

Studio ATAO July 2020
Book Club Read: The Color of Law by Richard Rothstein

Discussion Questions

- 1) A key theme in this book is *de facto* vs *de jure* segregation -- has this concept ever crossed your mind/did you know about it before?
 - a) If you did know about it before:
 - i) How does it shape your view of US policy, and how did the book change/not change your view through its examples?
 - b) If you didn't know about it before:
 - i) What was your initial reaction to it? How did your understanding of the concept evolve as you read through the examples/cases in the book?
- 2) What does *reparations* or *remedies* look like to you? What *is* the remedy to state-sponsored harm? (For Rothstein's definition of *remedies* vs *reparations* see FAQs pg 237/238)
 - a) What should *justice* look like for the many African Americans that were affected by segregationist policies?
- 3) Often we uphold & perpetuate racist and oppressive structures because they serve us -- for example, white Americans that moved into a housing development delineated only for white people, and/or signed into home owners' associations that mandated no homes to be sold to African Americans. They didn't "intend" to cause harm, but their actions did/do still have harmful impacts. (Sometimes, these people themselves are/were also marginalized.) How do we reconcile these actions?
 - a) Often, our "heroes" also have done bad things but they go ignored. For example, there are allegations of sexual misconduct by MLK; RBG voted for a \$8B pipeline under the Appalachian Trail; Franklin D. Roosevelt supposedly supported desegregation but still allowed many segregation practices to continue and grow during his time. How do we reconcile and remember / see public people who are flawed, imperfect, and sometimes even deeply problematic?
- 4) Is housing and/or home ownership an American right?
 - a) With access to housing, should there be *quality of life* metrics that must be evaluated concurrently (e.g. not next to highways, polluting industries)?
 - b) Is the ability to accumulate wealth (and how much?) a fundamental right under our capitalist system?
 - c) Many millennials/Gen Z don't think they'll be able to afford a house, ever, while for many Boomers it was a rite of passage. What are your feelings towards home ownership?
 - d) Often, the only times people can afford homes is buying them in lower-income neighborhoods. Does that then make you a gentrifier? Can there ever be "good"

gentrifiers? What sort of policies do we need to support vulnerable communities most susceptible to gentrification?

- 5) Are our current government structures inherently able to be non-racist, or even anti-racist? Should our government system be set up in a way where lawmakers have the influence and control to dictate and spread such segregationist policies such as those mentioned in the book? (Or incentivized to “walk back” on more progressive personal stances in order to move measures ahead politically?) How could we make our government more equitable/democratic?
- 6) Once laws are passed, they are not always enforced (as we’ve learned in this book) *or* the law took so long that the period of potential (e.g. a developer wanting to use a plot of land) has passed. As Rothstein says, “Justice delayed is justice denied.” How does our social structures and societal norms decide what laws are “enforced” and *how* they are enforced? What can we do about this?
- 7) In the book, to explain how deeply de jure has affected everyday society, it describes how many of the stereotypes associated with Black people are as a result of the racist/oppressive policies enacted.
 - a) How has this book challenged you to rethink these stereotypes?
 - b) How might you explain these to someone who hasn't read the book?
- 8) How can we properly reflect on, analyze and remember policies like the New Deal which created many social safety nets but also actively hurt so many people (and those were disproportionately African Americans)?
 - a) What (and *who*) is acceptable to sacrifice for the “greater good”?
 - b) Who gets to decide what/who gets to be sacrificed?
 - c) What should *justice* for African Americans given the history of systemic racism and oppression look like?
- 9) How do we combat disillusionment due to societal, structural, political oppression? (e.g. For many middle-class African American families, even as they ascended the wealth ladder they could not access better housing and accrue generational wealth through housing price increases / equity in their own homes. Many Black Americans are not incentivized to vote because they have been historically intimidated and harassed at voting booths, or have had their votes thrown out, purged, or nullified due to pseudo-legal activity. Police have consistently been used to harm Black Americans, why *should* they trust the police?)
 - a) Much like the “glass ceiling” concept, what do we do about the fact that the American Dream did/does not exist for Black people?
- 10) As a result of *discriminatory policies*, what subpar choices have been internalized or “normalized” for you in your own life?

- a) In the opening chapter of the book, Rothstein explains the forcible relocation of African Americans to a different housing project forced them to “choose between giving up a good job or a very long commute” -- how does the continued downstream effect of these subpar choices show up across individual lives, across generations?

