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Is There a Conservative Case Against Racial Profiling?

IBPP Editor
bloomr@erau.edu

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Title: Is There a Conservative Case Against Racial Profiling?

Author: Editor

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Abstract. This article analyzes contentions that a politically conservative case can be made against racial profiling.

At least in most Western conceptions of political philosophy, a conservative orientation implies limited governmental intrusion into the public and private space of a polis; internalized and externalized respect for formally constituted authority; a shared intrapsychic and behavioral embracing of consensual social and cultural values--especially those bearing on morals and ethics; social and political consequences for individuals based on merit; and acceptance of the use of force to deter, counter, and punish those who might or do violate the above. Given that the use of force--including threat of its use--may include employment of profiling techniques to better focus force application, profiling usually is considered a politically conservative mode of control.

More recently, however, a case has been made by James Forman, Jr., among others, that political conservatives should be against profiling techniques--especially those subsumed under the rubric of racial profiling. The essence of this case is that racial profiling creates consequences that mitigate against the main pillars of politically conservative philosophy. Specifically, those individuals fitting a profile are being conditioned to expect that they will be treated differently than others in a polis based, not on merit, but merely on their "fit" with the various aspects of the profile in operation. Regardless of the intrapsychic functioning (as far as it can be inferred) and behavior of those individuals--no matter how they might comply or are attempting to comply with politically conservative tenets of "goodness"--they will be treated "badly" by law enforcement and other formal authorities of that polis. Unfortunately, this case is both misguided and can be countered with other arguments that strongly suggest that racial profiling should be supported by politically conservative citizens.

The misguided nature of the politically conservative case against racial profiling depends on the premise that the profiling system in operation is statistically unsound. That is, the system incorrectly identifies types of individuals as being at risk for transgression. Here, members of the type in question surely are being treated unfairly and are being conditioned to believe that they cannot get a fair shake regardless of their behavior. The behavioral consequences of this learning could include violence--a rage against the machine of the polis--or even a helplessness wherein individuals would just give up in the quest for inclusion in the polis.

However, what is being learned when the profiling system--developed through appropriate tests of statistical and practical significance--is applied to types of individuals at risk for transgression? By one perspective, this is essentially an empirical and experimental question. And this question--because of many racial profiling systems that have been inappropriately developed and implemented--may lack sufficient data to yield a supportable answer. However, a case can be made that racial profiling applied to groups at risk could well induce members of the group who are involved in transgression--and rarely, if ever, could all members of an identified group be involved in transgression--to cease transgression or engage in transgression less often. As well, those not involved in transgression might well act through

variants of moral and ethical suasion to deter and impede transgression among other members of their group. These consequences would be supported by politically conservative citizenry.

There are yet other arguments for racial profiling--often couched as counterarguments to discourse against profiling--that should be supported by political conservatives. For example, racial profiling opponents assert that the very construct of race is socially constructed--not biologically determined--and thus the very notion of racial profiling is problematic. A politically conservative counter is that the typology should be construed as transgression-philic and that the problematic nature of the ontological validity of race is moot.

Racial profiling opponents also assert that all discrimination, whether it be perceptual, political, positive, or negative--even that based on socially constructed race--is simply egregious and should not be applied as a control mechanism by formally constituted political authority. A politically conservative counter again is that a transgression-philic discrimination, not a racial discrimination, is not being applied. In fact, with the ongoing intelligence collection and analysis necessary to support a profiling system, the grouped, observable indicators that would then constitute a profile may change often enough so that even the perception of the "raciality" of profiling might well dissipate.

Racial profiling opponents also assert that racial profiling makes law enforcement less effective and weakens the very respect for and rule of law. Again, such an assertion might be strengthened or weakened by empirical and experimental data. However, it seems to be the case that only inappropriately developed and effected profiling systems--those that would not be supported by political conservatives--may have created and be creating consequences consonant with the opponents' assertion. Moreover, epistemological interactions among dependencies on faith in one's beliefs, faith in the beliefs or "received wisdom" of so-called "experts and "authorities," cognitive operations often labeled as reason and logic, and empirical and experimental pursuits are largely left unexplored by opponents and supporters alike. This might be the most tenuous vulnerability for politically conservative supporters of racial profiling as they confront their own inclination for small government, limited political intrusiveness, and respect for consensual ideology and praxis.

The politically conservative case against racial profiling may well be found wanting. However, it has successfully elicited ongoing deliberation on how we live and how we should protect what lives. (See Dolphin, R.R., & Fan, Y. (2000). Profiling practitioners in British companies. *Corporate Communications*, 5, 197-204; Forman, J., Jr. (September 10, 2001). The conservative case against racial profiling. *The New Republic*, 24-27; Goddard, H.W., Goff, B.G., Melancon, M.V., & Huebner, A.J. (2000). Profiles of delinquency: A comparison of delinquent behavioral groups. *Journal of Social Behavior and Personality*, 15, 19-50; Reddy, M., Borum, R., Berglund, J., Vossekuil, B., Fein, R., & Modzeleski, W. (2001). Evaluating risk for targeted violence in schools: Comparing risk assessment, threat assessment, and other approaches. *Psychology in the Schools*, 38, 157-172; Valdes-Perez, R.E., Pereira, F., & Pericliev, V. (2000). Concise, intelligible, and approximate profiling of multiple classes. *International Journal of Human-Computer Studies*, 53, 411-436.) (Keywords: Conservatism, Racial Profiling.)