

FOCUS ON AFFIRMATIVE ACTION

A PROJECT OF THE
AFRICAN AMERICAN POLICY FORUM

13 Myths About Affirmative Action:
A Special Series on a Public Policy
Under Siege



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This 13- part series provides readers with a guided tour of the current controversy about affirmative action. Each installment is structured to explore a widely held belief or assertion about affirmative action. Upon closer inspection, each belief is shown to be false, distorted, or unsupported by the evidence. As each belief is revealed to be a myth and debunked, the ensuing discussion re-analyzes the issue by offering information, research, and personal accounts from a range of commentators, including academics, activists and every day citizens. The series was premiered on the Michael Eric Dyson Radio Show and was written and produced in collaboration with Kimberlé Williams Crenshaw and the African American Policy Forum. This series is a project of the Affirmative Action Research and Policy Consortium, a project of the African American Policy Forum.

Sections

- The Myth: Preferential Treatment.
- The Myth: Affirmative Action was a Radical Social Policy out of Step with American Ideals.
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- The Myth: Individual effort and hard work determines who becomes prosperous and wealthy in the United States.
- The Myth: Colorblindness is, and always has been, a basic American ideal, and its advocates oppose affirmative action not because they oppose racial progress, but because it contradicts our societal consensus on colorblindness, 1st segment.
- The Myth: Absent affirmative action, race is as empty and meaningless as skin color; it is affirmative action that creates racial differences
- The Myth: Affirmative action is a domestic policy that reflects an obsession with race that is peculiar to America.
- The Myth: Opposing Affirmative Action is consistent with the vision of equality articulated in Dr. Martin Luther King Jr.'s Dream of a colorblind America.

Affirmative Action



Mythbusters

Because what most people know about affirmative action isn't right, and what's right about affirmative action most people don't know.

MYTH: Affirmative action is preferential treatment

FACT: Affirmative action removes barriers that unfairly exclude women and people of color. In so doing, it promotes equal opportunity for its beneficiaries.

In the United States access to the American Dream is often framed as a fair race in which the swiftest runners win. Critics say we should eliminate affirmative action because it gives some runners an unfair head start in an otherwise fair race. At the same time, many supporters of affirmative action say it is essential because some competitors are disabled and need a head start in order to compete in the race. But what if both of these perspectives miss the point about affirmative action?

Although much of the debate is framed in these stark terms, many people rightly wonder whether there isn't a better way of thinking about affirmative action. There is. What if we begin with the observation that the lanes on the track used by the runners are fundamentally unequal; some lanes are unobstructed while others are virtually impassable? From this perspective, we can see that policies that promote inclusion, like affirmative action, are designed to equalize the conditions of a previously unfair race.

We all know that there are numerous obstacles that litter the lanes of disadvantaged



runners: people of color find their path blocked by racial discrimination; poverty creates broken lanes filled with potholes and other dangers: women find their lanes filled with impenetrable barriers; and urban youth are derailed far from the finish line by the school to prison pipeline. Meanwhile, those runners who aren't kept back by race, class, or gender discrimination are privileged to run a race in which their ability to compete is not impeded by arbitrary barriers. Some runners are luckier still. They are benefited

by a host of privileges such as family connections, wealth, and an array of other factors that deliver them to the finish line ahead of all the other runners. Their lane is in effect a people-mover, an electrically powered lane that moves them along even when they simply assume the position of a runner while never having to actually lift a foot to propel themselves forward.

Let's take a closer look at two differentially positioned runners in the race toward the American Dream:

In the first lane, riddled with the potholes of poverty and the hurdles of systemic discrimination, Beah, an African American woman, is struggling to make ends meet while competing for public works projects that are rarely advertised and even more seldom awarded to women or people of color. She is no stranger to struggle, isolation or hostility to her participation in fields dominated by white men. Earlier in the race, she grew up in a hyper-segregated Detroit neighborhood and attended a poorly funded public school. Despite these obstacles, however, she went on to attend the largest public university in Michigan. Her family, unable to scale the hurdles of redlining and mortgage discrimination, had no home equity to support her education, so Beah struggled to maintain a full-class load while working full-time. She was the only Black person in her business-oriented field of study and there were no professors of color in her department. After graduating near the top of her class, she continued to be marginalized in her white male-dominated field despite her high quality credentials. Cut out of the old boy network, she has been unable to access the necessary capital to build the business she wants to create.

Meanwhile, over on the people-mover lane, the current Chief Executive of the strongest nation in the world is quickly cruising along without breaking a sweat. Earlier in the race, he was a below average student at Philips Andover, an elite private school. And yet, the people mover delivered him to Yale, where he paused just long enough to receive a C average before it shuttled him to the Harvard Business School. After graduation, despite the failures of subsequent business ventures, the people-mover continued to deliver him to ever higher levels of responsibility and power -- effectively bypassing all the other runners on the track. And now, here he is, standing still, blinking occasionally as he struggles through his second term in office.

Neither critics nor defenders of affirmative action seem to notice the conditions of the lanes, much less the runners relaxing on the people mover. Even would-be competitors on the people mover seem utterly unfazed by the huge differences in the conditions of the lanes on the track. Indeed, the most privileged of the runners seem especially critical of efforts to remove the very obstacles that they have never faced from the lanes of their competitors. George Bush, for example, denounced affirmative action as an unfair benefit distributed solely on the basis of race even as the lane that delivered him to the White House continued to move on its own without great effort on his part.

In both critics' and defenders' views, affirmative action is preferential treatment for some runners over others; neither see affirmative action as equalizing a track wherein the conditions for some runners are fundamentally different from the conditions that others face. In defending affirmative action, a much more accurate and defensible view begins with the recognition that the problems that affirmative action addresses are not with damaged runners, but with damaged tracks in which some lanes favor their

runners while other lanes impede them. In this light, affirmative action represents nothing more than a set of policies designed to remove the numerous impediments that litter the lanes of those who are disadvantaged for reasons associated with their racial, gender or class backgrounds.

Mythbusting Homework:

Using the examples explored in today's discussion, try to explain to a friend the difference between affirmative action and preferential treatment. Suppose Beah was admitted to Yale under their affirmative action program. Are the policies under which Beah and George Bush enrolled into Yale the same or are they different in a meaningful way?

In order to set affirmative action on a firmer foundation, these policies have to be reframed as programs that offset discriminatory barriers in American society. The media have been a central source of the misrepresentation of these policies and in creating public perceptions that affirmative action is fundamentally unfair. As Janine Jackson's excellent study of the media coverage of

affirmative action demonstrates, the media rarely link affirmative action programs to the very existence of discrimination and other barriers that these policies are meant to address. It is little wonder given the shocking failure of the media to adequately cover this vital social policy that so few people fully understand the purpose and function of affirmative action. Affirmative action must be reclaimed. That effort must start squarely with an accurate description of the contemporary conditions of opportunity in American society and the role that such programs have played in dismantling the traditions and practices that might otherwise obscure and limit the success of countless of men and women in American society.

MYTH: Affirmative Action was a Radical Social Policy out of Step with American Ideals.

FACT: Affirmative action does not represent a radical set of social policies. Nor was it the brainchild of radical civil rights activists. In fact, affirmative action policies were developed by moderate American politicians who sought to promote modest programs designed to begin the process of dismantling contemporary forms of institutional discrimination in the workplace, in higher education, and with respect to public contracting.

Affirmative action is the result of an initiative introduced by President Johnson, a Southern politician who once carried the banner of the segregated South, to create real opportunities for people of color in the waning days of the massive Civil Rights Movement. More interestingly, although the concept of affirmatively moving to dismantle the built-in obstacles to minority advancement was initially articulated by a Democratic administration, affirmative action was most aggressively advanced by the very Republican Nixon Administration.



Affirmative action was framed by the business-oriented Nixon administration as an incentive structure to encourage contractors to rethink the way that partnerships were developed and the way that exclusive social networking mechanisms denied meaningful opportunity to minorities and women. In short, contractors and employers were urged to rethink the entire way that business was done. Affirmative action reflected the Nixon Administration's view that federal dollars should be spent in a manner that encouraged contractors and employers to assess their employment pool and ascertain the extent to which there were ongoing barriers that unfairly precluded the full participation of traditionally excluded groups.

President Nixon and others realized that in the aftermath of a broad societal upheaval to end patterns of segregation and unequal opportunity, a business-as-usual approach would simply not be enough to alter the every-day practices of exclusion that had become entrenched across multiple industries. But, despite the gradual emergence of a consensus that economic and social apartheid had been morally bankrupt, the notion that non-discrimination required businessmen and other decision-makers to change their long established practices to promote equal opportunity remained a controversial and ultimately unwelcome idea. Affirmative action was thus designed to meet that

resistance and inertia, prompting instead new patterns of decision-making to dismantle the barriers to opportunity. Against the backdrop of entrenched exclusion, affirmative action is simply not a move from non-discrimination to “preferential treatment.” Instead, it represents a policy to make non-discrimination something more than a mere rhetorical promise.

Not surprisingly, affirmative action actually enjoyed broad bipartisan support across the Democratic and Republican parties and was promoted by both Democratic and Republican administrations. Of course, it was opposed by various political figures who had also opposed the major Civil Rights legislative efforts in the 1960s. But, it was not until President Reagan was elected to office in 1980 that the ideological and political assault on affirmative action rhetoric moved to center stage in American politics. Affirmative action thus was not widely regarded as a contradiction to the newly minted American commitment to non-discrimination. Rather, its architects understood it to be an essential governmental policy necessary to “incentivize” the changes in employment practices necessary to promote a new vision of equal opportunity that had recently emerged as part of the American creed.

Mythbusting Homework:

To read a timeline of the history of affirmative action. Try to think of where your family was in 1961, 1965, and 1969 -- the years when Kennedy, Johnson, and Nixon articulated a vision for affirmative action. Had your family's life just emerging from being entirely controlled (where you could work, where you could live, where you could go to school) by legal segregation and racism? Or, on the other hand, had your family been in a privileged position, where the government and police actually acted to keep you on top and keep other people on the bottom? Do you think it was radical to suggest that a Black family and a white family might not be able to compete fairly right after the end of a centuries-long American Apartheid?

So why has affirmative action been miscast as a concession to militants, as a radical move unsupported by most decision-makers?

When these important policies are misrepresented, it becomes easier to encourage Americans to fight back against this perceived outrage. When we imagine the "culprits" behind affirmative action to be Black radicals who held the country hostage, or weak-minded white liberals who discourage personal responsibility and hard work, the policies become easier to challenge. Opponents of equal opportunity claim that rather than pushing back the clock on progress, ending affirmative action

is an imperative to correct the erroneous path our society has been walking for nearly four decades. If we challenge their fraudulent claims about affirmative action's origins, we can expose these claims for what they are: merely an attempt to stereotype vital policies aimed at inclusion as radical and divisive.

