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Intergroup Bias and Inequity: Legitimizing Beliefs and Policy Attitudes

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Policy attitudes relating to group-based inequities are in many cases founded on tenuous legitimizing beliefs which are contradicted by empirical evidence. Policy issues, and their attendant legitimizing beliefs, are considered, including affirmative action, colorblindness/"racial privacy," hate crime legislation, same-sex marriage, and, in greater depth, capital punishment and racial profiling. Primary themes underlying the legitimizing beliefs include denials that group-based biases and inequities exist, overestimations of the societal costs of inequity-reducing policies, valuing public safety above civil liberties, and discounting the adverse effects of inequity-reducing policies.

KEY WORDS: inequity; legitimizing beliefs; policy attitudes; affirmative action; colorblindness; hate crime; racial profiling; same-sex marriage.

INTRODUCTION

Group-based inequities (i.e., disparities between racial, ethnic, gender, national origin, sexual orientation, and other groups in access to resources, rights, and protections) have been well documented, even in the present, post-civil rights era. Extensive studies (e.g., Council of Economic Advisors, 1999; Zweigenhaft and Domhoff, 1998) have documented pervasive disparities that cannot be accounted for without making reference to discrimination, across numerous domains of life. Innovative techniques for unveiling biased attitudes (e.g., Crosby *et al*., 1980; Greenwald and Banaji, 1995) and behavior (e.g., Ayres, 2001; Bertrand and Mullainathan, 2003; Correll *et al*., 2002) reveal that group-based inequities are at least in part due to continuing prejudice and discrimination. Even survey research that indicates generally improving explicit attitudes toward minorities

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also shows that a substantial proportion of the American population approves of racial segregation, with approximately 40% disapproving of interracial marriage (e.g., Schuman *et al*., 1997).

Despite the prevalence of such inequities and the processes, such as institutional and individual discrimination, in place to perpetuate them, there is considerable resistance to policies intended to redress them. Some of this opposition no doubt arises from nonprejudiced, principled objections, sometimes arising from libertarian views about government intervention. But much of the basis for such opposition appears to come from ideologies and beliefs that serve the function of rationalizing policy positions that have the effect of perpetuating or even exacerbating inequities. The present analysis considers a set of those beliefs, examining statements exemplifying them, made by opinion leaders such as politicians, news columnists, pundits, and academics. Scientific (logical, mathematical, and empirical) analyses are brought to bear on assessing the validity of these beliefs.

Legitimizing Beliefs/Ideologies

All societies have group-based inequities, but most modern societies have aspirations toward equality for all members. This discrepancy requires some psychological effort to tolerate (Jost and Banaji, 1994). Legitimizing ideologies and beliefs can serve to reconcile this dissonance by providing rationalizations for inequality. As Jost and Major (2001a) explain, "attitudes, beliefs, and stereotypes serve to legitimize social arrangements and to provide ideological support for social and political systems" (Jost and Major, 2001a, p. 4) and specific policy positions (see Jost and Major, 2001b, for a comprehensive compilation of theories and research on the psychology of legitimacy).

Much of the research on group-based inequities and legitimacy has focused on how subordinate groups legitimize their disadvantage and therefore do not challenge the system (e.g., Ellemers, 2001; Jost, Burgess, and Mosso, 2001; Jost and Banaji, 1994; Olson and Hafer, 2001; Major and Schmader, 2001). In this vein, Sidanius and colleagues (Sidanius *et al*., 2001; Sidanius and Pratto, 1999) make a useful distinction between "consensual" and "dissensual" beliefs (i.e., those that are shared by high and low status groups versus those that are not, respectively). They note, however, that legitimizing beliefs (or "myths," in their terminology) tend to be consensual because when shared by low status groups legitimizing myths are more effective in sustaining the hierarchical system (e.g., by preventing rebellion).

Perhaps the most fundamental legitimizing beliefs with regard to social inequities are what Ridgeway (2001) calls "status beliefs," which are beliefs about the actual value or worth of different people and groups. In some sense such status beliefs are related to ideology more generally, with conservatives being more accepting of inequality (e.g., Bobbio, 1996; Jost, Glaser, Sulloway, and Kruglanski, 2003; Muller, 2001). However, in the contemporary public discourse on civil rights

policies, explicit expression of such beliefs is typically taboo and therefore unavailable. Consequently, more subtle legitimizing beliefs, such as the belief that society is meritocratic, which nevertheless require a certain indifference to group-based inequities, are more common and will be the focus of the present analysis. These constitute one type of what Jost and colleagues (e.g., Jost and Hunyady, 2005) would refer to as *system-justifying beliefs*.

This is not to say that status beliefs are not influential; it is just that they are unlikely to appear overtly in most current political or public policy discourse. Furthermore, *system-justifying* beliefs may at least in part serve only as surface rationalizations for underlying status beliefs, although this is not necessarily the case. Sniderman and Tetlock (1986) demonstrated that at least some opposition to affirmative action can be attributed to "principled conservative" (or perhaps more precisely, libertarian) objections to threats to individual opportunities.

It is useful in this realm to distinguish between policy attitudes that support reducing inequities and those that serve to maintain the inequities. Sidanius and colleagues, in their work on Social Dominance Theory (SDT), refer to related constructs—"hierarchy-enhancing" and "hierarchy-attenuating" beliefs. SDT legitimizing ideologies mostly have to do with differences between groups with regard to value and deservingness, which clearly serve to justify inequities. In the present analysis, I will focus primarily on beliefs that enable one to oppose or support inequity-attenuating policies (such as affirmative action or hate crime statistics legislation). Most of these beliefs presume that equality (at least equality of opportunity) is desirable, whereas hierarchy-enhancing ideologies may explicitly support inequality. In either case, these ideologies serve to perpetuate inequality.

Case Studies in Legitimizing Beliefs

To better understand the role of the psychology of legitimizing beliefs in policy attitudes, it is useful to examine several cases in which we can compare beliefs to empirical or historical evidence. Legitimizing beliefs will be illustrated with public statements by opinion leaders. Several cases (affirmative action, desegregation, colorblindness/racial privacy, same-sex marriage, and hate crime laws) will be discussed first to illustrate the breadth of the phenomenon of legitimizing beliefs with regard to civil rights policies. Subsequently, more in-depth, empirically based examinations of beliefs about racial disparities in capital punishment and about racial profiling will be provided.

Affirmative Action

Affirmative action is "the expenditure of energy or resources by an organization in the quest for equality among individuals from different, discernible groups"

(Crosby, 2004, p. 5). This technically precise definition does not necessarily reflect common conceptions of affirmative action which are, in part, determined by implementations that have deviated from what Crosby (2004) describes as the "classical" policy. Nevertheless, the U.S. Supreme Court has consistently reined in such deviations, prohibiting, for example, the racial or gender quotas that are sometimes associated with affirmative action. At its core, affirmative action entails "affirmative" (i.e., proactive) steps to ensure that typically underrepresented groups are represented (primarily in schools and jobs) in proportion to the qualified applicant pools from their groups.

Affirmative action policies presuppose that there is not yet equality of opportunity. Otherwise, affirmative steps to ensure it would not be necessary. Hence, a legitimizing belief that supports opposition to affirmative action holds that *there is equal opportunity, and discrimination is not prevalent in contemporary society*.

This belief is exemplified by statements from Ward Connerly, the University of California Regent who sponsored the successful 1996 ballot measure (Proposition 209) banning affirmative action in California government practices. Connerly has asserted, for example, "Most Americans believe that all of us are created equal and that success is ensured by discipline, hard work, aspiration, and belief in the individual" (Connerly, 2002). It is important to note that, while ignoring the possibility of different levels of success, Connerly attributes success (in fact, "ensured" success) to qualities of the individual and his or her motives and behaviors, explicitly disregarding the role of discrimination or disparities in opportunities due to family or community resources. A corollary to this belief is what can be called the "momentum metaphor" (versus the "inertia metaphor") for civil rights, which holds that once basic principles of equality (e.g., the Fourteenth Amendment,[2] the Brown vs. Board of Education ruling) are set in place, society will naturally roll toward equality. A second corollary holds that discrimination is rare because those who discriminate will be punished by the free market, at least in highly competitive markets (Becker, 1957). Discriminating employers will limit their pool of applicants, overlooking talented people who will serve competitors. Consequently, they will be deterred from discriminating or selected out of the market. Setting aside that discriminators are unlikely to recognize that they have underperformed as a consequence of discrimination, that there is no guarantee that competitors will not also discriminate, and that there are psychological "rewards" for discriminating (e.g., not having to interact with people against whom one is prejudiced) that may offset the financial costs, empirical research (as referenced above, e.g., Ayres, 2001; Bertrand and Mullainathan, 2003; Council of Economic Advisors, 1999; Schuman *et al*., 1997; Zweigenhaft and Domhoff, 1998) clearly indicates that prejudice and discrimination are still prevalent. Consequently, the

[2]It should be noted that, while the Fourteenth Amendment is often held up as a milestone in American civil rights, it explicitly restricted the guarantee of federal voting rights to men.

claim that affirmative action is unwarranted because discrimination is extinct is not supportable.

