

RACISM AND THE LAW

BY ROBERT WHITE*

I. INTRODUCTION

This paper is an Objectivist review of the relationship between racism and the law in New Zealand. Objectivism is the name that the twentieth-century Russian-American novelist-philosopher Ayn Rand gave the systematic philosophy of reason that she forged in such best-selling novels as *The Fountainhead* (1943) and *Atlas Shrugged* (1957). An Objectivist analysis of racism and the law goes to the very heart of our legal system, providing a revealing critique of the role of the law in New Zealand race relations. In the Objectivist view, racism is not a mere byproduct of certain laws, but is a constitutive element of the statist legal system.¹

In this study I focus on the relationship between racism and laws that initiate physical force, particularly anti-discriminatory legislation. I argue that to oppose racism and to support anti-discriminatory legislation is to commit a logical fallacy; that there is in fact an internal contradiction between opposing racism and supporting anti-discriminatory legislation. Finally, I examine this contradiction in its systemic context and argue that the statist legal machinery is a reciprocally reinforcing cause and effect of racism.

II. THE BLOOD COLLECTIVE: RACISM DELINEATED

Racism is the doctrine that an individual's character is determined by genetic predisposition; that a person should be judged not by his or her volitional actions, but by the (actual or assumed) actions of those who

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¹ Statism is the principle of concentrating extensive economic, political and related controls in the state, of which socialism and fascism are two specific variants. Rand, A "The New Fascism: Rule by Consensus" (1965) in Rand, A *Capitalism: The Unknown Ideal* (2nd ed, 1967) 202. Objectivism transcends the left-right dichotomy, recognising the left and right of the political spectrum as sides of the same coercive coin. As political activist and Objectivist Lindsay Perigo explains: "We have no truck with either Left or Right, since both favour coercion *in principle*, and differ only on the degree, form and purpose of its exercise." Perigo, "Editorial: As If Freedom Mattered" (May 1994) 1 *The Free Radical* 2.

share the same genetic lineage. A racist is a person who judges others on the basis of their real or assumed genetic lineage, and who seeks to be judged on the basis of genetic predisposition. The racist seeks to negate reason and morality by claiming that the content of an individual's consciousness, a person's convictions, values and character, are genetically inherited. Thus, a New Zealand magazine edited by "racialist" and "Satanist" Kerry Bolton claims that ...

The intellect is a subordinate tool of the instinct, which is inherited and primal. At the base of human nature is still the limbic brain ... which modern science affirms is responsible for the choices an individual makes. Thus the Satanic conception of human behaviour is genetic - sociobiological. Intelligence, creativity and subsequent behaviour are predominantly genetically-based.²

Likewise, a guide to racial physique prepared by an Australian National Socialist claims that "[p]eople of mixed blood always inherit conflicting thoughts and opinions, resulting in them not being able to make up their minds about anything."³ The assumption is that "thoughts and opinions" are genetically inherited. Racism is thus premised on biological determinism.

1. An Objective Definition of 'Racism'

Before one can understand the relationship between racism and the law, it is necessary to first Objectively define the concept "racism". This is particularly important when dealing with the issue of racism, as the concept "racism" is often invalidly formed or defined by a non-essential; such as the sociological definition of racism as "*power plus prejudice*."⁴ Thus the Objectivist definition differs from the more commonly used definitions of racism.

A concept is formed through a cognitive process of abstraction, integration and differentiation. One forms the concept "racism" by abstracting the attributes of actual situations from their "measurements," and integrating them with and differentiating them from commensurable situations.⁵

² Bolton, "Sinistra Vivendi"(January-March 1994) 7 *The Heretic* 22, 24. See Spoonley, P *The Politics of Nostalgia* (1987) 167-71 for a profile of Kerry Bolton.

³ Tom Graham quoted in Harcourt, D *Everyone Wants To Be Fuehrer* (1972) 86.

⁴ Spoonley, P "Racism and Ethnicity" in Spoonley, P Pearson, D and Shirley, I (eds) *New Zealand Society: A Sociological Introduction* (2nd ed, 1994) 81, 83.

⁵ See Peikoff, L *Objectivism: The Philosophy of Ayn Rand* (Meridan ed 1993) 73-109 and Rand, A *Introduction to Objectivist Epistemology*, eds Binswanger, H & Peikoff, L (expanded 2nd ed, 1990) 10-18 for an explanation of the Objectivist view on concept-formation.

Consider this example:

John, a European, describes Rangī, a Maori, as “lazy”, because “all Maoris are lazy.”

One abstracts the attributes of the situation: a person of one race (or genetic lineage) is judging a person of a different race by qualities imputed to that race; while omitting the “measurements:” the actual people involved (i.e. John/Rangī), the assumed genetic lineage of the people (i.e. European/Maori), and the type of judgement (i.e. negative). Thus, the concept “racism” refers to every act of racism past, present, and future, regardless of any variations among them. For example:

Wong, a Chinese man, describes Kieran, an Irish man, as “stupid”, because “all Irish are stupid.”

The “measurements” differ, but the attributes of the situation are the same: a person of one race is judging a person of a different race by qualities imputed to that race. The attributes of this situation may be integrated with the attributes of commensurable situations, such as the Nazi who proclaims racial supremacy; both base their judgement on genetic inheritance. Likewise, these attributes may be differentiated from the attributes of other commensurable situations, such as a person of one race praising a person of a different race for writing an insightful study on social theory; the latter judgement is based on work produced by the other person through volitional effort, whereas in the former situation the judgement is based on a non-volitional criterion.

A definition is formed by identifying the *essential* characteristic of a concept that differentiates it from concepts that share a common denominator. Concepts such as “racism” and “sexism” share a common conceptual denominator, as they are both “collective judgements,” meaning that they both involve judging an individual on the basis of qualities imputed to an identifiable group. Thus, the compound concept “collective judgement” is the *genus* of both “sexism” and “racism,” and the purpose of a definition is to isolate the *differentia* that distinguishes the two concepts. The essential characteristic of “racism” that differentiates it from other collective judgements, is that an individual is being judged on the basis of qualities imputed to a group identified by the person’s (real or imaginary) genetic lineage. “Racism” is therefore properly defined as the doctrine that an individual’s character is determined by genetic predisposition.

