

*The*  
Quest  
*for*  
Cosmic  
Justice

THOMAS SOWELL

THE SIR RONALD TROTTER LECTURE

1996

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# Contents

*The Sir Ronald Trotter Lecture* 1

*Thomas Sowell* 3

*Introduction by Douglas Myers,  
chairman, New Zealand Business Roundtable* 5

*The Quest for Cosmic Justice* 9

*Notes* 33



# *The Sir Ronald Trotter Lecture*

**S**IR RONALD TROTTER was the first chairman of the New Zealand Business Roundtable in its present form, a position he held until 1990.

Among his many other roles he has been chief executive and chairman of Fletcher Challenge Limited, chairman of the Steering Committee of the 1984 Economic Summit, a director of the Reserve Bank of New Zealand, chairman of the State-Owned Enterprises Advisory Committee, chairman of Telecom Corporation, chairman of the National Interim Provider Board, a chairman or director of several major New Zealand companies, and chairman of the board of the Museum of New Zealand.

He was knighted in 1985 for services to business.

This lecture was instituted by the New Zealand Business Roundtable to mark Sir Ronald Trotter's many contributions to public affairs in New Zealand. It is given annually by a distinguished international speaker on a major topic of public policy.

The second Sir Ronald Trotter lecture was given by Dr Thomas Sowell at the Wellington Town Hall on 7 November 1996.



# Thomas Sowell

**T**HOMAS SOWELL is a Senior Fellow at the Hoover Institution, Stanford University, a position he has held since 1980. Previously he was Professor of Economics at the University of California, Los Angeles, from 1974 to 1980.

He has a PhD in Economics from the University of Chicago and degrees from Columbia and Harvard universities.

His recent books include *Migrations and Cultures* (Basic Books, 1996); *The Vision of the Anointed* (Basic Books, 1995); *Race and Culture* (Basic Books, 1994); *Inside American Education* (The Free Press, 1993); and *A Conflict of Visions* (William Morrow, 1987). He has received a number of honours and awards, and his books have been translated into several languages.

Dr Sowell has also written hundreds of scholarly articles, book reviews and essays, and has tackled a diverse range of subjects including economics, the history of ideas, law, race discrimination, affirmative action and culture. He is a regular contributor to *Forbes* magazine, and has a syndicated column in the United States.





*Introduction by  
Douglas Myers,  
chairman,  
New Zealand Business  
Roundtable*

**D**R SOWELL AND MRS SOWELL, ministers of the Crown, ladies and gentlemen.

On behalf of the New Zealand Business Roundtable, I would like to welcome you all to this dinner and thank you for coming. We are delighted at the tremendous interest in this occasion which, as you know, caused us to move to this larger venue. I would like to extend a special welcome to the Swedish business delegation which is with us this evening.

This is the second Sir Ronald Trotter lecture. Sir Ron was the first chairman of the Business Roundtable in its present form. We inaugurated this lecture series last year to mark his enormous contribution to business and public affairs in this country.

The aim of the lecture is to feature an outstanding international speaker on a major topic of public policy. This evening we are truly privileged to have as our speaker Dr Thomas Sowell. Tom, it is a real pleasure to have you back in New Zealand and to welcome Mary to our shores on this occasion.

So much has been written about Dr Sowell that it is hard to know where to start.

He grew up in a ghetto, dropped out of high school, worked in menial jobs and, after time in the Marine Corps, went back to college under the GI Bill. He studied at Columbia, Harvard, and the University of Chicago where he got a PhD in economics.

Dr Sowell worked in the Department of Labour, was offered the post of Secretary of Education in the Reagan administration, has had an extremely distinguished academic career, and is currently a Senior Fellow at the Hoover Institution at Stanford University.

He has published book-length works at the killing pace of almost one a year for the last twenty years, a mass of scholarly articles and a syndicated column in *Forbes* magazine. His subjects range from economics to economic history, law, education, welfare, race and culture. His writings have often been controversial but, as he once put it, “possibly cranks are necessary to lead the first suicide attacks on orthodoxy that enable those who come after to establish a bridgehead and win the victory”.

We need those ‘cranks’, to use Dr Sowell’s description, to tell us unpalatable truths about our society and the ways in which we mismanage it. To be successful in such a role takes great personal courage and persistence—it is much easier to keep quiet. It’s therefore very satisfying to note the respect which Dr Sowell’s writings are now commanding. They have contributed to turning the tide of thinking on issues like affirmative action in the United States. In the referendum earlier this week Californian voters struck down state affirmative action programmes—the most dramatic manifestation of this turnaround to date.

Tom writes unmistakably in English, not algebra or psychobabble, and is famous for his mordant wit and turns of phrase. Some years ago he published a glossary of common political terms. Among the entries:

Compassion:	The use of tax money to buy votes
Insensitivity:	Opposition to the use of tax money to buy votes

Equal opportunity:	Preferential treatment
Private greed:	Making money by selling people what they want
Public service:	Gaining power to make people do as you want them to
Simplistic:	Argument you disagree with but cannot answer
Non judgmental:	Blaming society
Chilling effect:	Holding journalists responsible for their misdeeds

And on white liberal guilt he said: “Blacks in America should declare a moral amnesty for whites, so they would stop making things worse”. Tom, if you ever need asylum, we’d love to have you here.

Dr Sowell visited New Zealand in 1988 and again in 1989, although his talks went largely unreported. But the climate of ideas has shifted a long way in this country since that time, and is much more receptive today to the kind of messages I believe he will bring us.

Dr Sowell’s topic tonight is the issue of justice, particularly its social dimension. The essence of public policy is about what makes for the good society. Its concern is about people, and particularly about the most vulnerable members of our society. But as Dr Sowell has often emphasised, good intentions are not enough—the wrong strategies make problems of poverty and disadvantage worse. Hard heads are needed as well as soft hearts.

