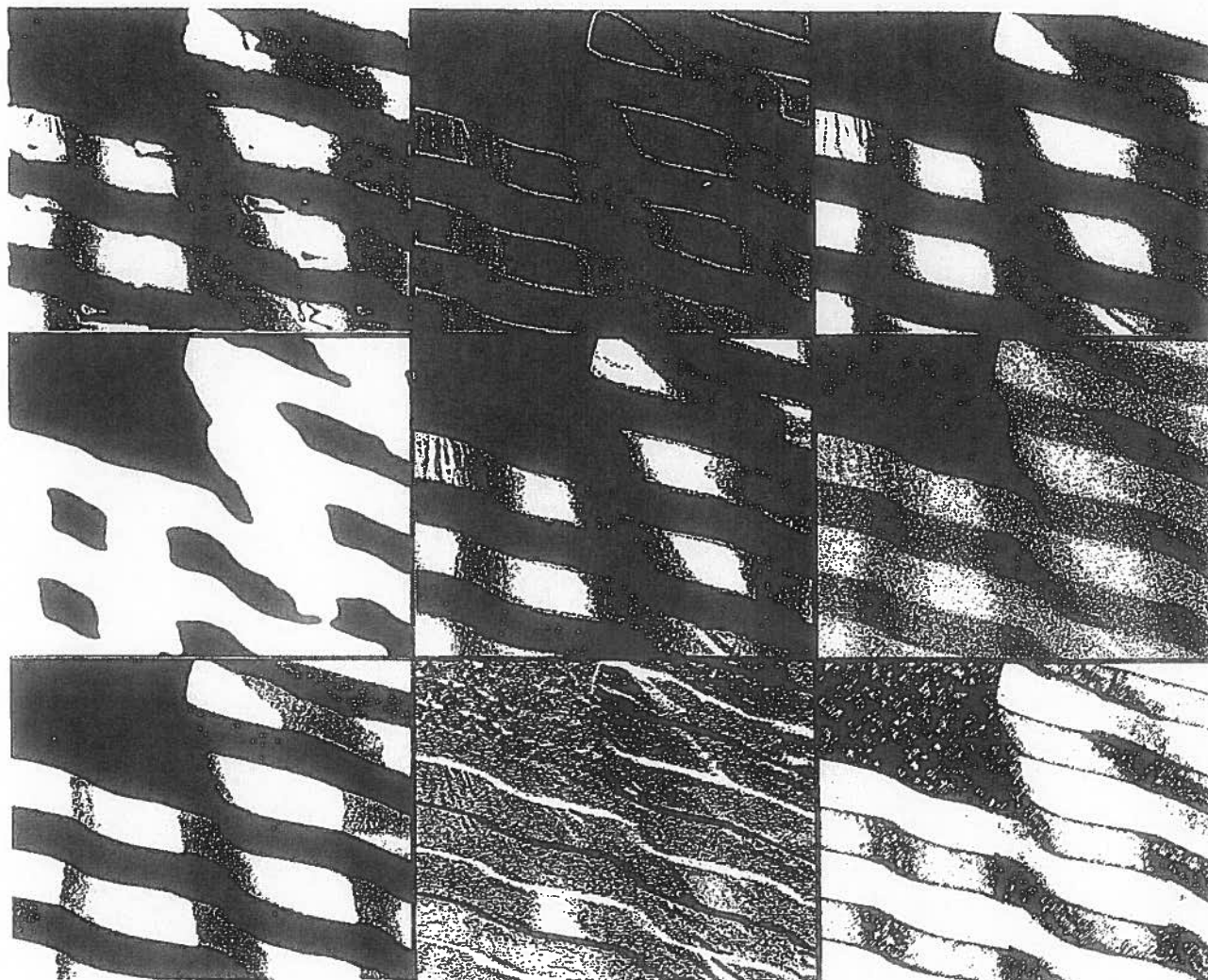




E PLURIBUS UNUM?