This means that the claim that “All white men are racist” is itself racist, as it is imputing qualities to an identifiable group on the basis of genetics. Likewise, to claim that “Rajni is kind because all Africans are kind” is

equally racist, despite being an ostensibly positive value judgement. Nor does the skin colour or economic position of the person uttering the genetic-differentiated judgement alter the racist nature of the statement.

2. *Racism as an Objective Wrong*

Objectivity has two attributes: (a) Context; and (b) Hierarchy. To be Objectively valid an idea has to be capable of integration without contradiction into the full context of available knowledge, and one must be able to trace the hierarchy of the concepts on which an idea depends back to the perceptual level of awareness or to an axiom.⁶

The Objectivist view needs to be distinguished from the traditional view of objectivity which holds that abstractions exist independently of the human mind, as external existents intrinsic in reality.⁷ Objectivism argues that concepts exist neither in reality independent of consciousness, nor in consciousness independent of reality,⁸ but are the result of an interaction between consciousness and reality. In the Objectivist view, objectivity demands the volitional adherence to an epistemological method appropriate to the subject.

Let's apply each attribute of objectivity to the racist premise:

(a) Context: Does the concept "racism" contradict previous ideas within the full context of available knowledge? As one cannot hold the full context of available knowledge in one's mind at a given time, one must integrate an idea by relating it to previous ideas in any field. If one identifies a contradiction, the contradiction must be eliminated by either rejecting the idea or by rejecting previously held ideas.

One must integrate an idea into the full context of available knowledge, as existence and knowledge constitute a single totality. This view is confirmed by Rand's intellectual protege, Leonard Peikoff, who argues

⁶ See Kelley, D *The Evidence of the Senses* (1986) for an Objectivist defence of perceptual realism. See Peikoff, *supra* note 5, at 110-51 for an explanation of the Objectivist view of objectivity.

⁷ Rand developed the term "intrinsicism" to denote the classical realist position and to distinguish it from her own epistemology. The main proponents of intrinsicism are Plato and Aristotle.

⁸ The latter is termed nominalism, and is propounded by such skeptic philosophers as Hume and Wittgenstein.

that “everything in reality is interconnected ...[,] no aspect of the total can exist ultimately apart from the total.”⁹ Just as reality is non-contradictory, so is knowledge. Objectively, no aspect of one’s knowledge can contradict any other aspect of one’s knowledge; there can be no contradiction between law and psychology, or economics and anthropology. Each is examining a different aspect of the same totality. To identify a contradiction is to admit an error in one’s thinking. To evade a contradiction is to cease dealing with reality.¹⁰

The doctrine of racism considers it possible to judge an individual on the basis of genetic predisposition. How does this idea relate to previously held ideas such as the metaphysical nature of a human being,¹¹ the concept of “judgement,”¹² philosophical determinism,¹³ psychological

⁹ Peikoff, *supra* note 5, at 123. As intellectual historian and political theorist Chris M Sciabarra explains: “Rand was a rare philosophic phenomenon: she was an epistemological realist who recognized the relational character of existence and knowledge.” Sciabarra, C M *Ayn Rand: The Russian Radical* (1995) 58.

¹⁰ Rand, *A Atlas Shrugged* (35th anniv. ed, 1992) 934.

¹¹ I.e., what is a “human being”? Is man a soul encased in flesh? A Hobbesian brute? Perhaps a Shakespearian fatalist? Or a Randian hero? Cf. Rand, “What is Romanticism?” (May-July 1969) in Rand, *A The Romantic Manifesto* (2nd ed, 1975) 99.

¹² I.e., upon which concepts do the concept of “judgement” logically and genetically depend? As the concept of “judgement” presupposes a volitional entity capable of evaluating data, it is illegitimate to both propound genetic predisposition and employ the concept of “judgement” or any of its lexical derivatives.

¹³ Thomas Nagel describes determinism as the claim that the “circumstances that exist before we act determine our actions and make them inevitable.” Nagel, T *What does it all mean?* (1987) 51. Philosophical determinism contradicts the volitional aspect of the identity of consciousness.

behaviourism,¹⁴ Deweyian pedagogy,¹⁵ criminal law,¹⁶ Treaty of Waitangi jurisprudence,¹⁷ or the volitional aspect of the identity of consciousness?¹⁸ Objectivism considers racism to be wrong because it contradicts the identity of consciousness (see below).¹⁹ To support racism one must deny the identity of consciousness, which is precisely what racists do. To oppose

- ¹⁴ The founding father of behaviourism, John Broadus Watson, describes this branch of psychology as a “purely objective experimental branch of natural science. Its theoretical goal is the prediction and control of behavior.... The behaviorist, in his efforts to get a unitary scheme of animal response, recognizes no dividing line between man and brute.” Quoted in Wozniak, R H “Theoretical Roots of Early Behaviourism” in Wozniak, R (ed) *Theoretical Roots of Early Behaviourism* (1993) ix, ix-x. Behaviourism is philosophical determinism applied to psychology.
- ¹⁵ John Dewey, possibly one of the most influential pedagogues of the twentieth-century, sums up his views on education as: “I believe that all education proceeds by the participation of the individual in the social consciousness of the race.... [The only true education is where the child is] stimulated to act as a member of a unity, to emerge from his original narrowness of action and feeling, and to conceive of himself from the standpoint of the welfare of the group to which he belongs.” Dewey, J “My Pedagogic Creed” in Garforth, F W (ed), *John Dewey: Selected Educational Writings* (1966) 44, 44-45.
- ¹⁶ Criminal law is substantially premised on the idea that human beings have free will (i.e. volition), with the corresponding implication that: (i) Human beings can be held responsible for their actions; and as a corollary (ii) Culpable intent is a prerequisite for criminal liability. Cf. Section 167 of the Crimes Act 1961.
- ¹⁷ Maori land claims are racist to the degree they are premised on the idea that individuals of European or colonial descent are morally and legally liable for the real or imaginary acts of their genetic forbears. If the capricious incarceration of an innocent is a blight on a criminal justice system, then one can think of no greater an injustice than consciously holding a people culpable for acts they did not commit.
- ¹⁸ The volitional aspect of the identity of consciousness is discussed infra note 19. I provide these examples purely as an indication of the wide range of ideas to which the doctrine of racism can be related, in the hope that the reader will critically examine his or her own previously held ideas on these and other areas of human thought.
- ¹⁹ The law of identity, “A is A,” is a variation on Aristotle’s law of noncontradiction. As Rand explains: “To exist is to be something, as distinguished from the nothing of non-existence, it is to be an entity of a specific nature made of specific attributes. ... *A is A*. A thing is itself. ... Existence is Identity, Consciousness is Identification.” Rand, supra note 10 at 934. As consciousness exists, it too has a specific identity; it is a something of a specific nature made of specific attributes. To state that consciousness *has* identity is to acknowledge that consciousness is a *something*. To *recognise* the identity of consciousness is to recognise the specific attributes of consciousness, such as volition. See Peikoff, supra note 5 at 48-52 for a discussion on the identity of consciousness, and Sciabarra, supra note 9 at 138-43 for an explanation of the law of identity. The significance of the identity of consciousness in epistemology is discussed in Kelley, supra note 6 at 22-24 and 40-41.

