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## THE TYRANNY OF RACE BLINDNESS

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

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Michael Sandel's *The Tyranny of Merit: What's Become of the Common Good?*<sup>1</sup> is the latest in a number of recent works that pose the question: What happened? How did Donald Trump win the presidency in 2016? How did a self-identified billionaire with a degree from an Ivy League university convince working-class voters that he represented them in their fight against the “elites” who had left them behind?

Sandel argues that conventional explanations—those that explain Trump's rise to power in terms of “animus against immigrants and racial and ethnic minorities or . . . anxiety in the face of globalization and technological change”<sup>2</sup>—are woefully incomplete. For Sandel, an essential part of the story includes a reckoning with meritocracy. In Sandel's view, the problem is not that the nation is a *failed* meritocracy. That is, Sandel rejects the idea that Trump won the hearts and minds of a substantial minority of the electorate because the country purports to be—but, in reality, is not—one in which everyone has an equal opportunity to compete and those who are most talented can rise through the social ranks (and accumulate the most wealth along the way). Sandel instead proposes that Trump supporters voted for him because they—and the rest of the country—have not rejected the idea of meritocracy itself. Meritocracy, according to Sandel, is morally indefensible. And politically dangerous.

In a meritocracy, those at the top of the social hierarchy are there because they are more talented, have more valuable skills, and work harder than those below them.<sup>3</sup> This

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

2 *Id.* at 18.

3 *Id.* at 114 (explaining that a meritocracy is a system in which “inequalities in income and wealth are . . . the result of what people have earned through effort and talent”).

is problematic as a description and prescription, according to Sandel, because those who have won the meritocratic competition come to develop an unshakable hubris. They come to believe that they have achieved their station in life because they are *better* than everyone else. Their superiority is demonstrated by all of the commas in their investment portfolios as well as by the esteem in which everyone holds them. While the winners in a meritocracy acquire an excessive pride, the losers experience a profound humiliation. The winners shame them, telling them that their modest station in life is a simple and perfect reflection of their modest intelligence, talents, and work ethic. But, perhaps most destructively, the losers of the meritocratic competition believe what the winners tell them. The losers believe that they are not smart enough, talented enough, and hardworking enough to achieve a more respected place in the social hierarchy. Their self-esteem suffers as a result. And they vote for an aspiring autocrat who positions himself as both a winner *and* an enemy of the winners.

I agree with much of what Sandel writes. I believe, like Sandel, that a teacher, plumber, or director of a nonprofit should have the same quality of life, social esteem, and material comforts as a partner at a corporate law firm or a manager of a hedge fund. I believe, like Sandel, that the “financialization of the economy”<sup>4</sup> is lamentable, contributes very little value to anyone beyond small numbers of already wealthy people, generates financial rewards that far outstrip their value, and ought to be reined in. (Sandel argues that a solution would be to implement a “financial transactions tax on high-frequency trading, which contributes little to the real economy.”<sup>5</sup> And to that I say yes, a thousand times yes.) I, like Sandel, believe that a country that strives for an “equality of condition”<sup>6</sup> is much more desirable, and sustainable, than a country that strives for nothing more than an equality of opportunity. (We ought to note—and I wish that Sandel had emphasized this point more frequently and emphatically—that given the undeniable and manifest *inequality* of opportunity that organizes the country at present, one can understand why a nation that has managed to achieve an equality of opportunity appears so desirable to so many.)

Indeed, I agree with Sandel’s basic diagnosis of our social and political malaise: the winners in our society have wrongly concluded that they are self-made. This conclusion is concurrent with the conviction that those who have *not* succeeded have only themselves to blame for their lack of success. In my book *The Poverty of Privacy Rights*,<sup>7</sup> I use the language “moral construction of poverty” to describe the diagnosis at which Sandel arrives. The moral construction of poverty is the idea that moral shortcomings cause poverty. It is the simple view that people are poor because there is something wrong with

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4 *Id.* at 216.

5 *Id.* at 219.

6 *Id.* at 226.