MYTH: Affirmative action is no longer needed in America; equal opportunity prevails in the United States.

FACT: Affirmative action remains vital as a tool to offset the continuing discriminatory obstacles faced by women and people of color.

Some critics suggest that affirmative action has outlived its utility. Conceding that it has effectively opened the doors of opportunity to traditionally excluded participants, they argue that these numbers can now be maintained without these measures. In fact, in every instance where affirmative action has been withdrawn, the participation level of minorities and women has fallen drastically. Moreover, the share of professional and skilled labor opportunities that have been redistributed to minorities remains dramatically under-representative. Despite decades of gradual integration through affirmative measures, white males still occupy most top paying jobs (including approximately 95% of Fortune 500 CEO positions), and continue to hold the lion's share of lucrative employment, skilled labor, and other vital resources. Yet, even this modest reduction in the overrepresentation of white men across American institutions sparks a political crisis threatening these policies. This perception itself is evidence that affirmative action remains a vital equal opportunity policy.

Did You Know?

To highlight the exclusion of ethnic minorities from participating fully in economic and social benefits, a 1993 United Nations report ranked the living conditions of whites, African Americans and Latino/as as compared to people in other countries. This report used a Human Development Index (HDI) to measure the quality of life. The index included data on education, income, and life expectancy.

The report found that:

- The white population would rank first on the HDI, ahead of Japan.
- African-Americans, with lower life expectancy, income and education levels, would rank 31st, the same as Trinidad and Tobago.
- Latino/as in the U.S. would rank 35th among countries, below the Bahamas, Republic of Korea and Estonia.
- In a 2005 report, one indicator showed that infant mortality rates for African-American children in Washington, DC were higher than in Kerala, India.

Source: United Nations development programme press release: May 25, 1993

- Discrimination affects Asians too: a recent study found that Asian and Pacific Islander prospective renters experienced consistent adverse treatment relative to comparable whites in 21.5 percent of tests, about the same as the level for African American and Hispanic renters.

Source: Discrimination in Metropolitan Housing Markets: National Results from Phase 1, Phase 2, and Phase 3 of the Housing Discrimination Study (HDS)

As many of us suspect, race and gender still matter throughout the United States. Nationally, women earn just 76 cents for every dollar that men earn. One cannot overlook the intersection between race and gender. Women of color must face both racial and gender segregation, usually resulting in less opportunity and greater obstacles. For example, African American women earn only 63 cents per hour for every dollar a white man earns (for similar employment) and 66 cents for every dollar earned by white women. Latinas earn only 52 cents to every dollar earned by their white female counterparts. College-educated African-American women annually earn only \$800 more per year than white male high school graduates and \$17,727 less than college educated white men. Even when highly educated women of color secure well-paying positions in fields such as law, they often find themselves forced to leave their workplaces due to pervasive discrimination and hostile working environments. [ABA report on women of color at law firms]

While we would all love to believe that, as a society, we have moved beyond the legacy of segregation which necessitated the creation of affirmative action, we cannot ignore the evidence of persistent discrimination and structural inequalities in American life. Affirmative action remains vital in helping us to balance the different sets of obstacles women and people of color face in American society -- in fact, when we eliminate affirmative action, we find that the resegregation of American society happens almost immediately. To test this, we need only look to the states of California and Washington,

Then and Now	1978	2003
Life expectancy of a black child	Five years shorter than a white child	Six years shorter
Risk of a black woman dying during childbirth	Three times as likely	3-1/2 times as likely
Infant mortality rate for blacks	Twice that of whites	Slightly more than twice
Black families below the poverty line	Four times the number of white families	Unchanged
Unemployment rate for black adults	Twice that of whites	Unchanged
Unemployment rate for black teens	Three times that of whites	Unchanged
Lawyers and judges	1.2 percent black	5.1 percent
Physicians	2.0 percent black	5.6 percent
Engineers	1.1 percent black	5.5 percent
College and university professors	2.6 percent black	6.1 percent

both of which voted to end affirmative action. The evidence is clear: repealing affirmative action policies leads to a dramatic decline in the participation of women and people of color.

The Impact of Withdrawing Affirmative Action

On Education:

- At UCLA the figures are staggering: This year UCLA will enroll only 96 African American in the incoming freshman class, a steep decline from the 221 Black freshmen that enrolled in 1997. This means only 2% of the class will be African American. This represents the smallest number of entering African American freshman recorded since 1973, when UCLA began keeping such records. This is especially significant as UCLA is located in the county with the second-largest African American population in the US.

- At UCLA School of Law, the overall percentage of Blacks enrolled is lower than it was in 1969. In 2005, only nine Black students enrolled out of a class of over 300. That means that in 2005, only 2.9% of the first year students at the law school were Black.

- In California, the passage of proposition 209 not only eliminated affirmative action programs, but also outreach programs designed to encourage minority student participation in colleges and non-traditional fields such as math, technology, and science. In addition, the preparation of teachers and health professionals that serve minority communities has been put at risk as some of the most effective programs that trained minority teachers and doctors were also eliminated.

- At UC Berkeley, only 140 Black students entered as part of the freshman class for the 2006-2007 academic year, as compared to 260 who enrolled in the year preceding Proposition 209.

- Enrollment of Native-American freshman has declined by approximately 2/3 from pre-209 levels.

Mythbusting Homework:

Then and Now: Why Affirmative Action is Still Needed

In 1978, Justice Thurgood Marshall wrote in *University of California Regents v. Bakke*, that "[t]he position of [Blacks] today in America is the tragic but inevitable consequence of centuries of unequal treatment measured by any benchmark of comfort or achievement, meaningful equality remains a distant dream." Marshall found this inequality based on US Census and Labor Department data in seven categories, including the percent of Black representation in five elite professions. Let's take a look at some of the measures used by Marshall in 1978 and compare them to those of today.

Have things gotten better or worse?

On Business:

- Only one-third of minority businesses in California that were registered in the transportation construction industry in 1996 are still in business today.
- In Washington, after the passage of Initiative 200, the share of minority contracts fell from 10.8 % to 3.1 %.
- The share of Seattle public works contracts awarded to women or minority owned firms decreased by more than 25%.
- With the loss of affirmative action policies, hiring of women decreases too: the percentage of new faculty hires at UC-Davis that were women dropped from 52% before Proposition 209 to 13% in the year after the amendment was passed.

Bottom Line: Discrimination still exists, so affirmative action is still needed.

MYTH: Affirmative Action constitutes the admission of unqualified students in college and university admissions.

FACT: Affirmative action removes removes barriers that unfairly exclude women and people of color. In so doing, it promotes equal opportunity for its beneficiaries.

Affirmative action programs are modest efforts to counter-balance the built in biases that that already exist in the admissions processes in institutions of higher education. Without affirmative action the traditional admissions practices unwarrantedly favor the members of historically privileged groups.

In other words, the standard criteria used in college admissions are not neutral.

Affirmative action, rather than serving as a racial preference, serves to eliminate discriminatory admissions criteria, such as the over-reliance on the use of standardized tests. It reflects an effort to create a level playing field.



Dr. Martin Luther King, Jr.: A Brilliant orator -- and a poor performer on the verbal section of the GRE.

Standardized Testing

People assume that standardized tests are fair and balanced indicators of ability, when in fact they are not objective tools for assessing professional capabilities. SAT scores, for instance, account for 22% of the variance in the grades of first-year college students, making them poor indicators for who will succeed in higher education, and even poorer markers of success in life (Fair Test) . In fact, even the name of the SAT reflects its limited value. It used to be an acronym that stood for the “Scholastic Aptitude Test.” But, since the test could not be shown to measure an “aptitude” for scholarship its name was changed first to the “Scholastic Assessment Test” and then, finally, to its present name: simply the SAT. It no longer is an acronym for anything at all.

Standardized tests fail to measure human capacity in any field. In this respect, it is not surprising that Dr. Martin Luther King Jr., one of the most brilliant orators in the Twentieth Century, scored very low on the verbal section of the GRE.

In fact, standardized tests are far better at predicting a person's socioeconomic background, than they are in predicting a person's academic potential. Expensive tutors and test preparation classes that are available only to those who are financially well off enough to pay for them exacerbate the tests' class bias. Moreover, these tests are constantly "balanced" to produce outcomes similar to the expectations of the testmakers. Since those who score highest on the tests tend to be affluent white males, certain racial

disparities built into the testing process are perpetuated. In this regard, questions answered incorrectly by most black students are preserved, since these students are expected to do relatively poorly, whereas questions answered incorrectly by privileged whites are often judged confusing and flawed, and subsequently discarded.

Stereotype Threat

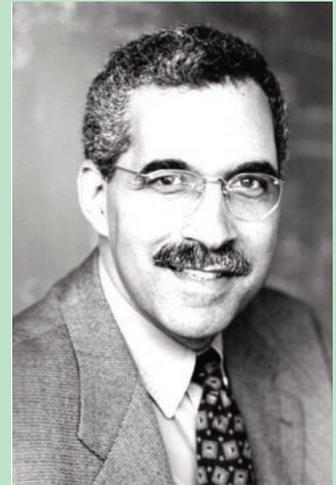
Research by Stanford Professor Claude Steele has uncovered the fact that people who belong to marginalized groups do less well on standardized tests when they are worried about confirming prevailing stereotypes about the group to which they belong. This phenomenon is called "stereotype threat," and it has a dramatic effect on even the highest achieving members of a stereotyped group. For example, Black students, when taking a standardized test that asks them to identify themselves as members of a group that is routinely denigrated in American society, often do less well than Black students who are not "primed" to think about their racial identity. This is due to the fears that they have about confirming society's negative stereotypes about Blacks, which is a burden not shared by whites. Similarly, Asian American females do better on math tests when their "Asian" identity is primed, and worse when their "female" identity is focused on. And, white males do less well on tests when their "whiteness" is primed to contrast with Asian American test-takers in the sciences. Each group performs less well in those domains where their identities are stigmatized relative to their competitors.

As Jory Steele explains,

"Black students have an extra burden, when they're in class, when they're taking an exam like the SAT: if I don't speak the most eloquently, if I don't make the

Claude Steele

Lucy Stern Professor of Psychology at Stanford University



If you're African American or Latino, the following things are likely to be true: you're going to schools that are more poorly funded. You're going to have teachers that are not a well-trained. You're going to be on a daily basis, across the time in school, most studies show, treated in a somewhat different way. That is, it's going to be harder for you to seek to present yourself in a way to have your abilities be valued and seen as having prospects and the like. You're going to be exposed to more corporal punishment. You're going to be tracked into lower classes. You're going to go to a school that has fewer AP courses, you're going to be counseled throughout your schooling with lower expectations on the part of school counselors and teachers. You're going to have less access to test preparations. And you're probably going to come from communities that are racially and socially segregated. All of these things are going to affect your access to the pool of material that is going to be present on a typical standardized test like the SAT to the LSAT. This is before you get into anything as psychological as stereotype threat. These are just features of one's experience in the United States as being a member of one of these groups, that are likely to circumscribe your experience in certain ways as to, I would argue, disadvantage you with regard to ability to perform well on those tests.

most articulate point, if I don't do the best on this exam, are people going to think it's because I'm black? And that is a huge burden to walk around with every day. White students, on the other hand, don't have that burden, so there is an inherent preference for them because they can go into that exam and take it and they're not thinking about eighteen other things that will distract them from their performance on that test."