racism and to deny the identity of consciousness is to commit the fallacy of context-dropping, i.e. to compartmentalise “racism” as something separate from the rest of one’s knowledge, and to fail to integrate one’s opposition to racism into the full context of available knowledge by rejecting previously held ideas on the identity of consciousness.

If one decides to reject previously held ideas that contradict the identity of consciousness, one must examine how this impacts on other ideas in every field, including the law. When one does this it becomes clear why one cannot oppose racism and support legislation that initiates physical force, without maintaining a contradiction. To oppose racism is to *recognise* the identity of consciousness. To support legislation that initiates physical force is to *deny* the identity of consciousness. One cannot both recognise *and* deny the identity of consciousness without maintaining a contradiction. Thus: *Racism and legislation that initiates physical force, including anti-discriminatory legislation, are internally related as they both deny the identity of consciousness.* (See Part III below). In practice, this means that there is a correlation between laws that initiate physical force and the prevalence of racism in a society (see Part IV below).

This idea may be related back to the definition of “racism.” The *genus* of “racism” is the compound concept “collective judgement,” which is itself subsumed by the broader abstraction “collectivism.” Legislation that initiates physical force is premised on the idea that sovereignty is vested in the collective (the state, the nation, the tribe), and is thus itself subsumed by the concept “collectivism.” Epistemologically, this means that at a high level of abstraction both racism and legislation that initiates physical force are subsumed under the same concept; and that any intellectual defence of one necessarily lends support to the other.

(b) Hierarchy: One could claim that racism is wrong because it contradicts previously held ideas, but how does one know that these previously held ideas are right? Why should one prefer these previously held ideas to the racist premise? This is why objectivity demands both context and hierarchy; for an idea to be valid one must also be able to trace the hierarchical structure of an idea back to the perceptual level, or to an axiom.²⁰

²⁰ It is important to note that like her Russian philosophic forbears, Rand rejected the empiricist-rationalist distinction. As Sciabarra explains: “Rand’s Objectivism preserves the indissoluble connection between percepts *and* concepts, experience *and* logic, emotion *and* reason. It seeks to end the compartmentalization of the social sciences and the atomistic fragmentation of knowledge, aiming for an organic view of society that is both critical and revolutionary.” Sciabarra, *supra* note 9 at 222. Thus, while Rand concurs with the empiricist claim that an inductive observational method is the necessary foundation for all knowledge, to categorise Objectivist epistemology as empiricist is to commit the fallacy of reification.

Fortunately, because of the nature of racism this is a relatively straight forward exercise. The racist premise hierarchically depends on biological determinism, which is contrary to the volitional identity of consciousness. As the volitional identity of consciousness is an axiom, one cannot deny it nor can one prove it since the concept “proof” itself presupposes the volitional identity of consciousness. One can, however, validate it. An axiom is something that one must use even in an attempt to refute it. As Objectivist scholar Harry Binswanger explains:

Our ability to control our thinking is what makes a procedure of verifying our conclusions necessary [i.e. proof].... A determined mind would be incapable of objectivity and hence could not consistently assert that any idea is objectively superior (or inferior) to any other - not even the idea that determinism is superior to the advocacy of free will.²¹

As the volitional identity of consciousness is an axiom, racism can never be justified. No scientific discovery can contradict an axiom.²² Even if it were scientifically established that there are radical physiological differences between “races,” all this would establish is that people of different races process information differently. It would not alter the fact that individuals create their own character through volitional effort.

²¹ Binswanger, “Volition as Cognitive Self-Regulation” (December 1991) 50, 2 *Organizational Behavior and Human Decision Processes* 154, 173-75. See also Peikoff, *supra* note 5 at 69-72 for a discussion on the axiomatic nature of volition. An axiom is not an arbitrary assertion. To be axiomatic a proposition must possess two attributes: (i) It must be an irreducible primary, meaning that it cannot be analysed or broken into constitutive elements; and (ii) In denying an axiom one commits a logical fallacy by using that which one is trying to disprove. See Rand, *supra* note 5 at 55-61; Sciabarra, *supra* note 9 at 134-38; and Rand, *supra* note 10 at 956-57 for a discussion on axiomatic concepts in Objectivism. Binswanger observes that formulations of the self-evident have “fallen into undeserved disrepute due to the frequent practice of claiming as ‘self-evident’ what is actually the result of inference.” For example, the claim that it is self-evident that the Earth is flat is a mistaken inference to a scope beyond direct perception. The self-evident is directly observable without the need for inference. Binswanger, *supra* note 9, at 173-74.

²² All scientific inquiry logically depends on the validity of the concept “proof”. As the concept “proof” presupposes the necessity of a *volitional* adherence to an epistemological method, any “scientific discovery” that purported to “disprove” volition would reduce itself to absurdity: the “proof” *contra* volition presupposes volition. To employ the concept of “proof” in this context is to commit the fallacy of the stolen concept, which Nathaniel Branden defines as “*the act of using a concept while ignoring, contradicting or denying the validity of the concepts on which it logically and genetically depends.*” Quoted in Smith, G H *Atheism: The Case Against God* (1979) 139.