7 KHIARA M. BRIDGES, *THE POVERTY OF PRIVACY RIGHTS* (2017).

them. For example, the moral construction of poverty proposes that poor people are poor because they are lazy. Because they did not pay attention in school. Because they are criminally inclined. Because they cannot stop themselves from having babies out of wedlock. Because . . . The moral construction of poverty is a profoundly individualist explanation of poverty, explaining poverty in terms of an individual's characteristics. It is diametrically opposed to structural explanations of poverty, which explain poverty in terms of large-scale, macro forces. For example, structural explanations of poverty propose that poor people are poor because the middle-skill, middle-wage jobs of yesteryear have been replaced by low-skill, low-wage jobs that do not pay enough to support a family. Because we insist upon funding public schools through property tax, which has the predictable effect of ensuring that poor kids attend underfunded schools and wealthy kids attend resource-rich schools. Because we address all of our social problems by throwing people in jails and prisons, which does a magnificent job of impoverishing already impoverished people and communities. Because . . .

In *The Poverty of Privacy Rights*, I discuss why the moral construction of poverty is so popular in the United States, citing a 2014 Pew Research Center poll that showed that “60 percent of respondents agreed with the proposition that ‘most people who want to get ahead can make it if they are willing to work hard.’”<sup>8</sup> I write:

We might wonder why individualist explanations of poverty are so readily accepted and believed in the United States. Indeed, many people with progressive politics subscribe to individualist explanations of poverty. Consider that the 2014 Pew poll . . . notes that 76% of Republicans versus 49% of Democrats reported holding the belief that most can get ahead through hard work. While those figures can be cited to show that those with conservative politics are more likely than those with liberal politics to believe that individual effort (and the lack thereof) produces economic success and failure, they can also be cited to show that *close to half of those with liberal politics believe that individual effort produces economic success and failure.*

The attraction of individualist explanations of poverty may be due to the fact that the alternative—structural explanations of poverty—strip those of us who are economically successful of the ability to claim those successes as entirely our own. That is, if the poor do not occupy that economic and social station because of their own efforts (or lack thereof), then those who are *not* poor do not occupy our own economic and social stations because of our own efforts. Stated differently, if structural forces contribute to and/or cause “their” failure, then structural forces likely contribute to and/or cause “our” success. That our achievements may not be entirely *earned*—but may have

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8 *Id.* at 43.

been gifted to us, in some important sense, by forces outside of our control—is a discomfiting reality that many people, even progressive ones, may reject.<sup>9</sup>

Thus, Sandel and I are on the same page when it comes to believing that many of those at the top of the social hierarchy are convinced that their location at the apex is primarily due to their own efforts. Sandel and I are of the same mind in the belief that this conviction is not only wrong but also damaging to the social fabric.

Where Sandel and I part ways is in Sandel's underestimation of the significance of race in the story of Trump's rise to power and the willingness of the *white* working class to buy whatever he was selling. In my view, one cannot give an accurate account of the Dark Ages (i.e., 2016–2020) *without* identifying the major role that race played in ushering them in.

A key element of Sandel's argument is that the white working class—the white people without college degrees who voted overwhelmingly for Trump in 2016—believe that the country approximates a meritocracy and, more importantly, believe that they are less talented, less intelligent, and less worthy than the elites that have run the country for generations. Sandel writes of the white working class:

[H]aving worked hard to achieve a modicum of success, they had accepted the harsh verdict of the market in their own case, and were invested in it, morally and psychologically. . . . Trump supporters resented liberals' rhetoric of rising, not because they rejected meritocracy, but because they believed it described the prevailing social order. They had submitted to its discipline [and] had accepted the hard judgment it pronounced on their own merits.<sup>10</sup>

Now, although Sandel makes the claim that Trump supporters believe that they lack merit and, consequently, hold themselves in low esteem, he offers absolutely no empirical substantiation for that proposition. He cites no survey or study that supports the claim that white working-class people blame themselves for the economic hardships that they have suffered.

It is hard to accept that large numbers of the white working class blame themselves for their failure to thrive in a rapidly globalizing world. To blame themselves, they would have to embrace the moral construction of poverty; they would have to accept individualist explanations of poverty. But this is not at all what we witnessed in 2016. To the contrary, we observed an explosion of structural explanations for the plight of white working-class people. Trump voters identified Obama-era economic policies as the reason that the industries on which they once relied found it more profitable to close up shop in the United States and relocate overseas. Trump voters identified lax immigration policies as the reason

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9 *Id.* at 44.

