

specific intent to destroy, in whole or in part, a particular group, because sexual violence certainly constitutes inflictions of “serious bodily and mental harm” on victims.

Schabas’ treatment of the crime of genocide is very comprehensive and authoritative. He covers many more important issues than could be discussed in this review. This work is indispensable to anyone concerned with humanitarian and public international law.

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Falguni A. Sheth. *Toward a Political Philosophy of Race*. Albany, NY: State University of New York Press, 2009. xiii, 178 pp.

Imagine a case of domestic violence in which the perpetrator beats his partner once every two weeks. In every other way his behavior is exemplary: he is a loyal and dedicated employee, a doting parent and, most of the time, a loving partner. Yet every fourteen days he flies into a drunken rage and assaults his wife. How might we understand his actions? One possibility is to judge his violent episodes against the backdrop of his otherwise admirable character. The assaults are aberrations or accidents which, given the husband’s self-control in other areas, it is reasonable to think he will be able to get under control, without need of outside intervention. A second possibility however is to condemn the beatings as unacceptable, regardless of how pleasant the husband is at other times. The attacks are serious enough to warrant immediate intervention. On this view, the violence is not an accident or aberration, but a recurring and systematic pattern of behavior, and must be understood as such in order for it to end.

The second view is surely a more reasonable response to domestic violence. According to Falguni Sheth, it is also a more reasonable response to the injustices liberal states commit against vulnerable populations. When U.S. Muslims were arrested and detained in the wake of September 11, many commentators viewed it as an aberration on the part of an otherwise just society. According to Sheth however, the mistreatment of Muslims was merely one instance in a longstanding historical pattern involving such episodes as slavery, Jim Crow, and the wartime detention of Japanese Americans. If we want to fully understand the overall pattern we need to recognize its systematic, non-accidental character. Moreover, we need to grasp the overlooked role the concept of race plays in making such injustices possible.

Events involving the persecution of Japanese- or African-Americans are normally thought to involve a pre-existing racial minority which is singled out for persecution. In Sheth’s view, however, this understanding gets the causal story backwards. A group that is perceived as posing a political threat has a racial identity imposed upon it by the state during episodes of oppression. On her view, racial identity is itself the product of anxiety and panic on the part of the wider society. As she puts it, “I distinguish between racial markers—skin type, phenotype, physical differences, and signifiers such as ‘unruly’ behaviors. The former, in my argument, are not the ground of race, but the marks ascribed to a group that has already become (or is on the way to becoming) outcasted.” The fear of Muslim terrorism that occurred in the U.S. following the destruction of the twin towers led to Muslims being racialized in Sheth’s sense of the term,

a process which in turn made it possible to violate their rights in a widespread and deliberate way. Muslims became a suspect group who were slotted into specific legal categories—non-citizen, enemy-combatant, terrorist—that permitted severe measures to be used against them. Recent debates in the philosophy of race have often focused on whether race is a natural or socially constructed attribute. Such debates have also tended to characterize race primarily in terms of the black experience, and to refer rarely, if at all, to philosophers in the so-called continental tradition. Sheth's analysis is triply original in the way it breaks from each familiar approach. While her position overlaps with the social constructivist view, she is concerned with more institutional-political questions than the biological ones that have informed the natural-construction debate. She also ranges far beyond the African-American experience and discusses at length not only the mistreatment of Muslims after September 11 but that of East Indians in the U.S. and Canada a century earlier. Finally, Sheth's book makes frequent reference to the insights of Heidegger, Foucault, Arendt, and Schmitt, which she variously modifies and extends to suit her subject.

Sheth argues that a core function of states is to maintain social order by managing and regulating their populations. Certain members of the polity are deemed as posing a threat to that order. Sheth's term for such people, "the unruly," speaks to this perception, which can apply to groups that are perfectly peaceful. The unruly can represent an unfamiliar belief system such as Islam, or bring to mind a troubling history such as slavery or colonialism. The response of the state to such groups is to define them at the level of law or public discourse by some common trait or traits. Thus, while the political ideology or threatening memory they represent is intangible, it is now "represented or manifested by something else that may or may not be tangible, such as outward garb, physical comportment, phenotype, accent, skin color, or something even more subtle."

