

April 27, 2014

Hidden among the many wonderful things to see during my first Moscow visit, was the disturbing sight of old Russian women standing along buildings on Gorky street as it left Red Square and passed the Lenin Library and the Hotel Moscow. It was December 1991 and cold and snowing, They stood in the lee of the buildings and offered items for sale to passersby. Pathetic things they hoped would attract interest and money. One woman held out a spoon. Another a bar of soap. They stood shuffling their feet warding off the cold, their heavy coats covered in snow. This was the new Russia.

Teenagers on Arbat Street's open market had things to sell too and they could instantly spot westerners trailing the scent of hard currency They claimed they were "biznessmean" in a Freudian slip of pronunciation that promised very little for those in Russia too poor and too old to surf the trends engulfing their country. Those Russian women came to mind when reading [Daniel Greenfield's](#) post on The Environmental Apocalypse. The progress of civilization is the growth of human efforts to find ways to protect those least able to cope. But we have become unhinged as the left admits to no limits for their vote buying schemes. Now, in an orgy of progressive environmentalism, our culture creates more spoon sellers. Those Russian women are easy to find in Greenfield's post.

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The interaction between the elderly immigrant who speaks broken English or the homeless man who is barely holding it together... and the machine is a stark contrast between what the new smart clean green economy pretends to be and what it actually is.

The machine, like so much else that we design, is impressive, but its existence depends on someone digging through the trash with their hands for much less than minimum wage to extract a generally useless item.

The entire bottle economy, which has more than a passing resemblance to the trash sorting operations in the Third World carried out by despised and persecuted minorities, like the Zabbaleen in Egypt, is artificial. The United States is not so poor that it actually needs to recycle. It recycles not under the impulse of economic imperatives, but of government mandates.

The elderly Chinese women dig through the trash because politicians decided to impose a tax on us and an incentive for them in the form of a deposit. All those useless 1980s laws created a strange underground economy of marginalized people digging through the trash.

Every time politicians celebrate a recycling target met and show off some shiny new machine, hiding behind the curtain are the dirty weary people dragging through the streets at the crack of dawn, donning rubber gloves and tearing apart trash bags. They are the unglamorous low-tech reality of environmentalism.

These are the Green Jobs that aren't much talked about. They pay below minimum wage and have no workplace safety regulations. They are the Third World reality behind the First World ecology tripe. It's not that the people who plan and run the system don't know about them. But they don't like to talk about them because they come too close to revealing the unsavory truth about where environmentalism is really going.

Environmentalism, like every liberal notion, is sold to the masses as modern and progressive. It's the exact opposite. It's every bit as modern and progressive as those sacks of cans being hauled by hand through the streets to the machine. ...

... Communist modernism was a Potemkin village, a cheap tacky curtain and behind it, the sweating slave and the stench of Babylon. The modernism of the progressive is the same facade covered in sociology textbooks, New York Times op-eds and teleprompter speeches. Behind it lie the ruins of Detroit, tribal violence in the slums of every major city and an economy in which there is no more room for the middle class except as clerks in the government bureaucracy. And it doesn't end there.

The elderly Chinese woman picking through the trash in search of empty beer bottles isn't the past. She's the future. Recycling is big business because the government and its affiliated liberal elites decided it should be. It's just one example of an artificial economy and it's small stuff compared to the coming carbon crackdown in which every human activity will be monetized and taxed somewhere down the road according to its carbon footprint.

The ultimate dream of the sort of people who can't sleep at night because they worry that children in India might be able to grow up making more than two dollars a day, is to take away our prosperity for our own good through the total regulation of every area of our lives under the pretext of an imminent environmental crisis.

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... Environmentalism is wealth redistribution on a global scale. The goal isn't even to lift all boats, but to stop the tide of materialism from making too many people too comfortable. ...

... The sustainable logic of the slum that makes us better people by making us more miserable.

The Soviet idea of progress was feudalism dressed up in Socialist red. Environmentalism dresses up feudalism in Green. It seeks to reverse all the progress that we have made in the name of progress. Environmentalism is as sophisticated as a Soviet collective farm, as modern as the homeless people dragging bags of cans along on sticks to feed the machine and as smart as a slum made of trash.

Beneath all the empty chatter about social riches and sustainability is that need to impose progressive misery.

Beneath the glossy surface of environmentalism is a vision of the American middle class learning to dig through bags of garbage, the detritus of their consumerism for which they must be punished, to become better people.

And the Keystone decision is a part of this. Stephen Moore on how the administration is choking the middle class by selling out to watermelons - people who are green on the outside and red all the way through.

... Obama has made the laughable claim recently that the pipeline would lead to “only 50 permanent jobs.” So a \$3 billion multistate pipeline that stretches more than 1,000 miles shouldn’t go forward, because it won’t boost employment permanently? Someone might want to explain to the president that in the private sector there is no such thing as a permanent job. (Those are to be found only in the government.)

