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CIVIL RIGHTS: RHETORIC OR REALITY? By Thomas Sowell.¹ New York: William Morrow & Co. 1984. Pp. 164. \$11.95.

*James D. Anderson*²

The publication of this book provides an opportunity to assess Sowell's neoconservative ideas on the economics of race and sex. Sowell offers alternative explanations of the historical and contemporary causes of statistical disparities in incomes and occupational status between men and women and among American ethnic groups. He calls for an end to government attempts to increase employment and educational opportunities for minorities, the repeal of minimum wage laws, and the abolition of affirmative action programs.

Philosopher Sidney Hook, sociologist Seymour Martin Lipset, Walter Laquer of the Center for Strategic and International Studies at Georgetown University, and columnists George F. Will, William Safire, and R. Emmett Tyrell, Jr. have pursued the same ends. Sowell's pet concerns are also issues about which such neoconservative scholars as Nathan Glazer, Diane Ravitch, Richard B. Freeman, and John H. Bunzel have been writing for a long time. Indeed, the positions Glazer took in his 1975 book, *Affirmative Discrimination: Ethnic Inequality and Public Policy*, are echoed by Sowell throughout *Civil Rights*. These neoconservatives have been in a revolt against what Sowell terms the "civil rights vision" of the world.

The major goal of *Civil Rights* is to debunk the "civil rights vision." In brief, the "civil rights vision" primarily means affirmative action, including quotas or any other formulas providing preferential treatment based on race, sex, national origin, or religion. Sowell contends that three major premises underlie this vision. The central premise is that contemporary intergroup disparities in income and education are mostly caused by a history of racism, sexism, and discrimination. Another major premise is supposedly that differential market responses to minorities and women must be attributed to employers' belief in their innate in-

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feriority. The third premise is that political activity is the key to improving the lot of disadvantaged groups.

Sowell is convinced that the "civil rights vision" is sweeping the globe and has changed "the way the world is visualized." It started among blacks and later spread to women and other American minorities, then to the aged and handicapped. Now it encompasses the plight of the Third World and racial policies in other nations such as South Africa. Sowell is convinced that the masses and responsible elites are opposed to the "civil rights vision." Its spread is not the result of a grassroots movement, but of irresponsible liberal elites:

The covert methods by which affirmative action has been foisted on a society that rejects it, the vengeful manner in which busing has been imposed without regard for the welfare of children, and the lofty contempt of a remote and insulated elite for the mass of citizens whose feelings and interests are treated as expendable, or dismissed as mere 'racism,' provide the classic ingredients of blindness and hubris that have produced so many human tragedies.³

In Sowell's view the current emphasis on civil rights at home and abroad is really a scramble by elites for their own special privileges. In countries around the world "the advantaged have benefited in the name of the disadvantaged"⁴; for Sowell, current civil rights leaders are really poverty pimps using the downtrodden for their own gain.

These are serious charges against men and women who have risked their lives and careers in pursuit of racial and sexual equality. But Sowell offers no proof that civil rights leaders actually think and act as he has described them. It is impossible to test Sowell's claims empirically since the civil rights leaders he has in mind go unnamed. He offers his version of the "civil rights vision" and his attacks on civil rights leaders as self-evident truths.

Before examining Sowell's attacks on the major premises of the "civil rights vision," it is important to describe his own vision and to understand clearly why he feels that historical racism and sexism have little to do with contemporary sex and ethnic disparities in education, income, and occupational status. Sowell and his opponents hold fundamentally different perceptions of the past and the present, and different conceptions of a just social order.

Sowell believes that America has a free-market economy that by its very nature is antiracist and antisexist. Competitive market pressures compel economically rational employers to select the most productive employees at the cheapest wage. Economically

3. T. SOWELL, *CIVIL RIGHTS: RHETORIC OR REALITY* 119 (1984).

4. *Id.* at 110 (emphasis omitted).

rational employers as a class do not discriminate on the basis of color or sex unless they are compelled to do so by laws protecting some ethnic groups at the expense of others. "To say that women receive only 59 percent of what men receive for doing the same work is to say that employers pay men 70 percent more than they have to, to get a given job done."⁵ Since this overpayment for workers of comparable skill might mean the difference between bankruptcy and soaring profits, economic pressures compel employers to hire the cheaper workers. Sowell maintains that these inherent competitive pressures are such that no group would be systematically underpaid. Hence, if men as a class have higher incomes and occupational status than women as a class, men must be more productive workers and therefore more valuable in the marketplace.

