

# Benign Victimization

MIDGE DECTER

Despite the fact that the policy known euphemistically as “affirmative action” is held in disfavor by an overriding majority of the American people, it seems safe to say that racial and sexual quotas are solidly established in our midst and will remain so for the foreseeable future. Indeed, nothing less than a serious social upheaval or major constitutional crisis — certainly no mere change of administrations or shift in the balance of congressional power — is apt to dislodge them. For public disapproval of the kind that can be expressed at the ballot box has not only proven to be no hindrance to the policy, it has in some sense provided reinforcement to the very process of its institutionalization. Affirmative action after all has a double agenda. First, there is the open agenda, the securing of places in society — preeminently in schools and jobs — for the members of particular groups claiming to have been intentionally and unjustly excluded in the past. And second, there is the somewhat more hidden one, which is to remove a certain order of social decision from the political arena and give it over to such agencies as the courts and bureaucracies where it can be kept securely out of public reach. Thus the widespread opposition to affirmative action has been held in the first instance to be itself prime evidence for both the justice and the necessity of the policy; and in the second instance has provided a spur to the policymakers to take matters ever more firmly into their own hands. Such a vicious circle will not easily be broken.

We can expect, therefore, to be living with quotas for some time — even though their most dedicated proponents hasten on every possible occasion to assure us that they are only a temporary expedient, a means of giving the provably disadvantaged that first indispensable leg up, after which reparation will have been made and justice achieved. By the time that golden age will have descended upon us, it is unlikely that any policy in a policy-ridden age will have done more than affirmative action to unsettle the series of delicate balances — between democracy and republic, individuals and pluralities, private rights and public necessities — it was once the unique political talent of

this society to have struck.

Much has already been observed (as, for example, only recently in these pages) about the harmful impact of quotas on such instruments for maintaining the balances I have referred to as the schools and universities, the political parties, the agencies of government, and the economy. Moreover, that quotas are themselves indisputably unjust — not a means for doing away with the arbitrary exclusions of the past but merely a new form of arbitrary exclusion enforced against a new and different set of victims — has been frequently and forcefully pointed out (albeit as far as the courts are concerned, to no avail). It is on this point, as we have seen, that public opinion has drawn the firmest line: “unfair” is the characterization of quotas for which pollsters have found the highest level of assent. One issue, however (and it may be the most important issue of all) has so far not been paid the attention it deserves. That is the question of the impact of quotas on those who are their intended beneficiaries. How does preferential treatment affect those who are, in actuality or even only potentially, its recipients? Beyond this, how does it affect the feelings of others toward them? And finally, how does it affect the attitude of everyone toward the society he is living in?

There is, to be sure, good reason why this issue has been scanted. It resides in a realm difficult to get at directly, and in which the most important hypotheses are impossible to “prove.” Attitudes are not opinions. Whereas opinions are held, and can be offered with varying degrees of forthrightness by the holder, attitudes are more often than not *betrayed* — sometimes in very roundabout fashion and usually over a considerable passage of time. In addition, they do not, or let us say should not, openly enter into the construction of legal briefs, which has been the major forum of public argument about affirmative action. Yet the attitudinal, or psychic, or spiritual effect of this policy, both on individuals and on the nation as a whole, will undoubtedly prove to be the most lasting and by far the most destructive.

### The Beneficiary Groups

The two main groups at whose behest quotas have been instituted and on whose behalf they have been administered are, of course, blacks and women. True, their ranks have been

swelled by American Indians and that mysterious entity, "Spanish Surname," but these latter groups have imposed themselves primarily through an extension of logic (as other ethnic groups are lately and on the whole feebly attempting to do). It seems highly unlikely that they would have devised such a measure, or could have succeeded at having it implemented, in their own right.

Now, leaving aside the whole question of the respective merits of the claims of blacks and women to recompense for past injustice, the two are entirely dissimilar groups. Their linkage under the common heading of disadvantaged minorities is, literally, an incongruous one. Blacks have had a shared history; women as such have not. Blacks have had a shared cultural and political experience; women as such have not. In fact, women can hardly be said to be a "group" at all, as that term is generally understood. For historical reasons that remain to be properly explicated, however, the "causes" of women and blacks came to be treated as one and dealt with in a single fashion. In examining the issue of attitude, we are consequently bound to find the two groups, with certain inevitable and interesting variations, in an ever more similar condition.

It would be impossible, as I have said, to test an idea about that condition with any degree of scientific authority, but a good deal of so-called soft evidence is all around us. And what this evidence points to is that recipients of preferential treatment tend to suffer from a serious, and no doubt in many cases permanent and irrecoverable, decline in self-respect. The advantages gained in this fashion appear to be bringing little sense of either private or public satisfaction but only more strident assertions of grievances yet to be redressed. If a certain number of places are secured in this industry or that university, a large number is stormily demanded. For an outsider to remark upon any improvement in the situation of the aggrieved is for him to call down upon his head heated accusations of heartlessness and bigotry.

