

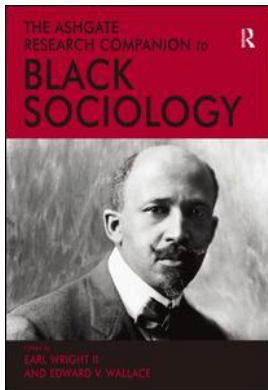
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## **The Ashgate Research Companion to Black Sociology**

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### **The Death of Trayvon Martin and Public Space**

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## PART II

# Black Youth, Emerging Adults and the Family

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# The Death of Trayvon Martin and Public Space: Why the Racial Contract Still Matters

Darwin Fishman

*Thus in effect, on matters related to race, the racial contract prescribes for its signatories an inverted epistemology, an epistemology of ignorance, a particular pattern of localized and global cognitive dysfunctions (which are psychologically and socially functional), producing the ironic outcome that whites will in general be unable to understand the world they themselves have made.*

– Charles W. Mills (1997: 18)

## Introduction

In the current debates about whether or not we are in a post-racial moment one can see the outline of a perpetual debate that can never be satisfied. On one side of this debate, the loud clamor for racial success can be seen and the endless examples, usually starting with our first African American President Barack Obama, of racial success will and can be articulated quite clearly. On the other side of this debate is the much less vocal and visible group that can point out racial inequities and structural deficits. What can be less noticed in this debate is how predictable and obvious future conversations on this topic will (d)evolve in future generations. Charles Mills's work, *The Racial Contract* (1997), provides insight into this debate by allowing one to safely reach this conclusion. At first blush it appears that Mills's work is deeply entrenched in western philosophical traditions and that his scholarship has little utility beyond the narrow confines of these broader philosophical debates. Closer scrutiny of his writings help highlight the way that Mills's work confronts some of the most sacrosanct underpinnings of western philosophy while providing an exceptional lens through which one can examine current racial trends. Specifically, Mills's work on a racial contract can be used to examine what happened to Trayvon Martin when he was confronted by George Zimmerman on February 26th, 2012 in Sanford, Florida. This fatal meeting between a man and an adolescent can be understood as not just another retort in the perpetual debate on whether or not we have reached a post-racial moment; but it can be persuasively presented that this fateful meeting was very much anticipated in Mills's works from 15 years prior. Mills provides the groundwork for a theoretical foundation that successfully challenges the most critical building blocks of western philosophy. However, his theoretical framework also provides a potent lens to observe and evaluate why our current race relations continue to be tied to so many lethal and tragic racial encounters, especially for young African American males.

Finding the proper place for race and racism within the western philosophical tradition appears to be a never-ending struggle. There have been attempts to both refute and embrace

race and racism as essential components of the western philosophical tradition. A prime example of this battle is discourse centered on and around social contract theories and its history. Social contract theory is typically presented as not just the basis of modern nation-states, it is also presented as a masterful race-less, class-less, gender-less, sex-less and timeless narrative. This narrative represents the cornerstone of western political and philosophical thought. Charles Mills re-centers the debate about our understanding of the social contract as an organizing principle in our society in his book, *The Racial Contract*. Here he introduces the theoretical and conceptual framework for a racial contract as a critique of social contract theories. Examining traditional social contract discourse, as developed by Thomas Hobbes, John Locke, Jean-Jacques Rousseau and Immanuel Kant, through a race and racism lens forces difficult epistemological and ontological questions to be raised. These questions do not center exclusively on social contract discourse, but the ways that western politics and philosophies have been traditionally presented and understood. Establishing race as a foundational concept in our modern world, Mills provides a way to contest, reform and displace our familiar and comfortable understanding and use of social contract theories and narratives. Mills's work is a particularly noteworthy effort for a variety of substantive reasons and it is these areas that will be the focus of this work.

There have been many attempts to challenge the dominant western paradigm and provide alternative accounts and theoretical frameworks for this western political and philosophical tradition. In one camp are those that use deconstructive tools to shed light on the weaknesses and failings of the western philosophical tradition. These critical review strategies can be typically mapped along the lines of identity politics (gender, race and sexuality) or liberal and radical politics (reform and revolutionary). These camps can be divided further into those that are willing not only to critique certain aspects of western discourse or western politics and thought in and of itself, but those that dare to posit a solution or a new overarching paradigm. These divisions also provide insights into postmodern and post-structuralist positions that call into question the viability and value of attempting to replace certain aspects, or all, of western thought and politics. Mills firmly wades into these dangerous waters by not only providing a scathing critique of social contract theory and narrative, but also by advocating for a distinctly new, race-based approach.