Likewise, to claim that racism is wrong on the basis that the concept "race" has no scientific validity is misguided. It is tantamount to claiming that as there is no scientific evidence for "race" one won't be racist, but if any scientific evidence is discovered then one must revise one's decision.²³ Thus, some anti-racists find it necessary to oppose any scientific inquiry into possible genetic differences between "races" or statistical research involving race. Objectively, however, no scientific discovery or statistical correlation can ever justify judging an individual on the basis of his or her genetic lineage.

III. ANTI-DISCRIMINATORY LEGISLATION

It is unsound to consider anti-discriminatory legislation to be self-evidently right. To claim that anti-discriminatory legislation is right on the basis of the wrongness of the discrimination it seeks to eliminate, is to endorse a form of subjectivism. It amounts to a claim that an *intention* to eliminate certain types of discrimination is sufficient to achieve the desired result. Objectively, one cannot fight racism using means inimical to one's desired outcome. Anti-discriminatory legislation can never eliminate racism because it is internally linked to the racist premise: they both contradict the identity of consciousness.

Let's examine what I shall call the "anti-discriminatory syllogism:"

- (a) Discrimination on the basis of race is wrong.
- (b) It is good if nobody discriminates on the basis of race.
- (c) Therefore it is right to proscribe racial discrimination.

Re (a): To discriminate against an individual on the basis of his or her (real or illusionary) genetic lineage is wrong. It is important to grasp, however, that such discrimination is wrong for a reason. Racial discrimination is wrong because it contradicts the identity of consciousness, meaning that it is irrational. Individuals earn the values

²³ See McConnochie, K Hollinsworth, D and Pettman, J (eds) *Race & Racism in Australia* (1988) 16-17. The authors list a number of conclusions that can be drawn about the relationship between biology and the concept "race", implying that racism is wrong as the concept "race" itself has no biological basis.

that make them desirable employees or tenants through volitional effort.²⁴ To discriminate on the basis of genetic lineage is to negate the virtue of justice by basing one's judgement on a non-volitional criterion. Obversely, a person who grants justice to prospective employees or tenants decides on the basis of rational criteria, engaging in a process of thought that is non-contradictory within the context of available knowledge and is connected to reality.

Outside the context of reason, the proposition that racial discrimination is wrong becomes arbitrary. To claim, for example, that racial discrimination is wrong because it contradicts society's values, is to imply that morality is subjective and that in a society whose values are conducive to racial discrimination, such discrimination is morally palatable. Thus, according to the logic of this claim, to oppose the attempted extermination of Jews and other minorities in Nazi Germany is merely a cultural prejudice. The point is that, as racial discrimination is wrong for a particular reason, one cannot fight racism using means that contradict that reason; the same premise that invalidates racism also invalidates the initiation of physical force as a means to fight racism.

Re (b): It would be good if no one discriminated on the basis of race, as one would be living in a society in which people engaged in a process of thought that is non-contradictory and connected to reality. A society in which no one discriminated on the basis of race would be a society in which people habitually engaged in rational thought. This is a "good" because of the immeasurable benefits one would gain from living in such a society. In this context, the most obvious benefit would be that when one applied for a job one would be judged not on the basis of one's race,

²⁴ "Value", as Peikoff explains, "denotes the object of an action: it is that which some entity's action is directed to acquiring or preserving." Peikoff, *supra* note 5 at 208. See also Rand, *supra* note 10 at 930-31 and Lugenbehl, "The Argument for an Objective Standard of Value" (Spring 1974) 55, 2 *The Personalist* 155, 159-61 (Although Lugenbehl misrepresents certain epistemological aspects of the Objectivist theory of value, he elucidates some of the problems in understanding the concept). To state that one "earns ... values" is to claim that one gains values through volitional effort, as opposed to inheriting the material values earned by another. In the context of employment, the employee exchanges the values that he has earned (academic qualifications, competency, and the like) for the values offered by the employer (a salary, a pleasant working environment, etc.).

but by the values one has earned.²⁵ As with (a), it is only a “good” within the context of reason. Outside this context, no one discriminating on the basis of race ceases to be a “good.”

An implicit assumption of the anti-discriminatory syllogism is that physical force is a means to achieve the good. One may therefore insert into the syllogism:

(b1) The initiation of physical force is a means to achieve the good.

Legislation may be differentiated on the basis of whether a law initiates physical force or whether it is limited to the retaliatory use of physical force. The former type of law includes taxation legislation, tobacco advertising restrictions, immigration regulations, and anti-discriminatory legislation. Often the initiation of physical force by the state is penumbral, and only becomes salient when victims refuse to sanction their own subjugation.²⁶ The latter type of law includes those that proscribe murder, rape, theft, and fraud. The former type of law contradicts the identity of consciousness, the latter type is consistent with the identity of consciousness.

The initiation of physical force implicit in anti-discriminatory legislation is penumbral. For example, if *y* contravenes s 131 of Human Rights Act 1993 by publishing material intended to incite “racial disharmony,” *y* is liable to be imprisoned for up to three months or to a fine not exceeding \$7000. Physical force will be initiated against *y* for refusing to submit to imprisonment or trying to escape incarceration. Likewise, force will be initiated if *y* refuses to pay the \$7000 fine or attempts to protect his or her property from the bailiffs. Even the conciliation process under s 80 of the

²⁵ A rational society need not be a society in which everyone achieves the intellectual hubris of a philosopher, any more than a Christian society is a society populated by theologians. It would be a society in which the majority of people, each to the degree of his or her intellectual capacity, habitually engages in a non-contradictory reality-based cognitive process. In a rational society children would most likely be raised by Montessori pedagogy, meaning that they would follow Objectivist epistemological principles automatically, in the same way that language and walking become automated. See Lewis and Lewis, “As the sun shows itself at the dawn ...: A tribute to Maria Montessori” (August/September 1996) 20 *The Free Radical* 4, for a comparison between Montessori pedagogy and Objectivist epistemology.