A more subtle legitimizing belief, which allows (though tends to understate) that group-based disparities in opportunities exist, holds that affirmative action violates fundamental American values at least as much as the existing inequities do. This view is exemplified by Yale Law Professor Peter Schuck's assertion that, "Affirmative action in its current form, however well-intentioned, violates the distinctive, deeply ingrained cultural and moral commitments to legal equality, private autonomy, and enhanced opportunity that have served Americans well—even though they have not yet served all of us equally well" (Schuck, 2002a; p. 27). Here, the emphasis on "*legal* equality" grants superior status to *de jure* rules (i.e., those that are codified, even if not practiced), over de facto rules (i.e., those that in reality dictate people's outcomes). This focus allows one to disregard very real disparities in access and outcomes in deference to a legal ideal. Similarly, the emphasis on "*private* autonomy" gives preference to the right of each individual even if, in the aggregate, the common good is not well served. Finally, the notion of "*enhanced* opportunity" implies that everyone has opportunities. This argument, being difficult to falsify, serves to distract from the very real disparities in opportunities that arise for minorities and women.

A legitimizing belief (perhaps one held by more liberal people) that can be seen as supporting affirmative action holds that affirmative action itself is benign—that it does not have adverse effects. It is difficult to find public statements that explicitly endorse this view, but it is reasonable to assume that many supporters of affirmative action at the very least fail to consider that programs that utilize preferences (e.g., giving weight to minority status) can have the effect of depriving qualified high status group candidates of opportunities. While such programs are not consistent with classical definitions of affirmative action (Crosby, 2004), nor the post-Clinton "mend it, don't end it" era manifestations, and have in fact been deemed unconstitutional by the Supreme Court, there have been many instances of such programs (e.g., those overturned in The Court's 1978 Bakke and the 2003 Gratz v. Bollinger cases).

Nevertheless, it is not clear that there is a widely held belief among supporters of affirmative action that it is benign. To the contrary, statements in support often grant that there are negative consequences of affirmative action, "You can believe (as I do) that affirmative action is often a justifiable form of discrimination, but you cannot sensibly believe that it isn't discrimination at all" (Michael Kinsley, Editor of Slate.com, in the *Washington Post*, September 30, 2001). Furthermore, social scientific analyses of affirmative action often acknowledge that when preferences are involved, discrimination is present (e.g., Krieger, 1998) and that the specter of affirmative action can serve to stigmatize minorities and females (e.g., Crosby, 2004; Heilman *et al*., 1992, 1998; Pratkanis and Turner, 1996). It has also been noted, however, that in the absence of an effective system for enforcing antidiscrimination law, affirmative action may be the acceptable lesser of two

evils (Krieger, 1995, 1998), and that strategies can be employed to eliminate the stigmatizing effects of affirmative action (Pratkanis and Turner, 1996).

Colorblindness

An alternative strategy to affirmative action aimed at promoting racial equality is "colorblindness." Although this ideal ostensibly has the same goal as affirmative action, it is starkly different in its approach. Rather than focusing on racial categories to ensure equal opportunity, the colorblind approach calls for ignoring race. In the words of Ward Connerly, who sponsored the ill-fated 2003 "Racial Privacy Initiative" (Proposition 54)[3] aimed at barring California government agencies (including universities) from categorizing people by race, ethnicity, color, or national origin (RECNO): "There is no reason the government should classify its citizens along lines of skin color, ethnic background or where their ancestors came from" (Connerly, 2002).

The legitimizing belief that Connerly appears to hold for this policy stance is that *ignoring race/ethnicity will lead to greater equity and social harmony*. This belief is reflected in an official response on the Proposition 54 website to a "frequently asked question" (FAQ), "By helping California government stop obsessing about race, RPI will unite us to create a colorblind state for our children and grandchildren, one that is more respectful of the inherently private and complex nature of racial identity" (http://www.racialprivacy.org/content/faq/need.php). Not surprisingly, given that Connerly is one of the chief detractors of affirmative action, this belief appears predicated on the same premise that undergirds opposition to affirmative action; that discrimination is obsolete. This belief is evidenced in a commentary on Connerly's American Civil Rights Coalition website by prominent affirmative action opponent Shelby Steele. Steele, arguing in favor of the Racial Privacy Initiative, claims that racism is a profitable myth propagated by liberals, and that "arrayed against all this is a much smaller 'conservative' debunking industry that tirelessly argues that today racial disparities are rarely the result of ongoing racism. We are dissenters from the corrupt priority of chasing the profits in racism over human development" (Steele, 2002). Simultaneously, and somewhat paradoxically, advocates of colorblindness believe that the adoption of a colorblind mentality is necessary for preventing discrimination.

No doubt, when employment, admissions, and other resource allocation decisions are made without consideration of race, ethnicity, or gender for that matter, discrimination on those bases is precluded. This might lead one to advocate for colorblind decision-making (unless the institution wishes to implement affirmative action to promote diversity and/or redress historical inequities). However, the application of colorblindness to governmental policies has been more far-reaching.

[3]Originally dubbed the "Racial Privacy Initiative," once a certified ballot initiative, the proposal became officially known as "Classification by Race, Ethnicity, Color, or National Origin" (CRECNO).

Specifically, Connerly's Racial Privacy Initiative sought to preclude state government from not only making decisions based on RECNO, but gathering RECNO data and even classifying people on the basis of RECNO with existing data. The rationale was that by forcing the government (where control is possible) to ignore RECNO, the broader society would move in the direction of colorblindness. This colorblindness (i.e., the absence of perception of racial differences) would, in turn, promote equality and social harmony.

Psychological research strongly contradicts this theory. First, a long tradition of research indicates that humans make group-based categorizations involuntarily and ubiquitously (e.g., Bruner, 1957; Fazio *et al*., 1995; Gaertner and McLaughlin, 1983; Tajfel, 1978). Of even more direct relevance, research has shown that the adoption of a "colorblind" (as opposed to a "multicultural") mindset leads to greater racial bias on both implicit and explicit measures (Richeson and Nussbaum, 2004). These results may derive from "rebound" effects resulting from attempts to suppress thoughts about group category differences. In fact, Macrae *et al*. (1994) demonstrated that attempts to suppress stereotypes about a group ultimately yielded more extreme stereotype-based descriptions. These findings build on Wegner's (1989) well-supported theory that thought suppression typically has "ironic" effects. Consequently, simply willing oneself to be "colorblind" is likely to be inadequate, if not counterproductive, in ameliorating discrimination and inequities.

In addition to the psychological analysis, policy analysis indicates that sweeping colorblind policies (e.g., CRECNO) are ill-advised. Specifically, in projecting the impact of the CRECNO initiative, Michaelson *et al*. (2003) concluded that the type of data the state would have been prohibited from collecting and using are necessary for meeting societal objectives such as monitoring discrimination, litigating discrimination, conducting health-related research, and law enforcement. Tellingly, Connerly's co-sponsor of the affirmative action-banning Proposition 209, Thomas Wood, opposed Proposition 54 because it would make enforcement of 209 difficult, if not impossible. Perhaps the primary reason that colorblindness policies are unlikely to reduce inequity is because contemporary discrimination is most often perpetrated not by institutions, but by independent actors who obtain their social category information informally (e.g., through meeting applicants or inferring race, ethnicity, or gender from names and addresses). Consequently, the legitimizing belief that forced colorblindness will promote equality does not appear supported, unless the related belief, that discrimination is obsolete, is also correct, which it appears not to be, as discussed above.

Same-Sex Marriage

There are several bases of opposition to granting the right to homosexual couples to marry, chief among these being religious arguments referencing biblical

prohibitions on sodomy. However, the most common public argument to emerge reflects the legitimizing belief that *same-sex marriage undermines the family institution*.

