COPING WITH LASTING SOCIAL INJUSTICE

Jonathan R. Cohen

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Table of Contents

259

Rabbi Yochanan ben Zakkai used to say: "If you have a sapling in your hand, and someone should say to you that the Messiah has come, stay and complete the planting, and then go to greet the Messiah."[1]

I. Introduction

Sometimes we experience poetry in human life—a sense of joy and wonder, connectedness and meaning, and occasionally even transcendence. Sometimes we do not. This is, I believe, a general aspect of the human condition. Such generality notwithstanding, different persons face different obstacles to hearing that poetry. Some obstacles are internal, rooted in an individual's personality. Others are external, deriving from an individual's family, community, or society. This Essay explores one distinctive and particularly difficult external obstacle to that poetic joy: lasting social subordination. How does lasting social subordination affect a subordinated person's ability to hear that poetry? What, if any, approaches can a subordinated person take toward hearing that poetry, subordination notwithstanding? How, in other words, can people cope with enduring social injustice?[2]

I must caution the reader at the outset that this is not a "light" topic. The depths of structural injustices are vast, and the harms they inflict are beyond counting. To consider the subject is to consider, among other things, human pain and cruelty, as well as indifference to human pain and cruelty. Yet it is also a subject revealing tremendous beauty. In it, we find some of humanity's noblest aspects, including compassion, courage, wisdom, and resiliency.

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[1]   This is a fairly common translation of words attributed to Rabbi Yohanan ben Zakkai in AVOT DE RABBI NATHAN B 31; *see also* JACOB NEUSNER, DEVELOPMENT OF A LEGEND: STUDIES ON THE TRADITIONS CONCERNING YOHANAN BEN ZAKKAI 128 (1970) (quoting Solomon Schechter who translated the quote above as the following: "If a sprout is in your hands and they say to you, 'Behold the Messiah!—Come and plant your sprout and afterward go and receive him.'"). The life of Rabbi Yohanan ben Zakkai provides a remarkable example of prudent realism and spiritual resilience in Jewish history surrounding the Roman destruction of the Temple in Jerusalem in 70 CE. Even in this one quotation, one senses both that prudent realism (e.g., the implicit suggestion that the announcement of the Messiah's arrival is in error) and spiritual resilience (e.g., the planting of a sapling tree is largely a gift to future generations). For further discussion, see Appendix.

[2]   In this essay, I use the terms "social subordination" and "social injustice" largely interchangeably. Some may question this approach, arguing that "social subordination" is merely sociologically descriptive while "social injustice" involves an (unnecessary) normative conclusion. Yet I know of no example of lasting social subordination that might not also be fairly characterized as one of social injustice. Further, social subordination is often, though not always, experienced by the subordinated as unjust. The question of coping thus becomes one of coping with perceived injustice.

A deeply tragic fact of social reality is that structural injustices (i.e., the subordination of one social group to another) are often highly enduring. They can persist not simply for years and decades, but for centuries and millennia. Take the status of women throughout our world. Women as a group have had subordinate social status to men for virtually all of recorded history.[3] Important advances in recent centuries toward greater legal and social equality for women notwithstanding,[4] as indicated by a variety of measures, the millennia-old social subordination of women continues to this day.[5] Sometimes that subordination is visible, as with women forced to live behind the burka. Sometimes that subordination is invisible, as with the world's approximately 100 million "missing women," that is, women one would have expected to exist statistically speaking but do not, particularly in parts of Asia and Africa.[6] Patriarchy, in other words, is quite robust. More locally, the same is true of racial subordination of blacks within the United States. In our nation's 230-year history, all of the forty-three presidents have been white, and, perhaps more tellingly, only five of the 1,885 senators have been black.[7] Our American *democracy* has been remarkably effective in

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[3]   *See, e.g.*, Paul Halsall, Internet Women's History Sourcebook, http://www.fordham.edu /halsall/women/womensbook.html (last visited Feb. 18, 2007) (stating that regarding the history of the oppression of women, "it has proved to be possible to find some degree of oppression everywhere") (on file with the Washington and Lee Journal of Civil Rights and Social Justice); *see also* ROSALIND MILES, THE WOMEN'S HISTORY OF THE WORLD 111–118 (1988) (explaining the bravest accomplishments of women throughout history and illustrating how women have not recently burst forth into the arena of accomplishment but have been there all along).

[4]   *See generally* ASHLYN K. KUERSTEN, WOMEN AND THE LAW: LEADERS, CASES, AND DOCUMENTS (2003) (describing the history of and themes related to women and law in the United States beginning with an overview of the history of gender equality from the founding of the United States and charting the revolutionary advances of the gender).

[5]   *See generally* JONI SEAGER, THE PENGUIN ATLAS OF WOMEN IN THE WORLD (2003) (illustrating the continued discrepancy between men and women in all aspects of social, economic, and political life).

[6]   Amartya Sen, *More Than 100 Million Women Are Missing*, 37 NY REV. OF BOOKS, Dec. 20, 1990, at 61–66 (stating that the failure to give women medical care similar to what men get and the failure to provide women with comparable food and social services results in fewer women surviving in Asia and Africa); *see also* AMARTYA SEN, INEQUALITY REEXAMINED 122–25 (1992) (stating that the higher mortality rate for women versus men in Asia and North Africa reflects serious gender inequality considering the biological potential of women is to have a lower mortality rate than men).

[7]   *See* Ethnic Diversity in the Senate, http://www.senate.gov/artandhistory/history/ common/briefing/minority_senators.htm (last visited Feb. 18, 2007) (displaying the ethnic diversity historically in the senate) (on file with the Washington and Lee Journal of Civil Rights and Social Justice); *see also* Senators of the United States: 1789–2007, http://www.senate.gov./ artandhistory/history/resources/pdf/chronlist.pdf (last visited Feb. 18, 2007) (displaying a chronological list of senators from the First Congress to the 110th Congress) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

Had race not been a factor, a rough statistical estimate using a 12% black population would have predicted approximately five black presidents and 225 black senators. In the year 2000, 12.9% of

maintaining black political subordination for centuries.[8]   Economic indicators also reflect such subordination. Though slavery ended some 140 years ago, the economic gap between blacks and whites remains profound. For example, in 1988, the median net worth for white households ($43,800) was nearly twelve times that of black households ($3,700).[9]

Women and blacks are not, of course, the only groups that have suffered from persistent structural inequality domestically or internationally. One might think of the treatment of colonized peoples by European imperial powers, of economic, class-based subordination (e.g., peasants subject to aristocratic rule), of the American treatment of Native Peoples, of religiously tied hatred (e.g., anti-Semitism), of untouchable classes, of hatred toward Gypsies, of anti-immigrant bias, of heterosexism, of the abuse of children by adults, or of the shunning of the physically and mentally disabled. And that, of course, is only a partial list. The lesson, however, should be clear: historically speaking, structural injustices have been highly persistent.

In the face of such injustice, many turn to the important question of what can be done to eliminate the injustice.[10] How, they ask, can we make our world a just place?[11] This Essay tackles a very different question.

Americans self-reported as African-American, a figure roughly consistent with historical estimates. *See* U.S. Census, THE BLACK POPULATION: 2000 (2001) (providing a portrait of the black population in the United States and discussing its distribution at both the national and subnational levels); *see also* Population Distribution by Age, Race, Nativity, and Sex Ratio, 1860–2005, http://www.infoplease. com/ipa/a0110384.html (last visited July 16, 2007) (displaying population distributions by age, race, national origin, and gender from 1860–2005) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).   Note that, as of 2006, only five senators have been Asian Americans, six Latino Americans, three Native Americans, and thirty-three women. *Id. See also* Women in the Senate, www.senate.gov/artandhistory/ history/ common/briefing/women_senators.htm (last visited July 16, 2007) (displaying the thirty-five women who have served in the U.S. Senate to date).

