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Book Review: The Color of Our Shame: Race and Justice in Our Time, by Christopher J. Lebron

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Recommended Citation

David B. Lyons, *Book Review: The Color of Our Shame: Race and Justice in Our Time, by Christopher J. Lebron*, in 43 *Political Theory* 862 (2015).

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DATE DOWNLOADED: Sun Sep 11 16:19:14 2022

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Citations:

Bluebook 21st ed.

David Lyons, *The Color of Our Shame: Race and Justice in Our Time*, 43 POL. THEORY 862 (2015).

ALWD 7th ed.

David Lyons, *The Color of Our Shame: Race and Justice in Our Time*, 43 Pol. Theory 862 (2015).

APA 7th ed.

Lyons, D. (2015). *The color of our shame: race and justice in our time*. *Political Theory*, 43(6), 862-865.

Chicago 17th ed.

David Lyons, "The Color of Our Shame: Race and Justice in Our Time," *Political Theory* 43, no. 6 (December 2015): 862-865

McGill Guide 9th ed.

David Lyons, "The Color of Our Shame: Race and Justice in Our Time" (2015) 43:6 Pol Theory 862.

AGLC 4th ed.

David Lyons, 'The Color of Our Shame: Race and Justice in Our Time' (2015) 43(6) *Political Theory* 862

MLA 9th ed.

Lyons, David. "The Color of Our Shame: Race and Justice in Our Time." *Political Theory*, vol. 43, no. 6, December 2015, pp. 862-865. HeinOnline.

OSCOLA 4th ed.

David Lyons, 'The Color of Our Shame: Race and Justice in Our Time' (2015) 43 Pol Theory 862

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2. J. Banzhaf, "Weighted Voting Doesn't Work: A Mathematical Analysis," *Rutgers Law Review* 19 (1965): 317–43.
3. B. Saunders, "Combining Lotteries and Voting," *Politics, Philosophy and Economics* 11 (2012): 347–51.

The Color of Our Shame: Race and Justice in Our Time, by Christopher J. Lebron. New York: Oxford University Press, 2013.

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DOI: 10.1177/0090591715606888

Ideal theory seeks to identify the basic conditions of social justice but does not tell us how to achieve them. Christopher Lebron's important new book *The Color of Our Shame* is a philosophically enterprising venture in non-ideal theory, suggesting how we might bring about racial equality in America. A reader who is passingly familiar with civil rights developments of the 1950s and 1960s might imagine that racial inequality is a disappearing vestige of past discrimination; so an essential step in Christopher Lebron's argument is to establish that racial inequality remains a grave issue half a century later. That task is taken up in chapter 3, which focuses on criminal law and welfare policy as illustrations. If the reader ventures beyond that chapter's brief discussion and examines the wider literature cited in the endnotes, she can begin to understand why one writer dubs the current system "the new Jim Crow."

To explain another task of chapter 3, one must see it in the context of Lebron's overall strategy. He argues that racial inequality, though substantial and systemic, is not necessarily intended, indeed clashes with the democratic principles that most Americans and their institutions affirm. That is possible because most Americans and their institutions, emerging from four centuries of deliberate racial stratification and its ideological support, are burdened by beliefs and attitudes that demean African Americans—beliefs such as that blacks are more criminally dangerous than whites and are lazy, undeserving seekers of governmental handouts, and attitudes such as an unselfconscious discounting by whites of the needs and interests of African Americans. Lebron argues, intriguingly, that the very clash between those unwarranted beliefs and attitudes and America's democratic principles provides the resources for a solution to the problem. Americans and their institutions fall miserably short of their commitment to the principle that all persons merit equal concern and respect. That kind of failing, which he identifies as constitutive of a *bad character*, is

also cause for *shame*, and Lebron believes that shame can motivate reform at the personal and institutional¹ levels. Lebron thus calls for a “perfectionist project” that would enable us to “achieve the promise of our principles” and proposes three kinds of governmental measures to help Americans overcome the indelible legacy of white supremacy.

Although that very brief summary omits many details of Lebron’s argument, it may suggest why *The Color of Our Shame* merits careful study and critical commentary. Lebron opens up new lines of inquiry, applies old concepts in new ways, and leads one to frame new questions. Here are some reflections upon his project.