The most influential opponent of same-sex marriage, President George W. Bush, stated, in this regard, that, "The union of a man and a woman is the most enduring human institution, honored and encouraged in all cultures and by every religious faith." Similarly, and with more immediate effect, a three-judge panel of the United States Court of Appeals (2004) for the 11th Circuit ruled with regard to adoption by same-sex parents in Florida, whose legislature had banned such adoptions, that with regard to "alternative family arrangements, none has proven as enduring as the marital family structure, nor has the accumulated wisdom of several millennia of human experience discovered a superior model." The US Supreme Court recently declined to hear an appeal of this decision.

In addition to posing an impossible dilemma for would-be homosexual adoptive parents by prohibiting same-sex marriage while prohibiting adoption by same-sex couples because they lack the family structure of marriage, Florida law exhibits an acute double standard that belies the legitimizing beliefs supporting discrimination against homosexuals: First, Florida allows gays and lesbians to serve as foster parents. Furthermore, Florida allows single heterosexuals (clearly not meeting the standard of "marital family structure") to adopt children. In fact, one quarter of adoptions in Florida are by single people. Florida law also allows for the case-by-case consideration of adoption applications from those with failed previous adoptions, a history of substance abuse, and a history of domestic violence (Greenhouse, 2005). There is no blanket ban on these categories in the interest of excluding suboptimal family situations for adoptees.

Further promoting the optimal family structure argument against same-sex marriage, the Family Research Council's web-publication of "Ten Arguments From Social Science Against Same-Sex 'Marriage"' (Family Research Council, web-posting) attempts to legitimize opposition with the following putatively scientific claims:

- Children hunger for their biological parents;
- Children need fathers;
- Children need mothers;
- Evidence on parenting by same-sex couples is inadequate;
- Evidence suggests children raised by homosexuals are more likely to experience gender and sexual disorders;
- Same-sex "marriage" would undercut the norm of sexual fidelity within marriage;
- Same-sex "marriage" would further isolate marriage from its procreative purpose;
- Same-sex "marriage" would further diminish the expectation of paternal commitment;

- Marriages thrive when spouses specialize in gender-typical roles;
- Women and marriage domesticate men;

A full-length article would be required to consider the evidence for and against the above claims. However, if one were to accept that the research is accurately depicted and appropriately applied, it would at least appear to support the argument that same-sex marriage is suboptimal for childrearing purposes—although the sole item that directly addresses that (the fourth in the list) is supported by a claim only that studies reporting comparable outcomes for children of same-sex parents are not conclusive. Aside from this, only the fifth item (regarding "gender and sexual disorders") provides an argument that same-sex marriage, to the extent that it increases the rate of same-sex parenting, may be uniquely harmful. The remaining arguments can be applied to other forms of unconventional parenting—single parents (by choice, separation/divorce, vows of celibacy, or widowing), adoptive (i.e., nonbiological) parenting, parenting by people who have become infertile and therefore cannot further procreate, or parenting by people with gender-atypical roles (e.g., working mothers). Consequently, a simple rhetorical analysis of the leading arguments against policies allowing same-sex marriage reveals the underlying legitimizing belief—that same-sex marriage undermines the institution of the family—to be inadequate, if not wholly unsupported.

Hate Crime

Criminal acts of violence, intimidation, or destruction that are motivated by bias against a group to which the victim or victims belong (a.k.a., hate crimes) disproportionately affect minority groups, especially Jews, African Americans, and homosexuals (Federal Bureau of Investigation, 2004). Consequently, policies designed to deter or lessen the impact of hate crimes primarily benefit minority groups. The primary policies that have been instituted with regard to hate crime are data collection, such as the federal Hate Crimes Statistics Act (HCSA) of 1990, and federal and state sentencing enhancement laws which add time to prison terms when intergroup hate can be established as a motive for a given crime.

Although there is broad consensus that hate crimes are abhorrent and should be prevented, there is considerable opposition by some policy-makers to data collection and sentence enhancements. A legitimizing belief that often accompanies opposition to hate crimes legislation is that *hate crime laws overburden the criminal justice system*, either through requiring excessive data collection or congesting courts with cases that really reflect lesser crimes.[4] The Georgia State Supreme Court, for example, recently ruled to negate the state's existing hate

[4]A "legitimizing belief" of sorts that is popular in the social sciences, despite admonitions to the contrary (Reed *et al*., 1987) is that hate crimes result from economic deprivation (e.g., Hovland and Sears, 1940; Tolnay and Beck, 1995), but recent analyses strongly indicate that this is not the case (Glaser *et al*., 2002; Green *et al*., 1998, 1999). Nevertheless, this persistent belief could serve to

crime law for being "unconstitutionally vague" because it used an "any bias or prejudice" criterion (Botts v. The State, October 25, 2004). This type of belief is most often exhibited in opposition to the inclusion of gender as a protected status in hate crime legislation. In fact, despite efforts by liberal US lawmakers, gender has never been included in the HCSA, but eventually crimes motivated by misogyny were included in the Violence Against Women Act in 1994 (Jenness and Grattet, 2001).

Such opposition is based on a curious denial of a basic tenet of hate crime laws, which is that they apply to *dimensions* and not to categories. For example, when the Federal Bureau of Investigation collects hate crime statistics from other law-enforcement agencies, as mandated by the HCSA, included in the category of "race" are not solely anti-minority hate crimes. Rather, anti-White hate crimes are included as well. Likewise, anti-Protestant hate crimes are logged, as are anti-heterosexual. All categories, and therefore all people, are covered under this scheme, and nevertheless, the courts are not overburdened with hate crime cases, which are, in fact, quite rare. The same logic would apply to including anti-female (and anti-male) hate crime by adding gender as a protected status. The high standard of proof for demonstrating bias-motivated intent is high enough alone to keep caseloads manageable (e.g., Apprendi v. New Jersey, US Supreme Court, June 26, 2000).

Racial Bias in Capital Punishment

Aside from the obvious legitimizing myth that the death penalty is justified because it has a deterrent effect, a belief that is not supported empirically (see e.g., Levitt, 2002), one belief that may serve to sustain support for capital punishment despite concern over disproportionate impact on racial minorities, is that *there is no racial bias in the administration of the death penalty*. A corollary to this belief, in response to the plain statistics revealing racial disparities, is that *Blacks are more likely to get the death penalty solely because they are more likely to commit violent crimes*.

Confronted with the fact that nearly 70% of federal capital defendants are Black or Hispanic, the US Department of Justice (DOJ) responded in a formal report that, "The offenses that may lead to homicides and capital charges are not evenly distributed across all population groups" (US DOJ, 2001). However, this claim is incorrect because the determining factor appears to be not so much the nature of the offenses as the race of the victims. According to the Federal Death Penalty Resource Counsel Project (as cited in Eggen, 2002), from 2000 to 2002, the US Justice Department pursued the death penalty for Blacks charged with killing Whites approximately three times as often as for Whites charged

trivialize concerns that hate crimes reflect serious group conflict, while suggesting that they are no more controllable than are economic cycles.

with killing Blacks. Furthermore, an earlier congressional report revealed that "racial minorities are being prosecuted under federal death penalty law far beyond their proportion in the general population or the population of criminal offenders" (Subcommittee on Civil and Constitutional Rights Committee on the Judiciary, 1994, summary).

Despite years of research findings indicating racial disparities in the administration of the death penalty (e.g., Baldus *et al*., 1998; United States General Accounting Office, 1990), recent research provides an understandable basis for believing there is no racial bias in American capital punishment. However, further examination reveals this reasoning to be superficial. Specifically, Blume *et al*. (2004) conducted an extensive analysis of death penalty data and found that over the past 23 years, a slightly lower proportion of Black murderers were given the death penalty, but that this was driven by the fact that the death penalty was very rarely awarded when the victims were Black, which is by far the most common case. When victims were White, the death penalty was most likely to be given, but significantly more so when the offender was Black. Hence, there is a clear and dramatic racial bias in the administration of the death penalty that is determined by both the race of the offender and the race of the victim.

The belief that there is no racial bias in the death penalty is perhaps based in part on the assumption that racial bias operates explicitly, as evidenced by this DOJ statement: "[Federal prosecutors] are experienced legal professionals whose values and practices are shaped by general societal attitudes and the specific values of the legal system that strongly condemn discrimination based on race or ethnicity" (US DOJ, 2001). The presumption evidenced in this statement is that, absent a deliberate, coordinated attempt to discriminate, discrimination does not happen. Psychological research on subtle and implicit forms of bias strongly indicate otherwise (e.g., Correll *et al*., 2002), as does experimental research directly testing the effect of race on judgments of guilt and sentencing (e.g., Sommers and Ellsworth, 2001).

