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## Justice, Deviance, and the Dark Ghetto

The truth of the dark ghetto is not merely a truth about Negroes; it reflects the deeper torment and anguish of the total human predicament.

Kenneth B. Clark, *Dark Ghetto*

Unjust social arrangements are themselves a kind of extortion, even violence, and consent to them does not bind.

John Rawls, *A Theory of Justice*

In the United States, some citizens sharply criticize poor people who live in ghettos. These critics demand that the urban poor take greater “personal responsibility” for their choices and stop blaming the government or racism for hardships that they have imposed on themselves through self-defeating attitudes and bad conduct. The problems of the ghetto, on this view, are primarily the result of a crisis of values, best remedied by reaffirming a collective commitment to living morally upright lives. On the other side are those who criticize the government for its failure to ameliorate the social conditions of the ghetto poor. They believe the government and affluent citizens have an obligation to improve the impoverished lives of the ghetto poor and should stop “blaming the victim,” that is, should stop criticizing the poor for a situation brought about by the failure of the society to live up to its professed ideals. Rather than demand that the ghetto poor change, they argue that the social system should be made more equitable.

This debate raises highly contentious and urgent practical issues. It also raises difficult philosophical questions. I am not thinking primarily about traditional problems of free will and moral responsibility. The problems I will focus on lie in the domain of the theory of justice. Specifically, my concern is to determine what *kinds* of criticisms of the ghetto poor’s behavior and attitudes are or are not appropriate *given* that

the social circumstances under which they make their life choices are, at least in part, the result of injustice. If the overall social arrangement in which the ghetto poor live is unjust, this requires that we think about what their obligations are quite differently than we should if the society were judged to be just.<sup>1</sup> In particular, I will argue that it is necessary to distinguish the civic obligations citizens have to each other from the natural duties all persons have as moral agents, both of which are affected, though in different ways, by the justness of social arrangements. In addition, among the natural duties all persons possess is the duty to uphold, and to assist in bringing about, just institutions, a political duty that has important, though generally overlooked, consequences for the debate about ghetto poverty.

Throughout I will stress the importance of assessing the moral status of the ghetto poor's conduct within nonideal political theory, that underdeveloped part of the theory of justice that specifies how we should respond to or rectify injustice. This is not, of course, the only relevant evaluative point of view. It is, however, a crucial and frequently neglected one, at least when it comes to thinking about the conduct of poor urban blacks. In addition, viewing these problems from the standpoint of justice—rather than, say, that of traditional American values or

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1. Norman Daniels makes this important point when discussing how the "context of compliance" (i.e., the extent to which social institutions satisfy appropriate principles of justice) affects how we should assess the relative priority of (i) providing adequate welfare benefits to the poor, (ii) avoiding the creation of work disincentives, and (iii) maintaining equity between low-income earners. Most relevant to my concerns is Daniels's claim, which I believe is correct, that the extent to which background conditions are unjust will have implications for determining who among the jobless poor are blameworthy for failing or refusing to work. (See his "Conflicting Objectives and the Priorities Problem," in *Income Support: Conceptual and Policy Issues*, ed. Peter G. Brown, Conrad Johnson, and Paul Vernier [Totowa, N.J.: Rowman and Littlefield, 1981], pp. 147–64.) I develop and draw out the consequences of this insight for the debate over the obligations of the ghetto poor.

technocratic social engineering—would, I believe, help to move us beyond the behavior-versus-structure impasse that afflicts current public discussions of race and urban poverty.<sup>2</sup>

To avoid misunderstanding, a few further introductory remarks are in order. I use the word ‘deviant’ throughout in its literal sense: sharply divergent from widely accepted norms. In using this term, which I concede is not wholly satisfactory, I am not endorsing its negative connotations or expressing disapproval.<sup>3</sup> Moreover, there are many different attitudes and behavior associated with the ghetto that some regard, whether rightly or wrongly, as deviant or even pathological. Not all of these are relevant to my argument. The principal forms of deviance I will discuss are crime, refusing to work in legitimate jobs, and having contempt for authority.

#### I. JUSTICE AND THE BASIC STRUCTURE

To define the problem I will rely on some familiar notions from John Rawls’s theoretical framework: justice as fairness. Some hold that Rawls’s theory of domestic justice is too austere and utopian. So to address those less sympathetic to his account and to show that my conclusions rest on relatively weak normative principles, I will make my argument in a way that does not depend on the soundness of the overall Rawlsian apparatus or on its most demanding egalitarian claims. Instead, I will limit myself to a few core yet moderate ideas from this

2. Recent work in sociology has attempted to transcend the behavior-versus-structure debate by carefully demonstrating the subtle interaction between structural and cultural factors in the explanation of ghetto conditions. See, for example, Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and the Making of the Underclass* (Cambridge, Mass.: Harvard University Press, 1993); William Julius Wilson, *When Work Disappears: The World of the New Urban Poor* (New York: Knopf, 1999); and Elijah Anderson, *Code of the Street: Decency, Violence, and the Moral Life of the Inner City* (New York: Norton, 1999). Unfortunately, journalistic writing, public debate, and elite political discourse do not generally reflect this more nuanced view of urban poverty.

3. For helpful discussions of how the public discourse surrounding urban poverty, including social scientific discourse, is often stigmatizing and even racist, see Michael B. Katz, *The Undeserving Poor: From the War on Poverty to the War on Welfare* (New York: Pantheon, 1990); Herbert J. Gans, *The War Against the Poor: The Underclass and Antipoverty Policy* (New York: Basic, 1995); Martin Gilens, *Why Americans Hate Welfare: Race, Media, and the Politics of Antipoverty Policy* (Chicago: University of Chicago Press, 1999); and Ange-Marie Hancock, *The Politics of Disgust: The Public Identity of the Welfare Queen* (New York: NYU Press, 2004).

well-known theory, ideas that have an intuitive appeal because they are available in our public political culture.<sup>4</sup>

Rawls suggests that if we were to conceive of society as a *system of social cooperation over time* and take an impartial view of what the distribution of benefits and burdens of participating in this scheme ought to be, we could arrive at objective conclusions about what social justice requires. This is not a sociological claim. Thinking of society as a fair system of cooperation is a moral idea. Social justice is defined by the set of legitimate claims and obligations individuals have within a fair overall social arrangement. Thought about this way, justice is, at least in part, a matter of reciprocity between persons who regard each other as equals.<sup>5</sup> Taking this approach to questions of social justice is particularly helpful when considering criticisms often made against the ghetto poor. It provides a framework for asking when the urban poor are *doing* their fair share in upholding the scheme of cooperation and when they are *receiving* the fair share due them as equal participants in this scheme.

Rawls also emphasizes the paramount significance of the *basic structure* for social justice. The basic structure is constituted by the way the major social, political, and economic institutions of society apportion the benefits and burdens of social cooperation. A well-organized and impartially administered basic structure may not be all we need to achieve or maintain social justice. Yet it should be clear why Rawls chooses to focus on it: the effects of the basic structure on an individual's life prospects are immense and wide-ranging, and these effects have an impact on the quality of individuals' lives from the cradle to the grave.<sup>6</sup> Given that each of us must make a life for ourselves under the dominion of such institutions, we each have a legitimate claim that these institutions treat us fairly. The institutions of the basic structure fix a person's initial position within society, and some individuals will be more, and some less, favored in the distribution of benefits

4. An additional advantage of drawing on Rawls's theory is that it allows me to rebut the charge, frequently made by Critical Race Theorists and others on the Left, that this brand of liberalism, like its classical ancestor, has little insightful to say about issues of race and class.

5. John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), pp. 15–18.

6. John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, Mass.: Harvard University Press, 1999), p. 82; and *Justice as Fairness: A Restatement*, ed. Erin Kelly (Cambridge, Mass.: Harvard University Press, 2001), p. 55.

and burdens—of liberties, duties, opportunities, and material advantages—of this association over the course of their lives depending on their starting places within the social arrangement.

This does not mean that a person's life prospects are completely determined by the particular social circumstances he or she is born into, since a person's own choices, the good or bad will of other individuals, and brute luck will have a significant impact as well; and of course in a liberal democratic regime, where individual autonomy is (or at least ought to be) respected, each person should take primary responsibility for how his or her life goes. But each individual's life prospects are obviously deeply shaped by a social structure that he or she did not choose. Moreover, it is largely through institutions—governments, schools, firms, markets, and families—that social, natural, and fortuitous contingencies come to affect our individual life chances. Thus the social arrangement we participate in should be organized to give each of us a fair chance to flourish. And on Rawls's theory, providing that fair chance means ensuring that no citizen's life prospects are diminished because the social scheme disadvantages him or her in ways that cannot be justified on impartial grounds.

It is also important to outline how we should understand *racial justice*.<sup>7</sup> It is now a widely shared moral conviction that racial discrimination is unjust.<sup>8</sup> But there is considerable disagreement over what such discrimination consists in. Some think that racial discrimination must be motivated by racial animus or an explicit intention to exclude on racial grounds. Others believe that racial discrimination occurs whenever race is considered in decisions about how public institutions ought to treat persons, even if the proposed race-conscious policy is designed to promote some otherwise worthy social goal, such as reducing the economic marginalization of groups who have been historically oppressed or attenuating the legacy of racial exclusion by creating integrated schools

7. The remarks in this paragraph and the next are developed in greater detail in my "Race and Social Justice: Rawlsian Considerations," *Fordham Law Review* 72 (2004): 1697–1715; and "Is Racism in the 'Heart'?" *Journal of Social Philosophy* 33 (2002): 411–20.