²⁶ See Rand, *supra* note 10 at 445-47 in which the industrialist Hank Rearden refuses to sanction his own victimisation by explicitly identifying the fact of his enslavement. For a discussion on the sanction of the victim premise, see Peikoff, *supra* note 5 at 333-34 and Sciabarra, *supra* note 9 at 301-02.

Act is marred by the possibility of physical force being initiated, as the threat of a summons ensures that that y has no choice but to submit to the conciliation process. Nor can y deliberate the possibility that racial disharmony is undesirable - y must simply defer to the conclusion arrived at by another, or face the legal consequences.²⁷

Re (b1): Nothing is a “good” if achieved through the initiation of physical force.²⁸ The “good”, explains Rand, is “*an evaluation of the facts of reality by man’s consciousness according to a rational standard of value.*”²⁹ Thus, the “good” presupposes a cognitive process performed by a human mind.

Every act or threat of physical force is aimed at the human mind. If someone were willing to perform an act volitionally, force would be unnecessary. If people were willing to give a mugger the cash in their wallets, there would be no need for the mugger to threaten force. Likewise, if individuals were to base their employment criteria on rational grounds, there would be no need to threaten physical force against them—to *force* them to select *rational* criteria, to *force* them to judge a person *rationally*, to *force* them to engage in a process of *thought* that is reality based.

Reason and force, or mind and force, are opposites. As Rand explains:

To interpose the threat of physical destruction between a man and his perception of reality, is to negate and paralyze his means of survival; to force him to act against his own judgment, is like forcing him to act against his own sight. Whoever, to whatever purpose or extent, initiates the use of force, is a killer acting on the premise of death in a manner wider than murder: the premise of destroying man’s capacity to live.³⁰

²⁷ See Coddington, “Human Rights Legislation: Orwellian Doublespeak” (May 1994) 1 The Free Radical 8 and Everton, “The Wronging of Rights (Part I)” (December 1996/January 1997) 22 The Free Radical 10 for a pro-freedom discussion on the Human Rights Act. See Perigo, “Defending the Indefensible” 15 The Free Radical 8 for a transcript of Chief Human Rights Commissioner Pamela Jefferies being interviewed by Lindsay Perigo on the now defunct Radio Liberty. Perigo is interviewed on his opposition to the Human Rights Commission in Wright, “Human Rights and Wrongs” (16 September 1996) 21 *Nexus* 24. See also Calvert, “Letters to the Editor: Human rights” *New Zealand Herald* (14 December 1996) A16 for a libertarian view on human rights.

²⁸ See Peikoff, *supra* note 5 at 310-23 and Sciabarra, *supra* note 9 at 270-73 for a discussion on the nature of physical force.

²⁹ Rand, A “What is Capitalism?” (1965) in Rand, *supra* note 1 at 11, 22. Values exist neither intrinsically in reality independent of consciousness nor in consciousness independent of reality, but result from an interaction between consciousness *and* reality; i.e. values are neither *intrinsic* nor *subjective*, but *objective*. The “rational standard of value” Rand refers to is man’s life qua man qua rational being.

³⁰ Rand, *supra* note 10 at 940.

A person who arrives at a rational conclusion or makes a rational decision, does so by volitionally raising his or her consciousness to the conceptual level of awareness, and integrating a new idea without contradiction into the full context of available knowledge. From the simplest task of obtaining food to the most complex task of technological innovativeness, a human being needs to volitionally initiate a process of thought.³¹

Force precludes thought: one must simply accept a conclusion or decision. No degree of force can make a person think. Threatening someone with force does not make a person come to the conclusion that $2 + 2 = 4$. Such a person merely parrots the conclusion arrived at by another. Likewise, a mugger cannot make victims want to hand over their cash, all a mugger can do is force victims to act against their own judgement. Volition presupposes choice. Force negates choice. Volition and force are opposites.

Force makes the mind impotent to an individual's survival, by making it irrelevant. A person who is threatened with force to think that $a + a = 2a$ is cut-off from reality: if he or she identifies a contradiction and follows it, nothing is achieved - the person has to come to the conclusion that $a + a = 2a$, he or she has to "think" what the forcer has prescribed or risk physical harm. Notice how a woman physically abused by her husband rarely leaves him of her own volition - she cannot, her mind has been invalidated as her tool of survival.³² Psychologically, she has to lower her focal awareness to the perceptual level to escape the horror of the abuse. The full context of available knowledge becomes irrelevant to the victim of force - he or she must simply obey. As the mind is the human tool of survival, a person is doomed by reality for failing to think, and doomed by the forcer for thinking: force creates a lethal cognitive contradiction.³³

³¹ Ibid, 930.

³² See Walker, L E *Terrifying Love* (1989) 49-53. Walker discusses the idea of "learned helplessness" as applied to battered woman.

³³ Sciabarra, supra note 9, at 272. Verbal abuse or "mental cruelty" is not the same as physical force. Maliciously calling a person "ugly" for example, while cruel, still leaves the victim capable of initiating an efficacious cognitive process. That is to say, the victim can come to the conclusion "I am good looking" without endangering his physical survival; he can intellectually retaliate against the verbal abuse, or physically leave an undesirable situation. The mind is impotent only viz-a-vie physical force, as the only attack that cannot be fought intellectually is that which does not rely on intellectual means.

Let's relate this idea to our other ideas: force is wrong because it contradicts the identity of consciousness. This is consistent with our condemnation of racism as being contrary to the identity of consciousness: *to oppose racism is to oppose the initiation of physical force*, and therefore one cannot oppose racism and use force to combat racism without maintaining a contradiction. Likewise, one cannot force people to judge others rationally without contradicting not only what one is trying to achieve, but also the faculty by which one judges it to be the "good." Nothing is a "good" if the price is the surrender of one's means of survival. Nor can one claim that one is correcting an injustice without invalidating the faculty by which one determines it to be an injustice.