With regard to the influence of this particular legitimizing belief on policy positions, the connection between beliefs about bias in the administration of the death penalty and support for that policy have been directly investigated. Glaser *et al*. (2004) found, in a sample of university undergraduates, there was a strong, statistically significant, negative correlation between believing there is racial bias in the administration of the death penalty and support for the death penalty (see Table I). Furthermore, support for the death penalty also correlated significantly with political conservatism, which was also negatively related to believing there is racial bias in the death penalty and positively related to two measures of anti-Black prejudice. Glaser *et al*. (2004) also found that the belief that there is racial bias in the administration of the death penalty was negatively related to assignment of the death penalty to a hypothetical murderer ($r = -0.30$, $p < 0.05$). In other words, those who were less likely to agree that there is racial bias in capital punishment were more likely to indicate that the defendant should be executed. This relation

Table I. Adapted From Glaser *et al.* (2004)

	Internal motivation to control prejudice	Support for death penalty	Believe racial bias in death penalty administration	Conservatism	Sentence defendant to death
Anti-Black prejudice	-0.49^{***}	0.46^{***}	-0.54^{***}	0.42^{***}	0.21^{*}
Internal motivation to control prejudice		-0.17	0.14	-0.26^{*}	0.03
Support for death penalty			-0.41^{***}	0.38^{***}	0.61^{***}
Believe racial bias in DP				-0.32^{**}	-0.30^{**}
Conservatism					0.29^{**}

$^{*}p < 0.05$; $^{**}p < 0.01$; $^{***}p < 0.001$.

was slightly (although not statistically significantly) stronger when the murderer was ostensibly Black ($r = -0.38$), suggesting that the denial of racial bias in the administration of the death penalty reflects at least in part attempts to legitimize policy positions that are actually motivated by indifference to inequities. This interpretation is bolstered by the strong negative correlation between belief in racial bias in the death penalty and measures of anti-Black prejudice, and perhaps even more compellingly by the strong correlation between anti-Black prejudice and support for the death penalty.

Similarly, Mitchell and Sidanius (1993) found that conservatism and Social Dominance Orientation (SDO) were positively related to support for the death penalty and that this was especially so for members of high status groups. Sidanius and colleagues (Sidanius *et al.*, 2001) have also observed a relation between support for the death penalty and the "belief that blacks get fair trials in the United States," in addition to endorsement of the Protestant Work Ethic and SDO. Conservative support for the death penalty may at least in part be explained by Sargent's (2004) finding that low need for cognition people (who may be more politically conservative, see e.g., Jost *et al.*, 2003) are more punitive, perhaps because they are less willing to make complex attributions about the factors contributing to a given crime. In sum, the belief that there is no racial bias in the administration of the death penalty, a belief more prevalent among conservatives, is directly related to support for the death penalty, but also to anti-Black prejudice. The accuracy of the belief, however, is strongly contradicted by criminal justice statistics.

Racial Profiling

Official and public sentiment toward racial profiling—the use of race, ethnicity, or national origin by law enforcement to determine suspicion—has been generally very negative. Nevertheless, policy initiatives to address racial profiling have been few and typically lacking enforcement mechanisms. In fact, members of the US Congress have been unable for several years to pass the End Racial

Profiling Act, which would grant power to federal agencies to enforce a ban on racial profiling. In 2003, the Bush Administration did proclaim a ban on racial profiling in federal law enforcement, but this administrative decree provided no evaluation or enforcement mechanism and, in fact, served instead to institutionalize racial profiling by making an explicit exception for national security.

A cluster of legitimizing beliefs appears to undermine support for enforceable bans on racial profiling. First, there is the belief that racial profiling is necessary because *police cannot describe criminals effectively without using race*. Yale Law professor Peter Schuck (in a journal article entitled "The case for profiling" that was republished repeatedly on the Internet) provides a good illustration of this legitimizing belief being used to support an equity-undermining policy position, "No one would think it unjust for [an airport security] officer to screen for Osama bin Laden, who is a very tall man with a beard and turban, by stopping all men meeting that general description. This is so not only because the stakes in apprehending him are immense but also because in making instantaneous decisions about whom to stop, the official can use gender, size, physiognomy, and dress as valuable clues." (Schuck, 2002b, p. 61). This belief is a relatively transparent rationalization because it clearly conflates racial profiling with suspect descriptions, but racial profiling does not involve suspect descriptions in the manner described by Schuck. Bin Laden is a specific suspect who has committed a specific crime. Racial profiling does not involve the investigation of a specific crime already committed by a specific individual suspect. As opponents of profiling put it, "Usually you have a crime and you are looking for a suspect. With racial profiling you have a suspect and you are looking for a crime."

Another legitimizing belief that supports policy inaction is that *racial profiling does not really happen*. Heather MacDonald, perhaps the leading conservative voice on racial profiling, writes that, "... since the advent of video cameras in patrol cars, installed in the wake of the racial profiling controversy, most charges of police racism, testified to under oath, have been disproved as lies" (MacDonald, 2001). MacDonald's primary basis for arguing that racial profiling does not happen, however, is the redefinition of the practice by differentiating between "hard" and "soft" profiling, with the former meaning using race as the sole factor for suspicion and the latter meaning including race among multiple factors. MacDonald then argues that hard profiling is intolerable discrimination, but that it is extremely rare. She maintains that soft profiling is a rational and acceptable police strategy.

Most students of intergroup relations would probably conclude that the use of race as a single factor for making a criminal justice decision reflects a blatant form of oppression. The term profiling, however, strongly implies the construction of a multifaceted description (a "profile" rather than a "category"), and is, in fact, derived from the earlier developed law enforcement procedure of criminal profiling, in which a suspect profile is developed in response to features of a particular crime (e.g., a serial murder). By redefining racial profiling as "hard

profiling," MacDonald makes profiling sound more like an aberration and therefore less worthy of policy intervention.

Racial profiling, even what MacDonald would call "soft profiling," is very difficult to document because data showing racial discrepancies in who is stopped by the police may only reflect different crime rates or different rates of authentically suspicious behavior. There is, nevertheless, considerable evidence that racial profiling does in fact happen with considerable frequency. In addition to survey research indicating that Black respondents are far more likely to report having been stopped by the police based on race (e.g., Newport, 1999) and enough anecdotal accounts to fill a book (e.g., Russell, 1998) are revelations from a number of states in the mid-1990s, including most prominently those from New Jersey, which included the disclosure of state police documents instructing highway patrol officers to employ profiles which included race and ethnicity in drug interdiction efforts. This evidence was supported by careful analysis, conducted by statistician John Lamberth, that was presented in court to demonstrate racial profiling had occurred in New Jersey (State v. Pedro Soto, 734 A. 2d 350 (N.J. Super. Ct. Law. Div. 1996), as cited in Harris, 2002). Lamberth employed "benchmarking" methods to account for differences in presence and behavior (e.g., traffic infractions) between White and minority drivers, concluding that minority drivers were stopped by New Jersey Troopers at rates disproportionate to their presence and behavior.

One of the more compelling empirical analyses providing evidence of racial profiling has come from the Office of the Attorney General of the State of New York (1999). Their investigation of New York City's aggressive "Stop and Frisk" program revealed not only that Black and Hispanic men were more likely to be stopped than were White men, but that among those who were stopped, Whites were most likely to be arrested, indicating that police had a lower threshold for suspicion for minorities who were stopped (see Ayres, 2002, for a discussion of such "outcomes tests").

The California Highway Patrol recently acknowledged that Latino drivers in the Central Valley were more likely to be subjected to "consent searches." This disparity is most likely indicative of racial profiling because consent searches, by definition, preclude the kind of basis for suspicion or probable cause that would be used to give a nonethnic explanation of ethnic disparities.[5]

There is considerable evidence—survey, anecdotal, and empirical—that racial profiling is widespread, unless it is defined narrowly as stops based solely on race. Recognizing that, mathematically, the inclusion of race, ethnicity, or national origin in a law-enforcement profile raises the probability that members of the targeted group or groups will be disproportionately stopped and arrested indicates that such "soft profiling" (in MacDonald's terminology) needs to be contended with as a policy problem.

[5]The CHP has, in response to this revelation, banned the use of consent searches.