Sowell is fully aware that America's free market economy existed during eras of intense job discrimination against minorities and women. He blames this historical racism and sexism in the marketplace largely on government intervention. "Even racism in South Africa has not stopped the hiring of blacks over whites under such conditions — which is why massive *political* intervention in the economy has been necessary to preserve 'White Supremacy' there." Similarly, "sweeping Jim Crow laws were used in the South to keep blacks 'in their place' precisely because of the futility of trying to do so in a competitive economy."⁶

This is, of course, not history at all, but a neoconservative fairy tale. During the Jim Crow era job discrimination was not buttressed by legislation; an employer who wanted to hire blacks instead of whites for any job had a perfect legal right to do so. As historian George M. Fredrickson has shown, in both South Africa and the American South, the historical pattern was one of racial segmentation rather than competition.⁷ Racial compartmentalization of economic functions was the result of active collaboration between employers and government. Sowell's claims rest not on historical evidence, but on his assumption that government intervention in the marketplace *must* have been necessary to deny groups what they deserved, "precisely because economic pressures were too great to keep them down under competitive conditions."⁸

Besides governments, the other major villains are unions. Unions seek to "protect those who are already established on the

5. *Id.* at 112.

6. *Id.* (emphasis in original).

7. G. FREDRICKSON, *WHITE SUPREMACY: A COMPARATIVE STUDY IN AMERICAN AND SOUTH AFRICAN HISTORY*, 221-35 (1981).

8. T. SOWELL, *supra* note 3, at 113.

inside, at the expense of those on the outside.”⁹ They drive out minorities and women in two ways: (1) directly through discriminatory rules and policies, and (2) indirectly, by artificially raising wage rates and making them uniform. Uniform wage rates eliminate any incentive to hire minority or female workers who might be available for less than white male workers.

Some groups have done consistently better than others in the marketplace. What is the reason, if not discrimination by employers? Sowell sees attitudes and cultural values as the best explanation of why some American ethnic groups achieved economic success more readily than others. Whether in an ethnic context or among peoples and nations in general, he argues, much depends on the constellation of values, attitudes, skills and contacts that many call a culture and that economists call human capital. “One of the most important causes of differences in income and employment is the way people work—some diligently, carefully, persistently, cooperatively, and without requiring much supervision or warnings about absenteeism, tardiness, or drinking, and others requiring much such concern over such matters.”¹⁰ Sowell contends that the economic state of ethnic groups depends primarily upon their culture:

Groups that arrived in America financially destitute have rapidly risen to affluence, when their cultures stressed the values and behavior required in an industrial and commercial economy. Even when color and racial prejudices confronted them—as in the case of the Chinese and Japanese—this proved to be an impediment but was ultimately unable to stop them.¹¹

Significantly, Sowell’s concept of market-relevant culture is not a question of specific skills being transmitted intergenerationally, but of attitudes. Where the necessary values and disciplines have developed, he believes, “the skills and economic results have followed.”¹²

Sowell asserts that “[p]erhaps the most striking difference among ethnic groups themselves is in their attitudes toward learning and self-improvement.”¹³ Another key ingredient in the cultural heritage of economically successful ethnic groups is their attitude toward hard work. Sowell is convinced that the more affluent ethnic groups have demonstrated a willingness to work longer and harder than their underachieving counterparts. Jews, for instance, developed centuries ago the cultural values that were

9. *Id.* at 89.

10. *Id.* at 46-47.

11. T. SOWELL, *ETHNIC AMERICA: A HISTORY*, 282-83 (1981).

12. *Id.* at 284.