Bias in the University of Michigan's Point System

The University of Michigan's point system has been criticized for granting 20 points to students from underrepresented racial minority groups. In fact, it turns out that there were all kinds of points awarded under the University of Michigan system that would have been nearly impossible for students of color to get. For instance, 10 points were awarded to students at elite high schools, very few of which include students of color. Eight points were awarded to students with AP-laden course loads, courses that are often impossible to take at most of the schools attended by students of color, which rarely have a full complement of such classes. Six points were allocated for students from "underrepresented counties" in rural Michigan -- counties that are largely white. And, 4 points were given to students whose parents attended the University of Michigan -- the vast majority of whom are white.

Mythbusting Homework:

1. Interestingly, of all the admissions programs that give weight to additional criteria other than grades and test scores, only affirmative action programs are under attack. While affirmative action has proven itself a necessary program that identifies qualified students who are otherwise undervalued in the admissions process, it never ceases to come under threat. On the other hand, other admissions programs -- including some that merely give additional advantages to the already privileged (such as preferences for the children of wealthy donors)-- are never attacked through court cases or ballot initiatives. While we often instinctively, although mistakenly, think of affirmative action admittees as underqualified, we should ask ourselves about what's really going on with these other programs:

Are the beneficiaries of the following policies underqualified? Why is it that affirmative action programs provoke ballot initiatives and Supreme Court cases and not these other policies? Does it have something to do with racial stereotypes about the academic competence and professional capabilities of people of color?

There are policies that favor:

- Relatives of alumni
- Children of faculty members at a university or college
- Children of university or college donors
- Athletic scholarships
- ROTC soldiers
- Gender: at Vassar and most other liberal arts colleges, where men underrepresented, their applications were looked on more favorably. The average SAT scores and average GPA of men admitted to Vassar are lower than those of their female counterparts.

2. One of the reasons that standardized tests are so poor at predicting success in school as well as in life is a reflection of the fact that they measure such a narrow range of skills. The SAT, (continued on next page)

for example, measures very specific verbal and math skills. Yet people think of it as a test of general intelligence. Far from being a comprehensive intelligence test, the SAT isn't even a comprehensive verbal test. As Claude Steele writes, rap artists

"probably perform very badly on standard cognitive measures, measures on verbal performance and the like. Almost assuredly, their test scores would be low. But when they come into the studio, they can do things with words that very few other people in our society can do. It is very difficult to acquire that skill. One has to start early and one has to develop it carefully and with a lot of discipline and focus, and it's a very refined skill...that if it were the component of a cognitive test, you can imagine the results being very different. I use that as an example to illustrate how social and cultural segregation that is still tied to race in society can affect the ability of a test to measure accurately cognitive skills."

A recent study conducted at Boalt Hall, UC-Berkeley's law school, found that the LSAT, the admissions test for Law Schools, has a similar flaw. The LSAT, which is a high-stakes test that largely determines whether prospective lawyers can get into the law school of their choice, is intended to measure the skills that will lead to a successful career in law school and the law more generally. The study found, however, that the LSAT is effective at measuring only 2 skills out of 26 skills that have been identified by lawyers and clients as the keys to effective lawyering.

Your mission:

What kind of skills do normal admissions criteria miss? What factors do you think admissions officers should look at? What kind of tests do you think would best reflect whether someone has the capacity and potential for success?

Given that there are 28 total points that are nearly impossible for minority students to obtain, we have to ask whether 20 points is really enough to balance out all the points that Black students can't compete for. Moreover, it is worth noting that 20 points were also given to economically disadvantaged students, and that a student could not get this 20 point bonus twice. Thus, poor white students got the same bonus as poor black students, although they do not also face racial discrimination.

When universities take into account the race, gender, or class background of an applicant, they are not offering those students a preference or doing them a special favor. They are just paying attention to context. There is, after all, substantial evidence that those individuals who have obtained their credentials in the face of severe obstacles are likely to do much better than those who have similar or even somewhat better credentials obtained without having had to overcome similar hurdles. Recognizing this reality is not a form of preferential treatment. It's simply a process designed to remove the arbitrary and unwarranted barriers that are confronted by those who participate in affirmative action programs.

Bottom line:

Affirmative action combats discrimination!

Affirmative action represents nothing more than a serious effort to offset patterns of discrimination that remain deeply embedded in the life of American institutions. Its opponents claim that these policies are discriminatory because they require us to treat ostensibly "similarly situated" people differently. In the alternative, they endorse a vision of colorblindness that would have us treat people who are "dissimilarly situated" the same. But treating people who are differentially situated the same does not promote equality. Quite to the contrary, it promotes inequality. Anyone who has ever watched an Olympic long distance footrace has noticed that the runners have staggered starts. This is to counter-balance the fact that the inside lanes on an oval track are much shorter than the outside lanes, and take less time to run. Just as a staggered start is a prerequisite for running a fair footrace when the lanes are different lengths, affirmative action is required to promote fair and equal opportunity in the U.S. To eliminate these policies would be to promote discrimination.

We know that discriminatory practices are still widespread. To offset these practices is not to promote reverse discrimination or to give opportunities to undeserving individuals. In fact, it is just the opposite. Affirmative action grows out of the need to dismantle arbitrary and discriminatory patterns of exclusion. In so doing, it moves us step by step toward a more egalitarian society.

MYTH: Affirmative action is an African American entitlement program.

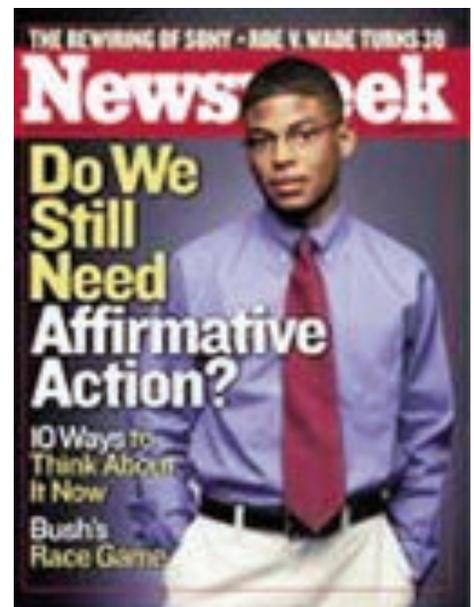
FACT: Affirmative action benefits a broad range of people and communities that continue to face discrimination in this country, including Latino, Native, Arab, Asian and African Americans. The primary beneficiaries, however, have been white women.

Contrary to popular belief, African Americans are not the sole, or even the primary, beneficiaries of affirmative action. Rather, a wide range of groups have benefited from these policies which promote equality by directing resources, outreach and other opportunities to targeted underrepresented communities.

These groups include women, Native Americans, Arab Americans, Latino/as, Asian Americans, and African Americans. Of these groups, the United States Department of Labor found that white women are the primary beneficiaries of affirmative action.

A broad range of minority groups have also benefited from these policies. Programs that direct resources, outreach and opportunities to people of color have been extraordinarily important in opening up American institutions to a wide variety of communities. Yet even the beneficiaries of affirmative action, like most Americans, may not realize that these programs are under an intense nationwide assault. Many may mistakenly assume that the admission of Blacks into colleges is the principal focus of efforts to eliminate these policies. In fact, however, attacks on affirmative action programs have included everything from English as a Second Language programs to breast cancer screenings, from mentoring and after school programs to magnet schools, from programs that require Asian-owned businesses to be advised of possible government contracts to battered women shelters that create a safe space for victims of domestic violence and across the country that affirmatively use race and gender to address the unwarranted obstacles confronted by the beneficiaries of affirmative action. Because these vital programs are neither colorblind or genderblind, they are put at risk by attacks on Affirmative Action.

What is the scope of these programs? And why do African Americans continue to be the subject of media focus when they are discussed?



Affirmative Action as Black Entitlement: How the Media Distorts Perceptions of Affirmative Action

Consider the cover story above. The story promises 10 ways to think about whether affirmative action is still necessary. But how does the cover illustration lead us to think about these programs? For example, who does it suggest affirmative action is for? Who is left out of the picture? Is it about gender? Is it about all people of color? Is it about all classes of Americans, or just the privileged members of one marginalized group? What do you think about the person in the picture? Does he still "need" affirmative action? There are so many things wrong with this picture that we will address only the single most problematic element: this is an artistic rendering of affirmative action, wholly created by the editors of the magazine.

The person in the picture was not chosen because he attended University of Michigan, the focal point of the controversy. Nor was he chosen because he was a beneficiary of some other affirmative action program. He was chosen because the cover artist wanted to tell a specific story, apparently that affirmative action is for the benefit of privileged blacks. This is a paid model playing a character. The preppy clothes he is wearing are not his. Not even the glasses are his own -- there is a credit for them on the inside cover. He is a Black body on which someone draped a collared shirt, chinos, and a tie. Using the model in this way serves a very deliberate function: it makes us think that affirmative action is not about women, or all people of color, or people of all classes. In so doing, it triggers stereotypes in the viewer, stereotypes that most likely will lead readers to answer the question "Do we still need affirmative action?" with a resounding "NO!"

Why is affirmative action consistently framed as a Black/White issue?

In spite of the incredible diversity of the beneficiaries of affirmative action, and notwithstanding the fact that most universities, corporations, and our Armed Forces maintain

Did you know?

What's At Stake for the Beneficiaries of Affirmative Action?

Researcher Susan Kaufmann reports that all these groups are threatened by Proposition 2, which recently banned affirmative action in Michigan.

Affirmative Action Programs Faced With Elimination When Proposal 2 Becomes Law

- Summer and after-school programs for either boys or girls, like technology camps for girls.
 - Science, math or technology programs for girls.
 - Recruitment and support programs for high school and community college students in career education programs that are nontraditional for their gender, such as men in nursing and early elementary education or women in engineering or the skilled trades.
 - Apprenticeship, education and training programs for non-traditional occupations.
 - Higher education funding for minority health professionals, who, along with women, are more likely to practice in under-served communities.
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- Outreach and funding for women and minority math, science and technology teachers.
- Review systems designed to monitor and address barriers to achieving full participation, such as discrimination based on race, ethnicity, gender, age, or disability.
- Government outreach programs that ensure that women- and minority-owned businesses have a fair chance to secure government contracts.
- Scholarships, fellowships and grants at all levels of education that take gender, race, ethnicity or national origin into account.
- Gender-specific community and public health programs, such as breast, cervical and prostate cancer screening, breastfeeding promotion, or prenatal smoking cessation.
- Domestic violence programs.
- Efforts to ensure adequate representation of women and minorities on boards and commissions, including advisory boards dealing with corrections, education and public health.