Even for those who might acknowledge that racial profiling happens, another legitimizing belief undermines support for efforts to prohibit it. This belief holds that racial profiling is societally benign because it *has adverse effects on criminals only*. It is reflected in the comments of those who describe being profiled as a mere "inconvenience" (e.g., Wilson and Higgins, 2002)[6] or call for a simple "show of grace" by those who stopped and searched by airport security because of their national origin (e.g., Asghar, 2002). This belief dismisses the possibility that being stopped and searched by law enforcement can be publicly humiliating and stigmatizing, not to mention time consuming. Because racial profiling is likely to cause police to stop a disproportionate number of people from targeted groups, and because many, if not most, people stopped by the police are innocent of crime, profiling necessarily leads to higher rates of intrusions on the lives of innocent minority people relative to innocent Whites.

Furthermore, for relatives of criminals who are caught through profiling there is a disparate impact because they are more likely than relatives of White criminals to have their lives and family structures disrupted by the absence of wage earners, the added costs of legal representation, the demoralization of children, etc. While some may find it difficult to find fault in depriving people of criminal members of their families, the advantage this system poses for Whites (and other less profiled groups) is in conflict with American principles of equality of opportunity. Similarly, the combination of racial profiling and felon voting rights disenfranchisement laws has the further implication that minority groups may be less well represented in government due, not to higher crime rates, but to higher enforcement rates.

Perhaps the most influential and pervasive legitimizing belief with regard to racial profiling is that *it is efficient and therefore rational*. This reasoning—focus attention where crime is most likely and you will reduce crime the most—is intuitively appealing and is widely evidenced. With regard to counterterrorism, Indiana University Professor of Humanities and Law Fedwa Malti-Douglas made this argument in the *New York Times*, noting the seeming conflict of interest due to her Middle Eastern ethnicity, "There will be more Richard Reids and John Walker Lindhs, who will not be found through profiling. Yet it is a fact that the particular terrorist group sworn to our destruction, Al Qaeda, is made up largely of Middle Easterners. It is not unreasonable to direct increased attention to passengers with some connection to the Middle East" (Malti-Douglas, 2002).

With regard to the more traditional, drug war profiling, noted criminologist James Q. Wilson made this argument on the editorial page of the *Wall Street Journal*, asking rhetorically, "Black men are six to eight times more likely to

[6]The core of Wilson and Higgins's (2002) complaint is that random airport security searches unnecessarily burden people (e.g., elderly, White women) who have an extremely low probability of being a threat. This overlooks the fact that for random searches to serve as a deterrent they have to be, and appear, truly random, so that they cannot be circumvented, and that random searches and profiling are not mutually exclusive but, rather, are complementary security tactics.

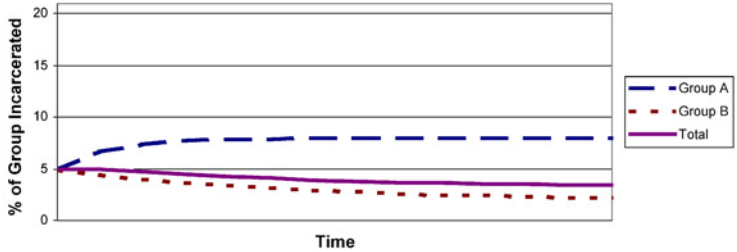
commit violent crimes than are white men. When the police patrol the streets trying to prevent crime, should they stop white and black men at the same rate?" (Wilson and Higgins, 2002). The most likely reason for the uncertainty ("6 to 8") in Wilson's Black-to-White violent crime ratio is that it is probably based on crime victimization surveys, not crime reports. This is problematic with regard to justifying racial profiling because profiling is typically employed in "victimless" crimes, primarily drug crimes, where survey research indicates that White and Black rates of illicit drug use are approximately equal (Substance Abuse and Mental Health Services Administration, 1999) and where police stop and search data indicate that Whites who are searched by the police are more likely than Blacks who are searched to possess contraband (Lundman, 2004).[7]

More importantly, even if Blacks or Middle Easterners are certain to have a higher rate of a targeted criminal behavior, the utility of using race or ethnicity in identifying suspects of such crimes is very limited because of the low base rates for such crimes (especially terrorism). Here, the logical fallacy of "affirming the consequent" is relevant because, while it may be logical, for example, to say that all terrorists are Middle Eastern (although we know for a fact that this is not true), it is absurd to say that all (or even a nontrivial proportion of) Middle Easterners are terrorists (see Glaser, 2002, for a more thorough discussion).

Even if we assume that there is a nontrivial racial disproportion in proneness to commit a certain type of crime (say illicit drug possession or transportation), there is reason for concern about the efficacy of racial profiling to improve police efficiency and thereby reduce crime. To address this concern, and in the absence of useful, available data on actual criminality rates and profiling rates, I have conducted mathematical simulations to model the effects of racial profiling on police efficiency (i.e., capturing more criminals with fixed resources) and criminal justice disparities (i.e., incarcerating disproportionate numbers of minorities) (see Glaser, 2005, for a full report).

This model attempts only to simulate the effect of profiling as it is consensually defined (as the police stopping members of one group more than members of other groups). It is assumed that those among the stopped who are actually criminals will be arrested and incarcerated. With these simple assumptions we can test the effect that profiling has on criminal capture rates. The model is tested under varying conditions—with different criminality rates and different profiling rates. A primary finding is that, even when the targeted group does not have a higher criminality rate, over time, profiling leads to disproportionate incarcerations of members of that group. Furthermore, when the targeted group does have a higher criminality rate, the long-term gains in criminal captures tend to be modest, and sometimes even net losses (if profiling is extreme) because the continued focus

[7]Findings that searched Whites are more likely than searched Blacks to possess contraband cannot be interpreted as proving that Blacks have a lower drug crime rate than do Whites, primarily because Blacks tend to be searched at higher rates than are Whites. However, they do indicate that White drug courier rates are comparable to those of Blacks.



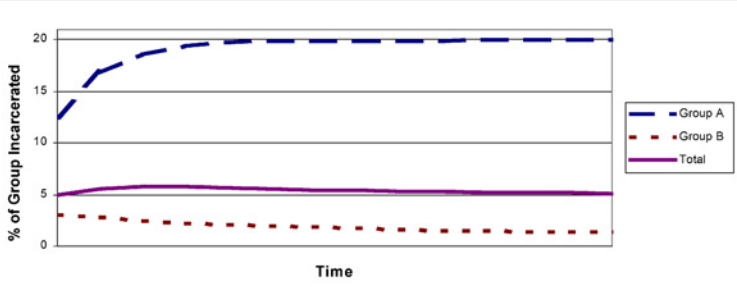
Group	% of Population	Criminality Rate	Incarcerated at Start	Stop Rate
A	20%	10%	5%	20%
B	80%	10%	5%	1.25%
Total	100%	10%	5%	5%

Fig. 1. Effect of racial profiling over time: No criminality differences. (From Glaser, 2005).

on one group, while its at-large criminal population is depleted due to profiling, becomes counterproductive.

Figure 1 depicts the effect on incarceration rates for two groups when they have equal criminality rates but the minority group is profiled. In this case, the profiling necessarily leads to more captures of the targeted group (Group A), but the overall net effect is fewer criminal captures because police continue to focus attention on a group with a declining at-large criminal population while ignoring a group whose at-large criminal population is rising due to that same neglect.

Figure 2 depicts a case in which the targeted group really does have a substantially higher criminality rate (four times that of the other group). In this case, there is an initial increase in criminal captures that attenuates over time, ultimately asymptoting back at the status quo, which is 5%.



Group	% of Population	Criminality Rate	Incarcerated at Start	Stop Rate
A	20%	25%	12.5%	20%
B	80%	6.25%	3.125%	1.25%
Total	100%	10%	5%	5%

Fig. 2. Effect of racial profiling over time: Criminality differences. (From Glaser, 2005).

Table II depicts a range of degrees of profiling, depicted as the ratio of percents of the populations stopped for the two groups. This table is restricted to a scenario in which the targeted group has a criminality rate four times that of the remaining population. What is clear from this simulation is that the most efficient (in terms of increased captures given fixed resources) degree of profiling is when the profiling ratio corresponds to the criminality ratio (4 to 1). Deviations in either direction diminish capture rates, but it is noteworthy that when profiling becomes extreme (e.g., a 20-to-1 or even a 25-to-0 ratio), that capture rates actually dip under the status quo—i.e., there is negative efficiency.

