IS RACIAL DISCRIMINATION ARBITRARY?

PETER SINGER

1. Introduction

There is nowadays wide agreement that racism is wrong. To describe a policy, law, movement or nation as 'racist' is to condemn it. It may be thought that since we all agree that racism is wrong, it is unnecessary to speculate on exactly what it is and why it is wrong. This indifference to moral fundamentals could, however, prove dangerous. For one thing, the fact that most people agree today that racism is wrong does not mean that this attitude will always be so widely shared. Even if we had no fears for the future, though, we need to have some understanding of what it is about racism that is wrong if we are to handle satisfactorily all the problems we face today. For instance, there is the contentious issue of 'reverse discrimination' or discrimination in favor of members of oppressed minority groups. It must be granted that a university which admits members of minority groups who do not achieve the minimum standard that others must reach in order to be admitted is discriminating on racial lines. Is such discrimination therefore wrong?

Or, to take another issue, the efforts of Arab nations to have the United Nations declare Zionism a form of racism provoked an extremely hostile reaction in nations friendly to Israel, particularly the United States, but it led to virtually no discussion of whether Zionism is a form of racism. Yet the charge is not altogether without plausibility, for if Jews are a race, then Zionism promotes the idea of a state dominated by one race, and this has practical consequences in, for instance, Israel's immigration laws. Again, to consider whether this makes Zionism a form of racism we need to understand what it is that makes a policy racist and wrong.

First it is necessary to get our terms clear. 'Racism' is, as I
have said, a word which now has an inescapable evaluative force, although it also has some descriptive content. Words with these dual functions can be confusing if their use is not specified. People sometimes try to argue: ‘X is a case of racial discrimination, therefore X is racist; racism is wrong, therefore X is wrong’. This argument may depend on an equivocation in the meaning of ‘racist’, the term being used first in a morally neutral, descriptive sense, and secondly in its evaluative sense.

To avoid this kind of confusion, I shall accept the usual evaluative force of the term ‘racist’ and reserve it for practices that are judged to be wrong. Thus we cannot pronounce a policy, law etc. ‘racist’ unless we have decided that it is wrong. ‘Racial discrimination’ on the other hand I shall use in a descriptive, and morally neutral sense, so that to say that a policy or law discriminates racially is simply to point to the fact of discrimination based on race, leaving open the question of whether it can be justified. With this terminology it becomes possible to ask whether a given form of racial discrimination is racist; this is another way of asking whether it is justifiable.

If we ask those who regard racial discrimination as wrong to say why it is wrong, it is commonly said that it is wrong to pick on race as a reason for treating one person differently from others, because race is irrelevant to whether a person should be given a job, the vote, higher education, or any benefits or burdens of this sort. The irrelevance of race, it is said, makes it quite arbitrary to give these things to people of one race while withholding them from those of another race. I shall refer to this account of what is wrong with racial discrimination as the “standard objection” to racial discrimination.

A sophisticated theory of justice can be invoked in support of this standard objection to racial discrimination. Justice requires, as Aristotle so plausibly said, that equals be treated equally and unequals be treated unequally. To this we must add the obvious proviso that the equalities or inequalities should be relevant to the treatment in question. Now when we consider things like employment, it becomes clear that the relevant inequalities between candidates for a vacant position are inequalities in their ability to carry out the duties of the position and, perhaps, inequalities in the extent to which they will benefit through being offered the position. Race does not seem to be relevant at all. Similarly with the vote, capacity for rational choice between candidates or policies might be held a relevant characteristic, but race should not be; and so on for other goods. It is hard to think of anything for
which race in itself is a relevant characteristic, and hence to use race as a basis for discrimination is arbitrarily to single out an irrelevant factor, no doubt because of a bias or prejudice against those of a different race. 

As we shall see, this account of why racial discrimination is wrong is inadequate because there are many situations in which, from at least one point of view, the racial factor is by no means irrelevant, and therefore it can be denied that racial discrimination in these situations is arbitrary.