Source: Susan Kaufmann.

that such policies open the doors to their institutions for an extremely broad range of Americans, affirmative action is normally presented as a Black/White issue. Why do most discussions of it center on African Americans?

The answer, unfortunately, is that the critics of affirmative action characterize it as a Black issue because this enables them to use the negative racial stereotypes associated with African Americans to portray these policies as undeserved hand-outs to an “under-qualified and unmotivated” group of people, rather than as policies designed to uncover the capabilities of millions of Americans of all hues and genders. Sadly, the media is often complicit in these portrayals. In this respect, the heavy participation of white women in these programs is obscured by media portrayals which, for the most part, completely ignore the role of affirmative action in promoting equality for women.

In fact, it is because of the power of racial stereotypes, especially those promoted by the media, that people are unable to see beyond the false Black/

White dichotomy at the heart of this debate, even when given information about the wide scope of these policies. Moreover, Janine Jackson's report on the media coverage of affirmative action demonstrates that the media tends to unfairly equate affirmative action with "preferential treatment," rarely links these programs to the remediation of contemporary forms of racial and gender discrimination, and normally centers the discussion on African Americans. Of the 314 articles in the study, only 37% addressed the effects of these policies on other people of color. Furthermore, the articles all but ignore the fact that women are the primary beneficiaries of these policies, with only 2% of the articles focusing on the effects of affirmative action on women. (Source: Affirmative Action Coverage Ignores Women and Discrimination).

Even when white women know firsthand the benefits of affirmative action to themselves and their community, many of them find themselves unwilling to support it. As we can see, it is not enough to simply open people's eyes to the broad array of affirmative action programs that benefit American society. We must also expose and attack the racial stereotypes that are used to characterize affirmative action policies as unfair preferences for unqualified people.

Bottom Line: If the phrase "affirmative action" more often led us to think about the diverse group of people for whom the doors to opportunity have been opened, it would be far more difficult to brush off these programs with a few well-chosen stereotypes. After all, given its broad reach, affirmative action is a prime example of what Dr. Martin Luther King meant when he said we are all caught in an inescapable network of mutuality. For when we are successful in tearing down walls to opportunities, we all benefit.

An Untold Story: The Widespread Benefits of Affirmative Action

Like most Americans, the beneficiaries of affirmative action do not realize the scope and breadth of these policies or that such policies are currently under assault. Throughout the nation, there are countless programs designed to address the specific challenges that many communities of color face in the quest for the American Dream. Because many Americans are running on lanes that are littered with obstacles and impassable barriers, there are programs that are designed to remove or ameliorate the effects of these obstacles.

In Michigan, the beneficiaries of race and gender conscious affirmative action programs encompass a wide range of communities. Many groups, including white women, Arab Americans, Asian Americans, Latino Americans and Native Americans heavily rely on affirmative action programs in the areas of K-12 education, college and university admissions and financial aid, employment and contracting. With the passage of Proposal 2, all of these groups stand to be hurt.

The range of programs that will likely be eliminated by Proposal 2 demonstrates the broad swath of communities that affirmative action serves. It is important to note that in California, after the passage of Proposition 209 (which ended affirmative action in California), it was not just college admission procedures that were affected. Opponents of race and gender-conscious programs used Proposition 209 to challenge everything from outreach programs to breast cancer screenings and battered women's shelters as mentioned above, claiming that excluding men was a form of affirmative action and therefore illegal.

Let's look at a list of some of the communities that benefit from affirmative action.

Arab Americans benefit tremendously from affirmative action programs:

- The University of Michigan and Wayne State University actively recruit Arab American students. Local schools, like Wayne State University and the University of Michigan-Dearborn, consider Arab Americans a separate ethnicity group in the area of admissions.
- There are a variety of university scholarships and financial aid programs tailored for Arab American students.

- Publicly funded English-as-a-Second Language (ESL) programs for Arab American students help both the Arab American community and the Michigan community at large.

Asian Pacific Americans also benefit tremendously from affirmative action programs:

- The Small Business Administration's Section 8(a) program has greatly benefited Asian American-owned businesses. The Wall Street Journal estimates that affirmative action helped Asian American-owned businesses more than double their share of contracts in a ten-year period, going from 10.5 percent of contracts in 1986 to 23.7 percent of contracts in 1996. (Sharpe, Rochelle, "Asian-Americans Gain Sharply in Big Program of Affirmative Action". The Wall Street Journal, September 9, 1997)
- In trades like policework, firefighting, and contracting, Asian Pacific Americans are aided tremendously by affirmative action. The case of the San Francisco Fire Department is instructive. As a study by Gabriel J. Chin, Sumi Cho, Jerry Kang & Frank Wu shows:
 - In 1974, the San Francisco Fire Department had only four APAs out of 1800 firefighters. As a result of court-ordered affirmative action plan, the Department now has 174 APAs. As explained by firefighter Captain Bernie Lee, "without affirmative action . . . Asian Pacific Americans would not have had the opportunity to enter in such large numbers."

**Beyond Self Interest: Asian Pacific Americans Toward a Community of Justice, A Policy Analysis of Affirmative Action Gabriel J. Chin, Sumi Cho, Jerry Kang & Frank Wu 4 UCLA Asian Pac. Am. L.J. 129, 155*

Latina/o Americans also benefit tremendously from affirmative action programs:

- Universities and colleges use race-conscious admissions and recruitment strategies to encourage the fair representation of Latino students. When affirmative action is taken away, recruitment and outreach become illegal, and Latino enrollment suffers: At UC-Berkeley, Latino student enrollment fell from 14.5% in 1997 to 7.5% in 1998, the first year Proposition 209 went into effect.
- Publicly funded English-as-a-Second Language (ESL) programs for Latino students help both the Latino community and Michigan at large.

Native Americans also benefit tremendously from affirmative action programs:

- Affirmative action allows colleges and universities to reach out to Native Americans, an historically neglected community. Due to national recruiting and outreach efforts between 1980-2001, American Indian enrollment in institutions of higher education increased by 80 percent.

Women benefit tremendously, and white women are the primary beneficiaries of affirmative action programs:

- According to the United States Labor Department, the primary beneficiaries of affirmative action are white women ("Reverse Discrimination," 1995). The Department of Labor estimated that 6 million women workers are in higher occupational classifications today than they would have been without affirmative action policies.

- Gender based affirmative action policies that benefit women run the gamut from science camps for girls to policies at the University of Michigan that promote the enrollment of women in engineering programs to breast cancer screenings and women-only domestic violence shelters.

- Outreach, recruitment, and scholarships for women encourage participation in fields like medicine, science, computers and engineering, fields in which they are seriously underrepresented
- Government outreach programs ensure that women and minority owned businesses have a fair chance to secure government contracts.

Studies show that affirmative action has brought about significant benefit to women. For example, Between 1972 and 1993:

- The percentage of women architects increased from 3% to nearly 19% of the total;
- The percentage of women lawyers grew from 4% to 23% of the national total;
- The percentage of women doctors more than doubled from 10% to 22% of all doctors;
- The percentage of female engineers went from less than 1% to nearly 9%;
- The percentage of female chemists grew from 10% to 30% of all chemists; and,
- The percentage of female college faculty went from 28% to 42% of all faculty.

Mythbusting Homework:

Consider how you and your community have benefited from affirmative action. Not sure? The following examples will get you started:

- Have you participated in a bi-lingual educational program?
- Have you received information about a job opportunity, training program and any other available benefit in a language, a publication or format targeted to your community?
- Is your mother, wife, sister, daughter, aunt, grandmother or any other female family member a police officer, firefighter, scientist, fireman, doctor, lawyer, accountant, engineer, floor manager, shop steward, principal, business owner, professor, supervisor, store manager, builder, painter, plumber, electrician, carpenter?
- Are you a female who holds any of the occupations?
- Do you work in a diverse workforce?
- Have you attended an integrated school?
- Have you been taught or mentored by a person of color or a woman?
- Have you been served by a diverse police force and fire department?
- Have you received health screening for diseases or health conditions related to your gender or ethnicity such as breast cancer, sickle cell anemia, or tasacks disease?
- Have you received benefits from community outreach and development program?
- If you answered YES to any of these questions, you have benefited from affirmative action!

Speak Up and Come Out as a Beneficiary of Affirmative Action!

If you've benefited from affirmative action, come out and tell your story. Visit aapf.org/focus for examples of how many of us benefited from affirmative action, and in doing so, enriched our communities and our country.

MYTH: Affirmative action should be about class, not race.

FACT: While class remains an extraordinarily significant factor in the lives of many Americans, the fact is that racial bias affects minorities of all backgrounds and cannot be addressed solely through class-based measures. Race-conscious affirmative action remains necessary to address race-based obstacles that block the path to success of countless people of color of all classes.

One of the most common criticisms of affirmative action programs is that they don't address "the real cause" of racial inequality, class. Such critics argue that the most significant social problems facing people of color derive from poverty, not racism. People of color, they argue, are disproportionately poor and have less access to jobs and education. Thus, class-based programs will disproportionately benefit people of color, and constitute a far more defensible and productive social policy.

To any one concerned about social justice and the plight of the poor, the belief that lifting all boats together is the best way to address racial inequality seems hardly controversial. But, this superficially appealing claim is based on a host of false assumptions about affirmative action and a wholesale denial of the continuing significance of race.

In a society that has only recently moved away from formal apartheid, the claim that race no longer matters simply fails to square with the lived reality of most people of color. Whether they are privileged, working class or living in conditions of poverty, race remains a significant factor that shapes access to everything from social networking to jobs to health care to housing. Not only does the "class not race" position fail to reflect the role that race plays across class lines, it also fails to reflect the role of racism in creating a racialized underclass. Moreover, the cumulative consequences of inter-generational discrimination are exacerbated by contemporary forms of racial bias in education, housing, employment and many other spheres of life. The fact that today's poor are disproportionately Black and Latino is no accident. Because the contributing factors to the disparate rates of impoverishment are race-based, so must be the remedies. After all, affirmative action actually played a significant role in the creation of a new middle class by removing unwarranted racial barriers that would otherwise seriously limit opportunities for people of color from all class backgrounds.

What's Class Got to Do With It?

To really unpack this myth, let's examine the basic assumptions being made by the proponents of class-based affirmative action.

Assumption #1

The class argument assumes that individuals experience discrimination based on their class status, but not based on their racial backgrounds. Thus, middle class people of color are "undeserving" beneficiaries of race-based affirmative action programs.

