

# **AFFIRMATIVE ACTION AROUND THE WORLD**

While controversies rage over “affirmative action” policies in the United States, few Americans seem to notice the existence or relevance of similar policies in other countries around the world. Instead, the arguments pro and con both tend to invoke history and traditions that are distinctively American. Yet group preferences and quotas have existed in other countries with wholly different histories and traditions—and, in some countries, such policies have existed much longer than in the United States.

What can the experiences of these other countries tell us? Are there common patterns, common rationales, common results? Or is the American situation unique?

Ironically, a claim or assumption of national uniqueness is one of the most common patterns found in numerous countries where group preferences and quotas have existed under a variety of names. The special situation of the Maoris in New Zealand, based on the 1840 Treaty of Waitangi, is invoked as passionately in defense of preferential treatment there as the unique position of untouchables in India or of blacks in the United States.

Highly disparate rationales have been used in different societies for programs which share very similar features and often lead to very similar results. Some group preferences have existed for minorities, some for majorities, some for the less fortunate and some for the more fortunate who feel entitled to maintain their existing advantages over other members of the same society. Today, it is programs for the less fortunate which are called affirmative action in the United States or by such other names as “positive

discrimination” in Britain and in India, “standardization” in Sri Lanka, “reflecting the federal character of the country” in Nigeria, and “sons of the soil” preferences in Malaysia and Indonesia, as well as in some states in India. Group preferences and quotas have also existed in Israel, China, Australia, Brazil, Fiji, Canada, Pakistan, New Zealand and the Soviet Union and its successor states.<sup>1</sup>

Despite how widespread affirmative action programs have become, even the promoters of such programs have seldom been bold enough to proclaim preferences and quotas to be desirable on principle or as permanent features of society. On the contrary, considerable effort has been made to depict such policies as “temporary,” even when in fact these preferences turn out not only to persist but to grow.

Official affirmative action or group preference policies must be distinguished from whatever purely subjective preferences or prejudices may exist among individuals and groups. These subjective feelings may of course influence policies, but the primary focus here is on concrete government policies and their empirical consequences—not on their rationales, hopes, or promises, though these latter considerations will not be wholly ignored. Fundamentally, however, this is a study of what actually happens, rather than a philosophical exploration of issues that have been amply—if not more than amply—explored elsewhere.

## **LIMITED AND TRANSIENT PREFERENCES**

The resurgence of group preferences in societies committed to the equality of individuals before the law has been accompanied by claims not only that these preferences would be temporary, but also that they would be limited, rather than pervasive. That is, these programs would supposedly be limited not only in time but also in scope, with

equal treatment policies prevailing outside the limited domain where members of particular groups would be given special help.

In India, for example, a government minister urging lower university admissions standards for untouchables and members of disadvantaged tribes included the proviso that he was recommending “relaxation for admissions and not for passing or grading.”<sup>2</sup> Just as he was for limiting the scope of preferential treatment, so others were for limiting its duration. As an advocate of reserving certain numbers of jobs for members of specified groups in India said: “Even the staunchest supporters of reservation acceded that it is a transitory provision.”<sup>3</sup> It was the leaders of the untouchables themselves who proposed a ten-year cutoff for reservations, in order to forestall political opposition and social conflict.<sup>4</sup> That was in 1949—and the reservations are still in place today.

Similar reasoning was applied in the United States to both employment and admissions to colleges and universities. Initially, it was proposed that there would be special “outreach” efforts to contact minority individuals with information and encouragement to apply for jobs or college admissions in places where they might not have felt welcome before, but with the proviso that they would not be given special preferences throughout the whole subsequent processes of acceptance and advancement. Much the same rationale appeared in Malaysia—and so did the further extension of preferential treatment which developed despite this rationale:

Although grading is supposed to be without reference to ethnicity, all grades must be submitted to an evaluation review committee having heavy Malay representation. Individual faculty members report various instances when grades were unilaterally raised, apparently for purposes of