A Symposium on Pluralism and Public Policy

THE AMERICAN JEWISH COMMITTEE
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for American Pluralism

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ican Pluralism in Chicago is a model in the right direction. We also need to promote study and experience of our diverse religious and ethnic heritages at all levels of American society, from the neighborhood to the university. Many university ethnic studies programs and ethnic cultural organizations are in deep financial trouble. This is certainly true within the Polish-American community which I know best. If such programs and institutions are to survive, they must be seen as a precious legacy for the nation as a whole, and that entails reaching out beyond their own ethnic group.

American political life of late has done little to promote authentic American pluralism. In fact, most candidates and political parties have tended to play "ethnic politics" in the worst sense of the term by pandering in an unrealistic way to the special interests of these communities and doing little or nothing to promote dialogue and the bridging of social gaps. On occasion—and the 1996 elections were one occasion—candidates have made virtually contradictory promises to different groups. This trend bodes ill for American society.

The challenge before us is to generate a new American pluralism as the basis of our social and political values. This pluralism must be marked by a shared diversity of groups; it must involve a creative fusion of our respective traditions within the framework of our democratic heritage. But if we allow these traditions to be marginalized and, in time, evaporate, then we will be left with a bland homogeneity that will not sustain a sound, ethical society. Rebuilding healthy pluralism is first and foremost the task of the citizenry, including organized groups, not the government. But government officials, especially during political campaigns, should do everything possible to promote authentic shared pluralism, not undermine it.

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Roger Pilon

The motto on America's Great Seal—*E pluribus unum*, from many, one—proclaims what we all know to be true: America is a nation of nations. Drawing upon the entire world, we find our identity not simply in the things we share as Americans but, paradoxically, in our differences as well—in our pluralism. Yet that pluralism, while a source of variety and strength, is often a source of social and political unrest. Indeed, hardly a day goes by when we are not reminded that relations between the "nations" of America are not always good. Whether defined traditionally—by race, religion, or ethnicity—or by the more recent categories of antidiscrimination law—gender, age, sexual orientation, family status, appearance, and so on—our differences seem today to divide the nation as often as they unite us.

Before we can determine whether America is headed in the right direction on such matters, however, we have to be clear about what our goals are. Just what is it regarding pluralism that we want to achieve?

Because a plural society, by virtue of its different cultures, is subject to greater internal conflict than a homogeneous society, I assume that foremost among the ideals and requirements of pluralism is a set of social and political arrangements that enable people to enjoy the benefits that arise from pluralism while avoiding the conflicts pluralism often generates.

But if that is so, the problem is hardly novel or unique to a plural society. Indeed, it is the classic problem of political philosophy—how to arrange affairs so that we can live in peace and flourish—made more urgent by the greater potential for conflict that pluralism breeds. And the classic solution to the problem—as relevant today as when it was first offered—is freedom. Freedom permits each culture within the larger culture to live by its own lights, according to its own values, because it allows no culture to dominate the others.

In fact, we need look only to our Declaration of Independence to find that solution fleshed out a bit more fully. After placing us in the natural law tradition of “self-evident” truths, which holds that there is a higher law of right and wrong by which to judge political and legal affairs, Jefferson set forth a premise of moral equality, “All men are created equal,” and then immediately defined that equality by reference to our rights to “life, liberty, and the pursuit of happiness.” Notice that we are all morally equal only in the sense that no one’s inalienable rights are superior to those of anyone else. Notice also that Jefferson wrote not of a right to happiness but only of a right to *pursue* happiness—however defined, according to whatever values we choose, provided only, as equality requires, that we respect the equal rights of others to do the same. In so writing, he drew together both our objective rights and our subjective values.

Indeed, that insight—that we all have an objective right to pursue whatever subjective values we wish, provided only that we respect the equal rights of others to do the same—is the moral foundation of the classic liberal vision. But it is also the key to the problem of pluralism. Whether our goal is peace among different individuals or among different cultures, it is plain that our subjective values, our goals, our longings are as various as our separate beings or cultures. The one thing we all have in common, about which we are equal, is the objective right to pursue those ends.

