

# IS AFFIRMATIVE ACTION NECESSARY TO OVERCOME INSTITUTIONAL RACISM?

## NEW ZEALAND: HOW FAR WE HAVE COME

JOSHUA HITCHCOCK

When I was 17, I was offered a full-tuition scholarship to attend the University of Auckland in my native New Zealand. All of my hard work had paid off: I was going to study law and finance at the best university in the country. However, my scholarship was not only due to my own efforts. It was a reflection of generations of my Māori family, despite institutional discrimination, placing a heavy emphasis on education as the pathway to success. Growing up Māori in New Zealand, even being fair skinned as I am, is full of challenges. Of all ethnic groups in New Zealand, Māori statistically suffer from the lowest life expectancy, highest incarceration rates, and highest instances of poverty.

New Zealand has been active in promoting affirmative action to address the institutional racism experienced by Māori. Article 19 of the New Zealand Bill of Rights Act 1990 protects affirmative action, a policy that manifests in many different spheres of society. Separate Māori seats in our Parliament have been in existence for over a century, universities maintain quotas for Māori student admittance, and the government has made reparations to the Māori

tribes for land theft and other crimes committed under colonization.

That is not to say that affirmative action has widespread acceptance from the wider community. A small but vocal group of right-wing activists continue to push a “one law for all” slogan and bemoan what they see as the granting of special rights to Māori. Even more insidious is the reaction within what is usually considered the liberal enclave of law school. The quota system that reserves a set number of spaces for Māori students in the law degree divides the campus. Even if a Māori student is accepted due to personal academic success, ethnic background marks him or her as a target for criticism.

I attended university in the early 2000s, and Māori faces around my law school were rare. (Given the multitude of legal issues specifically facing Māori—from litigating against the government for breaches of both historical and modern-day rights to providing advocacy for criminal justice issues, scholarships, and quotas—the system was not delivering enough Māori into the legal profession.) Fifteen years later, this trend appears to be changing. Over 300 people attended a recent Māori lawyers’ conference, half of them students. Given that there are fewer

than 1,000 Māori lawyers in New Zealand, 150 law students at this conference is a highly encouraging sign of just how far we have come.

Affirmative action is absolutely necessary to overcome institutional racism. In New Zealand, we often say this: For a Māori, simply getting out of bed in the morning is a political act. Affirmative action has helped me and many others like me get out of bed, receive an education, fight passionately for Māori rights, and work with those who have come before us to tear down the fabric of institutional racism.

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## **SOUTH AFRICA: NECESSARY BUT NOT SUFFICIENT**

MELANIE SMUTS

Positive discrimination, as affirmative action is called in South Africa, is essential to addressing institutional racism. It requires the state acknowledge its role in perpetrating a grossly unfair system, and it is a first step toward a system of reparations.

Two decades ago, post-apartheid South Africa put a wave of positive discrimination measures in place to support the country in its transition to democracy. These included race-based quotas for positions in state services, scholarships for learners in underrepresented fields, tough anti-discrimination legislation, and an enormous economic policy called Black Economic Empowerment (BEE) that included reduced share prices for persons of color to become owners of companies in certain industries and tax breaks for private firms hiring black employees. It made “BEE points” count toward state tenders and major contracts. In South Africa, positive discrimination has served and continues to serve as an effective tool in break-

ing certain glass ceilings. It recognizes injustice on the part of institutions that have been complicit in discriminating against individuals due to their race. Positive discrimination also allows entry into positions of power for groups of people—in the South African case, nonwhites—otherwise denied such access. The newly admitted marginalized group accelerates the transformation of such spaces by creating a virtuous cycle of individuals, who are able to make structures of power more inclusive from within.

Thus, positive discrimination is a necessary condition to acknowledge the active, institutional racism of a state as perpetrated by its laws, customs, and people. However, this does not answer whether it is a sufficient condition in overcoming institutional racism.

The answer to that is clearly no. Twenty years into the experiment in South Africa, a lesson emerges: Letting a selected group of individuals win at the same game that caused institutional racism to flourish in the first place is unlikely to be enough to address fundamental problems of inequality. In South Africa, positive discrimination created an elite black middle class, locally known as “black diamonds,” some who have become exceptionally wealthy, powerful, and successful in business. Yet, South Africa remains one of the most unequal societies on the planet, with a Gini coefficient that is usually considered the world’s highest. For the majority of disadvantaged people, these reforms have not been enough.

After all, racism does not always come in the form of violent actions or flagrant abuses of the law. Institutional racism is insidious and self-perpetuating. This means that a single policy is not enough to overcome it. Only through waves of transformation—cultural, economic, and legal—can a racist society overcome discrimination. These efforts require an unswerving commitment to address the impacts of indirect discrimination, and must include a drastic and sustained overhaul of inequity in basic services such as education and health care.