Sheth's discussion of the suspicion and harassment of Muslim women illustrates this process. In Europe and North America the practices of *purdah* and *hijab*, forms of modest dress that can include covering a woman's head or face, have been the subject of widespread criticism. Sheth outlines the many different reasons—religious, political and personal—that Muslim women have given for practicing *hijab*, and argues that the practice is rooted not only in cultural and religious norms, but also the women's own agency. In the West however women who follow Islamic dress codes give rise to the inchoate sense that they are somehow rejecting or challenging core liberal values, values that concern everything from transparency to the role of religion in the public sphere. Muslim women thus come to represent an "affront to a rational, reasonable, liberal American culture." As a result, liberal and feminist analyses that criticize veiling and other forms of *purdah* routinely question whether such practices can ever be rooted in the women's own agency. As Sheth summarizes the Western critics' view, "Can these women 'possibly' be doing this of their own accord? Surely they must be subject to external constraints or pressures."

The end result is that veiling and similar practices function as markers which are used to categorize an unruly population, in this case Muslims, as a racial group. Normally Islam is considered a religious rather than racial term, but in Sheth's usage race applies a far wider range of attributes than skin and hair color. "Can gender be a form of racial division? In a

historicized context, yes. Can sexuality be a racial description? Yes.” Racialization on Sheth’s view can apply to any unruly group which is too powerless to define itself in the public mind. This lack of social power, and the use of markers to impose an identity on the group, whether they be clothing, accent, skin color or something else, form the essence of race in her view. “Race is a metaphysical mode of dividing populations.”

Sheth’s use of the term metaphysical in reference to a social phenomenon may sound strange. Her usage however is bound up with her understand of race as a form of technology in Heidegger’s sense. On Heidegger’s technological-determinist view, technology is not a neutral tool that simply enables us to act on our pre-existing desires. Technology rather structures the field of possibilities we find meaningful. To oversimplify, technology uses us more than we use it. Racial divisions are technological on Sheth’s account because they also exercise their own determination over us, invariably acting to exclude vulnerable groups from the full protection of state and society.

In Sheth’s view race is a technology of considerable power. That power, however, is mitigated by two considerations. Not just any group can have a racial identity imposed on it. Rather a group must already be socially vulnerable in order for it to be racialized. In addition, it is possible for a previously racialized group to obtain the status of what Sheth terms “border populations.” Such groups have formally obtained the rights and privileges of the majority population, but can exercise those rights only in a precarious way. Border-populations thus occupy an uneasy position that is above pure subjection but still short of equality. Sheth makes a thought-provoking argument to the effect that African-Americans occupy such an insider-outsider status. Ongoing discrimination in banking, housing and other realms exists alongside increased black representation in realms ranging from the media to the presidency.

Border populations play a key role in how liberal societies understand themselves. Such groups provide a fig-leaf of justification for the inherent fairness of liberal institutions. Among other functions, border populations allow the most powerful interests in a liberal society to depict their core institutions as racially neutral. The genuine breakthroughs of blacks and other border groups are held up as evidence that their mistreatment is both a relic of the past and a regrettable accident. In this way border-populations provide an alibi or cover for what Sheth terms “the mythology of liberalism—that individuals are automatically protected by law, except under certain—unusual or contingent—circumstances.”

Much of Sheth’s book is devoted to exposing just how pernicious liberal mythology is. When it comes to both the writings of liberal philosophers such as John Rawls and the everyday workings of liberal societies, race on her view inevitably functions as a tool of stigma and exclusion. She highlights a remark by Rawls concerning people who live in a minimally just Muslim society: “[u]nlike most Muslim rules [they] have not sought empire and territory. This is because their theologians understand *jihad* in a moral and spiritual sense, and not in military terms.” Sheth takes this passage to highlight a deeply condescending attitude toward Muslims. Rawls however is far from alone. Our society she concludes is one defined by “a preference within liberalism for the elimination of fundamental differences.”

Sheth does not say very much about how the problems she diagnoses might be solved. There are passing references in her conclusion to extending full constitutional rights to non-

citizens, but she does not outline which particular rights she has in mind. Nevertheless, her book has much to recommend it, not least the quality of the writing. Sheth manages to clearly present the ideas of such famously obscure sources as Heidegger and Derrida. In setting out her own views she displays a marked preference for limpid sentences and vivid analogies over jargon, brackets and slashes. Sheth also has a shrewd eye for the shifting dynamics of racial hierarchies. One might challenge the details of her analysis of the situation of African-Americans for example, but her core claim that they occupy a certain insider-outsider status is subtle and persuasive.

Sheth is also an excellent ambassador on behalf of continental philosophy, demonstrating an exemplary mixture of sympathy and admiration for her sources that makes her interest in them contagious. She has such an easy command of their ideas, and can apply those ideas to contemporary political issues with such ingenuity, that one comes away with a heightened desire to read these thinkers anew. Indeed, reading Sheth's book sometimes feels like taking a lecture series on continental philosophy with a gifted and inspiring teacher.

