

ON THE PARITY OF GROUPS

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I

One sign of the lengthy distance we have travelled away from the liberal, individualist origins of the American political order is the surprising prevalence of that visualization of social discrimination which sees it more as a problem of attaining the proper ratios between *groups* than of attaining justice for the individuals that compose them. Basic to the persuasive force of this view is the failure to recognize the fact that framing social policies in terms of groups actually *damages* substantial numbers of the individuals who compose them, a result exactly contrary to the ostensible purpose of these policies. This comes about because justice-to-a-group can be in fact nothing more nor less than justice to its individual members. Thus, if the component individuals have been treated fairly, then *eo ipso* the group, too, has been fairly treated. And conversely, it is impossible to treat a group *unfairly* without being unfair to at least some of its members. "Group" justice is, then, fully determined by the degree of justice experienced by the separate members of the group. It follows that there is no way of attaining justice for groups that is distinct from securing justice for *each* of the members of the respective groups.

What happens to the component persons of a group when social policies *are* formulated in terms of the overall group rather than of its individual members? Consider the problem of redressing past discriminatory injustice in, say, hiring or university admissions. It is clear from

the foregoing that any prior wrongs must have been committed against certain *individuals* by other *individuals*. Hence, the proper moral procedure here, as in torts in general, is to seek restitution for the victims *from those responsible* for harming them. It would seem ludicrous to assess a penalty upon persons *innocent* of inflicting the original injustice, and to transfer these assessments to persons who were *not* the victims of the original discriminatory actions. Yet this latter is explicitly what the widespread advocacy and practice of giving "preference" in jobs and admissions to social groups thought to suffer "generally" from prejudicial treatment seeks to achieve. For here no *specific* acts of discrimination are identified (let alone proven); nor are the precise victims named (let alone indemnified); nor are the particular responsible agents specified (let alone penalized). Instead, certain of the *new* applicants — usually the least favored, marginal ones — for the positions in question, themselves admittedly innocent, are singled out in expiation of a sort of original sin to pay the full cost in terms of denied acceptance of "redressing" (a clear malapropism) diffuse acts of past discrimination committed by *others* (note that these costs are not even *evenly* distributed over the "guilty" group as a whole*). What is the difference between this policy and the early Biblical custom of transferring the sins of a tribe to a goat and sacrificing *it* in a cleansing act of atonement?

And the accuracy of the acts of restitution is no better. Here certain others among the *new* applicants — for whom no claim is made that they were ever harmed *by* the scapegoats and who are hence in no way entitled to compensation from *them* — nevertheless receive it. It surely seems a strange form of "justice", this giving of "preference" at the level of groups.

*This could easily be done. Instead of *replacing* normally admitted students with "special" admittees, the "specials" could simply be *added* to the same number normally admitted. This would dilute the available educational resources evenly over the entire cohort of the "guilty" group.

For the original victims have not been compensated, the original perpetrators have paid no penalties, unoffending people are punished, and strangers are benefited. Truly there is only madness in this method!

Furthermore, rather than putting an end once and for all to the bad old practice of not judging individuals by a uniform, fair standard of merit, this policy self-righteously commits brand new acts of this self-same sort. For to the extent that a "preferential" policy actually succeeds in its goal of winning admission for persons different from those under a uniform merit standard, so far does it *continue* the old custom of not judging individuals by the same, universally fair rules. The target of unfairness has been changed to be sure, but not the unfair treatment itself. It is hard to see how a policy that continues to make the same mistakes is a very notable advance. For so fair a purpose there must surely be a less confused solution, and indeed there is: the proper remedy for discrimination against individuals clearly is first, to *stop* doing it; second, to make restitution to those particular persons unfairly treated in the past; and third, to lay on condign punishment for those specific persons responsible.

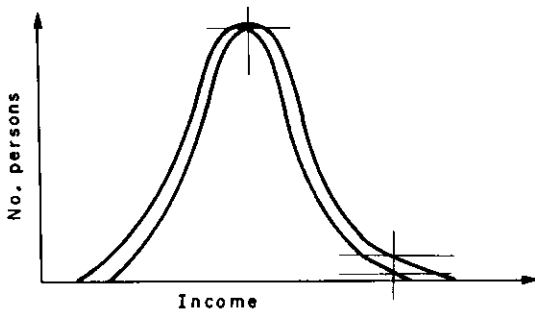
This instance illustrates how the substitution of the group for the individual as the basic social unit of "justice" can easily be alchemized in actuality into the grossest kind of *injustice*. As Paul Seabury writes, ". . . when access to privilege is defined on ethnic-community lines, the basic issue of individual rights is evaded".¹¹ But even if one concedes this point — that justice must necessarily be sought at the level of the individual, not the group — one might still imagine it to be valid to *estimate* from disparities from the national average of a group's statistics of income unemployment, and the like, the degree of discrimination faced by its members. This practice is indeed ubiquitous; nothing is more commonplace these days than dutifully to tote up and compare such group statistics and ritually to attribute any discrepancies to the parlous state of justice. Or to utter lamentations over variations in group representation on the upper levels of a job hierarchy. Such arguments are given a certain plausibility by the occurrence of really surprising group