There is substantial evidence that people of color experience racial discrimination regardless of their class backgrounds. It is clear that racial bias is not neatly compartmentalized into class containers such that middle class people of color are not exposed to it, while their poorer brethren labor continuously under the heavy weight of racial and class disadvantage. It is helpful here to consider the case of sexism: no one would argue that a privileged class status shields women from gender-based discrimination. In a similar fashion, it is wrong to assume that middle-class status shields people of color from racism.

How do People of Color Experience Racial Discrimination?

As you will see below, the burden of racism is not a problem that affects only poor people of color. In short, the experiences of relatively privileged people of color in this country are quite different from those of their white counterparts. Disparities in health, education, employment and housing travel across class boundaries within communities of color. Such disparities demonstrate just how far this country must go to eliminate the vestiges of racial discrimination.

Employment:

- A study conducted in California found that temporary employment agencies presented with resumes of comparable quality but with "ethnic" names attached to some, and Anglo names to others, frequently screened out resumes from applicants from nonwhite ethnic or cultural backgrounds, and favored the resumes of their white counterparts. The 2004 study found that Arab/South Asian Americans, particularly men, were the least likely to be contacted by temporary employment agencies.
- Even when highly educated women of color secure well-paying positions in fields such as law, they often find themselves forced to leave their workplaces due to pervasive patterns of discrimination and hostile working environments. A 2006 survey conducted by the Commission on Women in the Profession of the American Bar Association (ABA) indicates that the women of color face systemic discrimination in the work environment, leaving them so isolated and alienated that they leave private law firms at a rate higher than any other group.

Housing:

- A recent United States Census Bureau report confirmed what most people of color know from their lived experiences: Blacks and Latinos at every income level live in racially segregated neighborhoods. This experience of hyper-segregated neighborhoods is attributable to racial discrimination in the real estate markets, and stereotypical perceptions of Black and Latino communities which contribute to "white flight."

- As a result of “white flight” and divestment within minority communities, relatively privileged and working class people of color are exposed to dramatically different circumstances than their white counterparts. As compared to the children of middle class whites, the children of middle class Blacks and Latinos are more likely to be exposed to poverty, drugs and violence in their residential neighborhoods.
- Middle class Asian Americans face housing discrimination as well. A recent HUD study found that Asian American home buyers experienced consistent discrimination relative to whites 21% of the time.

Health:

- People of color, particularly African Americans and Latinos, confront higher rates of disease than their white counterparts. Although socio-economic status accounts for some of this disparity, significant racial disparities persist even when one is comparing middle class people of color with their white counterparts.

Everyday Indignities:

- In a Detroit study of African American women, researchers found that 81 percent of the respondents reported having faced everyday types of discrimination on a routine basis -- with 62 percent reporting moderate to high levels of this sort of mundane mistreatment, regardless of their class backgrounds. This treatment included verbal insults, disrespectful behavior, and poor service from whites. This sort of racism has serious health consequences, and it is related to the health disparities referenced above.

In sum, people of color and whites face different constraints regardless of their class backgrounds. Race matters. Although relatively privileged people of color are not in the same boat as their poorer brethren, they are in no sense similarly situated to their white counterparts.

Assumption #2

The class argument further assumes that affirmative action is based on race only — and not class, gender, race and the intersection of other characteristics that offset discriminatory practices.

In reality, many affirmative action programs take both race and class into account. For instance, many academic institutions consider the race and class backgrounds of applicants so as to assess the particular obstacles faced by Blacks, Latinos, Filipinos, low-income whites, and other groups that face problems of structural exclusion in the domain of education. In other arenas, such as employment and public contracting the same is also true.

Did you know?

Affirmative Action is good medicine.

When given access to professional opportunities, the beneficiaries of affirmative action often return to serve poor and working class communities of color. For instance, Blacks comprise more than one half of all the patients seen by Black doctors. And, nearly 45% of all the patients seen by Black doctors are on Medicaid as compared to only 18% for non-Black doctors.

Sophisticated affirmative action programs do not pit race against class or gender. They don't operate on the basis of a framework consisting of a single axis of disadvantage. Instead they consider a wide range of interconnected characteristics

that serve to unfairly marginalize some Americans.

Believe it or Not!

Even Oprah Winfrey, the Richest Black Person on Earth, is Subject to Racial Discrimination... Class doesn't insulate people of color from racial discrimination. Regardless of fame or fortune, African Americas and others are subject to the continuing processes of racial prejudice, stereotyping and profiling. No one is exempt and no one is protected.



Do you recognize any of the following individuals who have been victims of racial discrimination?

- Danny Glover, actor, filed a complaint of racial discrimination after not one, but five, cabs passed him by on a New York street corner.
- Harold Ford, Jr., congressman, harassed by airport police in Washington, D.C.
- Wesley Snipes, actor, victim of "Driving While Black"

Not only does racism reach people of color without regard to class borders, it also crosses international borders. Consider Oprah Winfrey, who was refused entry into a Paris boutique, even after seeing white women shopping undisturbed.

Assumption #3

Only middle class or privileged people of color benefit from affirmative action, at the expense of those who are the poorest and the most disadvantaged members of their communities.

Among the most common objections to affirmative action is that it only benefits the Black middle class. In fact, affirmative action is responsible for the creation of the Black middle class. Affirmative action opened the door to educational opportunity for an entire generation of poor and working class Blacks, who had previously been locked out and excluded from the "American Dream." Once affirmative action opened these doors, all people of color, regardless of class, benefited.

- It is clear that all people of color benefit from affirmative action programs based on the contemporary socio-economic diversity of students of color. The Source of the River: The Social Origins of Freshmen at America's Colleges and Universities, a study of 3,924 Black and Latino freshmen at 28 selective institutions found that such students reflect remarkably diverse socio-economic backgrounds. For example:
 - One Third of Latinos and One Fourth of Blacks came from homes with incomes over 100K.
 - One Third or fewer of Blacks and Latinos had a father with an advance degree.
 - Almost half the mothers of Black and Latino students were not college graduates.
 - 40% of the parents of Black and Latino students did not have professional or

managerial jobs.

- 12% of Latinos and 17% of Blacks came from a welfare background, compared to just 4% of whites.
- 40 % of Latinos and 50% Blacks grew up on a household without father, compared to 20% of whites.
- 40% of Latinos and 20% of Blacks grew up in segregated neighborhood circumstances with little or no exposure to other races or ethnicities.

Assumption #4

Lastly, class based affirmative action arguments assume that the elimination of race based programs will allow us to focus on "real problems" without the distraction of race.

It is useful to remember that the only time that conservative critics promote class based programs is when they use it as a wedge against affirmative action. This is a classic "divide and conquer" strategy.

Conservatives have not routinely demonstrated interest in the plight of the working poor; there has been little evidence that they are prepared to develop any new programs to assist working-class and poor folks after they uproot race-based opportunity policies. The class-based attack on affirmative action has not opened up new connections between economically marginal people across racial lines. Far from building interracial community between low income whites and people-of-color, the attack on affirmative action both distracts white Americans from the serious issues that have undermined their economic fortunes and scapegoats minorities for the declining fortunes of the working class. Race- and class-based affirma-

Dr. Luke Charles Harris, a self proclaimed "child of apartheid" grew up poor in the shadow of Jim Crow. He was raised on welfare, tracked out of college prep in high school, and bombarded with negative messages about his abilities and prospects.

On the topic of how affirmative action benefited him Harris writes: "For me affirmative action represented hope, encouragement, and an opportunity to discover, develop, and exercise my potential. In this respect, it created an opportunity



for me to engage in an extremely difficult and yet liberating process of personal growth and transformation. In the process, I developed an intellectual hunger to explore the meaning of "equality" and "full citizenship" in the United States -- that is to say, a hunger to examine what it means to count as a full member of society."

Professor Harris is still examining what it means to count as a full member of our society. An accomplished academic, and a leading expert on affirmative action, Harris is now a Professor of Political Science at Vassar College, Co-Founder of the African American Policy Forum, and a prime example of how affirmative action does indeed serve poor and working class families. Harris cautions, however, that "affirmative action programs are in no sense a panacea for the plight of the poor and those victimized by racial and other forms of bigotry; nor were they ever supposed to be. Such programs must be linked to meaningful economic reform and new patterns of social organization or else their impact will be limited. Nonetheless, affirmative action initiatives still represent a huge step in the right direction."

tive action are not at odds, in fact, they are two facets of the same project: both aid in dismantling the pervasive inequities that plague American life. All affirmative action programs are created in order to correct patterns of exclusion, and the beneficiaries of these programs are determined by the type of discrimination (whether class, gender, or race-based) that leads to unequal outcomes.

Did You Know?

In police and fire departments, for instance, poor whites have not faced racial discrimination, while minorities and women have historically been denied access to such job opportunities as a function of outright racial and gender exclusion, and tokenistic forms of employment which limited their career mobility even in those cases where they were hired. As a result, many police and fire departments have instituted affirmative action programs to dismantle the obstacles that in the past have severely marginalized women and people of color.

Bottom Line: Once we look at the hidden assumptions of the class argument, the notion that all American inequality can be explained as class discrimination just doesn't make sense.

Banning race based affirmative action will not advance equality nor will it lead to a renewed commitment to addressing the interests of the poor and working class people of color. In fact, continued support of race and gender conscious polices is the most promising way to advance equality along race, gender and class lines.

Mythbusting Homework:

Using the examples explored in today's discussion, try to explain to a friend the difference between affirmative action and preferential treatment. Are the policies under which Luke Harris and George Bush enrolled into Yale the same or are they different in a meaningful way?

MYTH: Affirmative action stigmatizes its beneficiaries.

FACT: The stigma facing women and people of color is not caused by affirmative action but by the very stereotypes that have always been used to exclude such groups from educational and employment opportunities.

One of the most common anti-affirmative action arguments is that it harms the very people it is intended to help. This argument relies on two false presumptions: First, that affirmative action conflicts with a genuine American meritocracy, so that people (including its beneficiaries) will always question the qualifications of those who participate in such programs. And, secondly, that the stigma associated with these programs is so pervasive that it even damages those women and people of color who have not benefited from affirmative action. In this sense, these policies are said to cause the members of marginalized groups to question their accomplishments, and to prevent anyone from ever knowing whether they actually deserve the positions that they occupy in American society.

In reality, the stigma associated with affirmative action derives from misunderstandings about its nature. These misunderstandings are rooted in the idea that merit can be easily quantified and measured objectively through the use of standardized criteria. Because affirmative action requires that we depart from the use of such criteria, they are thought to “unfairly favor” the beneficiaries of affirmative action; and, in so doing, to promote reverse discrimination. However, thinking about these programs as a form of “preferential treatment” for the “less qualified” is impossible if we remember that they function only to level a playing field that is already biased against women and minorities.

