

Are You White?

What Happens Next - 12.03.2022

Larry Bernstein:

Welcome to What Happens Next. My name is Larry Bernstein. What Happens Next is a podcast which covers economics, finance, politics, and science.

Today's topic is: Are you white?

Our speakers will be Dan Bouk is the Department Chair of History at Colgate University and the author of the new book called Democracy's Data: The Hidden Stories in the US Census and How to Read Them. Dan will speak about our ongoing governmental data collection is used to determine race, gender, and other personal information. The search for these answers and ethnic classification informs us about who we are as a society. The downside is that these questions highlight differences in our national identity.

Our second speaker is George Mason Law Professor David Bernstein who is the author of the book Classified: The Untold Story of Racial Classification in America. The answer to the question whether you are White, Black, Hispanic, Asian, or other has consequences. It can determine who gets a government contract, a job or is admitted to a select college. Should the government be in the racial classification business, and do government imposed racial classifications undermine our societal objective to live in a multi-racial society?

Buckle up.

Since the beginning of COVID, I have commented on the monthly employment data released by the Bureau of Labor Statistics because it is the most important economic statistics to determine the growth of the US economy. In the month of November using the Establishment Survey jobs increased by a quarter of a million jobs over the month and half a million over the past two months. This rate of growth is typical for an average month pre-COVID. But the Household Survey, jobs decreased by a hundred thousand for the month and five hundred thousand for the past two months.

So why are these surveys going in the opposite direction and differ by a million jobs over two months. Well, the surveys are done differently. The Establishment asks big firms about their hiring and firing, and the Household telephones homes to see if there was a change in employment status for anyone living there. In the long run, the Household Survey is more accurate because lots of people work for small firms or are self-employed and thus are properly included. However, the Household Survey only surveys 60,000 month and there is a very large month-to-month variance and has a big error month-to-month. I would keep an eye on these

differences to see if there is an economic slowdown that might be impacting small firms more than large ones.

Average hourly earnings in the private sector increased by 0.7% rate in November which is at an annualized growth of 8.4%. A surge in wages may be inflationary and non-transitory.

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Ok, let's start with Dan's opening remarks.

Dan Bouk:

I wrote a book about the history of the US Census called *Democracy's Data*. The book tells stories about the 1940s census. It's a historical account using the census to understand American society, still mired in a great depression on the eve of a world war.

The census is an awe-inspiring project. The idea that a government can and should count every one of hundreds of millions of residents is audacious.

Take the 1940 census as an example. For that count, the government mobilized 120,000 people to span the country setting out to gain detailed information about 131 million people living in the United States. The census counts every person for the purpose of making policy in the here and now, but it also creates a permanent record of the American people. A 1930 Census Bureau official wrote "every person in the United States, however insignificant he may be, has a permanent place in the history of the country," or as the Census Bureau advertised in 1940 with some more poetry. "You cannot know your country unless your country knows you." In practice, the count is much messier than it seems. It has always been this way.

People must be labeled and classified, but they often fit poorly in one or more of the categories that have been predefined. In *Democracy's Data*, I look at the difficulties faced, for instance, in trying to describe queer households or other living arrangements. The challenge, the census makers preconceptions about what a family should look like.

People also go uncounted in every census. This has been a concern since the very first one. After the 1790 Census, Thomas Jefferson assured his correspondence in Europe that the count was too low that the US was larger and growing more quickly than the count implied. In the 20th century, the first estimates of undercounts were only about 1% of the population. After the 1940 census,

by comparing the numbers of young men counted for the draft suggested the census underestimated the black population by about 13% and the entire population by 3%.

Every census count must be understood as bearing uncertainty.

In 2020, considering the extraordinary challenge of completing a census during a pandemic, the fact the Census Bureau produced an account at all is remarkable. Wrestling with uncertainty should lead us to reconsider the ways we rely on them to automate decisions.

Apportionment began in 1920 to hold the House at 435 seats. Politically, since then, the size of the population has tripled. The House has stayed the same size, and every 10 years we see situations where some states are granted seats while others lose seats, based census counts that are much smaller than the error and uncertainty associated with those counts.

Larry Bernstein:

The census costs a fortune to implement. Why are we doing it?

Dan Bouk:

It's in the Constitution that we need to know how many people are in each state, so then we can determine how many people should be allocated to each state for the House and for the Electoral College. Beyond that, Congress has a lot of control in deciding what we should use this data for.