Constituted according to those principles, America became a beacon to the nations of the world. Although we remain today a relative beacon to much of the world, we have strayed considerably, especially over this century, from the principles that ensure pluralism. If we are to redirect ourselves toward the ideals of pluralism, it is important to understand that in two basic areas—the growth of government and the advent of antidiscrimination law—we have undermined our founding principles.

The Growth of Government

For the better part of our history, we had a relatively clear grasp of the essential character of gov-

ernment: as George Washington put it, “government is not reason, it is not eloquence, it is force.” A “necessary evil,” instituted primarily to secure our rights, as the Declaration says, government at the national level was limited by numerous provisions in the U.S. Constitution, especially the doctrine of enumerated powers, and at the state level by hosts of similar provisions. Indeed, for generations of Americans the connection between freedom and limited government was axiomatic.

None of that is to say, of course, that government has always been effective in securing our rights: slavery and Jim Crow are only two of the most egregious examples of government’s failure on that count. But such examples should not distract us from noticing the connection between limited government and pluralism. If government is limited for the most part to securing our rights to be free to flourish as we wish, as individuals or as members of the many cultures that constitute the larger culture, then the political and legal conditions of pluralism are secured, and the rest is up to us. It is a different matter, however, when government is not so limited. Indeed, the implications for pluralism of expansive government are profound.

To appreciate the point, we need simply realize that the more of life we try to live collectively, through the forced association that is government, the more we invite cultural clashes that in the end are irreducible clashes over values. Suppose, for example, that we tried to live our religious lives through the state, as is done in many parts of the world, or, one step removed, that we tried to finance private religious institutions through public taxation, as is also done in many countries. In our heterogeneous society, the disputes would be inescapable and endless. And there would be no principled resolution to them, for beyond the threshold dispute about whether to pursue religion through the state in the first place, they would not be about principles rooted in reason, but about values, about which reasonable people may reasonably disagree.

Is it any different, however, with anything else we try to do through government—from eco-

conomic stimulation and protection to retirement planning to education to public subsidies for the arts? In all these areas and countless others, insofar as we pursue our ends through public institutions, we ensure the clashes that only exacerbate the tensions that always lie just below the surface in a plural society. And insofar as we draw down private resources for such public pursuits, we diminish the very private pursuits that constitute pluralism's virtue.

Presumably, none of us would want to live in a society in which everything was done through the state. Yet over this century we have vastly expanded the public sector in America. During the Progressive Era we stopped thinking of government as a necessary evil and started thinking of it as an instrument to solve all manner of social and economic problems. During the New Deal we institutionalized that way of thinking by converting the Constitution, without benefit of amendment, from a charter of limited powers to one of effectively unlimited powers. The result is the massive redistributive and regulatory state we have today.

Does anyone seriously believe that there would be no commerce or retirement planning or education or art in America if government were limited to securing our rights to pursue those ends? The far more likely scenario is that, without the drag of government, those activities would flourish—and do so without the strife that necessarily attends their pursuit through public institutions.

Antidiscrimination Law

Just as we have forced different cultures together by trying to pursue through government what should and would otherwise be pursued privately, so too have we forced people together through antidiscrimination law, here too breeding strife unnecessarily, exacerbating rather than ameliorating the problems of pluralism. It is important to see, moreover, that the same principles are at play here as in the area of expanding government, but the applications are slightly different.

If our right to live by our values is con-

strained only by the equal rights of others, then our right to associate with others is bounded by their right not to associate with us—for any reason, good or bad, or no reason at all. If freedom of association means anything, it means that we cannot force ourselves on others. But if that is so, then private people and organizations have a perfect right to discriminate against others, whatever their reasons for doing so. The basic principle is one of sovereignty, of control over what is ours. But that principle applies in the public sector as well, where it cuts the other way: because public institutions belong to all of us, they may not discriminate among us, except for reasons that are narrowly tailored to their functions. Indeed, it is because public institutions must accommodate the values of all that, in a plural society, they are such battlegrounds.

