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DISCRIMINATION AND LAW

Cultural Diversity and Racial Discrimination in Employment

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CULTURAL DIVERSITY AND RACIAL DISCRIMINATION IN EMPLOYMENT

I shall be relating the issues raised in the attached short article to the principle of 'legal pluralism' and to existing law.

The following reading is recommended:

1. Britain: A Plural Society, Commission for Racial Equality, 1990. See especially Sebastian Poulter 'Cultural Pluralism and its limits: A Legal Perspective' and Bhikhu Parekh 'Britain and the Social Logic of Pluralism'. (Available from CRE at £1.50).
2. Sebastian Poulter, English Law and Ethnic Minority Customs, Butterworths, London, 1986, especially Chapter 9 on Employment.

DR TARIQ MODOOD

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Colour, class and culture: the three Cs of race

Race should be understood not only in terms of colour and class but in terms of culture as well, says Tariq Modood*. In this Forum article he argues that to judge someone as an individual requires an understanding of a person's cultural background and that job interviewers who fail to have such an understanding risk devaluing the individual's abilities. Pointing out that little equal opportunities recruitment and selection training gives guidance as to how to be culturally sensitive, he calls for a programme of research with a view to producing model training course and materials.

Progress in equal opportunities, as elsewhere, requires us to continually review our understanding not only of what we are trying to achieve but our understanding of the phenomena we are dealing with. The relationship between race and culture is a case in point.

When it comes to defining what we mean by race some people reach for a dictionary; others for elaborate biological or sociological theories. As a race equality professional I prefer to start with the Race Relations Act 1976. It defines a "racial group" by reference to "colour, race, nationality or ethnic or national origins". Legal decisions, of course, are relevant too, not least the House of Lords judgment in *Mandla v Lee* [1983] IRLR 209, which lays down the test for "ethnic group". Moreover, as we all know, the concept of indirect racial discrimination captures certain practices (eg requiring academic qualifications for jobs) which may rest on social inequalities (the distribution of educational opportunities) which the lay person would not at first glance think of as relevant to the concepts of race and racism.

I propose therefore to offer an understanding of race as a complex concept consisting of three relatively independent dimensions which I think helps identify the social reality behind the law. I do this so as to focus attention on the dimension which I think has been least explored in race equality employment thinking and practice.

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The three Cs of race

My suggestion is that race should be understood in terms of the following three dimensions:

(i) Colour

It is obviously the case that being anything but European in physical appearance is enough to make one a possible object of white racist treatment. For some, therefore, this is the crucial feature of racism. Van den Berghe defines racism as "an ideology of superiority based on phenotypic differences". But it is difficult to see how differences in physical appearances can indefinitely sustain assumptions of superiority. Arab oil wealth or pacific Asian achievement are examples of changes in circumstances which erode the basis of a historical discrimination (Arab and Japanese visitors to South Africa did not once but now enjoy official white status). Colour prejudice or colour hierarchy cannot, therefore I think be equated with racism. It is best seen as the ground floor of racism rather than the whole building.

(ii) Class

Inferior treatment on the basis of colour can create a subordinate class which by virtue of its socio-economic location can continue to suffer comparative disadvantage even were colour prejudice to wane. Even in a colour-blind society historically oppressed racial groups will suffer class discrimination. Jobs which prefer a public school Oxbridge back-

ground will disadvantage the majority of society but will have a disproportionately greater impact on racial minorities.

Nevertheless, there is no necessary link between colour and class. Some non-white groups in this country are beginning to exceed levels of white socio-economic achievement as has happened in USA, Canada and Australia.

(iii) Culture

Culture in the broad sense which includes community, ethnicity and religion is, like class, one of the more universal forms of discrimination. Again, like class, it has no necessary relationship with colour, yet when it is linked it constitutes the third dimension of race. Ethnic hierarchies and religious discrimination can and do exist in an all-white or all-black society. Nevertheless racial groups which have distinctive or "alien" cultural identities or community life will suffer an additional dimension of discrimination and prejudice.

