

Book Reviews

Political Theory

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The Demand of Justice: Symposium on Tommie Shelby’s *Dark Ghettos: Injustice, Dissent, and Reform*

Dark Ghettos: Injustice, Dissent, and Reform by Tommie Shelby. Cambridge, MA: Harvard University Press, 2016, 352 pp.
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DOI: 10.1177/0090591718820822

Political Agency in the Face of Structural Injustice: Is “Impure Dissent” Enough?

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What does justice demand in the context of deep and enduring structural inequality? Tommie Shelby’s *Dark Ghettos: Injustice, Dissent, and Reform* takes on this pressing political question: a question that is arguably the most urgent one facing the contemporary United States, and yet one that political philosophy too often ignores. *Dark Ghettos* makes three principal contributions. First, it critiques an approach to solving social problems that Shelby calls the “medical model,” one that fails to tackle the unjust social structure that is the root cause of the issues it purports to address. Second, it makes the case for an alternative Rawlsian approach to dismantling structural injustice, one that centers on what Rawls calls the basic structure. Third, it considers in some depth the ethical duties of people whom Shelby calls the “ghetto poor”: that is, denizens of American neighborhoods that have been subjected to systematic disinvestment under conditions of structural racism. In this short essay, I consider Shelby’s critique of the medical model (section I) and the alternative he proposes, focusing in particular on his arguments about a form of political dissent that he calls “impure” (section II). I then suggest that answering the question “What does justice demand in the context of deep and enduring structural inequality?” requires particularly close attention to the role of collective action in promoting change (section III).

The Medical Model

On July 9, 2015, eleven months to the day since white police officer Darren Wilson had fatally shot black teenager Michael Brown in Ferguson, Missouri's then-governor Jay Nixon signed into law a bill known as Senate Bill 5 (SB 5). SB 5 restricted the percentage of operating revenue that cities in the state could raise through their municipal court systems, setting a maximum of 20% for most municipalities, and 12.5% for those in St. Louis County.¹ The bill also capped the fines that cities could attach to minor traffic violations, and it prohibited them from jailing people for such offenses or for failure to pay the associated fines. The action was a response to the ignominy brought on Missouri, and especially on St. Louis County, in the aftermath of Brown's shooting. It was also an instance of what Shelby calls "the medical model" of addressing problems like those that plague Ferguson and other North St. Louis County municipalities. The medical model, as Shelby characterizes it, employs narrowly targeted state interventions in efforts to solve isolated problems, while taking as given the structural context within which those problems play out.

Republican state senator Eric Schmitt, who introduced the legislation for SB 5, framed the bill's passage as a matter of justice. "When you have a system where it becomes about revenue generation," he said, "and the rights of individuals take a back seat, people are in jail for minor infractions, that's an injustice."² Smith's reference to "a system where it becomes about revenue generation" echoed the US Department of Justice (DOJ)'s widely circulated Ferguson Report, which detailed the ways that the city had targeted its black citizens for years, extracting from them exorbitant fees, which it relied upon for revenue.³ According to the DOJ, "The City budgets for sizeable increases in municipal fines and fees each year, exhorts police and court staff to deliver those revenue increases, and closely monitors whether those increases are achieved."⁴ SB 5 took aim at this practice. Of course, Schmitt was right that racially biased, exploitative policing in Ferguson and other municipalities in St. Louis County violates basic principles of justice. But at the same time, as Shelby argues in *Dark Ghettos*, predatory policing is only part of a larger system of structural injustice, which involves multiple, intersecting institutions and practices. In St. Louis, the structural context within which predatory policing occurs involves a long history of racial discrimination in housing, schooling, and employment; exclusionary zoning in affluent white suburbs; and the hyper-fragmentation of local government. SB 5 was an instance of the medical model because it did not touch – indeed, it did not even pretend to touch – that background structure.

Shelby identifies three main problems with the approach to dismantling structural racial injustice exemplified by Missouri's Senate Bill 5. First, it is insufficiently radical in the most basic sense of that word; it does not identify, and it does not address, the root causes of the problems it claims to target. In Shelby's words, "[T]he system itself needs fundamental reform. ... [F]eatures of society that could and should be altered often get little scrutiny" (2). Second, because the medical model focuses exclusively on the disadvantaged – people, like residents of Ferguson, whom the relevant problems harm – it draws attention away from those who "unfairly benefit from [the] unjust social structure" that produces those problems (3). Think of affluent white St. Louisianans, whose privilege is created and maintained by the very institutions and practices that disadvantage black residents of North County. Third and finally, Shelby argues that "the technocratic reasoning of the medical model marginalizes the political agency of those it aims to help" (2). In other words, the approach embodied in SB 5 is a "medical" model, not only because it regards the problems that plague cities like Ferguson as symptoms in need of treatment, but also because it regards the people those problems affect as patients in need of expert care.