“ethnic balance.”<sup>5</sup>

Similar policies and results have also been achieved in less blatant ways. During the era of the Soviet Union, professors were pressured to give preferential grading to Central Asian students<sup>6</sup> and what has been called “affirmative grading” has also occurred in the United States, in order to prevent excessive failure rates among minority students admitted under lower academic standards.<sup>7</sup> In India, such practices have been referred to as “grace marks.”<sup>8</sup> Similar results can be achieved indirectly by providing ethnic studies courses that give easy grades and attract disproportionately the members of one ethnic group. This too is not peculiar to the United States. There are Maori studies programs in New Zealand and special studies for Malays in Singapore.

In the job market as well, the belief that special concerns for particular groups could be confined to an initial stage proved untenable in practice. Initially, the term “affirmative action” arose in the United States from an executive order by President John F. Kennedy, who called for “affirmative action to ensure that the applicants are employed, and that employees are treated during employment without regard to race, color, creed, or national origin.”<sup>9</sup> In short, there were to be no preferences or quotas at all, just a special concern to make sure that those who had been discriminated against in the past would no longer be discriminated against in the future—and that concrete steps should be taken so that all and sundry would be made aware of this.

However, just as academic preferences initially limited in scope continued to expand, so did the concept of affirmative action in the job market. A later executive order by President Lyndon Johnson in 1968 contained the fateful expressions “goals and timetables” and “representation.” These were not yet full-blown quotas, for the 1968 guidelines referred to “goals and timetables for the prompt achievement of full and

equal employment opportunity.” Still later, another executive order in 1970, by President Richard Nixon, spoke of “results-oriented procedures” and, finally, in December 1971, yet another Nixon executive order specified that “goals and timetables” were meant to “increase materially the utilization of minorities and women,” with “under-utilization” being spelled out as “having fewer minorities or women in a particular job classification than would reasonably be expected by their availability.” Affirmative action was now a numerical concept, whether called “goals” or “quotas.”

In a very different society and governmental system halfway around the world—in Pakistan—attempts to confine affirmative action policies within their initial limits proved equally futile.

Here preferential policies began in 1949 as an explicitly “temporary” measure, to be phased out in five to ten years.<sup>10</sup> The principal beneficiaries were to be the very poor Bengalis of East Pakistan who were “under-represented” in business, the professions and the military, while even the administration of East Pakistan was largely in the hands of West Pakistanis.<sup>11</sup> However, the preferential policies continued decades past the initially specified cut-off time by repeated extensions.<sup>12</sup> Even after East Pakistan seceded to become the independent nation of Bangladesh in 1971, the preferential policies in Pakistan had sufficient other political constituencies to continue on after their principal initial intended beneficiaries were gone.

Britain’s Lord Scarman expressed a view widely held by those initiating affirmative action in many countries when he said:

We can and for the present must accept the loading of the law in favour of one group at the expense of others, defending it as a temporary expedient in the balancing

process which has to be undertaken when and where there is social and economic inequality.<sup>13</sup>

This confident pronouncement, however, presupposed a degree of control which has proved illusory in country after country. Moreover, “when and where there is social and economic inequality” encompasses virtually the entire world and virtually the entire history of the human race. A “temporary” program to eliminate a centuries-old condition is almost a contradiction in terms. Equality of opportunity might be achieved within some feasible span of time, but that is wholly different from eliminating inequalities of results.