Sheth's respect for continental theorists means that when she criticizes them, it is with considerable force. To take but one example, Agamben has written about the way the laws of liberal states create legal zones of exception, in which certain populations lose the protection of the law (Guantanamo Bay is perhaps the best known example). Sheth persuasively argues that something is missing in Agamben's analysis, namely, an awareness that not all populations are equally vulnerable to the process of legal abandonment Agamben describes. "After all, if they were, then Muslim immigrants, white middle-class software engineers, and former United States Secretary of Defense Donald Rumsfeld would all coevally be in danger."

Unfortunately, Sheth's treatment of liberal philosophers never rises to the same level. Instead one gets the sense that Sheth does not respect liberalism enough to take it as seriously as a philosophy. Many of Sheth's philosophical sources have, to put it mildly, stumbled over questions of difference. Heidegger and Schmitt were fascists. Foucault had a kind word to say about the Khomeini regime in Iran. Arendt's writings contain grossly insensitive passages about Polish Jews, African-Americans and black South Africans. Sheth nonetheless draws on these same thinkers' signature ideas. No doubt she would maintain, correctly, that their lapses do not invalidate their central arguments. Yet in her discussion of liberalism, Sheth takes Rawls' remarks about Muslim rulers to exhibit a disregard for equality that permeates his work as a whole. Continental theorists pass by with a smile and wave. But one false move by a liberal, and Sheth exhibits all the charity and sensitivity of an airport security guard singling out a Muslim family for interrogation.

Sheth engages liberalism primarily as a descriptive theory rather than a normative one. Hence her critical remarks about the myth of liberal societies being perfectly just. Revealingly, however, she does not quote anyone who actually believes this simple-minded view. Liberal theorists have long been alive to the dangers of racism and exclusion at work in liberal societies: Ronald Dworkin on affirmative action; Will Kymlicka on national minorities; and Joseph Carens on open borders. Sheth's critique of liberalism is considerably weakened by her lack of engagement with this literature. Had she extended to liberal philosophers the same seriousness and care she exhibits toward continental ones, she might have recognized that in her appeal to

agency and constitutional solutions, among other areas, her own position relies on staunchly liberal elements.

Sheth's discussion of liberalism is not the only area where her argument appears to employ two weights, two measures. It is unclear why hijab as it is practiced in Muslim societies is not properly understood as a racialized form of oppression in Sheth's terms. It seems more consistent with her theory to view hijab as being a response on the part of Muslim men to the "unruly" threat of the sexuality of women, who lack power in Muslim societies. Sheth however highlights the women's status as agents rather than victims. She is surely right that it is insulting to insinuate that Muslim women cannot exercise the practice autonomously. But in the context of her book it seems to highlight a double standard, given her lack of emphasis on agency in explaining how racial categories function in liberal societies.

Sheth argues that race is not merely a form of technology, but a technology in the Heideggerian sense. Heidegger's hard determinist position however has fallen out of favor among philosophers of technology. As they have often pointed out, it is a routine occurrence in the history of technology for a tool to be put to a different use than the one it was invented for (as anyone who has ever used a copy of *Being and Time* for a doorstop knows). Even if technology is not entirely neutral, the agency of users still plays a role in how it is deployed. In her discussion of race however Sheth, like Heidegger, downplays the role of user agency, in her case, by ignoring how people self-identify as members of racial groups. This is not only an explanatory but a political weakness of her account. To take but one example, in the 1980s veterans of the U.S. civil rights movement were influential in the campaign to impose sanctions against South Africa. Their sense of racial identification with the victims was an important force for justice, yet one which Sheth's rigidly negative and deterministic view of race does not capture.

Sheth's central argument concerning the nature of race is ultimately hard to accept. One reason is that her usage is confusing, including not only categories like white, black and Asian, but also female, gay and communist. A better name for Sheth's book would have been *Toward a Political Philosophy of Stigmatization and Persecution*. It is not clear what is gained by categorizing all persecuted groups as races. Among other problems, categories such as race and gender seem to require as a necessary condition innate physical attributes such as skin color and sex organs. However exaggerated the emphasis on such attributes has been, it still seems reasonable to separate such forms of identity from more purely social ones such as religion and political affiliation. Most of us would find it much easier to change our religion or political philosophy than our race or gender. For this and other reasons, Sheth's discussion of race never quite reaches the same level as her discussion of major thinkers in the continental tradition. It is as an engagingly written and provocatively argued introduction to that tradition that the real value of her book is found.

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