disparities, such as the fact that women comprise only some 1% of the tenured faculty at Berkeley. And the very simplicity of this operational approach lends a certain allure — to some irresistible — to the remedial policy it suggests, namely, to rearrange persons so as to make the group ratios come out "even". Yet the key premises underlying arguments of this type — first, that group parameters *do* truthfully and reliably reveal the amount of discrimination experienced by the group's members, and second, that no group differences would be manifest in the absence of discrimination — have rarely if ever been subject to the critical examination they deserve. Could it be that there *are* processes and/or factors at large in society that cause group ratios to diverge for reasons *other* than discrimination? If so, then all such influences must first be ruled out before any suspicion of prejudice arising from aberrant group concentrations can be taken seriously.

There are in fact strong reasons for doubting both of these assumptions. Concerning the first of them, it is obvious that simple group averages combine the effects of current *as well as past* influences, rather in the manner of a security analyst's moving average of stock prices, although in this case it is a time average that spans generations. Such parameters are necessarily insensitive to the state of continuing — i.e. to *new* occurrences of — discrimination, which is the prime target for most remedial legislation. A famous example was Daniel Moynihan's widely cited report that, while the income of blacks overall was only some 60% that of whites, the income of *young*, intact Northern black families was some 93% of comparable white families. The latter statistic of course includes to a much smaller degree the effects of events long past, and it gives a very different picture of the degree of progress being made. (This is, however, not the only cause of the difference in these figures. Also important is that the proportion of black families headed by women (34% in 1974) is much higher than among other groups.)

A second caution to remember in making group comparisons is that what may in fact be only a minor difference in group *averages* will appear as a large difference in the *extremes* of

the distributions. Consider the following hypothetical income profiles of two groups:



In the vicinity of the means of the two distributions, the difference in numbers of persons at each income level is hardly noticeable. But a cut at the high (or low) income extreme, as at the position indicated, would show two or three times as many members of one group at that income level as the other. Thus the conclusion one might draw on the need for remedial action would differ greatly, depending upon whether one looked at extreme or average situations. There is, moreover, no necessary reason for the respective distributions to have the same spread (variance) or shape, or to be symmetrical, or even to have only a single peak (one factor that could readily generate multiple maxima would be distinct waves of immigration as in the case of pre- and post-1945 East European immigration.) Thus it would formally be possible for one group to have a *higher* representation in the better positions but a *lower* mean income. Many other combinations are possible. Thus, relative group proportions in rare position at best i.e. assuming profiles of the same shape grossly exaggerate and at worst tell nothing at all about the degree of discrimination confronted by the entire group. Yet inferences of just this type are made whenever one cites group disparities in highly competitive, rare positions — such as the tenured faculty or the entering classes of the best universities and professional schools, or the top management of large corporations, or the highest political offices — as evidence for “pervasive” or “massive” discrimination against an entire group.

Another reason for exercising care in inter-

preting local group disproportions as representative of the group as a whole is the fact that, while any given selective step might by itself introduce only a small difference between two groups, this effect could be magnified exponentially by passing through a series of such “gates” acting in the same direction. For example, a modest selective differential that would convert a starting ratio of 50:50 to 55:45 in one step would, if repeated 10 times, result in a skewed final ratio of some 90:10. Or to view this in the reverse direction, we might easily find ourselves exercised at a group disparity of this latter size without being able to find, among the multitude of successive selections that everyone is subjected to as they progress through high school, college, graduate school and job-seeking, any single locus responsible for it. And of course, before we could remedy an unfair treatment, we would first have to locate it clearly.

The second presumption in using group ratios as proxies for the degree of discrimination against individuals holds that no material factor differentially correlates with group identity; so that for absent discrimination no differences in group statistics should be evident. This assumption is also risky. An important report appeared recently on discrimination against women in admission to graduate study at Berkeley in the fall of 1973. The composite figures showed about 20% fewer women accepted than would have been expected from equal probabilities of admission for the two sexes. Yet when the university departments, each of which passed independently on its own admissions, were examined one-by-one in an effort to identify the low culprits, only a few were found with significant sex imbalances at all. And among them, those that had admitted an excess of men were *more* than balanced by those with an excess of women! How could this startling result be reconciled with the “excess” of males clearly evident in admissions overall? It was of course well known that it was not equally easy to enter the 101 departments at Berkeley; the proportion of applicants admitted ranged between departments from less than 20% to more than 80%. And as it happened the two sexes had not applied in equal ratios across this range; more of

the women had applied to the *more* selective departments. Within such departments men and women had roughly equal though low chances of acceptance. But when these data were combined with those from departments that had turned away a much smaller proportion of their applicants but with far fewer women among them, the process generated the statistical illusion of overall bias against women. In this instance, it would have been a grave error to assume that men and women were identical in all the traits that were pertinent to this selection (i.e. "merit"), since they clearly differed in one *very* pertinent way, namely, their evinced preferences. This difference could itself of course have been conditioned by discriminatory influences *elsewhere* in society (biased undergraduate counselling, pessimistic expectations of getting jobs in certain fields, etc). But at *this* particular locus of selection, no additional bias was introduced, despite contrary appearances.¹²⁾