Even an approximate equality of “representation” of different groups in different occupations, institutions or income levels has been a very rare—or non-existent—phenomenon, except where such numerical results have been imposed artificially by quotas. As a massive scholarly study of ethnic groups around the world put it, when discussing “proportional representation” of ethnic groups, “few, if any societies have ever approximated this description.”<sup>14</sup> Another international study of multi-ethnic societies referred to “the universality of ethnic inequality” and pointed out that these inequalities are multi-dimensional:

All multi-ethnic societies exhibit a tendency for ethnic groups to engage in different occupations, have different levels (and, often, types) of education, receive different incomes, and occupy a different place in the social hierarchy.<sup>15</sup>

A worldwide study of military forces likewise concluded that “militaries fall far short of mirroring, even roughly, the multi-ethnic societies” from which they come.<sup>16</sup> At one time, nearly half the pilots in the Malaysian air force came from

the Chinese minority.<sup>17</sup> In Czarist Russia, 40 percent of the army's high command came from the German ethnic minority that was only one percent of the country's population.<sup>18</sup> Similar gross disparities in ethnic representation in occupations, industries and institutions can be found in country after country around the world and in century after century.<sup>19</sup> Often those over-represented in high-level occupations have been minorities with no power to exclude others, but simply possessing particular skills. Germans, for example, have predominated among those who created the leading beer companies in the United States, as they created China's famous Tsingtao beer and established breweries in Argentina, Australia, Brazil and other countries. Similarly, Jews have predominated in the manufacturing of clothing in medieval Spain, the Ottoman Empire, Argentina, the United States, and other countries.

In short, the even representation of groups that is taken as a norm is difficult or impossible to find anywhere, while the uneven representation that is regarded as a special deviation to be corrected is pervasive across the most disparate societies. People differ—and have for centuries. It is hard to imagine how they could not differ, given the enormous range of differing historical, cultural, geographic, demographic and other factors shaping the particular skills, habits, and attitudes of different groups. Any “temporary” policy whose duration is defined by the goal of achieving something that has never been achieved before, anywhere in the world, could more fittingly be characterized as eternal.

## **PREFERRED AND NON-PREFERRED GROUPS**

Just as we cannot presuppose continuing control over the scope and duration of preferential policies, so we cannot

simply assume what will actually happen to those designated as the preferred group or groups. Neither they nor the non-preferred groups are inert blocks of wood to be moved here and there according to someone else's grand design. Both confront laws and policies as incentives and constraints, not as predestination, and react in their own ways. These reactions include redesignating themselves, altering their own efforts and attitudes toward achievement, and altering their attitudes toward members of other groups.

### ***Designation and Redesignation***

One of the reactions of members of non-preferred groups has been to get themselves redesignated as members of the preferred group. This can be done either individually or collectively.

Some individuals of mixed ancestry who have been regarded and selfidentified as members of group **A** may choose to redesignate themselves as members of group **B**, when group **B** is entitled to preferential treatment and members of group **A** are not. In the United States, during the Jim Crow era, some light-skinned blacks simply "passed" as white, in order to escape the legal and social disadvantages that went with being designated black. Later, during the era of affirmative action, whites with traces of American Indian or other minority ancestry likewise redesignated themselves, in order to take advantage of preferential policies for disadvantaged groups. These have included blond-haired and blue-eyed individuals with official papers showing some distant ancestor of another race.

The number of individuals identifying themselves as American Indians in the U.S. Census during the affirmative action era rose at a rate exceeding anyone's estimates of the biological growth of this population. Moreover, a breakdown of Census data by age cohort shows that the number of

American Indians increased over time *in the same age cohort*—a biological impossibility made possible on paper by redesignations of the same individuals. For example, the number of American Indians who were aged 15–19 in 1960 was just under 50,000. But, twenty years later, when these same individuals would be in the age bracket 35–39 years old, there were more than 80,000 American Indians in that cohort.<sup>20</sup> In other words, more than 30,000 people in the same cohort who had not designated themselves as American Indians in 1960 now did so in 1980, causing more than a 60 percent increase in the number of American Indians in that cohort.

