

THE LEGALIZATION OF RACISM IN BRITAIN

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BACKGROUND

The Subject of race relations has in recent decades attracted a tremendous amount of sociological inquiry, particularly in the United States. Analyses of relationships between and among social groups in a given society have been based upon a variety of cultural, religious, and economic factors as well as various legal statutes affecting these group relationships. European societies have, on the other hand, escaped this intense and prolonged investigation of the treatment given their racial minorities, particularly those of non-white, non-European descent.

Only in recent years have social scientists shown any concentrated interest in focusing in on racial issues in Europe.

Britain's most recent, successful effort to legalize racial discrimination--the British Nationality Act 1981 is so severe that certain non-white children born in Britain will be deprived of their right to reside there permanently and to enjoy those rights guaranteed to other native white children born in Britain. It is an Act which has the distinct and clear-cut potential of altering the status of thousands of non-white already residing in Britain and further reducing their current status of "second-class" citizens.

Unlike the United States, where legislation over the years has been enacted with the purpose of bringing about improved socio-economic integration of the various racial groups, British legislation over the years has, in effect, legalized increased racial discrimination so much that today, British society is undeniably racist.

The fact that the British Nationality Act by name directs itself to nationality rather than immigration, is one indication of its far-reaching scope. Obviously, there exists a great difference between a law controlling immigration and one defining nationality and citizenship. Immigration laws generally define an alien's status with respect to entry into the country at a particular time as well as conditions under which he can remain there. Nationality laws, on the other hand, are much more fundamental. They define conditions governing citizenship. Nationality laws, in other words, state a

person's right and status under extradition laws, his responsibilities and liabilities towards military service, as well as certain protections he claims under national and international laws (Dummet).

The British Nationality Act, which takes effect January 1, 1983, is a nationality law. It is not about number but rather, it is a qualitative leap toward controlling immigrants already in Britain. But before examining some of the major provisions of the Act and their impact upon racial equality in Britain, a brief look at the historical background of race relations in Britain is essential.

For centuries British nationals as well as other Europeans migrated to and from Europe. Because of her predominant position in the world, both politically and geographically, Britain attracted to her shores a vast number of foreign nationals who, until recently, were predominantly white skinned and of European descent.

It was not until 1948, during the post World War II era, that because of the growing labor shortages in Europe, British society witnessed the onset of substantial non-white, non-European migration to Britain. These "colored immigrants," a British term, came initially from the West Indies followed in rapid succession by West Africans, and Asians, mainly from India and Pakistan.

At the time, this arrangement was viewed as profitable and desirable by both parties. Britain was, after all, in need of a substantial labor force in order to rebuild her war-torn economy. And, "colored immigrants" were willing to assume unattractive, hazardous, and low-paying jobs--positions which constituted no threat to British labor. The immigrants, on the other hand, were lured by the British promise of a better life and more freedom.

Unlike their white European predecessors, however, the majority of Britain's non-white, non-European immigrants maintained their own distinct ways of life and very little attempt was made to adapt to British Society (Steel 1969 22). It was this aloofness that bred, in part, British resentment against them. One could argue that, initially, it was the foreign-

ness of these immigrants, rather than their color, which aroused antagonism and resulted in inequality--their poor command of the English language, their inadequate education and training, their strange cooking and exotic clothes. (Lester & Bindman 1972 16).

While discriminations and criticism of colored immigrants was not overt or widespread in its earlier stages, open resentment of them began to surface in the late fifties and early sixties. And, it was in 1962, that Britain acted to reverse her commitment to free entry into Britain (Freeman 1979 38). She took her first step toward the legalization of the racism by imposing restrictions on the number of non-whites that could enter Britain in the form of the Commonwealth Immigration Act of 1962.

This 1962 Act changed the British attitude towards non-whites and resulted in a noticeable deterioration of race relations. After 1962, the British people, who are great respecters of law, felt that their Parliament had, in effect, declared colored immigrants to be second-class citizens. Before the Act, non-white job seekers received polite refusals while after the Act, they received open rebuffs (Marshall 1968 78).

It was also at this point in time that the British philosophy became obvious. Britain was too small and too overcrowded to absorb newcomers--unless they were white (Lester 1972 13). And, if the British Nationality Act of 1981 is an indication, then it has since become more obvious that if non-white immigrants pose a threat to the well-being of Britain, then so does the non-white population already living in Britain.

PROVISIONS OF THE 1981 ACT

The 1981 Nationality Act abolishes the single citizenship of the UK and colonies established in 1948 and replaces it with three categories: British Citizenship, British Overseas Citizenship, and Citizenship of the British Dependent Territories.