13. *Id.* at 280.

“tailor-made for success in the American economy.” Although they lived in slums and encountered extreme antisemitism, Sowell argues that their enduring beliefs in hard work, their reverence for learning and general middle class culture, ultimately proved valuable and decisive in the marketplace. He sees Japanese, Chinese, Germans, Polish and Italians as having a history, a culture, and a set of values that distinguish them in much the same way. The underachieving minorities, Filipinos, West Indians, Mexicans, Puerto Ricans, Blacks, and Indians, allegedly derive from cultures that do not yet have comparable attitudes toward hard work, learning, and self-improvement. Moreover, these underachievers have done poorly in the competitive economy, according to Sowell, because historically they have emphasized political protest, government aid, and special treatment rather than learning, hard work, and frugality.

Sowell believes that the economically successful ethnic groups acquired their market-relevant attitudes not in America but in their ancestral homelands centuries ago. He assumes that there is a Jewish, Japanese, Chinese, or German “cultural imprint,” which remained strong wherever these groups settled in the world and enabled them to adapt successfully to freemarket economies. In contrast, “[g]roups today plagued by absenteeism, tardiness, and a need for constant supervision at work or in school are typically descendants of people with the same habits a century or more ago.”¹⁴ It is not simply that absenteeism or tardiness as such are so important, as that a set of attitudes toward work and school causes other workers to be there consistently and on time, and to work effectively and more productively in the marketplace. Thus, current underachieving ethnic groups will remain on the bottom until they undergo changes in both cultural orientations and in group capabilities. This could take a long time. Such “cultural patterns do not readily disappear, either with the passage of time or with social engineering.”¹⁵ Although new skills can be readily acquired in a few years, “generations—or centuries—are required for *attitude* changes.”¹⁶ Underachieving ethnic groups are apparently doomed to remain poor for the generations or centuries required to develop those attitudes.

In assessing Sowell’s theory, the crucial questions are (1) whether the competitive pressures of a free-market economy actually assure equal opportunity, and (2) whether earnings in the

14. *Id.* at 284.

15. T. SOWELL, *supra* note 3, at 29.

16. T. SOWELL, *supra* note 11, at 284 (emphasis in original).

marketplace transmit accurate information about attitudinal differences between ethnic groups.

An examination of Sowell's premises and data yields only the most oblique suggestion that they are descriptive of the real world. Of course, some ethnic groups that historically were subjected to discrimination currently have higher incomes than groups that encountered more or less similar circumstances. But this observation is far from Sowell's crucial assumption that contemporary statistical disparities in ethnic incomes are *primarily* due to the different attitudes that each ethnic group has brought to the marketplace. The plain truth is that this "empirical" assumption has no basis in fact. Sowell does not prove his assertion. Nor could he, for the few historical, sociological, and economic studies that seek to explain the work behavior of particular ethnic groups provide no measure of the "cultural" determinants of income and occupational status. Moreover, no hard evidence accompanies Sowell's major theoretical assumption. He assumes that employers make the economically rational decision and hire the most productive and efficient workers, without regard to race, color, creed, sex, or national origin. There is simply no proof that such reasoning by employers is decisive in hiring.

Sowell is forced to abandon his cultural explanation entirely when it comes to explaining the difference between the economic success of men and women. Presumably, the females of each ethnic group inherited roughly the same attitudes toward hard work, learning and self-improvement as their male counterparts. Consequently, these attitudes are unlikely to cause large statistical disparities in incomes and occupational status between men and women. Sowell therefore relies on three other factors: (1) "most women become wives and mothers"; (2) judicial and political decisions lessen their demand in the marketplace; and (3) employers "may prefer an *all*-male work force, rather than one in which one or two women become the focus of male attentions to the detriment of the work."¹⁷ For Sowell, "[w]omen's occupational choices are not at all surprising, given the time and energy consumed by domestic responsibilities and the rearing of children." Put quite simply, wives and mothers "choose jobs with the specific hours that allow them to be home at the particular times they consider more important." This "limits their choice of work and prevents their maximizing even the hourly rate of pay otherwise possible."¹⁸ Judicial and political actions, according to Sowell,

17. T. SOWELL, *supra* note 3, at 24, 93, 104 (emphasis in original).

18. *Id.* at 94.

also retard women's economic development. "The imposition of monthly equality in pensions, rather than lifetime equality, has the net effect of making pension plans more expensive, the more female employers there are."¹⁹ Hence, employers find it more costly to hire female workers, thus reducing the demand for women in the labor-market.