We will surely see more of these blue-versus-green economic-development battles emerge in the months and years ahead. Already West Virginia has flipped from Democratic blue to Republican red in recent years because of the Left’s war on coal, while other resource states — including Colorado, Ohio, Kentucky, Pennsylvania, New Mexico, Virginia, and, who knows, maybe even New York — could shift into the red column once the old blue-collar Reagan Democrats realize that the greens who run and now finance the Democratic party have become unhinged, and constitute a clear and present danger to the jobs and livelihoods of middle-class America.

Hollywood elites, and billionaire hedge-fund managers like Tom Steyer, can live with that result. A Pew Research poll has found that Keystone is unpopular with only two demographic groups: Democrats who earn more than \$100,000 and Democrats with postgraduate degrees.

But the working class in America that cares a lot more about a paycheck than about stopping the rise of the oceans is tiring of being the frontline victim of this green menace. Barack Obama won the 2012 election because he persuaded middle-class voters that he cares more about them than do the Republicans. The latest Keystone XL pipeline travesty is the most recent evidence that this is a lot of bunk.

Switching gears, we'll spend some more time on the Court's affirmative action ruling. Charles Krauthammer sees much to celebrate.

Every once in a while a great, conflicted country gets an insoluble problem exactly right. Such is the Supreme Court’s ruling this week on affirmative action. It upheld a Michigan referendum prohibiting the state from discriminating either for or against any citizen on the basis of race.

The Schuette ruling is highly significant for two reasons: its lopsided majority of 6 to 2, including a crucial concurrence from liberal Justice Stephen Breyer, and, even more important, Breyer’s rationale. It couldn’t be simpler. “The Constitution foresees the ballot box, not the courts, as the normal instrument for resolving differences and debates about the merits of these programs.”

Finally. After 36 years since the Bakke case, years of endless pettifoggery — parsing exactly how many spoonfuls of racial discrimination are permitted in exactly which circumstance — the court has its epiphany: Let the people decide. Not our business. We will not ban affirmative action. But we will not impose it, as the Schuette plaintiffs would have us do by ruling that no state is permitted to ban affirmative action. ...

... As with all great national questions, the only path to an enduring, legitimate resolution is by the democratic process.

That was the lesson of Roe v. Wade. It created a great societal rupture because, as Ruth Bader Ginsburg once explained, it “halted a political process that was moving in a reform direction and thereby, I believe, prolonged divisiveness and deferred stable settlement of the [abortion] issue.” It is never a good idea to take these profound political questions out of the political arena. (Regrettably, Ginsburg supported the dissent in Schuette, which would have done exactly that to affirmative action, recapitulating Roe.) ...

John Fund notes the scatter-brained aspects of Sotomayor's dissent and Eric Holder's agreement.

You can often tell when advocates of one side in an argument fear they will ultimately lose. They change their branding. A few years ago, warnings about “global warming” were replaced with scare stories about “climate change.” One reason? The Earth had stopped appreciably warming in the late 1990s, making the change a PR necessity.

Supporters of affirmative action are now signaling similar weakness. What was called “racial quotas” in the 1970s and has been referred to as “affirmative action” since the 1990s is giving way to a new term: “race-sensitive admission policies.” The language shift is telling — race-based preferences are losing intellectual, judicial, and political support. ...

... In 2012, Attorney General Eric Holder made an eye-opening statement during an appearance at Columbia University. In backing racial preferences, he said he “can’t actually imagine a time in which the need for more diversity would ever cease. . . . The question is not when does [affirmative action] end, but when does it begin. . . . When do people of color truly get the benefits to which they are entitled?”

I submit that many Americans — regardless of race — are increasingly exhausted by what Chief Justice Roberts declared in 2006 was this “sordid business, this divvying us up by race.”

It’s clear where Eric Holder would take us — an endless fixation on race that inevitably brings its own racial discrimination. It’s clear Justice Sotomayor would take us in pretty much the same direction. She would just pretty up the “sordid business” by coming up with new euphemisms for it.

Paul Mirengoff has more on Holder and Sotomayor.

As I noted here, Justice Sotomayor dissented from the Supreme Court’s decision upholding what should be a truism: the Constitution permits a state to prohibit race discrimination by public institutions. Sotomayor was joined by the ultra-leftist Justice Ginsburg. However, she failed to persuade the only moderately leftist Justice Breyer, who joined the 6-2 majority.

Attorney General Holder calls Sotomayor’s dissent “courageous.” Her dissent is lots of things — verbose and nonsensical, for example. But it’s difficult to identify a sense in which it is courageous.

Will the dissent bring disapproval from those whose approval Sotomayor values — the mainstream media, academia, and the folks with whom she hangs out in New York and Washington? Of course not; it will be applauded in these precincts.

Will it bring disapproval from Sotomayor's friends in the Obama administration? Of course not; it will be applauded there too, as Holder's statement shows.

Will Sotomayor's dissent cause her to be criticized in her presence by President Obama before a crowd of rowdy politicians and a national television audience? No. Obama reserves that treatment for conservative and center-right Justices.

