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The Duty of Justice in the Modern Ghetto

When it comes to nonideal theory in political philosophy, the ghetto poor are often a point of heated contention. What is generally agreed on by philosophers is that the ghetto poor suffer a myriad of injustices, including deep racial, political, and economic injustices. A central question we must answer, then, is given these unjust circumstances, what acts are morally permissible to be committed by the ghetto poor?

In Tommie Shelby's "Justice, Deviance, and the Dark Ghetto," he argues for why certain common reasons for criticizing deviant actions by the ghetto poor are invalid. He claims that because the basic structure of society in the United States is intolerably unjust towards the ghetto poor, they aren't required to "respect the authority of the law qua law" (Shelby 151). Thus, while many Americans believe that all citizens, regardless of class, race, or status, should obey the law, Shelby claims that when the ghetto poor engage in deviant acts such as "crime, refusing to work in legitimate jobs, and having contempt for authority" (Shelby 128), they cannot be criticized for breaking the law.

Shelby's claims, though valid, now leave an open question: what behavior by the ghetto poor is permissible? For as Shelby himself acknowledges, just because an action isn't able to be criticized solely for being unlawful doesn't mean it can't be deemed as morally impermissible for other reasons. In this essay, I'll explicate Shelby's arguments and draw on Rawlsian notions of justice to define a framework for evaluating whether certain actions by the ghetto poor are morally permissible or not. I first claim that unlawful acts by the ghetto poor are morally permissible so long as they don't violate any natural duties. In explaining this, I'll draw particular attention to the duty of justice, and in doing so, I'll argue that unlawful acts by the ghetto poor are permissible only if they 1) don't predictably undermine just institutions and 2) don't predictably harm others in the ghetto poor.

I. THE GHETTO POOR AND THE LAW

To begin, I'll reconstruct Shelby's argument for why the ghetto poor can't be criticized for not "respect[ing] the authority of the law qua law" (Shelby 151). To do this, it's necessary to first define what Shelby refers to as civic obligations versus natural duties. He writes: "Civic obligations are owed to those whom one is cooperating with to maintain a fair basic structure" (Shelby 144). Thus, he establishes that social justice in a society is "a matter of reciprocity" (Shelby 129) in that citizens who benefit from a basic structure must also do their part in upholding it. However, he also claims that it is unreasonable to expect citizens who don't benefit from, or are even harmed by, the basic structure of society to then be required to uphold it. In this sense, civic obligations are grounded in a reciprocal relationship between the society and the citizen.

This is to be distinguished from natural duties, which "are not negated by the existence of an unjust social order" (Shelby 151). Briefly, these include "the duty not to be cruel... a duty to not cause unnecessary suffering... a duty of mutual respect" (Shelby 151) as well as the duty of justice. So, while some members of society could be exempt from fulfilling their civic obligations, they, like all moral beings, must not violate their natural duties.

What, then, is the threshold of injustice past which citizens are no longer required to fulfill their civic obligations? This is an important question, for it is arguably impossible for any society to be fully just, at least in the Rawlsian sense (ie. a just society is one that upholds the two principles of justice as applied to its basic structure). This logically means that there is some level of injustice below which citizens are not exempt from fulfilling their civic obligations.

For Shelby, the necessary and sufficient requirement for a livable basic structure of society is "if the constitutional essentials are secure" (Shelby 145). Enumerating these, he writes:

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. 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” (Shelby 145).

Shelby uses this as the “standard for tolerable justice” (Shelby 145) because they have an “indispensable role in creating social stability” (Shelby 145) while also “publicly affirming the equal status of all citizens under the law” (Shelby 145).

Shelby then argues that the basic structure of the United States doesn’t meet this standard for those who live in black ghettos (note that Shelby uses the term “ghetto poor” to have the same meaning as those who live in a “black ghetto,” which is synonymous with “dark ghetto”). To begin, he defines a black ghetto as having three core characteristics: “(1) predominantly black, (2) urban neighborhoods, (3) with high concentrations of poverty” (Shelby 134). Furthermore, along with having a high concentration of poverty, black ghettos also have “few good employment options” (Shelby 136). For this reason, many residents in black ghettos must “rely on crime to supplement legitimate income” (Shelby 136).