[8]   I do not mean to suggest that other political processes would have done better. However, the resilience of racial subordination within a democratic structure is sobering. "Progressive" political processes by no means guarantee the ready elimination of social subordination. Both authoritarian systems and electoral democracies can easily replicate the exclusion of subordinated peoples from political power. Democratic majoritarian elections can be as effective as autocratic rule in excluding minorities from power. Indeed, in a certain way (though not in all ways) they can be more effective, namely, through providing a veneer of procedural fairness helping the superordinate rationalize substantive injustice.

[9]   MELVIN L. OLIVER & THOMAS M. SHAPIRO, BLACK WEALTH / WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY 86 (1995).   Such statistical measurements are, perhaps unsurprisingly, rare.

[10]   *See, e.g.*, David A. J. Richards, *The Privatization of Our Public Discourse: Public and Private in the Discourse of the First Amendment*, 12 CARDOZO STUD. L. & LIT. 61 , 77 (2000) (arguing that the principle of free speech advances both the legitimacy and the integrity of politics of identity in the reasonable understanding and remedy of such patterns of structural injustices of anti-Semitism, racism, sexism, and homophobia).

[11]   While exploring such questions can be useful in identifying the nature of an injustice and possible ways to remedy it, I am skeptical that reason alone—argumentation—will cure deep structural injustices. Dominant groups typically have the power to reject or ignore arguments challenging their

Rather than asking how can we "cure" the injustice, my focus will be on how one is to live *given* the injustice.[12] How is one to cope with it? Even if some part of the injustice can be eliminated, much of it will often remain, not simply through one's own life, but quite possibly through the lives of one's children and grandchildren. How then is one to handle it? How is one to live "in the meantime"?

There are many possible perspectives from which to approach the question of how to cope with enduring social injustice. Below, I approach this question from what might be labeled a *psycho-existential* perspective: how a person is to address the mixture of feelings and thoughts arising from lasting social subordination. In taking this approach, I do not mean to suggest that other perspectives are unimportant. To the contrary, complementary perspectives are quite useful, whether they follow the collectivist approach (how can subordinated groups *qua* groups respond to subordination?),[13] the parental method (how can parents best raise children who will have to cope with subordination?),[14] the strategic mode (how can a subordinated person achieve greater social power?),[15] or finally the transformative approach (how can the methodologies of subordination be ended?).[16]

What, then, are some of the main psycho-existential challenges posed by lasting social subordination? Five such challenges are pain, fear, shame, anger, and despair. While each topic implicates both feelings and thoughts (e.g., one can both feel afraid and think fearful thoughts), below I shall focus particularly on two of the more thought-oriented topics, namely,

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dominance. Further, the superordinate "mind" will usually have in place robust mechanisms for rationalizing the status quo. Noble efforts to persuade thus frequently fall upon deaf, but powerful, ears. In the extreme, such efforts themselves may become acts of folly. *See generally* Derrick Bell, *Racial Realism*, 24 CONN. L. REV. 363 (1992) (regarding the value of a realistic perspective on the pursuit of racial equality for African Americans).

[12] This may involve working to reduce the injustice, but need not. The question of how to respond to the injustice should be the subordinate's choice.

[13] *See, e.g.*, Nancy Levit, *Theorizing the Connections Among Systems of Subordination*, 71 UMKC L. REV. 227, 248 (2002) (discussing the viability and wisdom of political coalitions and the possibility of coalition-building).

[14] *See, e.g.*, Dorothy E. Roberts, *Child Welfare and Civil Rights*, 2003 U. ILL. L. REV. 171, 182 (2003) (viewing the child welfare system's racial harm as a powerful argument in favor of radically transforming the system into one that generously supports families).

[15] *See, e.g.*, Gary Goodpaster, *Equality and Free Speech: The Case Against Substantive Equality*, 82 IOWA L. REV. 645, 686 (1997) (explaining that freedom of speech is a central right of political equality which can be created through the allotment of formally equal constitutional rights to all citizens).

[16] *See, e.g.*, PAULO FREIRE, PEDAGOGY OF THE OPPRESSED 26 (2004) (postulating that the oppressed cannot seek to regain their humanity by oppressing their oppressors).

shame and despair. However, brief discussions of the other three topics (pain, fear, and anger) will also be offered to facilitate the discussion on shame and despair. Before entering the analysis proper, however, some further introductory remarks are in order.

First, in addressing how to cope with structural injustices, it is important to recognize that not all injustices are "created equal." There is much variety to the *texture* of different forms of social subordination. In contrast to the experience of many subordinated persons, a homosexual who "comes out" often faces rejection by his or her own family. In racism toward Latin Americans, language plays a more salient role as compared with racism toward African Americans. In some cases, a subordinated person's assimilating into the dominant group is possible, and in other cases it is not.[17] There is also much variety to the *severity* of different manifestations of social subordination, even social subordination of the same type. For a Jew, the United States is generally a very accepting country. In Saudi Arabia, public Jewish (or Christian for that matter) worship is illegal, punishable by imprisonment, lashing, and deportation.[18] In some societies, a woman voicing opposition to sexism may trigger reform. In other societies, she may trigger her own death.

Second, in asking how a subordinated person can cope with persistent injustice, we need to recognize that there is also much variety to each individual's personality and circumstances. Martha Minow's words concerning victims of mass violence are instructive here:

> Individual human beings are just that, individual human beings, both before and after anyone is victimized and then labeled as a victim. Individuals respond uniquely and differently to horror. At least the responses are their own. To demand different ones may be yet another form of degradation and denial of their very being.[19]

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[17]   Even when possible, often assimilation is not without costs. *See, e.g.*, BEVERLY DANIEL TATUM, ASSIMILATION BLUES: BLACK FAMILIES IN A WHITE COMMUNITY 99–104 (1987) (describing the complexities of African American families assimilating into a white community); Miriam Lewin Papanek, *Psychological Aspects of Minority Group Membership: The Concepts of Kurt Lewin*, 36 JEWISH SOC. STUD. 72 (1974) ("Membership in a group is, psychologically, a background determinant of the individual's behavior in a multitude of settings").

[18]   *See* BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPT OF STATE, SAUDI ARABIA: INTERNATIONAL FREEDOM RELIGIOUS FREEDOM REPORT 2004, http://www.state.gov/g/drl/rls/irf/2004/35507.htm (last visited July 16, 2007) (depicting how the law requires that all citizens be Muslim and as a result the Government does not provide legal protection for freedom of religion) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

[19]   MARTHA MINOW, BETWEEN VENGEANCE AND FORGIVENESS 20 (1988).

Minow's point is important. There is no single path for coping. Different persons must make their own choices and follow unique paths. Care should be taken not to judge all by a single standard.

Given these different varieties, some may ask whether the subject of coping with lasting social subordination can be treated as a generalized phenomenon. Is it even possible to extract general lessons that apply across different subordinated persons or groups? They may contend that, "[t]he question is not how an abstract person is to cope with social subordination in general, but rather how particular people are to cope with particular types of social subordination. A strategy that might work well for one subordinated person or group might precisely backfire for another subordinated person or group. It is a mistake to search for general lessons." I see much truth to that contention. Nevertheless, I believe enough commonality exists among different cultural coping mechanisms for social subordination to justify exploring the phenomenon at a general level.

Third, the reader should not interpret the analysis below as a "solution" to the question of how to cope with social subordination. I say this not simply because of the different aforementioned varieties (i.e., among forms of subordination and among persons and their circumstances) but because, in my view, there is no perfect "answer" to that problem. I know of no system of adaptation that will make the pains of social subordination magically disappear. Seeking such is a bit like seeking a system that would completely remove the pain from a loved one's death—in my view, more the stuff of fantasy than reality.

Fourth, though perhaps such is implicit in my work, I do not attempt to derive an answer to the question of how to cope with social subordination from what one might call a general theory of the human personality or of human existence (e.g., an overarching psychological or religious framework that would explain the roots of suffering and prescribe proper responses to it). Rather, I attempt to classify some of the main psycho-experiential effects subordination produces and consider how one might respond to them.