8. For evidence of this, see Howard Schuman, Charlotte Steeh, Lawrence Bobo, and Maria Krysan, *Racial Attitudes in America: Trends and Interpretations*, rev. ed. (Cambridge, Mass.: Harvard University Press, 1997).

and neighborhoods.<sup>9</sup> Rejecting both views, I hold that racial discrimination is operating when a so-called racial characteristic (or set of characteristics) possessed by or attributed to the members of a social group is wrongly treated as a source or sign of disvalue, incompetence, or inferiority. Thus, racial animus is not a necessary condition for racial discrimination, and not every invocation of race in public life constitutes discrimination, at least not if “discrimination” suggests unfairness.

When the administration of the institutions of the basic structure is distorted by racial prejudice or bias, Rawls regards this as a violation of “formal justice.”<sup>10</sup> Building on this, we can say that *institutional racism* exists when the administration or enforcement of the rules and procedures of a major social institution—say, the labor market or the criminal justice system—is regularly distorted by the racial prejudice or bias of those who exercise authority within the institution. Institutional racism can exist even when the *content* of the rules and procedures of an institution, when viewed in the abstract, is perfectly just, provided there is pervasive racial bias in the *application* of those rules and procedures. Rawls also allows that in some societies, for instance, those with a long history of racism, it may be necessary to make special constitutional provisions that explicitly prohibit racial discrimination in the institutions of the basic structure, and even to grant special powers to the government to ensure that all citizens, regardless of their race, receive the equal protection of the laws.<sup>11</sup> The core moral idea behind the principles of racial justice, and an obviously attractive one, is that in a just society each has a chance to carry out his or her own plan of life without being unfairly inhibited in this pursuit by others’ racial prejudice or racial bias.

Some think that *equal opportunity* exists if no important position or good afforded by social cooperation is unfairly denied persons on account of their race, ethnicity, gender, sexual orientation, disability, religion, creed, or national origin. On this view, equal opportunity is simply non-discrimination. However, Rawls thinks of equal opportunity as entailing

9. For forceful criticisms of this “colorblind” principle, see Bernard R. Boxill, *Blacks and Social Justice*, rev. ed. (Lanham, Md.: Rowman and Littlefield, 1992), chap. 1. Also see Glenn C. Loury, *The Anatomy of Racial Inequality* (Cambridge, Mass.: Harvard University Press, 2002), chap. 4.

10. Rawls, *A Theory of Justice*, p. 51.

11. Rawls, *A Theory of Justice*, pp. 173–74.

much more than this. In particular, he thinks *fair* equality of opportunity requires equal life prospects (as measured by primary social goods) given similar natural talents and motivation. One should be able to expect similar income and wealth over a life as anyone else who has the same abilities and the same willingness to use them regardless of the social class one has been born into. There should be no class barriers to the acquisition of knowledge or the development of skills, which means that the educational system must be set up and administered so that each has the same chance to cultivate his or her abilities regardless of class origins.

This brief description of the moral ideal of racial equality and equal opportunity within a fair basic structure is perhaps too abstract. To make these principles more concrete, let me describe an embodied institutional arrangement that seems, on its face, to violate them. Suppose that the basic structure of a liberal democratic, market-based society has the following characteristics. There is uneven growth and decline across different sectors of the economy; however, the government does not ensure that workers hit hardest by economic restructuring, declining wages, or periodic recessions are able to maintain their standard of living. For example, there is little attempt to provide retraining programs, jobs in the public sector, or subsidized income for laborers in declining industries. In general, the economy is not structured to sustain full employment at decent wages, so there are always a significant number of unemployed persons who find it difficult to find a good job. Social entitlements are so meager that many of the unemployed are forced to live in poverty while they look for work, and some do not qualify for public subsidies at all.

Let us also suppose that in this same society, there is, and has been for some time, a vastly higher rate of social mobility for the highly educated than for the poorly educated. However, the quality of kindergarten to grade 12 education varies widely from neighborhood to neighborhood. In affluent, middle-class, and mixed-income suburban neighborhoods, the public schools are generally good; in urban working-class and poor neighborhoods, the education offered is often significantly inferior and substandard. Yet despite these manifest and widely known inequities between suburban and urban schools, the government does not distribute resources in a way to create equal educational opportunity across different neighborhoods, and most citizens in suburban communities do not push for a more equitable allotment of educational resources.

Finally, let us assume that this society is a multiracial one, with a white majority and several smaller nonwhite racial groups. The society has a long and brutal history of racial domination, exploitation, and exclusion. Indeed, it was once based on explicit white supremacist principles; and it practiced race-based slavery and de jure racial segregation enforced through terror. These practices have now been abolished, and constitutional and legislative provisions have been enacted to give racial minorities equal civil rights. Explicit expressions of racist attitudes have declined sharply. Nevertheless, covert forms of racial prejudice still exist and attenuate the impartial administration of the major institutions of the society. Antidiscrimination law is not effectively enforced, and too often, one must hire a private attorney to make sure one's formal rights are adequately protected. Ongoing racial discrimination in employment and housing is a particularly acute problem and has a disproportionate negative impact on the poorer members of racial minority groups, as the education, financial resources, and social capital of more advantaged members allow them greater social mobility despite continuing racism.

If under this institutional arrangement the tax scheme allows enormous intergenerational wealth transfers within families, some families will maintain considerable socioeconomic advantages over others, which allows them to provide better educations and better environments (both residential and familial) for their children, and their children's children. Moreover, the wealthy and well educated will be greatly advantaged in the competition for positions of political authority, so that their superior material assets and educational opportunities will often be tickets to political power, augmenting their already disproportionate influence on government policy via campaign contributions and support for various lobbying efforts. Even in a constitutional democracy in which each citizen has a publicly recognized claim to all the basic political and civil liberties, these socioeconomic inequalities would create an informal social hierarchy by birth: some would be born into great wealth and other social and political advantages while others would be born into poverty and its associated disadvantages. Rawls thinks that such inequities are manifestly incompatible with basic fairness, for he believes that each citizen should have roughly equal life chances and equal prospects for influencing public policy.

There are of course many who think that the fair equality of opportunity principle is too strong, demanding too much equality. And there are



those who reject all egalitarian interpretations of the equal opportunity principle. Still, if, because a social scheme had the characteristics described above, the life prospects of some children were vastly inferior to those of others, it would be reasonable to regard these disadvantaged children as members of the lowest stratum in a descent-based social hierarchy. When such a hierarchy is, and has long been, marked by racial distinctions, equal citizenship, in any meaningful sense, does not obtain.<sup>12</sup> In a society with an established democratic tradition, such a quasi-feudal order does not warrant the allegiance of its most disadvantaged members, especially when these persons are racially stigmatized. Indeed, the existence of such an order creates the suspicion that, despite the society's ostensible commitment to equal civil rights, white supremacy has simply taken a new form.

## II. DEVIANCE AS A RESPONSE TO THE GHETTO PLIGHT

Ghettos are defined by three core characteristics: race, urban location, and poverty. In the United States, ghettos are generally understood to be (1) predominantly black, (2) urban neighborhoods, (3) with high concentrations of poverty.<sup>13</sup> Although ghettos exist in other advanced capitalist societies and my analysis is relevant to them as well, the issues of justice that U.S. ghettos raise are especially acute and in some ways unique.<sup>14</sup> Of course, there are poor neighborhoods in the United States that are not predominantly black, and much of what I will go on to say about black ghettos (or analogous things) could be said about white slums, Latino

12. For a classic discussion of the relationship between being respected as an equal and the principle of equal opportunity, see Bernard Williams, "The Idea of Equality," in his *In the Beginning Was the Deed: Realism and Moralism in Political Argument*, ed. Geoffrey Hawthorn (Princeton, N.J.: Princeton University Press, 2005), pp. 97–114.

13. See Paul A. Jargowsky, *Poverty and Place: Ghettos, Barrios, and the American City* (New York: Russell Sage Foundation, 1997), pp. 12–17.

14. For comparative accounts of U.S. ghettos with similar urban communities in Western European societies, see Barbara Schmitter Heisler, "A Comparative Perspective on the Underclass: Questions of Urban Poverty, Race, and Citizenship," *Theory and Society* 20 (1991): 455–483; Loïc J. D. Wacquant, "The Rise of Advanced Marginality: Notes on Its Nature and Implications," *Acta Sociologica* 39 (1996): 121–39; and Roger Lawson and William Julius Wilson, "Poverty, Social Rights, and the Quality of Citizenship," in *Poverty, Inequality, and the Future of Social Policy: Western States in the New World Order*, ed. Katherine McFate, Roger Lawson, and William Julius Wilson (New York: Russell Sage Foundation, 1995), pp. 693–714.

barrios, some Indian reservations, and some Asian communities.<sup>15</sup> I focus on black ghettos because they figure most prominently in the public imagination as enclaves of the pathological “underclass” and they are an especially salient example of the problems of racial and economic justice I am concerned with. I focus on high-poverty urban neighborhoods rather than on poor people wherever they happen to live because the high concentration of poverty in inner-city neighborhoods is associated with behavior and attitudes that are not only deviant (i.e., in sharp conflict with commonly accepted norms) but are also widely perceived as a threat to the freedom, property, and safety of others and that therefore lead some to regard many in such neighborhoods as not deserving of further government attempts to improve their lot.

