

Chapter Three

Discrimination and Tolerance

Currently in the United States it is illegal to discriminate on the basis of sex, race, handicap, age, creed, color, national origin and ancestry. Sexual preferences and obesity may soon be added to the list. It may also soon be noticed that there are advantages to be reaped by, and no reason to avoid, adding intelligence, ability, height, beauty, sanity and hat size to that list. But there is just one small problem with these laws. They have made criminals of us all.

If these laws were literally applied, how many married persons could escape being prosecuted for choosing his or her spouse on the basis of sex? And how many families could escape being prosecuted for choosing to favor its own members, partly based on race, creed and color, and clearly based on ancestry? And how many airlines could escape being prosecuted for choosing not to hire potential pilots based on handicapped vision? And how many Little Leagues could escape being prosecuted for choosing to exclude older children? And how many religious congregations could escape being prosecuted for choosing its members based on creed?

The privilege of being able to discriminate freely, which my Constitution grants to each and every American, may surprise quite a few people. This is understandable, since discrimination has such a poor reputation right now, so I hope my reason for including this privilege will be understood. It is not an endorsement of racial and sexual hatreds. It is an endorsement of freedom.

Unfortunately, those well-intentioned activists who are seeking an end to discrimination have also been indiscriminately destroying the basic foundations of our society. If they would pause a moment,

and reflect on what they are doing, they would quickly recognize that the principles they are pursuing are counterproductive to their stated objectives.

The irony of this deplorable situation is that racial and sexual hatreds are not discriminatory practices. They are both based on a lack of discrimination. Hatred is an emotion which has socially undesirable effects, but discrimination is an intellectual art which has socially desirable effects—including the ability to diminish unreasonable hatreds. That is why the ever stricter enforcement of the anti-discrimination laws will probably only make these problems worse.

The attempt to eliminate hatred by legally shackling the ability to discriminate is as ineffective as an attempt to eliminate fear by legally shackling the ability to act would be. The visionaries who would make the second attempt could be praised for desiring an end to fear, but the only legal channel open for their attempt would be to outlaw all actions. Though I recognize that the ability to discriminate can be used for expressing racial and sexual hatreds, I also recognize that the ability to act can be used for criminal behavior. No one would support outlawing actions in order to eliminate crime. However, many have supported outlawing discrimination in order to eliminate hatred.

Discrimination is with us to stay. The basic process by which thinking beings make decisions will never be squelched—which is why the legal attempts to do so are bound to fail in their quest. Unfortunately, they are also bound to succeed in creating a great deal of confusion in the meantime.

Anti-discrimination laws are well-intentioned, but, as is said, the road to hell is paved with good intentions. It is enough to be kind to well-intentioned people. It is not necessary to enact their proposals as well.

Unless a law is fulfilling its proposed function, it should be eliminated. That is why the reasons for any law should be clearly stated, and why someone should be assigned the responsibility of paying attention to whether or not our laws are functional. To fulfill this purpose, I have included a Laws Department in my Constitution.

There are dozens of human institutions which have enthusiastically been founded on the basis of an original idea, but very few of these institutions seem to have paid attention to whether or not they were fulfilling the purpose for which they were created. As a result, most of them have completely changed in character since their birth. I would expect the Laws Department to attempt to make sure that that didn't happen to the Second Constitution of the United States of America.

Hopefully, the purpose of my discrimination privilege will not be forgotten. As long as my Constitution is the law of the land, I doubt if it would be, as the society of discriminators I envision would be better equipped to undermine racial myths and prejudices than any other human society, since discrimination is the best tool for overthrowing lies.

I would expect that one of the first results of this increased emphasis on discrimination would be a clearer idea of what constitutes a discriminatory practice. In my opinion, anyone who does not hire someone simply because his skin is colorful is lacking in the ability to discriminate, since skin color does not play an important part in most jobs. However, I also think that any school which admits a student simply because his skin is colorful is also lacking in the ability to discriminate. Nevertheless, those schools which weight their admissions policy slightly in favor of minorities, admitting those who appear to be qualified enough to take advantage of a good college education, are exercising a fine degree of discrimination. To call this policy reverse discrimination reveals that confusion about discrimination, caused by a lack of it, presently reigns supreme.

It is my contention that quotas, forced busing, forcing government contractors to comply with set ratios, and other such repressive laws, will only serve to aggravate racial and sexual tensions, as anger results from forcing people to act against their will, and that is precisely what such forms of legislation do.

That is why, even though I consider affirmative action to be a wise social policy at the present time, I recognize that, for it to be effective, a fine degree of discrimination is required. It is unwise to

push underqualified individuals into positions of authority or responsibility which they cannot handle, because the perception that they are bunglers will only exacerbate this already volatile situation. However, since the most effective means for reducing prejudice is to have counterexamples to nondiscriminatory stereotypes, making it easier for qualified women, African-Americans, Hispanics and Asians to get ahead is socially wise.