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## ISRAEL: NO SILVER BULLET

SIGAL ALON

Given the erosion of equality in educational opportunity in recent decades, few would question the need for some type of affirmative action policy at selective colleges. But as socioeconomic status becomes a more pivotal contour of inequality in the U.S., many are asking whether affirmative action today should be based on race or on other aspects of disadvantage. With the exception of sporadic experiments, class-based affirmative action has never been fully implemented in the U.S.

But if we look beyond the U.S., we will find that while the class-based road is certainly less traveled, there is one country that does offer a large-scale, race-neutral, class-based affirmative action policy for scrutiny: Israel.

The program, adopted in the mid-2000s by four of the country's most selective universities, targets disadvantaged applicants. It is also completely race-neutral and need-blind. The Israeli model of affirmative action achieves widespread diversity because its design considers several aspects of disadvantage, including neighborhood socioeconomic status and high school rigor. In addition to boosting geographic diversity, the program increases the number of students in elite universities who are ethnic minorities, new immigrants, and who come from poor families in poor neighborhoods. About half of all affirmative action admits are Jews of Asian or African origin (known as Mizrahi Jews) and Arabs, all ethnic minorities at the bottom of Israel's stratification system. A policy that spotlights spatial and school inequality, rather than ethnicity, still

stretches the diversity dividends to include the latter.

A proposal for ethnic-conscious admissions would likely be controversial in Israel. Echoing the claims against race-conscious admissions in the U.S., some Mizrahi Jews, which comprise about half the Jewish population of Israel, would probably be labeled as "undeserving" of special admission parameters, since many among them are privileged and wealthy. The same claim would probably be made against Arabs who, while generally the most disadvantaged minority group in Israel, have many professionals who send their children to private schools. Additionally, there may be antagonism toward giving Arabs special treatment, given that many Jewish Israelis resent that Arabs do not participate in certain civic duties like military service.

The desire of the architects of the Israeli program to skirt the issue of persistent ethnic rifts in Israel led to a strong push in the direction of the race-neutral, class-based design. Yet, an ethnic-based affirmative action policy by default would have resulted in a higher level of ethnic diversity. The dilemma in Israel, as it is in the U.S., is whether to settle for a lower level of socioeconomic diversity in order to maintain a higher level of race and ethnic diversity, or alternatively, to infuse bastions of privilege with socio-economically disadvantaged students but at a price of lower representation of racial and ethnic minorities.

In sum, both race-conscious and race-neutral models of affirmative action fall short of creating broad diversity. The idea that there is a silver bullet model of affirmative action that can generate broad diversity at elite schools is an illusion.

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## MALAYSIA: A PERVERSE PALIMPSEST

SHARMANI PATRICIA GABRIEL

In Malaysia, affirmative action is more commonly known as “preferential treatment,” and, even semantically, it is not right.

Unlike the U.S. context, Malaysia’s affirmative action, implemented in 1971 through the New Economic Policy (NEP) and various other guises, is targeted at the dominant ethnic community, the Malays. As a race-based plan of social engineering, the NEP was introduced to compensate for the wealth imbalances created by a century or so of colonial governance. The implicit argument was that while Malays held cultural and political power, they lacked a corresponding economic standing.

The riots of 1969, thereafter referred to as “race riots” in official discourse, offered the pretext and justification for race-based affirmative action. Like the British before them, the ruling elite fell back on the usefulness of race as an “othering” category. An inevitable corollary is the view that race is the source of incendiary instability in a multiethnic society. This perspective allows the government to implement race-based quotas that favor *bumiputeras* (sons of the soil), a state-propagated identity that is primarily comprised of ethnic Malays, who are regarded as being indigenous to the land and to the nation’s history and traditions, over minority groups such as ethnic Chinese and Indians, who are deemed to have their cultural roots elsewhere.

Significantly, then, under the redistributive aegis of affirmative action, the state has also intervened in the cultural life of the nation. The state’s perverse palimpsest of national identity

includes minority ethnic communities in the body politic but denies them cultural membership in the nation.

Thus, in contrast to the U.S., where racial discrimination and segregation existed prior to the introduction of affirmative action, the reverse is true of Malaysia. Predicated on artificial lines of identification and interest, affirmative action draws attention to the differences between communities rather than their emerging commonalities.

In wanting to correct inter-ethnic inequalities in society, affirmative action, because it upholds the fixity of race, has in practice produced new inequities. It has created intra-ethnic class asymmetries and obscured more fluid trans-racial identifications.

Sizable segments of Malaysia’s various ethnic communities have begun to define their primary identities not along ancestral race-based affinities but in terms of a culturally rooted “Malaysian-ness,” which renders notions of racial indigeneity increasingly untenable.

Clearly, affirmative action should jettison outdated ontologies and be recalibrated along lines of need that are commensurate with the nation’s changed and changing cultural contexts.

The big question in Malaysia is: When will our political leaders stop viewing race as something out there, beyond ourselves and our practices, and be ready to acknowledge it as a narrative that is driven by the play of history, culture, and desire?

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