In this country we have made great progress in turning around many declining economic and social indicators, but we are still grappling with difficult problems. We have not yet reached a consensus about how to think about concepts of justice, and how to devise better practical strategies for helping those most in need.

I can think of no better person to cast light on some of these issues for us than Dr Thomas Sowell. It is now my very great pleasure to invite him to speak to us on *The Quest for Cosmic Justice*.



# The Quest for Cosmic Justice

**E**QUALITY, ALONG WITH FREEDOM AND JUSTICE, are among the major themes of Western civilisation. For some people, equality almost coincides with justice, so that large inequalities are treated as inequities. Yet, despite the attractiveness of equality, in its various guises, the real world is permeated with glaring inequalities of a magnitude that virtually no one finds attractive. It was not a radical writer, but the great free-market economist Milton Friedman, who referred to “gross inequities of income and wealth” which “offend most of us” and declared: “Few can fail to be moved by the contrast between the luxury enjoyed by some and the grinding poverty suffered by others”.<sup>1</sup>

While such views have often been associated with the political left, many of the thinkers and writers identified as ‘conservative’ have expressed similar views, objecting not only to economic inequalities but also to extreme inequalities of power and respect observed all around them. Adam Smith, the father of laissez-faire economics, deplored not only the callousness of the rich and powerful of his day, “who never look upon their inferiors as their fellow-creatures”, but deplored also our “obsequiousness to our superiors”, and the “foolish wonder and admiration” shown toward “the violence and injustice of great conquerors”.<sup>2</sup>

Although a few conservative writers have tried to justify inequalities on grounds of 'merit', most have not. The late Nobel Prize-winning economist and free market champion Friedrich A. Hayek, for example, declared, "the manner in which the benefits and burdens are apportioned by the market mechanism would in many instances have to be regarded as very unjust *if* it were the result of a deliberate allocation to particular people". The only reason he does not regard it as unjust is that "the particulars of a spontaneous order cannot be just or unjust".<sup>3</sup> Moreover, even those few writers who have tried to justify inequalities on merit grounds are nevertheless conceding that inequalities are things requiring justification. Virtually no one regards these inequalities as desirable in themselves. If the world had chanced to be more equal than it is, it is hard to see who would have had any grounds for complaint, much less just grounds.

Nor should we imagine that quantifiable economic differences or political and social inequalities exhaust the disabilities of the less fortunate. Affluent professional people have access to all sorts of sources of free knowledge and advice from similarly educated friends and relatives, and perhaps substantial financial aid in times of crisis from some of the same sources, as well as greater access to those with political power, whether through direct contacts or through the simple fact of being able to make an articulate presentation in terms acceptable to political elites. Moreover, the fact that the affluent tend to have the air of knowledgeable people makes them less likely to become targets for many of the swindlers who prey on the ignorant and the poor. Even in legitimate businesses, "the poor pay more", as the title of a book said some years ago, because it costs more to deliver goods and services to low-income, high-crime neighbourhoods, where insurance and other costs are higher. In short, statistical inequalities do not begin to exhaust the advantages of the advantaged or the disadvantages of the disadvantaged.

With people across virtually the entire ideological spectrum offended by inequalities and their consequences, why do these inequalities

persist? Why are we all not united in determination to put an end to them? Perhaps the most cogent explanation was that offered by Milton Friedman:

A society that puts equality—in the sense of equality of outcome—ahead of freedom will end up with neither equality nor freedom. The use of force to achieve equality will destroy freedom, and the force, introduced for good purposes, will end up in the hands of people who use it to promote their own interests.<sup>4</sup>

Whatever the validity of this argument—and one need only think of the horrors of Stalin, Mao, and Pol Pot to realise that painful possibilities are not mere fantasies—it rejects direct political equalisation because the costs are judged to be too high. And yet it finds no positive virtue in inequality. But what of those who do not reject the cost as too high? Do they simply have a different assessment of those costs and risks? Or do they proceed with little or no attention to that question?

A trivial example may illustrate some of the costs of correcting some kinds of inequalities and injustices. Just this year, in San Francisco, a relative of one of the city's supervisors telephoned a pizza company to ask to have a pizza delivered to his home. He was told that the company does not deliver pizza where he lives, which happened to be in a high-crime neighbourhood. Immediately there was an outburst of moral indignation for which San Francisco—and especially San Francisco politicians—are all too well known. A law was passed immediately, decreeing that anyone who makes deliveries to the public in any part of the city must make deliveries all over the city.

Here we have all the elements of what I would call 'cosmic justice'. Since most people, even in a high-crime neighbourhood, are not criminals, large numbers of innocent people have various additional costs imposed on them through no fault of their own—in this case, the cost of being unable to receive deliveries of food, furniture, packages and other things that other people take for granted. They are treated unequally. From a cosmic perspective, this is an injustice, in the sense that, if we were creating the universe from nothing, this is



not something that most of us would choose to include in it.

However, unlike God at the dawn of creation, we cannot simply say, "Let there be equality!" or "Let there be justice!". We must begin with the universe that we were born into and weigh the costs of making any specific change in it to achieve a specific end. We cannot simply 'do something' whenever we are morally indignant, unless of course we are San Francisco supervisors who disdain to consider costs. In this case, the increased costs would include dead truck drivers. In American high-crime neighbourhoods, the probability that a given young man will be killed is greater than the probability that a given American soldier would be killed in World War II.

Once we begin to consider how many deliveries are worth how many dead truck drivers, we have abandoned the quest for cosmic justice and reduced our choices to a more human scale.

Cosmic justice is not simply a higher degree of traditional justice, it is a fundamentally different concept. Some call it 'social justice', a term often used with great passion, but little or no definition. But, whether it is called social justice or cosmic justice, this approach differs fundamentally from traditional concepts of justice.

Traditionally, justice or injustice are characteristics of a process. A defendant in a criminal case would be said to have received justice if the trial was conducted as it should be, under fair rules and with the judge and jury being impartial. After such a trial, it would be said that "justice was done"—regardless of whether the outcome was an acquittal or an execution. Conversely, if the trial were conducted in violation of the rules and with a judge or jury showing prejudice against the defendant, this would be considered an unfair or unjust trial, even if it still proved to be impossible in the end to get the jurors to convict an innocent person.