With the Civil Rights Act of 1964, we ended in law the last aspects of Jim Crow, of public discrimination, and not a moment too soon. But we also prohibited private individuals and institutions from discriminating on a number of grounds, the list of which has expanded in the years since. With that, what at first seemed natural has turned into a litigious nightmare. Thus we have just learned from the Supreme Court that a Christian student group meeting in a public school may discriminate against non-Christians in selecting its officers. But we are waiting to learn whether the Court will hear the appeal of a landlady who had refused, on religious grounds, to rent an apartment to an unmarried couple—even as we know that a real estate ad cannot say such things as “walking distance to synagogue” lest it be thought to indicate a preference.

The iceberg of which those examples are merely the tip was entirely predictable—and was predicted—in 1964. But so sure were we then that we could solve the problem of discrimination through the force of law that we charged ahead anyway, oblivious to where the road we were taking would lead. It is one thing to try to stamp out public discrimination—yet even there our methods quickly led to future discrimination as a remedy for past discrimination, to benefiting those who

had suffered no wrong by penalizing those who had done no wrong. It is quite another to deny people their freedom—including their freedom to be wrong—in the name of stamping out what is, at the end of the day, a problem of the heart.

No decent person would defend irrational discrimination. But there is all the difference in the world between defending such discrimination and defending the right to discriminate, which all decent people should defend. It is the difference between defending values and defending rights, a distinction that lies at the very heart of a free society. Indeed, we would have been on far better ground—intellectually and morally—if in 1964 we had simply abolished public discrimination and thereafter condemned, through public obloquy, those who continued to engage in irrational private discrimination—while defending their right to do so. Had we done that, those people would in time have been marginalized, and the rest of us would have been left free to draw the fine discriminations that are essential if a free plural society is to thrive.

Thus, here too, by asking government to do what it should never have been asked to do, we have not only reduced our freedom but forced into the public realm those intractable differences that are inherent and even desirable in a pluralistic society. It would be far better to reduce the role of government and let a thousand flowers bloom, not all of which will be lovely, but all of which will be free.

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Hugh B. Price

The question of whether American society is headed in the right direction in achieving plural-

ism is an easy one to answer in the affirmative. After all, three decades ago this was a society in which African Americans, whether they lived within or outside the states of the Old Confederacy, were denied fundamental human rights by laws and by customs that had the force of law. This was a society in which other people of color were all but invisible except as tokens of white America's professed, but not practiced, allegiance to tolerance across the color line. And this was a society in which white women, no matter how brilliant, ambitious, and well-credentialed, were shut out of a broad spectrum of occupations from bus driver to astronaut. That deprivation exacted an enormous toll, not just on these groups but on American society as a whole.

American society has come a long way from those attitudes.

The measures of that progress are undeniable and surround us in so many arenas of American life that most of us probably take many of them for granted.

So the achievement and ability of Ron Brown, the late secretary of commerce and, I'm proud to say, a veteran of the Urban League movement, are taken largely for granted—until he is tragically killed in the service of his country; and then it is remembered that just three decades ago blacks were virtually barred from high government positions at the state and federal level.

As I write, the president of the United States is awarding the Congressional Space Medal of Honor to Dr. Shannon W. Lucid, whose 188-day odyssey in space was the longest by an American astronaut, prompting me to remember that three decades ago women, of whatever color, were said to be unable to handle such physically and intellectually challenging feats.

Atlanta, Georgia, a city in the heart of the Old Confederacy, plays host to the 1996 Olympic Games, and implicitly uses the region's racial past to underscore the Olympic ideal of tolerance and inclusion.

And one of the most electric moments of those games was the determined charge of the United States' women gymnasts toward capturing