A similar pattern emerged among the Aborigines in Australia. A study in that country found that there was “a 42 percent increase in the size of the Aboriginal population between the 1981 and the 1986 censuses”<sup>21</sup>—virtually a demographic impossibility in five years, except by redesignation of the same individuals with different ethnic labels. As an Australian scholar has noted:

The dramatic increase in numbers has much to do with record keeping, increasing intermarriage and the growing availability of substantial subsidies to people of Aboriginal descent... The definition of ‘Aboriginal’ includes many persons of predominantly non-Aboriginal descent, who might with equal or greater genetic justification designate themselves as non-Aborigines.<sup>22</sup>

It was much the same story in China where, in the 1990s, more than 10 million Chinese proclaimed their ethnic minority status, in order to gain preferential treatment, such as college admissions. Even China’s draconian restrictions on having more than one child did not apply to ethnic minorities as they did to the majority Han Chinese:

Article 44 states that, “in accordance with legal

stipulations,” autonomous areas can work out their own family planning measures. As a result, urban minority couples generally may have two children, while urban Han are restricted to one. Rural minorities may have two, three, four or even more children, depending on their ethnicity and location.<sup>23</sup>

An official of China’s State Nationality Affairs Committee commented: “Some people would try all means to change their nationality because they wanted to make themselves eligible to enter a university with lower scores or to stand a better chance than their colleagues when it comes to promotion.” As in other countries, people with mixed ancestry had the option of choosing how to designate themselves. Some “traced their ancestry back hundreds of years to prove minority blood” and claim the benefits.<sup>24</sup>

Another individual response to preferential policies has been to use someone genuinely of the qualifying ancestry as a “front” for businesses seeking preferential treatment in the awarding of government contracts or other desired benefits. This practice has been so widespread in both Indonesia and Malaysia that it has acquired a name—“Ali-Baba enterprises,” where Ali is the indigenous individual who ostensibly owns the business and is legally entitled to government benefits, while Baba is the non-indigenous person (usually Chinese in these countries) who actually controls the enterprise and essentially pays Ali for the use of his name and ancestry.<sup>25</sup> Similar arrangements have been uncovered in the United States and elsewhere. Anti-Semitic policies in Poland during the years between the two World Wars likewise led some Jewish businesses there to operate behind Gentile front men.<sup>26</sup> Decades later, under preferential policies in Kenya, Africans served as fronts for Asian-owned businesses, as they likewise served as fronts for Lebanese-owned businesses in Sierra Leone.<sup>27</sup>

Members of some non-preferred groups can also get themselves redesignated collectively. The Fourteenth Amendment to India's Constitution, like the Fourteenth Amendment to the Constitution of the United States, provides for equal treatment of individuals but India's Constitution provides explicit exceptions for benefits to the untouchables, disadvantaged tribal groups outside the Hindu caste system and "other backward classes." This last proviso, especially, has created opportunities for many other groups to get themselves collectively designated as being among the "other backward classes." Eventually, this miscellaneous classification provided more individuals with the coveted rights to preferential treatment than were provided to the members of the untouchable and tribal groups for whom the preferences were created. In 1997, organized efforts were also begun to seek preferential treatment for India's 15 million eunuchs,<sup>28</sup> though obviously they were not the descendants of other eunuchs, and so could not inherit historic group disadvantages.

Redesignations of individuals and groups, like the spread of preferences from given groups to other groups, take preferential policies further and further away from the initial rationales on which they were based. No historic sufferings of blacks in the United States can justify preferential benefits to white women or to recently arrived immigrants from Asia or Latin America who happen to be non-white, but whose ancestors obviously never suffered any discrimination in the United States. Similarly, the painful history and continuing oppression of untouchables in India can hardly justify preferential benefits to local majorities in particular states, such as Assam, Maharashtra, and Andhra Pradesh. Yet these local majorities and members of "other backward classes" outnumber the untouchables and are often in a better position to take advantage of the preferences. Thus quotas for government jobs or university admissions have

often remained unfilled by untouchables, while this has seldom been the case for members of the “other backward classes.”<sup>29</sup>

The spread of benefits from group to group not only dilutes those benefits—especially when more than half the population of the country becomes entitled to them, as in both India and the United States—it can also make the initial beneficiaries worse off after the terms of the competition are altered. For example, in the United States, where hiring and promotions decisions are subject to review by government agencies investigating discrimination, objective criteria may be used increasingly by employers for legal self-protection, even if the relevance of these criteria to the job are questionable. If these criteria are met more often by one of the preferred groups than by another—if white women have college degrees more often than black men, for example—then one preferred group may be no better off, on net balance, than if the preferences did not exist. It is conceivable that they can be worse off.