Re (c): As the initiation of physical force is not a means to achieve the good, the anti-discriminatory syllogism is false. It is not right to proscribe racial discrimination. One must not commit the fallacy of context-dropping - to compartmentalise a principle from which a conclusion is derived, and fail to consistently apply that same principle to comparable situations. It is contradictory to oppose racism and to support anti-discriminatory legislation, because such legislation involves the initiation of physical force. The same principle applies to *all* legislation that initiates physical force: one commits a logical fallacy if one opposes racism and supports *any* law that proposes to initiate physical force.

IV. THE SYSTEMIC CONTEXT

Having argued that opposing racism and supporting laws that initiate physical force is contradictory, I now examine the systemic implications of this.³⁴ Reality is a non-contradictory interrelated totality. One can refuse to identify a contradiction, but one cannot avoid the consequences of allowing a contradiction to enter a system. Racism, laws that initiate physical force, and anti-discriminatory legislation constitute and are constituted by a wider anti-rational cultural corruption that may be examined at three levels of abstraction: the personal, the cultural, and the structural. The personal and cultural levels give rise to and provide the context for the statist legal system, and the statist legal system has a reciprocally reinforcing effect on the personal and cultural levels. (The

³⁴ White, "Racism: A Radical Critique (Part I)" (October/November 1996) 21 *The Free Radical* 12 to White, "Racism: A Radical Critique (Part IV)" (April/May 1997) 24 *The Free Radical* 18. In this four part study I examine the issue of racism diachronically, and argue that colonisation and the Maori sovereignty movement are in fact sides of the same statist coin.

legal system being an aspect of the structural level.) While it is possible to isolate and abstract these various aspects of the whole, it must be kept in mind that they are interrelated constituents of a *single* totality, that each level is internally related to and is a constitutive element of the statist legal system.³⁵

1. The Personal Level

Racists have an anti-conceptual concrete-bound psycho-epistemology. "Psycho-epistemology" refers to an individual's habitual means of dealing with the content of his or her consciousness. While proper human relationships are based on shared values, the anti-conceptual mentality bases relationships on non-intellectual grounds, which require minimal conceptual effort, such as race or geography. The anti-conceptual mentality claims that we are part of one community because we are united by accident of birth.

Human relationships demand moral judgement: Is this person for me or against me? Do we share the same values, or do our values conflict? The racist seeks to avoid the effort of a rational judgement by judging others on the basis of race, by a perceptual criterion rather than intellectually held values.³⁶ Likewise, the racist seeks to be judged by a perceptual criterion. This results from the racist's own sense of inferiority and his or her inefficacy at dealing with reality. Thus, National Socialists claim that members of their race are effortlessly "intelligent, attractive, innovative and noble" by accident of genetic heritage; that the white race is superior

³⁵ Sciabarra, *supra* note 9 at 297-300. The tri-level method of social analysis is Sciabarra's interpretation of Rand's critique of power relations. Sciabarra explains internal relations in Objectivism: "In her social analysis Rand recognized a vast network of interrelationships between and among various, seemingly separable factors. Ultimately, she viewed these factors as she would those relational properties that organically constitute any *single* entity. She focused on the *internal* relationships between identifiable components within a single social totality." Sciabarra, *supra* note 9 at 178; Rand, *supra* note 5 at 270-73; cf. Ollman, B *Dialectical Investigations* (1993) 33-38. While the dialectic is commonly identified with Marxism, Sciabarra argues that Rand's most important contribution to radical social theory was her conjunction of a dialectical method with a realist-egoist-individualist-libertarian content.

³⁶ The eminent Objectivist scholar David Kelley argues that the racist's psycho-epistemology and the psycho-epistemology of those who refuse to pass moral judgement are sides of the same anti-conceptual coin. The relativist who refuses to judge merely replaces mindless bigotry with mindless acceptance - both are equally irrational and equally unjust. Kelley, *D Unrugged Individualism: The Selfish Basis of Benevolence* (1996) 57.

to “negroes” because its gene pool produced the masterpieces of Michelangelo and Leonardo da Vinci.³⁷ Joachim Fest aptly describes National Socialism in his book *The Face of the Third Reich*, as a “politically organised contempt for the mind.”³⁸

The racist is a social metaphysician. Rand’s intellectual protege, the biocentric psychologist Nathaniel Branden, coined the term “social metaphysician” to describe “*the psychological syndrome that characterizes a person who holds the minds of other men, not objective reality, as his ultimate psycho-epistemological frame of reference.*”³⁹ Lacking an autonomous sense of self-efficacy and self-worth, the racist seeks an illusionary sense of self-esteem from the acts of his or her genetic forbears, and through degrading and attacking those of other races. Racists are psychologically dependent on the people they vilify; their primary focus is their fantasies about the minds of those they despise. This is exemplified in National Socialist works alleging a secret Jewish conspiracy, such as *The International Jew: The Truth About “The Protocols of Zion”* by Eric Butler of the Australian League of Rights.⁴⁰

The anti-conceptual mentality “feels” threatened by foreigners, especially foreigners of differing physiology, language and culture. Rand argues that the threat is not existential, but psycho-epistemological.⁴¹ The traditions of those who share the same concretes as the xenophobe, protect that person from the necessity of raising the level of his or her awareness to the conceptual level. Foreigners, anyone outside of “the group”, demand a higher level of conceptual awareness from the xenophobe. The experience of the “other” requires that such concepts as “human”, “language” and “culture” move beyond the perceptual level of the norms to which the xenophobe has heretofore been exposed, to a higher level of abstraction that integrates the norms of “the group” with those of the foreigner.⁴²

³⁷ Harcourt, *supra* note 3 at 86-87.

³⁸ Quoted in *ibid*, 109.

³⁹ Quoted in Sciabarra, *supra* note 9 at 306.

⁴⁰ Harcourt, *supra* note 3 at 89. *The Protocols of Zion* is unquestionably a forgery, originally written as a satire in the 19th century. See Spoonley, *supra* note 2 at 131-36 for a profile of Butler and his relationship to the New Zealand League of Rights and the social credit movement.

⁴¹ Rand, A “The Missing Link” (1973) in Rand, *A Philosophy: Who Needs It* (Signet ed 1984) 35, 41.

