

MYTHS OF MERITOCRACY

Comment on M. Sandel's *The Tyranny of Merit*

Deborah L. Rhode*

The United States has long presented itself as a meritocracy, a society that rewards talent and effort. The “American Dream,” as originally formulated by a historian in the 1930s, was being able “to grow to [one’s] fullest development,” unhampered by background.¹ Faith in that meritocratic ideal persists, despite increasing inequality and awareness of bias based on race, class, gender, and other background characteristics. In recent polls, between two-thirds and three-quarters of people said that they believe in the American Dream and are satisfied with “the opportunity for a person to get ahead by working hard.”² Barack Obama frequently referenced our nation’s “essential promise” that “everybody should have an equal opportunity to succeed. . . . Where you start should not determine where you end up.”³

Many who believe in that promise will be disappointed. Other nations do a much better job than America in enabling the American Dream for those from disadvantaged backgrounds. Our levels of economic inequality are far higher than comparable nations, and our levels of mobility across class, race, and ethnicity are lower.⁴ In *The Tyranny of Merit*:

Editor’s note: *Until her passing in January 2021, Deborah L. Rhode was the Ernest W. McFarland Professor of Law and the Director of the Center on the Legal Profession at Stanford Law School. She was the founding chair of the Section on Leadership of the Association of American Law Schools, and the founding president of the International Association of Legal Ethics. A former president of the Association of American Law Schools, Rhode remains the nation’s most frequently cited scholar on legal ethics. Her many awards include the American Foundation’s Distinguished Scholar award, the American Bar Association’s Pro Bono Publico Award for her work on expanding public service opportunities in law schools, and the White House’s Champion of Change award for a lifetime’s work in increasing access to justice.

- 1 JAMES TRUSLOW ADAMS, *EPIC OF AMERICA* 405 (1931).
- 2 See HEATHER BETH JOHNSON, *THE AMERICAN DREAM AND THE POWER OF WEALTH* 27 (2006); Jeffrey M. Jones, *Most in U.S. Satisfied with Quality of Life, Opportunity*, GALLUP (Jan. 25, 2019), <https://news.gallup.com/poll/246236/satisfied-quality-life-opportunity.aspx>. For other research, see DEBORAH L. RHODE, *AMBITION: FOR WHAT?* (2021).
- 3 President Barack Obama, Remarks at College Opportunity Summit (Dec. 14, 2014), <https://obamawhitehouse.archives.gov/the-press-office/2014/12/4/remarks-president-college-opportunity-summit>.
- 4 See *infra* text accompanying notes 10–12.

What's Become of the Common Good?, Michael Sandel gives a masterful account of flaws in the meritocratic ideal and suggestions of what should replace it.⁵

I. A FLAWED IDEAL

A threshold problem with the meritocratic ideal is the assumption that people “deserve” their fate. Sandel points out that, just as poor children do not “deserve” their poverty or the enduring disadvantages that accompany it, well-off children do not “deserve” their elite credentials or the vast social and economic advantage that accompanies them. “Meritocratic hubris reflects the tendency of winners to . . . forget the luck and good fortune that helped them on their way. It is the smug conviction of those who land on top that they deserve their fate, and that those on the bottom deserve theirs, too.”⁶

To the extent that innate talents generate success, they are, as Sandel points out, “matters of luck,” as are the rewards that follow from them.⁷ For example, LeBron James prospers not only because he is “blessed with prodigious athletic gifts,” but also because he is fortunate to live in a society that highly rewards them rather than “in Renaissance Florence, when fresco painters, not basketball players, were in high demand.”⁸

Moreover, innate talent plays far less a role in determining outcomes, and class and race far greater roles, than Americans typically assume. In recent polls, only about a third of Americans said coming from an upper-income family was important in becoming economically successful, and even fewer thought that race or ethnicity was important or that discrimination against people of color contributed a great deal to inequality.⁹ Yet research summarized in my forthcoming book, *Ambition: For What?*, paints a different picture. Recent studies find that about seventy percent of Americans raised in the bottom two-fifths of the wealth distribution never make it to the middle.¹⁰ Those from low-income

5 MICHAEL SANDEL, *THE TYRANNY OF MERIT: WHAT'S BECOME OF THE COMMON GOOD?* (2020).

6 *Id.* at 25.

