LITERATURE REVIEW

Unfortunately, wrongful convictions are an existing issue in the United States, and there are still a significant number of exonerations that occur in the United States. In a project created by the Newkirk Center for Science and Society, there were 161 exonerations in 2021. Comparatively, there has been an increase in exonerations since 1989. In 1989, there were right over 20 cases of exoneration (National Registry of Exonerations pg. 1-10). With this 805% increase in about 30 years, it is imperative that the justice system starts discussing what reparations should be used when dealing with exonerated persons. In just 2021, there were a total of 1,849 years lost to being wrongly convicted. This averages out to 11.5 years per person. Unfortunately, the justice system was less involved in granting exonerations to persons in 2021. Organizations that professionally exonerate persons were involved in 97 out of the 161 exonerations that happened in 2020, to make sure they occurred, Half of the exonerated persons were convicted of homicide charges (National Registry of Exonerations pg.1).

After researching the major harms that are caused by wrongful convictions, there were disproportionate reparations for wrongly convicted persons in the United States. From first-hand accounts, research studies, and analysis of state's legislation process when it comes to wrongful convictions, it was clear that there was no defined way of dealing with wrongful convictions after a person has been exonerated.

In terms of the mental health effects of wrongful convictions, many wrongly convicted persons are left with long term consequences. Throughout their time as a convict they can experience mental health issues during and post-exoneration. According to The University of Chicago's Crown Family School of Social Work, Policy, and Practice, wrongfully convicted persons can face mental disorders such as, "post-traumatic stress disorder, depression and adjustment difficulties, relationship impairments, feelings of chronic estrangement and isolation, and complex feelings of loss." They also state that these disorders are often comorbid with one another (Kregg par. 8). Meaning, that they can go hand in hand with one another.

There are eight main mental health issues that are acquired post-conviction (Brooks & Greenberg par. 3). First, the exonerated is forced to reconstruct their entire self-identity. In other words, some persons feel as though they have changed their personalities in their daily lives. In a study of 30 participants that had been wrongly convicted and then exonerated, 19 of these 30 experienced this. Sixty percent of the thirty felt they became more paranoid and anxious in everyday life. Fifty percent of participants felt that they had become more hypervigilant and antagonistic, and fifty-three percent felt that their confidence had been damaged. In this study it is also noted that the families of the wrongly convicted tend to see them as being a different person once they have been exonerated (Brooks & Greenberg par. 4). Issues such as depression, anxiety, post-traumatic stress disorder, sleeping disorders, and other psychological somatic symptoms have been seen to affect exonerated persons (Brooks & Greenberg par 5 - 10). For those who have experienced depression, suicidal thoughts have also been observed (Brooks & Greenberg par. 5). For those with anxiety, their panic disorder began in prison and stayed with them even after getting out of prison (par. 6). Some other psychological and somatic symptoms that appear after exoneration include physical pain, high blood pressure, dietary issues, nausea,

moodiness, irritability, paranoia, stress, and drug substance abuse. There are also lingering negative feelings and feelings of “loss, hopelessness, emptiness, anger and aggression, helplessness, chronic feelings of threat and fear when out in public, and a sense of ‘survivor’s guilt’ if survivors of situations in which others had died” (par. 10).

Wrongly convicted persons also experience the harm of having a damaged reputation through their wrongful conviction. There is not only a stigma created about wrongly convicted persons, but there is also a self-stigma for the person who has been wrongly convicted. In two different qualitative studies 29 out of 30 participants reported that they felt they had “damaged reputations or feeling stigmatized by others” (Brooks & Greenberg par. 4). A unique characteristic of damaged reputations is that they have the potential to exist even after the judicial system exonerates the person. Persons outside the judicial system are not immediately convinced that their conviction is wrong post-exoneration. This could be due to the stigma surrounding convicts in society and the lack of trust society has for the convicted. This judgment can cause wrongly convicted persons to be maltreated, and to be denied a chance to have a fair quality of life post-exoneration. According to the study on mental health and wrongful convictions that was previously discussed, participants were sure to note how damages to their reputations affect their mental health statuses. Twenty-one of these participants have had “others assume that they were guilty” and that “several reported that friends avoided them and strangers harassed them” (par.4). These accounts prove the effects a wrongful conviction can have on a person's reputation even post-conviction. Wrongly convicted persons begin to believe that they are a free person again. In other words, after being told for so long that they are a convicted person, they have to reassure themselves they are not anymore. Post-exoneration they have to live with the fact that they were previously convicted. They also have to live with the memories

