

“Affirmative Action”: A Worldwide Disaster

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[excerpts]

Arguments for and against “affirmative action” have raged for about twenty years in the United States. Similar arguments have provoked controversy—and even bloodshed—for a longer or a shorter period, in the most disparate societies, scattered around the world. India, Nigeria, Australia, Guyana, Malaysia, Sri Lanka, Pakistan, and Indonesia are just some of the countries where some groups receive official, government-sanctioned preferences over others. While the American phrase “affirmative action” is used in Australia and Canada, other countries have used a variety of other phrases, such as “positive discrimination” (India), “sons of the soil” preferences (Indonesia, Malaysia), “standardization” (Sri Lanka), or “reflecting the federal character” of the country (Nigeria). The same general principle of government apportionment of coveted positions, to supersede the competition of the marketplace or of academia, was of course also embodied in the *numerus clausus* laws used to restrict the opportunities of Jews in prewar Central and Eastern Europe.

The countries with preferential policies have varied enormously in cultural, political, economic, and other ways. The groups receiving preferences have likewise varied greatly, from locally or nationally dominant groups in some countries to the poorest and most abject groups, such as the untouchables of India. Such vast disparities in settings and people make it all the more striking that there are common patterns among these countries—patterns with serious implications for “affirmative-action” policies in the United States. Among these patterns are the following:

1. Preferential programs, even when explicitly and repeatedly defined as “temporary,” have tended not only to persist but also to expand in scope, either embracing more groups or spreading to wider realms for the same groups, or both. Even preferential programs established with legally mandated cut-off dates, as in India and Pakistan, have continued far past those dates by subsequent extensions.
2. Within the groups designated by government as recipients of preferential treatment, the benefits have usually gone disproportionately to those members already more fortunate.
3. Group polarization has tended to increase in the wake of preferential programs, with non-preferred groups reacting adversely, in ways ranging from political backlash to mob violence and civil war.
4. Fraudulent claims of belonging to the designated beneficiary groups have been widespread and have taken many forms in various countries.

In the United States, as in other countries around the world, the empirical consequences of preferential policies have received much less attention than the rationales and goals of such policies. Too often these rationales and goals have been sufficient unto themselves, both in the political arena and in courts of law. Without even an attempt at empirical assessment of costs versus benefits, with no attempt to pinpoint either losers or gainers, discussions of preferential policies are often exercises in assertion, counter-assertion, and accusation. Illusions flourish in such an atmosphere. So do the disappointments and bitterness to which illusions lead.

Foremost among these illusions is the belief that group “disparities” in “representation” are suspect anomalies that can be corrected by having the government temporarily apportion places on the basis of group membership. Every aspect of this belief fails the test of evidence, in country after country. The prime moral illusion is that preferential policies compensate for wrongs suffered. This belief has been supported only by a thin veneer of emotional rhetoric, seldom examined but often reiterated.

Statistical Disparities

Equally nebulous are the assumptions about the statistical “disparities” and “imbalances” that preferential policies are supposed to correct.

The idea that large statistical disparities between groups are unusual—and therefore suspicious—is commonplace, but only among those who have not bothered to study the history of racial, ethnic, and other groups in countries around the world. ...

One reason [for statistical disparities] is that “it is common for different groups to rely on different mobility ladders.” Some choose the military, some the bureaucracy, and some various parts of the private sector. Even within the military, different branches tend to have very different racial or ethnic compositions—the Afrikaners, for example, being slightly underrepresented in the South African navy and greatly overrepresented in the South African army, though their utter dominance in the government ensures that they cannot be discriminated against in either branch. Powerless minorities have likewise been greatly over-represented or even dominant in particular branches of the military or the police—the Chinese in Malaysia’s air force and among detectives in the police force, for example.

In the private sector as well, it is commonplace for minorities to be overrepresented, or even dominant, in competitive industries where they have no power to prevent others from establishing rival businesses. Jewish prominence in the clothing industry, not only in the United States, but in Argentina and Chile as well, did not reflect any ability to prevent other Americans, Argentines, or Chileans from manufacturing garments, but simply the advantages of the Jews’ having brought needle-trade skills and experience with them from Eastern Europe. The fact that Jews owned more than half the clothing stores in mid-19th-century Melbourne likewise reflected that same advantage, rather than any ability to forbid other Australians from selling clothes. In a similar way, German minorities have been dominant as pioneers in piano manufacturing in colonial America, czarist Russia, Australia, France, and England. Italian fishermen, Japanese farmers, and Irish politicians have been among many other minority groups with special success in special fields in various countries, without any ability to keep out others. ...

Some might try to salvage the statistical argument for discrimination by describing discrimination as also being universal. But, to repeat, groups who are in no position to discriminate against anybody have often been overrepresented in coveted positions—the Chinese in Malaysian universities, the Tamils in Sri Lankan universities, the southerners in Nigerian universities, all during the 1960’s, and Asians in American universities today being just some of the minorities of whom this has been true. All sorts of other powerless minorities have dominated particular industries or sectors of the economy, the intellectual community, or government employment. ...

