

COMMENTARY

REJECTING RACE AS A CRITICAL MARKER OF HUMAN BIOMEDICAL DIFFERENCE

*Cheryl Mwaria**

As an anthropologist and teacher of undergraduates, I like to begin my course on race and culture contact by asking students to place each other in racial categories. They are invariably reluctant to do so. This, I believe, is an attempt at political correctness. I acknowledge their moment of discomfort and assure them that it is OK to place everyone in the room, including me, in a racial category. Still reluctant, they begin to divide the class. As expected, they use the phenotypic markers of skin color and eye shape to categorize one another, but are often confused by at least a couple of their classmates. The “Asian” category is startlingly variable when it comes to skin color and eye shape. This is, of course, true with respect to other so-called human racial categories. I then ask them to line up according to skin shade from dark to light. This evokes an even greater hesitation and some nervous giggles, but again, I insist that they carry out the instruction. When they do, there is always a great deal of disagreement, whether the individuals involved are disputing shades of “whiteness” or “blackness.” The problem here is that the phenotypic characteristics that are generally used to determine racial categories (skin color; hair type; hair color; shape of eye, nose, or mouth) are continuously variable traits. That is, they do not divide the human species into discrete units. Indeed, similarities in these characteristics do not necessarily denote common ancestry. They are also arbitrary. Furthermore, there is no consensus on the number of human races, which in itself is a byproduct of the arbitrary choice of phenotypic traits used to place individuals in racial categories.

* Professor of Anthropology, Hofstra University.

Professor Malinowski has written fifty-eight pages in his attempt to justify the use of race-based genetic research and not once does he define the concept of race, nor does he cite anyone else's definition of the concept.¹ The use of the concept in any medical research requires a definition to be scientifically sound. It is no accident, however, that he has failed to provide a definition—indeed it goes to the very heart of the problem. There are, as anthropologist Jonathan Marks has argued, two concepts of race: the strictly biological one, wherein racial groups are subspecies, and the one of popular culture.²

The biological concept of race, as subspecies, simply does not apply to contemporary variations in our species, *homo sapiens*, although humans and our ancestral hominid populations have undergone that process many times. However, there are no such divisions at this time for several reasons, one of which is the realization that our species is relatively new, having arisen only about 200,000 years or so ago. Studies of both mitochondrial DNA and the Y chromosome confirm the recent African origin of our species. Moreover, we have been highly mobile and highly promiscuous. That accounts for the fact, affirmed by geneticists, that we are so much alike, even across wide geographical distances. On the other hand, sexual reproduction and the process of genetic recombination coupled with the effects of the environment (even in utero) results in the uniqueness of each of us. Thus, geneticists and anthropologists have confirmed that within any so-called human racial group there is more genetic variation than there is between such groups. Both Craig Venter and Francis Collins of the Human Genome Project have argued that racial differences cannot be discerned on the genomic level.³ Scientists working at Venter's lab were not able to differentiate between the genomes of individuals who had self-identified as Caucasian, African American, Asian, or Hispanic.⁴

Professor Malinowski has joined the ranks of those who more recently have tried to revive the concept of race by viewing "races" as clusters of gene frequencies rather than as

1. Michael J. Malinowski, *Dealing with the Realities of Race and Ethnicity: A Bioethics-Centered Argument in Favor of Race-Based Genetics Research*, 45 HOUS. L. REV. 1415 (2009).

2. Jonathan Marks, *Black, White, Other: Racial Categories Are Cultural Constructs Masquerading as Biology*, 103 NAT. HIST. 32 (1994).

3. Victoria Griffith, *Wires Cross over Genes as Information on Ethnic Groups Pours In*, FIN. TIMES (London), Nov. 2, 2002, at 1.

4. J. Craig Venter, Comments at the Gene Media Forum (July 20, 2000), in ROB DESALLE & MICHAEL YUDELL, WELCOME TO THE GENOME 83 (2005).

reproductively isolated groups, but the example he uses to illustrate the validity of this approach is fraught with problems. In citing a study of the occurrence of MS he writes: “Their hypothesis is that, as the occurrence of MS is much higher in people of European ancestry, African Americans with MS have inherited a higher than average proportion of European chromosomal regions.”⁵ Just who are these African Americans? Are they self-identified? It doesn’t matter because all such categories—whether Irish, Jewish, Tutsi, Chicano—are cultural constructs, not biological races. Humans form groups on the basis of perceived shared interests. While such interests are often based on responses to exclusion from power by elite groups, there is nothing essential about them, at least not on a genetic or biological level. Consider the fact that the term “Latino” (formerly Hispanic) is used to lump together people as diverse as recent immigrants from South America and those U.S. citizens who are descendants of Native Americans and colonists of the Southwest, California, and Central America.

Moreover, exactly how would one determine that “African Americans with MS have inherited a higher than average proportion of European chromosomal regions”? To do this, one would have to: (a) define “European chromosomal regions”; and (b) determine the average proportion of these regions among all so-called African Americans. There is fuzzy logic here and indeed throughout this paper. Malinowski continues to conflate the concept of biological race with the cultural concept of ethnicity without defining either.