of the treatment they received as a convict. These memories could infiltrate a person's ability to live a normal life again. According to The University of Chicago's Crown Family School of Social Work, Policy, and Practice, they are finally allotted time to process and heal from what they had just gone through as an innocent person post-exoneration. This healing process slows down a person's ability to move on, get a job, buy a house, and grow a normal life (Kegg par. 9). It could also cause the person to have an identity crisis because they became so used to being a convict, that they do not know how to define themselves as a non-convict.

According to The Innocence Project, wrongful convictions are largely due to judicial process errors. Errors such as eyewitness misidentification, misapplied forensic science, false confessions, and involved informants have been blamed for wrongful convictions (par.1). One of the harms a wrongly convicted person faces is losing irreplaceable time from being wrongly convicted. When considering this harm, it is important to take into account the activities that people experience throughout their lives, and then to consider how much we would lose if we were not able to have the time to partake in such activities. In terms of Utilitarianism, the amount of pleasure being missed out on is a tremendous amount. Justin Chapman, who was convicted of murder in 2007 and then exonerated in 2016 says "How much is one man's life worth? How about two lives? Twenty? Because it's not just one man's life that is lost. It's his family's life, his wife's life, his children's lives. I've got four kids. My daughter was 14 months old when I was locked up. My boys were 10, 8 and 2" (Colloff et al. par 14). What Chapman is saying here is that he not only lost the time to watch his kids grow, but others suffered as well. His wife suffered by not having a spouse to help her raise a family. His kids suffered from not having a father figure in the house to go to when their mother may have not had the capacities to help

them. This completely goes against Utilitarianism because it is avoiding the pleasurable activities in life and it is causing pain.

A wrongly convicted person is someone who is charged with a crime, convicted of a crime, and later exonerated of that same crime. These instances often occur through improper investigation, pressures to solve a crime, or negligence of the judicial system in a case. For example, in 1983, Henry McCollum and Leon Brown were wrongly convicted of the murder of an 11-year-old girl. At the time of investigation, they were both coerced and interrogated repeatedly by law enforcement without a lawyer present (NAACP par. 1-3). McCollum and Brown are an example of how improper investigation, pressures on law enforcement to solve a crime, and negligence of the judicial system can cause wrong convictions.

McCollum and Brown were improperly investigated because they did not have a lawyer present when they were being interrogated about the crime. Without a lawyer, they are being subject to incriminating themselves by not knowing how the law functions. This information helps us understand the dangers of not thoroughly following the due process of the law and the dangers of when it is done with the sole intention of solving crime as quickly as possible. With no regard to how the crime is solved. The reasoning behind such actions could be due to the pressure from other law enforcement officers, that makes them feel obligated to solve a crime. Like any job, when a consumer or supervisor wants something accomplished, they often put lots of pressure on employees. In policing, this is often done through the establishment of quotas. In an interview conducted by Joel Rose with the National Public Radio, or NPR, he interviews a New York Police Officer, Adhyl Polanco, who expands on policing quotas and the effects it has on law enforcement. Polanco expresses that “there was an unwritten rule that he was expected to get 20 and one.” Which means that he was expected to get “twenty tickets and one arrest per



month.” Polanco also says that “NYPD officials would always deny there were any quotas.” (Rose par. 6) In the instance of McCollum and Brown, this arrest could have very well been a result of meeting a quota for the police department. This pressure to arrest may lead to the possibility of negligence in the legal process, and it also makes crime reports potentially inaccurate. With more arrests, it appears that law enforcement is preventing more crimes than what is happening in reality (Seidman et al. 484).