I should emphasize that many who live under ghetto conditions respect the law, accept conventional morality, and make an effort to conform to “mainstream” standards of public and private conduct. Some accept dead-end, menial, and low-wage jobs as they struggle to maintain a decent life for themselves and their families.<sup>16</sup> Most value work and desire to be economically self-sufficient.<sup>17</sup> Some graduate from high school or pass the GED; some of these get post-secondary education or job training; and a few even go on to graduate from college. In

15. These other ethnoracial minority communities present complications for questions of justice that black ghettos generally do not. For instance, many Asian enclaves and Latino barrios contain large numbers of first-generation immigrants. Fair equality of opportunity is not an appropriate standard for judging whether immigrants are treated fairly by the social system. Their place in the system did not begin at birth, and their life prospects will obviously depend, not only on whether they receive fair treatment in the United States, but also on the social advantages or disadvantages (e.g., in education and wealth) they had in their country of origin prior to immigration. Many from poor countries can substantially improve their material condition by immigrating to the United States, and so some do not resent the existing opportunity structure but are often grateful for the chance to enhance their lives, even if that chance is not equal to that of native-born citizens. Moreover, unlike native-born black Americans, immigrants generally have the option to return to their country of origin. Indians who live on reservations, on the other hand, are nations or quasi-nations unto themselves, with some rights of group self-determination. The recognized group rights and treaties between indigenous peoples and the United States complicate questions of social justice for Native Americans. African Americans, while a protected group under antidiscrimination law, do not enjoy such group-based rights, although I do not mean to imply that they should.

16. Katherine S. Newman, *No Shame in My Game: The Working Poor in the Inner City* (New York: Vintage and Russell Sage, 1999).

17. Wilson, *When Work Disappears*, pp. 67–70.

short, a substantial segment of the ghetto poor are not alienated from the wider society, its major institutions, or its basic social norms.<sup>18</sup> However, many *are* alienated, some deeply so.

High-poverty neighborhoods with few good employment options and poor schools lead some residents, especially those unemployed for long periods, to consider securing income through illegitimate means.<sup>19</sup> Ghetto poverty creates desperation and feelings of shame, and some, seeking to escape the weight of their social conditions, or at least to make it more bearable, resort to crime. Of course, crime does not just occur in the ghetto. People from all races, classes, and types of neighborhood engage in criminal activity for money, status, power, or amusement. When persons from the ghetto choose crime, however, they do so under conditions of material deprivation and institutional racism. Thus their criminal activity might express something more, or something other, than a character flaw or a disregard for the authority of morality.

Some rely on crime to supplement legitimate income derived from work, welfare benefits, or private aid. Others, such as those who have dropped out of the legitimate labor market altogether, do not qualify for welfare benefits, or cannot rely on kin support, use crime as their primary source of income. Although the line is fine and easy to cross, some persons commit crimes without allowing “the streets” to define their social identity or corrupt their souls.<sup>20</sup> Nevertheless, to engage profitably in street crime one must develop the appropriate skills, strategies, and dispositions. This repertoire is simply street capital, assets that one can use to secure income in the underground urban economy. Just as one may use financial capital without being, strictly speaking, a “capitalist,” one can draw on street capital without being a “criminal.”<sup>21</sup> However, crime can become a vocation, and as such it has its own set

18. See Jennifer L. Hochschild, *Facing Up to the American Dream: Race, Class, and the Soul of the Nation* (Princeton, N.J.: Princeton University Press, 1995), chap. 4.

19. As with the term ‘deviant,’ by ‘illegitimate’ I do not mean ‘unjustified.’ That would beg the question. Rather, these are means, should one use them, that would violate widely recognized behavioral norms, whether legal, moral, or traditional. These norms can be “legitimate,” in the relevant sense, without being fully justified.

20. See Sudhir Alladi Venkatesh, *Off the Books: The Underground Economy of the Urban Poor* (Cambridge, Mass.: Harvard University Press, 2006).

21. It is just this distinction between having committed criminal acts and being habitually disposed to criminal behavior that is elided in Michael Levin, “Responses to Race Differences in Crime,” *Journal of Social Philosophy* 23 (1992): 5–29.

of disciplines or what I will call “ethics.” There are two broad criminal ethics that I want briefly to describe. Note that these descriptions are to be understood as ideal types, constructed to highlight the core features of a particular action-orientation by abstracting away from characteristics that are extraneous. Real people will rarely embody these ethics consistently or fully, although some may aspire to.

“Gangsters” use violence, threats, and intimidation to forcibly extract money, goods, and services from others. They are fearless and use force or the threat of it to get what they want. They are skilled fighters and adept at the use of weapons. They can strike fear in their victims with little effort. To achieve their aims, they maim and even kill, sometimes without mercy or remorse. The criminal domain they operate in includes robbery, gambling rackets, loan sharking, and extortion. “Hustlers,” by contrast, use deception, manipulation, and treachery to achieve their objectives. They are skillful liars. They are cunning and proficient at subtly exploiting their victims’ personal weaknesses. As amateur psychologists, they have a gift for understanding human nature, a talent they use to garner their victims’ trust, only to betray them. Their domain includes theft, fraud, prostitution, and swindling. Both gangsters and hustlers flout the law and have little if any respect for the authority of mainstream institutions. These attitudes are appropriate to their trade; it is rational to cultivate them once one has chosen street crime as a way of life.<sup>22</sup> It should go without saying that these two ethics are not mutually exclusive; one need only consider the *modus operandi* of many pimps.<sup>23</sup> Nowhere is this more obvious, however, than in the selling of illegal drugs in the ghetto.

Although few accumulate significant wealth from it, the selling of illegal narcotics is a way to make money fast, as there is regular demand, especially for cocaine, heroin, and amphetamines. This feature of the trade provides a strong incentive to turn to it when in pressing financial need. It is also a dangerous business, however, and in an era of

22. The “gangster” and the “hustler” are familiar social identities in poor urban communities, and these terms are generally associated with male personas and activities. In adopting these urban vernacular expressions, I do not mean to imply that only men and boys perform these roles or accept their associated ethics. Moreover, both men and women, boys and girls, use street capital and deploy the tactics and strategies of gangsters and hustlers, though obviously not always in the same ways or with the same frequency.

23. See my “Parasites, Pimps, and Capitalists: A Naturalistic Conception of Exploitation,” *Social Theory and Practice* 28 (2002): 381–418.

law-and-order politics—with its accelerated growth in the penal system, widespread punitive attitudes, aggressive policing, limitations on judicial discretion in sentencing, and increased prosecutorial authority—it can lead to long prison terms.<sup>24</sup> Those who practice the trade successfully and are willing to accept these risks and costs sometimes come to wholeheartedly identify with the gangster-hustler ethic. Gang members often embrace this ethic and develop forms of group solidarity in order to defend their financial interests against rival gangs. Those who join these gangs are generally expected and encouraged to show loyalty to other members but not to outsiders.<sup>25</sup>

Many who engage in street crime are eventually caught and spend time in federal penitentiaries, state prisons, county jails, or juvenile detention centers. Under state confinement, the street repertoire is augmented, the gangster-hustler ethics are reinforced, and hostility toward the institutions and officials of the criminal justice system hardens.<sup>26</sup> Once released, the incentive to return to crime often increases, as the ex-convict's job prospects and earning potential are even dimmer with a criminal record.<sup>27</sup> The constant cycling of increasing numbers of people from ghetto to prison and back again spreads a criminal-minded ethos, an outlaw subculture, throughout many poor urban areas.

The norms that govern the world of street crime also have an enormous impact on ghetto residents who want to avoid criminal deviance.<sup>28</sup> For example, the widespread use of guns among drug dealers and muggers creates a demand for these weapons in ghetto neighborhoods. Because they believe the police cannot be relied upon to provide adequate security, many residents, including children, arm themselves

24. See Bruce Western, *Punishment and Inequality in America* (New York: Russell Sage Foundation, 2006), chap. 3; Lawrence D. Bobo and Devon Johnson, "A Taste for Punishment: Black and White Americans' Views on the Death Penalty and the War on Drugs," *Du Bois Review* 1 (2004): 151–80; and Randall Kennedy, *Race, Crime, and the Law* (New York: Vintage Books, 1997), chap. 10.

25. Sudhir Alladi Venkatesh and Steven D. Levitt, "'Are We a Family or a Business?' History and Disjuncture in the Urban American Street Gang," *Theory and Society* 29 (2000): 427–62.

26. Loïc Wacquant, "Deadly Symbiosis: When Ghetto and Prison Meet and Mesh," *Punishment and Society* 3 (2001): 95–133.

27. Western, *Punishment and Inequality*, chap. 5.

28. Venkatesh, *Off the Books*; Wilson, *When Work Disappears*, pp. 59–72; and Anderson, *Code of the Street*, chap. 3.

for protection.<sup>29</sup> A looming sense of danger and a high propensity for violent interpersonal conflict sow seeds of distrust in ghetto neighborhoods, making it difficult for a broad sense of community to form or be maintained. Residents are always on guard and view strangers with suspicion, for one can never be sure that others are not looking to take advantage of you. In adapting to these conditions, many residents not directly involved in crime develop survival strategies that are similar to or mimic the strategies of gangsters and hustlers. To avoid being victimized one must appear shrewd and capable of defending oneself, with deadly violence if necessary. Here the familiar male adolescent desire to appear “tough” can take on lethal dimensions, with frightening consequences for those who live in urban communities; and many adolescent girls, though under somewhat less pressure to display a readiness to resort to violence, are also drawn into some of these antisocial roles. Under these conditions a ghetto subculture emerges, where the traits of the gangster and hustler, usually condemned in mainstream society, are sometimes viewed as virtues.