A related situation was described by Nathan Glazer when he noted that *white* immigrant groups such as Poles, Jews and Italians, despite long residence here in the "melting pot" and having experienced much less discrimination than blacks, are still far from being equally spread across the country in the same jobs and residential areas as each other and as other white groups. Glazer cites a study by Nathan Kantrowitz that demonstrates quantitatively a substantial degree of residential segregation among "foreign white stock" of southern European origin in the New York metropolitan area in 1960, nearly 40 years after the end of largescale European immigration. There thus appears to be a degree of self-clustering *preferred* by the members of such ethnic collectivities even in the absence of severe strictures imposed from without; evidently ". . . some degree of community and fellow-feeling courses through these groups . . ." ¹³⁾ The Kantrowitz study showed further that residential segregation among blacks was only moderately more severe than among these whites; this would suggest that no more than a modest portion of the segregation observed among urban blacks could be attributed *specifically* to racial discrimination. Glazer concludes: "To attempt to eliminate through public policy all concentrations of

blacks and other minority groups would clearly be to attempt to undo far more than discrimination alone has created."¹⁴⁾ We seem to have once again a case where it would be incorrect to presume a oneness among groups in their *internally* generated choices.

This fallacy — of wrongly presuming an identity between groups — recurs in other contexts as well. Tom Sowell teaches us, for instance, that great variability exists between groups in their age distributions.¹⁵⁾ This factor, as estimated by their median age, ranges from 18 (Puerto Ricans and Mexicans) to 23 (blacks) to 29 (Japanese) to 36 (Irish and Italians) to 47 (Russians). This means that parameters such as income, unemployment and crime rates that are themselves independent functions of age must be corrected for differences in the respective age distributions of the groups being compared; otherwise, an impression of discrimination might arise even though age-matched cohorts had the same incomes, the same risks of unemployment, etc. Furthermore, the age distribution can change with time in response to cultural or economic forces, or to new immigration. Another factor that can generate spurious inequalities in certain group statistics is uneven regional concentrations; blacks are still more heavily represented in the south than elsewhere, Chicanos in the southwest, Indians on reservations, Jews in or near large cities, Basques in Nevada, and so forth. And one could well imagine that yet another factor is variations in the reliability of the figures being compared. Income figures for Chicanos, for example, might well be biased owing to illegal immigration and the consequent need for covert (and thus underpaid) employment. Also, groups differ in the ease of "passing" by their most "progressive" members (groups defined by religion or nationality clearly have it easier in this regard than racial ones, and Indians more so than, say, blacks), so that official statistics compiled about the residual members might sometimes suggest a dreary, changeless picture of group progress even though social integration actually was proceeding apace.

Groups also differ markedly in the length of time the bulk of their members has been resident in this country. This is important because the

process of group acculturation and assimilation is a slow one that extends over several generations in a sort of "intergenerational relay".¹⁶¹ Andrew Greeley has shown, for example, that certain cultural attitudes have persisted through several generations of residence here.¹⁷¹ Naturally all groups are progressing steadily in acculturation, but they have obviously commenced the journey at different times and from different starting points. Thus, a snapshot of society at any single point in time like the present would portray such varying *historical* influences as *current* group differences, even though these would be only temporary and continually diminishing. There would, for instance, be little reason to expect a mainly post-World War II immigrant group such as the Puerto Ricans to have achieved the same degree of social integration by 1976 as have the descendants of a mainly 19th century immigrant group such as the Irish, who originally exhibited many of the same symptoms of social pathology now often associated with Puerto Ricans.

Not merely the time of a group's migration to this country counts; its rate of assimilation is affected also by the "capital assets"¹⁸¹ its members bring with them, such as whether or not they are already in command of English (or are at least literate in *some* language), their general level of education, the degree to which their originating culture values future rewards relative to immediate gratifications, the extent to which they are already accustomed to urban life and the ways of democratic political power, etc. Variations in such factors can obviously cause *real* (although in the long run transitory) differences in "merit" such as, let us say, in productivity as judged by an employer. Hence, even with a scrupulously fair assessment of each individual's real abilities on the job, one would *still* observe overall group differences in income, representation in the job hierarchy, etc. The constellation of pertinent factors is evidently specific to each group: upper class Cubans would probably already be educated, speak English, know how to run businesses and to cope with city life at the time they arrived, and hence would be in a position from the start to integrate quickly. On the other hand, peasants from Mexico would most likely have to acquire

all of these attributes *after* immigration in order to assimilate fully; this could easily take a generation or two for the entire group.

