

Racial Classification: Politics of the Future?

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One of America's greatest challenges concerns the question of civil rights. Past discrimination stains the pages of American history; racial discrimination persists today—albeit in a more covert fashion than in the past. The courts have taken a major part in rectifying injustice; the Supreme Court persists in the admirable endeavor to give *de facto* as well as *de jure* equality to our country's citizens.

No man of good will can quarrel with the Supreme Court's aim. But the methods currently followed may have consequences as yet unanticipated by the interpreters of our law. The Supreme Court closed its 1980 docket by upholding a federal law, passed in 1977, which requires that 10 percent of all federal works contracts be set aside for business firms operated by members of racial minorities. According to the Court's majority, Congress may discriminate in favor of some racially defined group that has suffered from prior discrimination. In the case of *Fullilove v. Klutznick*, the Court has further endorsed affirmative action programs that include minority admission on special terms to universities and job quotas set aside by employers for minorities. The Court has agreed to hear additional cases that may extend the quota principle for jobs and government subventions to minority groups.

Individual Rights

Affirmative action programs have subtly begun to change the entire tenor of American life. In the past, appointments and promotions to government service positions, government contracts, admission to universities depended—at least in theory—on individual achievement. Evasions and abuses there were aplenty. Both Catholics and Jews, for instance, once were subject to academic discrimination, not to speak of widespread and malignant discrimination against blacks. But at least the principle of individual merit went unchallenged, and after World War II became increasingly effective in its enforcement. Recent court actions, administrative decisions made by powerful bureaucrats,

and the changing climate of academic opinion have helped to create a new concept of group rights of a kind familiar to countries like Northern Ireland, Lebanon, Cyprus, and the former Austro-Hungarian empire, where ethnic affinity counted as much as personal merit in the incessant competition for jobs.

Such concepts even started to affect hiring for the federal civil service. The federal government, to give an example, engages a substantial number of college graduates for higher-level positions such as customs agents and tax adjusters. Candidates for such positions used to be chosen by the so-called Professional and Administrative Career Examination (PACE) which—all the experts agreed—provided well-qualified candidates for technical jobs. For a variety of educational and sociological reasons, minority candidates performed less well—on the average—than candidates of other racial origins. Under pressure from political activists within the Carter administration and from career officials within the Justice Department, the old system was abolished; quotas were set up to achieve a 20 percent minority employment figure. (Once the Reagan administration had come to power, the quota provisions were eliminated.)

Opportunity Targets

The enthusiasm for filling quotas is also revealed in a succession of documents issued within the Department of Health and Human Services (HHS). The Department's instructions for "setting affirmative action targets under the Operations Management System" (dated April 1, 1980), and issued by the Assistant Secretary for Personnel Administration within HHS laid out, with Germanic thoroughness, the extent of "under-representation," and at the same time set up a complex system of "opportunity targets." The instructions issued contained mathematical formulations that might test the ingenuity of a doctoral candidate. For example, "to reach parity in 'T' years," the department set an equation whereby target hiring rate percentage equalled

$$\frac{d/T + L}{EOs}$$

(d = current deficiencies; L = expected loss; EOs = employment opportunities).

This directive was followed on June 3, 1980 with a memorandum issued by the Assistant Secretary for Management and Bud-

get in HHS. Each operating section component of HHS was instructed to determine the precise percentage of "under-representation" of particular minorities and women within the GS 1-8, GS 9-12, and GS 13-15 grades of the civil service, compared with the National Civilian Labor Force. As soon as the department had decided that any group was under-represented in any particular grade, the department set for itself a percentage target to rectify the position.

Subsequent inquiries showed that there was under-representation among blacks, Hispanics, Asians, American Indians, women, and handicapped persons in one or more of the different gradings of the civil service. The investigators also found, however, a disproportionate over-representation of blacks and women in the GS 1-12 grades, which ran from double to quadruple that in the National Civilian Labor Force. However, HHS issued no directives to take over-representation into account. If the employment opportunity targets were met for particular minorities in all under-represented grades, the net result would be minority over-representation in the entire HHS staff. To be fair and to assure symmetry, blacks, women and other minority group members would have to be let go from jobs they currently hold. At least such is the implication of HHS's affirmative action targets policy.