So far I have not mentioned the racial significance of deviance in ghetto communities. Yet this dimension is crucial to understanding the choices many poor urban blacks make. Notwithstanding the widespread belief that racism is a thing of the past and the growing demand for color-blind public policy, racial prejudice continues to have a negative impact on the life chances of racial minorities in the United States, especially black citizens.<sup>30</sup> The impact of institutional racism is deepest in dark ghettos, because here racism and extreme poverty combine to create a uniquely stigmatized subgroup of the black population. The peculiar consequences of this dynamic, especially when joined with the ghetto subculture just described, play themselves out in many arenas, but here

29. Jeffrey Fagan and Deanna L. Wilkinson, “Guns, Youth Violence, and Social Identity in Inner Cities,” in *Crime and Justice*, Vol. 24, ed. Michael Tonry and Mark H. Moore (Chicago: University of Chicago Press, 1998), pp. 104–88.

30. See, for example, Lawrence Bobo, James R. Klugel, and Ryan A. Smith, “Laissez-Faire Racism: The Crystallization of a Kinder, Gentler, Antiblack Ideology,” in *Racial Attitudes in the 1990s*, ed. Steven A. Tuch and Jack K. Martin (Westport, Conn.: Praeger, 1997), pp. 15–41; Thomas C. Holt, *The Problem of Race in the Twenty-First Century* (Cambridge, Mass.: Harvard University Press, 2000); Tali Mendelberg, *The Race Card: Campaign Strategy, Implicit Messages, and the Norm of Equality* (Princeton, N.J.: Princeton University Press, 2001); and Michael K. Brown, Martin Carnoy, Elliot Currie, Troy Duster, David B. Oppenheimer, Marjorie M. Shultz, and David Wellman, *Whitewashing Race: The Myth of a Color-Blind Society* (Berkeley: University of California Press, 2003).

I focus on just three: employment, housing, and the criminal justice system.

Many working-age ghetto residents have little education, are low skilled, and have gone long periods without legitimate jobs. In the urban labor market there are often many more applicants for low-skilled jobs than there are jobs available, so employers can afford to be selective, engaging in so-called statistical discrimination. These employers are aware that a criminal subculture affects social life in the ghetto, that there are high drop-out rates among urban blacks, and that many poor people do not work regularly. This leads some employers to expect blacks from the ghetto to be generally violent, dishonest, unreliable, and ignorant.<sup>31</sup> Because of longstanding racial stereotypes, the high frequency of these traits among the ghetto poor may seem to lend credence to racist beliefs. For example, the joblessness of some ghetto residents will appear to many employers as laziness and this is of course a stereotype that blacks strongly resent.<sup>32</sup> One consequence of all this is that many employers avoid hiring blacks from the ghetto when they can find nonblack or suburban workers, and given the surplus of low-skilled workers in the labor pool this is easily accomplished. The racialized stigma attached to the ghetto affects the job prospects of all its black residents, even those who reject the outlaw ethic and seek to conform to mainstream norms. The frustration of dealing with racial discrimination by employers leads more blacks into the criminal subculture than would otherwise end up there.

Many of those who want to find work probably could if they were able to move to suburban neighborhoods or integrated mixed-income urban areas. There tend to be considerably more job opportunities for

31. Joleen Kirschenmen and Kathryn M. Neckerman, " 'We'd Love to Hire Them, But . . .': The Meaning of Race for Employers," in *The Urban Underclass*, ed. Christopher Jencks and Paul E. Peterson (Washington, D.C.: Brookings Institution, 1991), pp. 203–32; and Wilson, *When Work Disappears*, chap. 5.

32. For a general account of how racist beliefs and attitudes reproduce oppressive conditions, see my "Ideology, Racism, and Critical Social Theory," *Philosophical Forum* 34 (2003): 153–88. Also see Robert Miles, *Racism* (London: Routledge, 1989); Barbara J. Fields, "Slavery, Race and Ideology in the United States of America," *New Left Review* 181 (1990): 95–118; John T. Jost and Mahzarin R. Banaji, "The Role of Stereotyping in System-Justification and the Production of False Consciousness," *British Journal of Social Psychology* (1994): 1–27; Bobo, Klugel, and Smith, "Laissez-Faire Racism"; and Jim Sidanius and Felicia Pratto, *Social Dominance: An Intergroup Theory of Social Hierarchy and Oppression* (Cambridge: Cambridge University Press, 1999), chap. 4.

low-skilled workers in these areas than in or near the ghetto.<sup>33</sup> Schools are of much higher quality there too. Housing is more expensive in these other communities, however, often way out of reach for poor people.<sup>34</sup> Most middle-class people, including many middle-class blacks, do not want to live among the ghetto poor and do not want their children to be forced to attend the same schools with them either; thus they are willing to pay a high premium to reside in better neighborhoods, driving up already high housing costs.

Yet it would be a mistake to think that the black poor find it so hard to exit the ghetto solely because of the uncoordinated decisions of individuals or impersonal market forces (and even if these factors were the complete explanation, it would not follow that justice permits us to tolerate these unintended consequences). Racial discrimination in housing and practices of neighborhood organizations designed to segregate poor blacks in the inner city (including opposition to busing and advocacy of neighborhood schools) also play a large part.<sup>35</sup> Therefore it is enormously difficult for the black poor to escape ghettos, since either they cannot afford to move out or residents of nonghetto areas, whether because of racial prejudice, class bias, or narrow self-interest, inhibit the ability of the urban poor to join these better communities or attend high-quality schools. Many of the black urban poor are effectively confined to ghetto neighborhoods, isolated from the rest of society.<sup>36</sup> They

33. William Julius Wilson, *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy* (Chicago: University of Chicago Press, 1987), pp. 39–46; and John D. Kasarda, “Urban Industrial Transition and the Underclass,” in *The Ghetto Underclass: Social Science Perspectives*, updated edition, ed. William Julius Wilson (Newbury Park, Calif.: Sage Publications, 1993), pp. 43–64.

34. Low-skilled inner-city workers could also get to jobs in the suburbs if they had cars, which most cannot afford. Public transportation systems in most metropolitan areas are woefully inefficient, creating long commuting times, and are often too expensive for the working poor to use daily.

35. Massey and Denton, *American Apartheid*; Mary Pattillo-McCoy, *Black Picket Fences: Privilege and Peril Among the Black Middle Class* (Chicago: University of Chicago Press, 1999); Camille Zubrinsky Charles, *Won't You Be My Neighbor? Race, Class, and Residence in Los Angeles* (New York: Russell Sage Foundation, 2006); and William Julius Wilson and Richard P. Taub, *There Goes the Neighborhood* (New York: Knopf, 2006).

36. It is worth noting that the ghetto poor do sometimes manage to exit poor neighborhoods but then only to return to the same or a similar neighborhood shortly thereafter. Indeed, some are able to move to nonpoor neighborhoods and then these new neighborhoods become poor later, as more poor people move in and the nonpoor move out. For many poor urban blacks, the problem is not so much getting out of the ghetto but staying



must therefore confront the miserable job prospects and failing schools that exist in the inner core of U.S. metropolises. Faced with these tremendous obstacles, many choose to drop out of the legitimate labor market, turning to illegitimate means to generate income.

One of the many tragic consequences of this situation is the mass incarceration of poor black people, especially young black men.<sup>37</sup> Despite making up only 13 percent of the male population of the United States, black men constitute almost *half* of the male prison population, and on any given day, nearly a third of all black men in their twenties are in prison, on probation, or on parole.<sup>38</sup> These black men are overwhelmingly from ghetto communities. The high levels of police surveillance, racial profiling, stiff penalties for minor parole violations, felon disenfranchisement laws, and general harassment of young urban blacks intensify their hostility toward the criminal justice system, and invite urban blacks to conclude that they are living under a race-based police state whose intent is to prevent them from enjoying all the benefits of equal citizenship and to contain social unrest. Because of the extreme racial disparity in the numbers of persons under the supervision of the criminal justice system, the general stigma attached to a criminal conviction taints all blacks, especially young black men and boys from the ghetto. Moreover, black urban youth are sometimes seen as having a propensity to criminal behavior.<sup>39</sup> These factors greatly disadvantage those from the ghetto who seek employment, decent housing, and good schools, for they are too often presumed to be (“naturally”) prone to lawlessness.

To be clear, I am not denying the obvious fact that some born into ghetto poverty can, and do, manage to escape poverty and the ghetto,

out. See Lincoln Quillian, “How Long Are Exposures to Poor Neighborhoods? The Long-Term Dynamics of Entry and Exit from Poor Neighborhoods,” *Population Research and Policy Review* 22 (2003): 221–49.

37. Becky Pettit and Bruce Western, “Mass Imprisonment and the Life Course: Race and Class Inequality in U.S. Incarceration,” *American Sociological Review* 69 (2004): 151–69; Loïc Wacquant, “From Slavery to Mass Incarceration: Rethinking the ‘Race Question’ in the U.S.,” *New Left Review* 13 (2002): 41–60; see also Wacquant, “Deadly Symbiosis.” For a concise summary of the racist causes and racial consequences of mass incarceration in the United States, see Brian Barry, *Why Social Justice Matters* (Cambridge: Polity, 2005), chap. 7.