7 *Id.* at 122.

8 *Id.* at 123.

9 Joe Neel, *Is There Hope for the American Dream? What Americans Think About Income Inequality*, NPR (Jan. 9, 2020), <https://www.npr.org/sections/health-shots/2020/01/09/794884978/is-there-hope-for-the-american-dream-what-americans-think-about-income-inequality>; Juliana Menasce Horowitz, Ruth Igielnik & Rakesh Kochhar, *Most Americans Say There Is Too Much Economic Inequality in the U.S., but Fewer than Half Call It a Top Priority*, PEW RSCH. CTR. (Jan. 9, 2020), <https://www.pewsocialtrends.org/2020/01/09/most-americans-say-there-is-too-much-economic-inequality-in-the-u-s-but-fewer-than-half-call-it-a-top-priority>.

10 *Moving On Up: Why Some Americans Leave the Bottom of the Economic Ladder but Not Others*, PEW RSCH. CTR. (Nov. 1, 2013), <https://www.pewtrusts.org/~media/assets/2013/11/01/movingonuppdf.pdf>; Josh Sanburn, *The Loss of Upward Mobility in the U.S.*, TIME, Jan. 5, 2012, <https://business.time.com/2012/01/05/the-loss-of-upward-mobility-in-the-u-s/>; Timothy Egan, *Downtown and Downward*, N.Y. TIMES, Feb. 14, 2013, <https://opinionator.blogs.nytimes.com/2013/02/14/downton-and-downward/>.

families have less than a three percent chance of rising to the top fifth of household income distribution as adults.¹¹ White children in poor families are four times more likely to reach affluence than Blacks, and Blacks in affluent families are more likely than whites to end up at the bottom of the economic hierarchy.¹²

Research also shows that innate abilities “are not the root of the problem” of intergenerational inequality.¹³ There is “no evidence for significant average differences in intelligence-related genes between races,” nor are there racial differences in genes “linked to any behavioral or cognitive trait.”¹⁴ Huge income inequalities are largely “due to the fact that society has invested far more in developing some people’s talents than others and that it puts very unequal amounts of capital at the disposal of each worker.”¹⁵

That unequal investment begins early. Families with higher income can do more to support their children’s positive development and can live in communities with schools and peers that do the same.¹⁶ Parents in the top tenth of the economic hierarchy spend nine times as much on childcare and enrichment as those in the bottom tenth, and differences in expenditures are a strong predictor of cognitive performance.¹⁷ Because most American public schools are funded primarily through local taxes, well-off communities can afford more of everything that fosters achievement: smaller classes, higher teacher salaries, and more curricular and extracurricular enrichment.¹⁸ Some studies find that the wealthiest ten percent of school districts have ten times the resources as the poorest ten percent, even though poorer schools face much greater educational challenges (e.g., more language barriers, less-adequate student preparation).¹⁹

The advantages of wealth are equally apparent in the college admission process and, as both my own and Sandel’s research note, undermine any claims of meritocracy. Well-off

11 Raj Chetty & David Williams, *The American Dream by the Numbers*, TIME, Mar. 2–9, 2020, at 83; see also Raj Chetty, et al., *Race and Economic Opportunity in the United States: An Intergenerational Perspective*, 135 Q.J. ECON. 711 (May 2020).