Sowell offers another major reason why some employers and organizations may be particularly resistant to the introduction of women in the workplace:

Police departments, fire departments, the military and other organizations, where life-and-death decisions must be made, often seek a level of discipline, morale, and dedication to organizational purposes that they do not want compromised by powerful emotional attachments that can develop and cut across these organizational objectives.

Sowell offers his observations as "mundane, commonsense facts" and suggests that sophistication and complexity would only serve to disguise reality. On the contrary, sophistication and complexity are very much needed to account for the varied experiences of women in the workplace. Today, women make up 53% of the American workforce. In the last ten years alone, more than 18 million have joined the employment ranks. In households with annual incomes of \$30,000 to \$35,000 more than two-thirds of the wives work; in households with incomes of \$40,000 to \$50,000 more than 70% do so. Almost 70% of women with college degrees work. Sowell's "commonsense facts" do not begin to explain what today's 48 million working women encounter in the marketplace. Recently, for instance, Allstate Insurance Company agreed to pay \$5 million to 3,100 saleswomen who were paid less than men for the same job. The company's practice of using an employee's salary in a former job as a factor in setting pay discriminated against its saleswomen, who as a class earned lower average incomes in their former jobs than the salesmen. This practice, which resulted in unequal pay for equal work, has little if anything to do with Sowell's "commonsense facts." However it is an example of how the labor-market works in reality. Sowell's assertions regarding women's income and occupational status are buttressed not by evidence but by folklore, inference, and mostly by the sheer force of argument. The net effect, irrespective of his intentions, is an apology for the historical and contemporary discrimination against women in the American economy.

As Sowell begins to apply this vision of economics and culture to specific social arrangements, the weakness of his cultural

19. *Id.* at 104.

theory of intergroup differences becomes obvious. He relies heavily on inferences from such data as median family income statistics. Sowell makes much of the fact that "young black husband-wife families outside the South" and black West Indians have higher median family incomes than other segments of the black population. He argues that these higher income groups within the black population possess cultural values "atypical of blacks in general"²⁰, and therefore prove that cultural differences are decisive in the marketplace. But Sowell provides no evidence regarding the development of cultural values among "young black husband-wife families outside the South" or of West Indians. His brief observations about West Indians in *Ethnic America* include a few notes about their behavior patterns, but as scholars well know, observations about behavior are no substitute for empirical studies of the beliefs and values that underlie behavior patterns. Sowell provides no evidence to verify his crucial claim that "young black husband-wife families outside the South" and black West Indians possess attitudes toward hard work, learning, and self-improvement that are atypical of blacks in general.

In *Civil Rights*, as elsewhere, Sowell infers a whole set of values and attitudes from household structures. He assumes that "family structure reflects cultural values in general" and then proceeds to conclude that "those blacks whose family structure reflects more general norms of behavior should be more fortunate in the job market as well."²¹ The mere structure of a family tells us nothing about the members' attitudes toward hard work, learning, and self-improvement. Herbert G. Gutman's *The Black Family in Slavery and Freedom, 1750-1925*, should have taught us all the dangers of drawing such inferences about black beliefs from social structure.

As proof that cultural differences rather than color differences account for disparities in income and occupational status, Sowell asserts that blacks with educational levels and family patterns very similar to those of whites have reached parity in median family income. For evidence to support this claim, Sowell directs us to pages 182 and 184 of the U.S. Bureau of the Census' *Current Population Reports*, Series P-20, Number 366 (1981). In table 19 of this report, black and white married-couple families are compared by joint educational level on eleven characteristics. In ten of eleven categories black families earn less than white families of the same description. Sowell ignores these ten comparisons and

20. *Id.* at 81.

