



REFLECTIONS ON WHAT MAKES A POLICY RACIST

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The murder of George Floyd in spring 2020 sparked a national reckoning and renewed attention to issues of racial equity and justice. This long-overdue awakening led me to read extensively about racism and to think about interactions between race and public policy. To be clear, I do not claim to be an expert on racism. I studied tax policy for over 30 years without ever focusing on connections between race and tax issues. I am only now beginning to understand the full extent to which they exist.

Three results, however, are abundantly clear from reading the literature. First, widespread, long-standing, and continuing racial discrimination in the US has had enormous, lasting deleterious economic effects on Black households. Second, tax policies and other public policies have contributed materially to this problem. Third, tax policy can help ameliorate the effects of racism. We cannot change the historical record, but we can adopt policies that compensate for it and take it into account.

This policy brief addresses the question of what makes a public policy racist. My answer, it turns out, is less definitive than one might like. Almost any formal definition will mischaracterize some policies when applied to the real world. Nevertheless, I found that the steps in thinking through the question are quite revealing. In this brief, I focus on racism directed at Black people, but similar issues arise regarding racism against other groups as well as other forms of discrimination.

DEFINITIONS

Some policies are clearly racist. One definition of a racist policy is one that is motivated by racial animus or that explicitly hurts Black people by distinguishing based on race. Redlining, discussed later, is one such example. But this definition relies on disparate treatment and is therefore too limited: a policy can be racist even if it is not explicitly motivated by animus or does not mention race. Note also that this definition is not symmetric across race: it excludes affirmative action and similar programs as well as slavery-related reparations to Black people. The long history of systemic discrimination justifies this asymmetry.

Kendi (2019, 18) offers a much broader definition: “A racist policy is any measure that produces or sustains racial inequity between racial groups.” This definition focuses on outcomes rather than treatments. By doing so, it implies (correctly) that neither racial animus nor individual acts of discrimination are necessary for a policy to be racist. Further, the definition appropriately identifies the effects of a policy in producing or sustaining racial inequity as an important policy criterion.

But the definition is not complete, because racial “inequity” is not defined. If inequity means something other than unequal outcomes by race, it needs to be defined in concrete terms in order to make the definition of “racist” operational.¹

If “inequity” refers to disparate outcomes by race, then many current policies or proposals are racist, given that racial groups currently differ in important economic respects. For example, universal health care, which many people consider a “race neutral” policy, would still generate disparate racial outcomes if Black communities had fewer or lower quality health care providers and facilities or if Black patients were reluctant to take advantage of universal health care for any reason, such as past mistreatment and discrimination. But those disparate outcomes still might not qualify a universal healthcare program as racist—I believe policies can have disparate racial outcomes without being racist, as the term is commonly understood.²

A broader interpretation of Kendi’s definition is that, rather than blurring the difference between inequity and inequality, it highlights that difference. In particular, to avoid being racist under his definition, a new or existing policy should be accompanied by whatever other changes are needed to ensure that everyone can use the policy on equal terms. This is the crux of equity approaches: the policy should include whatever is necessary to bring the less advantaged population to the same place as the advantaged population. This would not only make the policy fairer, it would also make it more effective in reaching its goals. In the universal health care example, this would mean addressing the causes of disparate outcomes under universal health care in addition to actually providing universal health care. (And to be clear, those causes should be addressed even if universal health care were not enacted.)

¹ There is a political cartoon that aptly shows the effective difference between equality and equity. In it, three people—an adult, a medium height child, and a small child—want to watch a baseball game standing behind a fence. In the “equality” panel, each gets to stand on one carton. This lets the two taller people see the game but not the small child. In the “equity” panel, the small child person gets two cartons, the older child one, and the adult none. As a result, all of them can see. Deriving the difference between equity and equality in other situations is more difficult and has a “you know when you see it” feel to it, which, as discussed later in this brief, does not resolve many disagreements, since different people can see a given situation in different ways. See “Illustrating Equality vs Equity,” Interaction Institute for Social Change, January 13, 2016, <https://interactioninstitute.org/illustrating-equality-vs-equity/>.

² Of course, the whole discussion depends on the definition of “racist.” Merriam-Webster defines racist as “having, reflecting, or fostering the belief that race ... is a fundamental determinant of human traits and capacities and that racial differences produce an inherent superiority of a particular race.” See <https://www.merriam-webster.com/dictionary/racist>.