To the extent it is possible that Mills's development of a counter-theory can successfully challenge the larger western philosophical discourse, or simply be dismissed as irrelevant, the next phase of advancing this perspective includes examining his theory within contemporary examples and frames. That is what this inquiry attempts to accomplish. Fifteen years after the publication of *The Racial Contract*, combined with landmark racial events in the US, including civilian and police shootings of unarmed African American men, a fertile milieu within which Mills's work can now be re-evaluated and re-assessed exists. First, the way in which the racial contract fits into contemporary political, social and economic debates is addressed.

Mills's vision of a racial contract and how it fits into larger philosophical and theoretical debates can be seen in the context of other debates about the nature, scope and significance of the social contract, as well as the larger debates about western discourse itself. How well Mills navigates these debates and the strength of his arguments can be evaluated from various political and moral standpoints. In introducing Mills's work, most attention is devoted to larger meta-theoretical divisions and the implications of what is being contested and defended. Less attention is devoted to Mills's specific use of the social contract and how faithfully he follows the schematic established by previous scholars. It is critical that the merits of Mills's work are not analyzed through the narrow lens of what the accuracy (or inaccuracy) of a particular use of the social contract means. Instead it should be examined through alternative arguments, including whose voice is involved

in the presentation(s) of social contract theory and how that history will be examined. The potential benefits of utilizing a racial contract as a way to address and correct the weaknesses that any use of a social contract theory or narrative might have for our understanding of the world is also addressed.

From this larger frame of analysis, it will be possible to move into the more specific terrain of race and racism. In this section of the analysis, a case can be made that this work connects to and supports that of previous African American scholars and activists. These scholars' works help to highlight the strength Mills's work can have in the realm of analyzing current issues and events and, specifically, what explanatory power a racial contract approach can hold for all of us. While examining Mills's racial contract through the specific filter of African American experience, it is important to draw attention to the way that the meaning and significance of our history is supplemented and supported by his work. With this guiding principle in mind, the shooting death of Trayvon Martin serves as an example of how Mills's understanding of a racial contract might operate in a contemporary setting. One can interrogate this event from the standpoint of the applicability of social contract theory and the racial contract theory. Questions can be asked about the shooting death of Martin as one evaluates which theoretical approaches provide the most meaningful and significant answer(s) to why and how Martin died. It is critical then to not let the debate about the social contract remain at an abstract level and assume that it is so firmly entrenched in every facet and aspect of our modern society that it is impossible to provide any meaningful or significant assessment of it. If one were to start the process of evaluating whether or not the social contract should be replaced, changed or left intact, then the ground-level perspective that the Martin shooting provides us is an invaluable resource for this type of analysis.

## Social Contract Versus the Racial Contract

In explaining his use of a racial contract as theoretical trope, Mills first delves into the history and origins of the social contract. Mills (*ibid.*: 3) offers the following introduction:

*We all understand the idea of a "contract," an agreement between two or more people to do something. The "social contract" just extends this idea. If we think of human beings as starting off in a "state of nature," it suggests that they then decide to establish civil society and a government. What we have, then, is a theory that founds government on the popular consent of individuals taken as equals.*

This notion of a social contract is very familiar terrain for those properly seasoned in western philosophy and scholarship through the works of writers like Thomas Hobbes, John Locke, Jean-Jacques Rousseau and Immanuel Kant. It is standard practice to learn about the growth and development of western history from the standpoint of the role a conceptual framework for a social contract has played in this process. The history of the modern world only begins to make sense if we use the heuristic tool that the social contract provides. What made Europe *succeed* and the rest of the world *follow* this model of existence is retold through the story of how humans were led out of the state of nature by their ability to make a social contract with other humans. This established the framework for nation-states to establish various and democratic forms of governments. These governments would then establish and maintain order through the contractual agreement amongst equal men.