⁴² See “Asian bashing denied” 24 August 1996, *Waikato Times* 3, concerning a complaint made to the Race Relations Conciliator about an anonymous letter published in *Nexus*, the magazine of the Waikato Students’ Union, claiming that Asian students should go back to where they came from. The writer complained about Asian students speaking their own language.

Thus, nationalism and racism share a common psycho-epistemological root; like the racist, the nationalist bases judgements on a concrete-bound criterion: his or her loyalty is not to intellectually held values, but to those people who identify with a geographical area.⁴³ Epistemologically, racism and nationalism are both subsumed under the broader abstraction of “collectivism”. Nationalism is the idea that one’s primary loyalty is to those who share the same geographical origins as oneself, and that, as a corollary, it is permissible to judge others on the basis of their (real or assumed) geographical origins.⁴⁴ Both racism and nationalism elevate the group above the individual, both contradict the volitional identity of consciousness.

2. The Cultural Level

The anti-conceptual mentality stresses loyalty to those people united by the same concretes. This manifests itself in such nationalistic and anti-moral slogans as “Buy New Zealand Made,” “New Zealand First,” and “New Zealand for New Zealanders.” Such slogans are anti-moral, as they negate the virtue of justice: they place the accident of birth above the values earned by an individual through volitional effort. As products of the anti-conceptual collectivist mentality, cultural manifestations of nationalism are both symptomatic of and internally related to the presence of racism in a society. Thus, cultural practices that promote the anti-conceptual mentality and that acquiesce collectivism be it in the form of post-modern art or Maori tribalism are a cause for concern.

The New Zealand education system manufactures the anti-conceptual mentality of the racist and is a breeding ground for social-metaphysicians.⁴⁵ Such anti-cognitive and anti-conceptual pedagogical methods as rote memorisation, repetition, and concrete-bound association stunt a child’s cognitive faculty. An emphasis is placed on “social adaptation” and “conformity.” The child’s sense of intellectual efficacy and moral independence undermined, he or she must join a group in self-protection; adapt to the rituals and beliefs of the pack or become a social

⁴³ To defend the founding principles of a country, providing those principles are rational, is not a variant of nationalism, but an application of the virtue of integrity.

⁴⁴ Economic nationalism is judging a product or financial investment on the basis of its geographical origins. Ethnonationalism is where the geographical area is allegedly linked to a particular ethnic group.

⁴⁵ See Rand, A “The Comprachicos” (1970) in Rand, A *The New Left: The Anti-Industrial Revolution* (2nd ed 1975) 187 and Sciabarra, *supra* note 9 at 325-27 for a discussion on Deweyian pedagogy.

outcast in the schoolyard at the mercy of the class “goons.” Loyalty is to the group, to those who share the same concretes, rather than to principles and ideas. This, as political theorist Chris M Sciabarra explains, “serves as the psycho-epistemological root of pressure-group warfare, especially in its racist incarnations.”⁴⁶

Apothegms promoting the “local ownership” of “New Zealand”, and opposing the sale of land and other assets to foreigners, and Asians in particular, are used to mask individuals’ racism. These people invoke such invalid concepts as the “common good” to convince people to place loyalty to the group above the virtue of justice, and then sanction the initiation of physical force to prevent dissenting individuals from behaving morally. Invoking the principle of altruism, the nationalist implies that New Zealanders who sell land, businesses, or who seek investors, are morally obliged to put the interests of “the country” ahead of their own. Thus, the now Deputy Prime Minister Winston Peters has argued that hospitals should prefer New Zealand medical graduates to foreign doctors - that a hospital is morally obliged to choose a New Zealander over a foreigner; that patients should be willing to sacrifice their health and well-being to the “greater good” of providing New Zealand medical graduates with employment; that the geographical location of an individual’s birth is a relevant criterion for human relationships.

The Western cultural emphasis on the “family” is a vestige of European tribalism and a form of racism, a form of basing a relationship on the accident of birth, on genetic ties, rather than on volitionally held ideas and values. This form of mini-racism manifests itself in a number of ways, such as the mother who examines the family tree of a prospective son-in-law to determine his “suitability”, the notion of “family solidarity”, and the unaccomplished individual deriving a sense of self-worth through celebrating a familial relationship to a distinguished family member.⁴⁷

⁴⁶ Sciabarra, *supra* note 9 at 326.

⁴⁷ Sciabarra notes that “Rand did not object to the need of individuals to take pleasure in their familial or ancestral backgrounds What Rand objected to was the practice of those who sought to substitute their lineage for an authentic self-esteem. Self-efficacy and self-worth cannot be derived from others - past or present.” Sciabarra, *supra* note 9 at 344. Rand discusses undesirable forms of “ancestor worship” in Rand, A “Racism” (September 1963) in Rand, A *The Virtue of Selfishness* (1964) 147.

3. The Structural Level

Statism institutionalises the means for legalised predation, fragmenting society into warring pressure groups. Anyone who is not a member of a group is put at a disadvantage in the political process. For the anti-conceptual mentality, the easiest group to join in self-protection is that in which one is automatically a member of by virtue of birth: race or nationality.

This is consistent with the epistemological contradiction of opposing racism and supporting legislation that initiates physical force, such as anti-discriminatory legislation. To reiterate: *racism is internally related to every law that initiates physical force*, be it tobacco regulations or the goods and services tax. Nationalistic legislation is symptomatic of the cultural prevalence of the anti-conceptual mentality, and thus brings into focus the reciprocal relationship between the racist's psycho-epistemology and ostensibly unrelated phenomena.

The existence of the welfare state means that every new immigrant has a potential claim against the lives of those already living in New Zealand, thus pitting the interests of immigrants against the interests of New Zealand citizens.⁴⁸ The fact that immigration is regulated means that someone must decide who is a desirable immigrant. Considering the prevalence of the anti-conceptual mentality in this country, it is unsurprising to find that the immigration service has a history of maltreating non-white immigration applicants while favouring white applicants.⁴⁹

The idea that businesses should prefer New Zealand born employees is reflected in work visa restrictions.⁵⁰ The idea that land should be owned

⁴⁸ In McLoughlin, "Immigration: Out of Control" (May 1994) *North & South* 44, 50-51 the then immigration minister Roger Maxwell indicates that a lecturer in Asian studies at the University of Otago had his application for permanent residency declined so that the lecturer's daughter would not become eligible for "free" [sic] education in New Zealand.