12 Chetty & Williams, *supra* note 11; Chetty et al., *supra* note 11.

13 Chetty & Williams, *supra* note 11, at 83.

14 DAVID J. LINDEN, *UNIQUE: THE NEW SCIENCE OF HUMAN INDIVIDUALITY* 247 (2020).

15 Elizabeth S. Anderson, *What Is the Point of Equality?*, 109 ETHICS 287, 325 (1999).

16 Sarah Irwin & Sharon Elley, *Parents’ Hopes and Expectations for Their Children’s Future Occupations*, 61 SOCIO. REV. 111, 112 (2013); Tomas R. Jimenez & Adam L. Horowitz, *When White Is Just Alright*, 78 AM. SOCIO. REV. 849, 856, 858 (2013).

17 Rand D. Conger, Katherine J. Conger & Monica J. Martin, *Socioeconomic Status, Family Processes, and Individual Development*, 72 J. MARRIAGE & FAM. 685, 695 (2010); ROBERT D. PUTNAM, *OUR KID: THE AMERICAN DREAM IN CRISIS* 125 (2016).

18 MARK ROBERT RANK, *ONE NATION UNDERPRIVILEGED: WHY AMERICAN POVERTY AFFECTS US ALL* 210 (2004); Jeannie Oaks & Marisa Saunders, *Education’s Most Basic Tools*, 106 TCHRS. COLL. REC. 167 (2004).

19 Linda Darling-Hammond & Laura Post, *Inequality in Teaching and Schooling: Supporting High-Quality Teaching and Leadership Opportunities in Low-Income Schools*, in *A NOTION AT RISK: PRESERVING PUBLIC EDUCATION AS AN ENGINE FOR SOCIAL MOBILITY* 127 (Richard D. Kahlenberg ed., 2000); PUTNAM, *supra* note 17, at 167–72.

parents pay for private schools, tutors, SAT prep courses, athletic expenses, travel and enrichment programs, resume-ready public service experiences, college application advisors, and occasionally even bribes or ghost-written application essays.²⁰ Preferential treatment goes to children of alums, large donors, and, at all but a few colleges, families who can pay full tuition.²¹ Athletes also get a bump for sports that are generally available only to white, well-off students, such as golf, crew, sailing, and squash.²² All of these factors help explain why two-thirds of students at Ivy League schools come from the top twenty percent of the income scale.²³ Yet despite all the factors that compromise claims to merit, a widespread perception remains that, as one employer put it, “[n]umber one people go to number one schools.”²⁴

Such views contribute to an often unacknowledged and unapologetic bias against those without educational credentials. Surveys find that the poorly educated are the most disfavored group in the United States, falling below Blacks, the poor, and the obese.²⁵ Well-educated Americans, who are the most ready to deplore other forms of prejudice, are also the most biased against the uneducated.²⁶ Such unexamined prejudices buttress rationalizations for privilege. “Among the winners,” Sandel notes, our myths of meritocracy “generate hubris; among the losers, humiliation and resentment,” all of which contribute to a dysfunctional political polarization.²⁷

II. STRATEGIES

There are no easy fixes. As an abstract matter, Americans support reforms that would make the American Dream a reality. Ninety percent say our society should do “whatever is necessary to make sure that everyone has an equal opportunity to succeed.”²⁸ The problem is that they fail to vote that way or even to acknowledge the policy interventions that

20 WILLIAM DERESIEWICZ, *EXCELLENT SHEEP: THE MISEDUCATION OF THE AMERICAN ELITE AND THE WAY TO A MEANINGFUL LIFE* 33 (2015); SANDEL, *supra* note 5, at 10–11; Sarah Ruiz-Grossman, *Elite College Admission Scandal Shows Irony of Affirmative Action Complaints*, HUFFINGTON POST, Mar. 14, 2019, https://www.huffpost.com/entry/college-bribery-scandal-affirmative-action_n_5c896a88e4b0450ddaef19c.

21 SANDEL, *supra* note 5, at 10.

22 Saahil Desai, *College Sports Are Affirmative Action for Rich White Students*, THE ATLANTIC (Oct. 23, 2018), <https://www.theatlantic.com/education/archive/2018/10/college-sports-benefits-white-students/573688/>.