Also of interest is the finding that the same long term capture rate (54.9% of criminals) is achieved with a less dramatic stop ratio (3-to-1) while having a less disparate impact on the two populations (17.04 and 2.6% of Groups A and B incarcerated, respectively, vs. 17.86 and 2.4% with a 4-to1 ratio). This final capture rate takes longer to achieve and has a lower early peak than with the 4-to-1 ratio, but the long-term effect is nevertheless the same for criminal incapacitation and less dramatic for group disparities in incarceration. In conclusion, racial profiling, as modeled with straightforward, simple assumptions, has at best modest, and perhaps negative efficiency value, creates dramatic criminal justice disparities even where criminality disparities do not exist, and is therefore not as "rational" as its legitimizing belief holds.

It is worth noting that racial profiling could also prove "efficient" (i.e., more criminals are incapacitated per stop/police time when a particular group is targeted) if the targeted group is *more likely to be convicted and incarcerated having been stopped*. This could be independent of their actual criminality rate. If there are biases against this group at later points in the criminal justice process (e.g., decision to arrest, decision to prosecute, decision to try juveniles as adults, decision to convict, decision to incarcerate vs. parole, disparities in quality of legal representation), profiling that group will indeed lead to higher rates of incarcerations per stops even if the group does not have a higher criminality rate. It is hard to imagine, however, that this is a crime-mitigation process that would be endorsed by anyone but the most fairness-indifferent policy-makers.

In sum, despite public outcries, policies intended to mitigate racial profiling that go beyond mere symbolism have received only narrow support, considerable apathy, and some stiff resistance. Underlying this pattern of response appears to be a cluster of legitimizing beliefs that enable policy makers and enforcers alike to dismiss the prevalence and/or the adverse consequences of racial profiling, and overestimate the benefits. Logical and empirical analyses contradict these beliefs.

Overarching Themes

The preceding analysis examined a set of cases of policy areas involving group-based biases and inequities. Affirmative action, colorblindness/racial

Table II. Effects of Profiling Rates, Assuming 25:6.25—or 4:1—Criminality Ratio

Profiling rate			Outcomes		
% Group A stopped per cycle[a]	% Group B stopped per cycle[b]	Ratio of percentages stopped (Group A: Group B)	% of Group A incarcerated (% of Group A criminals incarcerated)[c]	% of Group B incarcerated (% of Group B criminals incarcerated)[c]	% of total incarcerated (% of total criminals incarcerated)[c]
25.00	0.00	25:0	20.83 (83.3)	0.00 (0.0)	4.17 (41.7)
20.83	1.04	20:1	20.16 (80.6)	1.08 (17.2)	4.89 (48.9)
20.00	1.25	16:1	20.00 (80.0)	1.25 (20.0)	5.00 (50.0)
16.67	2.08	8:1	19.23 (76.9)	1.84 (29.4)	5.32 (53.2)
15.00	2.50	6:1	18.75 (75.0)	2.08 (33.3)	5.42 (54.2)
13.89	2.78	5:1	18.38 (73.5)	2.23 (35.7)	5.46 (54.6)
12.50	3.13	4:1	17.86 (71.4)	2.40 (38.5)	5.49 (54.9)
10.71	3.57	3:1	17.04 (68.2)	2.60 (41.7)	5.49 (54.9)
8.33	4.17	2:1	15.62 (62.5)	2.84 (45.5)	5.40 (54.0)
6.82	4.55	1.5:1	14.42 (57.7)	2.98 (47.6)	5.27 (52.7)
5.00	5.00	1:1	12.50 (50.0)	3.13 (50.0)	5.00 (50.0)

Note. Glaser (2005).

[a]Group A is the minority group, comprising 20% of the total population and, in this set of scenarios, having a criminality rate of 25%.

[b]Group B is the majority group, comprising 80% of the total population and, in this set of scenarios, having a criminality rate of 6.25%.

[c]The percent of group incarcerated statistics reflect the percent after repeated cycles and the trends have reached their asymptotes. Numbers in parentheses are the percent of the *criminal* population within each group that would be incarcerated as a function of racial profiling.

privacy, hate crime data collection and penalty enhancements, same-sex marriage, capital punishment, and racial profiling were considered in order to examine prominent beliefs that underpin attitudes toward policies intended to address inequities and, in the case of hate crime, intergroup violence. The list of policies and beliefs is not intended to be exhaustive, but does include some of the most prominent civil rights issues facing the United States, with an emphasis on criminal justice where racial disparities are particularly dramatic.

At the very least, it is evident that many beliefs held and promoted by prominent opinion leaders are tenuous, but there also appear to be some consistent themes that flow through the beliefs identified here, themes that may be identified as more fundamental legitimizing ideologies that give rise to policy-specific beliefs.

Discounting Group-Based Inequities

The most prominent and perhaps most fundamental theme is the discounting of group-based inequities. This appears with regard to affirmative action, where discrimination is often described as obsolete, thereby undermining the need for policies to compensate for it. The denial of discrimination and disparate opportunities is also a necessary belief in support of colorblind policies, at least as manifested in the Racial Privacy Initiative wherein it is assumed that, in the absence of unequal opportunity, the only barrier to interracial and interethnic harmony is racial and ethnic categorization. Denial, even at the highest levels of law enforcement, that there are racial disparities in the administration of the death penalty enables support of that policy. And denials that racial profiling happens, in part facilitated by narrowly defining racial profiling as relying solely on race (or ethnicity, or national origin), probably undermine the motivation to effectively ban the practice. The ample empirical evidence (cited above) that prejudice and discrimination are still common, if not ubiquitous, poses a profound challenge to this belief orientation.

Overestimating Societal Costs of Inequity-Reducing Policies

For those who may yield to the evidence of inequity, there are still ideological bases for opposing policies aimed at combating discrimination or reducing inequities. For example, in the case of hate crime laws mandating data collection or sentence enhancements, opponents of such policies do not deny that hate crimes occur and pose a societal problem. Some do, however, claim that data collection poses an intolerable administrative burden (and, in fact, hundreds of law-enforcement agencies are not in compliance with the Hate Crimes Statistics Act). Furthermore, opponents of hate crime laws argue that special protection of certain categories will congest the criminal justice system. This contrasts with reality because the burden for proving hate motivation is high, and consequently

hate crime prosecutions are very rare. Such beliefs also contradict simple logic, as in the case of opposition to the inclusion of gender as a protected status, which would not differ administratively from the prior inclusion of other dimensions such as race, ethnicity, and religion.

Similarly, opponents of laws and regulations aimed at tracking and prohibiting racial profiling often cite the time expenditures for filling out additional demographic items in police stop reports. Law-enforcement groups are of mixed minds about this burden, but by no means endorse the notion that data collection is undesirable (e.g., Fridell, 2004; Fridell *et al*., 2001). These arguments involve a concern that at least on its surface appears primarily pragmatic.

Beliefs legitimizing opposition to same-sex marriage bear a superficial resemblance to these societal cost beliefs because they involve not so much a denial of the inequity of depriving same-sex partners the right to marry, but a concern over the effect of same-sex marriage on traditional marriage and family structure. Often there is the claim by opponents of same-sex marriage that they hold no bias against homosexuals but rather worry, as the Family Research Council's list (Family Research Council, web-posting) articulated that same-sex marriage is bad for families and children. Because the harms asserted by same-sex marriage opponents apply as well to other forms of nontraditional, but uncontested family structures (e.g., single parents, adoptive parents, divorce, etc.), the cold pragmatism of the opposition is likely just a veneer for heterosexism, and hence a legitimizing strategy.

Valuing Public Safety Above Civil Liberties

The complement of overestimating the societal costs of equity-enhancing policies is overestimating the benefits of equity-attenuating policies. Specifically, the claim that racial profiling is an efficient strategy, when coupled with the belief that the public safety garnered by this efficiency is worth the civil liberties lost by treating minority groups differently, can lead to endorsement of racial profiling of the type exhibited by Wilson and Higgins (2002). This belief has strong intuitive appeal, but does not stand up to logical scrutiny (Glaser, 2005). Perhaps more importantly, the component that involves accepting the subordination of one group's (or groups') civil liberties to the interest of public safety involves not so much a legitimizing belief as an unadulterated ideological stance—one that values public safety above civil liberties.