Similar conceptions of justice or fairness extend beyond the legal system. A 'fair fight' is one in which both combatants observe the rules, regardless of whether that leads to a draw or to a one-sided beating. The 'career open to talents' or 'a level playing field' usually means that

everyone plays by the same rules and is judged by the same standards. Again, if the process itself meets that standard, then no matter what the outcome, 'you had your chance'. But this is not what is meant by those people who speak of 'social justice'. In fact, rules and standards equally applicable to all are often deliberately set aside in pursuit of 'social justice'.

What 'social justice' seeks to do is to eliminate undeserved disadvantages for selected groups. As in the San Francisco pizza delivery case, this is often done in disregard of the costs of this to other individuals or groups—or even to the requirements of society as a whole. When one considers a society such as Sri Lanka, torn apart by internal strife for decades, it is not purely fanciful to consider that other societies may become more polarised and contentious—to everyone's ultimate detriment—by similar schemes of preferential treatment for one segment of society. Inter-group relations in the United States, for example, have never been as good as they once were in Sri Lanka, before group preference schemes began to be imposed in the 1950s. Fortunately, inter-group relations in the United States are not as bad as in Sri Lanka today.

In its pursuit of justice for a segment of society, in disregard of the consequences for society as a whole, what is called 'social justice' might more accurately be called *anti-social* justice. Certainly there is nothing any more 'social' about this kind of justice than about any other kind of justice. All justice is inherently social. How can anyone be either just or unjust on a desert island?

The term 'cosmic justice' seems more accurate in that it attempts to eliminate injustices not only for selected groups but even for individuals—again, largely in disregard of the costs to others. It seeks to correct not only biased or discriminatory acts by individuals or by social institutions, but also unmerited disadvantages in general, from whatever source they may arise. In our criminal trials in America, for example, before a murderer is sentenced, the law permits the criminal's unhappy childhood to be taken into account. Seldom is there any claim

that the person murdered had anything to do with that presumptively unhappy childhood. In a recent notorious case in California, the victim was a twelve-year-old girl, who had not even been born when the murderer was supposedly going through his unhappy childhood. It is only from a cosmic perspective that his childhood had any bearing on the crime.

If punishment is meant to deter crime, whether by example or by putting existing criminals behind bars or in the graveyard (since we still have capital punishment in America), then mitigating that punishment in pursuit of cosmic justice presumably means reducing the deterrence and allowing more crime to take place at the expense of innocent people. At a more mundane level, the enormously increased amount of time required to ponder the imponderables of someone else's childhood (and related speculations) means that the criminal justice system as a whole operates more slowly and that other criminals are therefore walking the streets on bail while awaiting trial in an overloaded court system. A significant amount of the violent crimes committed in America are committed by those criminals who are walking the streets—and stalking the innocent—while awaiting trial. This too is one of the costs of the quest for cosmic justice.

Many, if not most, of the concerns billed as 'social justice' revolve around economic and social inequalities among groups. But the general principles involved are much the same as in other examples of the pursuit of cosmic justice. These principles have been proclaimed by politicians and by philosophers, from the soapbox to the seminar room and the highest judicial chambers. Such principles deserve closer scrutiny and sharper definition.

### *Meanings of Justice*

Back in the 1960s, President Lyndon Johnson made one of the classic statements of the vision of cosmic justice:

You do not take a man who, for years, has been hobbled by chains, liberate him, and bring him to the starting line of a race, saying, "You

are free to compete with all others”, and still justly believe you have been completely fair.<sup>5</sup>

Professor John Rawls’ celebrated treatise *A Theory of Justice* puts the case more generally. According to Rawls, “undeserved inequalities call for redress”, in order to produce “genuine equality of opportunity”.<sup>6</sup> This is “fair (as opposed to formal) equality of opportunity”.<sup>7</sup> In other words, having everyone play by the same rules or be judged by the same standards is merely ‘formal’ equality, in Professor Rawls’ view, while truly ‘fair’ equality of opportunity means providing everyone with equal prospects of success. Cosmic justice is not about the rules of the game. It is about putting particular segments of society in the position that they would have been in but for some undeserved misfortune.

Such attitudes are found from college admissions offices to the highest courts in the land. Thus a long-time admissions director at Stanford University has said that she never required applicants to submit Achievement Test scores because “requiring such tests could unfairly penalise disadvantaged students in the college admissions process”, since such students, “through no fault of their own, often find themselves in high schools that provide inadequate preparation for the Achievement Tests”.<sup>8</sup> In short, all are not to be judged by the same rules or standards within the given process; pre-existing inequalities are to be counter-balanced.

‘Undeserved inequalities’ extend beyond prejudicial decisions made by others to encompass biological differences among individuals—the fact that women are not usually as large or as physically strong as men, for example—and profound differences in the geographical settings in which whole races and nations have evolved culturally,<sup>9</sup> not to mention individual and group differences in child rearing practices and moral values. Note that cosmic justice requires—or assumes—vastly more knowledge than is necessary for traditional justice. To apply the same rules to everyone requires no prior knowledge of his or her childhood, cultural heritage, philosophical (or sexual) orientation, or the innumerable historical influences to which the person’s forebears may have been subjected.

### *Requirements for Cosmic Justice*

If there are any human beings capable of making such complex assessments, they cannot be numerous. Put differently, the dangers of errors increase exponentially when we presume to know so many things and the nature of their interactions. In particular, it is all too easy to be overwhelmed by clear and tragic historic injustices—and to glide easily from those injustices to a *cause-and-effect* explanation of contemporary problems. We of course know that causation and morality are two different things. Too often, however, we proceed as if we did not recognise this distinction.