Fifth, the approach below might fairly be described as pathologically oriented, that is, I start the analysis by considering the negative effects (*pathos*) that lasting social subordination produces. By contrast, in recent years, medical, psychological, and social scientists have increasingly approached their work from the opposite perspective. Rather than beginning their analysis with studying the illness and asking how illness can be treated, they start by studying wellness and focus on factors that contribute to wellness. Indeed, much of the "positive" psychological literature concerning

resiliency generally,[20] as well as sociological literature on resiliency among particular subordinated groups,[21] adopts this salutogenic perspective.[22] Why then do I start with the pathological focus? I do this both because it is for me the simplest place to begin the analysis and because the adverse experiences produced by social subordination are typically not chosen by, but rather foisted upon, the subordinate. How a subordinated person is to react to an uninvited experience is often a relevant question. Should other scholars wish to approach this topic from a salutogenic perspective, I commend such efforts.

Sixth, below I draw at times from what might fairly be called "extreme" patterns (e.g., American slavery) and manifestations (e.g., Holocaust concentration camps) of lasting social injustice.[23] I do this because extreme examples can put relevant issues into sharp relief. Care must be taken, however, to evaluate to what extent phenomena and lessons from extreme cases apply to moderate settings. I caution too that "moderate"

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[20]   *See* MARTIN E.P. SELIGMAN, THE OPTIMISTIC CHILD 303–16 (1995) (listing references). Moreover, the importance of relational connections to psychological resilience, particularly among subordinated peoples, should also not be overlooked. *See generally* Judith V. Jordan, *Relational Resilience*, The Stone Center at Wellesley College, Working Paper No. 57, (1992) (discussing generally psychological disconnection among marginalized groups and use of relational dynamics to regain connection); *see generally* HOW CONNECTIONS HEAL: STORIES FROM RELATIONAL–CULTURAL THERAPY (Maureen Walker & Wendy B. Rosen eds., 2004) (discussing the use of relational-cultural theory and application in therapy); VICTOR FRANKL, AN INTRODUCTION TO LOGOTHERAPY (4th ed. 1992) (arguing that a sense of meaning and purpose is essential for psychological resiliency in describing his work on logotherapy and studies of resiliency within Holocaust concentration camps); Roberta R. Greene, *Holocaust Survivors: A Study in Resilience*, 37 J. GERENTOLOGICAL SOCIAL WORK 4–6 (2002) (recounting the stories of thirteen Holocaust survivors and their coping methods during the crisis).

[21]   *See* ROBERT B. HILL, THE STRENGTHS OF BLACK FAMILIES: TWENTY-FIVE YEARS LATER (University Press of America 2d ed. 2003) (1972) (discussing the cultural strengths and their effects on modern African American families). *See generally* RESILIENCY IN AFRICAN-AMERICAN FAMILIES (Hamilton I. McCubbin et al. eds., 1998) (examining the role of resources, social relations, and community life on engendering resiliency in stressful life situations amongst minority families); Aminifu R. Harvey & Robert B. Hill, *Africentric Youth and Family Rites of Passage Program: Promoting Resilience Among At-Risk African American Youth*, 49 SOCIAL WORK 65 (2004) (discussing African American youth and the modern problems that they face); JOE R. FEAGIN & MELVIN P. SIKES, LIVING WITH RACISM: THE BLACK MIDDLE-CLASS EXPERIENCE (1994) (discussing stories and experiences of bigotry and racism endured by modern African Americans); Elsie M.J. Smith, *Ethnic Minorities: Life Stress, Social Support and Mental Health Issues*, 13 THE COUNSELING PSYCHOLOGIST 537 (1985) (examining generally the various types of stresses that minority groups experience); RESILIENCY IN NATIVE AMERICAN AND IMMIGRANT FAMILIES (Hamilton I. McCubbin et al. eds., 1998) (identifying and studying the strengths and differences among various Native American cultures).

[22]   *See* Aaron Antonovsky, *The Sense of Coherence: An Historical and Future Perspective*, STRESS, COPING, AND HEALTH IN FAMILIES 3, 3–6 (Hamilton I. McCubbin et al. eds., 1998) (discussing the benefits of salutogenesis and the defects of pathogenesis in developing a new therapeutic method for dealing with stressful life situations).

[23]   The foundation for the Nazi killing of Jews, Roma (Gypsies), homosexuals, and the handicapped was laid over centuries, not a single decade. The Nazi cancer found a fertile soil well-tilled by age-old group hatreds and also targeted other groups, such as political and religious dissidents.

settings are often not as moderate as they might initially appear. Much group hatred and social injustice can quite well survive a progressive veneer.

Seventh, in the main, I will not address the important topic of how a member of a dominant group can (best) live in light of persistent social superordination. It is not that I view that challenge as easy. For example, by challenging the social order a member of the dominant group risks being sanctioned as a traitor, but by failing to challenge the social order, that person may lose existential meaning. Rather, the topic of how members of dominant groups can cope with persistent social superordination raises enough distinct issues as to merit separate treatment.

Eighth, at some though by no means all points, I use the term "the subordinate" loosely, not clearly indicating whether I mean the individual subordinate person or the collective subordinate group. Distinctions between the individual and the group often blur, and so does my use of this term. Further, though I often write in language critical of the superordinate and sympathetic to the subordinate, I do not mean to suggest that all superordinate people are (morally) "bad" and subordinate people (morally) "good." Reality is far more complex than that.[24] Observe too, that not all members of such groups are similarly situated (some of course have more social power than others), and that the same person can be socially subordinate in one dimension (e.g., gender) and superordinate in another (e.g., religion). It is also possible for the axes of social subordination occasionally to "reverse," i.e., for circumstances to change and the subordinate to become the superordinate. That said, as a whole, many axes of social subordination are highly robust. For example, though in recent years a number of countries have been headed by female prime ministers and

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[24]   From the perspective of moral assessment, observe that both superordinate and subordinate individuals are born into, and thus in part shaped and constrained by, a social structure not of their own making. For example, a basic moral question both superordinate and subordinate individuals often face is what one might call the ethics of collaboration with unjust power. *See, e.g.*, DAVID DAUBE, COLLABORATION WITH TYRANNY IN RABBINIC LAW 187 (1965) ("Since all must go to the same place, to experience good is the only thing that counts.").

At a deep level, both superordinates and subordinates are victimized, though in different ways, by an inherited social structure built upon inequality. This is not to provide a moral excuse to the superordinate as a group for lasting social subordination, nor does it alleviate the individual superordinate person's responsibility to exercise his or her own moral judgment. Rather it is simply to recognize one of the complexities of moral assessment. *See* DESMOND TUTU, NO FUTURE WITHOUT FORGIVENESS 35 (1999) (discussing values, including responsibility-taking, forgiveness, and *ubuntu*, reflected within the South African Truth and Reconciliation Commission's efforts toward healing in post-apartheid South Africa).

presidents[25] (and queens in earlier times), I can think of none where women as a group are no longer politically and economically subordinate to men.

Ninth, a few remarks about myself may be in order. By profession, I am neither a psychologist, nor a social worker, nor even a philosopher—persons perhaps most naturally situated to address these questions—but rather a law professor. Yet it is as a law professor that the salience of the subject of coping becomes most apparent, for one can see how enduring the patterns of social injustice can be. Perhaps more importantly, in most dimensions (e.g., gender, race, class, sexual orientation, etc.), I am socially superordinate. The exception is that I am a Jew in a predominantly-Christian society; however, it must be remarked that this society is very tolerant toward Jews. That said, Jews throughout history have faced the question of social subordination. Numerous members of my extended family perished in the Holocaust. A bit like Albert Memmi, as a Jew in America, I feel both of and not of the dominant society.[26]

Finally, let me offer not so much a caveat as an observation. It is often the case that the question asked is more important than the answer offered. By no means do I believe that what follows is "the answer" on how a subordinated person is to live with lasting structural injustice. Rather, I suggest to you, the reader, the importance of this question, and hope that what follows will stimulate your thoughts.