Affirmative action does not provide free entrance to unqualified women or people of color. It is senseless to assert that

someone was admitted to a law school, for instance, “based only on the color of their skin”. If admissions were offered regardless of qualifications, our institutions would be

George “Dubya” Bush

President of the United States
Recipient of special preference
Opponent of affirmative action



It seems that no one is particularly concerned with possible stigmas surrounding wealthy students at elite schools. They are not expected to prove to their classmates and to themselves that they actually deserve to be there, or whether they have been unfairly associated with other wealthy students who got in based on something other than “merit.” George W. Bush, a mediocre student at best, was somehow admitted to both Yale and Harvard Business School. Bush now occupies the Oval Office, unquestioned about whether he deserved his advantages and unhindered by stigma.

completely dysfunctional – filled with unqualified people. Law schools – like other institutions that employ affirmative action policies – have no interest in bringing in unqualified people. Instead, they use affirmative action because it allows them to identify qualified candidates whose potential to succeed would otherwise be overlooked. Studies that track affirmative action’s beneficiaries have clearly demonstrated how successful these policies are at identifying qualified individuals who are otherwise unfairly assessed.

Who Is Stigmatized?

Although the debate around differential admissions policies always focus on race and gender based affirmative action policies, there are many beneficiaries of other admissions policies that look beyond numerical assessments of “merit”.

Bottom Line: Affirmative action is the solution for, not the cause of stigma!

Affirmative action departs from the use of standardized criteria only to the extent that they are biased with respect to its beneficiaries. Once we recognize this fact, we can see that the stigmas associated with it represent only the evolution of the same false stereotypes that have dogged out-groups throughout our nation’s history. The solution is not the eradication of affirmative action, but the eradication of stigma-producing stereotypes. One way to combat the perpetuation of such stereotypes is to ensure that classrooms and workplaces are diverse. Exposure to people from a broad array of social, ethnic and racial backgrounds is known to have a debiasing effect. To put it another way, ending affirmative action cannot cure stigmas based on negative stereotypes, but supporting affirmative action programs that increase diversity within our institutions can do so.

Experiencing Stigma

Even though we know that affirmative action is not the cause of stigmatizing attitudes, the reality of stereotype-based stigma is too often a part of the lived experience of women and minorities who often have to rebut a presumption of incompetence at work or at school. Ending affirmative action, however, will not end the racist and sexist attitudes that many of us confront. In California, for example, consideration of race in university admissions has been banned since the 1996 passage of Proposition 209. Yet 10 years later, the stigma once ascribed to race and gender conscious policies lives on. Consider the experience of students in a post – affirmative action environment:

Colin Powell

Former United States Secretary of State

When asked about the stigma that opponents say affirmative action imposes on blacks who attend these schools, Powell, proponent and unabashed beneficiary of affirmative action, dismissed it, saying, "I would tell black youngsters to graduate from the schools magna cum laude and get one of those well-paying jobs to pay for all the therapy they'll need to remove that stigma."



“Affirmative Action is not the cause of stigma, racism is. If you’re black or another person of color, people assume that you are not as intelligent, unqualified, or undeserving to be in the space. With affirmative action, we would be no less qualified, but there would be more people of color to take advantage of educational opportunities and provide leadership within their respective communities. At the end of the day, more people of color in professional leadership capacities can undermine the stereotypes that lead to stigma. So what we need is more affirmative action, not less of it.”

- Priscilla Ocen, UCLA School of Law Class of 2007

“I don’t feel any more or less stigmatized here at UCLA than I did at institutions that had Affirmative Action policies. Some of my professors continue to assume that something is wrong if I go to office hours and classmates tend to be genuinely surprised every time they realize that I know what I’m talking about. I find myself having to prove that I belong here time after time. Sometimes in a literal sense - I’ve been here 3 years and white security guards still ask me for ID. There is no Affirmative Action here at UCLA, so I have to conclude that the problem is not affirmative action, but an assumption of Black inferiority.”

- Nikki Brown, UCLA School of Law Class of 2007

Did You Know?

At most schools admissions officers look favorably on children of alumni or donors, even though these applicants (overwhelmingly white and wealthy) are already advantaged. The Wall Street Journal reports that Duke University, one of the top universities in the country, routinely admits students who would be deemed less than stellar by traditional measures of merit, simply because they are the children of wealthy donors.

Policies such as the one employed by Duke University may fairly be termed “unfair preferences,” as they do not counterbalance a meritocratic system that discriminates against these individuals. Indeed, they reinforce the privileges of those who are already advantaged. Yet, no one would seriously make the claim that these individuals are or should be burdened by stigma.

The real source of a “stigma” for women and people of color is not affirmative action at all. Does anyone really believe that before affirmative action, there were no negative stereotypes associated with the academic and professional capabilities of women and people of color? The reason it is so easy to stereotype the beneficiaries of these policies is because our culture is already loaded with negative stereotypes about the competence of women and people of color. The stigmas that surround affirmative action spring not from its actual effects, but from the kinds of pervasive discrimination that affirmative action acts to correct.

After all, if affirmative action is the cause of stigma, how can we explain the absence of stigma’s burden when genuinely preferential programs for non-minorities cause no such stigmas? The unfortunate truth is that the stigma facing women and people of color has nothing to do with affirmative action and everything to do with the perpetuation of the same gender and racial stereotypes that have always been used to exclude (continued on next page)

Such students, despite their tremendous capabilities, are working in a situation where race is even MORE salient for them now that it was for their predecessors. The ironic but true fact is that the fewer of them there are, the more their race stands out. Thus, it becomes impossible for them to be seen as individuals, and they come to be associated with membership in stigmatized groups that are not thought to be sophisticated enough to send more than a few students into competitive academic environments.

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such groups from educational and employment opportunities. The beneficiaries of these programs are stigmatized for the very same reasons that these policies exist in the first place: persistent and sometimes unconscious beliefs that women and people of color are simply less talented, hardworking and competent than their white male counterparts.

When athletes, the children of wealthy alums (and former Presidents) or the family or friends of influential employers are selected for reasons other than merit there is no manifest doubt about whether or not they are qualified for or deserving of the benefit simply because they are not subject to the negative stereotypes about their abili-

Mythbusting Homework:

1. Given the fact that affirmative action was banned 10 years ago in California, how do you explain the persistence of the sorts of race and gender stereotypes described above?
2. Do you wish there were a test that could identify unconscious bias? There is! Try the Implicit Associations Test (IAT) yourself at <http://implicit.harvard.edu/implicit/demo/takeatest.html>

Did You Know?

In 2003, hundreds of students from the University of California system told compelling stories of racial stigmatization and isolation in a brief filed before the United States Supreme Court in *Grutter v. Bollinger*, a case involving a court challenge to affirmative action at the University of Michigan. In filing this brief and in telling their stories, the students hoped to prevent others from experiencing not only the stigma, but the hostility, isolation and alienation that pervaded the post-affirmative action environment in which they found themselves.

MYTH: Existing anti-discrimination laws are adequate to create equal opportunity.

FACT: Anti-discrimination laws are an important but limited tool: they are primarily designed to address some forms of “in your face,” discrimination, but they cannot correct for the full range of discriminatory and unfair practices that limit opportunity in America. These laws are woefully inadequate to the task of ensuring equal opportunity to all Americans. Affirmative action complements these laws by correcting for other forms of discrimination that the law does not or cannot address, by providing a proactive and efficient way for institutions to overcome discrimination and bias in their hiring and admissions procedures.

Some critics of affirmative action believe that the Civil Rights Movement resulted in far-reaching anti-discrimination laws that are sufficient to advance equality. These critics believe that we should rely on federal and state laws that prohibit discrimination, rather than utilize affirmative steps for fostering equality. Unfortunately, anti-discrimination laws are insufficient to meet the task of creating equal opportunity in a society that has moved beyond explicit "Bull Connor"-style racism and that faces deeper and more subtle forms of racism. Let's look at some of the reasons that we cannot rely on anti-discrimination law.

Limited Enforcement

At their basic level, anti-discrimination laws set forth a blanket prohibition against discrimination, but they do not provide any mechanisms to prevent it. If an individual or group is discriminated against, anti-discrimination laws do not automatically impose a penalty. Rather, the law requires individuals take action in the form of lawsuits before something is done to stop the discrimination.

Did you know?

Are anti-discrimination laws enough?

The U.S. Equal Employment Opportunity Commission (EEOC), is a agency in charge of enforcing federal anti-discrimination laws. In creating the agency, however, many members of Congress noted its narrow purpose was the "elimination of many of the worst manifestations of racial prejudice."

Accordingly, the EEOC was given little power to enforce anti-discrimination laws or to aggressively prevent the various ways in which discrimination manifests itself. The EEOC was merely allowed to investigate individual complaints of discrimination and to attempt conciliation between employers and employees.

Given this history, it is unsurprising that individuals who do bring discrimination to the attention of EEOC receive minimal support in putting forward their cases, even after the EEOC has found that discrimination has occurred.

Such lawsuits, however, are expensive to litigate and extremely difficult to win. In fact, discrimination suits are the most difficult suits to successfully prosecute, at least for female and minority plaintiffs. Only 15% of plaintiffs who raise discrimination claims in the workplace actually succeed. Much of this difficulty has to do with anti-discrimination law's outdated conception of what constitutes discrimination, with the exceptionally high burden of proof imposed on such plaintiffs, and with the misguided presumption among many judges that traditional discrimination is a thing of the past. White males, on the other hand, are far more likely than minorities and women to win discrimination suits.

Yet there is no evidence to suggest that after centuries of preference for white males across all American institutions they are suddenly the most likely victims of racial and gender discrimination. In fact, white males are still overrepresented in almost all of our key public and private sector institutions. So these surprising statistics suggest that their disproportionate success in the courts is probably attributable to a greater empathy for their claims on the part of the overwhelming white male bench, or perhaps it is due to the implicit biases of the judges hearing their cases.

Antidiscrimination law cannot possibly address and correct wide patterns of discrimination in the work force. Studies have repeatedly shown that there is measurable and predictable racial discrimination in basic entry level competition for jobs. For instance, researchers at MIT and the University of Chicago performed a study where they sent out résumés to local businesses that had advertised job openings. The résumés were all identical except for one feature: some of the résumés carried stereotypically white names, while others had stereotypically Black names. The researchers found that those résumés with white-sounding names had a success rate that was on average 50% higher than résumés with identical qualifications but Black-sounding names.

Believe it or not!

On July 6, 2002, two white officers in Inglewood, CA were caught on videotape beating Donovan Chavis, a mentally disabled Black 16 year-old. Following the beating, Morse was fired and Darvish suspended. A third officer, Willie Crook was fired. The Morse/Darvish trial resulted in a hung jury.

Morse and Darvish filed a lawsuit against the city of Inglewood, claiming that the City had discriminated against them in the way they were disciplined for their roles in the Chavis beating. The officers claimed that the third officer, Willie Crook, hit Chavis off camera, and that Crook was treated differently because he is Black. (Crook was fired from the police force, and re-assigned as a civilian jailer). The officers won the lawsuit. The jury ordered that they be paid over 2.4 million dollars for the savage beating of a black child.