One type of situation in which race must be admitted to be relevant to the purposes of the person discriminating need not delay us at this stage; this is the situation in which those purposes themselves favor a particular race. Thus if the purpose of Hitler and the other Nazi leaders was, among other things, to produce a world in which there were no Jews, it was certainly not irrelevant to their purposes that those rounded up and murdered by the S.S. were Jews rather than so-called ‘Aryans’. But the fundamental wrongness of the aims of the Nazis makes the ‘relevance’ of race to those aims totally inefficacious so far as justifying Nazi racial discrimination is concerned. While their type of racial discrimination may not have been arbitrary discrimination in the usual sense, it was no less wrong for that. Why it was wrong is something that I hope will become clearer later in this article. Meanwhile I shall look at some less cataclysmic forms of racial discrimination, for too much contemporary discussion of racial discrimination has focussed on the most blatant instances: Nazi Germany, South Africa, and the American ‘Deep South’ during the period of legally enforced racial segregation. These forms of racism are not the type that face us now in our own societies (unless we live in South Africa) and to discuss racial discrimination in terms of these examples today is to present an over-simplified picture of the problem of racial discrimination. By looking at some of the reasons for racial discrimination that might actually be offered today in countries all over the world I hope to show that the real situation is usually much more complex than consideration of the more blatant instances of racial discrimination would lead us to believe.

2. Examples

I shall start by describing an example of racial discrimination which may at first glance seem to be an allowable exception to a general rule that racial discrimination is arbitrary and therefore
wrong; and I shall then suggest that this case has parallels with other cases we may not be so willing to allow as exceptions.

Case 1. A film director is making a film about the lives of blacks living in New York's Harlem. He advertises for black actors. A white actor turns up, but the director refuses to allow him to audition, saying that the film is about blacks and there are no roles for whites. The actor replies that, with the appropriate wig and make-up, he can look just like a black; moreover he can imitate the mannerisms, gestures, and speech of Harlem blacks. Nevertheless the director refuses to consider him for the role, because it is essential to the director's conception of the film that the black experience be authentically portrayed, and however good a white actor might be, the director would not be satisfied with the authenticity of the portrayal.

The film director is discriminating along racial lines, yet he cannot be said to be discriminating arbitrarily. His discrimination is apt for his purpose. Moreover his purpose is a legitimate one. So the standard objection to racial discrimination cannot be made in this instance.

Racial discrimination may be acceptable in an area like casting for films or the theatre, when the race of a character in the film or play is important, because this is one of the seemingly few areas in which a person's race is directly relevant to his capacity to perform a given task. As such, it may be thought, these areas can easily be distinguished from other areas of employment, as well as from areas like housing, education, the right to vote, and so on, where race has no relevance at all. Unfortunately there are many other situations in which race is not as totally irrelevant as this view assumes.

Case 2. The owner of a cake shop with a largely white and racially prejudiced clientele wishes to hire an assistant. The owner has no prejudice against blacks himself, but is reluctant to employ one, for fear that his customers will go elsewhere. If his fears are well-founded (and this is not impossible) then the race of a candidate for the position is, again, relevant to the purpose of the employer, which in this case is to maintain the profitability of his business.

What can we say about this case? We cannot deny the connection between race and the owner's purposes, and so we must recognize that the owner's discrimination is not arbitrary, and does not necessarily indicate a bias or prejudice on his part. Nor can we say that the owner's purpose is an illegitimate one, for making a
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profit from the sale of cakes is not generally regarded as wrong, at least if the amount of profit made is modest.

We can, of course, look at other aspects of the matter. We can object to the racial discrimination shown by customers who will search out shops staffed by whites only — such people do discriminate arbitrarily, for race is irrelevant to the quality of the goods and the proficiency of service in a shop — but is this not simply a fact that the shop owner must live with, however much he may wish he could change it? We might argue that by pandering to the prejudices of his customers, the owner is allowing those prejudices to continue unchallenged; whereas if he and other shopkeepers took no notice of them, people would eventually become used to mixing with those of another race, and prejudices would be eroded. Yet it is surely too much to ask an individual shop-owner to risk his livelihood in a lone and probably vain effort to break down prejudice. Few of the most dedicated opponents of racism do as much. If there were national legislation which distributed the burden more evenly, by a general prohibition of discrimination on racial grounds (with some recognized exceptions for cases like casting for a film or play) the situation would be different. Then we could reasonably ask every shop owner to play his part. Whether there should be such legislation is a different question from whether the shop owner may be blamed for discriminating in the absence of legislation. I shall discuss the issue of legislation shortly, after we consider a different kind of racial discrimination that, again, is not arbitrary.

Case 3. A landlord discriminates against blacks in letting the accommodation he owns. Let us say that he is not so rigid as never to let an apartment to a black, but if a black person and a white person appear to be equally suitable as tenants, with equally good references and so on, the landlord invariably prefers the white. He defends his policy along the following lines:

If more than a very small proportion of my tenants get behind in their rent and then disappear without paying the arrears, I will be out of business. Over the years, I have found that more blacks do this than whites. I admit that there are many honest blacks (some of my best tenants have been black) and many dishonest whites, but, for some reason I do not claim to understand, the odds on a white tenant defaulting are longer than on a black doing so, even when their references and other credentials appear equally good. In this business you can’t run a full-scale probe of every prospective tenant — and if I
tried I would be abused for invading privacy — so you have to go by the average rather than the individual. That is why blacks have to have better indications of reliability than whites before I will let to them.