21. *Id.* at 80.

highlights the one category in which black married-couple families earn slightly more than corresponding white families. "Today, where husbands and wives are both college-educated, and both working, black families of this description earn slightly *more* than white families of this description nationwide and without regard to age."²² Sowell not only emphasizes the aberration while ignoring the full weight of the evidence, he also distorts and oversimplifies the aberration. The table does not distinguish between families with two wage-earners and families with only one. Both spouses were employed in 73% of the black families compared to 59% of the white families. Thus, black college-educated families keep up with whites of the same description only by having more wage-earners; obviously, even blacks in families of this type are still earning lower wages than comparable whites. Sowell should not conclude, as he does, that the blacks are doing slightly better than the whites. More importantly, he should have paid closer attention to the weight of the evidence that revealed that black married-couple families virtually always make less than white married-couple families of the same description.

At first it is somewhat surprising that Sowell, who constantly chastizes others for failing to provide empirical evidence for their assertions, would rest his case on such flimsy evidence. A careful examination of his work, however, shows that he often bases his conclusions on an oversimplified version of the exception or exotic while ignoring the full weight of the data. His argument that cultural differences rather than color differences cause ethnic disparities in income rests heavily on the fact that the household incomes of Asian-Americans are higher than the national average. One only needs to look at Sowell's own tables to see that once again he is building a case on the exception rather than the rule. In *Ethnic America*, Sowell lists the family income index for nonwhite ethnic groups.²³ All but the Japanese and Chinese (i.e., Filipino, West Indian, Mexican, Puerto Rican, Black, and Indian) earn median family incomes below that of any white ethnic group. But Sowell ignores the general pattern and highlights the income of Japanese- and Chinese-Americans. Indeed, he accuses other scholars of ignoring Asian success in order to sustain their argument that color discrimination underlie ethnic disparities in income and occupational status. While shopping for statistics to support his preconceptions of ethnic income disparities, Sowell ignores the economic plight of the vast majority of nonwhite Americans.

22. *Id.* at 81.

23. T. SOWELL, *supra* note 11, at 5.

One only needs to read Dr. Ki-Taek Chun's *The Myth of Asian American Success and Its Educational Ramifications*²⁴ to see that Sowell has oversimplified the data. Dr. Chun cites studies showing that at every level of education, Chinese, Korean, and Filipino males in the 1970's earned less than their white counterparts. Moreover, all Asian-American males with more than high school education earn less than their white counterparts. Significantly, almost half of the Asian-Americans on the mainland (48%) are concentrated in the four metropolitan areas of San Francisco, Los Angeles, New York, and Chicago. Since the income of metropolitan area residents is above the national average, either adjustment for metropolitan residency or separate analysis of metropolitan residents is essential. According to Dr. Chun, when adjustments were made for metropolitan residency during the 1970's, Asian-American males had incomes lower than whites in the four metropolitan areas, as did almost all groups of Asian-American females. Clearly, household income and national aggregate data can be misleading unless there are controls for educational attainment, multiple wage-earners, hours worked, metropolitan residency, regional differences, and so on. Sowell, in his eagerness to find some "proof" that equal opportunity exists in the marketplace, has simply distorted the facts.

Sowell concludes *Civil Rights* in a mood reminiscent of the post-Reconstruction conservative reaction to the civil rights movement. In 1883, Justice Bradley declared in the *Civil Rights Cases* that the battle for civil rights had been won and blacks had gone beyond civil rights "to be the special favorite of the laws."²⁵ For Justice Bradley, civil rights had become mere rhetoric for preferential treatment; it was time to return blacks to "the rank of a mere citizen." A century later, and with many civil rights struggles in between, Sowell tells us again that "the battle for civil rights was won, decisively, two decades ago"²⁶—a date prior to the deaths of Malcolm X, Martin Luther King, and many others who died in pursuit of racial equality and social justice. Today, contends Sowell, the struggle for civil rights is nothing more than the "hustling rhetoric of Newspeak."²⁷ Clearly, his preconceptions have blinded him to the reality of continuing racial and sexual discrimination in education and employment, the continuing struggle for civil rights as manifested in the defeat of the proposed

24. 15 IRCD BULLETIN, Nos. 1 and 2 (Winter/Spring 1980).