Discounting the Negative Effects of Inequity-Attenuating Policies

Those who oppose inequity-attenuating policies are not unique in being susceptible to legitimizing beliefs. It is possible that many who support affirmative action turn a blind eye to the likelihood that individual applicants (in particular,

White males) will in some instances be deprived educational, employment, and other opportunities due to affirmative action programs that involve preferences for candidates from underrepresented groups. This state of affairs is implicated in legal cases that have revealed the use of quotas and point systems in education admissions programs, policies that have been deemed illegal. Nevertheless, the denial of adverse effects of policies like affirmative action does not appear to be influential in support for such policies. Most proponents of affirmative action acknowledge the potential for "reverse discrimination" but reason that the aggregate good of raising equality of opportunity for many whose groups have been historically oppressed and who contend with negative stereotypes outweighs the risk of reducing opportunity for some whose groups have been historically privileged and who benefit from positive stereotypes. In this sense, this "liberal" orientation places societal equity above individual opportunity.

In conclusion, while there are a variety of types of legitimizing beliefs that undergird opposition to inequity-attenuating policies, a possible first-order legitimizing ideology common to those belief constellations might be a general indifference to inequities, or at least a higher prioritization of other ideals such as safety and cost-effectiveness. Indeed, the prevalence of such a legitimizing ideology is consistent with Social Dominance Theory's (Sidanius and Pratto, 1999) basic premise that people vary in their acceptance of, or even preference for, social hierarchies. Because social dominance orientation correlates with political conservatism, and because political conservatives have a higher tolerance for inequality (Jost *et al*., 2003; Muller, 2001), it should not be surprising that those who tend to adopt the beliefs that serve to perpetuate inequities tend to be conservative, and no doubt those who adopt legitimizing beliefs that serve to attenuate inequities, tend to be liberal. Many of the specific beliefs relating to civil rights policies appear to be merely emergent properties of a more fundamental ideological orientation.

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REFERENCES

Asghar, R. (2002). A show of grace for safety's sake. *Los Angeles Times*, July 6, p. B23.

Ayres, I. (2001). *Pervasive Prejudice? Unconventional Evidence of Race and Gender Discrimination*, University of Chicago Press, Chicago.

Ayres, I. (2002). Outcome tests of racial disparities in police practices. *Justice Res. Pol*. 4: 131–142.

Baldus, D., Woodworth, G., Zuckerman, D., Weiner, N. A., and Broffitt, B. (1998). Racial discrimination and the death penalty in the post-Furman era: An empirical and legal overview, with recent findings from Philadelphia. *Cornell Law Rev.* 83: 1630–1770.

Becker, G. S. (1957). *The Economics of Discrimination*, University of Chicago Press, Chicago.

Bertrand, M., and Mullainathan, S. (2003). Are Emily and Greg more employable than Lakisha and Jamal? A field experiment on labor market discrimination. *National Bureau of Economic Research working paper series no. 9873*.

Blume, J., Eisenberg, T., and Wells, M. T. (2004). Explaining death row's population and racial composition. *J. Emp. Legal Stud.* 1: 165–207.

Bobbio, N. (1996). *Left and Right*, Polity Press, Cambridge.

Bruner, J. S. (1957). On perceptual readiness. *Psychol. Rev.* 64: 123–152.

Connerly, W. (2002). *Kudos California! You Are Leading Our Nation in Restoring Basic Freedoms*. Retrieved from http://www.townhall.com/columnists/wardconnerly/wc20020412.shtml.

Correll, J., Park, B., Judd, C. M., and Wittenbrink, B. (2002). The police officer's dilemma: Using ethnicity to disambiguate potentially hostile individuals. *J. Pers. Soc. Psychol.* 83: 1314–1329.

Council of Economic Advisors. (1999). *Changing America: Indicators of Social and Economic Well-Being by Race and Hispanic Origin*. United States Government Printing Office, Washington, DC. Retrieved from http://w3.access.gpo.gov/eop/ca/index.html.

Crosby, F. J. (2004). *Affirmative Action is Dead; Long Live Affirmative Action*. Yale University Press, New Haven, CT.

Crosby, F. J., Bromley, S., and Saxe, L. (1980). Recent unobtrusive studies of Black and White discrimination and prejudice: A literature review. *Psychol. Bull.* 87: 546–563.

Eggen, D. (2002). Ashcroft aggressively pursues death penalty. *The Washington Post*, July 1, p. A1.

Ellemers, N. (2001). Individual upward mobility and the perceived legitimacy of intergroup relations. In J. T. Jost, and B. Major, (eds.), *The Psychology of Legitimacy: Emerging Perspectives on Ideology, Justice, and Intergroup Relations*). Cambridge University Press, Cambridge, UK, pp. 205–222.

Family Research Council. (web-posting). Ten Arguments From Social Science Against Same-Sex 'Marriage.' *In Focus, 266*. Retrieved from http://www.frc.org/get.cfm? i = IF04G01. Reprinted with permission of the Witherspoon Institute, Princeton, New Jersey, on whose website a version of it first appeared at www.winst.org/index2.html.

Fazio, R. H., Jackson, J. R., Dunton, B. C., and Williams, C. J. (1995). Variability in automatic activation as an unobtrusive measure of racial attitudes: A bona fide pipeline? *J. Pers. Soc. Psychol.* 69: 1013–1027.

Federal Bureau of Investigation. (2004). *Hate Crime Statistics: 2003*. US Department of Justice, Washington, DC.

Fridell, L. A. (2004). *By the Numbers: A Guide for Analyzing Race Data from Vehicle Stops*. Police Executive Research Forum, Washington, DC.

Fridell, L. A., Lunney, R., Diamond, D., and Kubu, B. (2001). *Racially Biased Policing: A Principled Response*. Police Executive Research Forum, Washington, DC.

Gaertner, S. L., and McLaughlin, J. P. (1983). Racial stereotypes: Associations and ascriptions of positive and negative characteristics. *Soc. Psychol. Quart.* 46: 23–30.

Glaser, J. (2002). The fallacy inherent in racial profiling. In Hazen, D., Hausman, T., Straus, T., and Chihara, M. (eds.), *After 9/11: Solutions for a Saner World*, Alternet.org, San Francisco, CA, pp. 65–67.

Glaser, J. (2005). *The efficacy and effect of racial profiling: A mathematical modeling approach*. Unpublished manuscript. University of California, Berkeley.

Glaser, J., Dixit, S., and Green, D. P. (2002). Studying hate crime with the Internet: What makes racists advocate racial violence. *J. Soc. Issues* 58: 177–193.

Glaser, J., Kahn, K. B., and Durant, S. (2004, June 27). Possibility of Death Sentence, Defendant Race, and Jurors' Judgments. Poster presented at the *Society for the Psychology Study of Social Issues*, Washington, DC.

Green, D. P., Abelson, R. P., and Garnett, M. (1999). The distinctive political views of hate-crime perpetrators and white supremacists. In Prentice, D. A., and Miller, D. T. (eds.), *Cultural Divides: Understanding and Overcoming Group Conflict*. Russell Sage Foundation, New York.

Green, D. P., and Cowden, J. A. (1992). Who protests: Self-interest and white opposition to busing. *J. Pol.* 54: 471–496.

Green, D. P., Glaser, J., and Rich, A. O. (1998). From lynching to gay-bashing: The elusive connection between economic conditions and hate crime. *J. Pers. Soc. Psychol.* 75: 82–92.