1. Lebron’s central concern seems to me well founded. Racial inequality is not a temporary shadow of past racial subordination but remains a deeply entrenched condition that has been ameliorated only peripherally over the past half century. Explicit discrimination has been greatly reduced, but most substantial inequalities remain, such as segregated housing and schools and enormous gaps between whites and blacks regarding income and wealth, job opportunities, health care, and housing. Equal opportunity remains a false promise. Black and white infants face radically different futures, regardless of their talents and potentialities. And no governmental program is in place, or is in contemplation, to address these inequalities.
2. I agree as well with Lebron’s claim that most white Americans view events and politics through a biased filter, discounting the needs and interests of black Americans. I reached the same conclusion when pondering the literature on political obligation and civil disobedience. It is difficult to understand how theorists who were sympathetic to the civil rights movement could endorse a moral obligation to obey the law (applicable to all persons and all laws) and could therefore regard disobedience to Jim Crow laws as a moral issue—unless their moral calculus weighed white and black interests differently.² Even now, although theorists agree that political obligation requires a “reasonably just” society, most theorists who challenge the obligation stress relatively technical issues rather than the continuing racial stratification.
3. An intriguingly innovative aspect of Lebron’s argument is the application of concepts like *character* and *shame* to issues of social *justice*. He wishes to show how Americans’ commitment to democratic principles can enable them to reconcile their practice to their principles. This seems to assume that those principles are truly embraced and not merely parroted or boastfully endorsed. Is such a commitment widespread and strong enough to render plausible this route to reform?

Under what conditions can we truly ascribe democratic principles to social groups? I think that ancient Athens fails the test. That city's "democracy" excluded the vast majority of its adults, including women, slaves, and resident aliens, and we lack reason to think that the male citizens endorsed principles that require equal concern and respect for all. Of course social groups and subgroups are morally heterogeneous. Thus Aristophanes' "Lysistrata" suggests that Athenian women might have more democratic instincts than Athenian men, but that merely complicates a difficult question.

Turn now to America. Prior to the 1960s, it would have been implausible to suggest that most American men or their institutions embraced equal concern and respect for all. Even after women gained the vote they were hardly accorded equal concern and respect. Until enforcement of the 1965 Voting Rights Act, most Americans of color could not exercise their nominal rights.

By the time slavery was abolished, white supremacy was deeply entrenched in America, the federal government abandoned the social "reconstruction" that was called for by federal law, and African Americans were once again subjected—by terror, coercion, and law—to a brutally oppressive system that came as close to slavery as indulgent federal policy would allow. Lynching and pogroms against black communities went unpunished, North and South.

Official policy changed following World War Two. The invigorated movement for civil rights called for a second reconstruction. The President and the Supreme Court challenged white supremacy and Congress enacted civil rights laws with enforcement power.³ The turnabout encouraged and reflected widening support of racial equality. As enforcement extended to voting rights, one might have reasonably supposed (as much of white America seemingly did) that American practice matched its democratic rhetoric.

But as the second reconstruction was aborted like the first and most white Americans discount black interests, it is unclear that they truly embrace equal concern and respect. Lebron argues that the conduct of many Americans and their institutions conflict with their moral commitments. But deficient practice is ambiguous: does it indicate a failure to live up to one's standards, a failure to internalize principles that are publicly affirmed, or a very weak commitment that is easily overcome by perceptions of self-interest and the like? On what grounds can we truly ascribe democratic principles to institutions that are increasingly controlled by concentrated wealth? On what grounds can we truly ascribe democratic principles to whites who effectively resist the desegregation of housing and schools? Any doubts we have about such ascriptions would seem to challenge Lebron's distinctive diagnosis of continuing racial inequality, the relevance of shame, and shame's potential use in moral reform

4. Given his analysis of Americans' bad character, Lebron proposes three programs to promote moral reform. One would provide ambitious educational programs to present black history adequately and enable young people to correct demeaning beliefs about African Americans and stereotypical dispositions towards them. A second would require measures to prevent the media from promoting demeaning views of African Americans, the development of new educational vehicles, and (most controversially) censorship of presentations that encourage demeaning views of African Americans. A third would require comprehensive oversight by ordinary citizens of institutions such as police, development agencies, and agencies that distribute benefits.

Lebron is right to stress the importance to reform of changing American hearts and minds, not merely redistribution. It is difficult, however, to imagine America implementing such programs so long as Americans harbor the beliefs and dispositions the programs are meant to correct. This looks like a Catch 22: so long as such programs are needed, the political will to create them will be lacking.

How can we effectively promote the profound moral progress that Lebron recognizes America needs? That is indeed a problem for non-ideal theory, which *The Color of Our Shame* obliges us to confront.

Notes

1. Space does not permit discussion of Lebron's views about the moral character of institutions.
2. See my *Confronting Injustice* (Oxford: Oxford University Press, 2013), chap. 7.
3. Note the context, however. Federal policy changed during the Cold War, when America was competing with the Soviet Union for markets, resources, and alliances with new nations of color. Not especially interested in civil rights, the Kennedy administration tried but failed to stop civil rights campaigns that generated images sent round the world of official white brutality against peacefully demonstrating African Americans; so it adopted a public position of support to help America look better overseas.

The Sleep of Behemoth: Disputing Peace and Violence in Medieval Europe, 1000–1200, by Jehangir Yezdi Malegam. Ithaca, NY: Cornell University Press, 2013.

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DOI: 10.1177/0090591715606894