Any criterion used to define a policy as racist that falls between “racial animus” and “unequal outcomes” is by nature subjective and thus hard to characterize. “You know it when you see it” may well be how people feel, but different people can see the same situation and come away with vastly different conclusions.

Thus, I do not have a conclusive definition of a racist policy, but several points apply. First, this does not mean that racist policies do not exist—they certainly do. Second, just as racial animus is not necessary for a policy to be racist, the absence of racial animus does not guarantee that a policy is not racist. Third, people do not have to agree on a common definition of racism to believe that racial issues are important and should be the subject of study. Fourth, in my view, whether a given policy is racist depends significantly on the presence of other policies and economic conditions and their causes.

RACE-NEUTRAL POLICIES AND PREEXISTING CONDITIONS AND POLICIES

The notion of a “race-neutral” policy is popular. But given the existence of previous or current conditions and policies, policies that are race neutral in treatment are almost never race neutral in outcomes.

Take a simple example. Let’s say policy 1 states “every child who signs up for a public library card gets a free book.” Clearly, this policy does not distinguish explicitly on the basis of race and on the surface, it may seem race neutral.

But policy 1 may not generate race-neutral outcomes, either because of preexisting conditions that differentiate between Black and white households or because of other policies. Regarding conditions, Black children may face more difficulty than white children in getting to libraries, because Black families might live in “library deserts,” or Black families, who have lower average incomes than white families, may be less likely to own cars or computers with internet access. Likewise, libraries in communities that have a higher share of Black households may have fewer resources and a more limited selection of books. All these factors could lead to a greater share of white children being more likely to be obtain a free book than Black children or to white children getting “better” books (however defined) than Black children. Let’s assume that these conditions can be traced to previous racial discrimination, such as in housing, labor, or education markets.

Regarding preexisting policy, suppose a separate law already exists, policy 0: *only white children can get library cards*. Policy 0 is clearly racist. The question is whether policy 1, which looked race neutral at first glance, is racist. I would argue that the answer depends on both previous conditions and on previous and concurrent policies.

If (a) policy 0 cannot be repealed and (b) the prior conditions cannot be undone, then policy 1, without further adjustments, is racist. Policy 1, under the assumptions above, would provide benefits only to white children. It is wrong because it would build on and exacerbate racial inequality *that was caused in the first place by racial discrimination and public policies*, without providing any benefits to Black children.

If policy 0 were repealed but the underlying conditions differentiating Black and white households remained in place, the answer is more subtle. Policy 1 would help some share of Black children but would help a greater share of white children. Policy 1 still clearly exacerbates racial inequity. Whether the policy is still wrong under those circumstances is a more difficult question, because racial inequity is only one of many factors that society might consider when assessing a policy. This is an area where a traditional public finance analysis that emphasizes efficiency, which sees a Pareto-optimal change (some kids get books, others don’t, no one is worse off), and an analysis of racism, which sees a widening gulf across races, will draw different conclusions. It is also an area where the broad interpretation of Kendi discussed earlier matters tremendously. If policy 1 were accompanied by additional interventions that overcame the preexisting differences in conditions between Black and white households and ensured that Black children could take advantage of the free book to the same extent that white children could, then the combined policy would not be racist: it would feature disparate treatment but equal outcomes.

If policy 0 were repealed and the underlying conditions that differentiated Black households and white households were removed, policy 1 would clearly not be racist: it would be race neutral in both treatment and outcome.

REAL-WORLD EXAMPLES

If an offer of free books for children can evolve so quickly into discussions of racial discrimination, it should not be surprising that careful analysis will find these issues to be ubiquitous. For virtually any policy, one can find preexisting conditions or prior policies that imply that race-neutral treatment does not imply race-neutral outcomes. I mention two examples below. I leave it as an (easy) exercise for the reader to come up with other examples.

Like the free book in the library card example, the mortgage interest deduction does not appear at first glance to have racial implications: Anyone with enough mortgage interest payments is entitled to itemize their deductions (policy 1). Now add preexisting policies (policy 0). Between 1934 and 1968, redlining practices, which cordoned Black families into communities with low real estate values, made it virtually impossible for Black households to own homes that were valuable enough to generate high enough interest payments on a mortgage to take advantage of the mortgage interest deduction.³ Redlining remains one of the clearest examples of legally sanctioned racial discrimination (Rothstein 2017). Although it was formally outlawed by the Fair Housing Act of 1968, its effects live on today.⁴ In addition, discrimination continues to affect housing markets for Black renters and owners (Hanson and Hawley 2011; Perry, Rothwell, and Harshbarger 2018). Given those preexisting policies and conditions, the effect of the mortgage interest deduction is to exacerbate racial inequality that was originally caused in part by racial discrimination.