25. *Civil Rights Cases*, 109 U.S. 3, 25 (1883).

26. T. SOWELL, *supra* note 3, at 139.

27. *Id.* at 110.

Equal Rights Amendment, the struggle of the U.S. Commission on Civil Rights to remain viable, and the current struggle of the 98th Congress to pass major civil rights legislation. Justice Bradley's vision of the world blinded him to the reality of black oppression in much the same manner. Sowell concludes that "[e]qual opportunity' now means preferential treatment," and "[v]oting' rights now include preferential chances to win."²⁸ Like Bradley, Sowell believes that blacks have become the special favorite of the laws and that it is time to return them to the rank of mere citizen.

Sowell persists in focusing on the issue of "preferential treatment" precisely at the moment that blacks are sinking deeper into poverty. In 1983, a study of black economic conditions was conducted by the Center for the Study of Social Policy, a private research group headed by a former Nixon administration official. The study showed that the educational level of blacks climbed so fast over the last two decades that it is now very close to that of whites. Nevertheless, on measures of income, poverty and unemployment, wide disparities between blacks and whites have not lessened or have even worsened since 1960. The income earned by black college graduates is about the same as that earned by white high school graduates. More importantly, only 55% of black men over the age of sixteen are employed today, as against 74% in 1960.²⁹ The study, "Falling Behind: A Report On How Blacks Have Fared Under The Reagan Policies," was recently completed by the Center on Budget and Public Priorities, a non-profit research group in Washington, D.C. It concluded that blacks generally had lower incomes and higher poverty and unemployment than they did in 1980, and that the economic gap between blacks and whites had widened. Among black families, those with two parents and one income were hardest hit. Poverty among blacks reached its highest proportion (almost 36%) since the Census Bureau began collecting such data in 1966. Unemployment among blacks went from 14.4% in 1980 to 16% in July of 1984.³⁰ How can Sowell square these trends with his own observation that blacks are "becoming a different people" by acquiring "higher levels of education, skills, and broader cultural exposure."³¹ Yes, they are becoming a different people, experiencing more poverty, unemployment, and loss of disposable income than

28. *Id.*

29. CHAMPAIGN-URBANA NEWS-GAZETTE, July 18, 1983, at A-7.

30. N.Y. TIMES, October 7, 1984, at 2E.

31. T. SOWELL, *supra* note 3, at 84.

at any period since the Great Depression. Sowell's vision of a fair marketplace and his theory that human capital (or "higher levels of education, skills, and broader cultural exposure") is decisive in the marketplace is refuted by the shrinking educational gap and the widening economic gap.

Not content to accuse them of being misguided, Sowell in the end accuses civil rights leaders of being the main cause of racism. The civil rights leaders, we are told, are pushing an approach (affirmative action) that "has proved counterproductive for the mass of disadvantaged blacks," one "which accumulates resentments against all blacks." In Sowell's words:

These resentments are increasingly expressed in hate groups like the Ku Klux Klan and the Nazis, which are gaining members not only among ignorant southern rednecks but also in more middle class and educated classes across the nation—in short, in places where they never had a foothold before.³²

Sowell even blames civil rights leaders for the possible rise of a Fascist movement in America. "We are not yet at that point," writes Sowell, "though that is the direction in which we are currently drifting."³³ Such unwarranted charges against civil rights leaders reveal a reactionary fervor in Sowell's conservatism.

When the U.S. Senate voted recently to scuttle civil rights legislation, thus ending a conservative filibuster, Senator Edward M. Kennedy said, "This is a sad day for civil rights and a shameful day for the U.S. Senate." One gets much the same feeling about Sowell's book.

32. *Id.* at 90.

33. *Id.* at 120.