II. Some Principal Psychological Effects of Lasting Social Subordination

A. Pain

Social subordination typically produces trauma, which in turn produces pain. (I use the terms "trauma" and "pain" broadly, that is, trauma in both the physical and non-physical senses and pain in both the physical and emotional senses.) The pain experienced by the subordinated is not a mere by-product of social subordination but in many ways a cornerstone of its foundation. Pain helps maintain the social system by training the subordinate to remain subordinate, and thus avoid future instances of pain. Thus, while the experience of pain is deeply personal in nature, one of its

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[25]   *See* Women Leaders: Past, Present, and Emerging, http://people.brandeis.edu/~dwilliam/docs/ leadertable.htm (last visited July 16, 2007) (listing past, present, and emerging women leaders from various countries) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

[26]   *See* ALBERT MEMMI, THE COLONIZER AND THE COLONIZED 15–16 (Beacon Press 1965) (1991) (discussing the Jewish population's attempt at escaping their colonized condition, and the pain and constant ambiguity they experience as a result).

ultimate functions is quite political.[27] Further, the immediacy of pain tends to undermine the subordinate's personhood and transform him or her instead into a pain-avoiding mechanism.[28] This may be clearest in the extreme setting of the subordinate's torture. The act of torture has deep political roots, the pain caused by the torture is an internal psychic experience, and the torturer seeks to eliminate the very autonomy (e.g., to "break the will") and personhood of the tortured.[29]

In some essential ways, the challenges of coping with trauma and pain inflicted as a result of social subordination are similar to those of coping with trauma and pain generally. Rest, care, and support all assist in the grieving and healing processes. Yet trauma and pain produced by subordination often raise distinct challenges related to the disempowerment and alienation of the subordinate.[30] Principal among these are the social *delegitimization* of the pain and questions concerning its *voicing*.[31]

The structures of social subordination frequently grant to the superordinate the explicit or implicit right to injure the subordinate—the freedom to injure as it were.[32] Trauma to the subordinate is socially legitimized.[33] Concomitantly, the superordinate typically discounts both the moral significance and reality of the pain inflicted upon the subordinate, even as they may recognize its instrumental efficacy in social control. Hence, a critical element toward addressing (rather than repressing or denying) such pain is simply recognizing it as such. A first step toward a subordinated person changing his or her circumstances may be recognizing, if only internally, that such is not what he or she deserves.[34] I write "if only internally" because the question of whether the subordinate should give voice to the pain is a very serious one. While therapeutically speaking such is

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[27]   *See* ELAINE SCARRY, THE BODY IN PAIN: THE MAKING AND UNMAKING OF THE WORLD 12 (1985) ("[W]hile the central activity of war is injuring and the central goal in war is to out-injure the opponent, the fact of injuring tends to be absent from strategic and political descriptions of war.").

[28]   *Id.*

[29]   *Id.* at 36.

[30]   *See* JUDITH HERMAN, TRAUMA AND RECOVERY: THE AFTERMATH OF VIOLENCE—FROM DOMESTIC ABUSE TO POLITICAL TERROR 133 (1997) ("The core experiences of psychological trauma are disempowerment and disconnection from others. Recovery, therefore, is based upon the empowerment of the survivor and the creation of new connections.").

[31]   *Id.*

[32]   *See* Jonathan R. Cohen, *The Immorality of Denial*, 79 TUL. L. REV. 903, 915 (2005) (suggesting that injurers would not injure others if they did not feel confident that they would go unpunished).

[33]   *See id.* (finding that acting carelessly is acceptable among the group).

[34]   There is often an "embeddedness" to the subordinate's psyche. As with superordinate, the subordinate's mind itself often is in part formed (e.g., as a child) by the context of unjust social conditions, and thus may come to see such conditions as normal.

generally helpful (e.g., one can hardly imagine an accident victim being told not to express their pain), the power disparities of subordination may dictate otherwise. Voicing objection to pain can sometimes produce a backlash, and often the subordinate must courageously forebear.[35] Ideally, of course, the circumstances would be radically different, but often our world is far from ideal. This is part of why within-community support, solidarity and relationships can be so helpful for the subordinate.[36] They can provide safety and support to acknowledge and voice what might not otherwise be "voiceable." Even extra-community respectful, valuing relationships can be tremendously beneficial. At the most basic level, subordination involves a degradation of the subordinate's humanity. Respectful, valuing relationships assist in its restoration.

Finally, when considering the role that pain plays in maintaining social subordination, it is easy to see the results of pain as only negative. Yet pain can also be useful to the subordinated individual, more specifically, as a vital warning sign, helping that individual learn to avoid even greater dangers.

B. Fear

Related to pain is fear, for it is in significant part through fear—and here I do not mean to suggest unrealistic fear—that persistent social subordination is maintained. From the superordinate perspective, the "beauty" of fear is its efficiency. With a minimum of action and a modicum of publicity, the structures of social subordination may be maintained. One could think of this as a deterrence-based approach to maintaining social order.

For the subordinate, fear can be based upon either direct personal experience or indirect experience. Famous assassinations (e.g., Medgar Evers, Malcolm X, or Martin Luther King, Jr.) or, more commonly, lynchings, conveyed the message to African Americans that attempting to disrupt the social order could trigger one's death. One might recall too the lesson of Plato's allegory of the cave: a person, like Plato's teacher Socrates,

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[35]   I am reminded of Katie Canon's discussion of the virtues of "invisible dignity," "quiet grace," and "unshouted courage" among black women. *See* KATIE G. CANNON, BLACK WOMANIST ETHICS 159 (1998) (interpreting the work of Zorah Neale Hurston and the descriptions of black women's oppression by sexism and racism).

[36]   *See* HERMAN, *supra* note 30, at 214 ("The solidarity of a group provides the strongest protection against terror and despair, and the strongest antidote to traumatic experience. Trauma isolates; the group re-creates a sense of belonging. Trauma shames and stigmatizes; the group bears witness and affirms. Trauma degrades the victim; the group exalts her.").

who seeks to enlighten the group risks death.[37] Observe that retaliation need not be limited to the "troublemaker" alone. Shunning or even actively attacking a "troublemaker's" family and close friends is a particularly cruel, but often effective, means of preventing social change.

Sometimes fear is taught "internally," that is, the social structures through which the subordinate is raised teach such fear. "It is not safe to walk by yourself late at night," parents may teach a teenage girl, implying, but not stating, "lest you be attacked." "If a White police officer arrests you," Black parents might tell a teenage son, "don't resist. Even if you've done nothing wrong, don't speak back. Just let yourself be arrested. We can deal later with your being arrested, but if you challenge the officer who knows what he'll do (e.g., beat you, fabricate charges, etc.)."[38]

This raises a further issue, namely, whether or not the fear is "rational," i.e., whether the subjectively experienced level of fear accurately corresponds to the external risk. From the subordinate's perspective, in terms of optimizing one's choices, one might hope to have statistically accurate fears, that is, to assess risks rationally rather than unwittingly disregarding real risks or, conversely, being paralyzed by unrealistic fantasies. What the subordinate can attempt to control is not the existence of such risks but his or her response to them.

What aids in coping with such fear? As with pain, surely comfort and support help. Security too, both physical and emotional, can play an important role, as can a clear understanding of one's values and beliefs.[39]

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[37]   *See, e.g.*, PLATO, THE REPUBLIC 227–30 (R.E. Allen trans., Yale Univ. Press 2006) (1763) (discussing a hypothetical situation where a prisoner knowing only the darkness of a cave is taken to the surface and shown the light; when returning to free his fellow prisoners in the cave, and asked to interpret shadows, he is less able to do so because his eyes had become used to the light, and thus, to his fellow prisoners, it would appear that by seeing the light, he had lost his sight).

[38]   *See generally* Jerome M. Culp, Jr., *Notes from California: Rodney King and the Race Question*, 70 DENV. U. L. REV. 199, 200–01 (1993) (discussing the "rules of engagement" black parents teach their sons about interacting with official power such as police).