When the law goes into force, people in the UK and elsewhere who have some association with it, will be assigned one of these three categories. Only those in the category of British Citizen will be allowed entry into Britain. These will consist of those who are naturalized or registered British citizens. Children born in Britain would be considered British if at least one of their parents is a British citizen (British Nationality Bill 1981 1-11).

British Overseas Citizenship applies to those who were previously citizens of UK and colonies, but do not wish to assume Citizenship of British Dependent Territories (British Nationality Bill 1981 20-21). This means, in effect, that these persons no longer have the right of entry and abode in neither the country where they currently live nor the UK. The result is that approximately 190,000 persons will be stateless under this law, including 50,000 Eastern African Asians living in India and East Africa (Asian Digest 1981 20).

Citizenship of British Dependent Territories would be created on the same basis as British citizenship but would not entitle holders to enter or reside in Britain (British Nationality Bill 1981 11-20). This would affect citizens of British Dependent Territories such as Hong Kong, the Virgin Islands, Turks and Caicos Islands, Antigua, St. Kitt's, and Nevis. Unlike British Citizens, individuals in these latter two categories are mainly non-white and it is these who are most effected by the 1981 Act in that they will no longer have the right to enter or reside in Britain. So, while titles have changed, the message to non-whites remains the same--"you won't get in!"

Tens of thousands of blacks and Asians in Britain have protested against the provisions of the Act which they consider to be an attempt by the government to institutionalize racism at a deep constitutional level. They expressed the fear that these categories may be utilized to define eligibility to such rights as the free National Health Service, welfare benefits, and housing. Even prior to the passage of the bill, non-white immigrants brought to emergency wards had to provide proof of their legal settlement in Britain before a doctor could attend them (Syed 1981 7).

Another provision of the Act, the Grandfather clause, deprives British passport holders of the fundamental right of citizen to reside in the country of his citizenship unless they have a parent or grandparent born in UK. The provision is practically a guarantee of indefinite stay in Britain to the white populations of Canada, Australia, New Zealand, and white Zimbabwe--the White Commonwealth. Since most whites in the Commonwealth have at least a grandfather born in the UK and most non-white citizens do not. (Asian Digest 1981 31).

The most controversial feature of the Act is that it overturns the British tradition based on the customary international law of *jus soli*—citizenship springs from the place of birth. Under the present law, those born in the UK automatically, by birth become citizens of the UK and colonies. When the 1981 Act goes into effect, a child born to parents neither of whom are British citizens would not acquire citizenship solely by his birth in Britain, but could be registered for citizenship later provided his parents were residents with no restrictions on their stay (White Paper 1980 8). This would automatically eliminate from citizenship the children of non-whites on work permits born in Britain. The children of such persons could be registered for citizenship provided the child resides in the country for 10 years after birth and is not absent from the country for more than 90 consecutive days.

IMPLICATIONS OF THE ACT

Critics of the Act pose the question of how is it possible for parents with no right to abode in Britain stay there for ten years to let their children have British citizenship? Essentially, this means that for the first time in history, there will be stateless children born in Britain and that a countless number of parents will for years be left uncertain of their children's nationality and status (Syed 1981 7).

There is also the fear among non-whites that making a child's citizenship dependent upon the parents' immigrations status will lead to constant check or search for unlawful non-white members of the population and that this would invariably result in the checking on the lawful non-white population as well. One can only speculate about the lawful British citizens who will be harrassed and asked to prove their rights to citizenship just because of their color. The result will likely be that doctors, nurses, teachers, and employers, will be turned into spies for the Home Office, snooping, checking, and turning in suspected unlawful clients, pupils, and employees. Under the provision of the Act, anyone with a non-white complexion will automatically become suspect (Syed 1981 14). "To avoid humiliation on the streets by racist policemen (there is no dearth of these here) we shall be forced to carry our passports on our person. The Pass Laws of South Africa, then would have arrived in Britain also!" (Syed

1981 14).

Another disturbing provision of the Act governs naturalization for Commonwealth nationals and nationals of other countries. It requires that the applicant meet certain qualifications before they are considered. They must be of good character, have knowledge of the English language, and intend to live in Britain (British Nationality Act 1981 41).

Critics of the Act find the language requirement eminently sensible except that it could obviously be used to trap non-white applicants more than European or white applicants from Commonwealth nations such as New Zealand and Australia (Narayan 1980 6). The "good character" requirement could be applied not only to those who have been before criminal courts, but even to those who have been judged to have been engaged in undesirable activities and whose activities are open to objection on the grounds of public order or national security, and people judged to be working against the interest of Britain. Such people could not claim citizenship. Certainly this provision would deter any non-whites applying for citizenship from becoming involved in too many demonstrations and civil rights movements (Narayan 1980 6, 8).