In the United States many of the social problems of the contemporary black underclass are almost automatically attributed to “a legacy of slavery”. The prevalence of fatherless families in the black ghettos, for example, has been widely explained by the lack of legally constituted families under slavery. But if one proceeds beyond plausibility and guilt to actually seek out the facts, an entirely different picture emerges. A hundred years ago, when blacks were just one generation out of slavery, the rate of marriage in the black population of the United States was slightly *higher* than that of the white population. Most black children were raised in two-parent families, even during the era of slavery, and for generations thereafter. The catastrophic decline of the black nuclear family began, like so many other social catastrophes in the United States, during the decade of the 1960s. Prior to the 1960s, the difference in marriage rates between black and white males was never as great as 5 percentage points. Yet today, that difference is greater than 20 percentage points—and widening, even though the nuclear family is also beginning to disintegrate among white Americans.<sup>10</sup> Whatever the explanation for these changes, it lies much closer to today than to the era of slavery, however disappointing that may be to those who prefer to see social issues as moral melodramas.

The tragic and monumental injustice of slavery has often been used as a causal explanation of other social phenomena, applying to both blacks and to whites in the Southern United States, where slavery was

concentrated—without any check of the facts or comparisons with other and more mundane explanations. The fact that there are large numbers of black Americans today who are not in the labour force has also been one of those things causally (and often rather casually) attributed to slavery. But again, if we go back a hundred years, we find that labour force participation rates among blacks were slightly *higher* than among whites—and remained so, well past the middle of the twentieth century. If we want to know why this is no longer so, again we must look to trends much closer to our own time.

For the white population as well, many observers of nineteenth century America saw striking social and economic differences between Southern whites and Northern whites—the Southerners having less education, poorer work habits, less entrepreneurship, more violence, and lower rates of invention, among other things. Even such astute observers as Alexis de Tocqueville attributed such differences to the adverse effects of slavery on the attitudes of Southern whites. Yet, if one traces back to Britain the ancestors of these Southerners, one finds the very same social patterns in these and other things, long before they crossed the Atlantic or saw the first black slave. Migrations from Britain, like migrations from many other countries, were from highly specific places in the country of origin to highly specific places in the country of destination. Most of the people who settled in the colony of Massachusetts, for example, came from within a 60-mile radius of a town in East Anglia. Those who settled in the South came from different regions with very different cultural patterns. Moreover, the cultural contrasts between these people that many would comment on in America had already been noted and commented on in Britain in earlier times, when these contrasts had nothing to do with slavery, which did not exist in Britain at that time.

We can all understand that even a great historic evil does not automatically explain all other subsequent evils. But we often proceed as if we did not understand that. Cancer may indeed be fatal, but it does not explain all fatalities, or even most fatalities.

The larger point here is how easy it is to go wrong, by wide margins, when presuming to take into account complex historical influences. The demands of cosmic justice vastly exceed those of traditional justice—and vastly exceed what human beings are likely to be capable of. The great US Supreme Court justice Oliver Wendell Holmes said that there may be some people who are simply born clumsy, so that they may inadvertently injure themselves or others—for which, presumably, they will not be blamed when they stand before the courts of heaven. But, in the courts of man, they must be held to the same standards of accountability as everyone else. We do not have the omniscience to know who those particular people are or to what extent they were capable of taking extra precautions to guard against their own natural tendencies. In other words, human courts should not presume to dispense cosmic justice.

No small part of the legal shambles of the American criminal justice system since the 1960s, accompanied by skyrocketing rates of violent crime, has resulted from attempts to seek cosmic justice in the courtrooms. In a series of US Supreme Court decisions in the early 1960s, various restrictions were placed on the police in their arrest and interrogation of suspects in criminal cases, and in the search of their property. The rationales for these restrictions included the claim—undoubtedly true—that inexperienced and amateurish criminals, ignorant of the law, were more likely to make admissions that would later prove to be fatally damaging to their own legal defence, while sophisticated professional criminals and members of organised crime syndicates were far less likely to trap themselves this way. Clearly this is an injustice from some cosmic perspective—and correcting this inequity among criminals was explicitly the perspective of the Attorney General of the United States and of the Chief Justice of the Supreme Court at that time.<sup>11</sup> However, as in other instances of the quest for cosmic justice, the costs to third parties were largely disregarded, pretended not to exist, or dismissed with some such lofty phrase as: “That is the price we pay for freedom”. Presumably, the United States was not a free country until the 1960s.

The most recent cause célèbre of the American criminal justice system has been the trial for murder of former football star O. J. Simpson, which has provoked widespread consternation, not only because of its 'not guilty' verdict in the face of massive evidence to the contrary, but also because of the sheer length of time that the trial took. It was more than a year after the murder itself before the trial concluded, even though Simpson was arrested within days after the body of his former wife was discovered. Those who take on the daunting task of defending the current American criminal justice system were quick to claim that it was the defendant's wealth, celebrity, and race which made the trial so long, as well as the verdict so unexpected. However, an even longer time elapsed in another contemporary murder case in which *none* of these factors was present, even though that suspect was arrested not long after that crime as well.

Nearly three years elapsed between the murder of twelve-year-old Polly Klaas in 1993 and the sentencing of her murderer, Richard Allen Davis, in 1996, even though there was such evidence against the killer that there was not even a claim by his defence attorney that Davis had not committed the crime. What could have taken so long then? Among other things, there were extended arguments over all sorts of legal technicalities—technicalities created not by legislation but by the judicial interpretations of our appellate courts, seeking to remove ever more remote dangers of injustice by creating the greater injustice of crippling a society's ability to defend itself in even the clearest cases of unquestioned guilt.

### *The Costs of Justice*

With justice, as with equality, the question is not whether more is better, but whether it is better at all costs. We need to consider what those who believe in the vision of cosmic justice seldom want to consider—the nature of those costs and how they change the very nature of justice itself.