For McCollum and Brown, they were, fortunately, granted a full pardon of innocence in 2015, because DNA testing showed no link between McCollum and Brown, and the 11-year-old girl (NAACP par. 5-6). If technology had not advanced and DNA testing had never existed for McCollum and Brown, then it is likely that they would both be still serving time in prison for a crime they did not commit. Unfortunately, even with being pardoned, they were in prison for nearly three decades of their life. This is the time that they will never be able to get back. Since this is the case, law enforcement owes persons like McCollum and Brown reparations for their mistreatment in the judicial process. With such great harm, there should be no reason to not offer reparations to the wrongfully convicted person.

The case of McCollum and Brown is a great example of the harm that can be done through wrongful convictions. The case also represents the importance of making the judicial process as fair and thorough as possible with hopes of preventing future wrongful convictions. Without a careful approach, a simple mistake in the judicial process has the capacity to destroy a person's entire life and reputation.

According to Bernard Boxill & J. Angelo Corlette in the *Stanford Encyclopedia of Philosophy*, reparations are often discussed in instances of making up the past wrongs of slavery and colonizing (par. 1). Reasons for these reparations also apply to the wrongly convicted, and

not just to those who were enslaved or who have faced harm as a result of colonization. This idea is based on the philosophy of John Locke. Locke was one of the first philosophers to take a stance with the idea of reparations. John Locke's contribution to philosophy involved a view of political conflicts that are still being applied today (Shapiro pg. ix). In one of his writings, *Two Treatises*, published in 1690, he expresses that reparations have the potential to "to repair the damage that crime "commonly" causes "some person or other " " (Boxill & Corlette sec 2). In other words, reparations can be used to help a victim of injustice. Locke says "in which case he who hath received any damage, has, besides the right of punishment common to him with other men, a particular right to seek reparation from him that has done it : and any other person, who finds it just, may also join with him that is injured, and assist him in recovering from the offender so much as may make satisfaction for the harm he has suffered" (Locke pg. 104). Locke expresses reparations to be like a form of recovery for those who have been wronged. He also describes reparations as a right to those who have received any damage from another. With this being said, I would consider wrongful conviction to be damaging, and in turn, enough to be deserving of reparations.

John Locke also discusses reparations, or at least the ability to punish as being a natural right. Locke says "Every offense that can be committed in the state of nature, may in the state of nature be also punished equally, and as far forth, as it may in a commonwealth" (Locke pg. 104). In other words, Locke believes that it is a natural right, or a right given to a person by just existing, to be given reparations for wrongful acts that have been committed against a person.

Although reparations seem to be effective in helping the healing process of the wrongly convicted, there is also some push back as to why we should not use them. Most of the arguments against reparations say that they are unrealistic and nearly impossible to apply

Robert Nozick is known to be an American Philosopher. His most well-known writing is *Anarchy, State, and Utopia*. In this writing, he has an Invisible Hand Explanation when discussing the ethical role of the state in nature. He also discusses the relationship between the community and the nation. Both of these serve as arguments against reparations.

In the community and nation explanation, Nozick discusses how the community is given the freedom to “opt out” of certain circumstances that the nation may press on a person. Using a libertarian and laissez-faire community as an example, Nozick says that “Though the framework is libertarian and laissez-faire, person communities within it need not be” (Nozick pg. 320). Nozick also acknowledges that some communities, such as communist communities may not allow an “opt out” option, but in response of this, he says “a nation should offer this opportunity; people have a right to so opt out of a nation’s requirements” (Nozick pg. 321).

In the invisible hand explanation, Nozick says that each person has the right “not to be punished unless shown to deserve it.” He also says that “only the dominant protective association will be able to ensure correctness as it sees it” (Nozick 118 - 119). In other words, the state is not advanced enough to say what is correct and what is not correct. This also means that punishments should only be applied to those who have clearly shown to be deserving of punishment. This unadvanced state is also known as an “ultraminimal state” to Nozick. Nozick’s definition of an ultraminimal state is one that “maintains a monopoly over all use of force except that necessary in immediate self-defense, and so excludes private (or agency) retaliation for wrong and exaction of compensation” (Nozick pg. 26).

Nozick’s invisible-hand explanation stood out and seemed to apply to reparations for the wrongly convicted. This is due to his agreement for wrongly convicted persons being shown to not deserve punishment, but his disagreement in the state being able to correct the wrongdoings

that are caused by wrongful convictions. In Nozick's perspective, the state has an "ultraminimal state" of nature. What is needed to correct these wrong doings is a "minimal state" of nature.