Assumptions as Law

Flaws in logic or evidence are unfortunate in intellectual speculation but they are far more serious in courts of law, where major penalties may be inflicted on those whose employees or students, for example, do not have a racial or ethnic composition that meets the preconceptions of other people. Some U.S. Supreme Court Justices have repeatedly treated statistical disparities as tantamount to discrimination and assumed the task of restoring groups to where they would have been otherwise. Even where group disparities in “representation” reflect demonstrable performance disparities, these performance disparities themselves have been taken as proof of societal discrimination. Thus, in the *Weber* case, Justice Harry Blackmun declared that there could be “little doubt that any lack of skill” on the part of minority workers competing with Brian Weber “has its roots in purposeful discrimination of the past.” In the *Bakke* case, four Justices declared that the failure of minority medical-school applicants to perform as well as Allan Bakke “was due principally to the effects of past discrimination.” The Court’s task, therefore, was one of “putting minority applicants in the position they would have been in if not for the evil of racial discrimination.”

All this presupposes a range of knowledge that no one has ever possessed. Ironically, this sweeping assumption of knowledge has been combined with an apparent ignorance of vast disparities in performance, disparities favoring groups with no power to discriminate against anybody. From such

judicial speculation it is only a short step to the idea of restoring groups to where they would have been—and *what* they would have been—but for the offending discrimination.

What would the average Englishman be like today “but for” the Norman conquest? What would the average Japanese be like “but for” the enforced isolation of Japan for two-and-a-half centuries under the Tokugawa shoguns? What would the Middle East be like “but for” the emergence of Islam? In any other context besides preferential-policy issues, the presumption of knowing the answers to such questions would be regarded as ridiculous, even as intellectual speculation, much less as a basis for serious legal action.

To know how one group’s employment, education, or other pattern differs statistically from another’s is usually easy. What is difficult to know are the many variables determining the interest, skill, and performance of those individuals from various groups who are being considered for particular jobs, roles, or institutions. What is virtually impossible to know are the patterns that would exist in a non-discriminatory world—the deviations from which would indicate the existence and magnitude of discrimination.

Age distribution and geographic distribution are only two very simple factors which can play havoc with the assumption that groups would be evenly or randomly distributed in occupations and institutions, in the absence of discrimination. When one group’s median age is a decade younger than another’s—not at all uncommon—that alone may be enough to cause the younger group to be statistically “overrepresented” in sports, crime, and entry-level jobs, as well as in those kinds of diseases and accidents that are more prevalent among the young, while the older group is over-represented in homes for the elderly, in the kinds of jobs requiring long years of experience, and in the kinds of diseases and accidents especially prevalent among older people.

Another very simple factor operating against an even “representation” of groups is that many ethnic groups are distributed geographically in patterns differing from one another. It would be unlikely that American ethnic groups concentrated in cold states like Minnesota and Wisconsin would be as well represented among citrus growers and tennis players as they are on hockey teams and among skiers. It is also unlikely that groups concentrated in land-locked states would be equally represented in maritime activities, or that groups from regions lacking mineral deposits would be as well-represented among miners or in other occupations associated with extractive industries as groups located in Pennsylvania or West Virginia.

Differences in geographic concentrations among racial and ethnic groups are by no means confined to the U.S. In Brazil, people of German and Japanese ancestry are concentrated in the south. In Switzerland, whole regions are predominantly French, German, or Italian. In countries around the world, an overwhelming majority of the Chinese or the Jewish population is heavily concentrated in a few major cities—often in just one city in a given country. Group differences in geographical distribution can reach right down to the neighborhood level or even to particular streets. In Buenos Aires, people of Italian ancestry have concentrated in particular neighborhoods or on particular streets, according to the places of their own or their ancestral origins in Italy. In Bombay, people from different parts of India are likewise concentrated in particular neighborhoods or on particular streets.

Lest the point be misunderstood, while these two simple and obvious factors—age and location—are capable of disrupting the even “representation” that many assume to exist in the absence of discrimination, there are also innumerable other factors, of varying degrees of complexity and influence, that can do the same. Moreover, differences in age and location may play a significant role in explaining *some* socioeconomic differences between *some* groups but not other socioeconomic differences between those groups, or among other groups. The purpose here is not to pinpoint the reasons for intergroup differences—or even to assume that they can all be pinpointed—but rather to show how arbitrary and unfounded is the assumption that groups would be evenly “represented,” in the absence of discrimination. Precisely because the known differences among groups are large and multidimensional, the presumption of weighing these differences so comprehensively and accurately as to know where some group would be “but for” discrimination approaches hubris.