Defining Minorities

The substitution of ethnic affinity for personal merit is a dangerous precedent. But court action raises the even more vexing question of how minority members should be defined in law. As court rulings affect an ever increasing part of the American economy, and as ever growing sums will be disbursed for the benefit of qualified minority members, the problem of defining who is, and who is not, a member of a minority will become increasingly urgent. How can unscrupulous members of the majority otherwise be prevented from claiming benefits reserved by law for minority members? If quota chiselling and quota cheating should come to parallel in extent present welfare chiselling and cheating, we shall have to rethink past assumptions.

At present, minority applicants for jobs or federal contracts identify themselves as such. But can applicants be trusted fairly to do so in the future? To ensure that only blacks, Hispanics, Asians, and Native Americans receive the benefit of court rulings, will it become necessary for the courts or the legislature to define

minority members by law? Will some mechanism have to be found to select groups no longer eligible for minority classification, (say Japanese Americans, whose average family incomes now exceed the whites), or to include new groups (immigrant Haitians, Cubans, Laotians, and Vietnamese)? Classification by race is not a new problem, and it is one that even the most explicitly racially-oriented regimes have had trouble in solving.

What fraction of black ancestry determines black eligibility? 100 percent? Three quarters? One-half? One-fourth? How important are phenotypical characteristics, such as type of hair, darkness of skin, eye color, and so forth? If a dark-skinned Appalachian with curly hair claims to have discovered his blackness, should his claim be denied? If it is to be denied, it must be on some legal criterion of racial classification to guarantee equal protection under the law.

The definition of "Hispanics" is even more difficult. Should Mr. Gomez, a native of Madrid and graduate of Spanish university, be classed as Hispanic? If so, should Mr. Gomez, born in Lisbon, be denied the same privilege? Are only those Hispanics already lawfully resident in the United States eligible for the quotas, or do the set-aside opportunities also extend to later immigrants, lawful and unlawful alike. Are Hispanics only those of Mexican and Puerto Rican extraction, or are Cubans, El Salvadoreans, and all Latin Americans eligible?

Above all, what happens to persons of mixed ancestry? Suppose, for example, that Andrew Maclean of Scottish descent, married Miss Maria Gomez, of Mexican origin. Are their children eligible under the one-half rule, even if they have blue-eyes, and speak no Spanish? How about Mr. John Alvarez, who has one Mexican grandfather? Should he be classified as "Hispanic," even though he happens to be a member of the WASP establishment in a small city in Iowa? How is descent to be traced? Through the father's line, as in traditional societies? Or would such a practice conflict with the feminists' demand for equal rights?

Racial Classification

If we are to implement our court rulings, we shall willy-nilly be forced to adopt an explicitly defined legal status of race. In the past, the Nazis developed an elaborate system of racial classification based on the Nuremberg Laws enabling the authorities to define with lunatic precision "Aryans," "Quarter Jews," "Half Jews,"

and "Full Jews." The Nazi scheme was, in the literal sense of the word, a matter of life or death for those caught within its chains. The Soviet Union's existing system of ethnic passports is somewhat more benign in intention; it does, however, enable the Soviet authorities to define with precision who is or is not a Ukrainian, a Jew, a Lithuanian, or a Russian—with all the attendant disadvantages that such a scheme may entail for the Soviet citizens thereby affected.

Still better known is the case of South Africa. The South Africans have much experience in dealing with the difficulties entailed by racial classification. They can and do distinguish between Mr. Andries Joubert, and Afrikaner (thus white) with dark complexion and curly hair, and his namesake, Mr. Johannes Joubert, a Colored (and thus designated non-white), despite his wholly European appearance. In the past the United States itself used a crude system of racial classification to intern Japanese Americans during World War II—despite all requirements of equity.

We do not live in Nazi Germany, the Soviet Union, or South Africa. To the man in the street, a national system of racial classification in modern-day America seems inconceivable. But if we are to implement existing court rulings we must adopt an explicitly defined status of race, despite all its inconsistencies. At present such classification need only be of a voluntary kind, applied merely to those competing for a federal contract with minority-designated job quotas or for public employment. As court rulings put millions of jobs and billions of dollars at stake, the system will, however, have to be extended to prevent "inequities" and "confusion." Racial slots moreover will have to be defined with increasing exactitude. To accomplish this task, we shall require a vast bureaucratic machine where patronage will be profitable and will surely be linked to racial politics.