The 1940 census is probably the apex of census curiosity in which we gain a lot of information about all individuals. People who do like family history or genealogy are going to be very disappointed as they get past the 1950 census, because they're going to find out that all of this really interesting data description about their relatives, it all starts to go away after 1950 because of technological enhancements that were pioneered in 1940.

Larry Bernstein:

Do you mean by that in 1950, the census bureau started using random sampling, so we can ask more questions to a small subset of the population and then infer the answers for the full population?

Dan Bouk:

We can ask some questions of only a proportion of the people in a random fashion. And by that form of sampling, we can gain more information. From 1960 on because of concerns of privacy much more of the census has been pushed into sampling, such that in 2020 most people only answer seven to 10 questions. Then every year we have this American community survey that asks one or 2% of Americans a lot more questions.

It's so crucial to get a good decennial census because then it makes possible longitudinal research, because the census does track people, it has their names to make targeted studies.

Having really accurate full population data makes possible: political polls, polls that companies run, all of those are built on samples. And those samples are only as good as the initial count of everybody. If you think of it as balls in an urn and you pull out a certain number of balls, the only way you calculate your probabilities is if you have a good estimate of how many balls of different colors were in that urn in the first place. And that's what the decennial census does. The whole system is built on that.

Larry Bernstein:

Can we replace the census with other government data like tax returns and drivers' licenses and private sources like Facebook and cell phones?

Dan Bouk:

The census is aspiring to include everybody. There are some people who think about trying to replace this decennial census with drawing on government records and drawing on data brokers records that can sometimes help to fill in the gaps.

But in the end, the decennial census is still the gold standard for counting everybody. The beautiful thing about the census is that it allows us to have total access to a data set. These are the questions, they're set. We know it's all going to be very clean. And then you send it out and people interact with census forms to gather data. And that reveals how the world is so much more complicated than any data system. And that result in some weird, fuzzy, mucky stuff happening, which is then why you then have to clean it up, you have to edit it. You have to make the people's responses fit within that data system and produce facts that look very clean but are a result of this complicated process.

Understanding that is important. We rely on complicated data systems for so much, we rely on it to make decisions about government, businesses, and our institutions. And it is easy for people who want to doubt facts that exist, to look at a data system and say, "Look how messy this is." I think what's happening is we spend so little time thinking about what it means to produce facts. Then when somebody shows you how this climate data is being constructed. And they say, that looks pretty messy. It must be something funny going on here. It's like, no, that's just how climate data is constructed.

Larry Bernstein:

Next topic is the history of the census taker. In your book you show an illustration of an 1854 canvas by Francis William Edmonds called Taking the Census that is exhibited in the American Wing of the Metropolitan Museum of Art in NY. In the painting, the census taker and his

assistant enter a home and are speaking to the husband while his wife and kids are hiding in the corner. The joke of the painting is that the dad is having trouble remembering how many children he has.

What I found interesting about this 19th century painting is how different the old census was. It was local. I am sure that the census taker knew the individual and that this process was not anonymous. Today, it would be highly remote to know the census taker. But I can see how privacy would be problematic if your neighbor entered your home and demanded to know very personal information like your income. What are the historic concerns relating to the census and privacy?

Dan Bouk:

Yeah, that's a great question. The changing norms about privacy in the community. Those early censuses, not only did you know a lot of the people, they were law enforcement officials who were US Marshals. The results would be posted for the community to check to make sure that everyone was properly enumerated. There's a very different sensibility than the way in which we've come to understand it, where the census began to ask many more questions, some of which might be considered more private. And as our society came to expect a certain amount of anonymity in some situations.

And now we have a census where individual information is supposed to be kept entirely secret for 72 years.

Larry Bernstein:

The census form can be confusing. Who really lives in the house versus who is living their temporarily? Mistakes are made. How does the census taker reduce errors, and do they add their own biases?

Dan Bouk:

When an enumerator goes around and asks questions, there's a certain kind of error. And then when ordinary individuals fill out their own data, there's a certain kind of error, right?

You get better data by self-enumeration, they found that the errors would be less clumpy. enumerators made the same kind of errors for one whole area.

I'm a bit of a romantic about this whole encounter. I do think there's something about seeing a person come to the door and the state reminding you that this is a civic operation. That this is part of your commitment to the government.

The idea that these people are employed to go out to find their fellow Americans. It feels to me like voting in which you affirm I'm a part of the system. But I also recognize that most of that is probably false romanticism because people didn't want to see that person at the door. And certainly the 2020 census would've been terrible if we hadn't been able to rely on the internet.