Where was anti-discrimination law when Donovan Chavis needed protection? The perverse reality is that today's anti-discrimination laws served to protect the police officers who were engaged in the most violent acts of discrimination one could imagine, but failed to shield Chavis from this violence. The officers were perceived as the victims, rather than the perpetrators of discrimination.

Another study, performed in New York, featured applicants for entry-level jobs. These applicants, some of whom were Black and some of whom were white, were coached so that they spoke and dressed in a similar fashion. Additionally, some of the men were

given fictitious 18-month prison records for possession of cocaine. When the men went out to interview for jobs, researchers found that white men with prison records were more likely to receive callbacks than black men with no criminal records whatsoever. This means that in the employment arena, being Black is worse than having one penal strike against you!

This is the kind of widespread discrimination--sometimes called "societal discrimination"--that laws cannot address. First, most victims are likely to be unaware that they have been denied equal opportunity, but the effect of this denial is manifest in lower rates of

Did you know?

How do people of color experience discrimination today?

Discrimination in health, education, employment and housing severely restricts opportunities for communities of color, while remaining resistant to outdated antidiscrimination laws.

employment, higher unemployment, and lesser economic attainment. Second, even when victims are aware of this discrimination, virtually no individual seeking such jobs is in a position to pay several thousands dollars to open such a case, much less prosecute it fully. Only large class actions are viable and lawyers are reluctant to take such cases due to their expense, the time investment required, and the increasing likelihood that they will fail. Obviously, our current anti-discrimination laws don't allow us to correct for

the sort of widespread, systemic, and covert racism that leads to outcomes like the those found in the studies mentioned above.

Simply put, there is a huge gap between what the law promises, and what equal opportunity requires. This is where affirmative action comes into play. By focusing on outcomes, it allows us to tailor our anti-discrimination tools to the needs of a given environment. Thus, when viewed in the proper light, we can see that affirmative action corrects for some of our society's deep-seated and hardest to reach problems.

Some critics of affirmative action have suggested that antidiscrimination law should be strengthened to be more effective in creating equal access to the workforce and educational institutions. While stronger tools are certainly necessary, the reality is that the current trend in antidiscrimination law is moving in the opposite direction. A renaissance of antidiscrimination law is not on the horizon. Even if it were, antidiscrimination law remains a background set of rules that function primarily as an after-the-fact penalty for discrimination, a penalty that is seldom assessed. Lawsuits are thus options of last resort. They are not appropriate as mechanisms for opening the doors of opportunity and they do not create incentives to rethink practices and attitudes that limit the opportunities of women and minorities. Affirmative action remains necessary as a proactive tool to provide access and opportunity. If antidiscrimination law is the stick--weak though it may be, then affirmative action is the carrot.

Today, the majority of federal judges have been appointment by conservative presidents and a significant number of these judges are members of the Federalist Society. The Federalist Society is an organization of extremely conservative judges, law professors and lawyers. The principles of the Federalist society have called for a scaling back of civil rights protections and its judges tend to range from skeptical to hostile toward these claims.

Implicit Bias

No longer is discrimination symbolized by the Bull Connors of the world, with their

racism on display through firehoses and dogs. Instead, racism has become more subtle and more often institutional. Anti-discrimination law rooted in the old style discrimination of 1960s and 70s is just not well equipped to address this contemporary reality. This is especially true when people don't even know that they are engaging in discriminatory practices. Today there is a wealth of information that proves that even people who are not overtly racist, people who would never use a racial slur, still tend to make racially biased decisions. Research demonstrates that discriminatory decisions and outcomes are large-



Bull Connor and police dogs: an image of obvious, old-style racism

ly influenced by stereotypes, or implicit biases that occur at the unconscious level. This implicit bias has been shown to occur on a wide scale and to negatively impact how we think about and behave toward racial minorities – even without knowledge that we are discriminating.

Although scholars and lawyers have long advocated for courts to see decisions influenced by unconscious bias as discriminatory in nature, the judiciary have been reluctant to develop an approach to remedy this problem. Yet we know that various forms of bias influence a host of perceptions and decisions that influence the employment opportunities of minorities and women. Proactive policies such as affirmative action help bridge the gap between our limited ability to prevent unconscious bias and our national commitment to providing equal opportunity.

“[B]ias both conscious and unconscious, reflecting traditional and unexamined habits of thought, keeps up barriers that must come down if equal opportunity and nondiscrimination are ever genuinely to become the country’s law and practice.”
-- The Honorable Justice Ruth Bader Ginsburg in *Adarand Contractors, Inc. v. Peña*

Structural Racism

In addition to direct discrimination and unconscious bias, there is yet another set of obstacles that limit equal opportunity, yet fall outside the scope of the law to correct. Structural racism captures the variety of ways that our very social structure operates to reinforce and perpetuate disadvantages that have been built into our society over time. Structural racism requires no particular individual to either intentionally or unconsciously discriminate in order for individuals to be denied equal opportunity. Instead, a variety of conditions, most of which at one time were

Did you know?

Antidiscrimination law, limited as it is to addressing some forms of direct discrimination, has been steadily scaled back by conservative judges on the Supreme Court and throughout the federal court system. This rollback of civil rights has gone virtually unnoticed by the general public in part because the rulings are technical in nature and are generally perceived to effect only a small number of Americans. In fact, the rollback of civil rights effects all Americans. Rules eroding access to the courts and raising burdens beyond the reach of most plaintiffs shred the fabric of legal protection and compromise our justice system. However, many Americans are beginning a fight to take back our rights and to correct the imbalance on the courts.

intentionally created to disadvantage people of color, operate to exclude or marginalize those groups virtually automatically.

For example, minorities are often disadvantaged in the competition for jobs due to "spatial mismatch" -- the fact that jobs are situated far away from the communities where minorities live. The decisions about where to locate industry, along with decisions to limit, for example, public transportation to those jobs, combines to deprive minorities of an equal opportunity. These decisions are often the product of past discrimination, conscious or unconscious bias, and political preferences for white and affluent communities. Their effects on people of color can be profound, even though there may be no intent to discriminate against them. This kind of structural racism falls far outside the scope of antidiscrimination law, but the conditions it reflects bear no resemblance to a meaningful definition of equal opportunity. Affirmative action policies address these sorts of problems. They encourage employers and other decision makers to take affirmative steps to minimize the effects of such conditions.

Bottom line: Affirmative Action reaches the critical gaps in anti-discrimination law and helps us to achieve greater equity in education, employment and a host of other arenas.

Mythbusting Homework:

Consider the police employment discrimination suit discussed above. What are the implications when a city like Inglewood is ordered to pay \$2.4 million for disciplining police for such egregious misconduct? Does this verdict cause police departments to avoid disciplining their officers for the use of excessive force? How does it affect the victims of their violence?

Learn more about the unconscious biases. Take the Implicit Associations Test (IAT) yourself. Challenge your friends and colleagues to do the same. Discuss what you learned about your own biases. Were you aware of them? Consider how these biases can silently affect a person's decisions and actions. Test yourself here:
<http://implicit.harvard.edu/implicit/demo/takeatest.html>

MYTH: Individual effort and hard work determines who becomes prosperous and wealthy in the United States. Thus, government should stay out of the business of trying to diminish these disparities through the creation of programs such as affirmative action.

FACT: Common sense and lived experiences teach us that hard work and wealth do not necessarily go hand and hand. Moreover, government policies have enriched some Americans at the expense of others, enabling them to accrue far more capital assets than their minority counterparts, assets which they are then able to pass on to their children. This intergenerational transfer of wealth offers the key to understanding racial stratification in the United States.

Critics of affirmative action lean heavily on the myth that people make it on their own in the United States based on hard work and individual effort. They also maintain that government intervention in the wealth creation process is not just unprecedented, but un-American. Simply put, they ask: Why should the beneficiaries of affirmative action be the recipients of preferential governmental policies when whites acquired their wealth through hard work? The answer is simple: in reality governmental policy has played an absolutely crucial role in determining the racial character of the haves and the have nots in America.

As many advocates have noted, there is a sizable race/gender income gap in America. In fact, in the United States your gender and race have an enormous impact on how much money you will earn. On average, white women earn 76.7 cents for every dollar that white men earn, while Black and Hispanic men earn only 74.5 cents and 63.2 cents respectively. Black and Hispanic women earn even less, receiving just 68.4 and 56.9 cents for every dollar that white men earn. It is important to note that all the workers whose earnings are compared in this category are full-time workers. These figures don't even address the reality that many people are unemployed or underemployed because racial stereotypes prevented them from finding full-time work.

Believe it or not!

There is a cost to being Black in America:

Prof. Thomas Shapiro, calculated the lower return on Black investment in housing, education and jobs. In net financial assets, the cost of being African American amounts to \$94,426. Or to state in in the reverse, the advantage of being white is \$94,426!

(Thomas Shapiro, "The Hidden Cost of Being African American: How Wealth Perpetuates Inequality" p. 55)

Even larger than the income gap is the racial asset gap. Recent studies have demonstrated that white households possess between five and ten times the net worth of Black households. The gap between Black and white wealth exists even when the income of Black and white households is the same. Not surprisingly, the wealth gap makes it much more difficult for Black families to own homes, to send their children to expensive, well-funded schools, and to recover from economic downturns caused by unemployment or illness.

Why is wealth important in the affirmative action debate?

"How we try to close the racial wealth gap depends on how we understand where assets come from. If we think well-off white people got their wealth only through individual ability and hard work, then the solution will be to urge low-income people of color to try harder. But if we also see how heavily white people have historically relied on government help to build assets, then we will support expanding assistance to all assetless Americans, and we will work for racial justice for those historically barred from wealth because of their race." (The Color of Wealth.)

So then, what is the origin of the racial wealth gap?

Wealth Disparities

To begin with, wealth CANNOT be viewed as simply a measure of hard work. In fact, many of the hardest workers in America are the least prosperous. Are our friends and family members who earn small salaries as laborers and service workers to be condemned as slackers because the wealth they have accumulated fails to reflect the long hours they have worked? Single mothers, for example, struggling to hold down two minimum-wage jobs work harder, for less, than most folks. Throughout our history, non-whites have been shut out of the most asset-building activities including home ownership, business, and prestigious occupations and jobs with the highest paying salaries. Asian Americans, Blacks, Latinos and Native Americans were all formally barred from many basic opportunities in the first half of the Twentieth Century, a

Did you know?

Facts and Figures: Adding up Black Losses or The Cost of Discrimination

\$1.6 trillion: The estimated economic loss for African Americans as a result of legal segregation for 1929-1969 (in 1983 dollars).

+ Several trillion dollars: The cost of discrimination from the end of slavery in 1865 to the year 1969, the end of American style apartheid, based on year-2000 dollars.