Will Sotomayor's dissent cause her taxes to be audited by the IRS? I don't think so.

To view Sotomayor's dissent as remotely courageous one must pretend to be living in the America of the 1950s. It's no coincidence that one must adopt roughly the same pretense to discern any sense in her dissent.

Now the important stuff. Last week we learned beer is good for grilling meat.

Today's great news - chocolate is good for us. [NY Times](#) has the story.

In recent years, large-scale epidemiological studies have found that people whose diets include dark chocolate have a lower risk of heart disease than those whose diets do not. Other research has shown that chocolate includes flavonols, natural substances that can reduce the risk of disease. But it hasn't been clear how these flavonols could be affecting the human body, especially the heart. New findings from Virginia Tech and Louisiana State University, however, suggest an odd explanation for chocolate's goodness: It improves health largely by being indigestible.

Sultan Knish

[The Environmental Apocalypse](#)

by Daniel Greenfield

Early in the morning, while most are still sleeping, groups of elderly Chinese women spread out across city streets. They tear open trash bags, pick through the litter and sort out bottles and cans that come with a deposit. And then they bring them to the local supermarket to a machine that scans and evaluates each can, accepting and rejecting them one by one, and finally printing out a receipt.

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Prince Charles, that avid idiot and environmentalist, visited a Mumbai slum a few years ago and said that it had some lessons to teach the West.

"When you enter what looks from the outside like an immense mound of plastic and rubbish, you immediately come upon an intricate network of streets with miniature shops, houses and workshops, each one made out of any material that comes to hand," Prince Charles wrote in his book, *Harmony*.

The Prince of Wales is quite the author. In addition to *Harmony: A New Way of Looking at Our World*, he has written *Shelter: Human Habitats from Around the World*, *The Prince's Speech: On the Future of Food* and *The Illustrated Guide to Chickens: How to Choose Them, How to Keep Them*.

One might be forgiven for assuming that the royal brain twitching behind those watery eyes is preparing for some sort of apocalypse. And it is. The apocalypse is environmentalism. Or from the point of view of the environmentalists, who spare some time from their public appearances and their mansions to pen tomes on the future of food and how to choose chickens, the apocalypse is prosperity.

People of that sort think that instead of getting the slum dwellers of Mumbai into apartments, we ought to be figuring out how to build shelters out of random garbage. Think of it as the recycling can solution as applied to your entire life.

"The people of Dharavi manage to separate all their waste at home and it gets recycled without any official collection facilities at all," a marveling Charles, who probably never took out the trash once in his life, wrote. It's easy to get people to recycle without any mandates or collection facilities at all. All it takes is grinding poverty so miserable that you either make the most of every last thing you can get your hands on or you die.

That is the sort of lifestyle that environmentalists think of as sustainable. Or as Hobbes put it, "In such condition, there is no place for Industry; because the fruit thereof is uncertain; and consequently no Culture of the Earth... no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society." That is the natural state to which environmentalists would return us to.

More recently another deep thinker, Peter Buffett, Warren Buffett's son, took to the editorial pages of the New York Times to denounce Third World philanthropy.

"Microlending and financial literacy — what is this really about?" Buffett asks. "People will certainly learn how to integrate into our system of debt and repayment with interest. People will rise above making \$2 a day to enter our world of goods and services so they can buy more. But doesn't all this just feed the beast?"

To the slum dwellers, the beast isn't capitalism, it's that gnawing feeling in your stomach when you haven't eaten for a day. But Peter Buffett, who lives a life almost as privileged as Prince Charles, bemoans the idea of getting people to the point where they aren't worried about where their next meal is coming from because it just turns them into capitalists and consumers. And before you know it, they're buying big screen televisions and writing op-eds in the New York Times on the futility of philanthropy.

"There are people working hard at showing examples of other ways to live in a functioning society that truly creates greater prosperity for all (and I don't mean more people getting to have more stuff)," Peter Buffett wrote, probably unaware that he was sniffing down the same trail that a thousand communes had gone. But the experimental farm is old hat. The new model is the Third World.

Instead of helping the Third World live like us, the perverse children of the rich dream of making us live like the Third World.

Those working hard to make our society function like Charlie's favorite slum aren't moving to their own collective farms. Instead they are transforming our society into the collective farm while pretending that their calculated destruction of our prosperity is smart and modern.

The Soviet Union pretended that its plans for the country were a modern step forward. In reality, the Commissars took the farmers back to feudalism and then turned much of the country into peasants, coping with harvest labor problems by forcing urban populations to come and pick the crops. And those were the good times. In the bad times, highways and other large projects were built through mass slave labor no different than the way that ancient Egypt built the pyramids.

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decided it should be. It's just one example of an artificial economy and it's small stuff compared to the coming carbon crackdown in which every human activity will be monetized and taxed somewhere down the road according to its carbon footprint.

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"I strongly believe that the West has much to learn from societies and places which, while sometimes poorer in material terms are infinitely richer in the ways in which they live and organize themselves as communities," Prince Charles said.