There are so many very different conceptions of justice that we need



to begin with some examples of things that most of us can readily agree are unjust. Primogeniture—the practice of leaving an estate entirely to the eldest son—is something that most of us today would consider unjust to the other children. Arbitrarily selecting the ruler of a nation by a similar principle would likewise be widely objected to on moral grounds, among others.

Keeping an estate intact from generation to generation was intended not only to preserve the wealth it represented intact but also to avoid the loss of wealth that would occur if the land were broken up into smaller and smaller pieces with the succeeding generations. In other words, there are what economists call ‘economies of scale’ in production, and these can be lost as land is fragmented over time. The poverty in a number of countries has been attributed to the fact that there are minute landholdings in those countries, with a given farmer often having several of these tiny plots located at some distance from one another, requiring his working day to be similarly broken up and time lost in transit going from one place to another. In short, cosmic justice for heirs can mean unnecessary poverty for the society as a whole. This by itself does not justify primogeniture. It simply says that the costs of achieving justice matter. Another way of saying the same thing is that ‘justice at all costs’ is not justice. What, after all, is an injustice but the arbitrary imposition of a cost on an innocent person? And if correcting this imposes another arbitrary cost on another innocent person, is that not also an injustice? In the world of today, where most wealth is no longer in land but in financial assets which can be divided among heirs without such high costs, a very different situation exists, but this is not to say that primogeniture, where it existed, was without a rational or moral foundation.

Even those who proclaim the principles of justice, and even call them more important than other benefits—as Professor Rawls does—seem unlikely to act on such principles in real life. Imagine that a ship is sinking in the ocean with 300 passengers on board and only 200 life-preservers. The only just solution is that everyone drowns. But most

of us would probably prefer the *unjust* solution, that 200 lives be saved, even if they are no more deserving than those who perish. We would probably prefer it even if we suspected that the most selfish and ruthless of those on board would end up with the life preservers.

Even in less urgent circumstances, a similar principle applies. Imagine now that Professor Rawls has arranged an important and remunerative lecture tour in Europe, only to discover on the eve of his departure date from America that (1) an unjust local tax assessment of \$100 has been made against him, that (2) he has documents which can prove conclusively that he owes no such tax, and that (3) the time limits within which he is legally allowed to challenge the assessment are such that he would have to cancel his European lecture tour in order to achieve the just result to which he is entitled. Does anyone imagine that Professor Rawls would cancel his lecture tour, rather than pay the unjust tax? More to the point, if he did cancel the tour in order to fight that tax, would we regard him as a rational man of high principle, or as doctrinaire, a moral exhibitionist, or an egomaniac? We might also ask what Mrs Rawls or his other heirs would think about this decision that would make his estate less than it might otherwise have been.

While the great arena for the discussion of cosmic justice has been in social policy, the concept has been applied even in international relations, in matters involving grave decisions about war and peace. During the 1930s, when the shadow of an impending war hung over Europe, and weighty questions of military preparedness and military alliances had to be decided, there were still people in the Western democracies who regarded the Treaty of Versailles that ended the First World War as having been unjust to Germany. The perceived injustice became for them a reason to be tolerant of Hitler's policies and actions, as the Nazi regime began a massive military buildup, in preparation for wars of aggression. Looking back at events over which no one had any control served to distract attention from the urgent need to build offsetting military power to deter a future war that would dwarf in its horrors

even the appalling carnage of the First World War. Never has pre-occupation with cosmic justice had a higher price. Yet the power of the concept was demonstrated by the fact that, in the face of the gravest dangers, it prompted many to look back at the past, instead of ahead to a future which threatened the devastation of a continent, the slaughter of tens of millions of human beings, and the attempted extermination of entire races.

When it comes to social policy, some of those who consider themselves the most forward-looking are in fact most likely to look back at a history that is beyond anyone's power to change.

A historian writing about Czechoslovakia, for example, said that the policy of this newly-created state after the First World War was "to correct social injustice" and to "put right the historic wrongs of the seventeenth century".<sup>12</sup> But, presumably, no one from the seventeenth century was still alive at the end of the First World War. One of the many contrasts between traditional justice and cosmic justice is that traditional justice involves the rules under which flesh-and-blood human beings interact, while cosmic justice encompasses not only contemporary individuals and groups, but also group abstractions extending over generations, or even centuries.

A similar approach is found in the United States today, where issues of group 'reparations' have been raised—reparations to blacks for slavery or to the indigenous American Indian population for the dispossession of their ancestors and the collateral damage that went with it. Here again, the issue encompasses what can be called inter-temporal group abstractions, rather than simply flesh-and-blood contemporaries. Seldom is the claim made that black Americans alive at this moment are worse off than if their ancestors had been left in Africa. Any attempt to make that case with statistics on income, life expectancy, or numerous other variables would collapse like a house of cards. Ultimately, of course, what matters is not such objective data but how the individuals involved feel and react. Those who choose to make ringing denunciations cannot be contradicted by objective evi-

dence, since objective evidence is irrelevant to how they feel. However, it may be worth noting that the number of contemporary black Americans who have immigrated to Africa does not begin to approach the number of contemporary Africans who have immigrated to the United States.

Nevertheless, it remains painfully clear that those people who were torn from their homes in Africa in centuries past and forcibly brought across the Atlantic in chains suffered not only horribly, but unjustly. Were they or their captors still alive, the reparations and the retribution owed would be staggering. Time and death, however, cheat us of such opportunities for justice, however galling that may be. We can, of course, create new injustices among our flesh-and-blood contemporaries for the sake of symbolic expiation, so that the son or daughter of a black doctor or executive can get into an elite college ahead of the son or daughter of a white factory worker or farmer, but only believers in the vision of cosmic justice are likely to take moral solace from that. We can only make our choices among alternatives actually available, and rectifying the past is not one of those options.