Some more arguments against reparations involve epistemic problems. According to Stephen Napier, author of *Virtue Epistemology: Motivation and Knowledge*, epistemology is focused on the two questions of "what is knowledge?" and "how can one get it?" (Napier pg. 1). With this being said, epistemic problems arise when knowledge becomes more unknown. Epistemic problems have more to do with the families of the wrongly convicted facing more harms, than the wrongly convicted person themselves. Since some of the harms involve family members of the wrongly convicted, it is plausible to say that family members deserve reparations as much as the wrongly convicted person does.

Although there are some arguments against the idea of reparations, there are many more arguments for reparations. Philosopher John Locke made arguments for reparations in his *The Second Treatise of Government* (Locke pg.104-105) Today, many people have used these arguments to make a case for black reparations and for those who have been previously enslaved. These same arguments are applicable to wrongful convictions. This is because Locke says Locke says "in which case he who hath received any damage, has, besides the right of punishment common to him with other men, a particular right to seek reparation from him that has done it After going through all of the harms done to the wrongly convicted, wrongly convicted persons I argue that they are sufficient enough to be considered an injured party. Two Lockean arguments that are for reparations are the counterfactual argument and the inheritance argument (Boxill pg. 63).

The counterfactual argument, in terms of black reparations, is "that present day African Americans have a claim for reparation based on the enslavement of their ancestors. But it relies

crucially on the controversial premise that slavery has harmed the present generation of black people” (Boxill pg. 68). In terms of the wrongfully convicted, this could be translated to, the ancestors of the wrongfully convicted have a right to reparations because of the harms that not only the wrongly convicted faced, but by the premise that the wrongfully convicted person’s family also faced harms, and that these harms offer the wrongly convicted the rights to receive reparations. John Locke expresses that a person “who has suffered damage has a right to demand in his own name, and he alone can remit” (Locke pg. 104). A person has the power to “punish the crime” with the intention of preventing it from happening again in the future. In other words, reparations for the wrongly convicted are not only necessary for the wrongly convicted person, but also for the family of the wrongly convicted person. With reparations, there is a preventative measure being taken for future generations.

The inheritance argument relates to black reparations and states that “the U.S. Government supported slavery, that slavery was unjust and harmed the slaves, and consequently that the slaves had rights to reparations from the U.S. Government” (Boxill pg. 68). This argument applies to wrongly convicted persons as well as those who are enslaved. The entire reason that the wrongly convicted person has faced harm is because the government found them guilty of a crime that they did not commit. This makes the responsibility of these harms fall on the government of the jurisdiction that found them guilty.

The inheritance argument continues to explain that in instances where slaves have died that slaves still have rights to reparations from the U.S. government and that the reparations instead should be inherited by their ancestors (Boxill pg. 68). This argument also applies to the wrongfully convicted. For wrongfully convicted persons who receive the death penalty and

eventually die in prison due to their wrongful conviction, reparations become more important for obtaining a fair outcome for the wrongfully convicted and their families.

John Locke expresses that a person has the power to do “all reasonable things he can in order to that end” and “this it is that every man, in the state of nature, has a power to kill a murderer, both to deter others from doing the like injury, which no reparation can compensate” (Locke pg. 104). Locke’s perspective on reparations is very strong, and is based on a perspective of obtaining justice that is equal to the harms that were inflicted on the victim. Receiving reparations is a natural right in Locke’s perspective so it is only reasonable that the victims of wrongful convictions receive reparations to fulfill their natural rights.

Philosophers George Schedler and Matthew J. Kelly wrote the article “Criminal Justice and Strict Liability: The Obligation of Society to Punish Only the Guilty”, Schedler and Kelly. In this article, they present an argument for reparations. They begin their argument with a dissenting belief that a modern day legal system is fully developed. With this being said, it is presumed that it will seek out guilty persons over the innocent persons. They note that when the criminal justice system “correctly but falsely judges guilty and punishes”, or in other words, wrongly convicts, that “society owes such persons nothing” and that “a society has met all its obligations when it has done its best. A society, therefore, owes nothing to the persons whom it has correctly but falsely judged guilty and punished” (Schedler & Kelly pg. 109). The reasoning behind this dissenting opinion is that “a society is no more obligated to do more than it can than person men are obligated to do more than they can” (Schedler & Kelly pg. 109).