Shelby also establishes that “the impact of institutional racism is deepest in dark ghettos” (Shelby 139), precisely because those ghettos feature a combination of both “racism and extreme poverty” (Shelby 139). This leads those who live in dark ghettos to be disadvantaged when it comes to employment, given that employers “expect blacks from the ghetto to be generally violent, dishonest, unreliable, and ignorant” (Shelby 140). They are also disadvantaged when it comes to housing because a) they cannot afford to move to the suburbs due to fewer employment opportunities and b) there exists racial discrimination in housing practices in order “to segregate poor blacks in the inner city” (Shelby 141). Those who live in black ghettos are also disadvantaged within the criminal justice system, due to them facing “high levels of police surveillance, racial profiling, stiff penalties” (Shelby 142).

To summarize the points above in brief, Shelby argues that the ghetto poor are unjustly treated in matters involving “employment, housing, and the criminal justice system” (Shelby 140). Thus Shelby claims that, due to black ghettos’ “combination of social stigma, extreme poverty, racial segregation (including poorly funded and segregated schools), and shocking incarceration rates” (Shelby 150), those who live in black ghettos do not have secure constitutional essentials, and the basic structure of society in

the United States is intolerably unjust towards them. This leads to Shelby's ultimate claim, which is that "the deviant conduct and attitudes prevalent in the ghetto" (Shelby 143) are not "unreasonable." That is, given that the relationship between the basic structure of the United States and the ghetto poor is broken, the ghetto poor are not required to "honor the fair terms of social cooperation that others accept and abide by" (Shelby 144).

II. THE DUTY OF JUSTICE

I have now reconstructed Shelby's argument for the claim:

"[W]hen 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" (Shelby 151).

In other words, the ghetto poor are morally justified in committing unlawful acts, so long as they don't violate any natural duties. Many of these natural duties have straightforward implications for assessing the moral permissibility of actions committed by the ghetto poor. For instance, the duty to not cause unnecessary suffering means that "[t]aking the lives of others, except in self-defense or in defense of others, is hardly ever justified" (Shelby 152).

The duty of justice poses important implications for what acts by the ghetto poor are and aren't morally justified. In his article, Shelby characterizes the duty of justice as "the duty to uphold, and to assist in bringing about, just institutions" (Shelby 127). However, it's important to note that he is drawing from Rawls' definition of the duty of justice, and as such, I will now turn to Rawls' discussion on this subject. Rawls writes:

"From the standpoint of the theory of justice, the most important natural duty is that to support and to further just institutions. This duty has two parts: first, we are to comply with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves." (Rawls, *A Theory of Justice*, 294).

Thus, Rawls divides the duty of justice into two parts, both of which must be met in order for the duty of justice to be upheld. Now, when applied to the ghetto poor, this duty manifests in two necessary

conditions that must be met in order for an unlawful act to be morally justified. Put formally, some member of the ghetto poor is morally justified in committing an unlawful act L only if:

- 1) Just Institution Condition (JIC) - L won't predictably undermine just institutions that apply to the ghetto poor.
- 2) Solidarity Condition (SC) - L won't predictably harm others in the ghetto poor.

I will now discuss my rationale for each of these conditions.

The first requirement of the duty of justice is to “comply with and to do our share in just institutions when they exist and apply to us” (Rawls, *A Theory of Justice*, 294). The JIC is essentially a rewording of this, albeit phrased in terms of an individual action rather than a general rule. But it's unnecessary to discuss the JIC in much detail, for virtually any unlawful act L won't violate the JIC. This is because, as Shelby vehemently argues, there are no just institutions that apply to the ghetto poor. Indeed, his central thesis is that the basic structure of the United States is not only unjust towards the ghetto poor but intolerably unjust.

That being said, a potential objector could argue that though the basic structure of the United States is intolerably unjust towards those in the ghetto poor, there still do exist institutions that are just, and those in the ghetto poor must ensure that unlawful acts don't undermine them. Taking this line would require using the Rawlsian definition of institution – “a public system of rules which defines offices and positions with their rights and duties, powers and immunities, and the like” (Rawls, *A Theory of Justice*, 47) – and arguing for the existence of an entity that matches this definition and upholds the Rawlsian principles of justice.

However, even if our objector could accomplish this, I claim that such an objection can largely be dismissed, for no such institution could conceivably “apply” to the ghetto poor, if one defines apply to mean having a substantive degree of influence. For as I've already established while reconstructing Shelby's claims, the basic structure of the United States and all of its major social institutions are intolerably unjust to the ghetto poor, including institutions that deal with education, housing, employment,

and political life. Thus, any institution that is just to all citizens cannot be a part of the basic structure, and so, it would have a largely negligible influence on the ghetto poor.