Having said that, forensic scientists have argued that by combining four to seven points along DNA, certain kinds of allele frequencies can predict with considerable accuracy patterns of population groups of which one is a member.⁶ This is alarming because while that does not constitute a race to scientists, it can become a proxy for race for police, as Troy Duster has warned.⁷ While Malinowski acknowledges the “dangers of exploitation and discrimination,”⁸ he still insists that the benefits of race-based medical research outweigh the risks. I heartily disagree. The

5. Malinowski, *supra* note 1, at 1441.

6. See I.W. Evett et al, *Establishing the Robustness of Short-Tandem-Repeat Statistics for Forensic Application*, 58 AM. J. HUM. GENETICS 398 (1996); I.W. Evett et al., *The Evidential Value of DNA Profiles*, 33 J. FORENSIC SCI. SOC’Y 243 (1993).

7. See Troy Duster, *Social Side Effects of the New Human Molecular Genetic Diagnosis*, in THE GENOMIC REVOLUTION: UNVEILING THE UNITY OF LIFE 184 (Michael Yudell & Robert De Salle eds., 2002).

8. Malinowski, *supra* note 1, at 1424.

examples he uses, including BiDiI, risk reifying the biological concept of race in humans, while providing benefits only to patent holders and pharmaceutical companies. We do not need more research to “further establish the extent to which race and ethnicity are genetic fictions and underscore the significance of environmental influences on gene function.”⁹ That work has been done.

There is, however, one area in which so-called race-based medical research is valid. That is in research relating to access to health care or health care disparities. Malinowski notes, in support of his argument for race-based genetics research, that “[t]he FDA also has required race identification in clinical trial design. In 2003, the FDA demanded greater scrutiny of data from subpopulations and required incorporation of racial categories specified by the Census Bureau to ensure consistent evaluation of drug safety profiles across racial groups.”¹⁰ The fact that the FDA or any other government agency makes racial categorization a requirement does not mean that is a scientifically sound measure. Consider this example: When collecting infant mortality statistics, race or ethnicity of infants of “mixed” parentage are recorded according to the following rules: (1) if one parent is white, the fetus or infant is assigned to the other parent’s race; (2) when neither parent is white, the fetus or infant is assigned to the father’s race, thereby restricting elite status by assigning children to the politically disadvantaged group.¹¹ The term “race” was replaced by “ethnic group” in the 1990 census, but as I have argued elsewhere, this self-classification, while potentially useful for political purposes, reveals almost nothing about the range of biological variation.¹²

Malinowski opines: “Groups organized by race and ethnicity will gain the opportunity to bargain for inclusion with both the science and medical communities, and the doctrine of group consent will be further developed.”¹³ If this proves true, it is not without the downside of the reification of the “race” worldview, a concept that grew with the Atlantic slave trade; that phenotypic differences are significant, rather than superficial.

9. *Id.* at 1470.

10. *Id.* at 1443.

11. See NAT’L CTR. FOR HEALTH STATS., MONTHLY VITAL STATISTICS REPORT: SUPPLEMENT 46 (June 29, 1989).

12. See Cheryl Mwaria, *Diversity in the Context of Health and Illness*, in CULTURAL DIVERSITY IN THE UNITED STATES 57 (Ida Susser & Thomas Patterson eds., 2001).

13. Malinowski, *supra* note 1, at 1470.

2009]

REJECTING RACE

1487

I agree with Malinowski that it is important to have broad representation in clinical trials; however, participation along racial lines poses a dilemma.¹⁴ The concept of race is a social reality, not a biological one for humans, and one cannot ignore its impact without being unjust to its victims. It is what anthropologist Lee Baker calls “the color-blind bind.”

Anthropologists who advocated the abolition of racial categories perhaps, unwittingly, bolstered political agendas inimical to the goals of antiracist scholarship. On the other hand, by not abolishing the use of racial categories, one supports vacuous, spurious, and admittedly essentialized categories that shore up folks on the soul patrol who police authenticity and employ sophisticated surveillance techniques that probe any threat to racial solidarity.¹⁵

Malinowski has devoted a good deal, if not most, of his article to the arguments against using race-based genetic research. I wish he had embraced them. Instead, he has argued in favor of race-based genetic research. If Venter & Collins are correct, the term itself is an oxymoron. Malinowski has conflated the terms race, ethnicity, and recent ancestry, and used the terms medical and genetic research interchangeably. Race, ethnicity, and recent ancestry are *not* interchangeable terms to social scientists or biologists, nor is medical research necessarily genetic research. The more precise the definition, the better the clarity of ideas.

14. See Cheryl Mwaria, *From Conspiracy Theories to Clinical Trials: Questioning the Role of Race and Culture Versus Racism and Poverty in Medical Decision Making*, in *GENDER, RACE, CLASS, & HEALTH: INTERSECTIONAL APPROACHES* 289 (Amy J. Schultz & Leith Mullings eds., 2006).

15. Lee Baker, *The Color Blind Bind*, in *CULTURAL DIVERSITY IN THE UNITED STATES*, *supra* note 12, at 103.