Now the landlord’s impression of a higher rate of default among blacks than among comparable whites may itself be the result of prejudice on his part. Perhaps in most cases when landlords say this kind of thing, there is no real factual basis to their allegations. People have grown up with racial stereotypes, and these stereotypes are reinforced by a tendency to notice occurrences which conform to the stereotype and to disregard those which conflict with it. So if unreliability is part of the stereotype of blacks held by many whites, they may take more notice of blacks who abscond without paying the rent than of blacks who are reliable tenants; and conversely they will take less notice of absconding whites and more of those whites who conform to their ideas of normal white behaviour.

If it is prejudice that is responsible for the landlord’s views about black and white tenants, and there is no factual basis for his claims, then the problem becomes one of eliminating this prejudice and getting the landlord to see his mistake. This is by no means an easy task, but it is not a task for philosophers, and it does not concern us here, for we are interested in attempts to justify racial discrimination, and an attempted justification based on an inaccurate description of a situation can be rejected without raising the deeper issue of justification.

On the other hand, the landlord’s impression of a higher rate of default among black tenants could be entirely accurate. (It might be explicable in terms of the different cultural and economic circumstances in which blacks are brought up.) Whether or not we think this likely, we need to ask what its implications would be for the justifiability of the racial discrimination exercised by the landlord. To refuse even to consider this question would be to rest all one’s objections to the landlord’s practice on the falsity of his claims, and thereby to fail to examine the possibility that the landlord’s practice could be open to objection even if his impressions on tenant reliability are accurate.

If the landlord’s impressions were accurate, we would have to concede, once again, that racial discrimination in this situation is not arbitrary; that it is, instead, relevant to the purposes of the landlord. We must also admit that these purposes — making a living from letting property that one owns — are not themselves
objectionable, provided the rents are reasonable, and so on. Nor can we, this time, locate the origin of the problem in the prejudices of others, except insofar as the problem has its origin in the prejudices of those responsible for the conditions of deprivation in which many of the present generation of blacks grew up— but it is too late to do anything to alter those prejudices anyway, since they belong to previous generations.

We have now looked at three examples of racial discrimination, and can begin to examine the parallels and differences between them. Many people, as I have already said, would make no objection to the discriminatory hiring practice of the film director in the first of these cases. But we can now see that if we try to justify the actions of the film director in this case on the grounds that his purpose is a legitimate one and the discrimination he uses is relevant for his purpose, we will have to accept the actions of the cake-shop owner and the landlord as well. I suspect that many of those ready to accept the discriminatory practice in the first case will be much more reluctant about the other two cases. But what morally significant difference is there between them?

It might be suggested that the difference between them lies in the nature of what blacks are being deprived of, and their title to it. The argument would run like this: No-one has a right to be selected to act in a film; the director must have absolute discretion to hire whomsoever he wishes to hire. After all, no-one can force the director to make the film at all, and if he didn’t make it, no-one would be hired to play in it; if he does decide to make it, therefore, he must be allowed to make it on his own terms. Moreover, since so few people ever get the chance to appear in a film, it would be absurd to hold that the director violates someone’s rights by not giving him something which most people will never have anyway. On the other hand, people do have a right to employment, and to housing. To discriminate against blacks in an ordinary employment situation, or in the letting of accommodation, threatens their basic rights and therefore should not be tolerated.

Plausible as it appears, this way of distinguishing the first case from the other two will not do. Consider the first and second cases: almost everything that we have said about the film director applies to the cake-shop owner as well. No-one can force the cake-shop owner to keep his shop open, and if he didn’t, no one would be hired to work in it. If in the film director’s case this was a reason for allowing him to make the film on his own terms, it must be a reason for allowing the shop owner to run his shop on
his own terms. In fact, such reasoning, which would allow unlimited discrimination in restaurants, hotels and shops, is invalid. There are plenty of examples where we would not agree that the fact that someone did not have to make an offer or provide an opportunity at all means that if he does do it he must be allowed to make the offer or provide the opportunity on his own terms. The United States Civil Rights Act of 1965 certainly does not recognize this line of argument, for it prohibits those offering food and lodgings to the public from excluding customers on racial grounds. We may, as a society, decide that we shall not allow people to make certain offers, if the way in which the offers are made will cause hardship or offense to others. In so doing we are balancing people’s freedom to do as they please against the harm this may do to others, and coming down on the side of preventing harm rather than enlarging freedom. This is a perfectly defensible position, if the harm is sufficiently serious and the restriction of freedom not grave.