Perhaps it was, at least in part, concerns such as these that fueled the opposition to the bill by many black mayors in North St. Louis County, who argued that, rather than ameliorate inter-urban inequalities, SB 5 would exacerbate them. In November 2015, twelve mayors of majority-black cities near Ferguson filed suit, alleging that the new law was "an extraordinary act of overt discrimination," as well as an unfunded mandate, in violation of the Hancock Amendment to Missouri State's Constitution.⁵ Patrick Green, the mayor of Normandy, the city where Michael Brown had attended high school, objected to what he characterized as Eric Schmitt's suggestion that the responsibility for racial injustice in St. Louis lay with elected officials in poor, majority-black cities. Green told St. Louis's black weekly newspaper, *The St. Louis American*, that "Schmitt makes it sound like all of these majority-black municipal governments don't care about poor black people." and went on to question the motivations of the Republican state senator, asking rhetorically: "Tell me, looking at his voting record, when did Eric Schmitt start caring about poor black people?"⁶

Injustice and the Basic Structure

No doubt Green would agree with Shelby that a better response to the problems that plague Ferguson and other cities in North St. Louis County is one that tackles structural injustice. In place of the medical model, Shelby adopts a Rawlsian approach, focusing attention on the basic structure: that is, on "the

major political, economic, and social institutions that make fruitful social cooperation possible and that apportion the benefits and burdens of such cooperation” (20). On his view, justice is not a matter of alleviating isolated symptoms in places like Ferguson. Instead, it is a matter of reciprocity among the members of a political society who cooperate in a structural context that accords each person equal rights and opportunities and distributes social benefits and burdens fairly.

Among *Dark Ghettos*'s many strengths is this focus on structural (in)justice. In the first of the book's three parts, Shelby makes the case that justice does not require, as others have suggested, either racial integration (Ch. 2) or reform of the values, attitudes, and aspirations of the people to whom he refers as the “ghetto poor” (Ch. 3). Although his critiques of these two paths to change are powerful, I cannot do them justice here. Instead, I will briefly note his principal concerns about each. With respect to the former (think of programs like Moving to Opportunity, the US Housing and Urban Development initiative that focused on moving low-income families from high-poverty to low-poverty neighborhoods), the trouble is that it imposes nontrivial costs on the disadvantaged, while failing to level the underlying hierarchies that produce and reproduce physical sites of deprivation. With respect to the latter (think of cultural reform projects of the sort exemplified by the Personal Responsibility and Work Opportunity Reconciliation Act, the welfare reform bill that President Clinton signed into law in 1996), the trouble is that it fails to safeguard the agency, the self-respect, and the self-esteem of those whom it targets. Shelby's critiques are nuanced and persuasive. They raise the question: “If not racial integration or cultural reform, then what?” He closes Part I of *Dark Ghettos* with the claim that, in the contemporary United States, “it almost certainly will take a social movement to realize liberal-egalitarian ideals” (113).

Surely Shelby is correct on that count. But, for this reader at least, the space between that conclusion and the arguments in Parts II and III of *Dark Ghettos* was surprising. In the second and third sections of the book, Shelby does not (as I expected he would) pursue the question of how to dismantle structural forms of injustice. Instead, he shifts his attention to the ethical duties of the “ghetto poor,” considering both the ways that an unjust basic structure affects people's responsibilities as parents, workers, and citizen-subjects, and also the limits of legitimate state authority under conditions of structural injustice.