⁴⁹ *Ibid.* Rand - herself a Russian Jew - points out that while institutionalised anti-Semitism was abolished in Soviet Russia, discrimination continued under the guise of "political purges." Rand, *supra* note 47 at 150.

⁵⁰ See Immigration Act 1987, ss 5, 13A, 14 and 14D; and Immigration Regulations 1991 (SR 1991/241), ss 6 and 16. See also *New Zealand Immigration Service Instructions* 11.15.3 (Dec. 1992) which states that "[b]efore granting approval for an employer to recruit overseas an immigration or visa officer must be satisfied there is no New Zealand citizen or resident job seeker on the local register of unemployed who is suitably qualified and experienced to do the job." As with the Human Rights Act, the employer must defer to a conclusion arrived at by another or will be prevented by *force* from acting on his own independent judgement.

by “New Zealanders” is reflected in legislation limiting the ownership of farm land by “foreigners”.⁵¹ The idea that businesses and individuals should prefer New Zealand born investors is reflected in foreign investment regulations.⁵² All of these laws are inherently collectivist and nationalistic. They embody the view that human relationships should be guided by the best interests of a geographically defined collective, with loyalty to those who share one’s birth origins as superior to intellectually held values. The fact that the same culture also gives rise to anti-discriminatory legislation is not a contradiction, but a paradox: while all racists have an anti-conceptual psycho-epistemology, not all anti-conceptual mentalities are consciously racist. An anti-conceptual mentality incapable of identifying the abstractions that unite ostensibly disparate concretes, is incapable of identifying the link between racism and the support of laws that initiate physical force, such as foreign investment regulations.

One should not be surprised to find young white men forming gangs such as White Power, and violently attacking businesses owned by ethnic minorities.⁵³ Such people are consistently practising the premises

⁵¹ See the Overseas Investment Act 1973 as amended by the Overseas Investment Amendment Act 1995, which provides that consent is required by the Minister of Lands for the acquisition by “overseas persons” of any land exceeding 5 hectares. Under the National-NZ First coalition agreement, consent will be required from the Overseas Investment Commission for the purchase of foreshore farm land exceeding 0.2 hectares. “What the deal means to you” *New Zealand Herald* 12 December 1996 A1. This means that a property owner is unable to act on his own independent judgement; he must obey the decision arrived at by a governmental authority or face the legal consequences.

⁵² See Overseas Investment Act 1973 as amended, which makes “provision for the supervision and control of overseas investment in New Zealand.” Section 14A(2), which lists criteria for consent for overseas investment in New Zealand, makes it clear that the investment must be for the greater good of New Zealand as a collective. For example, s 14A(2)(a)(i) includes as a criterion for the consent to overseas investment in New Zealand that the overseas investment must be likely to result in the “creation of new job opportunities in New Zealand or the retention or (sic) existing jobs in New Zealand that would or might otherwise be lost.” The National-NZ First coalition agreement provides that “substantial and identifiable benefits to New Zealand” is to be the primary consideration in the consent to overseas investment. “What the deal means to you,” supra note 51. The language of the legislation obscures the fact that it makes “provision for the supervision and control” of human lives and that dissenters are to be dealt with by force.

⁵³ In 1979 for example, three members of a White Power gang threw a molotov cocktail into an Indian owned shop. The members claimed that they were dedicated to “getting rid of coloured people in New Zealand.” Spoonley, supra note 2 at 154. It is unsurprising that 1979 was a period of extensive economic and social regulation in New Zealand.

embodied in our culture and reflected in our laws. More fundamentally, laws that initiate physical force affect an individual's psycho-epistemology. The more intrusive the laws, the less individuals have to raise their focal awareness; they do not have to encounter foreigners, they have only to deal with those who share the same concretes as themselves. As the economy of a country becomes isolationist, there is a corresponding isolationism in the consciousness of individuals - anyone who is united by different concretes becomes a psycho-epistemological threat. While such laws are ostensibly aimed at foreigners, they necessarily affect internal race relations, as individuals begin to relate to each other by perceptual criteria rather than shared values. The person who fears the different culture and language of foreigners, will fear the different culture and language of an indigenous minority: the psycho-epistemological root is identical.⁵⁴

Laws that initiate physical force have a deleterious effect on an individual's cognitive and conceptual faculty. Every law ostensibly aimed at foreigners, is in fact aimed at the minds of New Zealanders. Such laws are preventing New Zealanders from exchanging values with whom they like; they are forcing New Zealanders to act without judgement and to deal almost exclusively with those who share the same geographical origins as themselves.

To the degree that physical force is initiated or threatened, the efficacy of the mind is hampered. To the degree that an individual's life is at the mercy of the political system, his or her mind and its efficacy at grasping reality are undermined; the individual's primary focus, his or her psycho-epistemological frame of reference, becomes other people. The statist system lowers an individual's focal awareness to the perceptual level, while manufacturing social metaphysicians. Thus, at the same time as the statist legal machinery fragments society into warring pressure groups there is a corresponding lowering of focal awareness among the populace, predisposing individuals to unite in self-protection on the basis of race and geography.

⁵⁴ The same principle applies to the indigenous minority: the person who fears the different culture and language of foreigners will fear the different traditions and ideas of an ethnic majority.

V. CONCLUSION

There is an internal relationship between racism and legislation that initiates physical force. This means that it is contradictory to oppose racism and to support *any* law that initiates physical force, including anti-discriminatory legislation, nationalistic legislation, tobacco regulations, taxation, and the like. This is not merely an exercise in intellectual polemics: providing one's concepts are derived from and remain connected to the facts of reality, there can be no duality between theory and practice. As a metaphysical contradiction is a logical impossibility, the sanction of an epistemological contradiction is necessarily cataclysmic: the attempt to eliminate racism by proscribing it (including the corresponding acquiescence to statism and collectivism) can only have the obverse effect of intensifying the incidence of racism in society.