Nor does it seem possible to distinguish the first and second cases by the claim that since so few people ever get the chance to appear in a film, no-one’s rights are violated if they are not given something that most people will never have anyway. For if the number of jobs in cake shops was small, and the demand for such jobs high, it would also be true that few people would ever have the chance to work in a cake shop. It would be odd if such an increase in competition for the job justified an otherwise unjustifiable policy of hiring whites only. Moreover, this argument would allow a film director to discriminate on racial lines even if race was irrelevant to the roles he was casting; and that is quite a different situation from the one we have been discussing.

The best way to distinguish the situations of the film director and the shop owner is by reference to the nature of the employment offered, and to the reasons why racial discrimination in these cases is not arbitrary. In casting for a film about blacks, the race of the actor auditioning is intrinsically significant, independently of the attitudes of those connected with the film. In the case of hiring a shop assistant, race is relevant only because of the attitudes of those connected (as customers) with the shop; it has nothing to do with the selling of cakes in itself, but only with the selling of cakes to racially prejudiced customers. This means that in the case of the shop assistant we could eliminate the relevance of race if we could eliminate the prejudices of the customers; by contrast there is no way in which we could eliminate the relevance of the race of an actor auditioning for a role in a film about
blacks, without altering the nature of the film. Moreover, in the case of the shop owner racial discrimination probably serves to perpetuate the very prejudices that make such discrimination relevant and (from the point of view of the owner seeking to maintain his profits) necessary. Thus people who can buy all their cakes and other necessities in shops staffed only by whites will never come into the kind of contact with comparable blacks which might break down their aversion to being served by blacks; whereas if shop owners were to hire more blacks, their customers would no doubt become used to it and in time might wonder why they ever opposed the idea. (Compare the change of attitudes toward racial integration in the American South since the 1956 United States Supreme Court decision against segregated schools and subsequent measures against segregation were put into effect.

Hence if we are opposed to arbitrary discrimination we have reason to take steps against racial discrimination in situations like Case 2, because such discrimination, while not itself arbitrary, both feeds on and gives support to discrimination by others which is arbitrary. In prohibiting it we would, admittedly, be preventing the employer from discriminating in a way that is relevant to his purposes; but if the causal hypothesis suggested in the previous paragraph is correct, this situation would only be temporary, and after some time the circumstances inducing the employer to discriminate racially would have been eliminated.

The case of the landlord presents a more difficult problem. If the facts he alleges are true his non-arbitrary reasons for discrimination against blacks are real enough. They do not depend on present arbitrary discrimination by others, and they may persist beyond an interval in which there is no discrimination. Whatever the roots of hypothetical racial differences in reliability as tenants might be, they would probably go too deep to be eradicated solely by a short period in which there was no racial discrimination.

We should recognize, then, that if the facts are as alleged, to legislate against the landlord’s racially discriminatory practice is to impose a long-term disadvantage upon him. At the very least, he will have to take greater care in ascertaining the suitability of prospective tenants. Perhaps he will turn to data-collecting agencies for assistance, thus contributing to the growth of institutions that are threats, potential or actual, to our privacy. Perhaps, if these methods are unavailable or unavailing, the landlord will have to take greater losses than he otherwise would have, and perhaps this will lead to increased rents or even to a reduction in the amount of rentable housing available.
None of this forces us to conclude that we should not legislate against the landlord's racial discrimination. There are good reasons why we should seek to eliminate racial discrimination even when such discrimination is neither arbitrary in itself, nor relevant only because of the arbitrary prejudices of others. These reasons may be so important as to make the disadvantage imposed on the landlord comparatively insignificant.

An obvious point that can be made against the landlord is that he is judging people, at least in part, as members of a race rather than as individuals. The landlord does not deny that some black prospective tenants he turns away would make better tenants than some white prospective tenants he accepts. Some highly eligible black prospective tenants are refused accommodation simply because they are black. If the landlord assessed every prospective tenant as an individual this would not happen.