Contrary to the dissenting belief that is presented, Kelly and Schedler believe that the best way to present their beliefs that wrongly convicted persons are deserving of reparations is that society must “admit that it has done an injustice to that person.” They believe that the

“absolute” power of government makes society have the obligation from the government “of punishing only the guilty”, no matter how impossible this may be due to “men being infallible” (Schedler & Kelly pg. 109-110). Another stance that they take for reparations is that we “cannot expect an innocent person to think it right and rational that he or she be punished” and that all of these obligations “exist for reasons of justice”, not for “public policy or utility” (pg. 111-112).

### III. WEIGHING ASPECTS OF REPARATIONS

The different aspects of reparations available to persons could include satisfaction, restitution, compensation, and rehabilitation. In order to offer the wrongly convicted the most efficient form of reparations, it is important to compare and discuss a variety of reparations. In order to determine what variation of reparation is the most utilitarian, factors that should be accounted for are the long-term effects of the given reparation, the initial effects of the given reparation that are faced post-exoneration, the lasting impact the reparation will have to prevent recurring wrongful convictions, and how much the reparation will help the exonerated person be able to live a fulfilling and pleasurable life again. All of these aspects, and descriptions of these aspects, were inspired by the United Nations Human Rights Office of the High Commissioner.

One of these aspects of reparations is the satisfaction of the wrongly convicted person involved. This aspect of a reparation is for the purpose of satisfying the wrongfully convicted persons needs and giving them closure for the injustices that they have experienced. Catering to the exonerated person’s needs has many benefits. In terms of improving their quality of life, giving them their needs will most likely highly improve their quality of life, and will aid them in living a fulfilling life again.

However satisfaction is entirely subjective to the wrongly convicted person. The person may not know what they actually need in terms of their mental health. Not understanding needs

could come from all of the potential inequities that each wrongly convicted person has experienced. A person could evaluate their own needs as being needed to be left alone, rather than searching for professional help for their issues. They could also seek a large sum of money that they are intending to use for things other than their needs, such as drugs or other unhealthy habits. This could endanger the person seeking the wrong treatments for what they need. This could also enable the person to self-destruct their chance at living a better life.

For this aspect of reparations, the initial effects seem to be extremely beneficial for the person, but the long-term effects can not be guaranteed. Reparations based solely on satisfaction are extremely unrealistic. This is because it is impossible to give everyone everything they need to satisfy them from an economic and logistic standpoint.

The next aspect of reparations that is considered is Restitution. Restitution revolves around completely restoring the wrongfully convicted person to their original state, prior to their wrongful conviction. Going off of this premise, the wrongfully convicted person would have to be given everything that they had prior to their conviction. This includes their financial status, their living conditions, their mental state they had prior to the conviction would have to be restored, and anything else that the person may have lost through their conviction would have to be restored to the way it was. The main hope for this reparation model regarding the wrongly convicted is that the person can be pushed towards the direction of living a normal life again similar to the way they were living before they were convicted.

Restitution offers the most ideal situation. However, it is not realistic. Even after being given everything they had before, the person will never be fully the way they were prior to their conviction. It is impossible to ignore the fact that the wrongful conviction ever happened. Using restitution would be a way of trying to ignore the wrongful conviction.



In order to demonstrate I am going to use a scenario with two entities known as “A” and “B.” Imagine that A physically scratched B. Once the scratch healed, B was physically better, but that doesn’t mean B still had the same feelings for A that they had prior to the scratch. This is because B is now wary of A since they harmed them. B has experienced the harms that A can inflict on B, so B chooses to stay away from A, and to keep their guard up when they are around A. In terms of wrongful convictions, A is the judicial system and B is the wrongly convicted person. There is no way to bring a person back to their original state after an event as traumatizing as being wrongfully convicted. This idea is accepted by many. Of course B will never think the same about A again. They were harmed by A, so we shouldn't expect them to act the same after the incident that occurred. It is rare that A will ever be respected by B again after this incident.

