DIAGNOSING DEMOCRACY'S DISCONTENT
Comment on M. Sandel's *The Tyranny of Merit*

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These are troubling times for democracy: mounting inequality, growing xenophobia, and persistent public support for autocratic politicians who have little regard for democratic institutions. In *The Tyranny of Merit: What's Become of the Common Good?*,[1] Michael Sandel contends that mainstream parties and politicians have failed to understand the source of the discontent fueling the populist backlash in the United States and Europe. The problem is not only an economic one generated by global trade and technological change, nor is it primarily about xenophobia and racism against immigrants and racial minorities. It is fundamentally a moral and cultural problem driven by the meritocratic ideal.

Sandel acknowledges that the populist backlash is partly a response to the way mainstream parties have carried out the project of globalization over the past four decades. Politicians, from Ronald Reagan to Bill Clinton and Barack Obama, adopted a technocratic approach to politics, in which market mechanisms are the primary tools for pursuing the public good. Neither Republicans nor Democrats did much to address the deepening inequality. Despite this, Sandel suggests, the technocratic approach to governing is not the main source of the populist backlash. Rather, it is the meritocratic ethic embraced by elites, which Sandel calls *the rhetoric of rising*—anyone who works hard

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1   Michael J. Sandel, The Tyranny of Merit: What's Become of the Common Good? (2020).

and plays by the rules should be able to rise as far as their talents will take them[2]—that is causing the backlash.

Is the meritocratic ideal really to blame? Perhaps the real problem is our failure to live up to the ideal. Sandel begins the book by discussing the 2019 *Varsity Blues* admissions scandal, in which wealthy parents paid a college consultant to fake test scores and bribe college officials to get their children into elite universities. This scandal exemplifies distorted, not true, meritocracy. As Sandel notes, *the rhetoric of rising* rings hollow because it is hard to rise. In the United States, only about one in twenty of those born in the bottom fifth of the income scale will make it to the top fifth; most will not even rise to the middle class. Higher education is the gateway to social mobility, but our current system is failing to reward high-achieving students from low-income families. Sandel cites a study of the ninety-one most competitive American colleges and universities, which found that seventy-two percent of the students come from the top quarter of the income scale, and only three percent come from the bottom quarter.[3] Faced with such facts, why not renew our commitment to the meritocratic ideal and work harder to ensure more qualified students from low-income families can go to college?

Sandel contends the problem is not just our failure to realize the ideal; the ideal itself is flawed. Even if it could be achieved, a perfect meritocracy would be undesirable. Why? "Morally, it is unclear why the talented deserve the outsize rewards that market-driven societies lavish on the successful."[4] Our having certain talents is the result of factors beyond our control. The high incomes that top athletes, investment bankers, and lawyers enjoy are due to natural and social contingencies, such as being born into a wealthy family or having certain abilities that happen to translate into high market value. Even the willingness to work hard is the result of contingencies. It is thus misguided to say that high-income earners morally deserve the rewards that flow from their talents. A second more politically potent reason for rejecting the meritocratic ideal is the morally unattractive attitudes it promotes: hubris among the winners and humiliation and resentment among the losers. In Sandel's judgment, "These moral sentiments are at the heart of the populist uprising against elites. More than a protest against immigrants and outsourcing, the populist complaint is about the tyranny of merit. And the complaint is justified."[5]

I think Sandel puts too much blame on the ideal of merit. If we are failing to live up to the ideal, how can we be certain that any backlash is against the ideal rather than its distortion? Sandel concedes as much when he says the rhetoric of merit tends to slide from

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2   *Id.* at 23.

3   Jennifer Giancola & Richard D. Kahlenberg, *True Merit: Ensuring Our Brightest Students Have Access to Our Best Colleges and Universities*, Jack Kent Cooke Found. (Jan. 2016), https://www.jkcf.org/research/true-merit-ensuring-our-brightest-students-have-access-to-our-best-colleges-and-universities/.

4   Sandel, *supra* note 1, at 24.

5   *Id.* at 25.

the aspirational into the congratulatory, asserting the hope as if it were a fact.[6] We should not give up on the hope.