Larry Bernstein:

Technology allows us to be so much more productive. Tasks that used to be done in person can now be done over the internet. Yet, the government hired half a million people to do the census which was the same number a decade earlier before the use of the internet. How has the government found a way not to be productive?

Dan Bouk:

The Census Bureau became more concerned about decreasing the undercounts that had been pervasive. From the 1960s a lot more resources go into trying to find people who were otherwise hard to count in the first place. You save resources by getting a lot of people, 60 to 70% of the population sending in their forms online or on phone or by paper.

But then you end up still hiring in 2020, half a million people who are sent out to find people who didn't respond in the first place, to go and count people who don't have stable addresses, who are otherwise hard to find. And oftentimes to do this multiple times, talking to their neighbors, trying to figure out how many people live there.

Larry Bernstein:

Some very basic census questions are challenging. In the 2020 census that I filled out, it asked for the ethnicity of my family. I wrote down Jewish. Now, this is a religion and not an ethnicity, but I thought it was appropriate. The facts are my mom was born in Vienna as was her mother. My maternal grandfather was born in Sibiu Romania which had been part of Hungary when he was born. My dad was born in Chicago, and his grandparents were born in Riga Latvia and Vilnius Lithuania. Everyone involved thought of themselves as Eastern European Ashkenazi Jews. Ethnicity is fluid, it is complicated, and with mixed ethnic families, it is a mess.

Dan Bouk:

Confusion is as old as these censuses. The arbitrariness by which any of these categories must ultimately be decided, they come down to conventions and they come down to these judgment decisions that don't make much sense. If you think about the initial racial categories that existed, whiteness is put on the first census in 1790, four different categories of white people. And then free people of color or enslaved people are counted. And that's being counted because enslaved people will only count as three-fifths of an individual because of the way the Constitution is using race and enslaved status as a means of apportionment from the very first moment.

The question of what counts as white becomes really complicated. The census is trying to determine who counts as white. What percentage would count a person as white. How a community understands racial categories are often quite arcane.

Now, in your question, if we're thinking about people self-enumerating filling out these race or ethnicity questions, your grandparents didn't decide who controlled the territory in which they were living at any given moment. Borders often move.

The statisticians produce these arbitrary designations. We're going to use this border at this particular moment, and we produced statistics based on that.

Having ethnicity and racial questions are useful for people who are doing surveys. Most importantly, they're there to enforce civil rights laws and to make it possible to determine discrimination. And also to prevent unlawful forms of gerrymandering.

Your particular answer to what kind of white person are you probably will have little impact on the published data. It might never even show up at all.

Larry Bernstein:

Do you think we should abandon questions about race and ethnicity in our census like the French did?

Dan Bouk:

If we were inventing the entire United States without any history, then I might be fine with the idea of not producing these racial and ethnic categories. The problem is that we have 200 some years of US history in which past censuses produce these racial categories precisely for the purpose of then saying, white people get to have the most citizenship rights. And that lasted up until the 1950s. So some of the reasons we persist to have these ethnicity questions is because we're making up for the 200 years beforehand of very explicit race and ethnicity questions as a means to justify hierarchal rights, So yeah, I agree it might be nice and useful to be get rid of those, but to do so, we'd have to remove all of the ways in which history leaves its marks on society.

Larry Bernstein:

The hot political issue for the 2020 census was the Trump Administration's desire to find out if the individual is a US citizen. The citizenship question had been a long-standing part of the census and was removed recently. What happened in 2020 on this census question?

Dan Bouk:

Behind all of those questions is not just about federal funding but who should count when it comes towards allocating seats in the House. When the Constitution was first ratified, it said that all residents, regardless of citizenship have been counted.

Larry Bernstein:

Congress did not explicitly ask for the citizenship question, but the Trump Administration added it.

Dan Bouk:

The Secretary of Commerce added it and said, I'm adding this because the Department of Justice needs me to do this so he can enforce civil rights laws. And what became clear in the court case was that the Secretary of Commerce had made that up and was adding this for some other reason that they weren't admitting.

Larry Bernstein:

Do you believe that Congress is responsible for the design of the census?

Dan Bouk:

I think it's Congress's decision. It is ultimately a political decision and Congress has to decide.

Larry Bernstein:

In your book you highlight that some citizens feel angst about the questions of race, gender, ethnicity, and even their name. The purpose of the census is to get a count. Should we limit the questions to that?

Dan Bouk:

People are upset with talking to a stranger. It's often uncomfortable to live in society because our own circumstances are strange, not quite fitting within the prescribed lines of how we think normal people should operate. Living in a modern nation requires us to subject ourselves to data systems like this that are going to ask lots of questions, each one of which might seem arbitrary or not necessary, but that might be useful and tied to policy.