38. Marc Mauer, *Race to Incarcerate* (New York: New Press, 1999).

39. Lincoln Quillian and Devah Pager, “Black Neighbors, Higher Crime? The Role of Racial Stereotypes in Evaluations of Neighborhood Crime,” *American Journal of Sociology* 107 (2001): 717–67.

whether through state assistance, the help of other people, sheer personal determination, or good luck. Yet if an unjust basic structure is a significant causal factor in explaining the rise and persistence of ghetto conditions and such conditions diminish the life prospects of citizens who live under them, the fact that some from the ghetto are still able to improve their lot through legitimate means and ultimately to leave the ghetto does not invalidate the claim for redress of those who remain behind. After all, some enslaved blacks during the antebellum era were eventually able to buy their freedom or were voluntarily released by their owners, and some southern blacks attained middle-class economic status through hard work and perseverance despite Jim Crow segregation and the terror of the Klan. Although the racial status hierarchy in the United States is itself largely impermeable, it has never been so powerful that all blacks are confined to the lowest socioeconomic strata. The obstacles that the system continues to place in the way of poor blacks, though in some ways less burdensome than in the past, are nevertheless objectionable on grounds of justice.

### III. IS DEVIANCE REASONABLE?

Imprudence is rightly regarded as a vice, and some of the choices ghetto residents make are no doubt unwise, given their risks, costs, and negative long-term consequences for the actors themselves. Certain self-regarding duties are also relevant to assessing the behavior and attitudes of the ghetto poor: obligations to cultivate one's basic capacities, to respect oneself as a moral person, or to avoid courses of action that would undermine one's autonomy. While the ghetto poor are sometimes criticized on these grounds, and while such criticisms have led some to conclude that paternalistic or punitive responses are warranted, these questions, although important, are not what I want to focus on. My primary concern is to determine whether the deviant conduct and attitudes prevalent in the ghetto are *unreasonable*.<sup>40</sup> That is, do these forms

40. For a discussion of the distinction between the rational and the reasonable in practical affairs, see Rawls, *Political Liberalism*, pp. 48–54. Also see T. M. Scanlon, *What We Owe to Each Other* (Cambridge, Mass.: Harvard University Press, 1998), pp. 189–94. A similar distinction, between cognitive-instrumental rationality and communicative rationality, is elaborated in Jürgen Habermas, *The Theory of Communicative Action, Volume I: Reason and the Rationalization of Society* (Boston, Mass.: Beacon Press, 1984), pp. 8–42.

of deviance express an unwillingness to honor the fair terms of social cooperation that others accept and abide by? If the ghetto poor accept the benefits of the social scheme but violate the norms that make the scheme possible whenever doing so would advance their self-interests, then their nonconformity is opportunistic and may therefore appear unjustified to those complying with these norms. But, and this is the crucial point, whether their deviance is unreasonable depends on the justness of the overall social scheme. When people criticize the ghetto poor for failing to play by the rules that others honor, they are assuming, if only implicitly, that these rules are fair to all who play. As we have seen, however, the fairness of the scheme is open to doubt.

Let us distinguish three possible assessments of the basic structure of U.S. society. On the first, we judge the United States to be a fully just society. In light of the observations summarized above, I do not regard this as a plausible view and so will not consider it further. On the second, we judge that there are some injustices that should be addressed but that the United States is not fundamentally unjust. On the third, we judge that the society is fundamentally unjust and will require radical reform to bring it in line with what basic justice demands. The question, then, is what obligations would the ghetto poor have if the second or third assessments were correct.

To sharpen the question, I will invoke the familiar distinction between civic obligations and natural duties.<sup>41</sup> Civic obligations are owed to those whom one is cooperating with to maintain a fair basic structure. They are the obligations that exist between citizens of a democratic polity as defined by the principles of justice that underpin their association. Civic obligations have binding normative force because of the contingent associational ties between citizens, that is, because of the formal or informal bonds that define a set of persons as a distinct people or nation. By contrast, natural duties are unconditionally binding, in that they hold between all persons regardless of whether they are fellow citizens or are bound by other institutional ties. Both civic obligations and natural duties are moral requirements. The key difference is that one has civic obligations *qua* citizen and natural duties *qua* moral person.

41. In elaborating this distinction I draw on Rawls's distinction between social obligations and natural duties, though perhaps not in the same way he intended. See Rawls, *A Theory of Justice*, pp. 93–101.

Within a liberal framework, civic obligations are rooted in the political value of reciprocity. As a beneficiary of the primary goods afforded by the scheme of cooperation, each citizen has an obligation to fulfill the requirements of the basic institutions of his or her society when these institutions are just. Such reciprocity forbids the exploitation of fellow members of the society. Rawls rightly insists that one should not attempt to gain from the cooperative labors of others without doing one's fair share. Just as important, he also correctly maintains that we do not have obligations to submit to *unjust* institutions, or *at least not to institutions that exceed the limits of tolerable injustice*. One difficulty we must face, then, is ascertaining just where to draw the line beyond which injustice becomes intolerable.

Rawls does not provide such a standard. One standard we might use, though, is to live with unjust socioeconomic inequalities if the constitutional essentials are secure. For Rawls these essentials are the familiar basic rights of a liberal democratic regime—such as freedom of speech, conscience, assembly, and association; the right to vote and run for office; the right to due process and judicial fairness—and the political procedures that ensure democratic rule.<sup>42</sup> The constitutional essentials also include freedom of movement, free choice of occupation, formal justice, and a social minimum that secures the basic material needs of all citizens. The constitutional essentials do not, however, include fair equality of opportunity (i.e., Rawls's egalitarian interpretation of the equal opportunity principle); nor do they include the difference principle (i.e., his requirement that socioeconomic inequalities always work to the benefit of the least advantaged).

A plausible rationale for using this standard for tolerable injustice is that it is most urgent to secure the constitutional essentials, given their indispensable role in creating social stability, and that reasonable people can disagree over how much socioeconomic inequality can be justified and over when existing institutional arrangements satisfy the principles of economic justice. The constitutional essentials establish the political legitimacy of a social order by publicly affirming the equal status of all citizens under the rule of law. If an otherwise unjust society met this standard, this would not mean that citizens should not agitate for more socioeconomic equality or use democratic processes or other legitimate

42. Rawls, *Political Liberalism*, pp. 227–30.

political channels to fight for policies that would achieve a more egalitarian basic structure. It would simply mean that their civic obligations were still fully binding and thus that they should fulfill these obligations as they work for a more just social arrangement.

Assume for the moment that this proposed standard for tolerable injustice is currently met in the United States. Would it be reasonable to expect the ghetto poor to fulfill their civic obligations, even as they justifiably resent and protest continuing socioeconomic inequalities? Many U.S. citizens, regarding their society as imperfect but reasonably just, believe that the ghetto poor are not entitled to further public expenditures to improve their lives apart from, perhaps, some allowance for basic subsistence (e.g., food stamps). The attitudes, habits, and values of many of the black urban poor are widely thought to be in conflict with legitimate expectations for civic responsibility. Each citizen reasonably expects other citizens to fulfill their basic obligations as a citizen, to do their fair share in sustaining an institutional arrangement that works to everyone's advantage. In particular, most U.S. citizens think that everyone, including the poor, should obey the law and that all able-bodied, working-age citizens (unless they are providing care for dependent relatives, are economically self-sufficient without working, or are engaged in full-time education or job training) should support themselves through legitimate work, even if that work is hard, low-paying, and unsatisfying. Thus, when the ghetto poor engage in criminal activity or refuse to work legitimate jobs, this is widely regarded as a failure of reciprocity on their part.

This would be the wrong conclusion to draw, however.<sup>43</sup> To see why, we first should remind ourselves that job opportunities for low-skilled

43. One way to deny at least the job aspect of this conclusion is to hold that a general work requirement is incompatible with liberal principles of justice, which must be neutral with respect to reasonable conceptions of the good and must not rely on a pre-political notion of moral desert. Criticizing the ghetto poor for not working could thus be regarded as illiberal, insofar as such criticism is premised on the idea that work is good for the worker or that only those who work are deserving of equal respect and concern. However, Stuart White, relying on a Rawlsian fair-play argument, makes a strong case that an obligation to work is a requirement of civic reciprocity, provided background conditions are just and that all who are able, including the wealthy, are expected to make a labor contribution to the common good. See his "Is Conditionality Illiberal?" in *Welfare Reform and Political Theory*, ed. Lawrence M. Mead and Christopher Beem (New York: Russell Sage Foundation, 2005), pp. 82–109.

workers are severely limited and the jobs that are available are often menial, dead-end service positions that pay wages too low to provide adequate economic security for a family. Now it might be replied that if the ghetto poor do not want to take these low-wage jobs they should develop their skills so that they can compete for better ones. This would mean graduating from high school and getting some post-secondary education, which too few from urban communities do. Indeed, it could be argued that even if one accepted the demanding principle “from each according to his or her ability, to each according to his or her needs,” it would be unreasonable—and not merely a violation of a self-regarding duty—for citizens to refuse to *develop* their abilities. As is widely known, however, the quality of education available to ghetto residents is generally so substandard that most cannot get a basic education there, let alone proper preparation for college.<sup>44</sup> Moreover, because of high housing costs and racial discrimination, most are not able to move to neighborhoods where the schools are better. Furthermore, without significant public subsidies, those admitted to college usually lack sufficient resources to pay. This lack of equal educational opportunity, which in turn creates an unfair employment opportunity scheme, vitiates any obligation to work (should such a duty exist).<sup>45</sup>

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No doubt many U.S. citizens criticize the poor on perfectionist grounds (e.g., on the grounds that desert requires a good work ethic), and some believe that all citizens, rich and poor, should work. One could also believe, however, as I think many Americans do, considering their attitudes toward taxes on inheritance, that civic reciprocity requires, not work per se, but economic self-sufficiency: doing one's part in upholding the scheme of cooperation means not forcing one's fellow citizens to support you (unless of course you are unable to support yourself). To refuse to take care of yourself is widely regarded as imposing unfair burdens on others, say, through high taxes. So I will not assume that the critic of the ghetto poor is necessarily committed to a general civic obligation to work.