It goes without saying that the Prince of Wales is not about to take personal advantage of these infinite spiritual riches of living in a house made of garbage, drinking contaminated water and dying before thirty. What he is saying is that while he personally is a little too attached to his lifestyle, he thinks that we as a society would be better off giving up on the materialism of living on more than two dollars a day and embracing the infinite social and spiritual riches that rich people imagine are accessible only to impoverished Third Worlders.

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The liberal billionaire who clamors about sustainability likes progress. What he dislikes is the middle class with its mass produced cars and homes, cheap restaurants full of fatty foods and television sets and daily deliveries of cardboard boxes full of stuff and shopping malls. He thinks, in all sincerity, that they would be happier and more spiritually fulfilled as peasants. It's not an original idea.

The Industrial Revolution had hardly begun revolving when the 'Back to Nature' crowd began insisting that it was time to learn a more harmonious way of life by going back to the farm. Centuries later the only new idea that they have come up with is threatening an environmental apocalypse if the middle class doesn't change its mass producing ways. Even its adoration of the Noble Savage is older than the American Revolution.

The modern environmentalism jettisons the idea of moving to a dilapidated farmhouse to spend time being bored while trying to make artisanal rocking chairs to sell to someone, It's done its time searching for the noble savage within through drugs and degradation decades ago. Now it's our turn to tap into the infinity of spiritual riches that comes from just barely getting by.

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National Review

Barack Obama's Keystone Cops

He's setting back the middle class — and the GOP needs to point this out.

by Stephen Moore

You've got to hand it to billionaire Tom Steyer. He tells Barack Obama and Harry Reid to jump, and they obediently reply: How high?

Mr. Steyer pulled off the policy coup of the year last week when the White House announced it would place the Keystone XL pipeline in regulatory purgatory for another six months at least. Mr. Steyer has promised \$100 million to Democrats to beat back Republicans in the midterm elections this fall, and the campaign funds have already paid off in the scuttling of this \$3 billion pipeline project. (Remember when Democrats were pro-infrastructure?) President Obama says we have to determine whether it is "in the national interest."

Mr. Steyer protested this week that he is not the Democratic party's version of the Koch brothers, who fund efforts to promote liberty and free enterprise. Mr. Steyer says that "there are real distinctions between the Koch brothers and us," because the Kochs personally benefit from their political advocacy, while he is donating to save the planet. Never mind that he's a major investor in solar-energy projects that compete with fossil fuels. Let's just say that Steyer got more than just a lousy T-shirt for his political pay-to-play investment.

But Steyer, like most fanatical greens, really does have an intense hatred of this pipeline — and thus a motive that goes beyond any personal gain. To the far left, Keystone has become the symbol of the North American shale-oil-and-gas revolution that is crushing the brief and ill-fated renewable-energy fad. So anything that would efficiently transport these fossil fuels to market is evil.

For his part, Obama repeated the Big Green mantra that we shouldn't build the pipeline if it would contribute to "carbon pollution." By this logic, the U.S. government should shut down the existing 100,000 miles of pipeline in North America and stop all domestic fossil-fuel production.

But all of this is a sideshow to the really big question here, which is whether the GOP leaders are smart enough to capitalize on this Keystone blunder. The controversy exposes a widening fault line within the Democratic coalition that could split the party in two. It's an intra-party blood feud between the blues and the greens: Blue-collar union Democrats (those who work in the private sector) desperately want the jobs associated with drilling, mining, and building the infrastructure to make those things happen. Many of the big unions, from the Teamsters to the welders and pipefitters, support the project and have furiously objected to Obama's decision. The project

creates 10,000 jobs that would pay between \$50,000 and \$100,000 a year. This isn't minimum-wage stuff we are talking about.

Obama has made the laughable claim recently that the pipeline would lead to "only 50 permanent jobs." So a \$3 billion multistate pipeline that stretches more than 1,000 miles shouldn't go forward, because it won't boost employment *permanently*? Someone might want to explain to the president that in the private sector there is no such thing as a permanent job. (Those are to be found only in the government.)

We will surely see more of these blue-versus-green economic-development battles emerge in the months and years ahead. Already West Virginia has flipped from Democratic blue to Republican red in recent years because of the Left's war on coal, while other resource states — including Colorado, Ohio, Kentucky, Pennsylvania, New Mexico, Virginia, and, who knows, maybe even New York — could shift into the red column once the old blue-collar Reagan Democrats realize that the greens who run and now finance the Democratic party have become unhinged, and constitute a clear and present danger to the jobs and livelihoods of middle-class America.

Hollywood elites, and billionaire hedge-fund managers like Tom Steyer, can live with that result. A Pew Research poll has found that Keystone is unpopular with only two demographic groups: Democrats who earn more than \$100,000 and Democrats with postgraduate degrees.

