

# The separation of colour and state

London  
When should governments discriminate by colour? Politics and race are troublesome enough on their own; put them together, and the resulting policies appear to come only in degrees of badness.

Surely it is unwise for liberal states to violate the principle of equality before the law, or to create classes of citizen. Yet, just as surely, racism and ethnic favouritism persist all over the world. Should governments not recognise the reality of racism and seek to countervail its effects?

In two countries, the question of colour-conscious policy is at a crossroads. Led by its new Republican-dominated Congress, the United States has embarked on the broadest reassessment ever given to its "affirmative-action" programmes, which give preferential treatment to members of minorities (and also, often, women) for things ranging from public contracts to broadcast frequencies to university places.

Just as The United States is thinking of abandoning these policies, many South Africans want to take them up.

South Africa's new constitution guarantees citizens protection from racial discrimination, but there are loopholes. The Government plans to monitor companies' hiring and promoting of blacks; it is discovering that many of its citizens will not be satisfied with mere neutrality.

Both countries face a momentous choice, but they are hardly the only ones where ethnicity has driven policy.

Malaysia has favoured Malays over Chinese, Pakistan has favoured Bengalis, New Zealand Maoris: the list goes on. If the experience of colour-conscious policy in those places is any guide, South Africans had best beware.

Decades ago India set out, with the best of intentions, to remedy the plight of its untouchables, victims of a form of hereditary discrimination as oppressive and systematic as any yet seen.

But the policies, once adopted, could be neither got rid of nor contained. One group after an-

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Should governments legislate on the basis of colour? It is not the way to distinguish between citizens, says the *Economist* in an editorial

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other claimed "backwardness" and demanded preferments, and the imperative of politics was to grant them. Today about half of the Indian population qualifies for preferences, and the rest are enraged.

Some riot, others attempt secession, everyone resents. And caste differences, far from having been reduced, are now entrenched. As designated groups wage pitched battles for jobs and college places, the politics of ethnic auctioneering edges out the politics of national interest.

The Indian strife, though local in its details, is global in its broad outlines. When Thomas Sowell, an American economist, examined preferential policies around the world, he found a pattern in which four strands recurred.

First, colour-conscious policies, like other entitlement programmes, often start out temporary and narrow but wind up permanent and broad.

In the United States, preferences cover about two-thirds of the population, if you include women; and they cover groups (Cubans, postwar Asian immigrants) that have no plausible claim to have been oppressed or even, indeed, to be groups at all ("Hispanics" are of many ethnicities and cultures).

Yet if the United States backs away from its racial preferences, it will be one of very few countries to have done so.

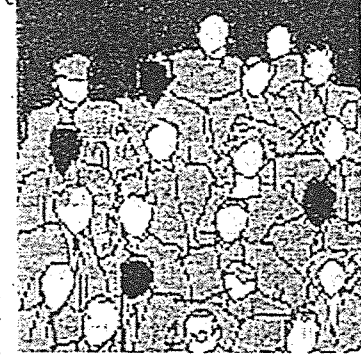
Second, within favoured colour groups, the benefits of preferments go disproportionately to those at the top, while those at the bottom are frequently left behind. In the United States, the blacks who gain law school places or buy radio stations are the ones least likely to need help. Affirmative action has apparently done little or nothing for the black underclass.

"Apparently," however, is an important word. For a third common strand is the lack of any clear knowledge about the real-world effects of colour-conscious policies. Everyone knows what

they are supposed to do; but do they succeed? Astonishingly little is known.

On a fourth point the facts are clearer: colour-conscious policies are polarising. To the extent that people are made to feel disfavoured by reason of birth, those people boil with anger. Whether in The United States or in Sri Lanka (where race preferences have fuelled appalling civil violence), the quickest way to start a race war is with a race policy.

The best argument for colour-conscious policies, and it is a powerful one, is that society is not colour-blind, so it is naive to ask the law to be. Yet here lies a



contradiction.

Colour-conscious policies, by their nature, institutionalise one of the most biologically suspect and politically mischievous of all ideas: the idea that human beings come in kinds.

Ask biologists or anthropologists about "race," and they will tell you that the members of the same putative "race" are far more different than alike.

To most Britons or Americans, no doubt, blacks and whites seem in general to be easily distinguishable. But there is no such thing as a general person and, as races mix, the contentious concepts of "black" and "white," or "Asian" and "Anglo," become ever more senseless.

Official colour distinctions deform the notion of individuality by making the person a branch-

office of the group; and they impoverish the idea of diversity by identifying human differentness with race (as when President Clinton filled his cabinet with lawyers of varying skin colours and solemnly pronounced the resulting group "diverse").

By definition, colour-conscious policies must place people in colour categories. Surely, in today's world, that is a strangely atavistic thing for governments to do. It is true that race distinctions will not disappear from society simply because governments decline to recognise them. But it is equally true, and even more important that race distinctions cannot disappear so long as governments not merely recognise but enforce them.

In the long run, governments must choose. They may individualise notions of race — that is, leave citizens the job of deciding what (if any) race, clan or ethnic group they belong to, then prohibit discrimination based solely on citizens' ethnic attachments.

Or, on the other hand, governments may institutionalise notions of race: designate basic colour categories and distinguish between citizens accordingly.

The former course is not wholly satisfactory. Discrimination is hard to regulate and impossible to eliminate. But the latter course is much the worse. South Africa should not repeat its own mistakes, albeit with the best of intentions.

It asks a lot to suggest that South Africans should go from a regime of pervasive anti-black discrimination to one in which no race is officially favoured without a regime of benign pro-black discrimination in between.