EXTRA Questions:

- 11) Rothstein describes how housing segregation was “used to maintain slavery and the caste system” within the U.S. What are some other aspects of society that can be wielded for these same discriminatory end results?
- a) Healthcare
 - b) Access to fresh/healthy food; water, air
 - c) Education

Summary of Discussions + Book Analysis

Richard Rothstein’s book, The Color of Law, explains and examines how the U.S. government, across all levels and branches of government, created residential segregation that prevented Black Americans from having access to safe housing, good education, and wealth accumulation. His key concept explains the difference between *de jure* (segregation by law and public policy and *de facto* (segregation by private practices). Each chapter of the book covers a different aspect of *de jure* actions that lead to *de facto* actions, including, but not limited to:

- Public housing and its creation of Black ghettos
- Racial and industrial zoning laws
- Denial of means to home ownership (no loans for Black developments, no guarantees for mortgages given to Black applicants, racial covenants)
- White flight, created by blockbusting

The assumption by most, including members of this month’s book club, was that America’s segregation was *de facto* rather than *de jure*. What struck members the most was how individuals took advantage of *de jure* policies when they were advantageous to themselves (e.g. insured loans, better access to schools) and how even actions that seemed to be *de facto* (e.g. racial covenants preventing Blacks to own/rent property in a neighborhood) could be actively condoned by government officials, thus its perpetuation was *de jure* because it was not deemed illegal.

Even though laws were in place to prevent discrimination, such as the Thirteenth and Fourteenth Amendments, what was law versus what was practiced was often drastically different. The book documented an instance (1957, Levittown, PA, Bill and Daisy Myers), where a Black family, upon moving into a white neighborhood, had their house rioted and vandalized for two months. Rather than penalize rioters, the police department instead demoted a

policeman for protecting the Myerses (Rothstein, pg. 141-142). This was just one of the many examples where government officials stood by idly and in fact promoted the harm done to Black Americans.

It became evident through the course of reading this book and the discussion that educating everyone about this key concept (*de jure* vs *de facto*), and recognizing the work that lies ahead, is the way to start the conversation (Rothstein, 198-199). It involves educating children about our history, including [slavery and its transgressions](#), to demonstrating to local officials that we want change to start within our communities.

Even in the modern era, the effects of *de jure* segregation still persists. Low-income families that qualify for Housing Choice Vouchers (Section 8), which subsidize rental payments, can often only afford housing in segregated low-income areas because the amount is too small to afford housing in areas with less poverty and high-performing schools. In addition, in 2015, only one million families received vouchers, but an additional 6 million were on waitlist (Rothstein, pg. 209).

Rothstein favors the use of the word “remedies” over “reparations” to clarify that there needs to be a set of *de jure* policies and laws that attempts to repair the harm done over the past century to Black Americans (Rothstein, pg. 237-238). To the book club members, we agreed, feeling that reparations sounded like a one time cash payment, rather than undoing systematically the harm caused by unconstitutional laws and policy-making. There needs to be community buy-in and stakeholder engagement by those the most harmed. There needs to be honest recognition by those that have profited and benefited the most, that they received **unfair** advantage.

In the process of reparations and remedies, those that have privilege may have to give up some of it, in order to fairly compensate and address the harm done to Black Americans. Rather than blame history’s leaders or officials, or applaud those that took the actions necessary to begin the work of undoing these injustices, we must look at their decisions, positive or negative, in the context of the situations at the time--what was politically feasible or preferable? Everyone cherry picks their philosophy and/or rationale of choice under different circumstances, ordinary people included, depending on what serves/benefits themselves.

Stable housing should be a human and American right, regardless of renting or home ownership. However, as evidenced in the book, home ownership is the primary way for Americans to accumulate wealth. Without this ability, Black Americans today face a wealth gap ([the Federal Reserve says that Black American families median and mean net worth is less than 15 percent that of white families](#)). There must be means for wealth accumulation to ensure economic mobility and safe, stable childhoods for Black Americans going forward.

Gentrification is also an issue, so how can we ensure gentrifying neighborhoods will have **enough** affordable housing even as more people from outside the community? Is there a way to gentrify for the **benefit** of the community?

Local officials, such as prosecutors, tax officials, surrogate court judges, home appraisers, all have a role in upholding *de jure* policies that still exist. Recognizing that, members of the book club plan to get more involved in local politics. We also addressed the fact that all policies *can* be racist--and to spend the time in better understanding policies and ensuring that we advocate for the most anti-racist version possible. We must not only vote for progressive officials, but also hold them accountable once they are in office. In our two hour discussion, we only began to address some of the solutions to these issues, but look to continue the conversation.

Additional reading (specifically anti-racist):

[*The New Jim Crow*](#) by Michelle Alexander

[*How We Get Free*](#) edited by Keeanga-Yamahtta Taylor

[*Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership*](#) by Keeanga-Yamahtta Taylor

[*Hood Feminism*](#) by Mikki Kendall

Other recommendations:

[*Politics of Reality*](#) by Marilyn Frye--specifically to read the "birdcage of sexism metaphor"

<https://cpt.org/sites/default/files/2019-04/US%20-%20Bird%20Cage%20of%20Sexism.pdf>

[*How to Do Nothing*](#) by Jenny Odell

[*Yes, You Can Gentrify A Neighborhood Without Pushing Out Poor People*](#) by Jesse Van Tol

Other perspectives (conservative voices):

Hernando de Soto (Peruvian economist): [2014 interview in The National Review](#), [PBS interview series](#), [critique of his work by Ray Bromley](#) (JSTOR access required)

To do:

[Adopt a state](#)--how can you support organizers and volunteers!

[Power the Polls](#)--become a poll worker to ensure fair and equitable voting!