[39]   On the latter point, consider a teaching of the famed "Lubavitcher Rebbe," Rabbi Menachem Mendel Schneerson:

> [Rabbi Schneerson] often told a story about his father-in-law, Rabbi Yosef Yitzchak Schneersohn [sic.], the previous Lubavitcher Rebbe. In 1927, Rabbi Yosef Yitzchak was summoned by the Communist authorities in Moscow. When he refuse to cooperate, one of them lifted a revolver and pointed it at him. 'This toy makes people cooperate,' he said. 'Fear of it has opened many a mouth.'

"That toy frightens only someone who has but a single world and many gods," Rabbi Yosef Yitzchak replied. "But not one who has but a single God and two worlds." MENACHEM MENDEL SCHNEERSON, TOWARD A MEANINGFUL LIFE: THE WISDOM OF THE REBBE 134 (Simon Jacobson ed., William Morrow) (1995) (italics omitted).

Courage (to act despite rather than without fear), judgment (in deciding whether a risk is best taken or avoided), and acceptance (of what is beyond one's control) can each be essential.

C. Shame

Many experiences produce pain, and many experiences produce fear. They are feelings that, to some degree, all must face. Shame too is an emotion known by all, yet its bite is particularly sharp and lasting for the socially subordinated.

The construction of social hierarchy almost inevitably involves the ranking of the better and the worse. Heterosexual is defined as normal, and homosexual deviant. White is defined as beautiful, and Black ugly. Good deeds are the "Christian thing to do," suggesting the possible negative inference that non-Christian equates to the bad. Masculine is strong and feminine weak. To "gyp" (from Gypsy, of course) means to swindle, akin to "jewing" someone in negotiation or being an "Indian trader."

Sometimes shaming is done actively, as when pundits refer to the socially subordinated in the language of contagion (e.g., a "plague" of illegal immigrants sweeping across the border).[40] Judges too sometimes take such an approach in their allusions to criminals as filth.[41] Sometimes shaming is accomplished passively through omission. The image of the superordinate is celebrated, but the image of the subordinate is absent. Consider the numerous kisses shown on network television. Almost all are heterosexual. The notoriety that attached to the homosexual Britney Spears–Madonna kiss[42] reflects the exception proving the rule.

A further dimension of shame is what one might call shame over relative powerlessness. I recall as a child being shown Holocaust photographs at religious school. The images that stuck with me the most were not—horrific though they were—those of dead bodies piled into mass graves, of emaciated prisoners lying in barracks or standing behind barbed wire, or even of huge piles of shoes and other personal effects (perhaps of

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[40] *See, e.g.,* Tom Kenworthy, *New Outlaws Plague Arizona Desert Refuges,* USA TODAY, Aug. 23, 2006, at 3A (discussing the recent illegal immigration of thousands of people into Southern Arizona).

[41] *See* Martha Grace Duncan, *Slime and Darkness: The Metaphor of Filth in Criminal Justice,* 68 TUL. L. REV. 725, 729 (1994) ("Strongly repelling and strongly attracting, filth serves as an apt metaphor for criminals, who likewise evoke our simultaneous hate and love, repudiation and admiration . . . . [T]he metaphor leads to a view of criminals as diseased and contagious and to a policy requiring segregation of criminals from uncontaminated noncriminals.").

[42] Corey Moss, *Madonna Smooches With Britney And Christina; Justin, Coldplay Win Big At VMAs,* MTV NEWS, Aug. 28, 2003, *available at* http://www.mtv.com/news/articles/1477729/20030828/spears_britney.jhtml (last visited July 16, 2007).

children) at concentration camps. Rather, the image which haunted me most was that of a group of people watching an old bearded man with a yarmulke—a rabbi perhaps—being forced to stand barefoot in the snow as armed German soldiers in uniforms, including boots of course, stood next to him. The image was, above all, one of relative powerlessness. Relative powerlessness is a fundamental component of social subordination, and can be a profound source of shame as well.

D. Anger

Anger is a natural by-product of social subordination, a natural result of emotions such as pain, fear, and shame. "Why do I deserve to be treated this way? Why do those I love deserve to be treated this way? Are we not as much human beings as anyone else?" Such questions reflect that anger produced by social subordination ultimately derives from the sense of injustice. If one receives injuries from accidentally falling from a bicycle that is one thing. If one receives injuries from being beaten because one is a member of a subordinated group that is a very different thing.

Compounding what one might call the primary anger produced by pain, fear, and shame is a second source of anger, namely, the absence of meaningful redress for the injuries.[43] A typical property of lasting social subordination is that the superordinate can injure the subordinate and "get away with it." The legal system, rather than being a system of justice, can become precisely the reverse—the system protecting *against* meaningful redress.[44] This phenomenon sometimes happens on a formal level, as when laws are passed or Supreme Court opinions written protecting the superordinate against redress.[45] Sometimes this happens informally, as when white jurors would refuse to convict whites who lynched blacks.

A great danger that anger presents to the subordinate is losing balance. Suppressed anger may eventually "explode," and the subordinate may engage in risky or violent actions. Yet the normally-healthful path of

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[43] *See* Jonathan R. Cohen, *The Culture of Legal Denial*, 84 NEB. L. REV. 247, 309 (2005) ("Denial . . . is a common tool those who benefit from a structurally unjust society use to maintain that unjust society.").

[44] *Id.*

[45] *See* ROBERT A. WILLIAMS, THE AMERICAN INDIAN IN WESTERN LEGAL THOUGHT: THE DISCOURSES OF CONQUEST 6 (1990) ("The West's conquest of the new world . . . above all . . . was a legal enterprise."); *see also id.* at 325 ("[The Western legal system, through the Doctrine of Discovery, vest[ed] superior rights of sovereignty over non-Western indigenous peoples . . . [and imposed] its vision of truth on non-Western peoples through a racist, colonizing rule of law.").

expressing the anger through speaking up for oneself and objecting to what is occurring may not be possible—the backlash may be too costly. Spiritual responses such as forgiveness or beliefs that the injurer will be punished by God (and thus that the injured need not act in response) may be of help. Community support to safely express anger is indispensable. Framed positively, anger can serve as a source of empowerment, a strong motivator to action. The question becomes whether it can be channeled constructively.

E. Despair

Of the different states of mind discussed, despair is the most philosophical, the most rooted in thought. While on an emotional level despair is often tied to sadness, it is deeper and more lasting than most sadness.

Despair as I mean it here is not about a single event but about the lasting overall condition. It comes with knowing that the subordination will in all likelihood extend not just through one's life, but the lives of those one knows, often including one's children.[46] In the words of one African American mother concerning racism, "I remember the pain on my mother's face and I'm sure my children see it on mine."[47]

Sometimes despair is so great the question arises of whether life itself is worth living.[48] Consider the remarkable words of W.E.B. Du Bois following his three-year-old son's death, "Well sped, my boy, before the world had dubbed your ambition insolence, had held your ideals unattainable, and taught you to cringe and bow. Better far this nameless void that stops my life than a sea of sorrow for you."[49] The words of Ecclesiastes from several millennia prior strike a similar chord:

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[46]   There is a rough parallel here to death (i.e., the knowledge that everyone one knows through the course of one's life, oneself, family, and close friends will die)—another very difficult subject for most to face. *See* ELISABETH KUBLER-ROSS, ON DEATH AND DYING 2 (1969) (noting, however, that while many object to the "injustice" of a particular death (e.g., "How could he die so young?"), the fact that we must all die does not per se involve the subjects of morality or injustice. The fact that we must all ultimately die is not a matter subject to human volition, but (at least as our world now stands) a matter of the construction of the universe. Death often does raise much anxiety and despair (and neurosis for those who fail to face it), but as the condition of human mortality is not the product of human agency, it does not implicate human evil.)

[47]   SHARON E. RUSH, LOVING ACROSS THE COLOR LINE: A WHITE ADOPTIVE MOTHER LEARNS ABOUT RACE 4 (2000).