At the heart of the meritocratic ethic is the idea of equality of opportunity. Consider one prominent example that Sandel criticizes, Rawls's principle of fair equality of opportunity, which says that "those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place in the social system, that is, irrespective of the income class into which they are born."[7] Rawls's principle is more demanding than Sandel acknowledges. For Rawls, fair equality of opportunity requires political and legal institutions to regulate the free market in ways that prevent excessive accumulation of property and wealth and to provide an educational system designed "to even out class barriers." Sandel accuses Rawls of feeding the hubris of meritocracy's winners, but Rawls's theory is premised on a rejection of moral desert. Rawls does suggest that, if we can distribute opportunities fairly, we can say those who compete for and receive the opportunities are entitled to them. Such entitlements, unlike claims of moral desert, are situated in a broader egalitarian approach aimed at addressing inequalities arising from social and natural contingencies. Fair equality of opportunity is not the right way to distribute all important things in life, including income and romantic partners, but it is a desirable way to distribute the opportunity to attend medical school or law school and the opportunity to hold political office. We want our doctors, lawyers, and elected officials to have the relevant qualifications. We should debate what the relevant qualifications for higher education or political office are, but we should not give up on the task of distributing such positions on the basis of fair standards.

Yet, Sandel calls for replacing the meritocratic ideal with "a broad equality of condition that enables those who do not achieve great wealth or prestigious positions to live lives of decency and dignity."[8] A democratic society should aim at ensuring equality of dignity and respect for all members, regardless of their occupation, income, and wealth. But equality of opportunity is also important. Equality of opportunity seeks to meet the needs of a complex modern society for certain skills and forms of expertise. Sandel is right to argue equality of opportunity is insufficient and its excesses should be qualified; that is why we need equality of condition. Equality of condition aims to ensure that every member of the political community is treated with equal dignity. But equality of condition should supplement, not replace, equality of opportunity. Rawls supplements fair equality of opportunity with another principle governing the distribution of wealth and income, what he calls *democratic equality*: because the natural lottery of talents is just as morally arbitrary as the social contingency of being born into a rich or poor family, not only should opportunities

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6   *Id.* at 79.

7   JOHN RAWLS, A THEORY OF JUSTICE 72–73 (1971).

8   SANDEL, *supra* note 1, at 224.

be fairly distributed, wealth and income should be distributed to maximize the position of the least advantaged.[9] We can disagree with how Rawls conceives of *democratic equality*, but his approach shows that it is possible to combine a principle of merit with a commitment to fostering a broad equality of social condition.

Sandel does not actually advocate throwing out the meritocratic ideal. He revises it by proposing a *lottery of the qualified* in university admissions. Of the more than 40,000 students who compete for the roughly 2,000 admission offers at Harvard or Stanford, admissions committees should "winnow out those who are unlikely to flourish at Harvard or Stanford, those who are not qualified to perform well and to contribute to the education of their fellow students."[10] This would still leave tens of thousands of qualified applicants. Rather than trying to predict who among them are the most meritorious, the entering class should be chosen by lottery. As someone who has interviewed many highly qualified applicants for Harvard College, I would welcome such a change. A lottery would maintain a commitment to equality of opportunity. But by explicitly introducing an element of chance, it would challenge the myth that getting into an elite college is entirely the individual's own doing.

If we look beyond Harvard and the Ivy League to the community colleges and public universities that educate vastly greater numbers of students, we can see what is good about the meritocratic ideal. The University of California, Berkeley, where I have taught for the past fourteen years, strives to combine academic excellence with greater access to higher education. The students from low-income families that graduate from Berkeley exemplify true meritocracy in action. Through hard work and effort, they are indeed rising and improving their prospects in life. Instead of jettisoning equality of opportunity, we need to renew our commitment to it, reinvesting in public education so more students from disadvantaged backgrounds can rise.

The stronger part of Sandel's critique of meritocracy centers on its moral psychology. Social esteem flows to those who enjoy educational and economic advantages, but are the attitudes of hubris and humiliation inevitable? I am not as certain as Sandel about this. Let me illustrate with a personal perspective. I grew up in a low-income immigrant family. I applied to and was admitted to Harvard College in the early 1990s. I remember my mother crying when I shared the news; she had not gone to college. I had certainly worked hard in high school, but I did not feel I morally deserved my place at Harvard. Mostly I felt incredibly lucky, in the same way that I felt lucky that my parents had been born in the southern (i.e., not northern) part of the Korean peninsula in the 1940s, and that their adventurous spirit led them to immigrate to the United States in the 1980s. When I got to Harvard, I met students on the other end of the social ladder, including a son of a media

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9   Rawls, *supra* note 6, at 75–83.

10   Sandel, *supra* note 1, at 185.

mogul and a granddaughter of the politician who sponsored the federal student aid legislation that helped me pay for college. I do not think that these privileged classmates of mine believed their admission to Harvard was entirely their own doing. Sandel says that the Harvard students he has encountered think that they deserve their admission to Harvard, but I have found the reverse to be true, and not just in my own case; many of my Harvard classmates readily acknowledged the role of luck in their success. This is an empirical question that can be studied. My point here is that the psychology of the "winners" may be more varied than Sandel suggests. And, if the sentiment of hubris among "winners" is indeed as prevalent as Sandel says, I certainly agree that such sentiments should be counteracted with an ethos of humility.