Even the more modest goal of knowing the *general direction* of the deviation of a group's position from where it would have been without discrimination is by no means necessarily achievable. What are the "effects" of centuries of injustice, punctuated by recurring outbursts of lethal mass violence, against the overseas Chinese in Southeast Asia or against the Jews in Europe? Both groups are generally more prosperous than their persecutors. Would they have been still more prosperous in the absence of such adversity? Perhaps—but many peoples with a long history of peace, and with prosperity supplied by nature itself, have quietly stagnated. This is not to say that the Jews and the Chinese would have done so. It is only to say that *we do not know and cannot know*. No amount of good intentions will make us omniscient. No fervent invocation of "social justice" will supply the missing knowledge.

Honors

Nowhere is control more illusory than in the awarding of honors, whose very meaning and effect depend upon other people's opinions. Preferential honors for members of particular groups can easily render suspect not only those particular honors but also honors fully merited and awarded after free and open competition. If one-fifth of the honors received by preferred groups are awarded under double standards, the other four-fifths are almost certain to fall under a cloud of suspicion as well, if only because some of those who lost out in the competition would prefer to believe that they were not bested fairly. It is by no means clear that more real honors—which are ultimately other people's opinions—will come to a group preferentially given awards. Preferential honors can in practice mean a moratorium on recognition of the group's achievements, which can be confounded with patronage or pay-offs. This need not inevitably be so. The point is that the matter is out of the control of those who decide award policy, and in the hands of others observing the outcomes and deciding what to make of them.

Honor is more than a sop to personal vanity. It is a powerful incentive which accomplishes many social tasks, including tasks that are too arduous and dangerous to be compensated by money—even inducing individuals in crisis situations to sacrifice their lives for the greater good of others. In more mundane matters, honor and respect from one's colleagues and subordinates are important and sometimes indispensable aids, without which even the most talented and conscientious individuals sometimes cannot fulfill their promise. To jeopardize the respect and recognition of individuals from preferred groups by rewarding "honors" tainted with double standards is not only to downgrade their own achievements but also to downgrade their chances of accomplishing those achievements in the first place. For example, minority faculty members have often complained about a lack of intellectual and research interaction with their colleagues, and of being thought of as "affirmative-action" professors. After the media revealed that black students were admitted to the Harvard Medical School with lower qualifications, white patients began to refuse to be examined by such students. The negative effects of tainted honors are by no means limited to academia.

Historical Compensation

The wrongs of history have been invoked by many groups in many countries as a moral claim for contemporary compensation. Much emotional fervor goes into such claims but the question here is about their logic or morality. Assuming for the sake of argument that the historical claims are factually correct, which may not be the case in all countries, to transfer benefits between two groups of living contemporaries because of what happened between two sets of dead people is to raise the question whether any sufferer is in fact being compensated. Only where both wrongs and compensation are viewed as collectivized and inheritable does redressing the wrongs of history have a moral, or even a logical, basis.

The biological continuity of the generations lends plausibility to the notion of group compensation—but only if guilt can be inherited. Otherwise there are simply windfall gains and windfall losses among contemporaries, according to the accident of their antecedents. Moreover, few people would accept this as a general principle to be applied consistently, however much they may advocate it out of compassion (or guilt) over the fate of particular unfortunates. No one would advocate that today's Jews are morally entitled to put today's Germans in concentration camps, in compensation for the

Nazi Holocaust. Most people would not only be horrified at any such suggestion but would also regard it as a second act of gross immorality, in no way compensating the first, but simply adding to the sum total of human sins.

Sometimes a more sociological, rather than moral, claim is made that living contemporaries are suffering from the *effects* of past wrongs and that it is these effects which must be offset by compensatory preferences. Tempting as it is to imagine that the contemporary troubles of historically wronged groups are due to those wrongs, this is confusing causation with morality. The contemporary socioeconomic position of groups in a given society often bears no relationship to the historic wrongs they have suffered. Both in Canada and in the United States, the Japanese have significantly higher incomes than the whites, who have a documented history of severe anti-Japanese discrimination in both countries. The same story could be told of the Chinese in Malaysia, Indonesia, and many other countries around the world, of the Jews in countries with virulent anti-Semitism, and a wide variety of other groups in a wide variety of other countries. Among poorer groups as well, the level of poverty often has little correlation with the degree of oppression. No one would claim that the historic wrongs suffered by Puerto Ricans in the United States exceed those suffered by blacks, but the average Puerto Rican income is lower than the average income of blacks.

None of this proves that historic wrongs have no contemporary effects. Rather, it is a statement about the limitations of our knowledge, which is grossly inadequate to the task undertaken and likely to remain so. To pretend to disentangle the innumerable sources of intergroup differences is an exercise in hubris rather than morality.

As one contemporary example of how easy it is to go astray in such efforts, it was repeated for years that the high rate of single-parent, teenage pregnancy among blacks was “a legacy of slavery.” Evidence was neither asked nor given. But when serious scholarly research was finally done on this subject, the evidence devastated this widely held belief. The vast majority of black children grew up in two-parent homes, even under slavery itself, and for generations thereafter. The current levels of single-parent, teenage pregnancy are a phenomenon of the last half of the 20th century and are a disaster that has also struck groups with wholly different histories from that of blacks. Passionate commitment to “social justice” can never be a substitute for knowing what you are talking about.

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