Individuals who possess this fine art of discrimination are considered wise. Those without it are called fools. The same applies to societies. The increasing reports of our foolishness, and the decline of our reputation in the world community, can be traced in part to our having accepted the request to throw discrimination away in order to seek unattainable equality.

This request, based on the emotionally charged, but obviously mistaken, notion that we are all created equal, has no guiding principle to it other than the emotional feeling of trying to prevent "unfairness". Since life can never be just, or equal, or fair, based on actions, there is no way to determine which inequalities to attempt to eliminate.

The absurd result of this vagueness is that a judge's discretion is the sole arbiter in discrimination suits. Unfortunately, the judges' ability to discriminate has occasionally proved even more unreliable than the legislators'. For example, why did one judge think it was unfair, or unequal, to have physical education classes segregated on the basis of sex, but that it was fair, or at least practical, to segregate locker facilities? Both are unfair, but it is also unfair for one person to have more athletic ability than another. The least common denominator of equality will probably never be legislated because common sense would oppose it too strenuously, but a great number of absurdities have already become commonplace in our society, and mandatory coeducational physical education classes is only one of them.

It has already been ruled that Little Leagues must not discriminate against girls, so why not include the age issue as well? The Elks Clubs, and other such private clubs, have also been hauled into courts for discriminatory practices, but no all-white family, or all-black family, has ever been sued (as far as I know) for their own

“prejudice”. Even though I don’t agree with such clubs’ policies, I think they ought to have the privilege of being as discriminatory as they want to be, as it is repressive to allow the government to invade the decision-making processes of its citizens. Since not a single aspect of life is fair, the judges’ power in these cases is far too extreme to be tolerated in a free society.

Why, since that is the case, have the actual instances of absurd decisions been so rare? Probably because common sense is an aspect of the intellectual abilities of most judges. Common sense would dismiss any suit filed by one man against another for discriminating against him on the basis of sex by choosing to marry a female, but the law would allow such a suit. Common sense would dismiss any suit filed by a child against a family he wanted to join for discriminating against him on the basis of ancestry, but the law would allow such a suit. And common sense would dismiss any suit brought by a person with poor eyesight who wanted to be a pilot against an airline for discriminating against him on the basis of handicap, but the law would allow such a suit.

Since the only barrier which is preventing chaos in America is common sense, perhaps it ought to have more say in these matters. If it did, the anti-discrimination laws would be repealed. We, as free individuals, should agree to allow our discrimination free rein, as we have no inalienable right to be able to live as we choose. Human history demonstrates that it is possible for us to have no freedom. We have no *right* to be free. It is only by virtue of voluntary cooperation that we have the freedoms we enjoy today.

Talking about rights only confuses the issue by implying that there is a divine order we must adjust ourselves to, or perish. This confusion has even extended into arguments over whether we have a *right* to watch the Super Bowl, which have arisen because of the possibility that a cable TV network may win the contract to broadcast a future Super Bowl, leaving noncable users out of luck. However, if this right is accepted, then those who don’t have a TV are already having their rights violated.

Such arguments over rights presently include the right to decent housing, to good food, to a job, to equality, and to most other

socially valuable goals (including the lunatic fringe of watching the Super Bowl), but the facts say that all these are *privileges*, granted under certain conditions, by a free and generous society.

I use the word *privileges* because it implies luxuries obtained by cooperation, and since that is precisely what our freedoms are, I never use the word *rights* in my Constitution. A *right* implies a necessity, and I don't see how any aspect of human life can be effectively argued to be a necessity, since even remaining alive isn't necessary.

I also discriminate against the word chairperson in my Constitution. Though I use "he or she" throughout it, to drive home the social privilege of considering all humans equal before the law, "chairperson" does not appear because I consider it a slogan. If "woman" becomes "woperson", I might change my mind, but I suspect that all the linguistic slogans, including "Ms.", will disappear shortly after all the sexually repressive laws are eliminated from state and federal legal codes.

When "Ms." disappears, I personally hope that Mr., Mrs. and Miss will depart with her. These titles of middle class nobility are useless, and add an unnecessary tone of formality to our daily lives. It is not necessary to know if Joe and Carole Smith are married, or brother and sister, or father and daughter, or son and mother, or totally unrelated. Such distinctions shouldn't make any difference to anyone who doesn't know them, and anyone who does know them knows what their relationship is.

I also hope that "he" will be accepted again as the general pronoun for unspecified individuals, or else that someone devises a good set of pronouns to serve that function, as writing "he or she" everywhere is clumsy. It also does not soothe touchy nerves, since the order may imply preference. That is why I wrote them in alphabetical order in my Constitution, though I use "he" elsewhere, and will continue to do so until the custom changes.

I like to discriminate like this because the difference between substance and superficiality is substantial. Ironically, the absence of this ability to perceive substantial differences has caused our government to pursue an equal rights policy which has often generated even greater social problems than previously existed.