The situation of the indigenous peoples of the Western Hemisphere is even more problematical. The question as to whether flesh-and-blood people of indigenous ancestry today would have been better off had the Europeans not invaded can scarcely be asked, because most flesh-and-blood contemporary America Indians would not exist if the Europeans had not invaded, since they are of European as well as indigenous ancestry. Nature is remarkably uncooperative with our moral categories. There is no way to unscramble the egg. Again, the sufferings of the native peoples of the Western Hemisphere were monumental, not only from the wars and depredations of the conquerors, but even more so from the European diseases which literally decimated the peoples of North and South America, with 50 percent mortality rates being common and 90 percent mortality rates not unknown. But time, unlike videotape, does not go backward.

Believers in the quest for cosmic justice do not give up easily,

however. In politics, in law, and in intellectual circles, statistical disparities between the achievements or performances of one group and those of the general population are often regarded as being proof of either the present-day consequences of past injustices or as evidence that the injustices of the past are persisting into the present as discrimination against the groups in question.

We have seen how easy it is to go wrong by a wide margin when dealing with history. It is equally easy to go wrong with contemporary statistics. If one goes through enough numbers, one will eventually come up with some statistics that seem to fit one's vision. These are what might be called 'Aha!' statistics. Other statistics which suggest opposite conclusions bring no 'Aha!'

A set of statistics that set off journalistic and political firestorms a couple of years ago showed that black applicants for mortgage loans were turned down at a higher rate than white applicants. *The Washington Post* declared that a "racially biased system of home lending exists",<sup>13</sup> and numerous other publications, politicians, and activists joined the chorus of denunciation. However, the very same set of statistics showed that white applicants were turned down a higher percentage of the time than Asian Americans. Yet these statistics brought no 'Aha!'—no claim that whites were being discriminated against in favor of Asian Americans—because this was not part of the prevailing vision. In short, numbers are accepted as evidence when they agree with preconceptions, but not when they don't.

Statistical comparisons implicitly assume that the groups being compared are indeed comparable on the relevant variables. Very often, however, they are not even close to being comparable. Closer scrutiny of the mortgage lending data showed that minority applicants for home loans had larger debt burdens, poorer credit histories, sought loans covering a higher percentage of the value of the properties in question, and were also more likely to seek to finance multiple-dwelling units rather than single-family homes, the former being considered the more risky investment.<sup>14</sup> Even so, 72 percent of the minority mortgage loan

applications were approved, compared with 89 percent of the white mortgage loan applications. This 17 percentage point difference shrank to 6 percentage points when relevant variables were held constant. Moreover, all of the remaining statistical difference could be traced to different loan approval rates at one bank. Why did the government not take legal action against this one white racist bank? Because it was neither white nor racist. It was a black-owned bank.

Incidentally, all of this occurred while a wave of bankruptcies was sweeping through American lending institutions. The idea that these institutions were passing up profits from paying customers when institutional survival was at stake might seem at least questionable to anyone with a rudimentary knowledge of economics. However, a rudimentary knowledge of economics is not a requirement for a career in politics, journalism, or the judiciary. Much the same problem of comparing groups that are not comparable undermines many studies of statistical disparities between women and men. Differences in income between the sexes are often regarded as proving discrimination, even though women are more often part-time workers, workers without as much continuous work history, and workers specialising in a different mix of occupations from those of men. Moreover, even claims that men and women with the 'same' education receive different pay are completely misleading. American women and men who have finished college do not have the 'same' education because (1) they specialise in different fields and (2) the proportion of those with college degrees who have also gone on to postgraduate study differs substantially between the sexes. Men outnumber women two-to-one at the master's degree level and by 59 percent at the PhD level. By field, women outnumber men by more than three-to-one among recipients of both bachelor's and master's degrees in education, while men outnumber women by more than five-to-one among recipients of bachelor's and master's degrees in engineering.<sup>15</sup> So long as engineers earn more than teachers, you are comparing apples and oranges when comparing men and women with the 'same' education.

When the statistics are such that they can be broken down minutely to compare men and women in the same fields, with the same continuous work experience, and with other comparable variables, the differences between the sexes vanish—or else reverse. More than 20 years ago, before there were any laws or government policies dealing with sex discrimination, women in their thirties who had never married and who had worked continuously since high school earned 4 percent more than men of the same description. In a study that I did of academics back in 1972, never-married women earned more than never-married men, whether the comparison was made at top-ranked colleges and universities or at others, and whether comparing published faculty members or those who had not been published.<sup>16</sup>

It would be possible to go through any number of other statistical comparisons and show why they are not valid.<sup>17</sup> But the more fundamental problem is with the presupposition that social groups would be proportionally represented in various institutions or at various income levels, in the absence of bias and discrimination. On the contrary, it is difficult to find any such even representation in any country or in any period of history, except where a government policy mandates quotas or preferences to achieve an artificial statistical 'balance'.

Those who believe in cosmic justice sometimes argue that this simply shows how widespread discrimination is. But many groups who are in no position to discriminate against anyone are over-represented in high-paying occupations, prestigious academic institutions, and numerous other sectors of the economy. It would be possible to go through a long list of statistical disparities involving either people or things, where not even a plausible case for discrimination can be made. Here are just a few.

- 1 American men are struck by lightning six times as often as American women.<sup>18</sup>
- 2 More than four-fifths of the doughnut shops in California are owned by people of Cambodian ancestry.<sup>19</sup>

- 3 For the entire decade of the 1960s, members of the Chinese minority in Malaysia received more university degrees than did members of the Malay majority—including more than 400 degrees in engineering, compared with just 4 for the Malays.<sup>20</sup>
- 4 Although Germans were only about one percent of the population of Tsarist Russia, they were about 40 percent of the Russian army's high command, more than half of all the officials in the foreign ministry, and a large majority of the members of the St Petersburg Academy of Sciences.<sup>21</sup>
- 5 In Brazil's state of São Paulo, more than two-thirds of the potatoes and more than 90 percent of the tomatoes have been grown by people of Japanese ancestry.<sup>22</sup>
- 6 As early as the 1880s, more than twice as many Italian immigrants as Argentinian citizens had bank accounts in the Banco de Buenos Aires.<sup>23</sup>
- 7 In mid-nineteenth-century Melbourne, more than half the clothing stores were owned by Jews,<sup>24</sup> who have never been as much as one percent of Australia's population.
- 8 In mid-nineteenth century America, when Southerners were 29 percent of the white population of the country, they produced only 8 percent of the patented inventions.<sup>25</sup> Even inventions important to the South, such as the cotton gin, were invented in the North.
- 9 Between 1750 through 1825, 40 percent of all the major inventions, discoveries, and innovations in the world were made in Britain, whose population was not even 10 percent of the world's population.<sup>26</sup>
- 10 Of the five billionaires in Indonesia and Thailand today, all are ethnically Chinese.<sup>27</sup>