This otherwise anomalous behavior on the part of the beneficiaries of preferential treatment is often laid to the phenomenon known as the revolution of rising expectations. That is, we are told that more jobs and special opportunities lead to greater rather than lessened unrest among the affected minorities, because they provide a glimpse precisely of what full

justice might look like and thus feed an ever more impatient desire to attain it. But this explanation is less than satisfactory, because what needs to be accounted for are not only the demands themselves but the increasingly sullen, surly, and bitter tone in which they are proffered. The tone is one not of people impatient for more but rather of people who have discovered that their sought-for special privileges, being unearned and therefore feeling unmerited, are doing them, spiritually speaking, no good.

So it is, for example, that large numbers of women who have been carried into the academy have devoted their teaching and research to the field of Women's Studies, which is to say, to the perpetuation of the anger and hostility responsible for their being there. So it is that large numbers of blacks who have been — almost, as it were, forcibly — hurled up the professional ladder have elected to make a profession of being black. So it is that in both cases individual as well as collective endeavor is frequently conducted with the kind of routine incivility that comes with the lack of a sense of self-worth. It is an open secret in this country, alluded to only in whispers but commonly recognized all the same, that students admitted to colleges and professional schools by virtue of helping to fulfill a racial or sexual quota tend quickly to feel defeated there. Even the qualified, insofar as they know themselves to have won a competition through the added benefits of a special allowance, sooner or later undergo crises which are crises of self-doubt. Nor for those employed can the nervousness and low expectations of employers, the all-too-evident and unavoidable response to a situation in which they have hired as they have in order to fend off lawsuits, union actions, and the like, contribute much to self-regard.

How could all this be otherwise? At the heart of affirmative action, no matter how the policy is defined — whether as specific numerical quotas or only as desirable goals — lies the simple proposition that the individuals being hired or admitted or promoted would not in their own individual right be so. In terms of at least one of the central areas of their lives, in other words, they are not looked at or seen as individuals at all. In short, no matter how passionately affirmative action is sought and defended by its client groups, its underlying proposition is one that in the end must breed a painful resentment.

### A Legacy of Resentment

But if self-doubt and resentment are the irresistible consequence of quotas for the beneficiaries, what can we imagine about the emotions of the rest of the people among whom they work and live? Polls, particularly the Sindlinger Poll undertaken for *Policy Review* (for which see the Spring 1980 issue), offer persuasive evidence that the opposition to affirmative action so widely found in the American public is not race- or sex-related. Plainly, people are against preferential treatment not because they are against blacks or women. Eighty-four percent of the people surveyed, to take an extremely significant example, answered No to the question of whether they would avoid dealing with black doctors or women lawyers. Their opposition is not to the groups but to the principle. But to repeat, opinions are not attitudes. In the daylight world where people actively and willfully make up their minds, Americans have undergone a massive diminution of racial prejudice. In the dark night of the soul, however, affirmative action itself is creating a new wave of racism and sexism. The new wave of racism and sexism differs from the earlier sort in that it is based not on fear, hatred, or guilt but on contempt. There is, of course, also a good deal of the kind of rage always engendered by the spectacle of unearned advantage, though in this case rage of this kind seems to be confined largely to the particular groups who are made to feel the immediate pinch on their own flesh — better qualified students who lose out in the competition with less qualified, white male academics, ethnics whose own minority status has been left out of consideration, and so on. On the whole, though, the more telling, and far more consequential, response is an involuntary, almost instinctive, inclination to patronize. Whatever people *think* about the justice or injustice of making special allowances for blacks and women, what they *feel* is that the objects of these allowances are somehow inferior.

Frequently, to be sure, this feeling is accurate. Affirmative action is not simply, and not even mainly, a legal or administrative arrangement; it is a frame of mind — a frame of mind best characterized by the term “double standard.” If someone must be included on whatever list in order to fulfill a quota or for the sake of appearances, a lowering of expectations and standards follows naturally. Such a lowering of standards

extends far beyond jobs and school admissions. It seeps into the whole fabric of the culture. Accordingly, we have seen works written by blacks and women being praised all out of proportion to their merits, if any. We have seen public honors being bestowed for trivial if not laughable achievements. Perhaps more meaningful has been the application of a double standard to the public conduct of these groups: everything from lapses of taste to violations of the norms of decency to outright criminality has, under the sway of the general atmosphere of affirmative action, been condoned on the grounds that those who do such things are entitled by a history of inferiority to do no better. Just as the beneficiaries of affirmative action officially approve of the policy but necessarily feel demeaned by it, so the public at large may officially claim to feel no prejudice but cannot remain unaffected by the notion of group inferiority that is inherent in — indeed, that is the very determinant of — the double-standard system.