The problem with restitution is that there are faulty concepts that apply to it that most people acknowledge. It is widely understood that once something happens to someone, you can not erase the fact that it happened. Restoring a wrongly convicted person to their original state before they were convicted, would not completely heal the mental or even physical harms that were done to that person. This leaves room for a hopeless recovery for the wrongly convicted person. It is daunting to re-establish yourself in a community after being convicted, so even if the person was given all of the same resources they had before their conviction, they would not be fully restored to their original state of being. With this being said, restitution is an aspect or reparations to be considered, not heavily relied upon.

There are also reparations that involve compensation. Compensational reparations, more often than not, have to do with financial awards. This reparation model is an easy way out. It is letting the person settle with the fact this happened to them and then never being able to

acknowledge it happened again in return for a financial reward. This is not the most effective reparation model because it offers no help that can be long term. Money eventually runs out, and the person will more than likely have to get a job. If a person only desires a monetary award as their reparations, then this is something that can be considered. However, it should never be the initial solution when determining reparations for the wrongly convicted person.

The worry with compensation is that it will not be sufficient to provide long-term benefits to the person that will empower them to combat any mental and physical harms that they faced from their wrongful convictions. Unless they are offered the resources to help gain back their mental and physical health, this will not change. The financial reward could potentially be used to do this by the wrongly convicted person, but then there is not a guarantee. For example, the wrongly convicted person may not be mentally sound enough to choose to use their financial award to help themselves get mental health. It is similar to expecting someone who has a broken leg, to get their own crutches from the store. A person cannot help themselves while having a debilitating circumstance.

Another risk that is faced when dealing with the monetary compensation aspect of reparations, is that the wrongly convicted person, who is already debilitated, may have to give their financial award to someone else to manage it for them, in order for them to use it wisely. This is dangerous and problematic because the wrongly convicted person would be exposed to new dangers such as being taken advantage of and losing total control over their finances. It would also cause more work for the Judicial system because some would be needed to be appointed to manage the money and if the appointee does anything that is outside of their responsibilities with the money, then the judicial system would have to see to that too. This is why compensation is a weaker form of reparation for the wrongly convicted.

Another aspect that is considered when it comes to reparations is Rehabilitation.

Rehabilitation is geared towards healing for the wrongly convicted through different services and care techniques, and not always finances. It also is reliant on the community to help make it a reality because of its focus away from financial awards. Rehabilitation is a reparation model that is focused on long term benefits. The initial effects of this reparation model are not drastic, but it requires that the individual be in a place, financially, where they can start mentally recovering from the trauma that they experienced by being wrongly convicted. Comfortable housing, meals, and a job would be sufficient for the wrongly convicted individual to receive once they have been exonerated. Unlike restitution, it is not about restoring the individual to the way they were prior to their conviction, but it is more about getting them to a place where they are able to sustain themselves again. A house, food, and a job is a good place to start to help the individual.

Once they are given those benefits, they can begin to rebuild their personal lives. With rehabilitation, they would also be offered mental health and physical health care services. The key part to rehabilitation is to make sure they are mentally stable so that they can move on and do more with their lives. As you could imagine, this process is a long-term process. The judicial system would be responsible for funding this process as well. Which would serve as a reminder to avoid wrongfully convicting persons. This form of reparation will have a more lasting impact on the judicial system.

An argument against this type of reparation could be that it is important to give the wrongly convicted individual the reparations they deserve as soon as they are exonerated. However, as we have seen in the previous forms of reparations, this is not the case. It is likely that most initially benefiting reparations are not able to sustain themselves throughout time. It is more important to have sustainable reparations because they encourage independence for the

wrongfully convicted individual. Having independence is the farthest option from being incarcerated and convicted for something you did not do. Independence is the ultimate way to grant a wrongly convicted individual complete separation from their wrongful conviction. This is the most important aspect of a reparation for the wrongly convicted because it offers the most long-term solution for that individual.