[48]   The wish to never have been born, related to but distinct from the wish for suicide, is a particularly despairing, philosophically-accusatorial indictment of the world. *See* David Daube, *Black Hole*, 2 RECHTSHISTORICHES J. 177 (1983) (offering a literary treatment of the subject).

[49]   W.E.B. DU BOIS, THE SOULS OF BLACK FOLK: ESSAYS AND SKETCHES 150 (1989).

> So I returned, and considered all the oppressions that are done under
> the sun: and behold the tears of such as were oppressed, and they had
> no comforter; and on the side of their oppressors there was power; but
> they had no comforter. Wherefore I praised the dead which are already
> dead more than the living which are yet alive. Yea, better is he than
> both they, which hath not yet been, who hath not seen the evil work
> that is done under the sun.[50]

Why does lasting social subordination produce such despair? There is a
special dimension to the despair produced by subordination. In Ecclesiastes'
words, better not to have been born than to see "the *evil* work that is done
under the sun."[51]

Lasting social subordination is a product of, and thus reflects, what
might be called the depths and strengths of human evil, the human potential
for cruelty and indifference to suffering. In addition to the pain, fear,
shame, and anger it causes, lasting social subordination bears witness to the
vitality and durability of injustice. There can be much hopelessness and
meaninglessness to living in a world where such wrongfulness can so long
triumph.

III. Responses

I wrote previously that I do not believe there is a single optimal way
of coping with lasting social injustice. The challenges are not easy. Life can
be difficult enough without having to face factors such as socially-induced
pain, fear, anger, shame, and despair. The norm, in my view, is for the
subordinate to be scarred, rather than unscarred, by such things. That is part
of how power works. Nevertheless, below are some thoughts on coping with
socially-induced shame and despair.

When considering coping with shame and despair (as discussed
below), a critical preliminary matter is facing (internal) *acknowledgment*:
admitting to oneself frankly the situation of social subordination. Though to
some the answer may seem obvious, the matter is not trivial.
Acknowledgment, even simple internal acknowledgment, is often quite
painful, and can sometimes even be dangerous. Powerful emotions such as
anger and despair that accompany a frank recognition by the subordinate of
the situation can produce desperate, unbalanced, and risky actions. Denial,

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[50] Ecclesiates 4:1–3.
[51] *Id.* (emphasis added).

though commonly considered a psychological weakness, can at times be adaptive.[52]   There may be costs (e.g., emotional frozenness, distorted perception of reality, diminished self-esteem, etc.) to maintaining a mental wall, but there may also be costs taking it down.

Such risks notwithstanding, a tremendous power—a tremendous freedom—can come with frank acknowledgment, namely, the ability to make more conscious choices, and hence the ability to define one's life more consciously. Put differently, acknowledgment can make the subordinate's responses more balanced, informed, and purposive.

Below I write about the perspective of the subordinate who consciously internally acknowledges the social structure. Note, however, that much coping can and does take place without such conscious acknowledgment, sometimes along paths similar to those found through conscious acknowledgment. One subordinate person may, conscious of the surrounding social structure, avoid watching a movie that denigrates her status. Another subordinate person may instinctively avoid the film simply as one he would rather not see.

A. Shame

Hierarchical social structures typically involve either the explicit or implicit shaming of the subordinate. How is the subordinate to respond? Perhaps the most basic method is to reject superordinately-constructed symbols as metrics of meaning and to take pride in one's own identity and symbols.[53] If, for example, superordinate images depict the subordinate as ugly/savage/thief/dirty/stupid/lazy, alternative images can be sought.[54]

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[52]   *See* Bruce J. Winick, *Client Denial and Resistance in the Advance Directive Context: Reflections on How Attorneys Can Identify and Deal with a Psychological Soft Spot*, PRACTICING THERAPEUTIC JURISPRUDENCE: LAW AS A HELPING PROFESSION 327, 331 (Dennis P. Stolle et al. eds., 2000) (discussing the implications of denial and the "advanced directive instruments" effective in dealing with this issue). *See generally* DENIAL: A CLARIFICATION OF CONCEPTS AND RESEARCH (E.L. Edelstein et al. eds., 1989).

[53]   *See, e.g.*, W.E.B. Du Bois, *On Being Ashamed of Oneself: An Essay on Race Pride*, I AM BECAUSE WE ARE: READINGS IN BLACK PHILOSOPHY 250 (Fred Lee Hord & Jonathan Scott Lee eds., 1995) (discussing the importance of racial pride to African Americans). On understanding and responding to socially-constructed shame from a psychological perspective more generally, I recommend the works of Gershen Kaufman. *See generally*, GERSHEN KAUFMAN, SHAME: THE POWER OF CARING (1985); GERSHEN KAUFMAN, THE PSYCHOLOGY OF SHAME: THEORY AND TREATMENT OF SHAME-BASED SYNDROMES (1989); GERSHEN KAUFMAN & LEV RAPHAEL, COMING OUT OF SHAME: TRANSFORMING GAY AND LESBIAN LIVES (1996).

[54]   Often there is an element of psychological projection to this, the superordinate projecting onto the subordinate aspects of themselves they would rather not face. *See* MEMMI, *supra* note 26, at 79 (characterizing these images as excuses and myths projected onto the subordinate class with the absence of presence or conduct by the superordinate).

Meaning, in other words, must be in part re-defined away from superordinate *symbology* and toward subordinate symbology for de-shaming to take place.[55]

As a matter of logic, rejecting superordinate symbology may seem a simple step: Why not reject superordinate messages that shame you[56] and embrace those which do not? In practice, however, such can often be difficult. Part of the difficulty stems from resources and social power. The parent seeking to persuade her child's school not to teach a "classic" work like that just-so-happens to denigrate the subordinate or to teach an "alternative" history written from a non-superordinate perspective frequently faces an uphill battle.[57] Even making one's own home a safe, validating environment can be hard—the search for the black Barbie doll to give one's daughter can be long and trying.[58] Part of the difficulty stems from the ubiquity of superordinate symbology. For most white Americans, symbols such as the dollar bill, the U.S. Capitol building, or the U.S. Constitution are experienced with emotions ranging from indifference (they do not really think about it) to pride.[59] Yet George Washington was a slaveholder,[60] the U.S. Capitol was built with slave labor,[61] and the U.S. Constitution accepted slaves as three-fifths of a person (for the purpose of apportioning public funds).[62] As with divergent perspectives of the conqueror's and the conquered's descendants toward Columbus Day, what superordinate society's first impulse is to celebrate, subordinate society's first impulse may be to critique. In the extreme, to maintain his or her dignity, the subordinate

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[55]   By symbology, I mean not simply symbolism in the traditional sense (e.g., depictions of the subordinate) but rather symbolism in a very broad sense, that is, any vehicle through which either implicit or explicit messages of hierarchy are conveyed. The fact that only two women have served as U.S. Supreme Court Justices in the Court's 217-year history contains a very powerful message about the status of women. Such a fact is not a symbol in a narrow, traditional sense, but can be counted as symbology.

[56]   The true shame from lasting subordination (i.e., the shame of subordinating others) rests, of course, with the superordinate.

[57]   *See* SHARON E. RUSH, HUCK FINN'S "HIDDEN" LESSONS: TEACHING AND LEARNING ACROSS THE COLOR LINE 35–56 (2006) (discussing emotional segregation produced by the "classic" work).

[58]   *See generally* Kenneth B. Nunn, *Race Consciousness Among Children: The Dangers Inherent in Not Knowing Who You Are* (2001) (unpublished manuscript on file with author).

[59]   For simplicity, I use here a black/white paradigm. Such a binary construction is in some ways problematic, as race in America is far from a binary issue. *See* Juan F. Perea, *The Black/White Binary Paradigm of Race: The "Normal Science" of American Racial Thought*, 85 CAL. L. REV. 1213, 1219–21 (1997) (using Kuhnian principles to analyze the black/white paradigm's failure to encompass non-black racial struggles).