The point of the book is not to say "Oh, this is uncomfortable, we shouldn't do these things." But to be aware that when we ask these questions, if you are filling out a form and you feel uncomfortable, it doesn't mean that you are strange. It means you're quite normal. Because most people, when the government comes knocking and they're forced to answer a particular question, find out that it's hard to really know how to answer, how to fit your whole life into a form. It doesn't mean we shouldn't do it, but it does mean that we should recognize that it contains within

it uncertainty. For the 300 million of us who are half guessing to make ourselves fit in the predefined forms.

Larry Bernstein

I end each episode on note of optimism. What are you optimistic about as it relates to government data collection to improve public policy?

Dan Bouk:

I've had people read this book, and then say they are inspired by it to look in the 1950s census to find their family. And they're often surprised by what they find. And I get these heartwarming stories about people who look into the census and feel some connection. That's a wonderful thing and it gives me hope and faith that we can look to the past and can help us feel connected to the people around us.

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David Bernstein:

Racial classifications dictated by law have been as American as apple pie since the 19th century. Americans these days shake our heads with revulsion when we read about the absurd lengths authorities went to in the past, when they were enforcing racist Jim Crow laws or racist immigration laws. The irony is that government-mandated racial classifications are today more common than ever.

If you apply for a mortgage or enroll your kid in school or receive a COVID vaccine, you're asked to check a box indicating your race and ethnicity. These classifications descend from the racist classifications in use a hundred or more years ago.

My book *Classified: The Untold Story of Racial Classification in America* delves into the complex and sometimes surreal world of government-imposed racial classification. For example, the Asian American classification includes both Pakistani-Americans and Filipino-Americans. They don't look alike, they don't live anywhere near each other back in their ancestral homelands, there's really nothing in common except they're both arbitrarily put into the same classification.

Most people think it's just a matter of self-identification, right? You can check whatever box you want. To some extent that's true, but in some cases, the bureaucracy decides to question them because there's something valuable at stake, like affirmative action benefits. There are cases in which someone checks the Hispanic box, but then a government official says, "Wait a second, your name is Joe Smith. You look Caucasian. You don't look Hispanic. Give us some evidence that you're Hispanic."

And it's very troubling because these hearings bear a great resemblance to race trials of the 19th century where we talk about how thick are people's lips, crazy things that we thought we left in the past. And we still do those things today.

How do we get here? The classifications were invented in the 1970s in a black-white binary. The general sense was everyone knows who's white and who's black. But today, thanks to immigration, intermarriage, we have a much more diverse American population. Almost 20% of Americans are Hispanic. About 6% or 7% are Asian. 21% are first or second-generation immigrants who have very different lived experiences than people who have been in the country ancestrally for 400 years.

And the rules haven't really changed to take account of that. We have tons of people who are quarter Hispanic or a quarter Asian or one-eighth black. The rules don't really say whether they're supposed to be counted as one group or the other.

The default is count anyone who is mixed as being of the minority group. But there's no rhyme or reason to that. Other than that minority-rights groups want to be able to claim more constituents. In any event, while racial discrimination is still a barrier to minorities, asserting a non-white identity can sometimes be an advantage for affirmative action purposes. So, there's an incentive of people who have only remote cultural or ancestral ties to a particular group to claim that identity in practice.

We call these people identity entrepreneurs. In my own world of the legal academy, it's not uncommon for individuals to check a minority race box when they apply to law school but then identify as white once they matriculate.

Concern about this is spreading across the political spectrum because a lot of affirmative action programs meant to help African Americans, it turns out that a lot of the benefits are going to African immigrants, or Hispanic immigrants and their descendants, or Asian immigrants and their descendants. This whole idea that we have people of color and they're indistinguishable is not only empirically absurd, but it flies in the face of what classifications were meant to bring historically oppressed groups into the mainstream.

What do we do about it? We could have more finely grained classifications. But the other option, which is what I favor, is to have a separation of race and state. Race is too important and leads to too much potential conflict in society to have the government picking winners and losers. Therefore, we should have a strong presumption against using race at all. And if we do use it, we should really be very careful about how we're using it. What are we trying to accomplish and how are we trying to accomplish it?

If we're really looking for diversity in higher education, it is absurd to take all people who have ancestry from Pakistan all the way to the Philippines and put them in the same diversity classification. It's time we should be looking for a situation where we all identify primarily as Americans.