Under this Act, the naturalization process becomes an awesome task, cumbersome and expensive. And, in the end, the outcome is entirely at the discretion of the Home Secretary. The Home Secretary is under no obligation to divulge his reasons for refusing an application and there is absolutely no system for appealing his unfavorable decision.

Those British who advocate this process of naturalization argue that the lack of a specified procedure in the process opens it up to the advantage of greater flexibility. While advocates argue that security necessitates secrecy in the process, it is also plausible that a secret system of naturalization is ". . . open to racist abuse by what in effect is an all-white bureaucracy" (Asian Digest 1981 31). This is particularly true when the decision to approve or disapprove an applicant for naturalization is based on purely arbitrary and subjective grounds, as it is under the conditions of the 1981 Act.

The naturalization process as outlined is perceived by many non-whites residing in Britain, who will not automatically become British

as a means to harass them and to deny to them and their children the right to enter and live in Britain. Their concern is heightened by the fact that the Act also makes provision for withdrawal of citizenship from those who have registered or naturalized and one of the grounds cited for withdrawal is that the citizen has shown himself by act or speech to be disloyal or disaffected towards Her Majesty. Like the granting of citizenship by naturalization, the withdrawal of citizenship is also entirely at the discretion of the Home Secretary, who here again is not obligated to justify his actions (British Nationality Bill 1981 26-31).

Prior to this bill becoming law, black and Asian citizens of the Commonwealth had the same rights of British citizens in areas pertaining to voting, standing for Parliament, serving on juries, joining the armed forces, Civil Service employment, and so on. Rights as basic as these are not guaranteed to these individuals under the conditions of the 1981 Act.

CRITICS

The Act, because of its anticipated impact on non-whites in Britain, has provoked a considerable amount of harsh criticism. It has been attacked by leaders of religious groups, political parties, minority groups within Britain, as well as government officials and public figures from various Commonwealth nations. David Steel, the Liberal Party Leader in the House of Commons, criticized the bill on the grounds that "it is the latest in a long line of rather shabby measures which are reducing basic rights and discriminating against ethnic minorities in this country." (The Guardian 1981).

There are those who would support the idea that non-white immigrants in Britain constitute a threat to social services and the balance of population and that they are part of a "bottomless pit" of non-white immigrants wanting to enter Britain. This theory is often quoted as justification for the progressively severe restrictions on non-white immigrants which affect their entry and stay in Britain.

The truth of the matter is, however, that even today, there are only about 2 million black Asian people in Britain, representing not more than 3.5 percent of the total population (UK's Nationality Bill 1981 6).

The fact that non-whites in Britain are all set-

tled in London and other major cities makes them more visible. Non-whites are no longer isolated in a handful of areas. They can be found in the industries of every large town--in textiles, inland transport, food processing, engineering, building and distribution. They no longer consist of an adult male worker living alone. Today, the majority are families whose basic concerns are the same as the rest of the population. (Daniel 1968 10).

CONCLUSION

It is undeniable that racial prejudice exists in large sections of the white majority. One just has to look at the daily lives of non-white immigrants, how they are stopped and humiliated, how they and black British citizens are tormented by officials and police and discriminated against at work and in their homes to fully comprehend the racial time bomb that is set to explode in Britain.

As Britain becomes gradually more and more racist, the blacks and Asians within become less and less confident. The result is that racial harmony will be jolted by one shock wave after another as non-whites start to fight back in the work place and through community action. In recent months, some of the worst race riots in Britain have taken place. Such demonstrations serve to bring more and more into focus the fact that racial disadvantage presents not only a problem for the minority community themselves, but poses a threat to the stability of British society as a whole (The Times 1981 11).

At present Britain seems devoid of that which is crucial to the establishment of good racial relations: equal opportunity, mutual tolerance and respect and cultural diversity. Of these, equal opportunity is the most basic. "Race relations will never be good if the ambitions and aspirations of any group in a society are perpetually frustrated and thwarted. No man must be condemned to a permanent status of inferiority on grounds of race, color, or national or ethnic origin which have no relation to his talents." (Marshall 1968 70). But, sooner or later, the British will have to face what is basically a question of human rights--the crux of which is the uncontestable fact that non-white immigrants in Britain are being treated as second-class citizens, stripped of their rights to

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From p 180

human dignity values (Shah 1981 23).

The whole issue of race relations of Britain can probably be summed up in one sentence. The British have yet to accept the fact that they now have a multi-racial society. And, unless the current trend takes an abrupt turn around, the British will leave themselves with no choice but to assert white supremacy.

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