A similar point is often made in the debate over alleged differences between blacks and whites in America in whatever is measured by IQ tests. Even if, as Jensen and others have suggested, there is a small inherited difference in IQ between blacks and whites, it is clear that this difference shows up only when we compare averages, and not when we compare individuals. Even if we accept the controversial estimates that the average IQ of American blacks is 15 points lower than the average IQ of American whites, there is still a tremendous amount of overlap between the IQs of blacks and whites, with many whites scoring lower than the majority of blacks. Hence the difference in averages between the races would be of limited significance. For any purpose for which IQ mattered — like entrance into higher levels of education — it would still be essential to consider each applicant individually, rather than as a member of a certain race.

There are plenty of reasons why in situations like admitting people to higher education or providing them with employment or other benefits we should regard people as individuals and not as members of some larger group. For one thing we will be able to make a selection better suited for our own purposes, for selecting or discarding whole groups of people will generally result in, at best, a crude approximation to the results we hope to achieve. This is certainly true in an area like education. On the other hand it must be admitted that in some situations a crude approximation is all that can be achieved anyway. The landlord claims that his situation is one of these, and that as he cannot reliably tell which individuals will make suitable tenants, he is justified in resorting to so crude a means of selection as race. Here we need to turn our
attention from the landlord to the prospective black tenant.

To be judged merely as a member of a group when it is one's individual qualities on which the verdict should be given is to be treated as less than the unique individual that we see ourselves as. Even where our individual qualities would merit less than we receive as a member of a group — if we are promoted over better-qualified people because we went to the ‘right’ private school — the benefit is usually less welcome than it would be if it had been merited by our own attributes. Of course in this case qualms are easily stilled by the fact that a benefit has been received, never mind how. In the contrary case, however, when something of value has been lost, the sense of loss will be compounded by the feeling that one was not assessed on one’s own merits, but merely as a member of a group.

To this general preference for individual as against group assessment must be added a consideration arising from the nature of the group. To be denied a benefit because one was, say, a member of the Communist Party would be unjust and a violation of basic principles of political liberty, but if one has chosen to join the Communist Party, then one is, after all, being assessed for what one has done, and one can choose between living with the consequences of continued party membership or leaving the party. Race, of course, is not something that one chooses to adopt or that one can ever choose to give up. The person who is denied advantages because of his race is totally unable to alter this particular circumstance of his existence and so may feel with added sharpness that his life is clouded, not merely because he is not being judged as an individual, but because of something over which he has no control at all. This makes racial discrimination peculiarly invidious.

So we have the viewpoint of the victim of racial discrimination to offset against the landlord’s argument in favor, and it seems that the victim has more at stake and hence should be given preference, even if the landlord’s reason for discriminating is non-arbitrary and hence in a sense legitimate. The case against racial discrimination becomes stronger still when we consider the long-term social effects of discrimination.

When members of a racial minority are overwhelmingly among the poorest members of a society, living in a deprived area, holding jobs low in pay and status, or no jobs at all, and less well educated than the average member of the community, racial discrimination serves to perpetuate a divided society in which race becomes a badge of a much broader inferiority. It is the associ-
ation of race with economic status and educational disadvantages which in turn gives rise to the situation in which there could be a coloring of truth to the claim that race is a relevant ground for discriminating between prospective tenants, applicants for employment, and so on. Thus there is, in the end, a parallel between the situation of the landlord and the cake-shop owner, for both, by their discrimination, contribute to the maintenance of the grounds for claiming that this discrimination is non-arbitrary. Hence prohibition of such discrimination can be justified as breaking this circle of deprivation and discrimination. The difference between the situations, as I have already said, is that in the case of the cake-shop owner it is only a prejudice against contact with blacks that needs to be broken down, and experience has shown that such prejudices do evaporate in a relatively short period of time. In the case of the landlord, however, it is the whole social and economic position of blacks that needs to be changed, and while overcoming discrimination would be an essential part of this process it may not be sufficient. That is why, if the facts are as the landlord alleges them to be, prohibition of racial discrimination is likely to impose more of a long-term disadvantage on the landlord than on the shop owner — a disadvantage which is, however, outweighed by the costs of continuing the circle of racial discrimination and deprivation for those discriminated against; and the costs of greater social inequality and racial divisiveness for the community as a whole.

3. A Basic Principle

If our discussion of the three examples has been sound, opposition to racial discrimination cannot rely on the standard objection that racial discrimination is arbitrary because race is irrelevant to employment, housing, and other things that matter. While this very often will be true, it will not always be true. The issue is more complicated than that appealing formula suggests, and has to do with the effect of racial discrimination on its victims, and on society as a whole. Behind all this, however, there is a more basic moral principle, and at this more basic level the irrelevance of race and the arbitrariness of racial discrimination reappear and help to explain why racism is wrong. This basic moral principle is the principle of equal consideration of interests.