[60]   HENRY WIENCEK, AN IMPERFECT GOD: GEORGE WASHINGTON, HIS SLAVES, AND THE CREATION OF AMERICA 46 (2003).

[61]   RANDALL ROBINSON, THE DEBT: WHAT AMERICA OWES TO BLACKS 1–3, 55–56 (2000).

[62]   U.S. CONST. art. I, § 2.

need view the very institutions of "justice" (e.g., police, courts, prisons, etc.) as precisely institutions of injustice vis à vis the matter of social subordination, for, as mentioned, those institutions are often foundational in maintaining such subordination.[63]

Yet perhaps the greatest challenge to rejecting superordinate symbology concerns trust, more specifically, trusting oneself and one's inner knowledge sufficiently to reject socially-transmitted denigrating messages. That is no easy task. In many areas externally-transmitted knowledge is accurate and valid knowledge, so one is used to accepting it. Further, the "validity" of superordinate symbology is transmitted and reinforced through numerous avenues and layers of social structure. To reject the shame placed upon oneself is in some ways to reject the very legitimacy of the society itself. This helps explain why it is not uncommon for the subordinate, often in community, to assert a level of theological independence.[64] Superordinate theological constructions commonly provide a cornerstone of social ordering.[65] Thus, the subordinate wishing to reject the alleged legitimacy of the existing social order will often reject the superordinate vision of God. One might think, for example, of feminist pioneer Elizabeth Cady Stanton's work on *The Woman's Bible*,[66] of Native American scholar-activist Vine De Loria's book *God is Red*,[67] or of Black (rather than White) Jesus images found in many African American churches. Stated most abstractly, deshaming ultimately implicates nothing less than redefining social reality differently from the majority construction. Of course, practically speaking, many acts of de-shaming are often much "smaller" than this. Consciously embraced, however, the overall philosophical step is a radical one.

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[63]   *See* Katheryn K. Russell, *The Racial Hoax as Crime: The Law as Affirmation*, 71 IND. L.J. 593, 594 (1996) ("[S]tudy after study has shown that Blacks and Whites hold contrary views on the fairness of the criminal justice system's operation. Blacks tend to be more cautious in their praise and frequently view the system as unfair and racially biased."); *see also* Katheryn Russell-Brown, *Black Protectionism as a Civil Rights Strategy*, 53 BUFF. L. REV. 1, 14 (2005) ("[O]ne contemporary manifestation of African-American's cultural memory—symbolized by their shared history and shared space—is a deep distrust of the criminal justice system in particular. The historical reality of an unjust legal system is combined with the contemporary reality of a system that produces, among other things, disproportionate arrests, sentences, and convictions of African-Americans.").

[64]   *See e.g.*, JAMES H. CONE, GOD OF THE OPPRESSED 2 (1997) ("I responded to the black Church experience by offering myself for membership . . . when I was only ten and by entering the ministry at the early age of sixteen. It was a natural response, a response consistent with the beauty and joy of black life and an expression of my deep yearning for human definitions not bound by [a racist] earthly sphere. The black Church taught me how to deal with the contradictions of life and provided a way to create meaning in a society not of my own making.").

[65]   For example, one might think historically of divine right of rulership claimed by so many kings or currently of the influence of religious fundamentalism on political rule in our world.

[66]   ELIZABETH CADY STANTON, THE WOMAN'S BIBLE (Ayer Company Publishers 1986) (1895).

[67]   VINE DELORIA, JR.DELORIA, GOD IS RED (Grosset & Dunlap 1994) (1973).

B. Despair

The need to redefine reality also arises with despair. One way to frame the issue is as follows: What is achievement to mean in the context of lasting social subordination?

If success is taken to mean nothing short of fully eliminating the social injustice, failure will often be inevitable. More fundamentally, if achievement is taken to mean achievement as defined by superordinate symbology (e.g., reaching the top of the social pyramid) failure too will generally ensue.[68] Put differently, if achievement is defined as *power over others*—a morally problematic, zero-sum, superordinate construction of achievement—then the subordinate will almost inevitably lose to the superordinate.[69] There may, of course, be exceptions, but as a rule this will hold, for the subordinate's relative powerlessness is a defining feature of lasting social subordination.

As with shame, the "trick" comes in the definition of achievement. If achievement is defined in a power-over manner ("How can I/we become more powerful than the superordinate?"), then the plight of the subordinate is a dismal one. If instead achievement is defined in a power-to manner ("What do we have the power to do?" or "How can I use my life given the social

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[68] There may of course be exceptions, whether produced by extraordinary talent or effort, chance, or tokenism.

[69] *See* JEAN BAKER MILLER, TOWARD A NEW PSYCHOLOGY OF WOMEN 115–16 (Beacon Press 1986) (1976) (discussing the gender context). As Miller writes:

> The words 'power' and 'self-determination' have acquired certain connotations, that is, they imply certain modes of behavior more typical of men than women. . . . Like all the concepts and actions of a dominant group, 'power' may have been distorted and skewed. It has rested almost solely in the hands of people who have lived with a constant need to maintain an irrational dominance; and in their hands it has acquired overtones of tyranny. Similarly, the idea of self-determination, for dominant groups, has been has built on a base that included, *pari passu*, the restriction of another group . . . . Power has generally meant the ability to advance oneself and simultaneously, to control, limit, and if possible, destroy the power of others.

Id. A similar theme is echoed by Kenneth Nunn in the racial and colonial context of European conquest. *See* Kenneth B. Nunn, *Law as a Eurocentric Enterprise,* 15 LAW & INEQ. J. 323, 336 (1997) ("In Eurocentric culture, the world beyond the self is viewed as a collection of objects to be controlled. Indeed, in Eurocentric cultures 'the most valued relationship is between person and object.' Self-worth is often viewed in terms of the objects one has under control."). Nunn further states: "Consequently, Eurocentric culture produces a general sense of insecurity, 'an incessant need to control, dominate, or *be better than* others.'" *Id.* at 333.

circumstances?"), then achievement becomes a realizable prospect.[70] The issue is not, can I the subordinate be more powerful than you the superordinate, but rather what do I have the power to do.[71] In the words of Niebuhr's famous serenity prayer (note especially the less-well-known second sentence):

> God, give us grace to accept with serenity the things that cannot be changed, courage to change the things which should be changed, and the wisdom to distinguish the one from the other. Living one day at a time, enjoying one moment at a time, accepting hardship as a pathway to peace, taking, as Jesus did, this sinful world as it is, not as I would have it[.][72]

A path may thus exist of both acceptance and empowerment. By acceptance, I mean not resignation but rather realism toward the situation of relative powerlessness. By empowerment, I mean the recognition of what one does have the power to do. The subordinate may lack the power to fully topple the structures of social subordination, but still have the power to do many things, whether or not that involves addressing social subordination itself.   (In my view, the question of whether the subordinate, either individually or collectively, should engage in confronting the general situation of social subordination should remain the subordinate's choice.) This too implicates casting off shame. One of the best ways to feel good about oneself is to do things one feels good about doing, and almost all have many choices about what they do.

The example of Jewish resilience despite millennia of social subordination may help illustrate this approach to rejecting shame and despair. A central component of Jewish belief found in the Jewish Bible and liturgy is the Exodus narrative.[73] The message roughly goes, "[T]hough we Jews may now be subordinate to some worldly power (Pharoah), God is with us. There exists a God far greater than the existing social order, and that God

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[70]   The superordinate ultimately face a similar question.

[71]   *See* MILLER, *supra* note 69, at 117 ("Women need the power to advance their own development, but do not 'need' the power to limit the development of others."). I use "power to" in the place of Miller's "power for," that is, "the capacity to implement." *Id.*

[72]   *The Serenity Prayer*, About: Alcohol and Substance Abuse, (June 8, 2006) http://alcoholism.about.com/cs/12steps/a/aa031297.htm (last visted July 16, 2007) (on file with the Washington and Lee Journal of Civil Rights and Social Justice). Note there is some question as to whether the prayer originated with Niebuhr.