44. See Gary Orfield, Susan E. Eaton, and The Harvard Project on School Desegregation, *Dismantling Desegregation: The Quiet Reversal of Brown v. Board of Education* (New York: The New Press, 1996); and Jennifer L. Hochschild and Nathan Scovronick, *The American Dream and the Public Schools* (New York: Oxford University Press, 2004).

45. Again, I am not here assuming a general civic obligation to work. I am assuming that *if* such an obligation exists, each citizen should have a fair chance to compete for the desirable jobs and should be reasonably well compensated if he or she must choose from among undesirable employment options. It goes without saying that if jobs are not available, the duty to work could not be binding. For contrasting views on whether there is a general obligation to work, see Lawrence C. Becker, “The Obligation to Work,” *Ethics* 91

One might object that if the ghetto poor will not accept the jobs they qualify for and they refuse, or cannot afford, to continue their education, they should simply get by on whatever public welfare provisions that are available or on private aid, but without resorting to crime. Leaving aside for the moment the adequacy of current welfare benefits, we can appreciate the weakness in this objection if we keep in mind that the basic structure of any society will, in predictable and alterable ways, encourage certain desires and ambitions in its citizens; and lawmakers generally take into account how the overall incentive structure in society will be affected by the policies they enact. Any affluent, mass-consumer, capitalist society will encourage—indeed actively cultivate—the ambition to live comfortably (if not get rich). This is, after all, how such economies reproduce themselves: by creating continual mass desire for a wide range of consumer goods and services. If such a society only guarantees the constitutional essentials, however, without providing every citizen with a real opportunity to reach the goal of material comfort, then it is far from obvious that those who, because of lack of resources, are inhibited in this pursuit are being unreasonable when they choose crime as an alternative to subsistence living.<sup>46</sup>

As noted earlier, the core value underlying civic obligations is not a demanding egalitarian standard but simple reciprocity. The problem with using the constitutional essentials as the threshold for tolerable injustice is that it does not ensure genuine conditions of reciprocity for the most disadvantaged in the scheme. Each citizen should be secure in

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(1980): 35–49; and Philippe Van Parijs, “Why Surfers Should Be Fed: The Liberal Case for an Unconditional Basic Income,” *Philosophy & Public Affairs* 20 (1991): 101–31. Also see White, “Is Conditionality Illiberal?”

46. This is a different point from the one Jeffrie G. Murphy makes in “Marxism and Retribution,” *Philosophy & Public Affairs* 2 (1973): 217–43. Murphy argues that because capitalist societies encourage greed, envy, and selfishness, it would be unfair to punish poor citizens who, in acting on these socially sanctioned motives, commit crimes. As he says, “There is something perverse in applying principles that presuppose a sense of community in a society which is structured to destroy genuine community” (p. 239). Although I am sympathetic to Murphy’s position, I am suggesting something less radical. My point is rather 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 relative material comfort. So if a person develops a life-plan based on this expectation yet the expectation is frustrated, not because of one’s lack of effort or ability, but because of inequities in the prevailing opportunity structure, one is not necessarily being unreasonable when one chooses illegitimate means to attain the expected standard of living.

the thought that he or she has equal standing within the scheme of cooperation. This means that the scheme should be organized so that it publicly conveys to each participant that his or her interests are just as important as any other participant's. Perhaps fair equality of opportunity sets the bar too high for tolerable injustice.<sup>47</sup> Still, in a society that does not ensure a wide distribution of wealth and that relies primarily on the market to distribute income, the standard for tolerable injustice should include an adequate opportunity to develop marketable skills. Those who are denied this can legitimately object that they are not being treated as equally valued members of a scheme of cooperation that is supposed to be mutually advantageous.

It might be objected that the ghetto poor, despite their disadvantages, do have *some* chance, albeit not the same chance as other citizens, to acquire marketable skills and to find good jobs. Why is this not a sufficient sign that the system accords them equal concern? In any case, since the ghetto poor are not taking full advantage of the educational and employment opportunities that are available, how can their complaints about the intolerable injustice of the system be taken seriously?

If substandard schools and poverty wages were unavoidable byproducts of social cooperation under modern conditions, then the first objection would have merit. However, with adjustments to the tax scheme, schools could be dramatically improved and low-wage earners could be brought up to a decent standard of living. The public and their elected representatives simply lack the commitment to justice to make the relevant adjustments. To the second objection I will simply note, for the moment, that one way to register one's principled opposition to an unjust social system is to forgo chances to benefit from its unfair opportunity structure.<sup>48</sup>

47. But perhaps not. For compelling considerations in favor of treating fair equality of opportunity as a constitutional essential, see Seana Valentine Shiffrin, "Race, Labor, and the Fair Equality of Opportunity Principle," *Fordham Law Review* 72 (2004): 1643–75.

48. A similar point is suggested in G. A. Cohen, "The Structure of Proletarian Unfreedom," *Philosophy & Public Affairs* 12 (1983): 3–33. Cohen is responding to the anti-Marxist claim that the members of the working class are not forced to sell their labor power since any one of them, or almost any, could start their own small business and thus exit the proletarian class. He raises the important possibility that some workers, out of solidarity with the others, may object to taking an individual escape that is not part of a general liberation for all. Some members of the lumpen-proletarian ghetto poor might reasonably take a similar position.



Not only does the constitutional-essentials standard for tolerable injustice allow too much inequality, but there is also reason to believe that not even this standard is currently met in the United States. Institutional racism still exists across a number of major social institutions. There has in addition been a sharp reduction in welfare benefits and other social entitlements for the poor and unemployed (provisions that, arguably, were not adequate to begin with), and many are now forced to work for poverty wages to receive even these meager benefits (e.g., workfare programs and the earned-income tax credit). These circumstances suggest that the constitutional essentials are not secure. Having the constitutional essentials codified in law is not sufficient to regard them as secure, as even a cursory knowledge of the history of the black struggle for equal citizenship should make clear. Civil rights laws must also be impartially and effectively enforced, so that all citizens, regardless of race or class background, can be confident that those with institutional power will respect their rights. The existence of the dark ghetto—with its combination of social stigma, extreme poverty, racial segregation (including poorly funded and segregated schools), and shocking incarceration rates—is simply incompatible with any meaningful form of reciprocity among free and equal citizens.

The ghetto poor justifiably feel that by demanding that they work in miserable, low-paying jobs to secure their basic needs, more advantaged citizens are simply trying to keep their taxes from rising or, worse, attempting to exploit the labor of poor people. And when the poor refuse this unfair arrangement, they are either stigmatized as lazy and undeserving or they are penalized for trying to gain income in the underground economy. From the standpoint of many ghetto residents, the social order lacks legitimacy.<sup>49</sup> There appears to be a conspiracy to contain, exploit, and underdevelop the black urban poor, to deny them equal civic standing and punish them when they refuse to accommodate themselves to injustice. This appearance of conspiracy is, I suspect, the reflection of an underlying failure of the social scheme to fully embody the value of reciprocity. If we are to take equal citizenship seriously, then not only should we not attempt to gain from others' labor without

49. This point is developed, within a broadly Rawlsian framework, in Howard McGary, "The Black Underclass and the Question of Values," in *The Underclass Question*, ed. Bill E. Lawson (Philadelphia, Pa.: Temple University Press, 1992), pp. 57–70.

carrying our fair share of the burdens of maintaining the system of cooperation, but we should not demand labor from those being deprived of their fair share of the benefits from the system. I would conjecture that in an affluent society with a recent history of overt racial exclusion, no reasonable standard for tolerable injustice is compatible with persistent ghetto conditions. If this conjecture is correct, then when the ghetto poor in the United States refuse to accept menial jobs or to respect the authority of the law qua law, they do not thereby violate the principle of reciprocity or shirk valid civic obligations.<sup>50</sup>

#### IV. OPPRESSION AND THE DUTY OF JUSTICE

However, even if a society is fundamentally unjust, i.e., it exceeds the limits of tolerable injustice, it does not follow that the ghetto poor have no moral duties to one another or to others. Only someone who holds that the cognitive-instrumental or utility-maximizing conception of reason is the only legitimate conception could think that an unjust social order rationally justifies a war of all against all, in which the only valid value systems are those of the gangster and hustler. The ghetto poor do have duties, natural duties, that are not defined by civic reciprocity and thus are not negated by the existence of an unjust social order.<sup>51</sup>

Among these is the duty not to be cruel. Each also has the duty to help the needy and vulnerable provided this is not too personally risky or costly. There is a duty to not cause unnecessary suffering. There is a duty of mutual respect: to show due respect for the moral personhood of others. There are also many other basic duties. Such duties are not suspended or void because one is oppressed. The existence of these duties

50. It is perhaps worth noting that Rawls insists that even within a reasonably just society there is a limit to how much injustice people should have to endure. In particular, he thinks that the burdens of injustice should, over time, be distributed more or less evenly across different sectors and groups in society, so that the weight of oppression does not fall mostly on any one group. Thus he says, “[T]he duty to comply [with reasonably just institutions] is problematic for permanent minorities that have suffered from injustice for many years” (Rawls, *A Theory of Justice*, p. 312). Even if the United States is reasonably just (according to some defensible standard for tolerable injustice), the burdens that the black urban poor are forced to carry, and the length of time they have had to carry them, might justify their refusal to comply with institutional demands; and if they do not, strictly speaking, provide a justification for such deviance, they almost certainly provide a legitimate excuse.