The principle of equal consideration of interests is easy to state, though difficult to apply. Bentham’s famous ‘each to count for one and none for more than one’ is one way of putting it,
though not free from ambiguity; Sidgwick's formulation is more precise, if less memorable: 'The good of any one individual is of no more importance, from the point of view (if I may say so) of the Universe, than the good of any other.' Perhaps the best way of explaining the effect of the principle is to follow C.I. Lewis's suggestion that we imagine ourselves living, one after the other, the lives of everyone affected by our actions; in this way we would experience all of their experiences as our own. R.M. Hare's insistence that moral judgments must be universalizable comes to much the same thing, as he has pointed out. The essence of the principle of equal consideration of interests is that we give equal weight in our moral deliberations to the like interests of all those affected by our actions. This means that if only X and Y would be affected by a possible act, and if X stands to lose more than Y stands to gain (for instance, X will lose his job and find it difficult to get another, whereas Y will merely get a small promotion) then it is better not to do the act. We cannot, if we accept the principle of equal consideration of interests, say that doing the act is better, despite the facts described, because we are more concerned about Y than we are about X. What the principle is really saying is that an interest is an interest, whoever's interest it may be.

We can make this more concrete by considering a particular interest, say the interest we have in the relief of pain. Then the principle says that the ultimate moral reason for relieving pain is simply the undesirability of pain as such, and not the undesirability of X's pain, which might be different from the undesirability of Y's pain. Of course, X's pain might be more undesirable than Y's pain because it is more painful, and then the principle of equal consideration would give greater weight to the relief of X's pain. Again, even where the pains are equal, other factors might be relevant, especially if others are affected. If there has been an earthquake we might give priority to the relief of a doctor's pain so that he can treat other victims. But the doctor's pain itself counts only once, and with no added weighting. The principle of equal consideration of interests acts like a pair of scales, weighing interests impartially. True scales favor the side where the interest is stronger, or where several interests combine to outweigh a smaller number of similar interests; but they take no account of whose interests they are weighing.

It is important to understand that the principle of equal consideration of interests is, to adopt Sidgwick's suggestive phrase, a 'point of view of the universe' principle. The phrase is, of
course, a metaphor. It is not intended to suggest that the universe as a whole is alive, or conscious, or capable of having a point of view; but we can, without getting involved in any pantheist suppositions, imagine how matters would be judged by a being who was able to take in all of the universe, viewing all that was going on with an impartial benevolence. 10

It is from this universal point of view that race is irrelevant to the consideration of interests; for all that counts are the interests themselves. To give less consideration to a specified amount of pain because that pain was experienced by a black would be to make an arbitrary distinction. Why pick on race? Why not on whether a person was born in a leap year? Or whether there is more than one vowel in his surname? All these characteristics are equally irrelevant to the undesirability of pain from the universal point of view. Hence the principle of equal consideration of interests shows straightforwardly why the most blatant forms of racism, like that of the Nazis, are wrong. For the Nazis were concerned only for the welfare of members of the ‘Aryan’ race, and the sufferings of Jews, Gypsies and Slavs were of no concern to them.

That the principle of equal consideration of interests is a ‘point of view of the universe’ principle allows us to account for the fact that it is a principle upon which it seems virtually impossible to act. Who of us can live as if our own welfare and that of our family and friends were of no more concern to us than the welfare of anonymous individuals in far away countries, of whom we know no more than the fact of their existence? Only a saint or a robot could live in this way; but this does not mean that only a saint or a robot can live in accordance with the principle of equal consideration of interests, for a principle which is valid from a universal point of view may yield subordinate principles to be acted upon by those who have limited resources and are involved in a particular segment of the world, rather than looking down upon the whole from a position of impartiality.

So subordinate principles giving members of families responsibility for the welfare of others in the family, or giving national governments responsibility for the welfare of their citizens, will be derivable from the principle of equal consideration, if everyone’s interests are best promoted by such arrangements; and this is likely to be the case if, first, people are more knowledgeable about the interests of those close to them and more inclined to work to see that these interests are catered for, and, second, if the distribution of resources between families and between nations.
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is not so unequally distributed that some families or nations are simply unable to provide for themselves the means to satisfying interests that could be satisfied with ease by other families or nations. In the world as it is presently constituted the first condition seems to hold, but not the second. For that reason I do not think that the subordinate principles mentioned correctly set out our present moral responsibilities, though they could do so if resources were more evenly distributed. Until then, we ought to strive to be more saint-like. 11