Larry Bernstein:

Why did the French get rid of racial classifications for their census? And has that helped unify French society?

David Bernstein:

The French got rid of classifications for two primary reasons. They've had since the late 18th century, the notion that we should have a singular French identity: *liberté, égalité, fraternité*. We shouldn't be separated by religion or ethnicity or anything else.

And during World War II, they had records of who is Jewish. When the Nazis took over, they gave them to the Nazis and helped round up Jews. After World War II, there was a lot of sentiment in the US that we should abolish racial classifications for similar reasons. The government can't oppress you based on race if it doesn't know what race you are.

But, once we had civil rights laws, it was impossible to enforce them without getting that data.

About the French, it does add to something like social or national solidarity. On the other hand, it sometimes interferes with the ability to tackle social problems. There was a large rise in antisemitism primarily among the North African Muslim population in France. When Jews started getting attacked, the French government was slow to respond. Cause they would just say, "Well, it's just Frenchmen attacking other Frenchmen. It's just part of our general crime statistics." They refused to recognize there's a particular ethnic and religious dynamic going on.

Larry Bernstein:

Let's tackle the Voting Rights Act next. The Voting Rights Act uses purposeful government gerrymandering to create majority Black and majority Hispanic districts with the intent of electing Black and Hispanic congressmen. Without racial data from the census, this law could not be implemented. Does that mean that the Voting Rights Act needs to go, given your vision of separation of race and state?

David Bernstein:

Let me be a pedantic law professor for just one moment and point out that the Voting Rights Act doesn't actually require on its face the creation of what they call minority majority or majority minority voting districts. Democrats want to reward their constituencies. Republicans want to

concentrate all the minority voters in certain districts so that there will be more Republican voters in other districts since Blacks overwhelmingly vote Democrat.

It made a certain amount of sense to focus on who was getting elected back in the early days of the Voting Rights Act, because what happened in a lot of southern communities is the population was 55% white and 45% Black. Instead of voting by neighborhood or by community, you would vote just across the whole electoral district, which would mean that 55% of whites will all vote for the white candidate. The Blacks will all vote for the Black candidate. But if that's the case, then it's only whites getting elected. That was really meant to keep black political power down. But I don't think we should be trying to gerrymander racial districts at this point.

The Voting Rights Act does raise a salient problem with the separation of race and state. To the extent we're worried that in some small town in Texas or in Alabama white electoral officials will try to suppress the Hispanic or black vote.

There's really no way to enforce the act without knowing who's voting and of what group. If you know that 40% of registered voters are Hispanic and only 15% of Hispanics voted that would at least give you some cause to investigate. So, do we need racial classifications to enforce civil rights laws?

We probably need them less than we currently use them. But to the extent we do want to enforce the laws in question, you probably can't get away from racial classification entirely. The classifications that we use, while absurd in other contexts, aren't that terrible for anti-discrimination enforcement.

Larry Bernstein:
Who is white?

David Bernstein:
Well, there's this whole literature out there called whiteness studies, which is all the rage. I find it to be generally historically inaccurate, because they take a stylized ideological view of what being white means, and they apply it anachronistically to the past.

They will say things like, "Jews, or Italians, or "Irish used to not be white." And what they mean by that is that they were not treated as fully equal citizens by the Northern European Protestant majority.

But they were always considered white if you looked at laws that banned interracial marriage. No one ever prosecuted an Italian or a Jew or an Irish person for marrying a European. If a labor union had a white-only clause in its charter, no one excluded these ethnic groups.

People may have said, “we don't want Catholics” or “we don't want Jews.” You're considered an inferior level of white, but you are not lumped in with Blacks and Asians and who are considered members of other racial groups.

Historically, it meant were you from Europe? The Middle East was a little controversial for a while, but basically if you were European, Middle Eastern, North African, you were white. Latin America was also white unless you were obviously black.

I still see this ridiculous debate of whether Jews are white or not. I finally figured out why this didn't make any sense to me. They don't mean whether Jews are actually sociologically white, which most Jews clearly are. They mean are Jews fully accepted, don't face violence and discrimination to the extent that we should consider them the elite of society, which is a weird way of using white.

People who are members of minority groups who want to be treated as such, like Muslim Arab Americans, will assert their lack of whiteness. Someone like Rashida Tlaib or Linda Sarsour, the latter of whom is more fair-skinned than I am, will say, “Well as a woman of color.” Arab-Americans have been considered white for at least a hundred years in the United States.

