

## Jewish Students & Minorities

Behold this statement from the Dean of the Law School of Tel Aviv University: "If we were to apply the ordinary criteria which we apply to Jewish students, and if we were to follow the rules of equality in their technical sense, we would have few Arab students here. Thus, despite our belief in equality for all, we have had to apply *discrimination in reverse* in order to ensure the group rights of the Arabs as such to participate in the legal life of the country. This is merely one demonstration that group rights have a substantive meaning as distinct from the right of the human being as such."

This is an expression of preferential treatment, practiced by the Israel on behalf of affirmative action for Arab students. It comes at a time when the Supreme Court of the State of Washington has made an apparently similar ruling, much to the anguish of some American Jewish agencies.

The ruling in Washington had to do with Marco De Funis, a Caucasian who happens to be Jewish—and who was denied admission to the law school at the University of Washington. There had been over a thousand applications for the law school, and room for only about 150 admissions. The standard practice was to combine each applicant's academic record, and score on a special aptitude test, to arrive at a numerical measurement of Predicted First Year Average (PFYA). The Admissions procedure also routinely included a review of personal history to assess factors other than PFYA score which might affect "an applicant's ability to make significant contributions to law school classes and the community at large." For that purpose, one of the factors taken into consideration was minority status (Black, Chicano, American Indian, Filipino). Another had to do with returning veterans who had previously been associated with the school.



Raab

**The Admissions Committee invited 275 applicants to attend, assuming that his would result in acceptance by about 150. De Funis was not invited to attend. Over 200 of those invited had higher PFYA scores than he did, and 74 of those had lower PFYA scores than he did. If those 74 with lower scores, 36 were from the specified minority groups, 22 were in the veteran category, and 16 were in neither category. Application was denied to 29 applicants who had higher scores than De Funis had.**

De Funis sued largely on grounds that he had a higher PFYA score than some of those admitted, and that racial identity was an improper factor to consider. Some national Jewish agencies supported his case, and it was won in the trial court, which ordered the admission of De Funis. He is there now. But the State Supreme Court reversed the decision, saying that "The committee *may* consider the racial or ethnic background of an applicant when interpreting his standardized grades and test scores." In other words, the Court supported the position of The University of Washington Law School, which had said that it fixed no percentages, no quotas, but that it wanted to consider minority identity as one admissions factor in order to better serve the community at large.

That sounds very much like the statement of the Law School of Tel Aviv University. Marco De Funis would have faced the same problem at Tel Aviv University as he did at The University of Washington. At the least, this gives us some wry taste of the kinds of tortuous social decisions we're all facing — and the merits and dangers of the various approaches will continue to be debated.

**But there's one aspect of this Tel Aviv-Washington story which is additionally noteworthy. In America, our basic thrust is still, hopefully, individualist. If the University of Washington approach—using race as one factor for admission—is finally permitted, it is still the thought that it will be done regretfully, as a necessary deviation, rather than a normal act. Rights of this kind do not inhere in any racial or ethnic group: this is a temporary social remedy to make possible a society in which individual measurement, "the right of the human being as such" will reign supreme. There is always the danger that, by abuse or neglect, the deviant can become the normal, but the goal is, hopefully, still clear.**

However, the last line of the above quote from the Dean of the Law School of Tel Aviv University suggests that the goal in Israel might be somewhat different. Because of its historical circumstances and the particular exigencies of maintaining a Jewish state, Israel may tend to be group-oriented as a matter of principle. But the tradition of individualist democracy is also strong among Israelis. Coming to grips with these two contradictory principles is one of the internally anguishing problems Israel now faces.