Yet another factor implicated in generating certain group differentials is the varying selective effects of the immigration rules themselves. Both Glazer¹⁹¹ and Sowell¹¹⁰¹ have remarked, for instance, on the relative social and economic success of black *immigrants* (mainly West Indians) compared with native blacks. While opinions differ as to the explanation of this difference (the effects of current racism are assumed to be equal), one plausible interpretation would locate its source in the selection effected by the laws restricting entry of would-be immigrants. These laws might be imagined to have functioned as a sort of cultural sieve allowing only the most motivated or otherwise gifted (especially those already in possession of professional skills) to emigrate. It is no secret, of course, that the degree and quality of the legal stringency confronting applicants for immigration has varied greatly as a function of their national origins (and from time to time for a single group — e.g. the Chinese); Puerto Ricans have faced no imposed selection of any sort, while an Asian, unless a sort of superman, was fortunate to get in at all. (Could this, perhaps, be a factor in the outstanding relative success as a group of our citizens of Japanese and Chinese origin?)

And there are significant average differences between some groups in manifested IQ.¹¹¹ There is of course still much dispute concerning the *cause* of these differences, but *that* such differences show up on standard tests of IQ is questioned by no one. And to the extent that the traits correlated with overt IQ (educational attainments, etc.) are differentially rewarded, then this fact alone would give rise to group differences in the distribution of these rewards. Important average differences exist, too, between men and women. Eleanor Maccoby and Carol Jacklin, after a comprehensive review of the relevant literature, consider sex differences in the following traits to be "fairly well established":¹²¹ verbal ability (females superior by about 0.25 standard deviations), visual-spatial ability (males superior by about 0.4 S.D.), math ability (males better but by

probably less than 0.4 S.D.) and aggressiveness (males substantially more so). In addition, of course, are those differences associated with the biological facts of motherhood and nurture of infants, and the further fact that women have available to them alternative options for social roles not commonly open to men. Once again, *differences* in group patterns could be generated by these factors alone even with no additionally prejudicial selections. In this regard, Steven Goldberg has advanced a theory based solely on the sex group difference in aggressiveness to account for the finding in all known societies of a predominance of males in the relatively limited number of leadership positions.¹³¹

This discussion is not meant to be exhaustive but it shows in impressive variety that the presumption of identity between social groups in all the traits that influence statistical appearances is far more likely to be wrong than right. Also, many of these non-uniformities pertain only to one or a few groups, many are hard to quantify, and most are in constant flux (personal tastes, the degree of assimilation, the age distribution, regional concentrations, the effects of new immigration, etc.). Compounding this initial confusion is the fact that even *fair* societal selections can unpredictably magnify a basically small but real difference in *average* group "merit" into greatly aberrant group ratios in rare but highly visible extreme situations of leadership, or of destitution. And too, overall group averages are slow to reflect *recent* advances in the fight against discrimination.

This fundamental, rather more than Talmudic, complexity makes it impossible to project by deduction from first principles what the "ideal" social distribution of groups would be in a state of perfect justice. Recall for instance that even when looking at the composite ratios for only *two* groups that *were* more or less matched in age, regional distribution, period of residence in this country, acculturation, IQ, prior education and other "capital assets", as they passed through only a *single* selection step — the cited instance of graduate admissions at Berkeley — there was an unanticipated intricacy that made it impossible to forecast the proper proportions that would emerge in the absence of discrimination. And

this *single* unexpected fact resulted in a seeming "shortfall" of women of some 20% — not at all insignificant! This shows that the attempt, however well meaning, to simplify the fight against prejudice by generously positing the fundamental equality of all social groups in all important traits — only thus making possible the equation of any departure from statistical parity among groups with discrimination against individuals — in actuality merely assumes away the very essence of the difficulty which is how in fact to rectify — to *stop* — discriminatory injustices against *individuals*. Such efforts clearly sacrifice accuracy for a meretricious ease of analysis, and hence merely mock an approach to justice.

In the light of this impasse at the level of exact theoretical or "rational" calculation, several writers have directed their attention to using an entirely different kind of process for combatting discrimination, namely, the operation of the market. By what arcane means do they envision that the market can reveal and implement the "proper" group ratios? This comes about as a consequence of the fact that the market is continually valuing (setting the price of) all of its factors, including the worth of labor. The standard of judgment here is of course economic productivity. This is not determined by *one* person's usually imperfect opinion, but rather is set *competitively* by all the potential consumers of this productivity in bidding for it. Discrimination in this context means making judgments different from what considerations of productivity alone would dictate, and here the market penalizes non-economic decisions through the force of competition. In the job market, for instance, if ". . . there were substantial misjudgments of current group productivity, this would mean an opportunity for some employers to reap unusually high profits by concentrating on hiring members of such low-wage groups";¹⁴¹ In this way, a group that has encountered discrimination by one employer becomes *preferentially* attractive to any other employer who is merely impartial and fair. And owing to the higher profits that result, such non-discriminatory employers will tend, *cet. par.*, to expand at the expense of their discriminating competitors. There is therefore a

considerable cost¹⁵¹ to the person who indulges his taste for discrimination, a cost that will discourage this practice so long as he is not indifferent to his rate of return. Analogous considerations hold in the sale and rental of housing, the capital markets, and consumer sales and services.