Such a situation is not peculiar to the United States. An official report in India in 1980 noted that the advancement of one preferred group tended to “push back” another, creating “greater tension between structural neighbors in this hierarchy than between the top level and the bottom level.” That continued to be so in the 1990s, with violent clashes in several Indian states being found to be more common among competing poorer groups than between these groups and the more elite castes.<sup>30</sup> In 2001, a rally was held in the state of Rajasthan, protesting the inclusion of new groups among the backward classes and demanding “separate fixed quotas for original backwards” so that “new entrants” would not be able to reduce the existing benefits enjoyed by those for whom the preferences were created.<sup>31</sup> Calls have been made for a “quota within quota” to deal with such

situations.<sup>32</sup>

In so far as affirmative action policies are aimed particularly at offsetting existing economic disadvantages, their rationale is undermined when the benefits of these policies go disproportionately to those individuals within the designated groups who are the least disadvantaged—or perhaps are in more favorable positions than members of the country’s general population.

In India’s state of Tamil Nadu, for example, the highest of the so-called “backward classes” legally entitled to preferences, constituting 11 percent of the total “backward classes” population in that state, received almost half of all jobs and university admissions set aside for these classes.<sup>33</sup> In Malaysia, where there are preferences for the indigenous “sons of the soil” majority, Malay students whose families were in the top 17 percent of the income distribution received just over half of all scholarships awarded to Malays.<sup>34</sup> In Sri Lanka, preferential university admissions for people from backward regions of the country appear likewise to have benefited primarily students from affluent families in those regions.<sup>35</sup>

This should hardly be surprising, nor is it necessarily a matter of corruption. Preferential access to education or jobs is just one factor in getting the education or the job. Obviously, those people who have more of the other factors required are better able to turn preferential access into actual success. Pre-existing prosperity provides more of those other factors.

Those American minority business owners who participate in the preferential program called business “set-asides” under Section 8(a) of the Small Business Act average a personal net worth that is not only higher than the average net worth of the groups they come from, but also higher than the average personal net worth of Americans in general.<sup>36</sup> A

scholarly study of group preferences in India pointed out that preferences that benefit more fortunate members of less fortunate groups “borrow legitimacy from the national commitment to ameliorate the condition of the lowest,” while at the same time “they undermine that commitment by broadcasting a picture of unrestrained preference for those who are not distinctly worse off than non-beneficiaries.”<sup>37</sup>

Just as specifying the scope and duration of affirmative action policies has proven illusory, so has the designation of the beneficiaries in accordance with the rationales of these policies. Both attempts suffer from assuming far more comprehensive knowledge and control than anyone has been able to exercise, in any of the countries in which preferential programs have been instituted. What has also been over-estimated is the extent to which the attitudes resulting from such programs can be assumed to be beneficial to the groups concerned or to the country at large. These attitudes tend to respond to incentives, rather than to rationales.

### ***Incentives***

Both preferred and non-preferred groups have modified their own behavior and attitudes in response to preferential policies and the rationales for such policies. While members of the officially preferred groups who already have the complementary factors needed to take the fullest advantage of preferences can do so, those who lack these factors often feel less incentive to acquire them, now that entitlements are available as substitutes for achievements. The development of job skills, for example, may be deemphasized. As a leader in a campaign for preferential policies in India’s state of Andhra Pradesh put it: “Are we not entitled to jobs just because we are not as qualified?”<sup>38</sup> A Nigerian likewise wrote of “the tyranny of skills.”<sup>39</sup> In

