



"The Sordid Business of Dividing Us Up"

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The Cato Institute's fall "Cato's Letter" newsletter publishes a speech I gave at Cato on America's racial classification system. It begins:

Racial classifications by law have been as American as apple pie, since at least the 19th century. Modern Americans tend to shake their heads with revulsion when they think about or read about the lengths that government authorities went to back in the day to determine who was black for purposes of Jim Crow laws, or who was Asian for purposes of racist immigration and naturalization laws. But the irony is that while we don't really think about it very often, racial classification dictated by government rules is more common today than probably ever before in American history. So many common activities—when you register your kid for school, when you apply for a job, when you apply for a mortgage and many other everyday occurrences—involve checking a box saying first whether you're Hispanic or not and then which racial group you consider yourself to be a member of.

These modern racial classification norms did not arise spontaneously but are a product of maybe one of the most consequential government rules you've never heard of, a rule called Statistical Directive No. 15, which was promulgated by the Office of Management and Budget (OMB) in 1977. At the time, this was considered a rather modest rule change, because federal agencies had already been gathering data about various groups in the United States, but the data were inconsistent. For example, there were at least eight ways of identifying the groups that we now call Hispanic back in the '70s, so you had apples and oranges. You couldn't compare data from one agency to another because there were no consistent classifications and definitions of the classifications. So the OMB said, "Okay. We just have to regularize this." They formed a committee to do so, to which very little attention was paid, and eventually they came up with our modern classifications.

In other news related to my book "Classified," quite a few people at last week's Fed Soc's conference told me they enjoyed this SCOTUS 101 podcast.

I joined Ted Shaw of UNC Law School and Jeffrey Rosen of the National Constitution Center for a recap of the Supreme Court's recent affirmative action oral arguments.

National Review's Charles Cooke interviewed me here.

And Powerline turns my speech on racial classification at Berkeley Law into a podcast. And yes, I started the speech by lambasting the student groups who have implemented a "no one who thinks Israel should exist is allowed to speak here" policy.