Greenhouse, L. (2005, January 11). Justices refuse to consider law banning gay adoption. *The New York Times*, p. A13.
Greenwald, A. G., and Banaji, M. R. (1995). Implicit social cognition: Attitudes, self-esteem, and stereotypes. *Psychol. Rev.* 102: 4–27.
Harris, D. A. (2002). *Profiles in Injustice: Why Racial Profiling Cannot Work*. The New Press, New York.
Heilman, M. E., Battle, W. S., Keller, C. E., and Lee, R. A. (1998). Type of affirmative action policy: A determinant of reactions to sex-based preferential selection? *J. Appl. Psychol.* 83: 190–205.
Heilman, M. E., Block, C. J., and Lucas, J. A. (1992). Presumed incompetent? Stigmatization and affirmative action efforts. *J. Appl. Psychol.* 77: 536–544.
Hovland, C. I., and Sears, R. R. (1940). Minor studies of aggression: VI. Correlation of lynchings with economic indices. *J. Psychol.* 9: 301–310.
Jenness, V., and Grattet, R. (2001). *Making Hate a Crime: From Social Movement to Law Enforcement*. Russell Sage, New York.
Jost, J. T., and Banaji, M. R. (1994). The role of stereotyping in system-justification and the production of false consciousness. *Br. J. Soc. Psychol.* 33: 1–27.
Jost, J. T., Burgess, D., and Mosso, C. O. (2001). Conflicts of legitimation among self, group, and system: The integrative potential of System Justification Theory. In Jost, J. T., and Major, B. (eds.), *The Psychology of Legitimacy: Emerging Perspectives on Ideology, Justice, and Intergroup Relations*, Cambridge University Press, Cambridge, UK, pp. 363–388.
Jost, J. T., Glaser, J., Sulloway, F., and Kruglanski, A. W. (2003). Political conservatism as motivated social cognition. *Psychol. Bull.* 129: 339–375.
Jost, J. T., and Hunyady, O. (2005). Antecedents and consequences of system-justifying ideologies. *Curr. Directions Psychol. Sci.*, in press.
Jost, J. T., and Major, B. (2001a). Emerging perspectives on the psychology of legitimacy. In Jost, J. T., and Major, B. (eds.), *The Psychology of Legitimacy: Emerging Perspectives on Ideology, Justice, and Intergroup Relations,* Cambridge University Press, Cambridge, UK, pp. 3–30.
Jost, J. T., and Major, B. (eds.). (2001b). *The Psychology of Legitimacy: Emerging Perspectives on Ideology, Justice, and Intergroup Relations*. Cambridge University Press, Cambridge, UK.
Krieger, L. H. (1995). The contents of our categories: A cognitive bias approach to discrimination and equal employment opportunity. *Stanford Law Rev.* 47: 1161–1248.
Krieger, L. H. (1998). Civil rights Perestroika: Intergroup relations after affirmative action. *Cal. Law Rev.* 86: 1251–1333.
Levitt, S. D. (2002). Deterrence. In Wilson, J. Q., and Petersilia, J. (eds.), *Crime: Public Policies for Crime Control*, Institute for Contemporary Studies, Oakland, CA, pp. 435–450.
Lofton v. Secretary of the Department of Children and Family Services, No. 01-16723 (United States Court of Appeals, 11th Circuit, 2004, January 28).
Lundman, R. J. (2004). Driver race, ethnicity, and gender and citizen reports of vehicle searches by police and vehicle search hits: Toward a triangulated scholarly understanding. *J. Crim. Law Criminol.* 94: 309–349.
MacDonald, H. (Spring, 2001). The myth of racial profiling. *City J.* 14–27.
Macrae, C. N., Bodenhausen, G. V., Milne, A. B., and Jetten, J. (1994). Out of mind but back in sight: Stereotypes on the rebound. *J. Pers. Soc. Psychol.* 67: 808–817.
Major, B., and Schmader, T. (2001). Legitimacy and the construal of social disadvantage. In Jost, J. T., and Major, B. (eds.), *The Psychology of Legitimacy: Emerging Perspectives on Ideology, Justice, and Intergroup Relations*, Cambridge University Press, Cambridge, UK, pp.176–204.
Malti-Douglas, F. (2002). Let them profile me. *The New York Times, Op-Ed*, February 6.
Michaelson, R., Probert, M., Swearingen, V., and Wolf, M. (2003). The Classification of Race, Ethnicity, Color, or National Origin (CRECNO) Initiative: A Guide to the Projected Impacts on Californians" (2003, August 21). Institute of Governmental Studies. Policy Papers, Berkeley, CA. Paper pp. 2003–1.
Mitchell, M., and Sidanius, J. (1993). Group status and ideological asymmetry: The case of capital punishment, political conservatism and social dominance orientation. *Nat. J. Sociol.* 7: 67–93.

Muller, J. Z. (2001). Conservatism: Historical aspects. In Smelser, N. J., and Baltes, P. D. (eds.), *International Encyclopedia of the Social and Behavioral Sciences*, Elsevier, Amsterdam, pp. 2624–2628.

Newport, F. (1999). *Racial profiling is seen as widespread, particularly among young Black men. Gallup News Service, December 9*. The Gallup Organization, Princeton, NJ.

Office of the Attorney General of the State of New York. (1999). The New York City Police Department's "Stop and Frisk" Practices: A Report to the *People of the State of New York From the Office of the Attorney General*. OAGSNY, New York.

Olson, J. M., and Hafer, C. L. (2001). Tolerance of personal deprivation. In Jost, J. T., and Major, B. (eds.), *The Psychology of Legitimacy: Emerging Perspectives on Ideology, Justice, and Intergroup Relations*, Cambridge University Press, Cambridge, UK, pp. 157–175.

Pratkanis, A. R., and Turner, M. E. (1996). The proactive removal of discriminatory barriers: Affirmative action as effective help. *J. Soc. Issues* 52: 111–132.

Reed, J. S., Doss, G. E., and Hulbert, J. S. (1987). Too good to be false: An essay in the folklore of social science. *Sociol. Inquiry* 57: 1–11.

Richeson, J. A., and Nussbaum, R. J. (2004). The impact of multiculturalism versus color-blindness on racial bias. *J. Exp. Soc. Psychol.* 40: 417–423.

Ridgeway, C. L. (2001). The emergence of status beliefs: From structural inequality to legitimizing ideology. In Jost, J. T., and Major, B. (eds.), *The psychology of legitimacy: Emerging perspectives on ideology, justice, and intergroup relations*, Cambridge University Press, Cambridge, UK, pp. 257–277.

Russell, K. K. (1998). *The Color of Crime: Racial Hoaxes, White Fear, Black Protectionism, Police Harassment, and Other Macroaggressions*. New York University Press, New York.

Sargent, M. (2004). Less Thought, More Punishment: Need for Cognition Predicts Support for Punitive Responses to Crime. *Pers. Soc. Psychol. Bull.* 30: 1485–1493.

Schuck, P. (2002a). Affirmative Action: Don't Mend It or End It—Bend It. *Brookings Rev.* 20: 24–27.

Schuck, P. (2002b). A case for profiling. *Am. Lawyer*, January, pp. 59–61.

Schuman, H., Steeh, C., Bobo, L., and Krysan, M. (1997). *Racial Attitudes in America: Trends and Interpretations* (Revised Edition). Harvard University Press, Cambridge, MA.

Sidanius, J., Levin, S., Federico, C. M., and Pratto, F. (2001). Legitimizing ideologies: The Social Dominance approach. In Jost, J. T., and Major, B. (eds.), *The Psychology of Legitimacy: Emerging Perspectives on Ideology, Justice, and Intergroup Relations*, Cambridge University Press, Cambridge, UK, pp. 176–204.

Sidanius, J., and Pratto, F. (1999). *Social Dominance: An Intergroup Theory of Social Hierarchy and Oppression*, Cambridge University Press, New York.

Sniderman, P. M., and Tetlock, P. E. (1986). Symbolic racism: Problems of motive attribution in political analysis. *J. Soc. Issues* 42: 129–150.

Sommers, S. R., and Ellsworth, P. C. (2001). White juror bias: An investigation of prejudice against Black defendants in the American courtroom. *Psychol. Public Pol. Law* 7: 201–229.

Steele, S. (2002). Making colorblindness a reality. Commentary, March 29. American Civil Rights Coalition, Sacramento, CA. Retrieved from http://www.acrc1.org/shelby.htm.

Subcommittee on Civil and Constitutional Rights Committee on the Judiciary. (1994). *Racial Disparities in Federal Death Penalty Prosecutions: 1988–1994*, One Hundred Third Congress, Washington, DC.

Substance Abuse and Mental Health Services Administration. (1999). *National Household Survey on Drug Abuse: Summary Report 1998*, Substance Abuse and Mental Health Services Administration, Rockville, MD.

Tajfel, H. (1978). *Differentiation Between Social Groups*, Academic Press, London.

Tolnay, S. E., and Beck, E. M. (1995). *A Festival of Violence: An Analysis of Southern Lynchings, 1882–1930*, University of Illinois Press, Urbana, IL.

United States Department of Justice. (2001, June 6). *The Federal Death Penalty System: Supplementary Data, Analysis and Revised Protocols for Capital Case Review*, USDOJ, Washington, DC.

United States General Accounting Office. (1990). *Death Penalty Sentencing: Research Indicates Pattern of Racial Disparities*, United States General Accounting Office, Washington, DC.

Wegner, D. M. (1989). *White Bears and Other Unwanted Thoughts: Suppression, Obsession, and the Psychology of Mental Control*, Guilford, New York.
Wilson, J. Q., and Higgins, H. R. (2002). Profiles in courage. *The Wall Street Journal*, Commentary, January 10.
Zweigenhaft, R. L., and Domhoff, G. W. (1998). *Diversity in the Power Elite: Have Women and Minorities Reached the Top*? Yale University Press, New Haven, CT.