[73]   *See* Irving Greenberg, *Judaism as an Exodus Religion, in* THE JEWISH WAY: LIVING THE HOLIDAYS 34–65 (1988) (explaining how the meaning of God's message from the Exodus is celebrated in various traditions during the holiday of Passover). *See generally* MICHAEL WALZER, EXODUS AND REVOLUTION (1985) (offering a mediation on the political meanings of the biblical story of Exodus).

is on our side. Shame, in other words, belongs to those who oppress us, and not to us."[74]   Similarly, within traditional Judaism, the meaning of achievement is centered upon a power-to paradigm through the concept of *mitzvot*—a diverse, life-encompassing, and generative set of specific commandments, small and large, that Jews are to follow.[75] Achievement is at root defined in a power-to rather than a power-over manner. In short, both reality and achievement are defined in ways resilient to lasting social subordination. As Rabbi Moshe Chaim Efraim of Sadilkov commented: "The secret of Israel's survival among the nations is the fact that the Jewish people have gone their own way and have lived their own lives, regardless of what other nations might think or say of them in scorn or in praise."[76]

Note too that often, though certainly not always, this reframing of achievement involves a movement from what one might call a macroscopic vision of power—changing society as a whole—to a microscopic vision of power—influencing the smaller circle in which one lives.[77] In the extreme, when no possibility for external change exists, the heroic choice of what attitude to take toward one's very suffering—one of life's most basic choices—may still remain. As Victor Frankl wrote based upon his Holocaust experience and psychological research:

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[74]   Judaism has clearly been adaptive to the challenges of social subordination. Though I will not explore it here, much of Jewish practice and civilization can be understood in that light. For one such analysis through the lens of the Passover Haggadah, see Moshe Davidowitz, *The Psychohistory of Jewish Rage and Redemption as Seen through Its Art, in* STATES OF RAGE: EMOTIONAL ERUPTION, VIOLENCE AND SOCIAL CHANGE 167 (Renee R. Curry & Terry L. Allison eds., 1996) (explaining how Jews have historically expressed their rage through their art).

[75]   Some may ask whether the Jewish emphasis on *tikkun olam* (literally "repairing of the world" but typically understood as righting social injustice) points in the opposite direction, that is, as involving a power-over component in an ultimate goal of ending the superordinate's power over the subordinate. Yet lesser goals may be adopted. If achievement is taken as making steps toward *tikkun* even if complete *tikkun* cannot now be reached, then a power-to approach can be maintained. I am reminded of Rabbi Tarfon's words, "You are not obliged to complete the task, but neither are you free to neglect it." PIRKE AVOT 2:21, as translated in SIDDUR SIM SHALOM 619 (Jules Harlow ed., 1985).

[76]   AVRAHAM YAAKOV FINKEL, THE GREAT CHASIDIC MASTERS 79 (1992). There are of course other understandings of the "key" (if such a thing exists) to Jewish survival through the roughly 2000-year diaspora. Compare THE REVIVERS OF THE HEBREW LANGUAGE 34–35 (Simcha Raz ed., Brit Ivrit Olamit, 1969) (*author's translation*) (quoting poet Chaim Bialik, stating: "If you want to know from where your brothers the Jews have derived the great strength to survive all the days of the diaspora . . . go to the house of study (*beit midrash*)[.] The house of study is the house of life for the Jewish people.") *with* DAVID BIALE, POWER & POWERLESSNESS IN JEWISH HISTORY 6 (1986) (arguing that the Jews' extraordinary ability to maneuver between the extremes of a quest for full sovereignty and a state of political passivity was the key to their survival during the diaspora).

[77]   The power of influencing one's "small circle" should not be discounted. Recall the words commonly attributed to Margaret Mead: "Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it's the only thing that ever has."

> We must never forget that we may also find meaning in life when
> confronted with a hopeless situation, when facing a fate that cannot be
> changed. For what then matters is to bear witness to the uniquely
> human potential at its best, which is to transform a personal tragedy
> into a triumph, to turn one's predicament into a human achievement.
> When we are no longer able to change a situation—just think of an
> incurable disease such as inoperable cancer—we are challenged to
> change ourselves.[78]

Even in the most dire circumstances, the choice of how to approach
one's fate may still remain.[79]

IV. Conclusion

I began this article in a metaphorical vein, and will thus conclude. I
claimed in the introduction that we sometimes experience a "poetry in human
life—a sense of joy and wonder, connectedness and meaning, and
occasionally even transcendence" and characterized lasting social
subordination as a "particularly difficult external obstacle to that poetic joy."

Though likely little time has passed—perhaps less than an hour—
since you the reader read those lines, for me over a year passed since I wrote
them. The subject of this Essay has been difficult for me.

When I wrote those lines, I envisioned a joyous poetry, positive
through and through, a jubilant poetry, perhaps doxological. As I now look
back, I wonder whether that poetry is of a different, richer sort—that of joy
laced with sorrow, comfort with pain, achievement with failure. Further, I
originally thought of poetry from the listener's view, as something one hears.
Yet there is a second view, that of the writer. Ultimately, the poetry of life
that the subordinate (and others too) experience may be one they both hear
and write.

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[78]   FRANKL, *supra* note 20, at 116.

[79]   *Id.* at 117–18. By no means do all feel such an uplifting, profound sense of meaning in a dire
situation, even those who are in many ways highly resilient. Consider, for example, the sense of envy and
perhaps nihilism Simon Wiesenthal, then a Jewish concentration camp prisoner, describes in his novel *The
Sunflower* upon seeing rows of sunflowers planted upon the graves of German soldiers:

> Each had a sunflower to connect him with the living world, and butterflies to visit his
> grave. For me there would be no sunflower. I would be buried in a mass grave, where
> corpses would be piled on top of me. No sunflower would ever bring light into my
> darkness, and no butterflies would dance above my dreadful tomb.

SIMON WIESENTHAL, THE SUNFLOWER: ON THE POSSIBILITIES AND LIMITS OF FORGIVENESS 14–15
(1997).

Appendix

A leading figure in Jewish history, Rabbi Yohanan ben Zakkai, a student of Rabbi Hillel, has been called the "father of wisdom" and the "father of coming generations." Solomon Schechter & Wilhelm Bacher, THE JEWISH ENCYCLOPEDIA, *http://* www.jewishencyclopedia.com (use search field) (last visited June 5, 2006). According to Jewish tradition, ben Zakkai's work in establishing a center for Jewish study in Yavneh was critical for Judaism's survival after Jerusalem, controlled by Jewish zealots who fought to the death, fell to the Romans in 70 C.E. *See generally* JACOB NEUSNER, FIRST CENTURY JUDAISM IN CRISIS: YOHANAN BEN ZAKKAI AND THE RENAISSANCE OF TORAH (1970). The realistic ben Zakkai had argued for surrender rather than suicidal battle, but to no avail. *Id.* at 137–145. The Temple's destruction meant the end of the cultic process of atonement through ritual sacrifice which theretofore lay at Judaism's very core. In response, ben Zakkai suggested an alternative route to atonement. As the story goes, upon seeing the Temple in ruins:

> 'Woe unto us!' Rabbi Joshua cried, 'that this, the place where the iniquities of Israel were atoned for, is laid waste!' 'My son,' Rabban Johanan [ben Zakkai] said to him, 'be not grieved; we have another atonement as effective as this. And what is it? It is acts of loving-kindness [hessed], as it is said, *For I desire mercy and not sacrifice.*' (Hos. 6: 6).

JUDAH GOLDIN, THE FATHER'S ACCORDING TO RABBI NATHAN 34 (1955) (*translating from* AVOT DE RABBI NATHAN, 4).

As ben Zakkai lived some two thousand years ago, it is unclear how much of what we know of his life is legend and how much is fact. NEUSNER, *supra* note 1, at xi. Yet the image painted is that ben Zakkai possessed great political insight and tremendous spiritual resiliency. Perhaps his ultimate genius lay, as with Martin Luther King and Mahatma Gandhi, in the synthesis of the two.