But the working class in America that cares a lot more about a paycheck than about stopping the rise of the oceans is tiring of being the frontline victim of this green menace. Barack Obama won the 2012 election because he persuaded middle-class voters that he cares more about them than do the Republicans. The latest Keystone XL pipeline travesty is the most recent evidence that this is a lot of bunk.

Washington Post

[Finally getting it right on affirmative action](#)

by Charles Krauthammer

Every once in a while a great, conflicted country gets an insoluble problem exactly right. Such is the [Supreme Court's ruling this week on affirmative action](#). It upheld a Michigan referendum prohibiting the state from discriminating either for or against any citizen on the basis of race.

The *Schuette* ruling is highly significant for two reasons: [its lopsided majority](#) of 6 to 2, including a crucial concurrence from liberal Justice Stephen Breyer, and, even more important, Breyer's rationale. It couldn't be simpler. "The Constitution foresees the ballot box, not the courts, as the normal instrument for resolving differences and debates about the merits of these programs."

Finally. [After 36 years since](#) the *Bakke* case, years of endless pettifoggery — parsing exactly how many spoonfuls of racial discrimination are permitted in exactly which circumstance — the court has its epiphany: Let the people decide. Not our business. We will not ban affirmative action. But we will not impose it, as the *Schuette* plaintiffs would have us do by ruling that no state is permitted to ban affirmative action.

The path to this happy place has been characteristically crooked. Eleven years ago, the court rejected an attempt to strike down affirmative action at the University of Michigan law school. [The 2003 Grutter decision](#), as [I wrote at the time](#), was “incoherent, disingenuous, intellectually muddled and morally confused” — and exactly what the country needed.

The reasoning was a mess because, given the very wording of the equal-protection clause (and of the Civil Rights Act), justifying any kind of racial preference requires absurd, often comical linguistic contortions. As Justice Antonin Scalia put it in his *Schuetz* concurrence, even the question is absurd: “Does the Equal Protection Clause . . . forbid what its text plainly requires?” (i.e., colorblindness).

Indeed, over these four decades, how was “equal protection” transformed into a mandate for race discrimination? By morphing affirmative action into diversity and declaring diversity a state purpose important enough to justify racial preferences.

This is pretty weak gruel when compared with the social harm inherent in discriminating by race: exacerbating group antagonisms, stigmatizing minority achievement and, as [documented by Thomas Sowell, Stuart Taylor and many others](#), needlessly and tragically damaging promising minority students by turning them disproportionately into failures at institutions for which they are unprepared.

So why did I celebrate the hopelessly muddled *Grutter* decision, which left affirmative action standing?

Because much as I believe the harm of affirmative action outweighs the good, the courts are not the place to decide the question. At its core, affirmative action is an attempt — noble but terribly flawed, in my view — at racial restitution. The issue is too neuralgic, the history too troubled, the ramifications too deep to be decided on high by nine robes. As with all great national questions, the only path to an enduring, legitimate resolution is by the democratic process.

That was the lesson of *Roe v. Wade*. It created a great societal rupture because, as [Ruth Bader Ginsburg once explained](#), it “halted a political process that was moving in a reform direction and thereby, I believe, prolonged divisiveness and deferred stable settlement of the [abortion] issue.” It is never a good idea to take these profound political questions out of the political arena. (Regrettably, Ginsburg supported the dissent in *Schuetz*, which would have done exactly that to affirmative action, recapitulating *Roe*.)

Which is why the 2003 *Grutter* decision was right. Asked to abolish affirmative action — and thus remove it from the democratic process — the court said no.

The implication? The people should decide.

The people responded accordingly. Three years later, they crafted [a referendum to abolish race consciousness in government action](#). It passed overwhelmingly, 58 percent to 42 percent.

Schuetz completes the circle by respecting the constitutionality of that democratic decision. As Justice Anthony Kennedy wrote in the controlling opinion: “This case is not about how the debate about racial preferences should be resolved. It is about who may resolve it.”

And as Breyer wrote: “The Constitution permits, though it does not require . . . race-conscious programs.” Liberal as he is, Breyer could not accept the radical proposition of the *Schuette* plaintiffs that the Constitution demands — and cannot countenance a democratically voted abolition of — racial preferences.

This gives us, finally, the basis for a new national consensus. Two-thirds of the court has just said to the nation: For those of you who wish to continue to judge by race, we’ll keep making jesuitical distinctions to keep the discrimination from getting too obvious or outrageous. If, however, you wish to be rid of this baleful legacy and banish race preferences once and for all, do what Michigan did. You have our blessing.

National Review

Raced-Based Preferences Forever

Sonia Sotomayor picks a new euphemism for the endless fixation on race

by John Fund

You can often tell when advocates of one side in an argument fear they will ultimately lose. They change their branding. A few years ago, warnings about “global warming” were replaced with scare stories about “climate change.” One reason? The Earth had stopped appreciably warming in the late 1990s, making the change a PR necessity.

Supporters of affirmative action are now signaling similar weakness. What was called “racial quotas” in the 1970s and has been referred to as “affirmative action” since the 1990s is giving way to a new term: “race-sensitive admission policies.” The language shift is telling — race-based preferences are losing intellectual, judicial, and political support.