Harold Demsetz has set forth¹⁶¹ a thoughtful analysis of the ways in which the market can be used to oppose discrimination: (a) by offering, especially to a competitor, to work for a lower wage (or, in one's role as a consumer, to buy, especially from a competitor, at a higher price, or not to buy at all) a "non-preferred" person can force a discriminatory merchant to pay a cost (at least an opportunity cost) for his prejudice; (b) members of a "non-preferred" group can concentrate their imposition of costs upon a single merchant, thus confronting him with the threat of a major loss (e.g. bus boycotts). Indeed they can deliberately select a marginally profitable firm that cannot afford to forego *any* potential for raising profits; (c) the market provides the mechanism, in the need of other employers and sellers to meet or forestall this enhanced competition, to spread such local successes beyond the site of initial action, and (d) it is unnecessary in carrying out market operations of this kind to persuade a political majority of its justice (a slow and perhaps impossible task); one can just go ahead and *do* it.

These considerations argue strongly for the presumption that the particular distribution of groups observed in any given situation, where there already exists unrestricted competition and incentives for maximizing returns, is in fact the best possible approximation to the "ideal" that would obtain under the fair treatment of individuals. By contrast, in situations where competition is not operative — as in profit-regulated, legally protected monopolies, non-profit foundations and church organizations, or where workers or professionals can restrict competitive entry into their fields (as in occupational licensure, or some unions), or where price bargaining has been limited (minimum wage laws, "equal-pay-for-equal-work" rules, rent controls, legal limitations on loan interest) — the cost of all forms of discrimination

(making decisions on bases other than economic productivity) has been significantly reduced or eliminated. Thus one would expect to find non-economic considerations in personnel selection to be far more common here than in competitive situations. Sowell has adduced evidence that this is in fact the case.¹⁷¹ Group ratios in these situations, in contrast to competitive circumstances, would by themselves reveal nothing about the presence, or direction, of discrimination against individuals.

Many areas of American society are clearly highly competitive, and it is therefore difficult to accept allegations of large scale discrimination in these areas. Probably no field is more competitive than research in fundamental science at universities, especially in physics and biology, and it strains credence to believe that the *very* scarce resources available in these fields are frittered away on training less than the very best persons available. Yet there *are* wild disproportions evident among the workers in these fields, *if* one takes gross population ratios as the standard of comparison. There are for instance few women or blacks, an excess of Jews and Orientals, and a serious deficit of devoutly religious persons of *any* persuasion. That ratios like these, and indeed, that the ratios (whatever they are) in *all* departments at Berkeley are not notably influenced by discrimination, is strongly supported by a thorough study carried out at HEW's behest comparing group ratios among the faculties of the various departments to those among new Ph.D's in the respective disciplines. The idea was to determine how many new persons should be hired to match the faculty ratios to the "availability pools" in order to carry out the "goals and guidelines" mandated by HEW. The molehill result from this mountainous and tendentious effort was that *no* department needed to hire any Spanish-surnamed persons or American Indians to achieve parity, no department except Social Welfare needed to hire any blacks and it needed only one, and no department other than Civil Engineering and Architecture needed to hire Orientals, and these needed only one each. In short, *no* department displayed a statistically significant underrepresentation compared with what would naively be anticipated on the null

hypothesis that there was no hiring discrimination whatever against members of these groups¹⁸¹. (Quietly ignored by HEW in setting its "goals and guidelines" was the perverse discovery that five departments had one or more Chicanos *in excess* of their "availability", six had one or more excess Asians, and seven had at least one extra black! This proves that HEW *itself* lacks conviction in interpreting disparities in group ratios as *always* due to discrimination!)

Only for women were significant "discrepancies" in the anticipated direction observed at all (31 departments "needed" to take on a total of some 90-odd women), and even this determination was rendered meaningless by the serious flaw that the "availability pools" were calculated *only* on the basis of total Ph.D's awarded nationwide in the respective disciplines and *not* on the basis of how many of the women Ph.D's were actually seeking full-time, uninterrupted jobs and were willing and able to move to Berkeley to get them. In particular, there was no determination of the number of these women who were already married or soon expected to be, a detail that appears to be the single most important factor conditioning the professional ambitions of women. Tom Sowell has shown that *unmarried* women academics in fact compare rather well in professional standing with their male counterparts. He writes: "Single academic women with a Ph.D. achieve the rank of full professor *more often* than do other academics with similar years of experience . . . Moreover, the average 1968-69 academic-year salary of full-time female academics who were never married was slightly *higher* than that of males who were never married. . . . [Many indicators] show that the basic difference in pay and promotion was between married women and all other persons. The gross male versus female comparisons are lopsided largely because married women drag down the averages of other women."¹⁹¹