This list could be extended many times over.<sup>28</sup>

Why are different groups so disproportionately represented in so many times and places? Perhaps the simplest answer is that there was



no reason to have expected them to be statistically similar. Geographical, historical, demographic, cultural and other variables make the vision of an even or random distribution of groups one without foundation.

Statistical disparities are, of course, not limited to racial groups or to male-female differences. Believers in the quest for cosmic justice often confuse the fate of statistical abstractions with the fate of flesh-and-blood human beings. Much has been written, for example, about how small percentages of the population receive large percentages of the nation's income or hold some large percentage of the nation's wealth. The implicit assumption is that we are talking about classes of people when, in the United States at least, we are in fact often talking about individuals at different stages of their lives. The vast majority of the wealth of Americans is concentrated in the hands of people over 50 years of age. The average wealth in older families in the United States is some multiple of the average wealth in younger families. But these are not differences in social classes. Everyone who is old was once young and all the young are going to be old, except for those who die prematurely. Yet the *vision* of social classes remains almost impervious to these plain facts, and statistical abstractions are automatically seen as classes of people.

Studies which have followed individual Americans over a period of years have found that most do not stay in the same quintile of the income distribution for as long as a decade. The first of these studies was conducted by a group of academics of left-wing persuasion, who seemed to be thrown into disarray by their own findings, which were based on following the same individuals for eight years.

None of this should be surprising. People are eight years older at the end of eight years. They have eight years more experience, eight years more seniority. If they have set up a business, they have had eight years in which to become better known and to attract more customers. In the professions, they have had eight years in which to build up a clientele. Why would they not be in a higher income bracket at the

end of eight years?

'The poor', who are often defined as the bottom 20 percent of the income distribution, are as transient in that role as the rich. Only 3 percent of the American population remained in the bottom 20 percent for as long as eight years. Far more who began in the bottom 20 percent had reached the top 20 percent by the end of that period. Yet 'the poor' continue to be identified as the bottom 20 percent, instead of the 3 percent who remain at the bottom. Our intellectual discourse and our public policy are based on the statistical abstraction of 20 percent, rather than the flesh-and-blood 3 percent who are genuinely poor.

It is reminiscent of a story about someone who was told that, in New York City, someone is hit by a car every twenty minutes. "He must get awfully tired of that", was the response. But some of our most renowned intellectuals, not to mention moral and political leaders, commit the same mistake of thinking that it is the same people all the time when they talk about statistical abstractions as if they were talking about flesh-and-blood people who are rich and poor. It is doubtful whether the genuinely rich and the genuinely poor, put together, add up to even 10 percent of the American population. Yet these two marginal groups are the central characters in the moral melodramas which dominate American politics, journalism, and even academic and judicial discourse.

### *Consequences of Cosmic Justice*

Whatever the intellectual deficiencies of the vision of cosmic justice, it has become politically entrenched in many countries around the world. Its consequences are therefore important for that reason alone. What are those consequences?

Those pursuing the quest for cosmic justice have tended to assume that the consequences would be what they intended—which is to say, that those people subject to government policies would be like pieces on a chessboard, who could be moved here and there to carry out a

grand design, without concern for their own responses. But both the intended beneficiaries and those on whom the costs of those benefits would fall have often reacted in ways unexpected by those who have sought cosmic justice.

Those given legal entitlements to various compensatory benefits have, for example, developed a sense of entitlement. As a group leader in India asked: "Are we not entitled to jobs just because we are not as qualified?"<sup>29</sup> A Nigerian likewise spoke of "the tyranny of skills".<sup>30</sup> Black American college students planning to go on to post-graduate degrees were found by one study to feel no sense of urgency about needing to prepare themselves academically "because they believe that certain rules would simply be set aside for them".<sup>31</sup> A similar lack of urgency was found by a study of Malay students in Malaysia, where they are legally entitled to preferential access to coveted positions in government and in the private economy.<sup>32</sup> In the American Virgin Islands, even school children excuse their own lack of academic and behavioural standards by pointing out that government jobs will be waiting for them when they grow up—jobs for which their West Indian classmates will not be eligible, even though the latter perform better academically and behave themselves better in school as well, because the West Indians are not American citizens.<sup>33</sup>

There has been a particularly tragic consequence of the quest for cosmic justice for young black Americans. Just as some parents make the mistake of talking around small children as if they cannot hear or understand, so those promoting a vision of cosmic injustices as the cause of all the problems of black Americans have failed to understand the consequences of this vision for young blacks who do not yet have either the personal experience or the maturity to weigh these words against reality. The net result has been the development of an attitude of hostility to learning in school or conforming to ordinary standards of behaviour in society. Worse, those young black students who do wish to get an education, to speak correct English, and to behave in ways compatible with getting along with others, are accused of 'acting

white'—betraying the race—and are subject to both social pressures and outright intimidation and violence.

It would be hard to imagine a more devastating self-destruction of a whole generation. Many of the politicians, intellectuals and others who have loudly and often proclaimed that discrimination explains all black-white differences are themselves appalled and baffled at this turn of events. Yet these attitudes among young blacks make perfect sense if the vision that is presented to them is true. Why study and discipline yourself in preparation for the adult world if the deck is completely stacked against you anyway? At least you can show that you are not a sucker who is taken in. What these students are doing is consistent with the vision that is presented to them, however tragically counter-productive it may be in the world of reality.