In these latter two sections of his book, Shelby arrives at some surprising conclusions: conclusions that make Rawls seem considerably more radical (in the political sense) than he typically seems. For example, in Chapter 7, titled “Crime,” he makes the case that, in the context of an unjust basic

structure, those who are denied fair treatment by their fellow citizens and by the state do not have duties to conform to many aspects of the criminal law. People have obligations to one another as moral agents, Shelby underscores. For example, all people have the duty to respect one another's bodily integrity, and for this reason, all are obligated to refrain from committing wrongs like murder or assault. But because civic duties, which derive from the principle of reciprocity, bind only those who cooperate under conditions of justice, under unjust conditions like those that obtain in the contemporary American ghetto, many legal violations – including a fairly wide range of property crimes – are ethically unobjectionable. Shelby notes that “affluent capitalist societies encourage the expectation that, with a reasonable degree of effort, any able-bodied person has a fair chance to live a life of material comfort.” When this expectation is violated, he argues, “one is not necessarily being unreasonable when one chooses unlawful means to attain the expected standard of living” (216).

In addition, in Shelby's view, to disobey the law in the context of an unjust basic structure can be a form of political resistance with positive value. He argues that all people – not excluding those who are disadvantaged by an unjust basic structure – have the duty to work to end injustice. But when doing so is out of reach, “there is an ethic of resistance aimed at living with self-respect despite insurmountable injustice” that can involve civil disobedience (221). Shelby develops this claim about resistance in his book's final chapter (Ch. 9), which begins to connect the arguments in the second and third sections with the concerns articulated in the first. Here he makes the case that what he calls “impure dissent” – that is, forms of political dissent that violate widely held normative standards and are *not* instrumental to changing an unjust social structure – can have significant intrinsic value. Impure dissent, although it may not effect moral suasion, and although it may not effect institutional change, can have value as a “public act of protest, a meaningful mode of resistance to injustice, an affirmation of self-respect” (272).

Resisting Structural Injustice

On December 23, 2014, in Berkeley, Missouri, a small city just west of Ferguson, white police officer Andrew Weusthoff fatally shot black teenager Antonio Martin. That night there was a protest, during which nineteen-year-old Joshua Williams, a well-known Ferguson activist, was videotaped attempting to light a fire at a convenience store that had been broken into by looters. A few days later, Williams was arrested and charged with arson, burglary, and theft. The following December, in a highly publicized criminal

case, the then twenty-year-old was sentenced to serve eight years in Missouri state prison. Ferguson protesters packed Williams's sentencing in the St. Louis County courtroom. Kayla Reed, another well-known activist, tweeted throughout the hearing, noting at one point that Williams had been treated particularly harshly because of his activism: "I listened to a prosecutor say '[W]e need to make an example of him so others know we won't tolerate this behavior.'"7 Brittany Packnett, also a prominent protester, who at the time was serving on Governor Nixon's Ferguson Commission, expressed dismay as she compared Williams's sentence to the state's treatment of Darren Wilson: "Our hearts are broken. Darren Wilson took a life and won't ever see the inside of a jail cell. But a protestor will for a long time."8

Joshua Williams's action – his attempted arson during a small-scale riot – was an instance of what Tommie Shelby calls impure dissent: a symbolically laden communicative act, which announced that an injustice had been committed and also expressed justified anger at that injustice. In the context of deep and enduring racial oppression, this action may well have been, as Shelby likely would argue, ethically defensible. That said, it was not unlike Senate Bill 5 in that it failed to affect the unjust basic structure that is Shelby's principal concern. Although the arguments in the second and third sections of *Dark Ghettos* are persuasive, they leave unanswered the question "How can and should resistance promote structural change?" In other words, how can and should collective action of the sort that Shelby invokes at the end of his book's first section promote justice, understood as fair cooperation in the context of a liberal egalitarian basic structure?

Recall Shelby's critique of the medical model of political change. "The primary aim of those working within this framework," he writes, "is to increase the material welfare of people living in ghettos through narrowly targeted and empirically grounded interventions into their lives" (2). No doubt he is right that *narrowly targeted* state action, focused *only* on people's material well-being, is inadequate to challenging and changing structural racial injustice. Nevertheless, if – as Shelby rightly underscores – *change at the level of state institutions* is key, then effective resistance must target those institutions. I do not think Shelby would disagree. Yet, at first glance, there seems to be a mismatch between, on the one hand, his critique of the medical model for its failure to attend to the basic structure, and on the other his positive argument, which focuses on the ethical responsibilities of individual agents.