The empirical result of the HEW study is, then, entirely consistent with the expectation from the theory outlined above, namely, that academic competition by itself has reduced discrimination to negligible amounts. This then permits us to give an answer to Gertrude Ezorsky's no doubt rhetorically-intended ques-

tion, "Why does [Paul Seabury — see note 1] believe that this kind of justice [that people are rewarded according to their ability and their works] looms so large in academics? Do professors have so much more integrity than ordinary mortals?"²⁰¹ The answer is, "Not at all. But they *do* pay a cost for discriminating, even as ordinary mortals, since there is a high degree of competition in the academic contest for prestige, promotions and grants. Thus we have excellent reason to presume that the observed social group ratios, however odd they may strike those unacquainted with the intricacies of the situation, are not to any significant extent the result of discrimination in university hiring."

It is likewise hard to imagine that Chrysler Corporation — which in 1975 lost hundreds of millions of dollars and whose existence has recurrently been precarious — could afford the luxury of discrimination. Or small Polaroid in competition with giant Kodak. Or any computer company fighting IBM. And there can't be very many people who, in trying to realize money from selling one home in order to purchase a better one elsewhere, could afford to forego for reasons of prejudice the highest price offered.²¹¹

This analysis incidentally points up a fundamental fallacy of design in those "tests" of the prevalence of discrimination in housing which use matched pairs of black and white applicants. For these tests are set up in such a way that landlords suffer virtually *no* cost for indulging their preferences for discrimination, and so it cannot really come as a great surprise that they do. Had the comparison been set up with the two applicants differing *solely* in whether they came from the seller's home town, or shared the same passion for antique cars or French cooking, or had attended the same *alma mater*, the identical result would also have been obtained: people *do* exercise their eccentric personal preferences if there is zero cost to so doing. Naturally, this kind of "test" will *maximize* the amount of "discriminatory" activity uncovered, and it also gives not the slightest indication of what we would really like to know, namely, the degree to which the observed housing patterns *in fact* result from prejudice at this level — or, more importantly,

what it would take to induce landlords to forego their racial preferences. For some landlords — not the most moral but those most in need of extra income — this payment would surely be modest. In contrast, in a true market situation where applicants will differ on a *variety* of factors that have to be weighed against each other (family size, job, education . . . “He may be a purple dwarf *but* he’s with a U.N. mission”, etc.), and are also making competitive financial offers, the *actual* occurrence of discrimination by race would necessarily be much less than in the contrived test situation. Or to put this in another way, what one finds by such means — as in public opinion polls, and indeed as in quantum mechanics — is very much a function of the *way* one structures the inquiry.

None of this, of course, argues that there won’t be anecdotal instances of arrant discrimination in competitive markets. There surely will be isolated instances, since the market does allow one to “purchase” such indulgence at the going “price”. But one *does* pay a *price* rather than win an economic benefit (as is often and falsely alleged) from so doing. And the market will minimize the social consequences — as revealed, say, in group average incomes — of even these occurrences because the persons who are “non-preferred” automatically become preferred by every other decision maker who is merely impartial. It is this self-correcting feature of the market, coupled with the fact that there are *many* competing assessors of “merit” constantly updating their evaluations, that supports the contention (no doubt surprising to some) that a free market is the best possible way both to discover the “proper” distribution of groups and simultaneously to bring it about. The proper way to defeat discrimination, then, is not to try to formulate an explicit, analytical solution (e.g. defining “availability pools”) to the problem of “just” representation of groups and then to adjust the groups until the indicated statistical parity is achieved. Rather it is merely to see to it that the market, whose natural tendency is to treat individuals fairly, can function efficiently. The necessary conditions are: no force, no fraud, no state privileges, freely floating prices that permit the frequent evaluation of the worth of economic factors

including labor, no imposed limits on potential returns, no artificial protection against losses, open competitive entry, and the like. Having satisfactorily arranged these conditions, one then has good reason to be confident of reducing the incidence of prejudicial actions against individuals to the lowest possible level; and having achieved this for individual persons, one will *eo ipso* have maximized fairness for the groups they may constitute as well. In this splendid state of affairs, then, “. . . how the figures add up on the basis of whatever measures of group we use may be interesting, but should be no concern of public policy”.^[22]