Yesterday, the Supreme Court voted six to two to uphold the Michigan Civil Rights Initiative (MCRI), which was passed with support from 58 percent of that state’s voters in 2006. It simply enshrines in Michigan’s constitution that the state should not engage in race discrimination. Opponents of the initiative sued, claiming the measure discriminated against racial minorities who might wish to lobby for preferential treatment.

The MCRI was put on the ballot in response to a 2003 Supreme Court opinion upholding an affirmative-action program at the University of Michigan. The Supreme Court properly held yesterday that Michigan voters were free to change the program, noting that if the state legislature and university regents had the right to do so — as even the plaintiffs agreed they did — so too should voters.

As narrowly written as the opinion was, it elicited a blistering dissent from Justice Sonia Sotomayor. At 58 pages, her dissent was longer than the opinions of all the other justices combined — and she took the relatively unusual step of reading it passionately from the bench.

“The stark reality is that race still matters,” Sotomayor said. “The way to stop discrimination on the basis of race is to speak openly and candidly on the subject of race, and to apply the Constitution with eyes open to the unfortunate effects of centuries of racial discrimination.” She went on to

chastise the majority's opinion: "My colleagues misunderstand the nature of the injustice worked by" the Michigan amendment.

Chief Justice John Roberts directly confronted Sotomayor in his own concurring opinion: "It is not 'out of touch with reality' to conclude that racial preferences may themselves have the debilitating effect . . . that the preferences do more harm than good. To disagree with the dissent's views on the costs and benefits of racial preferences is not to 'wish away, rather than confront' racial inequality. People can disagree in good faith on this issue, but it similarly does more harm than good to question the openness and candor of those on either side of the debate."

But while Sotomayor's overheated argument made the headlines, her most intriguing statement came in a footnote in which she noted:

Although the term "affirmative action" is commonly used to describe colleges' and universities' use of race in crafting admissions policies, I instead use the term "race-sensitive admissions policies." Some comprehend the term "affirmative action" as connoting intentional preferential treatment based on race alone — for example, the use of a quota system, whereby a certain proportion of seats in an institution's incoming class must be set aside for racial minorities; the use of a "points" system, whereby an institution accords a fixed numerical advantage to an applicant because of her race; or the admission of otherwise unqualified students.

Her insistence that existing affirmative-action programs don't result in the admission of unqualified students — and effectively amount to quotas — is at odds with the facts.

As I pointed out last month on NRO : "The median African-American student at law school has credentials lower than those of 99 percent of the Asian and white students — and underrepresented minorities admitted to law school based on a heavy preference are two to three times more likely to fail the bar exam."

And not all racial minorities are of one mind on affirmative action. In 1996, after a ferociously negative campaign, 55 percent of Californians passed Proposition 209, a measure similar to Michigan's ban on racial discrimination. It was backed by four out of ten Asians and a quarter of blacks and Latinos. Prop 209 hasn't had any of the disastrous consequences predicted by its opponents. It has fostered better legitimate outreach efforts by universities such that the percentage of blacks and Latinos in the overall University of California system has actually increased from what it was in 1996 (while declining at the most elite UC campuses).

But this year, when an attempt was made in California's state legislature to put a repeal of Prop 209 on the ballot this November, it was an outpouring of opposition from Asian Americans who feared their children would be disadvantaged in university admissions that blocked its passage. "In an increasingly diverse America, there are many different minority groups with a variety of differing interests. On most issues, therefore, there are likely to be minorities on both sides," wrote Ilya Somin, a law professor at George Mason University. He noted that Asian Americans were not mentioned even once in Tuesday's opinions on affirmative action in Michigan, even though the text of the five opinions ran to 108 pages.

In 2012, Attorney General Eric Holder made an eye-opening statement during an appearance at Columbia University. In backing racial preferences, he said he "can't actually imagine a time in which the need for more diversity would ever cease. . . . The question is not when does [affirmative

action] end, but when does it begin. . . . When do people of color truly get the benefits to which they are entitled?”

I submit that many Americans — regardless of race — are increasingly exhausted by what Chief Justice Roberts declared in 2006 was this “sordid business, this divvying us up by race.”

It’s clear where Eric Holder would take us — an endless fixation on race that inevitably brings its own racial discrimination. It’s clear Justice Sotomayor would take us in pretty much the same direction. She would just pretty up the “sordid business” by coming up with new euphemisms for it.

Power Line

[Eric Holder’s idiotic praise of Justice Sotomayor](#)

by Paul Mirengoff

As I noted [here](#), Justice Sotomayor dissented from the Supreme Court’s decision upholding what should be a truism: the Constitution permits a state to prohibit race discrimination by public institutions. Sotomayor was joined by the ultra-leftist Justice Ginsburg. However, she failed to persuade the only moderately leftist Justice Breyer, who joined the 6-2 majority.