Subordinate principles based on race, giving each race responsibility for the welfare of other members of that race are, I think, considerably less likely to be derivable from the principle of equal consideration than subordinate principles based on family or membership of a nation. For where they are not living together as a nation, races tend to be widely scattered; there is usually little knowledge of the circumstances of other members of one's race in different parts of the world, and there is nobody with the capacity to look after all members of a race as a national government can look after the interests of its citizens. There is, admittedly, often a degree of sentiment connecting members of a race, however widely they are separated. The contributions of American Jews to the support of members of their race in Israel is a well-known example of this, and there are many others. But the intermingling of races still makes it very doubtful that interests could be generally promoted by dividing responsibilities along racial lines.

The fundamental principle of equal consideration of interests, then, pays no regard to the race of those whose interests are under consideration; nor can we plausibly derive from the basic principle a subordinate principle enjoining us to consider the interests of members of our own race before we consider the interests of others; yet it cannot be said that the principles rules out racial discrimination in all circumstances. For the principle is an abstract one, and can only be applied in a concrete situation, in which the facts of the situation will be relevant. For instance, I have heard it said that somewhere in ancient Hindu writings members of the Brahmin or priestly caste are claimed to be so much more sensitive than members of the lower castes that their pleasures and pains are twenty times as intense as those of lesser human beings. We would, of course, do well to be suspicious of such a claim, particularly as the author of the document would no doubt have been a Brahmin himself. But let us assume that we somehow discovered that this extraordinary difference in sensitivity did in fact exist; it would follow that Brahmins have a greater interest in
having access to a source of pleasure, and in avoiding a source of pain, than others. It would be as if when a Brahmin scratches his finger he feels a pain similar to that which others feel when they dislocate their shoulder. Then, consistently with the principle of equal consideration of interests, if a Brahmin and an ordinary person have both scratched their fingers, and we have only enough soothing ointment to cover one scratch, we should favor the Brahmin — just as, in the case of two normal people, if one had scratched a finger while the other had dislocated a shoulder we should favor the person with the more painful injury.

Needless to say, the example is a fanciful one, and intended to show only how, within the confines of the principle of equal consideration of interests, factual differences could be relevant to racial discrimination. In the absence of any real evidence of racial differences in sensitivity to pleasure and pain, the example has no practical relevance. Other differences between races — if they were differences between all members of races, and not differences which showed up only when averages were taken — could also justify forms of discrimination which ran parallel to the boundary of race. Examples would be substantial differences in intelligence, educability or the capacity to be self-governing. Strictly, if there were such differences then discrimination based on them would not be racial discrimination but rather discrimination on the ground of differences which happened to coincide with racial differences. But perhaps this is hair-splitting, since it would certainly be popularly known as racial discrimination. The kind of discrimination that such differences would justify would be only that to which these differences were relevant. For instance, a respectable argument for benevolent colonialism could be mounted if it really were true that certain races were so incapable of self-government as to be obviously better off on the whole when ruled by people of a different race. I hasten to add that the historical record gives no support to such a hypothesis, but rather suggests the contrary. Again, this fictional example shows only that, given peculiar enough factual assumptions, any acceptable principle of equality can lead to racial discrimination.

On the other hand, the principle of equal consideration of interests does underpin the decisions we reached when considering the three more realistic examples of racial discrimination in the preceding section of this article. Although the principle is too general to allow the derivation of straightforward and indisputable conclusions from it in complex situations, it does seem that an impartial consideration of the interests of all involved would, for
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reasons already discussed, rule out discrimination by the shop owner and the landlord, though allowing that of the film director. Hence it is the arbitrariness of racial discrimination at the level of the principle of equal consideration of interests, rather than at the level of the particular decision of the person discriminating, that governs whether a given act of racial discrimination is justifiable.

This conclusion may be applied to other controversial cases. It suggests, for instance, that the problem of 'reverse discrimination' or 'compensatory discrimination' which arises when a university or employer gives preference to members of minority groups should be discussed by asking not whether racial discrimination is always and intrinsically wrong, but whether the proposal is, on balance, in the interests of all those affected by it. This is a difficult question, and not one that can be answered generally for all types of reverse discrimination. For instance, if white communities have a far better doctor-patient ratio than black communities because very few blacks are admitted to medical school and white doctors tend to work in white communities, there is a strong case for admitting some black candidates to medical school ahead of whites who are better qualified by the standard entry procedures, provided, of course, that the blacks admitted are not so poorly qualified as to be unable to become competent doctors. The case for separate and easier entry would be less strong in an area where there is no equivalent community need, for instance, in philosophy. Here much would depend on whether black students who would not otherwise have been admitted were able to make up ground and do as well as whites with higher ratings on standard entry procedures. If so, easier entry for blacks could be justified in terms of the conventional goal of admitting those students most likely to succeed in their course; taking into account a student's race would merely be a way of correcting for the failure of standard tests to allow for the disadvantages that face blacks in competing with whites on such tests. If, on the other hand, blacks admitted under easier entry in a field like philosophy did not do as well as the whites they displaced could have been expected to do, discrimination in their favor would be much harder to justify.