Mills (ibid.: 12) draws attention to the racial nature and implications of this dominant western narrative when he describes the role of the social contract in the formation of modern nation-states:

*Politically, the contract to establish society and the government, thereby transforming abstract race-less “men” from denizens of the state of nature into social creatures who are politically obligated to a neutral state, becomes the founding of a racial polity, whether white settler states (where preexisting populations already are or can be made spare) or what are sometimes called “sojourner colonies,” the establishment of a white presence and colonial rule over existing societies.*

What Mills correctly draws attention to is the fact that these race-less men become the foundation of this narrative. Whether it is Hobbes, Locke, Rousseau or Kant, scant attention is devoted to the racial implications of their work. It is typically assumed that the social contract narrative can not only explain European history, but that the history of the entire world can be accurately presented through a social contract lens. The social contract becomes the vehicle by which each state traveled to and entered the modern world. Everyone followed the European model in the exact manner as scholars such as Hobbes, Locke, Rousseau and Kant first presented and described the concept. With the sheer brutality and force embedded in the European colonial expansion project, it is not difficult to understand the appeal of social contract as a theory and as a human project that millions were subjected to both voluntarily and involuntarily.

It is from this vantage point that Mills (ibid.: 1–2) builds a case for the necessity and value of a racial contract. The starting point for the racial contract comes from what is left out of and not engaged in by western discourse:

*... the fact that standard textbooks and courses have for the most part been written and designed by whites who take their racial privilege so much for granted that they do not even see it as political, as a form of domination. Ironically, the most important political system of recent global history—the system of domination by which white people have historically ruled over and, in certain important ways, continue to rule over nonwhite people—is not seen as a political system at all. It is just taken for granted; it is the background against which other systems, which we are to see as political, are highlighted.*

Mills adds another dimension to this dominant narrative with the case he builds for the necessity of a racial contract. The problem with the dominant narrative presented in western discourse is not just that it is inaccurate, but that it is infused with differential and detrimental power relations. The toxic mix of inaccurate and profound misunderstandings of historical and contemporary power relations scream out for an intervention. For those who do not live in the West and those that are not of non-western ancestry this narrative does not fit their conception of history nor does it help to explain their current conditions.

This intervention can be seen in the definition of a racial contract that Mills offers to challenge and supplant the dominant social contract. Put simply, Mills (ibid.: 10) asserts that:

*... the Racial Contract—and the ‘Racial Contract’ as a theory, that is, the distanced, examination of the Racial Contract—follows the classical model in being both sociopolitical and moral. It explains how society was created or crucially transformed, how the individuals in that society were constituted, how the state was established,*

*and how a particular moral code and a certain moral psychology were brought into existence.*

This conveniently sets the table for an examination of what continues to be excluded from the dominant western social contract narrative. It also adds the element of the moral fabric for a particular re-reading of this social contract and what moral consequences are attached to this re-reading process. A simple correction or revisionist history then cannot be the goal of Mills's work because the actual lives of contemporary victims of this social contract are still being produced, contested and violently battled over. Mills highlights these points by suggesting that the goal of the racial contract must have a descriptive component, as well as a normative function (ibid.).

One way to understand Mills's project is by drawing attention to the fact that his works properly illuminate the significance of viewing western tradition from the vantage point of winners and losers. The narrative of a social contract stands firmly on the side of the victor. This understanding links directly to our historical and contemporary racial discourse. Mills (ibid.: 11) provides a way to understand how race and racism continue to operate in our society.

*... 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.*

By inserting the concept of a racial contract as his key theoretical premise, Mills makes a compelling case for the explanatory power that race continues to hold for how our modern world operates. By analyzing Mills's work through western and non-western filters specific weaknesses in the traditional social contract can be highlighted, as well as the specific value the concept of a racial contract can have for understanding our historical development and our current state of affairs. It is also from this vantage point that current debates about reparations for African Americans can be initiated and debated.