As a second example, the GI Bill is often put forward as a model program that provided veterans with federally funded housing and education benefits. In practice, the Veterans Administration, which controlled the distribution of funds and mortgages, adopted many of the FHA's racially exclusionary policies and reinforced critical barriers to Black buyers in the housing market (Katznelson 2005; McKenna 2008; Rothstein 2017). Thus, the GI Bill, while race neutral on its face, had racially disparate effects given how it was administered.

CRITICAL RACE THEORY

The practice of examining the effects of policies in the context of the conditions or existing policies that surrounds them should be an obvious approach to economists. But I want to emphasize that it is not new. It reflects a central tenet of

³ Redlining practices—adopted by the Federal Housing Administration in 1934—explicitly denied mortgages to Black home buyers. Color-coded maps of major American cities documented mortgage lending risks to guide investment based on the racial composition of given neighborhoods: Black neighborhoods were colored red and considered 'hazardous' to insure. Effectively prohibited from buying homes in and around white suburbs, Black families were deliberately isolated in urban housing projects with lower property values by government mandates with undisguised racial animus (Coates 2014). Rothstein (2017) writes that state, local, and federal government policies not only failed to repair this clearly discriminatory system, but actively promoted it. See also Ta-Nehisi Coates, "The Case for Reparations," *The Atlantic*, June 2014, <https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>.

⁴ Zenou and Boccard (2000) find that the spatial distribution of Black Americans—a direct result of redlining—in urban city centers is a significant contributing factor of high unemployment rates among African Americans. In addition to economic stagnation and structural decay from disinvestment, once-redlined neighborhoods are associated today with dangerous health outcomes such as cancer, asthma, poor mental health, a lack of insurance coverage, and crime (Benns et al. 2020; Nardone, Chiang, and Corburn 2020). Aaronson et al. (2020) find that the demarcations drawn by Home Owners' Loan Corporation redlining maps account for between 15 and 30 percent of the gap in Black homeownership rates and 40 percent of the gap in house values. It should not be surprising that the effects of redlining are still present. Line drawing for political reasons often has very long-term effects. Dell (2010) finds that historical institutions like 17th century Peru's mita, a forced mining labor system, has had long-term effects on the trajectory of contemporary economic underdevelopment. Acemoglu, Johnson, and Robinson (2001) similarly find that European colonial practices have influenced the long-term developments of the colonized areas. More recently, studies on present-day consequences of the 1921 Tulsa Race Massacre have demonstrated a direct, persistent, and growing decline in homeownership rates and occupational status of Black Tulsans (Albright et al. 2021).

critical race theory, which holds that past policies were built to sustain a racial hierarchy. Because of this racist structure shaping American society, new race-neutral policies uphold racism rather than ignoring it (see, for example, Crenshaw et al. 1996; Crenshaw 2011). In a vast literature, critical race theorists have been discussing exactly these issues, mainly in the legal sphere, but increasingly in other disciplines as well, for over 50 years.

CONCLUSION

McGhee (2021) talks about removing blinders that prevent us from seeing the racism that has anchored itself within every aspect of American society. David Foster Wallace (2009) provides a down-to-earth example: “Two young fish are swimming along and they happen to meet an older fish swimming the other way, who nods at them and says ‘Morning, boys. How’s the water?’ And the two young fish swim on for a bit, and then eventually one of them looks over at the other and goes ‘What the hell is water?’” The fish cannot recognize water by adding a “lens” of water to their sight; they can only see it by removing the assumption that there is nothing around them.

Once the effects of racism are everywhere, they may be harder to see at first glance. We may not notice it precisely because it is everywhere. That is, racism is not just Klan lynchings and Nazi marches; it is embroidered into everyday life and reinforced by passivity. As Alexander (2012) writes, “Our understanding of racism is therefore shaped by the most expressions of individual bigotry, not by the way in which it functions almost naturally, almost invisibly (and sometimes with genuinely benign intent) when it is embedded in the structure of a social system.”

An understanding of what determines whether policy is racist can reasonably differ among honest thinkers, but it seems to me that it has to start from understanding the both the history of racism in the country as well as all of its current dimensions.

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