51. Rawls, *A Theory of Justice*, pp. 98–100.

makes some of the deviant attitudes and actions of the ghetto poor impermissible, not because they are forbidden by law but because they cannot be fully justified from a moral point of view. This means, at a minimum, that the reckless and gratuitous violence, the selfish indifference to others' suffering, and the disregard for the humanity of one's fellow human beings that are all too common in some poor urban neighborhoods should not be tolerated. There should also be special mindfulness of how impressionable youth are and, in particular, of how observing the behavior of adults shapes a child's moral development.

Yet fulfillment of one's natural duties to others may nevertheless be compatible with certain forms of crime. Taking the lives of others, except in self-defense or in defense of others, is hardly ever justified. However, taking the property of others, especially when these others are reasonably well off, may be legitimate. Mugging someone at gunpoint may not show sufficient respect for the victim's personhood, but shoplifting and other forms of theft might be justified. Given the hazards of participating in gang culture, recruiting children into gangs shows insufficient concern for the weak and vulnerable; yet given the advantages of concerted group action, participating in gangs may be a defensible and effective means to secure needed income. There are also "victimless" crimes such as prostitution, welfare fraud, tax evasion, selling stolen goods, and other off-the-books transactions in the underground economy.<sup>52</sup> There are of course many complex questions here about when coercion, threats, or deception may legitimately be used, and there is the salient question of which, if any, illegal narcotics may be sold to consenting adults without wronging them.<sup>53</sup> I will not pursue these issues further, however. My goal is not to draw the precise line between permissible crimes and impermissible ones but only to offer reasons for thinking that the former set is not empty.

I do, however, want to draw out the practical implications of one natural duty, the duty of justice. According to Rawls, this duty requires each individual (1) to support and comply with just institutions, and (2) where just institutions do not exist, to help to bring them about.<sup>54</sup> No just

52. See Venkatesh, *Off the Books*.

53. For a helpful discussion of this latter issue, see Douglas N. Husak, "Liberal Neutrality, Autonomy, and Drug Prohibitions," *Philosophy & Public Affairs* 29 (2000): 43–80.

54. Rawls, *A Theory of Justice*, p. 99.

societies or institutions could exist, at least not for very long, if individuals did not work to create and sustain them. The very idea of social justice would seem to presuppose the duty of justice: no one can resent being treated unjustly and also consistently reject the duty of justice. Rawls argues for the validity of this duty by pointing out that the parties in the original position, seeing their common rational interest in the existence and stability of just institutions, would naturally agree that everyone should support and further such institutions. The duty of justice gives each person a strong moral reason to protest or resist unjust practices.

The duty of self-respect, which is fulfilled by recognizing and affirming one's equal moral worth as a person, also provides a reason to protest or resist injustice.<sup>55</sup> But it differs from the duty of justice. One expresses self-respect by, for example, standing up for oneself when one has been treated unjustly, rather than meekly acquiescing. The duty of self-respect is a matter of defending one's dignity in the face of injustice; the duty of justice is a matter of taking proactive steps to end injustice or to make the relevant institutions more just. The duty of self-respect is a self-regarding duty; the duty of justice is one owed to others. The duty of self-respect demands action from those who have been wronged; the duty of justice demands action regardless of whether one has been wronged.

There have been important recent philosophical discussions about what relatively advantaged persons ought to do to eliminate or mitigate unjust circumstances.<sup>56</sup> Yet there has been little attention to what obligations to promote just institutions disadvantaged persons have. Some liberals are no doubt reluctant to discuss the moral obligations of the downtrodden out of an understandable distaste for "blaming the victim." Moreover, they rightly maintain that indignation should be directed, first and foremost, toward the complacency of the well off, the "winners" in an unjust system. I want to insist, however, that the duty of justice also applies to the oppressed and in particular to the ghetto poor.

Of course, it would be unreasonable to expect individuals to work to bring about a just society when doing so would be very dangerous or costly. Given the conditions in most ghettos, perhaps it is too much to ask

55. For a particularly insightful discussion of the duty of self-respect, see Boxill, *Blacks and Social Justice*, chap. 9.

56. See, for example, G. A. Cohen, *If You're an Egalitarian, How Come You're So Rich?* (Cambridge, Mass.: Harvard University Press, 2000); and Liam Murphy, *Moral Demands in Nonideal Theory* (New York: Oxford University Press, 2000).

of ghetto denizens that they make significant contributions to the cause of social justice. After all, many have more than they can handle just trying to meet their basic needs and maintain their dignity. Yet it is reasonable to expect the ghetto poor, in addition to fulfilling their other natural duties, to not take courses of action that would clearly exacerbate the injustices of the system or that would increase the burdens of injustice on those in ghetto communities or others similarly situated, at least not when these negative consequences could be avoided without too much self-sacrifice. Nor should they do things that would clearly make a just society more difficult to achieve, provided in refraining from such actions they can maintain their self-respect and meet their other basic needs.

Expecting the ghetto poor to honor their natural duties, including the duty of justice, does not blame the victims. The ghetto poor should not be held responsible for the appalling social conditions that have been imposed on them because of the workings of an unjust social structure, but they should be held accountable for how they choose to respond to these conditions. Demanding this basic level of moral responsibility treats them as full moral persons and as political agents in their own right. Too often ghettos are viewed as “sick” communities, burdened with myriad pathologies, that the state-as-physician (or some suitable social service organization, such as a charity or church) must “heal.” Not only is this doctor-patient approach to the ghetto too often an expression of offensive paternalistic sentiments (which have well-known black elite noblesse oblige variants), but also it is the wrong paradigm when we are dealing with a social problem whose origin lies in systemic injustice. We all, whether we belong to dominant or subjugated groups, have a duty to help establish just social arrangements. Given that the injustices at issue are features of a system of social cooperation that we all, winners and losers, participate in, we should view the project to correct these injustices as a joint one, or at least it should be so viewed among those who want to live in a just society rather than to profit from an unjust one.

Unfortunately, in light of the ill will, selfishness, and callous indifference of many of their fellow citizens, social justice might not be achievable unless the ghetto poor take on a good deal of the burden in reforming their society. As has so often been true in human history, the oppressed must play a large role—sometimes they have to be the principal agents—in ending the unjust practices they are subjected to. For example, black citizens had to play significant roles in abolishing slavery and Jim

Crow, despite having suffered most because of these systems of domination. The fact that this is, in some sense, unfair is irrelevant. The duty of justice is not based on the principle of civic reciprocity. It is a duty each has *qua* moral person, not *qua* citizen. Therefore, one cannot opt out of this duty because one's fellow citizens fail to fulfill it. Nor should one stop short of doing more than others in the struggle for justice on the ground that were these others to do their part one would not have to do as much (though the criticism of these others is no doubt warranted). Exactly how one should go about fulfilling the duty of justice, that is, which specific courses of action would satisfy it, will depend on which particular social circumstances one faces. In light of these circumstances, one must make an assessment of how best to contribute to improving things. This assessment will necessarily involve determining just how much assistance one can realistically expect from others and how best to enlist this aid. When viewed from this vantage point, ghetto residents should think carefully about how they respond to the injustices of the social order and consider whether the forms of deviance they sometimes engage in are ultimately obstacles to effecting positive social change.

Many people claim that they would be willing to help the poor provided the poor would make an honest effort to help themselves by, say, working, getting an education, and staying out of jail. More advantaged citizens do not want to feel that they are being taken advantage of, and they often suspect that the urban poor lag behind because they lack the necessary work ethic. So one might think that, if not from prudential motives then from the duty of justice, the ghetto poor should avoid deviant behavior and take greater responsibility for helping themselves, as this would assure their fellow citizens that they are not being exploited and thereby encourage them to do something about improving the conditions in the ghetto.<sup>57</sup> However, if the ghetto poor have compelling reasons to think that they are not being treated as equal citizens (say, because a tolerable level of injustice has been exceeded and they are being forced to carry the bulk of the burdensome consequences of this injustice), then they should be the ones worried about being hustled. Given rising inequality and the worsening of the ghetto/prison complex, which show no signs of abating, they have every reason to believe that

57. This argument is suggested in Jennifer L. Hochschild, "The Politics of the Estranged Poor," *Ethics* 101 (1991): 560–78.

their interests are not being given equal consideration. Why should they think that if they were only to behave better things would change? Moreover, to ask them to demonstrate their worthiness for assistance that they are entitled to as a matter of justice would add insult to injury. The suggestion that the ghetto poor “prove themselves” before their compatriots offer help fails to appreciate that acquiescing to injustice is simply incompatible with the maintenance of self-respect.