## State of Nature Versus Better Natural State?

As previously discussed, the social contract never offered a fulfilling historical or philosophical narrative via the perspectives of the 'Fathers of Western discourse'—Hobbes, Locke, Rousseau or Kant—and it is important to adequately address the consequences of their critiques. The premise of this narrative has always been deeply flawed. There was never a simple dichotomy between those that lived in a state of nature and those that moved into a social contract. The reality is that the state of nature was the normal state of human affairs for at least 99 percent of the time that humans have been on earth. From an anthropological standpoint, this historical perspective of human life turns typical questions about "normal" and "natural" on their, respective, heads. This perspective immediately calls into question what is so appalling about 99 percent of our time on earth that a dramatic change in lifestyle was needed. The other key point is the notion that 99 percent of human history was based on a nomadic lifestyle and a social organization premised on family and extended family life units. This state of nature lifestyle was also dependent on a social contact, if for no other reason than mere survival. It was not possible to confront and successfully maneuver through



the ecological and environmental conditions of that period without the implementation of tightly knit groups of humans working in concert. The daily challenges of finding food and maintaining shelter were embraced by these small clan units out of necessity for survival.

Mills's specific critique of the racial nature of this social contract explicitly acknowledges these anthropological insights about human history. In particular, Mills (*ibid.*: 13) claims:

*The role played by the "state of nature" then becomes radically different. In the white settler state, its role is not primarily to demarcate the (temporarily) prepolitical state "all" men (who are really white men), but rather the permanently prepolitical state or, perhaps better, nonpolitical state (insofar as 'pre' suggests eventual internal movement toward) of nonwhite men. The establishment of society thus implies 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 nonwhite who are not, who are "savage" residents of a state of nature characterized in terms of wilderness, jungle wasteland.*

What is significant for the social contract is not a generic transformation from state of nature to the social contract existence, but the specific story of European development. The nomadic and small family-unit existence that is paramount for human history still exists in parts of the western as well as the non-western worlds. These people are not, then, in a state of nature simply waiting to be delivered to a social contract existence. This is not "their" story, but is what their story would sound like from a European vantage point.

The salient point that Mills illustrates is that, to the extent that the existence of a social contract must rely on a movement from a state of nature to undergird its value and significance, this understanding of human history runs counter to the one based on anthropological knowledge of human history. Much of what the historical truisms that are claimed by the advancement a social contract narrative posits can easily be refuted from the standpoint of how groups of people, such as indigenous groups in North and South America, survived on a daily basis. In particular, Mills (1997:15) states:

*In part, then, the political contract simply codifies a morality that already exists, writing it down and filling in the details, so we don't have to rely on a divinely implanted moral sense, or conscience, whose perceptions may on occasion be distorted by self-interest. What is right and wrong, just and unjust, in society will largely be determined by what is right and wrong, just and unjust, in the state of nature.*

Mills turns the question of morality on its head by claiming there would be no tangible differences in a state of nature or social contract society and this highlights the limited explanatory power of the western philosophical tradition. To buttress these observations Mills references multiple historical examples including genocide, slavery and *de jure* racism. This raises questions about how societies can produce a healthy moral structure and simultaneously develop just and moral traditions. The presentation of a traditional social contract-grounded perspective which suggests the only path towards social, moral, political and economic development is through a western-influenced perspective invariably leads to a Eurocentric bias through a very limited filter. This approach also misses the way in which morality and moral judgments are produced and navigated on a daily basis. To address this point, the next section considers a contemporary moral dilemma as seen through the filter of how race and racism operate today.

## Short Brutish Lives Déjà Vu?

The killing of Trayvon Martin provides a critical vantage point to evaluate Mills's assessment of the social contract, as well as his presentation of a racial contract. Martin's story is, on one level, all too common from the standpoint of the history of Africans in America—young, unarmed Black male shot to death while traveling near home and supposedly mistaken for the wrong “Nigger.” Even with the added twist of the shooter, George Zimmerman, not being a police officer and being biracial (Latino and White), the death of Martin and the initial willingness of local authorities to allow Zimmerman to escape immediate arrest after the shooting has a very familiar ring to it. It is also a story that was very predictable and closely follows the lines of analysis that so many current and past Black scholars and activists have posited. Mills is no exception to this larger body of critical race work. There are areas of significance that his racial contract perspective highlights and his specific use of a racial contract lens provides important openings into the larger canon of western philosophy.