Malaysia, where group preferences exist for the majority population, “Malay students, who sense that their future is assured, feel less pressure to perform.”<sup>40</sup> In the United States, a study of black colleges found that even those of their students who were planning to continue on to postgraduate study showed little concern about needing to be prepared “because they believe that certain rules would simply be set aside for them.”<sup>41</sup>

Both preferred and non-preferred groups can slacken their efforts—the former because working to their fullest capacity is unnecessary and the latter because working to their fullest capacity can prove to be futile. After Jamaica gained its independence from British rule, many whites living there no longer bothered to compete for public office because they “felt that the day of the black man had come and questioned why they had to make the effort if the coveted job or the national honor would go to the blacks, despite their qualifications.”<sup>42</sup> While affirmative action policies are often thought of, by advocates and critics alike, as a transfer of benefits from one group to another, there can also be net losses of benefits when both groups do less than their best. What might otherwise be a zero-sum game can thus become a negative-sum game.

In some countries, complete physical withdrawal from the country by those in non-preferred groups has occurred in the wake of preferential policies which reduced their prospects. The exodus of Chinese from Malaysia, Indians from Fiji, Russians from Central Asia, Jews from much of prewar Europe, and Huguenots from 17th century France in response to discrimination drained all these countries of much-needed skills and talents. In short, preferential policies represent not simply a transfer of benefits from one group to another, but can also represent a net loss, as both groups respond by contributing less than they could to the society as a whole.

Not all incentives are economic or even tangible. Honors are among the most powerful of incentives in many situations, especially where dangers and death must be faced, and where money is less effective than a sense of honor, as in the military. In less dire circumstances as well, honor and the respect of peers play important roles, not only as rewards for achievements, but also as factors helping to make individual achievements possible in the first place.

The cooperation and collaboration of colleagues can be important in a variety of occupations from scholars to policemen—and that cooperation and collaboration can be compromised by group preferences. For example, minority professors on American campuses have complained that being thought of as “affirmative action” professors<sup>43</sup> by their colleagues has led to less intellectual and research interaction, which in turn reduces the minority faculty’s development as scholars.<sup>44</sup> This can be a serious handicap in achieving one’s potential. In life and death situations, such as those faced by the police, firefighters, and soldiers, mutual confidence is even more important. Yet black police sergeants promoted in Chicago over white policemen with higher test scores—as a result of a court order—found themselves taunted as “quota sergeants” when they made mistakes.<sup>45</sup>

### ***Intergroup Relations***

Even aside from losses to the economy as a whole, because of disincentives created for both preferred and non-preferred groups, there are social losses due to intergroup resentments, which can be even more serious. Nor are these resentments due simply to the transfers of benefits.

When a serious political backlash against affirmative action began in the United States, many in the media were

quick to characterize it dismissively as due to “angry white males,” resentful of the losses of various benefits to blacks and other minorities—in other words, just an emotional reaction by people irked at losing a few of their many advantages. But this resentment was by no means proportional to intergroup transfers of benefits or it would have been far greater against Asian Americans, who displaced more whites in prestigious universities and in many high-level professions, especially in science and technology. At many of the leading universities in the United States, whites “lost” more places to Asian Americans than to blacks, and yet there was seldom any backlash against Asian Americans. The outstanding academic and other achievements of Asian Americans were widely recognized and widely respected. It was not the intergroup transfer of benefits that was resented, but the basis for those transfers.

Among Americans especially, the idea that some are to be treated as “more equal than others” is galling. It was this feeling in the general population which leaders of the civil rights movement of the 1960s were able to mobilize behind their efforts to destroy the Jim Crow laws of the South, so that a majority of the members in both Houses of Congress from both political parties voted for the landmark Civil Rights Act of 1964 and the Voting Rights Act of 1965. It was this same American resentment of special privilege which responded so strongly to the historic words of the Reverend Martin Luther King, Jr., at the Lincoln Memorial in 1963, that his dream was of a country where people would be judged “not by the color of their skin, but by the content of their character.”