Moreover, just as class can disadvantage by denying access to leisure or the acquisition of skills and understanding so can membership of a minority cultural group deprive one of, say, excellence in the dominant language and modes of thought, or access to certain forms of social networks. Again, just as colour-blind class discrimination can be a form of indirect racial discrimination so membership of a minority community can render one less employable on the grounds of one's dress, dietary habits, or desire to take leave from work on one's holy days rather than those prescribed by the custom and practice of the majority community.

Each of the three dimensions, then, can be the focus of prejudice and stereotyping and the last two are clearly related to institutional discrimination. Each dimension can vary in degree (eg the darker in colour the less acceptable) and can be the basis of discrimination and a disadvantaged social position, though no one dimension necessarily implies another (it is possible to be black, middle-class and to be in, say, the mainstream youth culture). The worst position is where each of the dimensions is in play. The more distant an individual or group is from the norm of white middle-upper class British Chris-

tian the greater their marginality and exclusion. The hostility of the majority is likely to be particularly forceful if the individual in question is a member of a community (and not just a free-floating or assimilated individual) which is sufficiently numerous to reproduce itself as a community and has a distinctive and cohesive value system which can be perceived as an alternative to and a possible challenge to the norm. The Rastafarians are one example of where these three dimensions are active; Bradford Orthodox Muslims are another.

Culture and the individual

Over the last decade or so British race equality thinking and action has been geared to eliminating discrimination on the first two planes; the time is long overdue I think to take the third seriously. Culture or ethnicity is going to be increasingly prominent in the race equality agenda of the 1990s.

Let me illustrate by an example how I think current thinking is inadequate. Equality policies and trainers often state that equality and fairness requires treating everyone the same: but how can one do that if people have different norms, sensibilities and needs? There is often a plea to treat everyone as an individual: but is it possible to treat someone as an individual if you are ignorant about their cultural background and the things that matter to them? Everyone is agreed that much discrimination is the result of, often unconscious, negative racial stereotyping: but what are we to put in its place?

Stereotyping is an intellectually crude, patronising and unfair method of providing a context by which to judge individuals who are deemed to be of a collective type; in the extreme case individuals are seen completely in terms of a collective type. The greater the ignorance about a group of people by an outsider or observer, the greater the reliance on a stereotype (not all of which may be unfavourable to the group).

It follows that to decrease the use of unfavourable stereotypes one has to increase the level of knowledge about the groups and to make sure that the knowledge used is not only of the out-

sider's generalisation type but includes some understanding of how the group understands itself, of what it believes to be some of its distinctive qualities or virtues. We need to allow favourable as well as unfavourable generalisations to come into play.

The more one knows about a group the more one is able to penetrate beyond the group to the individual: it is when the context is easily understood and taken for granted that the individual stands out and so can be noticed in their own right. The less familiar one is with the group, the less one is able to perceive the individual for "they all look alike" (not just in terms of physical appearance but also in terms of behaviour). See for instance how easily all assertive Muslims have been branded as "fundamentalists" by the media.

The choice, then, is not between identifying someone as an individual and identifying them as a group member; without understanding the group one lacks the context for identifying the variables out of which individuality is composed. Till one can penetrate into the forest one cannot see one tree as being different from another.

The interview

These generalities are relevant to the employment selection process. Consider the cultural variables of an interview for example. What I have in mind are the following types of features: desired length of interview, desired ratio of talk between interviewer and interviewee, length of introductions, eye-contact, posture, body language, deference, willingness to talk about oneself and various areas of one's life, to answer directly or in circumlocutions and elaborate context-setting ways, standards of politeness and informality, willingness to "sell oneself" and inhibitions about boasting, sexual modesty, anxieties built up from previous rejections and fear of discrimination, etc.