#### IV. PROPOSAL

Based off of some of the previous arguments that were discussed. I believe that reparations should be offered to persons who are wrongly convicted and who have faced harm. Harms that are done to the wrongfully convicted should not be ignored. To ignore them would be unethical. This is especially true from the ethical standpoint of Utilitarianism. According to John Stuart Mill, Utilitarianism is “The creed which accepts as the foundation of morals, Utility, or the Greatest Happiness Principle, holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness. By happiness is intended pleasure, and the absence of pain; by unhappiness, pain and the privation of pleasure” (Mill pg. 9-10). Ignoring the need for reparations would be also ignoring the person’s chance to having a long-lasting pleasurable life, which would lead to less pleasure for everyone involved in that person’s life.

With this being said, there are different types of reparations to consider when offering reparations to A wrongly convicted person. A factor to take into account is how they benefit the wrongfully convicted post-exoneration from the ethical aspect of utilitarianism. In order to reach utilitarianism, I suggest that reparations for the wrongly convicted should include, bare minimum, choices that would fall under the rehabilitation aspect of reparations. This would include housing, mental and physical therapy services, a place that offers a guaranteed job,

access to a community designed for wrongly convicted individuals, and enough financial support to last for their first year post-exoneration. Of course, many of these would be designed to fit the wrongly convicted person and their environment, but I believe these should all be the minimum offers to the wrongly convicted person. It is also important to note that all of these offers are optional for the wrongly convicted person, they do not have to take part in them and will be allowed to input what they think would be the most appropriate for them. All of these offers will also be available to them, besides the financial support, for the same amount of time that they were convicted and incarcerated. This will allow for more benefits for those who may have been affected longer than others.

All of these recommendations I have made are based on John Stuart Mill's definition of Utilitarianism. Mill's definition is a reason reparations should be offered to the wrongly convicted. To not offer these reparations would be ignoring the harms that are being done on wrongly convicted persons, and would not be encouraging the absence of pain that is caused by wrongful convictions. Having the absence of pain would encourage the most happiness. It is also important to note that Mill recognizes that Utilitarianism does not always lead to a simple solution. He understands that there are certain situations in which persons do not use "rightness and wrongness of their actions" to make decisions. Some decisions should allow judgment for evaluating "the qualities of the person who does it" (Mill pg.28-29). This leads us to the philosopher Peter Singer's take on Utilitarianism. He considers the "equal consideration of interests and the nature of ethics" in his writing *Practical Ethics*, he says that "the essence of the principle of equal consideration of interests is that we give equal weight in our moral deliberations to the like interests of all those affected by our actions." Singer also says that the main principle of this is that "an interest is an interest, whoever's interest it may be" (Singer pg.

20-24). With this being said, I also believe that it is important to consider the interests of each person.

If a person is more interested in the financial benefits of reparations, they should be given financial assistance. If a person is more interested in the mental health services benefit of reparations, they should be offered those services. It is important to realize that no reparations are going to be simple. There should be equal consideration of each person's interests when determining what reparations they should receive. It is understandable that the complexity of considering each person's interest is daunting, but I believe that if the justice system went through the process to wrongly convict the person, then there should be no problem when it comes to figuring out the complexity of which type of reparations they should receive. The wrongly convicted person is more than deserving of time to be given reparations.

Taking the time to understand the person's interests and make decisions based on their wrongful conviction about their reparations will lead to the most long-lasting pleasure for the person and those around them, and will lead to the most utilitarian decision when it comes to their wrongful conviction.

## V. CONCLUSION

Reparations for the wrongfully convicted are necessary to make up for the injustices that occurred to them. They are also necessary for protecting the legitimacy and trustworthiness of the justice system. There are many arguments against and for reparations in many types of injustices, but this is my take on the injustice of wrongful convictions. After analyzing the different arguments made for reparations, I have decided that they are needed in order to uphold justice. After analyzing the different types of reparations, I have also decided that Rehabilitation is the most important aspect when considering reparations. This is especially true from a

Utilitarian standpoint. The other aspects are beneficial as well and I believe that considering reparations on a case by case basis is always a good option, but rehabilitation should be considered the most important out of all of them. This is because rehabilitation is more likely to introduce long-term pleasures from the reparation. I consider rehabilitating mental and physical health to be a form of long-term pleasure. Giving a wrongly convicted person their independence back is also one of the most pleasurable experiences a person can come to know. The initial benefits that satisfaction, restitution, and compensation bring pleasure, but they do not provide enough pleasure to be long-term.

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