For example, the airlines came under a great deal of pressure to reduce their bias in favor of the young, beautiful women whom they preferred to hire as stewardesses. However, the movie industry, and the other entertainment industries, have not yet been pressured into doing the same. If they ever are, their industries will probably have a hard time surviving.

Even though hiring policies which favor beauty are not fair, they are socially benign. What is not socially benign is pressuring one industry into compliance while leaving the others alone. My solution is to leave them all alone. I am against the repressive policy of shackling any facet of discrimination in hiring policies, as there is no justification for drawing the line anywhere. It is no fairer for employers to hire on the basis of talent, or experience, or intelligence, or any other factor, than it is for them to hire on the basis of beauty.

I personally am in favor of hiring people without regard to beauty, race, sex, handicap or creed, if the job requirements can be handled equally well regardless of such characteristics, but that is the function of discrimination, not its opposite. When a characteristic does not apply, it should be ignored, and the most qualified applicant, based on the important characteristics, should be chosen, because he will do the best job. Such discrimination is in the self-interest of an employer because his product will be inferior if he ignores highly qualified applicants for ridiculous reasons.

However, several job biases are based on sound reasons, not ridiculous ones. The main reason women have not traditionally be hired as firemen, professional football players, and the like, is that so few, if any, could meet the standards set for these jobs. The standards for firemen are not biased against women, they are biased against those who are not strong enough to carry adults down ladders. Since that applies to more women, the standards may appear to be sexually biased, even though they are not. It is an open invitation to poorer productivity to require lower standards in an attempt to create equality. Furthermore, those who favor such policies should realize that these laws produce the reverse of the desired result, as such legal tactics create more sexually based hatred, not less.

The same is true for handicapped people. Since the move to bring them into normal human society is spurred by the desire for them to feel like contributing members, it is extraordinarily foolish to use legal force to push them into positions where they are an even greater burden than they were before. The handicapped should work where they will be of real service. Allowing the discrimination of employers to determine where that is will be of the greatest value in the long run. Handicapped people, if they desire to make a contribution, should think of what they could do well—and that is what they should pursue.

Most humans do not expect the handicapped to produce as much as those who are physically unhampered, just as most humans do not expect a 200 pound guard to stop a 275 pound linebacker from tackling the quarterback. However, since expectations are lower, satisfaction occurs when less is accomplished. The use of discrimination would reveal realistic expectations for the handicapped, and encourage them to succeed, whereas trying to make them “normal”, though well-intentioned, is very cruel, as it implies only normalcy is of value, and as it usually sets standards too high to be reached.

If the government left this whole business of discrimination alone, there would probably never be any women in the National Football League, and probably very few women in other professions which demand heights of physical prowess which eliminate most male applicants as well. However, now that the walls have been broken down, the women who desire to become lawyers, doctors, scientists, professors, and the like, and who are more qualified than men who also desire these jobs, should succeed in their chosen career.

It was foolish for men to think that women could not do these jobs, but it is equally foolish to think that there are no differences at all between men and women, and their relative capacities for different professions. Even if the anti-discrimination laws are enforced more absurdly in the future, they will never change the fact that only women can be mothers, and men fathers. Those differences which are real can never be legislated away. Those

differences which are unreal have the hardest time staying alive in a free society.

That is why I trust that this fascination with equality will fizzle out before it goes too far. Testing a principle by bringing it to its logical conclusion is a good way to determine the principle's validity. Though it sounds nice to say that we are all created equal, it is simply untrue. We are not all equal in ability, nor in any other characteristic. If we were, there would be no differences, such as those enumerated in the laws, by which we *could* discriminate. True equality, taken to its logical conclusion, would completely eliminate the possibility of human life.

Hopefully, common sense will not allow the anti-discrimination laws to go too far, as it is possible that if they are not stopped soon the reaction to them could sweep away many of the gains women and minority members have made in our society in the last century. That would be foolish, as it is socially wise to allow all adult citizens to vote. It is socially wise to disallow the treatment of wives as possessions. And it is socially wise to allow equal opportunity for equal ability. However, it is not socially wise to attempt to legislate equality.

Equality before the law is a valuable legal protection for the citizens of every democracy, but being equal before the law just means that no *special* privileges will be given to any suspected lawbreaker—not on any basis, including sex, race, handicap, age, creed, color, national origin, ancestry, sexual preferences, obesity, intelligence, ability, height, beauty, sanity, hat size, whom you know, what you've done, or who your grandmother is. However, many of these differences will come into play in deciding the merits of a case, but that is not a *special* privilege. It is a privilege granted to every citizen. For example, a paralyzed man, suspected of a brutal murder, will definitely have a handicap favoring his acquittal.

However, equality before the law does not mean equality itself. Since every human being is unique, the attempt to create equality in society is an impossible quest—one that undermines freedom, personal responsibility, personal initiative and the economic strength of that society. It is not only foolish, it is vicious. Equality is not a virtue. Discrimination is.