It was after the civil rights movement itself began to move away from this concept of equal treatment of all individuals and toward the concept of equalized outcomes for groups, that a backlash against affirmative action set in and grew over the years.

There is yet another sense in which resentments against

preferences for other groups are not proportional to the benefits transferred. An observer of preferential policies in India noted the disproportionate resentment of places reserved for “scheduled castes,” the official euphemism for untouchables:

. . . we hear innumerable tales of persons being deprived of appointments in favour of people who ranked lower than they did in the relevant examinations. No doubt this does happen, but if all these people were, in fact, paying the price for appointments to Scheduled Castes, there would be many more SC persons appointed than there actually are. To illustrate: supposing that 300 people qualify for ten posts available. The top nine are appointed on merit but the tenth is reserved, so that the authorities go down the list to find an SC applicant. They find one at 140 and he is appointed. Whereupon all 131 between him and the merit list feel aggrieved. He has not taken 131 posts; he has taken one, yet 131 people believe they have paid the price for it. Moreover, the remaining 159 often also resent the situation, believing that their chances were, somehow, lessened by the existence of SC reservations.<sup>46</sup>

In the United States as well, those who resent group preferences may be some multiple of those who have in fact actually lost anything that they would have had in the absence of these preferences. In the 1978 landmark Supreme Court challenge to affirmative action brought by Allan Bakke, a white student denied admission to a University of California medical school, neither side to the dispute could state with confidence that Bakke would or would not have been admitted in the absence of the affirmative action policies which admitted minority students with lower academic qualifications than his. The admissions process was sufficiently complicated that it was not clear whether some other white or Asian-American students might

have been admitted instead of Bakke.

In other words, it was not certain that Bakke had in fact lost anything as a result of affirmative action, and yet his sense of being wronged was sufficient for him to pursue the case all the way up to the highest court in the land. One of the things that prevents affirmative action from being a zero-sum process is that minor transfers of benefits can cause major resentments among far more people than those who have actually lost anything. Moreover, these resentments do not end with political or legal actions.

In India, where preferential policies have a longer history than in the United States, they have also had more bitter consequences. Forty-two people died in riots over places reserved for untouchables in a medical school in the state of Gujarat—just seven places.<sup>47</sup> This was part of a national trend of rising violence against untouchables amid adverse reactions against preferential policies in general.<sup>48</sup> Meanwhile, less than 5 percent of the medical school places reserved for untouchables in Gujarat had actually been filled over a period of years. Studies of university admissions in general, in various parts of India, showed a similar pattern of many places reserved for untouchables going unfilled.<sup>49</sup> Nevertheless, minor transfers of benefits led to major resentments, including resentments erupting repeatedly into lethal violence.

Nowhere has this resentment led to more violence than in India's neighboring nation of Sri Lanka, which has been racked by decades of civil war, in which the non-preferred group—the Tamils—have sought to secede and become an independent nation. It is clear that affirmative action in Sri Lanka has not been a zero-sum process. The material, political, economic, and social havoc created by that country's long civil war has undoubtedly left all segments of the population worse off than they would have been in the absence of group preferences and the reactions to which

those preferences led.

## TRENDS

Even where there are adequate statistical data on the progress of groups that have been given preferential treatment—and often there are not—it remains a challenge to determine how much of that progress was due to preferential policies, rather than to other factors at work at the same time. Simple before-and-after comparisons will not do, as that would be assuming that nothing else had changed, when in fact the very dynamics of establishing affirmative action programs often reflect changes that were already under way before group preferences began. Seldom is there a stationary situation to which a given “change” is added.