The classification “white” on the census still has not changed despite the debate over what being white means. If you're from West of Pakistan, then you're white. If you're from Pakistan eastward, you are Asian-American.

Larry Bernstein:

Why do some people prefer to be white and others non-white?

David Bernstein:

On the one hand, you have people complaining about institutional racism in the United States. On the other hand, you have people who are begging the government to have their group considered non-whites that could be eligible for various government benefits like affirmative action.

But there's a sense, for example, among the Palestinian Muslim activists I mentioned, that this immunizes them from criticism. If you attack Rashida Tlaib on Twitter, which I've done, you'll get someone saying, “Oh, you're racist. You're attacking a woman of color.” Well, my ancestry is Middle Eastern, her ancestry is Middle Eastern. If you took DNA charts, we be the same spot on the map. It is completely absurd, right?

If you're an American today, the thing that would get you the most benefits is to be a person of color when it comes to potentially getting affirmative action benefits or for being somewhat

immune from criticism, but to be a white person socially, such that you don't face discrimination when the police might pull you over.

These identity entrepreneurs, Elizabeth Warren, she's a great example. Let's assume, charitably, that she really did believe that she had relatively recent Native American ancestry. She called herself that on various forms that would make her eligible to be considered a diversity candidate for faculty hiring.

But she lived her life as a white woman. Anyone looking at her would think she's white. She didn't face any of the social discrimination one might face for being Native American, but she reaped whatever benefits one might reap.

Now, as far as where whiteness is going, sociologists who study these things predict one of several possible scenarios. One scenario, which I think is the least likely, is that the government-based classifications that we have ossify. That seems unlikely given the rates of intermarriage. The second possibility is that whites and non-whites separate into just those two classifications. A third possibility is that we all become multiracial and have a multiracial ethnic American identity.

That's where the big dividing line is. People wonder whether Black Americans, and maybe a few other particularly dark-skinned ethnic groups will be able to merge into their American mainstream. I think government policy encourages African Americans and others to think of having a separate identity. It retards progress towards us thinking of each other as being Americans.

Larry Bernstein:

Next topic is self-identification of race. Do we need proof to check the race box is marked accurately?

David Bernstein:

Very few Americans want the government to be in the business of determining what someone's racial identity is. It seems very Nazi-like. We used to do that in the Jim Crow South. I gave the example of looking at how thick one's lips are or how curly one's hair is. We did that decades ago.

In Brazil, where they had affirmative action programs implemented recently, they thought there was a lot of fraud going on. They gave out information to various state governments when people apply as someone who's black, here's how you measure their nose width and their lip size and their hair.

I just can't imagine Americans want that. You could use DNA tests now, but I don't think people want that either. We want the programs that are meant for minorities to be used by members of those groups. But we also don't want the government to be dictating what the boundaries of those groups are beyond obvious cases of fraud.

Larry Bernstein:

Do you think that the questions about race and ethnicity in the US census encourages separate identities and undermines the “we are all Americans” ethos?

David Bernstein:

I was doing my research and I came across the phrase white racial consciousness. And I assumed when I started seeing this phrase that I would trace it back to Neo-Nazis. It turns out if you Google “white racial consciousness,” you'll mostly find articles from left-wing sociologists who are encouraging white people to recognize their whiteness. Why? Because we want white people to recognize their white privilege. Once they recognize their white privilege, they will recognize that they need to be allies in our anti-racism struggle. This is the most preposterous and dangerous thing I ever heard.

It's against human psychology, human nature, and all historical evidence. I looked up the social science research, and it turns out that social scientists have found that the more people think of themselves as being white people, the more racist they tend to be. Of course, this is so blatantly obvious.

Larry Bernstein:

I want to turn the topic of race in medical studies. Paul Mango, who ran Operation Warp Speed for the Trump administration, spoke on our podcast a few months ago. He mentioned that for the vaccine trials the government demanded that the drug companies include Hispanics and Blacks in the vaccine trials to match the racial demographics in the US population. The drug companies struggled to get Hispanic and black volunteers and as a result the COVID vaccine trials were delayed a few weeks. This cost thousands of lives and cost businesses billions. Should the FDA require using racial classifications in drug trials?

David Bernstein:

I think it's just completely appalling, unscientific, pseudoscientific; it killed people. The head of Moderna said they had to delay their study for a few weeks because they didn't have enough Hispanics. I later learned that the head of the National Institutes for Health said, “if you don't do this, we are not going to approve your vaccine.” Oddly enough, that same individual had written an academic article a few years earlier talking about how absurd the racial classifications in science are.