Now, the second requirement of the duty of justice is to “assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves” (Rawls, *A Theory of Justice*, 294). From this requirement, a conservative citizen could attempt to make the case for why *all* unlawful acts are morally impermissible. His argument could be as follows:

- 1) Unlawful acts generate negative public sentiment towards those in the ghetto poor and lead to a lack of progressive legislation that would alleviate the injustice towards them.
- 2) Thus, unlawful acts undermine the prospects of the establishment of just institutions.
- 3) Because the duty of justice requires all citizens to aid in the establishment of just institutions, unlawful acts are morally impermissible.

Note, however, that Rawls includes the clause: “at least when this can be done with little cost to ourselves” (Rawls, *A Theory of Justice*, 294). Thus, this citizen’s argument hinges on whether or not abiding by the laws and upholding the basic structure of society in the United States imposes a severe cost on the ghetto poor.

Abiding by the law and refraining from deviant acts, however, does impose a severe cost on the ghetto poor. As I’ve discussed above, the racial and economic injustices that plague the ghetto poor preclude them from pursuing employment opportunities that pay livable wages. Instead, the ghetto poor are required to “work for poverty wages” (Shelby 150) that generally don’t secure them an income that’s sufficient to meet their basic needs. And without the prospect of better employment or educational opportunities, it is indeed only rational for them to believe that they must turn to petty crime in order to supplement their sparse income. Refraining from unlawful acts and committing to working these low-income jobs, then, imposes a severe cost upon the ghetto poor, for doing so means that most of them will struggle to meet their basic needs.

However, refraining from acts of crime against others in the ghetto poor does not impose a severe cost on the actors in question. This is because the level of wealth of the average citizen in a dark ghetto is

so minimal that when the ghetto poor are preying on each other, they are largely fighting for pennies and nickels. That is, they are taking from those who essentially have nothing and generating very little benefit by doing so. From a rational standpoint, then, it makes much more sense to commit petty crimes against those who belong to the wealthier classes, for doing so will generate more income.

Furthermore, when the ghetto poor prey on each other, they greatly undermine sympathetic public sentiment and the prospect of progressive legislature. Not only are these acts of crime seen by the general public as problematic in-of-themselves, but they also lead to the rise of a collective culture of hostility in these ghettos. In his article, Shelby writes that there are two “criminal ethics” that emerge in dark ghettos: gangsters, who use violence to extract goods from others, and hustlers, who use deception to extract goods from others (Shelby 137). Those of the ghetto poor who wish to “engage profitably in street crime” (Shelby 136) generally adopt one or both of these identities, for each have their own assets that benefit a life of crime.

And even if a member of the ghetto poor refuses to commit to a life of street crime, he still must mold his behavior in order to survive in an environment riddled with crime. This requirement generally results in the development of a persona similar to the gangster or hustler ethic. Shelby writes:

“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” (Shelby 139).

Thus, the culture of crime in dark ghettos is highly pervasive, such that even those who abstain from crime must develop personas that are tough, violent, and unwelcoming, thereby contributing to and fostering a collective culture of hostility amongst the ghetto poor.

So, when it comes to committing acts of crime between members of the ghetto poor, the result is very little monetary benefit and a culture of hostility and distrust in dark ghettos. Such acts are likely to lead to increased racial prejudices and injustices as well as negative public sentiment towards the ghetto

poor. Returning back to the second requirement of the duty of justice, it is thus the case that unlawful acts committed by a member of the ghetto poor against another member is morally impermissible, for doing so undermines the prospects of just institutions and generates little benefit for the actor in question. From this, I derive the SC.

III. CONCLUSION

In this paper, I have defined a framework for evaluating the moral permissibility of unlawful acts committed by the ghetto poor. In particular, I've reconstructed Shelby's claim for why deviant acts by the ghetto poor cannot be criticized for being unlawful, and I've claimed that unlawful acts by the ghetto poor are morally permissible so long as they don't violate any of the natural duties, which entail the Just Institution Condition and the Solidarity Condition.

Now, as I've discussed above, the Solidarity Condition is quite pertinent towards the behavior of the ghetto poor. Its practical implications are, in fact, quite profound, for if those in the ghetto poor commit to an ethic of cooperation and solidarity, rather than an ethic of taking advantage of each other, then the path towards progressive and egalitarian legislation can be paved. Despite the fact that current members of the ghetto poor are seen as "violent, dishonest, unreliable, and ignorant" (Shelby 140), if a culture of empathy and cooperation were to take hold, then the ghetto poor would gradually foster beneficial qualities such as diligence, trustworthiness, and empathy. In turn, these qualities will generate the public sympathy necessary for justice to take hold in legislatures, social institutions, and in general, the basic structure of the United States.

Works Cited

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