23 SANDEL, *supra* note 5, at 10–11.

24 LAUREN RIVIERA, *PEDIGREE: HOW ELITE STUDENTS GET ELITE JOBS* 36 (2016).

25 SANDEL, *supra* note 5, at 95; Toon Kuppens et al., *Educationism and the Irony of Meritocracy: Negative Attitudes of Higher Educated People Towards the Less Educated*, 76 J. EXPERIMENTAL SOC. PSYCH. 429 (2018).

26 Kuppens et al., *supra* note 25.

27 SANDEL, *supra* note 5, at 25.

28 BENJAMIN I. PAGE & LAWRENCE R. JACOBS, *CLASS WAR? WHAT AMERICANS REALLY THINK ABOUT ECONOMIC INEQUALITY* 57–59 (2009).

would be required. As Sandel notes, unless we abolish or radically alter the family and equalize wealth and education, there is no way to truly level the playing field.²⁹ Given the implausibility of those interventions, Sandel wants to give up on the meritocratic ideal, restore the dignity of work, and build a commitment to the common good.³⁰ Colleges could set the right example by using a lottery system to select among qualified applicants instead of perpetuating the myth that their admissions are based solely on merit.³¹

Although I agree with Sandel's critique, some of his solutions, such as the lottery, seem unrealistic. My forthcoming book argues that the best hope for a society so committed to meritocratic ideals is to demonstrate cost-effective ways to help realize them and to demonstrate the stake that all Americans have in that effort. Decades of research documents the price that the United States pays for its failure to address escalating inequality and the problems of the least well-off. The consequences include lower economic growth and productivity, lost earnings and tax revenues, less civic engagement, higher crime, greater health care costs, and incalculable human suffering from chronic poverty.³² By many measures, even affluent and middle-income individuals do better in societies that are more equal. They live longer, face less violence, have lower rates of mental illness, and have children more likely to thrive.³³ Inadequate concern for "other people's families" compromises the future of our own.

My book *Ambition: For What?* reviews the most cost-effective strategies for promoting a more equitable future. They include:

- reducing child poverty and increasing quality childcare and preschool programs, which lay foundations for later achievement;
- ensuring more durable investment in underfunded public schools and vocational education;
- abandoning, or at least reducing, preferences that favor white and wealthy students in college admissions;
- providing an adequate safety net for the least well-off.³⁴

29 SANDEL, *supra* note 5, at 21.

30 *Id.* at 198.

31 *Id.* at 184.

32 For growth and productivity, see Katy Lederer, *A Gen-Ex Adviser to Biden Argues Equality Is Good for Growth*, N.Y. TIMES, Aug. 30, 2020, <https://www.nytimes.com/2020/08/28/business/heather-boushey-biden-economic-inequality.html>. For civic engagement, see Joseph van Holm, *Unequal Cities, Unequal Participation: The Effect of Income Inequality on Civic Engagement*, 49 AM. REV. PUB. ADMIN. 135 (2019). For health, see Hilary Daniel, Sue S. Bornstein & Gregory C. Kane, *Addressing Social Determinants to Improve Patient Care and Promote Health Equity: An American College of Physicians Position Paper*, 168 ANNALS AM. MED. 577 (2018).

33 RICHARD WILKINSON & KATIE PICKETT, *THE INNER LEVEL* XXI (2018).

34 RHODE, *supra* note 2 Chapters 6–7.

This is not a modest agenda. But surely the recent pandemic has offered daily reminders of all the nonelite workers who are truly “essential,” and the disastrous consequences of failing to treat them that way. Wherever each of us falls on today’s hierarchy of ostensible “merit,” our futures are interlinked and other people’s problems are problems for us all. We can and must do better in expanding opportunities and rewarding work regardless of the credentials of the worker. *The Tyranny of Merit: What’s Become of the Common Good?* is a compelling account of progress that remains to be made and the false sense of entitlement that stands in the way.