Why the qualifier ("at first glance")? Because it struck me as I read that perhaps the reason Shelby abstains from advancing a positive argument about structural change is to avoid replicating the mistakes of legislators like Missouri's Eric Schmitt. In other words, perhaps his view is that

philosophers, no less so than policy makers, should take care not to regard and to treat the “ghetto poor” like patients in need of expert diagnosis. Near the start of *Dark Ghettos*, Shelby spells out his view of the role that nonideal theory plays in political philosophy. Nonideal theory, he writes, “specifies and justifies the principles that should guide our responses to injustices”: principles that inform efforts to reform unjust institutions, to rectify past injustices, to address noncompliance with positive law under conditions of structural injustice, and to specify the parameters of ethical behavior for individual agents living under such conditions (11). Although nonideal theory, by articulating such principles, can aid political actors as they identify collective goals and priorities and map out strategies for structural change, at the end of the day (Shelby’s view seems to be), that political work is the work of citizens, not philosophers.

But might philosophers nevertheless engage that political work more closely? Might we, for example, attend to evaluative questions of the sort that have been raised with renewed urgency by recent social movements? Think of Occupy Wall Street (OWS)’s emphasis on prefigurative politics over legislative reform; its prioritization of economic inequality over racial, ethnic, gendered, and sexuality-based hierarchies; and its reliance on horizontalism in its internal organizational structure and decision-making processes.⁹ Each of these aspects of OWS’s approach to structural change has been subject to criticism. For example, some claim that horizontalism in the movement reinforced internal hierarchies. According to one OWS participant: “You still had leaders, and it was the same people who end up rising in the systems that we’re trying to address. ... The people who you would see on TV or as the quote-unquote ‘leaders’... were often white, male, and highly educated.”¹⁰ Decisions about the ends and the aims that social movements adopt, about the processes that participants use to articulate shared goals and agendas, and about the forms of action in which they choose to engage are political decisions, no less so than are the decisions that individual actors make about how to negotiate life under unjust conditions. Can nonideal theory of the sort that Shelby so masterfully deploys in *Dark Ghettos* help with the task of guiding collective efforts to enact structural change?

Conclusion

Beginning in the summer of 2015, Kayla Reed, Brittany Packnett, and other protesters from Ferguson joined activists from the Black Youth Project in Chicago, the Black Women’s Blueprint in Brooklyn, the national Black Lives Matter Network, and dozens of other groups across the United States to spell out “a common vision and agenda” to dismantle structural racial

injustice in and beyond the contemporary United States.¹¹ They formed a collective, calling themselves the Movement for Black Lives (M4BL), and over the course of the following year, engaged in a series of in-depth “policy tables” to produce a political platform for promoting racial justice. The group’s approach was antipodal to the medical model. It emphasized that structural injustice cannot be reduced to an isolated problem, and that racial oppression is not amenable to a quick fix. “State violence takes many forms,” M4BL underscores. “[I]t includes ... systemic underinvestment in our communities, the caging of our people, predatory state and corporate practices targeting our neighborhoods, government policies that result in the poisoning of our water and the theft of our land, failing schools that criminalize rather than educate our children, economic practices that extract our labor, and wars on our Trans and Queer family that deny them their humanity.”¹²

M4BL identified six main goals – an end to “the war on black people”; reparations for state-backed harms; investment in black people’s education, health, and safety; economic justice; community control; and political power – and it issued multiple, detailed briefs outlining what it would require to achieve each goal. For example, the collective issued nine briefs on “economic justice” (focused on restructuring tax codes, creating jobs programs, ending the privatization of natural resources, strengthening workers’ rights to organize, restoring the Glass-Steagall Act, renegotiating trade agreements, supporting black cooperatives and other alternative economic institutions, and protecting workers in under-regulated sectors). Each brief detailed whether legislation was possible at the local, state, or federal level; provided information about groups already working on the relevant problem(s); and linked to available resources, such as model legislation.

M4BL is a long way from “impure dissent.” That said, the collective’s work has not been uncontroversial. For example, some American Jewish groups have criticized MBL’s positions on the Israeli Occupation of Palestine and its critique of US support for Israel, which the collective claims renders the United States “complicit in the genocide taking place against the Palestinian people.”¹³ Others have praised M4BL for producing, in Robin Kelley’s words, “a remarkable blueprint for social transformation that ought to be read and discussed by everyone.” “The demands are not intended as Band-Aids to patch up the existing system,” Kelley writes, “but achievable goals that will produce deep structural changes and improve the lives of all Americans and much of the world.”¹⁴ I find Kelley’s analysis persuasive. And yet, as I read Shelby’s powerful book, I grew hungry for a philosophical argument that might specify the principles that should guide a political project like that undertaken by the Movement for Black Lives.