Attorney General Holder calls Sotomayor’s dissent [“courageous.”](#) Her dissent is lots of things — verbose and nonsensical, for example. But it’s difficult to identify a sense in which it is courageous.

Will the dissent bring disapproval from those whose approval Sotomayor values — the mainstream media, academia, and the folks with whom she hangs out in New York and Washington? Of course not; it will be applauded in these precincts.

Will it bring disapproval from Sotomayor’s friends in the Obama administration? Of course not; it will be applauded there too, as Holder’s statement shows.

Will Sotomayor’s dissent cause her to be criticized in her presence by President Obama before a crowd of rowdy politicians and a national television audience? No. Obama reserves [that treatment](#) for conservative and center-right Justices.

Will Sotomayor’s dissent cause her taxes to be audited by the IRS? I don’t think so.

To view Sotomayor’s dissent as remotely courageous one must pretend to be living in the America of the 1950s. It’s no coincidence that one must adopt roughly the same pretense to discern any sense in her dissent.

NY Times

Why Chocolate Is Good for Us

by Gretchen Reynolds

In recent years, large-scale epidemiological studies have found that people whose diets include dark chocolate have a lower risk of heart disease than those whose diets do not. Other research has shown that chocolate includes flavonols, natural substances that can reduce the risk of disease. But it hasn't been clear how these flavonols could be affecting the human body, especially the heart. New findings from Virginia Tech and Louisiana State University, however, suggest an odd explanation for chocolate's goodness: It improves health largely by being indigestible.

Researchers at Louisiana State reached this conclusion after simulating the human digestive system in glass vessels. One represented the stomach and the small intestine, with their digestive enzymes, and a second reproduced a large-intestine-like environment, with gut microbes from human volunteers. The scientists then added cocoa powder to the stomach vessel.

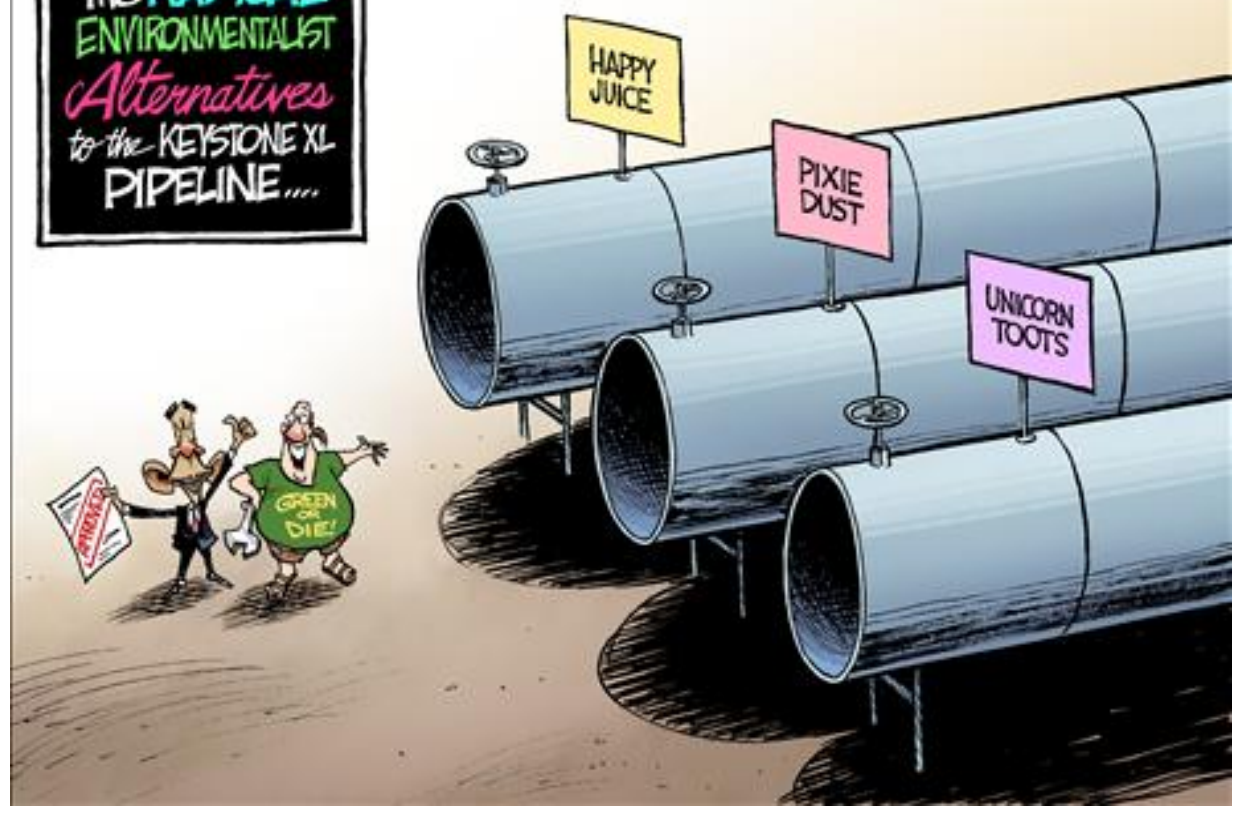
The "stomach" and "small intestine" broke down and absorbed some of the cocoa. But while many of the flavonols previously identified in chocolate were digested in this way, there was still plenty of undigested cocoa matter. Gut bacteria in the simulated colon then broke that down further into metabolites, small enough to be absorbed into the bloodstream and known to reduce cardiac inflammation. Finally, the last undigested cocoa matter, now mostly fiber, began to ferment, releasing substances that improve cholesterol levels. And there was another health-giving twist to this entire process: The gut microbes that digested the cocoa were desirable probiotics like lactobacillus. Their numbers appeared to increase after the introduction of the cocoa, while less-salutary microbes like staphylococcus declined in number.