It is important to draw attention again to the fact that Mills wrote *The Racial Contract* 15 years before Martin was killed, but the circumstances that led to his death and the actual incident that transpired can clearly be seen in Mills's work. Specifically, Mills's section on space explains the conditions under which Martin could be *accidentally* shot by the *friendly neighborhood watchman*. In describing the way in which space is dominated by race, Mills (*ibid.*: 52) states:

*These traversals of space are imprinted with domination: prescribed posture of deference and submission for the black Other, the body language of no uppitness (no “reckless eyeballing”); traffic-codes of priority (“my space can walk through yours and you must step aside”); unwritten rules for determining when to acknowledge the nonwhite presence and when not, dictating spaces of intimacy and distance, zones of comfort and discomfort (“thus far and no farther”) ... lynching to proscribe and punish the ultimate violation, the penetration of black into white space.*

Given the fact that Zimmerman admitted to killing Martin and that he believed Martin to be a potential criminal, he was closely following the racial codes for security and domination of space that Mills has described. Martin had entered a (White) gated space and it was Zimmerman's duty to protect this space from any suspicious-looking person(s)—particularly young, Black, hoody-wearing potential troublemakers—as he charged himself with the task of deciding exactly who was qualified to enter his (White) gated space. This was why Zimmerman could ignore unambiguous directions from the 911 operator to cease and desist his pursuit of Martin and why he was anxious for authorities to assume control over the crime scene immediately after the shooting. Zimmerman was certain with every fiber of his being that this suspicious young Black male (read: punk) was up to no good and that he not only had the right to intervene with a loaded gun, but that he was performing a civic/public duty. By the same racial token, if Martin had just not worn a menacing hoody and had he appeared less uppity, he could have safely traveled through that (White) gated space.

It is apparent that, at least initially, the Sanford Police Department tacitly supported Mills's White spatial domination thesis, since no charges were initially filed against Zimmerman; he was not administered a drug test nor were his hands examined for gun-powder residue. Conversely, Trayvon Martin's body was tested for drug use. Mills (*ibid.*: 53) would argue that this suggests:

*... there is a sense in which the real polity is the virtual white polity, then, without pushing the metaphor too far, one could say that the nonwhite body is a moving bubble*

*of wilderness in white political space, a node of discontinuity which is necessarily in permanent tension with it.*

It is significant to note that when these bodies come into tension, even lethal tension, there is a very predictable script of White domination and supremacy that is presented within a public setting. It is first assumed that the Black body is in the wrong space (e.g., the White gated community is Zimmerman's "home"); that the Black body is a threat (e.g., Zimmerman's comments about hoodies and those people); and that White intervention is needed, required and ultimately rewarded (e.g., Zimmerman is not arrested and received an outpouring of support on the web page set up for his legal defense). It could also be argued that with or without a "Stand Your Ground" law, the actual proof of innocence or guilt can always be determined by the White person's assessment of threat, danger and risk. The shooting deaths of young Black men in Florida, and all over the US, and the determination of the guilt or innocence of the accused have never been dependent on laws that are passed, observed and enforced. Mills (ibid.: 25) correctly draws upon American history and makes the argument for the existence of a slavery contract:

*A classic statement of the slavery contract is the 1857 Dred Scott V. Sanford U.S. Supreme Court decision of Chief Justice Roger Taney, which stated that blacks had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect, and that the negro might justly and lawfully be reduced to slavery for his benefit.*

This allows one to connect the dots between not just how race functions on a personal level and in a public space, but how race operates in a historical frame and has been sanctioned and given legitimacy by the highest courts of the land. Martin represents another chapter that can be added to the book of truisms that Blacks have "no rights which the white man was bound to respect" and also the mythical "post-racial" period we have entered since the election of the nation's first African American president. The way in which this point is then reinforced on a daily basis adds credence to the existence of a racial contract. Literally, initially, no one was held responsible for Martin's death and nothing short of a social media-driven national social movement was needed to compel the state of Florida to charge Zimmerman with Martin's death several months later.