How we treat and evaluate other people in an interview is dependent on how we relate to them, how comfortable we are with them. The very same qualities that in one individual may be perceived as pushy and aggressive may in another be commended as the raw materials to be developed into leadership skills. The difference in perception

may be nothing more than racial, or for that matter, sexual, prejudice. Such prejudice may be unconscious and unexamined because it is shared and reinforced by our own peer group and when combined with lack of familiarity with the nuances of a different cultural manner is bound to produce mutually unsatisfactory interviews and fail in bringing out or identifying the capabilities of ethnic minority candidates. Where selectors do not make an effort to guard against unconscious discrimination we invariably select those individuals who are most like ourselves - for after all not only are they the people it is easiest to get close enough to for their strengths to be spotted, but they are the ones after interviewing whom we are likely to feel we had a good interview, for they are the individuals that we are likely to enjoy the experience of being with. Conversely, with those that we don't easily hit it off with we do not make the same effort to seek their positive qualities and therefore undervalue them.

BBC TV's *Crosstalk* (1976) and *Multi-Cultured Talk Swap* (1977) are virtually the only currently available training materials which even touch on these things but even then they are far from comprehensive and are somewhat dated. But the monitoring evidence is that ethnic minority groups have a particularly bad interview success rate. Some of this I believe is due to imperfect understanding and lack of cross-cultural sensitivity which even with well-intentioned interviewers can lead to the devaluing of candidates' abilities and stereotyping of groups. And yet it is my impression that very little equal opportunities recruitment and selection training attempts to deal with this, and most trainers are unwilling or unable to handle it. The typical course warns against racist stereotyping without giving any guidance as to how to be culturally sensitive leaving the impression that such skills are not necessary.

Need for research

Indeed I think we need a serious programme of research to examine the inter-relationships between:

- (i) challenging negative stereotypes;
- (ii) recognising cultural differences;
- (iii) objective selection procedures; and

(iv) treating each individual equally.

While the backdrop of this research will be the question of to what extent cultural diversity is a long-term feature of race equality, it should ideally include an examination of some existing equal opportunities training courses and materials with a view to producing model courses and material.

I appreciate that some may wonder whether this is not to open a can of worms. The issue of cultural differences it may be said has not been ignored due to an oversight but to a genuine worry whether heightening culture or group differences will not erode the principle and legal requirement that each person, each job applicant for example, should be treated as an individual and not judged in terms of group qualities. After all, some industrial tribunal cases (eg *Bradford City Council v Arora*) have actually been won on the basis that interview questions were designed to highlight that a candidate was from a distinct ethnic and cultural background. I ac-

knowledge there is a real problem here and that is why I emphasise that research is needed on the *inter-relationship* between recognising differences and treating each individual equally; and, moreover, I think the research needs to be carried through into the production of sound training materials. It is also worth bearing in mind that contemporary sex equality is increasingly being structured around the facts of gender difference. While on one level this means differential provision (maternity and childcare), on a more interesting level the issues are about organisational culture and the difference between men's and women's value profiles and management styles. Indeed, the Industrial Society offers a course on the benefits of differences.

Two other worries are likely to be present in most people's minds:

(i) immigrant groups, especially after the first generation, are subject to considerable cultural adaptation and flux and it would be wrong to form group

generalisations which are in the process of becoming out of date and which clearly have little relevance to significant numbers of assimilated individuals; (ii) the real issue is not about correct group generalisations but the systematic inequality which allows dominant groups to continue without penalty to stereotype subordinate groups: cross-cultural understanding and respect is not possible unless it goes hand in hand with altering the power relationships.

Both these points have some substance. However, they qualify the issue of ethnicity without destroying it. They bring in important wider considerations which have to be properly taken into account; they do not show that ethnic difference is a non-issue. I think that the issue will increase in prominence rather than go away.

Tariq Modood would welcome any comments and enquiries especially in relation to the research proposal. Please contact him at the Commission for Racial Equality, Elliot House, 10-12 Allington Street, London SW1E 5EH. Tel: 01 828 7022.