With respect to the psychology of those on the losing end of meritocracy, my hunch is that their feelings of humiliation and resentment are the result of having lost a game they see as unfair and rigged against them. Recent social science research lends support to Sandel's focus on the loss of social status in explaining the populist backlash. In discussing the erosion of the dignity of work, Sandel emphasizes, "Working-class men without a college degree voted overwhelmingly for Donald Trump."[11] Social scientists have found that the discontent fueling the rise of radical parties stems from "feelings of social marginalization—namely, in the sense some people have that they have been pushed to the fringes of their national community and deprived of the roles and respect normally accorded full members of it."[12] In Arlie Hochschild's words, they feel like "strangers in their own land."[13] Yet, those drawn to right-wing populist politicians like Trump actually sit several rungs up the socioeconomic ladder in terms of their income or occupation. The political scientist Diana Mutz finds that Trump's victory in 2016 was not due to working-class voters rising up in opposition to being left behind economically in terms of lost jobs and stagnant wages.[14] Instead, the key motivation underlying support for Trump was perceived status threat among "traditionally high-status Americans (whites, Christians, and men)." In 2016, Trump won majorities of white Americans at all education and income levels. As Mutz puts it, "The 2016 election was a result of anxiety about dominant groups' future status rather than a result of being overlooked in the past. ... Given current demographic trends within the United States, minority influence will only increase with time, thus heightening this sense of perceived status threat."[15]

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11   *Id.* at 199.

12   Noam Gidron & Peter A. Hall, *Populism as a Problem of Social Integration*, 53 COMPAR. POL. STUD. 1027, 1027–59 (2020).

13   ARLIE RUSSELL HOCHSCHILD, STRANGERS IN THEIR OWN LAND: ANGER AND MOURNING ON THE AMERICAN RIGHT (2016).

14   Diana C. Mutz, *Status Threat, Not Economic Hardship, Explains the 2016 Presidential Vote*, 115 PROC. NAT'L ACAD. SCI. E4330–39 (2018).

15   *Id.*; *see also* Jon Green & Sean McElwee, *The Differential Effects of Economic Conditions and Racial Attitudes in the Election of Donald Trump*, 17 PERSPS. ON POL. 358 (2019).

It is thus critical to recognize the roles of race, religion, and immigration in explaining status anxiety and the populist backlash. Racism and xenophobia are a key part of the populist narrative about who is to blame for the erosion of dignified work. Trump rose to power not only by railing against credentialed elites, but also by expressing hostility toward immigrants and racial and religious minorities, including calling for a ban on Muslims entering the country and promising to "build a great wall."[16] This suggests that, in order to move beyond our polarized politics, we need to do much more than reckon with distorted meritocracy and economic inequality. We also need to reckon with racism and xenophobia.

Although I disagree with Sandel's diagnosis of democracy's discontent, I endorse his call for renewing public debate about the common good, not only in terms of what democratic citizens are owed but also what they can contribute. Rather than assuming one's market value is the proper measure of one's contribution to society, we should deliberate about what counts as a contribution to the common good. The COVID-19 pandemic has made vivid the value of the work performed not only by doctors and nurses but also agricultural workers, grocery store clerks, delivery workers, and others who perform essential but modestly paid work. Sandel proposes policies to recognize the dignity of such traditionally undervalued work, for example enacting a wage subsidy, lowering or eliminating payroll taxes, and raising revenue by taxing consumption, wealth, and financial transactions.[17]

Such proposals express a commitment to the broad equality of condition that Sandel advocates. They may go some way toward addressing inequality of income and wealth, but they may not boost the esteem of blue-collar workers. Improving a person's material circumstances is more straightforward than raising their sense of self-respect and the respect of others. Education can play a critical role in restoring the dignity of work, retraining those who have been left behind by globalization, and providing high-quality K–12 education for all children. If recent social science research is right that the feelings of social marginalization among white Americans stem not only from economic disadvantage but racial resentment, we will need more than progressive tax policies and worker retraining. We must renew our commitment to civic education and public dialogue to foster toleration and respect across lines of race and religion as well as class. In our time of extreme polarization, it is hard to imagine how to start such a dialogue, let alone come to any kind of agreement, but as Sandel emphasizes, we need this kind of public debate now more than ever.

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16 German Lopez, *Donald Trump's Long History of Racism, from the 1970s to 2020*, Vox (updated Aug. 13, 2020), https://www.vox.com/2016/7/25/12270880/donald-trump-racist-racism-history.

17 SANDEL, *supra* note 1, at 218.