II

It is taking exception to the antihistorical and antiabstract spirit of our times to illuminate a newly-posed social controversy such as “affirmative action”, with a body of work in political philosophy that reaches far back into the rapidly dimming first half of this century. But readers familiar with the writings of F. A. Hayek will have rightly recognized in this discussion a close parallel with his criticism of “scientism”, that attitude in the social sciences that aspires to formulate theories of social kinetics that rival the laws of physics in their analytic clarity and quantitative predictive power. Typical of the scientific inclination is its penchant for spinning holistic theories that take large social aggregates, or “wholes”, as their objects of study, and then seek to explain how these wholes interact directly with each other, as though they have an internal momentum of their own, independent of the persons that happen to compose them.^[23] This propensity is widespread. In the interpretation of history, for instance, it gives rise to “historicism”,^[24] the impulse to arrange history into a succession of “stages” or “epochs” or “economic systems” or “social classes” or “political systems”, and to abstract from such progressions the inevitable “laws” of history that by extrapolation will allow one to peer into the future. A familiar example of this is Marxism’s “scientific” (though in truth merely scientific) forecast of

the “inevitable” demise of capitalism. Another example in the field of economics is Keynesianism, which seeks to explain the economy in terms of the straightforward interaction of large statistical aggregates (e.g. total demand, unemployment rates, national income, etc.) and advocates the deliberate manipulation of these aggregates to nudge the economy along (e.g. stimulating demand to lower unemployment). Thus Keynesianism is unmistakably suffused with the warm glow of scientism (indeed, this is hinted at in the very name, “macroeconomics”). Also, the latter-day plague of making inferences directly from the *shape* of a society’s aggregated income profile about that the degree of society’s “social justice”, and of then trying to tamper with the incomes of individuals in whatever ways necessary to give the collective profile a “fair” form, is scientism in its purest essence. Advocates of such a policy seldom consider it significant to ask whether or not the elemental economic transactions that generate an income distribution are themselves fair; the property of “social justice” seems to be attached, in a sort of anthropomorphic transfer, directly to the overall aggregate, regardless of the justice of the events that brought it about. It is a characteristic feature of scientific thinking to lose focus on fairness to individuals in seeking to affect the “wholes” (a classic instance of viewing the forests and ignoring the trees); and it is not an accident that this kind of facile analysis exerts an especially mesmerizing attraction upon those who have little prior conviction of the value of individual liberty.

It is, I trust, obvious that the mode of thought that seeks the remedy for discrimination in establishing an arrangement of social group ratios that is *itself* “socially just”, and which then tries to rearrange individuals in any way necessary to bring about these proportions, is squarely in the scientific intellectual tradition. It therefore shares the flaw, carefully revealed by Hayek, that social “wholes” are *not* in fact objects-in-themselves possessing properties independent of their components, but are merely artificial constructs, or compositions, that are created from elemental units (i.e. individual persons and/or their actions) by the observer according to preexisting theories and beliefs.^[25]

And, as such, they “. . . can have no properties except those which follow from the way we have constructed them from the elements”.^[26] It follows that there can be no justice for a group that is separate or apart from justice to the individuals who constitute it.

Also illuminating in this connection is Hayek’s insight into the intellectually awesome problem of how, given the complicated variety and endless novelty of modern liberal societies, competing claims upon the same scarce resources can be coordinated. One might at first imagine bringing all the information known to all members of the society into a room with a committee of democratically responsive “experts”, and then allowing this committee to make “rational” allocation decisions based on this assembled knowledge of all the relevant facts and of all the people’s desires. Hayek points out,^[27] however, that this requires the discovery and comprehension of so many diverse and often local and transient details, which interact in unknown and ever-changing ways, that this task is impossible to carry out. One could of course sift the information, distill it, and abstract it until it could be cobbled together into a simple, comprehensible picture, but this only means *losing* most of the relevant information. This is what actually happens in centrally planned economies.

Or alternatively, one could set up merely the simple *rules* of just economic conduct between persons, and then sit back and accept contentedly whatever allocation the people work out for themselves through the consequent operations of the market. Hayek argues that this latter procedure must necessarily result in a “better” distribution — i.e., one that is more efficient and more responsive to the *multiple* wills of the people — because it uses and coordinates through the price system, rather than discards, the full stock of knowledge possessed by the society. This knowledge — e.g. that “of the fleeting circumstances of the moment and of local conditions”, which is essential to securing an efficient use of resources — exists after all *only* in fragmented form, dispersed among the minds of all the participants in the economy. And in order to utilize it effectively, it is necessary both to delegate the “particular decisions to

those who possess knowledge of their particular situations",¹²⁸¹ and to give them the incentive of potential loss or gain dependent upon the accuracy of their judgments. This, of course, is just what the market is all about. It is mainly for this reason — the superior use of knowledge — that market allocations are intrinsically more efficient than centrally planned ones.

Greater efficiency in allocation means obviously that many more "ends" can be served from the same resource base, and herein lies the explanation for that odd feature so characteristic of centrally planned economies — whether that of India, China or the Soviet Union — namely, that they can usually achieve a *few* selected ends, often of great technical sophistication (such as exterminating "vermin" like flies, rats, beggars, prostitutes and capitalists, or launching satellites, or exploding nuclear bombs) but are famously inept at providing, at the *same* time, a decent living standard for their citizens.