We have already gone a long way on the road to racial classification. Standard Form 181 (7/80), U.S. Office of Personnel Management, FPM Chapter 298, entitled "Race and National Origin Identification" is written in a language quite familiar to a South African. Who is white? "A person having origins in any of the original peoples of Europe, North Africa, or the Middle East, except persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish cultures or origin. . . ." Who is Hispanic? "A person of Mexican, Puerto Rican, Cuban, Central or

South American, or other Spanish cultures or origins. Does not include persons of Portuguese culture or origin." Who is black? "A person having origin in any of the black racial groups of Africa, except Hispanics."

These definitions have a spurious air of exactitude. In fact they raise more questions than they solve. North Africans are classed as "white." But who is a North African—a Mauritanian, an Egyptian, a Moroccan? Some Moroccans have origin in the "black racial groups of Africa," and some have light skin, or European appearance. Are they both white? An Algerian is clearly "white" under the present classification, however swarthy his complexion. A blonde Castilian or a red-haired and blue-eyed Uruguayan, on the other hand, do not count as "white;" they rank as "Hispanics," together with Puerto Ricans of the darkest, as well as the lightest hue. A Portuguese from Braga in Northern Portugal is a "white," whereas a Gallego, born across the border in Vigo in neighboring Spain, absurdly counts as a "Hispanic." A Brazilian is "white," but not an Argentinian or a Mexican?

Identification Guidelines

All such classification schemes are bound to be absurd in their anomalies. But the trouble does not stop there. Such schemes are also bound to become increasingly complex as new ethnic pressure groups come into being, and as an expanding federal bureaucracy has more manpower available to tackle new tasks. In summer 1979, the Subcommittee on Civil and Constitutional Rights of the U.S. House of Representatives Committee on the Judiciary requested detailed information on the numbers of minorities and women serving in the federal judiciary. Despite the fact that court rulings are largely responsible for the minority data gathering requirements imposed on private institutions and other governmental agencies, the judiciary itself had never kept any records that would identify its workforce along racial lines. To collect these data for the Subcommittee, the Administrative Office of the U.S. Courts issued a series of guidelines to all courts. One particular guideline, issued on August 23, 1980, illustrates the fears we entertain. This guideline promulgated a requirement that federal court employees and judicial officers must thereafter be identified according to a listing of "race/national origin" that included the sub-groups "Arabic" and "Hebrew." The new subgroups were to be based, in the words of the circular, "on ethnic, not religious

factors,” a definition that would have delighted the heart of Alfred Rosenberg and other Nazi theoreticians of “racial science.”

The document is a sorry “first” in American history. As Senator Moynihan pointed out, this was the first time that the federal government had ever asked that “Hebrew” employees be thus identified.¹ Fortunately, the agency’s request aroused an unanticipated degree of opposition. A new circular, issued to all Equal Employment Opportunity Coordinators on September 26, 1980, thus backtracked, on the grounds that “the breakdown of the category ‘white’ to reflect the semitic [sic] subgroups designated as ‘Arabic’ and ‘Hebrew’ would not be necessary in the future.” This information had been requested merely “in anticipation of a possibility that it might be needed in the future.” The agency, however, did not even consider the possibility that such racist identification might be politically divisive, morally objectionable, and unacceptable to any legislature. To go further, the logic that compels a “Hebrew-Arabic” distinction among semitic peoples could force distinctions among the Irish and English, Norwegians and Danes, Poles and Czechs, until an ethnic-religious-linguistic-racial encyclopedia would be officially sanctioned.

Employee Compliance

But the racial classifier’s troubles do not stop at this point. What happens when an employee refuses to classify himself in a racial fashion? Or, worse, what does an agency do when an employee deliberately furnishes a “wrong” classification. The tortured language of the “Conversion Procedures for Agencies, Attachment 1 to FPM Ltr. 298-10” from the Office of Personnel Management, dated August 17, 1980, reveals the extent of bureaucratic perplexity. If an official refuses to provide the data required by the agency, “then the agency is authorized to and will identify the employee’s race or national origin as that which the agency visually perceives to be the correct classification for the employee.” In other words, the agency will decide as to Mr. Lopez’s “Hispanic” or Mr. Muhammed Abd al-Aziz’s “white” status by looking him straight in the eyes!