Often it was precisely the rise of newly educated and upwardly mobile groups which led to demands for preferential policies. A study in Bombay, for example, found a “marked advancement of the Maharashtrians occurred prior to the stringent policy measures adopted by the state government” to promote preferential hiring of indigenous Maharashtrians.<sup>50</sup> In part this reflected a prior “enormous growth in school enrollments in Maharashtra” and a “rapid expansion in college enrollment”—also prior to preferences.<sup>51</sup> In Malaysia as well, the number of children attending the government’s secondary schools increased by 73 percent in just five years immediately preceding the New Economic Policy which expanded preferences and quotas for Malays.<sup>52</sup> In Sri Lanka likewise, there was a “rapid expansion of educational opportunities in the Sinhalese areas” after independence<sup>53</sup>—and before demands for preferential treatment of the Sinhalese.

A similar growth of an indigenous, newly educated class in Poland, Czechoslovakia, and Lithuania during the years between the two World Wars led to demands for preferential policies in the form of group quotas, in order to relieve them from having to compete on an equal plane with Jews,<sup>54</sup> who were already educated, experienced, and established in the positions to which the newly-educated classes were aspiring. Likewise, in Nigeria, it was the recent growth of an educated class in the north that led to demands for preferential policies to relieve them from having to compete with southern Nigerians, who had predominated in universities and in many desirable occupations.<sup>55</sup> This same pattern of a rising educated class *prior* to the preferential policies that they promoted can also be found in Indonesia, the Quebec province of Canada, and much of sub-Saharan Africa.<sup>56</sup>

In the United States, the proportion of the black population going to college doubled in the two decades preceding the civil rights revolution of the 1960s,<sup>57</sup> and this was reflected in the occupational rise of blacks. While it is an often-cited fact that the proportion of blacks in professional and other high-level occupations rose substantially in the years following passage of the Civil Rights Act of 1964, it is an almost totally ignored fact that the proportion of blacks in such occupations rose even more substantially in the years *preceding* passage of the Civil Rights Act of 1964.<sup>58</sup>

Dramatic progress was also evident during these same decades in the lower socioeconomic levels of the American black population. The percentage of black families with incomes below the official poverty line fell from 87 percent in 1940 to 47 percent by 1960—all of this before the civil rights legislation of that decade, much less the affirmative action policies of the 1970s. Between 1960 and 1970, the poverty rate among black families dropped an additional 17 percentage points and, after the decade of the 1970s in

which affirmative action was established, the poverty rate among blacks fell one additional percentage point.<sup>59</sup>

This striking difference between the political myth and the economic reality has many implications. Among them is that what might otherwise be seen as a remarkable achievement by black Americans is instead seen as an example of government beneficence and largess—and a reason why affirmative action is an absolute necessity for black advancement. The effects of this misperception include white resentments and their questioning why blacks cannot advance themselves like other groups, when in fact that is what most blacks have done. Incidentally, it is an equally ignored fact that the incomes of Asian Americans and Mexican Americans rose substantially—both absolutely and relative to that of the general population—in the years preceding passage of the Civil Rights Act of 1964 and its evolution into preferential policies.<sup>60</sup>

Any assessment of preferential policies must take account of pre-existing trends, rather than assume a static world to which “change” was added.

## **SUMMARY AND IMPLICATIONS**

Despite the highly varied rationales for official group preferences and quotas in particular countries around the world, the logic of their incentives and constraints tends to produce similar consequences in very disparate societies. Moreover, both the incentives and the consequences tend to get ignored in political discussions of these policies, which focus on their justifications and presumed benefits, while ignoring actual empirical results. In the United States, mythical results—affirmative action as the basis for the economic rise of blacks, for example—have so completely supplanted facts that few who discuss this policy find it

necessary to check historical evidence at all.

For some supporters of affirmative action, it is just a matter of being in favor of helping the less fortunate, with the “details” being left for others to consider and work out. However, even a broad-brush look at what affirmative action programs have actually done in various countries reveals that a failure to achieve their goals may be the least of the problems created by these programs. Poisonous intergroup relations and real dangers to the fabric of society have also been produced by affirmative action in some societies.