These findings are broadly consistent with those from Virginia Tech, published in March in The Journal of Agricultural and Food Chemistry. Researchers there began by feeding healthy lab mice a high-fat diet. Some of the mice were also given unsweetened cocoa extract; others were fed various types of flavonols extracted from the cocoa. After 12 weeks, most of the mice had grown fat and unwell, characterized by insulin resistance, high blood sugar and incipient diabetes. A few, however, had not gained weight. These animals had ingested one of the flavonol groups whose chemical structure seems to be too large to be absorbed by the small intestine.

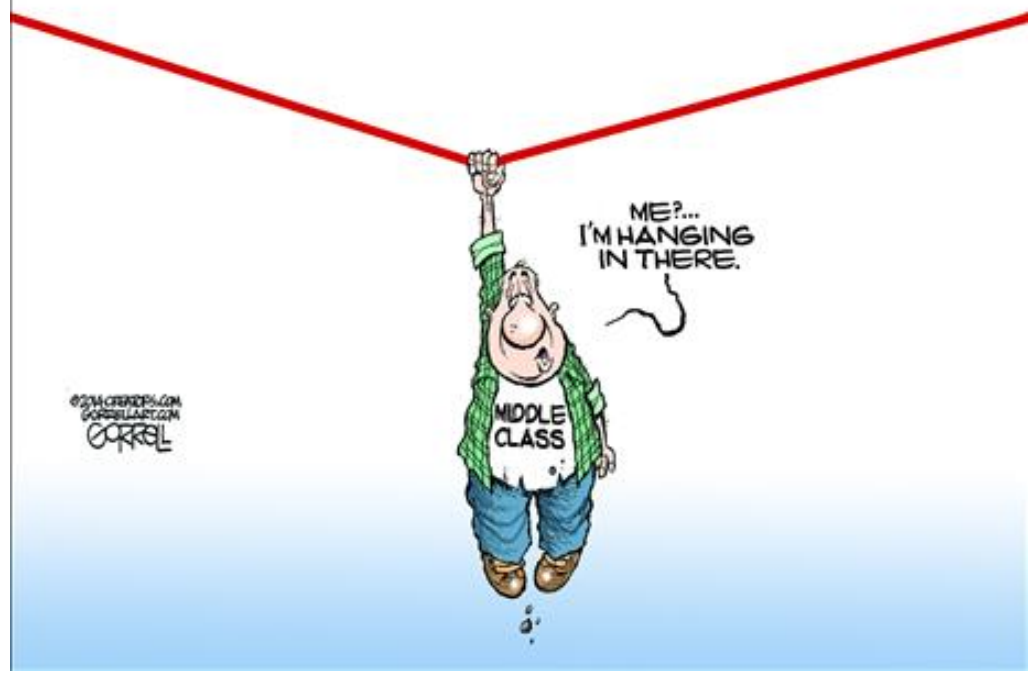
What the results suggest, says Andrew Neilson, an assistant professor at Virginia Tech and the senior author of the mouse study, is that "there is something going on with cocoa in the colon," but what that means for chocolate lovers is not clear. Future experiments, he hopes, will tease out why one flavonol group impeded weight gain and the others did not. Do not hold your breath for a cocoa-based diet pill anytime soon, though. Cocoa's biochemical impacts are "extremely complex," he says.

Sadly, Dr. Neilson also points out that cocoa is not a chocolate bar, something whose added ingredients and processing reduce the number and type of flavonols, increase calories (cocoa itself has very few) and possibly change the response of gut bacteria to the cocoa. "The evidence does not show that you can eat a chocolate bar every day and expect to improve your health," he says. A few tablespoons of unsweetened cocoa powder sprinkled onto oatmeal or a handful of cocoa nibs — bits of the cacao bean, available at natural-food stores — would be better, he says less than sweetly.

The **RADICAL**
ENVIRONMENTALIST
Alternatives
to the **KEYSTONE XL**
PIPELINE....



THE POVERTY LINE





"YOU CALL IT DIVERSITY. WE STILL CALL IT ILLEGAL."

CAPITALISM WORKS



This Invention

Has saved more trees than Greenpeace