Eighty-four percent of the people polled may believe that in principle they would experience no inclination to avoid, say, black doctors; in practice they are likely as time goes on to assume that in the absence of powerful evidence to the contrary, any black doctor is underqualified. Before long, the irony will have escaped no one: by means of a policy intended to short-cut past discriminatory practice the American populace will have become subject to a kind of prejudice which, if more subtle, is also by the same token infinitely more difficult to overcome. This prejudice, moreover, will be no unforeseen accident. Affirmative action is in its very inception based on a racist (and, in its subsequent application to women, a sexist) idea, which is that blacks, or women, given the removal of all barriers to opportunity, could not ever fairly compete. The rhetoric of the policy's supporters focuses not, as might be supposed, on equality but on incapacity. And in this rhetoric lurks the real underlying truth of attitude.

### Equal Opportunity Overthrown

Finally, there is the problem of what affirmative action does to the attitude of everyone — those who benefit from it and those who do not — about the nature of the society in which he lives. The assault on the old idea that in America equality means equal opportunity has an impact on attitudes far wider

than merely those toward race and sex. The message being daily hammered home by the arguments for a system of preferential treatment is, to put it bluntly, that society is a racket. There are no such things as standards of performance. Standards are a shibboleth; look how easily — with a stroke of the bureaucratic pen — they can be dispensed with. There is no such thing as achievement. Achievement is whatever the authorities in charge decree it to be. Above all, there is no such thing as justice. Justice is whatever happens to be dispensed by courts of law — malleable to current social conditions and fashioned to the humors of political and social convenience. To live in accordance with the belief that standards or achievements or justice have a reality that is to some extent objectively measurable, that they matter, and that they are worthy of aspiration is to be a sucker. All of these, too, are ideas difficult to resist in the dark night of the soul, no matter how earnestly or piously denied in the course of daylight inquiry.

A society cannot long remain vigorous and productive when so massive a cynicism about its principal beliefs is permitted to spread through the underground consciousness. A complaint frequently heard these days is that nothing works as efficiently as it used to, from telephones, banks, industrial products, all the way down to postage stamps. This is a serious charge against the United States, whose vitality is characteristically expressed in efficiency. No one has yet attempted — possibly no one has dared — to estimate the contribution of affirmative action to this decline. There is the direct contribution, in the form of the lowering of the standards of competence for employment in all sorts of areas. And there is the far more important indirect contribution made by the growing cynicism I have described: even those who are competent find it less and less compelling to take pride in what they do.

Here, then, we have the unmeasured, and in some sense unmeasurable, results of affirmative action. Blacks and women (and some few others) are learning in a new way to regard themselves of lesser account and being encouraged to hold themselves not accountable. Their fellow citizens are willy-nilly adopting a double standard toward them and being encouraged to pervert the sense of fair play into a virulent new strain of racism and sexism. The society as a whole is being undermined with respect to belief in the terms of its past achievements.

Difficult to weigh and measure with precision as these results may be, they are already being given unhappy expression in countless ways among us. If nothing intervenes to break the grip of this policy — and it is hard to see what will — they will be given countless more, and even unhappier ones, in years to come.

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# Pornography and Censorship

ERNEST VAN DEN HAAG

Ultramoralists want to prohibit any display of nudity while ultralibertarians feel that even the most scabrously prurient display must be tolerated. However, most people are not that extreme. They are uneasy about obscene incitements to lechery; but uncertain about what to do about them. They wonder whether distaste, even when shared by a majority, is reason enough to prohibit what a minority evidently wants. Beyond distaste, is there enough actual harm in pornography? Where will suppression end? and how harmful might it be? Can we legally distinguish the valuable from the pornographic, the erotic from the obscene? Would courts have to act as art critics? Not least, we wonder about our own disapproval of obscenity. We are aware, however dimly, of some part of us which is attracted to it. We disapprove of our own attraction — but also worry whether we may be afraid or hypocritical when we suppress what attracts us as well as many others.

Still, most people want something done about pornography. As so often in our public life, we turn to the Constitution for a rule. “Congress” it tells us “shall make no law . . . abridging the freedom of speech or of the press.” Although addressed to the federal government only, the first amendment has been echoed in many state constitutions and applied to all states by the courts. Further, its scope has been broadened, perhaps unduly so, by court decisions which hold that all expressions rather than just words are protected by the first amendment. Yet speech — words, spoken, or printed, or otherwise reproduced — is a narrow subclass of expression and the only one protected by the First Amendment. Music, painting, dance, uniforms, or flags — expressions but not words — are not.<sup>1</sup> The framers wanted to protect political and intellectual discourse — they thought free verbal interchange of ideas indispensable to consensual government. But obscenity hardly qualifies as an inter-

1. The First Amendment right to peacefully assemble may protect whatever is part of, or required for, peaceful assembly. It is hard to see that either nudity or swastikas are needed for that purpose.