If the employee provides what is evidently “wrong” information, the bureaucrat faces even greater difficulties. In such a deplorable case “the agency will counsel the employee as to the

1. (*Congressional Record; Proceedings and Debates of the 96th Congress, Second Session*, v.126, 24 November 1980, no. 165)

purpose for which the data are being collected, the need for accuracy, the agency's recognition of the sensitivity of the data and the existence of procedures to prevent its unauthorized disclosure." If the employee, however, proves obdurate and sticks to his chosen classification, the agency is bound to accept it. To the bureaucratic mind, however, this is a troublesome privilege; if it were to be widely exercised, it would surely wreck the entire affirmative action program which such classification schemes are designed to serve.

Group Rights

If present trends continue, we may expect increasing refinements in racial classification; we may look to their increasing use; we may anticipate growing bureaucratic discretion in their application. It would be an ironic turn of fate if compliance with court rulings and administrative regulations, inspired by the most impeccably liberal sentiments, should compel us to elaborate a system of racial classification of the kind embodied in South Africa's passbook or in Nazi Germany's *Ahnennpass*.

West German law-makers have since learned from their country's unhappy past. The German armed forces, for instance, at various times in the past discriminated against Jews. Now discrimination is illegal. Jews are promoted in the German army—not through compensatory quotas—but through personal merit alone. A number of Jewish career officers are known to serve in the German military. But no one knows exactly how many, for the German constitution wisely prohibits public officials from inquiring into the citizens' racial or religious affiliation. In this country, we can profit from West Germany's example and—even more so—from our own traditions. The founders of the United States, the point bears repeating, wisely based our political institutions on individual rights. We are now drifting toward a new concept, the concept of group rights, a concept alien to the Constitution, but one increasingly acceptable to academic theory, court decisions, and administrative regulations. If this process is allowed to continue, it will inevitably lead to the fragmentation of American society, until the United States becomes a Lebanon or continental dimension. The time has come to call halt.

The Geopolitics of Energy¹

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The United States and the Soviet Union are the two largest energy-producing and -consuming countries in the world. During the last decade, the U.S. witnessed a sharp decline in its relative energy position and became dangerously reliant upon foreign imports. This reliance has had profound political and economic implications and has made us think of energy in strategic terms. During the 1970s, the Soviets did not experience severe domestic energy problems and remained major exporters of hydrocarbons.

In the upcoming decade, it appears that America's position will remain extremely precarious. But the U.S.S.R. will also begin to experience rapid deterioration of its energy position and it too will be confronted with severe strategic dilemmas. What are the dimensions of this Soviet energy crunch and what are its implications for the future of the West?

In April 1977, the CIA published a major report indicating that the U.S.S.R. was on the verge of a severe oil production crisis and that Soviet petroleum output will peak no later than the early 1980s.² Furthermore, the report projected that Soviet oil production would decline from a high of about 12 million barrels/day (MMB/D) to 8-10 MMB/D by 1985. (Although this original projection for 1985 has been revised upward to 10-11 MMB/D, Soviet oil production is still expected to decline during the early part of this decade.)³ Currently, the Soviet Union is the world's largest oil-producing country and has been able to maintain its goal of energy self-sufficiency while exporting to both Council of Mutual Economic Assistance (CMEA) partners and hard currency markets. The Soviet ability to accomplish these objectives would be severely constrained if worst-case projections regarding their

1. The views expressed in this article are the authors' and do not necessarily represent the views of the U.S. Government or any of its agencies or departments or the Senate Defense Appropriations Subcommittee, its Chairman, or any of its members.

2. *Prospects for Soviet Oil Production*, CIA, ER77-10270, April 1977, p. 9.

3. *Ibid*, p. 1. See also, "CIA Alters Its Soviet Oil Forecast," *Wall Street Journal*, May 18, 1981, p. 31.