I couldn't really square the circle except for politics. Now let's start with two propositions here. The first proposition is that race is generally irrelevant to scientific research that what we call race is not sufficiently correlated with genetic differences to be useful in scientific research.

However, even if you thought that race in some scientifically defined way could be useful, the classifications we use are absurd. Why would you need Hispanics to be represented in a study? Hispanics can be a hundred percent indigenous, a hundred percent European, they could be a hundred percent African in origin, they could be even a hundred percent Asian in origin, or they could be any combination of those four groups.

Politically speaking or sociologically speaking, the argument is that people who are Hispanic or Black or Asian won't have sufficient confidence in the studies if you don't include members of their groups. But that strikes me as circular.

You and I are both Jewish. Jews have various weird genetic anomalies compared to other Middle Eastern European populations because our ancestors were very incestuous. They married each other and because of various historical tragedies that happened, there was a small group of founders. All Ashkenazi Jews are descended from like 400 people who lived like 700 years ago.

We do have various higher risks for relatively common diseases like breast cancer, Parkinson's, and so forth. But do I worry about when studies come out that they have enough Jews in them. No, and the reason is because generally it'll be irrelevant, and no one tells us to worry. However, if the FDA started every study to have a representative number of Jews, then we'd start thinking, "oh, it has to have Jews in the study or it's not a valid study."

What if the head of FDA and NIH and every other reputable scientific body had said during the vaccine trials, "Look, we need to get this vaccine out as soon as possible, there is absolutely no scientific reason why the mRNA vaccine would work differently in a Hispanic or an Asian or an African descended person than in a European descended person. We are going to be scientific here and not political." I can't predict how that would've been received but that's what they should have done.

Larry Bernstein:

I am not aware of any African, Asian or Latin American country that said, we don't accept the American FDA studies because it doesn't match the genetics of our local population.

David Bernstein:

That's a really good point. You'd think that if anyone thought this really mattered, people would say, "Wait a second, only 14% of the vaccine trial participants in the United States were Africans. So, we can't use this in Zimbabwe."

Larry Bernstein:

What about the government using DNA testing for race classification?

David Bernstein:

I don't think we're going to DNA testing for these things because the whole point is that if you're facing discrimination it's supposed to be based on sociology not the fact that you happen to have the ancestry.

Someone took a DNA test and found he was 4% of African descent and he lived his life as a white person. A fairly large number of Americans, especially in the South, have a small amount of African ancestry.

The official definition of Black African American is someone who's descended from one of the Black populations of Africa. So, if you take that DNA test and find that you have Black ancestry, you could check that box without engaging in any kind of deception.

20-something years ago when the FDA and NIH started this nonsense about requiring race in medical studies, everyone said, "Well, it doesn't really matter. Cause 20 years from now, DNA tests will be so common and so cheap that we'll be going towards DNA based medicine instead." And that's what we should be doing.

I want to reiterate that when you say that race doesn't exist in a way that is useful medically or scientifically, you're not denying genetics exists. Unfortunately, the fact that government agencies have required scientists to be so race conscious has really inhibited our movement towards using DNA as the way of determining what medical treatments we should be looking at and how we should be treating people.

I think DNA-based medicine is still the wave of the future, but we might be getting it a decade or two later than we would be without government interference.

Larry Bernstein:

In your opening remarks, you mentioned that America has recently had substantial immigration from Africa and the Caribbean. For affirmative action benefits, these black immigrants are competing against African Americans who have been living here for hundreds of years and faced discrimination going back to slavery. How should we think about the role of African immigrants who benefit from government affirmative action programs designed to help descendants of slaves?

David Bernstein:

At some elite universities in the United States, well over half of the black students are first or second generation African or Caribbean immigrants. Another substantial chunk has one white parent and thus are biracial.

The people who come from inner city public schools or have had ancestors in the United States for centuries subjected to discrimination, a lot of them are getting frustrated and say, "Wait a second, we're the ones who faced all these horrific historical problems which still have current manifestations. Why are the slots instead going to African and Caribbean immigrants and people of biracial origin who may not have been raised in the African-American community?"

One way we could accommodate that concern is to adopt the classification that some of the activists on this issue have adopted, which is ADOS, American Descendants of Slaves.

Of course, most people who identify as ADOS are what we would call Black or African American. But it's still not a racial classification because it would exclude that 21% who are first, second, third, fourth generation descendants of African Americans.

For example, it would exclude the vice president, it would exclude Barack Obama, it would exclude Colin Powell. I would say that we're not just looking for people who happen to have black skin color or African features, but we are specifically trying to make up for historical wrongs by targeting the descendants of American slaves.