#### V. FROM SPONTANEOUS DEFIANCE TO POLITICAL RESISTANCE

One of the ways that the ghetto poor have sometimes responded to their plight is to engage in spontaneous rebellion. This may take the form of openly transgressing conventional norms, expressing contempt for authority, desecrating revered symbols, pilfering from employers or state institutions, vandalizing public and private property, or disrupting public events.<sup>58</sup> Spontaneous rebellion reaches its apotheosis in the urban riot, where looting, mass destruction of property, and brutal violence are on public display. When legitimate avenues for political action fail to produce results or are closed off, such public unrest can seem to be the only power the ghetto poor can wield collectively that has a chance of garnering concessions from the state.<sup>59</sup>

Many of these acts of defiance, though perhaps *politically* ineffective, may be necessary for the ghetto poor to maintain their self-respect. If nothing else, such actions can be cathartic and can help the oppressed to keep from turning on each other as they seek an outlet for their justified anger. Yet not all expressions of rebellion are aimed at protesting or changing the social order. Some ostensible defiance, on closer scrutiny, reveals itself to be no more than a desire to exploit the system opportunistically, as when demagogues take advantage of the anger of the poor to gain personal power or when gangsters and hustlers take advantage of others' desperation merely for their own gain—capitalism by other means, as it were. What may have begun as principled

58. See Robin D. G. Kelley, *Race Rebels: Culture, Politics, and the Black Working Class* (New York: Free Press, 1996).

59. See Frances Fox Piven and Richard A. Cloward, *Poor People's Movements: Why They Succeed, How They Fail* (New York: Vintage, 1979), pp. 18–23. For insightful reflections on the significance of a recent urban riot, see the essays in *Reading Rodney King/Reading Urban Uprising*, ed. Robert Gooding-Williams (New York: Routledge, 1993).

resistance can become, because of encroaching cynicism, “life-is-unfair” resignation. Some juvenile deviance is little more than adolescent rebellion unchecked by proper adult supervision. The key practical question, of course, is how, if at all, can this general impulse toward rebellion in U.S. ghettos be transformed into enduring and effective forms of political resistance. I will not pretend to have the answer to this difficult question. I would, however, like to briefly outline what kinds of moral criticism of the ghetto poor might be appropriate in light of the aim of cultivating constructive forms of resistance, thus giving some concrete content to the abstract duty of justice.

Rawls distinguishes two different ways a society might be unjust.<sup>60</sup> The first way is when the publicly recognized standards for judging the justice of the basic structure are sound but the institutional arrangement of the society fails to satisfy these standards. In this case, the society fails to live up to its own professed ideals, ideals that are *worthy* of public recognition. Alternatively, social arrangements may fit the prevailing conception of justice in the society or the political views of the ruling elite but nevertheless be unjust. In this case, the dominant conception of justice is an *ideology*, a set of widely held beliefs and implicit assumptions that legitimates and thereby helps to sustain an oppressive regime.<sup>61</sup>

If the first situation obtains, the political opposition may be able to appeal to their fellow citizens’ sense of justice, highlighting the gap between ideals and practice. Here, nonviolent civil disobedience, public demonstrations, or other forms of mass protest that attempt to arouse the public’s sense of moral outrage may be productive. Since the era of New World slavery, the dominant tradition in African American activism, from Frederick Douglass to Martin Luther King, Jr., has generally taken this approach. However, if the society is stabilized by a deeply flawed conception of justice, for example one that serves the narrow interests of corporate and political elites, then more drastic or unconventional measures may be warranted. Given a dominant ideology that advances a distorted view of what justice demands and that is widely endorsed because of narrow self-interests or illegitimate group interests, it might

60. Rawls, *A Theory of Justice*, pp. 308–10.

61. For a more developed account of when a socially accepted set of beliefs constitutes an ideology, with a particular focus on racial ideology, see my “Ideology, Racism, and Critical Social Theory.”



not be sufficient to appeal to the majority's sense of justice. Moral suasion and electoral politics may simply not be enough. Black nationalists, from Martin Delany to Malcolm X, have taken exactly this position with respect to the United States, regarding this society as a deeply racist and plutocratic social order. Those who oppose such a regime would have to develop a militant social movement that pushes the society in a more progressive direction, not "by any means necessary" but perhaps through means widely, though mistakenly, regarded as unjustified. The black urban poor have often been attracted to such black nationalist doctrines.<sup>62</sup>

Of course this contrast between the two ways a regime can be unjust, although analytically useful, is too stark for practical purposes. Some aspects of an overall social arrangement (for instance, its educational and economic institutions) may be regulated by a corrupt ideology, while other parts (say, its constitution or basic political organization) may be just or diverge from reasonable public standards of justice. Indeed, contrary to the view of some black radicals (who believe that liberal political thought and practice is rotten to the core), this mixed assessment may be the one most applicable to post-civil rights America, as the civil rights movement did, I believe, help to make blacks' constitutional rights considerably more meaningful. Thus, the political resistance, even if it takes a militant form, must take into account the reasonableness of existing aspects of the social scheme and choose measures of opposition accordingly.<sup>63</sup> To be sure, militant leaders must be willing to take political measures that some might find unacceptable if overcoming serious injustices requires these tactics. And political insurgency aimed at overthrowing an oppressive regime is sometimes justified. However, given the proven difficulty of establishing and maintaining just institutions in the modern

62. There is a variant of this point of view that would appear to have traction in some urban black communities. On this alternative view, the United States is thoroughly corrupt and cannot be redeemed. Given that mass emigration would be impossible for the poor, the only viable option is to build self-reliant ghetto communities without any expectation that justice will someday prevail throughout the whole of the society. Even if this pessimistic prognosis were correct (although I do not believe it is or, rather, hope it is not), the duty of justice would still need to be honored in this black nation within a nation. However, I will not explore the practical implication of the duty in this context. For my response to this brand of black nationalism, see my *We Who Are Dark: The Philosophical Foundations of Black Solidarity* (Cambridge, Mass.: Harvard University Press, 2005), chaps. 3–4.

63. I owe this point to Tim Scanlon.

world, preserving the reasonably just components of an overall unjust system while pushing insistently for broader reforms may ultimately be a better strategy than abrupt radical reconstruction. Moreover, grassroots organizing and populist collective action would still require some measure of public order to be effective, and so the political institutions currently in place—with their provisions protecting freedom of speech, association, and assembly—could prove useful, their “superstructural” character notwithstanding.

These are difficult and complex questions of political practice that theory can only do so much to illuminate. Yet no matter what form such opposition should take, the ghetto poor should be included in the resistance effort. In fulfilling the duty of justice, ghetto residents will need to build bonds of political solidarity with each other and with progressive allies.<sup>64</sup> Such solidarity requires not only shared political values and the common goal of ending ghetto conditions but also a sense of compassion for those similarly oppressed. It calls for special concern, a willingness to help the most disadvantaged among you when you can. Solidarity demands loyalty to those you are working together with to change things for the better. Perhaps most important, it requires a sense of mutual trust, without which collective action cannot occur.

If such solidarity is to form and be sustained, however, an outlaw subculture cannot reign in the ghetto. A climate of fear and suspicion erodes any chance of developing mutual trust. It undermines empathy and compassion because those who appear to be in need might in fact be trying to exploit you, or worse. If loyalty to one’s gang trumps all other loyalties or leads one to disregard the legitimate interests of those outside the gang, then no broader form of loyalty in ghetto communities can take shape, let alone stable forms of political organization. This means that the gangster and hustler ethics, qua value system, must be repudiated.

I am not, however, suggesting that the ghetto poor are never justified in engaging in street crime. On the contrary, lacking acceptable alternatives, crime may be necessary to meet one’s needs or the needs of others. Nor am I saying that one should never make use of the criminal repertoire of

64. I describe the general requirements of political solidarity in *We Who Are Dark*, pp. 67–71. For a helpful discussion of what duties the members of oppressed groups have to each other, see Michael Walzer, “The Obligations of Oppressed Minorities,” in his *Obligations: Essays on Disobedience, War, and Citizenship* (Cambridge, Mass.: Harvard University Press, 1970), pp. 46–70.

gangsters and hustlers—street capital—to secure necessary income. The political economy of the underground may require these tactics. What I am suggesting is that the techniques of the gangster and hustler should not be used merely to gain power, status, or riches; that one should not allow these practices to constitute one's enduring social identity; and that one should be careful not to let the use of these tactics corrupt one's character. Gangsterism and hustling must not be regarded as vocations, but as survival tactics, means of self-defense, or expressions of justified rebellion. Moreover, if street capital is to be converted into political capital in a resistance movement, then ghetto rebellion should not be merely opportunistic or cathartic but, whenever possible, should publicly register dissent. It is crucial, given the duty of justice and on grounds of self-respect, that the ghetto poor make manifest their principled dissatisfaction with the existing social order, either through politically motivated modes of deviance or in some other recognizable way.

#### VI. CONCLUSION

The urban poor should not be demonized, stigmatized, or otherwise dehumanized, just as surely as they should not be romanticized. Yet it would be a mistake to think that they should never be morally criticized. Moral criticism can be appropriate even when the targeted behavior and attitudes have been shaped and encouraged by unjust conditions and even when those subjected to criticism are not responsible for the fact that these conditions exist. Such criticism is one way for the members of oppressed groups to hold one another accountable and to create meaningful bonds of solidarity, and can even be offered by sympathetic outsiders seeking to build political alliances. But there are legitimate and constructive forms of moral criticism and illegitimate and self-serving forms. By appreciating how the lack of justice in a basic structure affects what obligations citizens have, we might better distinguish the two types of criticism, and in the process invite the kind of joint action needed to establish and maintain justice.