This racial script is unfortunately played out daily in the US and it results in the, at best, mistreatment or, at worst, death of young men of color on an all-too-frequent basis. Mills addresses the way in which this narrative is tied into the very fabric of our society. In particular, Mills (ibid.: 6) declares that:

*Subpersons are humanoid entities who, because of racial phenotype/genealogy/culture, are not fully human and therefore have a different and inferior schedule of rights and liberties applying to them. In other words, it is possible to get away with doing things to subpersons that one could not do to persons, because they do not have the same rights as person. Insofar as racism is addressed at all within mainstream moral and political philosophy it is usually treated in a footnote as regrettable deviation from the ideal.*

This means the way that we learn about moral and political philosophy has a direct connection to the racial script we abide by. The tragic end that Martin confronted as a just-turned 17-year-old Black male in our society was not only predictable, it was preventable. The way in which

Mills presents the racial contract provides the analytical lens for understanding events such as Martin's death. It also advises on ways to intercede. The following questions, grounded in Mill's work, could be the starting point for the re-examination of the social contract and a pathway for exiting the racial contract. What would happen if the social contract was not taught in every high school and every college as the basis of western philosophy and history? What if the racial contract was used instead and everyone was required to learn about the racial space and identity he or she occupied historically, as well as in today's society? Could this radically transform our society and the world?

## Conclusion

Mills' presentation of a racial contract becomes salient for not just for an analysis of contemporary domestic issues, but his work also provides an invaluable tool to gain an understanding of how the production of race and racism continues as a foundational component within our society. To the extent that a racial contract has a life outside of academia, the spheres of power and influence can be uncovered and examined through the lens of Trayvon Martin's tragic death. Martin, traveling through the very well demarcated (White) gated space as understood by a gun-carrying George Zimmerman, was unaware of the racial contract and its connection with his life. When placed in the context of a social contract tradition that relies on an understanding of a linear development, some very noticeable limitations and weaknesses become apparent. For Martin, traveling to and from his father's girlfriend's home in Sanford, Florida was fraught with danger because he was not granted the social contract protection every American citizen is entitled because of a racial identity that stripped his social contract privilege of any meaning or significance. As Mills correctly identifies, the socially constructed meaning and significance of racial identity led to Martin's tragic death. It is through a racial contract lens that we can historically understand the way in which irrational and lethal fears of African American men have been sewn into the fabric of our society to such an extent that there are few safe spaces left for African American men.

Mills's racial contract can be shown to illuminate some new pathways, as well as placing a useful and critical lens on the applied and theoretical contributions a social contract can provide us with. How to develop these new and well-established openings is not as clear-cut and it also illustrates the way in which Mills encounters the same dilemmas that other anti-racist scholars and activists have experienced. As previously suggested, given the way these intellectual as well as physical, social, political, spiritual and economic battles have been disputed for centuries does not lend itself to quick-fix solutions or magical resolutions. Utilizing Mills's work as a weapon that is part of a larger arsenal does make a lot of sense from the vantage point of action occurring on a larger battlefield. Understanding the level in which Mill's meta-theoretical and historical work engages western discourse is a crucial point for assessing what tactics and strategies might be most successful and useful for anti-racist scholars and activists to adopt and develop. This brings us back to the previous points about how the social contract is raised by Mills and the master narrative that has been created in and around social contract theories and history. This material can be read as a European "victory story" and not as an actual history of humankind. This "story" continues to be a significant battlefield for not just for the development of a better or more accurate story, but also from the standpoint of real anti-racist work that needs to be done each every day. Whether or not this history is presented from the vantage point of a social or a racial contract, the reality has been and continues to be a distinctly western narrative; a narrative that is of

very limited used to non-western populations both in the West and beyond. To the extent that Mills's explicit use of a racialized title draws attention to this accepted and traditional story and is able to re-focus a critical lens on it, the debate will not be resolved nor all of the outstanding issues answered. There are obviously powerful forces at play that allow for the continued reading of the social contract as disconnected, non-grounded universal narrative of progress and development to be consumed and utilized on a regular basis. The social contract will also still be used as a barometer to measure how much a particular individual or a society has moved out of the state of nature and into the proper modern state based on a social contract and an implied higher state of being. The fact that this basis of existence has been rooted in White bodies and in a certain level of material and resource-based wealth risks being hidden and marginalized, and suggests that anti-racist scholars and activists will have to carry the burden of finding effective methods for intervention. Attempts to highlight and draw attention to the exact racial hierarchy and power-relations that are drawn around this western dominance will be very much needed, and Mills's work fits in quite well within this tradition of resistance and speaking truth to power.

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