Larry Bernstein:

What is your view of the Harvard affirmative action case currently in front of the Supreme Court?

David Bernstein:

One issue that proponents of affirmative action raise is that Harvard takes all sorts of academically arbitrary things to account. They want to make sure they have students from all 50 states. So, if you happen to be the one applicant from Wyoming that year, you're in good shape. They want oboe players, they want athletes. And race certainly has some correlation to having different life experiences. So, it's not only wrong to ban using race, it would be racist because you're letting them rely on everything but race. Chief Justice Roberts responded in one way that's useful. The quote was, "Well, we didn't fight a civil war over oboe players."

Race has the potential to really balkanize societies. There's <laugh> not a history of people in multiethnic, multiracial societies, where each group really thinks of themselves as being a separate constituency, having happy historical outcomes.

You could look at it like Bosnians and Serbs or Hutu and Tutsi groups. These groups have massacred each other because they're each trying to get the power from the other group. So, in that sense, it is much more dangerous to rely on race.

What does disturb me is how rarely any of them recognize the danger of having the government classify people by race and then distributing benefits on that basis.

Larry Bernstein:

I suspect that if the Supreme Court rules against affirmative action that universities will find new criteria to achieve the same thing.

David Bernstein:

We already see some attempts to get around race neutral rules. California has long banned race consideration in admissions. In 2020 there was a proposition on the ballot to repeal that ban and it lost. The University of California immediately did away with relying on the SATs. You're not allowed to submit your SAT scores because Asians do very well in the SATs, and they think we're taking too many Asians.

My daughter is a high school senior, and I was looking at summer programs for her last year, and there are a lot of summer programs that at one time might have said explicitly, "were only looking for minorities." That's illegal because that's like a hundred percent quota. So, instead they say, "we're looking at students with a demonstrated commitment to diversity." You look at the picture of last year's summer program and everyone is Black or Hispanic and Asian. So, they're obviously using that as a proxy for race, but they're not explicitly saying it's racial.

The reason I say that's worse, is because this will mean that if you want to get into Harvard, it won't be enough to check the Hispanic box or check the African American box and get preference for that. You'll have to get involved in left-wing diversity activities. You'll have to join some anti-racism group. Then, you'll be getting a less diverse group of black and Hispanic students. It would lead to more identity politics.

Larry Bernstein:

What are you optimistic about as it relates to racial classification?

David Bernstein:

Elite university these days have a special minority orientation and a special minority dorm and special African American graduation. It's segregationist. People who support these things really believe that racism is so entrenched in American history and current life that that's inevitable. So, you might as well just accept it and deal with it as such. I think that's much too pessimistic.

If you go back about 62 years when John F. Kennedy ran for president, there were some real doubts as to whether a Catholic could become president of the United States. Millions of Protestants who normally voted Democrat voted Republican, because they wouldn't vote for a Catholic. If you have told people back in 1960 that we have a Catholic president, Catholic Speaker of the House, mixed race, Black vice president, Jewish Senate majority leader, and a super majority of Catholics and Jews in the Supreme Court, they would be just blown away. To think that we can't have similar social change in 60 years is very shortsighted.

Larry Bernstein:

Thanks to Dan Bouk and David Bernstein for joining us today.

If you missed last week's show on genetic engineering, check it out. The topic was CRISPR and the ethics of genetic engineering.

Our first speaker was Stanford Law Professor Hank Greely who is the author of the book CRISPR People: The Science and Ethics of Editing Humans. A Chinese scientist edited the genes in a human embryo with the purpose of improving that child's defense to the HIV virus. Three children were born with these genetic enhancements and their progeny will carry those genetic changes in their germline. Hank discussed the problem of when practitioners throw caution to the wind.

Our second speaker was Jacob Appel who teaches medical ethics at Mt. Sinai Medical School. He provided us with an ethical framework to evaluate human genetic testing. Genetic engineering on babies is coming soon, now what?

Next week the topic is a postmortem of the Midterms. Our speaker will be Henry Olsen who is the author of The Working-Class Republican: Ronald Reagan and the Return of the Blue-Collar Conservatism. Henry will discuss why there was no red wave in an election despite winning the national popular vote by 3% and 3.2 million votes. Henry will explain how the Republicans improved their voting share in very blue urban districts that did not swing the seats to Republicans. We plan on going deep with the political analysis now that all the votes have been counted.

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I would like to thank our audience for your continued engagement with these important issues, good-bye.