10 SANDEL, *supra* note 1, at 73.

for their higher rates of unemployment, as migrant workers from Central and South America were free to cross the border in droves and take “their” jobs. Trump voters identified environmental regulations as the reason for the decline of the industries that once sustained the people in the Rust Belt and coal country. In 2016, structural explanations for white people’s suffering were ubiquitous.<sup>11</sup> In other words: race matters. When we ask Trump supporters for explanations of the poverty of people of color, we hear talk of unwed motherhood, fathers who do not support their children, the normalization of criminal behavior, and the “culture of poverty.” That is, we hear *individualist* explanations. However, when we ask Trump supporters about the causes of the poverty of white people, we encounter an array of structural explanations.

The errors generated by Sandel’s inattentiveness to race are most apparent in his discussion of “deaths of despair.”<sup>12</sup> Anne Case and Angus Deaton have famously revealed that white people without college degrees are dying at unprecedented rates from drug overdoses, suicide, and liver disease brought about by alcoholism. Sandel quotes Case and Deaton as concluding that deaths of despair “reflect a long-term and slowly unfolding loss of a way of life for the white, less educated working class.”<sup>13</sup> Now, instead of being attentive to the race of those dying these deaths of despair, Sandel focuses single-mindedly on class—on the fact that most of the people suffering these fates lack a college degree.

But, race is key to understanding why the lack of a college degree is particularly toxic to the white working class. Elsewhere, I analyze the opioid epidemic, observing that scholars have attributed the increase in overdose deaths, and deaths of despair as a general matter, to “white people’s failure to achieve the lives that they thought were promised to them, and the uncertainty they feel as a result of a fragile financial condition that manifests this failed promise.”<sup>14</sup> I theorize:

[T]hese explanations propose that the epidemic results from white people having failed to achieve a racial/economic status that they anticipated. Differently stated, these accounts propose that white people’s drug use is a result of their disappointment with their current social and financial condition—a disappointment produced by the belief that they were going to be better off. White people’s expectation of a certain status, category, or position—and their substance use–inducing disappointment when that expectation goes unrealized—is a consequence of white privilege.

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11 An exception to this trend of explaining white people’s privations in structural terms is J.D. VANCE, *HILLBILLY ELEGY: A MEMOIR OF A FAMILY AND CULTURE IN CRISIS* (2016), which problematically attributes the privations of white people in Appalachia to individual shortcomings and “culture.”

12 ANNE CASE & ANGUS DEATON, *DEATHS OF DESPAIR AND THE FUTURE OF CAPITALISM* (2020).

13 SANDEL, *supra* note 1, at 201 (quoting CASE & DEATON, *supra* note 12, at 133, 146).

14 Khiara M. Bridges, *Race, Pregnancy, and the Opioid Epidemic: White Privilege and the Criminalization of Opioid Use During Pregnancy*, 133 *HARV. L. REV.* 770, 826 (2020).

When theorists explain the whiteness of the opioid crisis in terms of unmet expectations, these theorists acknowledge white privilege's existence . . .

. . . Inasmuch as scholars theorize that the opioid crisis is an effect of white people's disappointment in their financial insecurity, then the crisis suggests that white people expected financial security. This expectation is white privilege. It is also relevant that nonwhite people have not turned to drugs and suicide at rates that match those of their white counterparts. If this disparity is due to nonwhite people having not been dismayed by their economic precarity, then this also demonstrates the existence of white privilege: nonwhite people do not experience financial insecurity as a disappointment. Unlike white people, nonwhite people have learned to expect uncertainty, misfortune, and adversity.<sup>15</sup>

Sandel writes that it is “galling” to attribute white privilege to the white working class—folks who are struggling “to win honor and recognition in a meritocratic order that has scant regard for the skills they have to offer.”<sup>16</sup> More galling, however, is the staunch refusal to recognize that white privilege has made the white working class feel *entitled* to regard for the skills that they have to offer. Indeed, the white working class's white privilege is vividly demonstrated by the very existence of *The Tyranny of Merit: What's Become of the Common Good?*—a love letter of sorts to the people who empowered and supported a man who tested this country's democracy in ways that would have kept the Framers up at night.

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15 *Id.* at 827–28.

16 SANDEL, *supra* note 1, at 203.