Immigration policy, too, is an area in which the principle of equal consideration of interests suggests the kinds of facts we should look for, instead of giving a definite answer. The relevant questions are the extent to which an immigrant will be benefited by admission, and the extent to which the admitting nation will be benefited. Race certainly does not provide an answer to the first of these questions. A country which chooses to give only
those of a certain race the benefit of permanent residence fails to give equal consideration to those not of the favored race who may have a greater interest in leaving their present country than others who are accepted because of their race. While this kind of racial discrimination would in itself be unjustifiable, it has been defended on the grounds that the alternative would be disastrous for citizens of the admitting nation, and ultimately for those admitted too. An extreme version of this kind of defense is the line taken by the British politician Enoch Powell, who prophesied 'rivers of blood' if black immigration was not stopped and blacks who had already arrived were not encouraged to go back to where they had come from. Here again, the facts are relevant. If Powell's claims had been soundly based, if it really were impossible for blacks and whites to live together without widespread bloodshed, then continued immigration would have been in the interests of neither blacks nor whites, and stopping immigration could not have been condemned as racist — though the epithet could have been applied to those Britons who were so hostile to blacks as to produce the situation Powell predicted. Despite occasional racial disturbances in Britain, however, there is no sign that Powell's predictions will come true. While a sudden influx of large numbers of immigrants of a different racial (or ethnic) group may cause problems, it is clear that people of different races can live together without serious strife. This being so, there is no justification for immigration policies that impose blanket prohibitions on people of a different race from that of the residents of the country. The most that can be defended in terms of the principle of equal consideration of interests is a quota system that leads to a gradual adjustment in the racial composition of a society.¹³

LA TROBE UNIVERSITY
BUNDOORA, VICTORIA
AND
MONASH UNIVERSITY
CLAYTON, VICTORIA
AUSTRALIA

NOTES

¹ In popular usage, even the term 'discrimination' is often used to suggest that the practice referred to is wrong; this is, of course, an abuse of language, for to discriminate is merely to distinguish, or differentiate, and we could hardly get along without doing that.

² For a brief and clear statement of this idea of justice, see H.L.A. Hart, The Concept of Law (Clarendon Press, Oxford, 1961) pp. 156-8; see also
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4 See Feinberg, *op. cit.*, p. 78.

5 ‘In most southern communities ... the adjustment to public desegregation following the enactment of the 1964 Civil Rights Act was amazing,’ Lewis M. Killian, *White Southerners* (New York: Random House, 1970). Similar comments have been made by many other observers: for a more recent report, see *Time*, September 27, 1976, especially the favorable comments of Northern blacks who have recently moved to the South (p. 44). That contact with those of another race helps to reduce racial prejudice had been demonstrated as early as 1949, when a study of U.S. soldiers showed that the more contact white soldiers had with black troops, the more favorable were their attitudes to integration. See Samuel Stouffer et al., *The American Soldier: Adjustment During Army Life* (Princeton: Princeton University Press, 1949) p. 594. This finding was supported by a later study, ‘Project Clear’, reported by Charles Moskos, Jr., ‘Racial Integration in the Armed Forces’, *American Journal of Sociology*, vol. 72 (1966) pp. 132-48.

6 The situation is different if it is because of a past rather than a present political connection that one is subjected to disadvantages. Perhaps this is why the hounding of ex-communists in the McCarthy era was a particularly shameful episode in American history.


8 C.I. Lewis, *Analysis of Knowledge and Valuation* (La Salle, 1946), p. 547; I owe this reference to R.M. Hare.


10 See the discussion of the Ideal Observer theory in Roderick Firth, ‘Ethical Absolutism and the Ideal Observer’, *Philosophy and Phenomenological Research*, vol. XII (1952) and the further discussion in the same journal by Richard Brandt, vol. XV (1955).


13 I am grateful to Robert Young for comments and criticism on this paper.