But this appears to be the least bad path, given the sad record of race-conscious policies elsewhere. And if it seems naive to ask governments in colour-riven societies not to pick and choose among "official" races, recall that demanding state neutrality in matters of religion once seemed every bit as Utopian.

To the well-proved principle that separates church from state another principle should be added. That is the separation of race and state.

## THE INSEPARABILITY OF RACE AND STATE

The Economist's argument for 'the separation of colour and state' (*Herald* 3.5.95) comes at least 250 years too late. State policy has been strongly implicated not only in present racial inequalities in both England and New Zealand, but race is inextricable from the history and economy of both these modern states.

Racism developed hand in hand with empire. Initially those of other skin colour were lionised in European salons. But as Basil Davidson and many other historians describe, the transfer of resources from colony to European capital could be justified by patronising and demeaning 'inferior' races, while civilising them 'for their own good'. New Zealand's own economic history cannot be separated from issues of political, military and legal inter-action between Maori and Pakeha.

Scientists may now show that there are more biological differences within 'races' than between them, but this is irrelevant. The rest of us don't bother to measure craniums, genes or blood percentages. We know who we mean. Racism operates through categories of 'us' and 'them', and we have all learned to distinguish those, for innocent purposes or otherwise. Colour makes distinction - and discrimination - easier.

Race is social and political, as well as biological. Its importance is demonstrated in statistics on health, education and especially employment and if New Zealand is still a liberal democracy, then those are matters for state policy.

Past state policies have been implicated in the disadvantaged position of Maori and Pacific Nation peoples in labour market research headed by Peter Brosnan at Victoria. We may blame high unemployment and the ineffectiveness of a decade of government policies on the global markets which have always shaped our economy, but we cannot justify the way unemployment has been massively borne by Maori and by the young. It is not young Pakeha males in Remuera or the North Shore who remain unemployed, but young Maori women in South Auckland, where only one 15-19 year - old in three can find a job.

More education certainly does not provide more jobs in the market and individual qualifications do not adequately explain inequalities. The qualifications 'ante' is constantly raised to keep applicants numbers manageable. A higher school leaving age or tertiary education does keep kids off the streets - as long as they and their parents can carry the cost.

Contrary to the *Economist's* suggestion, we have never had 'affirmative action' employment policies in New Zealand. There are no equity requirements for state contractors, as in the United States. The State Sector Act 1988 and the Employment Equity Act 1990 both stipulated appointment on merit. They require large employers to consider their staff profile with regard to women, Maori and Pacific Islands employees, to identify barriers and to review hiring and internal training practices. In line with Free Market philosophy, the Employment Equity Act was repealed as National's first task in office, and 'good employer' policies in the state sector have been undermined by constant restructuring.

There is a popularly fueled misconception that NZ operates 'colour conscious' policies that somehow bestow disproportionate privilege upon Maori. The resentment engineered by such beliefs could be dissipated if government Ministries chose to set the record straight.

For instance, any careful analysis of Maori educational assistance in the tertiary sector would reveal that what grants and scholarships are available are funded primarily by Iwi (Maori Tribal) authorities themselves.

Similarly, if Medical School authorities have deemed it necessary to introduce a quota system for Maori students, their decision surely acknowledges the legacy of British colonial subjugation. For central to the formulation of any affirmative action programmes in this country must be the recognition of the rights and responsibilities elaborated in Te Tiriti O Waitangi and the outcomes today of the Crown's failure to uphold these.

The Economist's principle of separating race and state is pure market-speak. The illusion of society as a commodity market in which freely competing individuals will thrive requires that we ignore race, gender and the glaring social inequalities that have developed in New Zealand. Such willful blindness will not save us, nor governments, from the social consequences.

We do not need reprinted principles from a right-of-centre magazine based in a country which has its own post-colonial race issues. The concerns of this nation cannot be reduced as the Economist attempts to mere examples in support of a superficial rejection of alleged affirmative action programmes. Constitutional arrangements based on Te Tiriti O Waitangi will be more effective means of addressing social inequalities, as present operating models show.

More importantly in Aotearoa/NZ are questions of degrees of 'badness' relating to matters of justice, distribution of resources and hard data proving inequality experienced by indigenous ethnic groupings. However we face a National Government intent on legislating out of existence the Article Two Treaty Rights which confirmed the status and authority of Tangata Whenua. Doug Graham's latest announcement that "Government authority is based on successful British colonisation rather than the Treaty of Waitangi (NZH 4/5) removes once and for all the liberal veneer of concern for indigenous, let alone human rights.

In light of these current statements and political actions the question the Economist asks 'should Governments not recognise the reality of racism and seek to countervail its effects' has been answered. It could be argued that this Government has recognised the reality of racism, applauds its purpose, processes and outcomes and is determined to continue acting within institutional racism, philosophical values and processes. Graham's statements support rule through colonial usurpation by Government as a legitimate modus operandi.

We are now repeating the mistakes of the former South African governments, and a resulting increase in polarisation between the privileged Pakeha and the excluded Maori should no longer surprise us.

The Government's continued denial of our responsibility to Te Tiriti O Waitangi contracts of honourable Kawanatanga, and the absolute right of Maori to Tino Rangatiratanga can only lead to further 'badness'. (Economist : 3.5.95)

The path to 'goodness' (Economist : 3.5.95) is not to neglect, but to address our constitution and processes of legislation, not to separate Maori out, but to involve them fully with their sovereign rights of authority over their own nation, and all who have chosen to settle here, intact.

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for Project Waitangi

Tamaki Makau Rau