These alternative approaches to the problem of resource allocation are instances of two basically different kinds, or categories, of "order" discerned by Hayek.¹²⁹¹ One kind, which he calls a *taxic*, has its precise form deliberately decided in advance in a comprehensive, "rationally" formulated design. The second kind of order, which he terms a *kosmos*, has only the general rules of conduct of its components predetermined, while its *specific* form spontaneously *shapes itself* by the regularity of the behaviour of its elements according to these uniform rules. A *taxic* order is created by forces *outside* the system while a *kosmic* order derives its particular form from internal forces *within* it. A simple example of a *kosmic* structure is the creation of a crystal, not from a preexisting plan of its final overall shape but from the regular behaviour of its molecules in accord with chemical rules. A more intricate example of a *kosmos* is the mutually coordinated *complexus* of plants and animals, whose profusion and variety of form, according to Darwin at least, have arisen only in response to the general laws of mutation and selection. (To be sure, there *are* those who find these laws unsatisfying precisely because they do *not* allow one to predict that any specific result — say, a

horse — will actually evolve, and who thus find it easier to believe that each and every species was purposely created by a divine will. If these persons should be right, then this *would* be an instance of a *taxic* order after all!)

Hayek holds that *taxic* orders are necessarily confined to situations of "such moderate degrees of complexity as the maker can still survey", and hence that *kosmic* sorts of organizing principles are inherently far superior to *taxic* ones for dealing with problems that are fundamentally of enormous complexity, such as how to "design" an ecosystem with its abundance of varied and interacting life forms, or how to "design" an economic system to adjust mutually the diverse claims of multitudinous persons upon limited resources. The market is of course in its essence a *kosmic* arrangement for accomplishing the latter, since only the rules of conduct in market exchanges are established, while people then proceed to make their own mutually satisfactory arrangements. This does indeed lead to a more efficient result than the *taxic* approach of central planning, and has moreover the splendid extra benefit of reconciling a maximum of individual liberty with the maintenance of order.

But the matter of social discrimination is also a problem of vast complexity. There are, as we have seen, a multitude of *ad hoc* and often transitory factors that influence the relative "merit" of a given group: they *do* differ in their preferences, their ages, their degree of assimilation, their cultural predilections, and many other traits. And even *small* differences in such average "merit" can be unpredictably refracted and magnified into large disparities in uncommon situations by *nondiscriminatory* selections in the society. This makes it theoretically impossible to calculate what "ideal" distribution of groups ought to obtain in any specific circumstance at any particular time. This lack of knowledge necessarily limits us therefore to a *kosmic* rather than a *taxic* approach in dealing with this matter; like the problem of optimal resource allocation, we should confine ourselves to setting up the rules and conditions that encourage just conduct between individuals, and then trust to the wisdom of the market — that *ensemble* of knowledge which is

dispersed among the millions — to bring about a distribution of persons as up-to-date and fair to them as individuals, and hence also to the groups they make up, as it is possible to be.

Our operating assumption must, then, change from, "Of course groups *don't* differ in 'merit'" to, "Of course, they *may*" — and unpredictably so, at that! For this reason it is absurd to expect to achieve meaningful justice — that is, one framed in terms of fairness to *individuals* — by setting parity between *groups* as the goal of public policy. That this notion, despite its manifestly soft intellectual core, is nevertheless so fashionable in the salons of the day is a monument not merely to the considerable power of superficial thinking but, more profoundly, to the overall state of desuetude — "sputtering in confusion, empty of resources" — in which political liberalism finds itself in these distressing times.

NOTES

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5. Thomas Sowell, *Race and Economics* (New York: David McKay, 1975), p. 150.
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17. Sowell, *Race and Economics*, p. 166.
18. S. K. Johnson, "It's Action, but is it Affirmative?," *The New York Times Magazine* (May 11, 1975), p. 18; and personal communication.
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20. Gertrude Ezorsky, "The Fight Over University Women," *The New York Review of Books* (May 16, 1974), p. 32.
21. Sowell, *Race and Economics*, pp. 169-171.
22. Glazer, *Affirmative Discrimination*, p. 220.
23. Friedrich A. Hayek, *The Counter-Revolution of Science* (New York: The Free Press, 1955), Part One, Chapter VI.
24. Karl Popper, *The Poverty of Historicism* (Boston: Beacon Press, 1957).
25. Hayek, *op. cit.*
26. *Ibid.*, p. 57.
27. Friedrich A. Hayek, "The Use of Knowledge in Society," in *Individualism and the Economic Order* (Chicago: University of Chicago Press, 1948).
28. Hayek, *Counter-Revolution of Science*, Chap. X.
29. Friedrich A. Hayek, *Law, Legislation and Liberty: Vol. I: Rules and Order* (Chicago: University of Chicago Press, 1973), Chap. 2.