What of those whose interests are to be sacrificed in the quest for cosmic justice? They too respond quite rationally, in the light of the options presented to them. Individuals may cease to strive as hard for posts that they are less likely to get or may remove themselves from the whole society, as some highly educated Chinese have done in Malaysia and some highly educated Indians in Fiji. In the United States, where an employer's failure to have a workforce ethnically representative of the local population is taken as evidence of discrimination, employers can choose locations where they are not near concentrations of blacks and thus minimise their legal risks. Of course, this means that blacks lose job opportunities as a result of being preferentially entitled to jobs. Whether the jobs lost this way are greater or lesser in number than the jobs gained where local employers accede to government policy is an empirical question. However, it may be worth noting that the rate of progress of blacks, and especially of low-income blacks, under affirmative action policies has been less than that under the 'equal opportunity' policies which preceded them, or even before equal opportunity policies. In this and other circumstances, the quest for cosmic justice does not necessarily mean greater equality or justice than under policies meant to carry out traditional, mundane human justice.

The only clear-cut winners in the quest for cosmic justice are those who believe in the vision it projects—a vision in which those believers are so much morally and/or intellectually superior to others that their own relentless pursuit of this vision is all that offers some modicum of hope to those who would otherwise be victims of the lesser people who make up the rest of society. It is a very self-flattering vision—and one not easily given up. Evidence to the contrary is not only likely to be dismissed, but is often blamed on the malevolence or dishonesty of those who present it. It is difficult to explain the fury and ruthlessness of those with this vision of cosmic justice, whenever they are challenged, by the simple fact that they consider policy A to be better than policy B. What is at stake for them is not merely a policy, but a whole vision of the world and of their place in it. No wonder is it seldom possible to have rational discussion of some of these issues.

# Notes

- <sup>1</sup> Milton and Rose Friedman, *Free to Choose* (New York: Harcourt, Brace, Jovanovich, 1980), p. 146.
- <sup>2</sup> Adam Smith, *The Theory of Moral Sentiments* (Indianapolis: Liberty Classics, 1976), pp. 115, 120, 355.
- <sup>3</sup> Friedrich A. Hayek, 'Law, Legislation and Liberty', Vol. II: *The Mirage of Social Justice* (Chicago: University of Chicago Press), pp. 33, 64.
- <sup>4</sup> Milton and Rose Friedman, *Free to Choose*, p. 148.
- <sup>5</sup> Barbara J. Jordan and Elspeth D. Rostow, *The Great Society: A Twenty Year Critique* (Austin: Lyndon Baines Johnson Library, 1986), p. 71.
- <sup>6</sup> John Rawls, *A Theory of Justice* (Cambridge, Massachusetts: Harvard University Press, 1971), p. 100.
- <sup>7</sup> *Ibid.*, p. 275.
- <sup>8</sup> Jean H. Fetter, *Questions and Admissions: Reflections on 100,000 Admissions Decisions at Stanford* (Stanford: Stanford University Press, 1995), p. 45.
- <sup>9</sup> See, for example, Thomas Sowell, *Race and Culture: A World View* (New York: Basic Books, 1994), pp. 235–246; Thomas Sowell, *Migrations and Cultures: A World View* (New York: Basic Books, 1996), pp. 8–18.
- <sup>10</sup> U. S. Bureau of the Census, 'Marital Status and Living Arrangements: March 1992', *Current Population Reports*, Series P-20, No. 468 (Washington: Government Printing Office, 1993), pp. 1, 2.
- <sup>11</sup> See Ramsey Clark, *Crime in America: Observations on its Nature, Causes, Prevention and Control* (New York: Simon & Schuster, 1970), pp. 319–320; *Miranda v. Ohio* 384 U. S. 436 (1966), at 472.
- <sup>12</sup> Elisabeth Wiskemann, *Czechs and Germans: A Study of the Struggle in the Historic Provinces of Bohemia and Moravia* (London: Oxford University Press, 1938), pp. 142, 148.

- 13 Joel Glenn Brenner, 'A Pattern of Bias in Mortgage Loans', *The Washington Post*, June 6, 1993, p. A 1.
- 14 Alicia H. Munnell, *Mortgage Lending in Boston: Interpreting HMDA Data*, Working Paper No. 92-7, October 1992, Federal Reserve Bank of Boston, pp. 2, 24, 25.
- 15 *The Chronicle of Higher Education*, September 2, 1996, p. 22.
- 16 Reprinted in Thomas Sowell (ed.), 'Affirmative Action in Faculty Hiring', *Education: Assumptions versus History* (Stanford Hoover Institution Press, 1986), p. 95-96.
- 17 See, for example, Thomas Sowell, *The Vision of the Anointed: Self-Congratulation as a Basis for Social Policy* (New York: Basic Books, 1995), Chapter 3.
- 18 'Lightning Hits More Men', *USA Today*, April 16, 1992, p. 1.
- 19 Jonathan Kaufman, 'How Cambodians Came to Control California Doughnuts', *The Wall Street Journal*, February 22, 1995, p. A 1.
- 20 Mohamed Suffian bin Hashim, 'Problems and Issues in Higher Education Development in Malaysia', *Development of Higher Education in Southeast Asia: Problems and Issues*, edited by Yip Yak Hoong (Singapore: Regional Institute of Higher Education Development, 1973), Table 8, pp. 63, 64.
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- 28 The index to *Migrations and Cultures*, *op. cit.* note 9, contains nine lines of page references under 'Statistical Disparities'.
- 29 Myron Weiner, *Sons of the Soil: Migration and Ethnic Conflict in India* (Princeton: Princeton University Press, 1978), p. 250.
- 30 John A. Ayoade, 'Ethnic Management of the 1979 Nigerian Constitution', *Canadian Review of Studies in Nationalism*, Spring 1987, p. 127.
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