+ \$94-123 billion: The estimate of how much Black workers lose annually from continuing discrimination and informal segregation in employment.

+ 100 billion: The estimated amount that Blacks in this generation have lost in home equity as a result of the racial discrimination they confront when they attempt to secure mortgages for homes and businesses.

= \$5 to \$24 trillion: The sum total of the worth of all the Black labor stolen through the means of slavery, segregation, and contemporary discrimination in today's dollars.

Source: Joe R. Feagin, Documenting the Costs Of Slavery, Segregation, and Contemporary Discrimination: Are Reparations in Order for African Americans? 20 HARV. BLACKLETTER L.J. 49 (2004)

period when the U.S. government assisted large numbers of white families as they moved up the social ladder and became middle-class members of society. Wealth, therefore, must be viewed as "a measure of cumulative advantage or disadvantage."

Most Americans would be surprised to learn that the distribution of benefits that has led to so much white wealth and so little Black wealth has come out of specific government policies rather than simply the hard work and personal initiative of whites. From America's founding moments, government has been in the business of providing wealth to whites, while simultaneously excluding, when not outright stealing that wealth from other groups. The consequences of these government policies -- some of which remain in place -- continue to be felt today.

Today, as Tim Wise writes in "The Mother of All Racial Preferences", white baby boomers are benefiting from the largest transfer of wealth in American history as they inherit their parents' estates. Some of that wealth dates back to the years of slavery, when Blacks were forced to work for free while their white owners and the American economy accumulated the benefits of their toil. Another large category of the transferred wealth is land, much of it stolen by the American government from Native Americans and Mexicans and sold for a pittance to white settlers. For the average white family, however, some of the largest sources of wealth are the result of racial preferences in government policies that were started in the 20th century.

What government policies have so advantaged whites while leaving other groups behind? The same policies that created the American middle class:

Believe it or not!

Some critics of affirmative action argue that the Black/white wealth gap can be attributed to conspicuous consumption and the failure to save money in a responsible fashion.

But Blacks do save as much as their white counterparts. Dr. William Darity, Professor of Public Policy, African American Studies and Economics at Duke University, reports that, "if you control for income, the Black savings rate is at least as high as the white savings rate. There is some evidence to suggest that it might be higher."

In any event, closing the Black/White wealth gap through a process of efficient and responsible savings is impossible. According to Dr. William Darity, "there is no way that Blacks can catch up [to whites through] systemic and careful savings. If Blacks saved all of their income -- that is, if we didn't eat, pay any bills, but saved every cent of income -- we could not close the wealth gap."

- "Middle-income black families worked the equivalent of 12 more weeks than white families to earn the same money in 2000."
- "The most dramatic difference is the wealth effect of homeownership, which is worth about \$60,000 more for whites than blacks."
- "Over half of black American families lived below the Asset Poverty Line in 1999, more than twice the rate of white families."

The Federal Housing Authority (FHA).

After World War II, the government created the FHA (which brought us today's mortgage system). The FHA encouraged home ownership by providing extremely generous loans for first-time home buyers. The rise in value of these homes has provided many Americans with the wealth they need to live comfortably and to prosper. African Americans and other members of racial minority groups, however, were, more often than not, systematically excluded from access to these loans. In virtually every city in America, Black neighborhoods were "redlined", or marked ineligible for FHA loans. Even for those that could afford it, buying a home in a non-redlined market was also barred by government policy. The FHA, fearing that integration would be detrimental to property values, urged lenders to keep white neighborhoods white. The FHA Underwriting Manual stated that "[i]f a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same social and racial classes." It recommended the use of racially restrictive covenants (agreements not to sell, transfer, or rent to, or even allow occupancy by someone from another race) from its inception in 1934 until 1950.

As a result, while white wealth skyrocketed as government funds helped millions of families to achieve the American dream of home ownership, Black families and other communities of color were left behind. Redlining policies were in place until 1977, when they were finally made illegal. However, there is some evidence that redlining restrictions are now being relaxed, which will only solidify the already stark divide in Black and white home ownership rates. Moreover, even when one accounts for factors such as employment and financial status Blacks and Latinos are still 60% more likely than whites to be denied a mortgage.

In the next generation, while white families stand to inherit homes (or the profits from sold homes) that have greatly increased in value, Black families, more often than not, will inherit only debt - debt that is a direct legacy of racial preferences for whites.

As the PBS Series "Race: The Power of an Illusion" demonstrates:

"Residential segregation didn't happen by accident. The U.S. federal government took many steps to channel resources and opportunities to whites and away from nonwhites, resulting in an enormous wealth gap that persists today. In 1993, 86% of suburban whites still lived in places with a Black population of less than 1%. The 2000 Census showed that whites are still more likely to be segregated than any other group. Today, 71% of whites own their own home, compared to 44% of African Americans. Black and Latino mortgage applicants are 60% more likely than whites to be turned down for loans. As housing gets more expensive and wealth gets passed down from generation to generation, the legacy of past discrimination persists, giving whites and nonwhites vastly different life chances."

Did you know?

While white home ownership has jumped from 65% to 75% of their families since 1970, Black home ownership has only risen from 42% to 48%. At this rate, it would take 1,664 years to close the home ownership gap - about 55 generations.

Source: United for a Fair Economy, State of the Economy: Enduring Disparities in Black and White.

Social Security:

Social Security has allowed millions of Americans to support themselves after retirement. As a result, its beneficiaries have not had to rely on family members to sustain themselves as much as those who do not greatly benefit from these policies. Many of its beneficiaries have been able to keep their homes and other assets to pass on to the next generation.

Today we think of Social Security as quintessentially American – we even rely on Social Security numbers for identification purposes. But, when it was created, it was envisioned as a white program, designed to exclusively benefit white workers. How was this accomplished? In so far as Blacks are concerned, agricultural and service workers were made ineligible for social security benefits. At the time, non-whites worked almost exclusively in the agricultural and service industries. In fact, they were barred from working almost anywhere else. Not surprisingly then, Black families were often forced to spend their family incomes to support their elderly relatives, even as white families were reaping the benefits of growing inheritances.

Today, Blacks, though eligible for social security are less likely to benefit from it because they don't live as long as their white counterparts. According to the National Center for Health Statistics, Black males born in 1992 can expect to live to age 65, whereas white males on average live 73.9 years. Black females born in 1992 can expect 73.9 years of life, white females, 79.8 years.

Black men are clearly being short changed by the state policy that sets social security eligibly at the age of 65. Not only are they less likely to benefit from it, they are much more likely to spend their working lives paying into a program that they won't greatly benefit from, if they benefit from it all.

Racial Preferences?

Contemporary advocates of colorblindness seek to insulate the unfair advantages whites have received by severely limiting policy makers from even noticing these disparities, much less attempting to equalize the playing field. Courts regard phenomena such as housing segregation as “societal discrimination,” as though its causes are not known and the solutions are beyond our reach. Neither assertion is true. Its causes are known and a range of policies, including affirmative action, can be deployed to diminish these disparities.

Did you know?

" In 1865, just after Emancipation, it is not surprising that African Americans owned only 0.5 percent of the total worth of the United States. But by 1990, a full 135 years after the abolition of slavery, Black Americans still possessed only a meager 1 percent of national wealth."

"Between 1934 and 1962, the federal government backed \$120 billion of home loans. More than 98% went to whites. Of the 350,000 new homes built with federal support in northern California between 1946 and 1960, fewer than 100 went to African Americans."

From Larry Adelman's essay, "A Long History of Racial Preference - for Whites"

As a result of slavery, the theft of land, and discriminatory programs such as the FHA and Social Security, we can safely say that there has only been one group in American history that has ever benefited from genuine "racial preferences": white Americans. Affirmative action programs work to offset these preferences. Thus, they reflect nothing more than an incremental step in the direction of a more egalitarian America.

Bottom Line: Governmental intervention served to create the wealth gap between whites and non-whites, and affirmative action is necessary to assist in closing this gap.

The intergenerational wealth accumulated by whites continues to lead to greater fiscal stability, and a broader set of economic and other social opportunities than those experienced by minority Americans. It represents a marked advantage. Black families with high incomes have accumulated only about 10 percent of the wealth accrued by their white counterparts. The state has played a major role in creating such disparities. It should now work to level the playing field.

Mythbusting Homework:

1. Try United for a Fair Economy's "Starting Line" exercise with as many friends and co-workers as you can. In the course of the exercise, you will see before your eyes just how great an impact race and ancestry have on wealth accumulation.

Available at
[www.racialwealthdivide.org/color_of_wealth/stepping forward govt version.doc](http://www.racialwealthdivide.org/color_of_wealth/stepping_forward_govt_version.doc)

2. Try to think of the ways in which you and your family have benefitted from -- or been shut out of -- government programs that act as wealth creation measures. How do you think your current life would be different if your parents and grandparents had been of a different race?

MYTH: Colorblindness is, and always has been, a basic American ideal. Its advocates oppose affirmative action not because they oppose racial progress, but because it contradicts our societal consensus on colorblindness.

FACT: Colorblindness was never a foundational principle of the Constitution. Rather, it is an ideological perspective developed by the judiciary which masks the social reality of the many forms of racial inequality that are embedded in the structures of American society. The Constitution aspires to racial equity, not colorblindness. Thus, affirmative action is consistent with American principles because it is designed to facilitate the creation of a more equitable society. Unpacking colorblindness and revealing it to be mere fantasy is a key step in promoting equality in the United States.

The idea of colorblindness appropriates the language of the Civil Rights Movement — language that was used in that specific context against white-only schools, restaurants, and stores; language used against widespread segregation and racial violence; and language used against all of the efforts to make Blacks second class citizens — and redirects it back against the remnants of the Movement itself. The blood that was spilled to win these rights, the Movement's symbols, and even its martyrs have been co-opted into this new language of colorblindness, a language that declares an end to the Movement and the policies that it brought about.

Colorblindness implies that "race" is no more significant than eye color in contemporary America. In this light, its supporters insist that to treat people equally they must all be treated the same. The logic of this perspective hinges on the belief that, in essence, America has transcended the racism of its past and that, for the part, we are now all similarly situated across racial lines.

The power of the rhetoric of colorblindness obscures the invidiousness of this idea and the danger it poses for those genuinely concerned with the elimination of racial discrimination in the United States. Emerging out of a legacy of resistance to racial equality, this notion cleverly co-opts the language of the Civil Rights Movement, empties it of meaning, and promotes a social vision that masks the experience of racial subordination.

In fact, colorblindness is not a fundamental constitutional value. Nor is it race-neutral. It does not ignore race, nor does it allow for people to be treated fairly and equitably. Indeed, it serves as a constitutional shield for white privilege while embracing the language of racial justice.

Construction of Colorblindness as a Constitutional Principle

In looking at the language of the fourteenth amendment, we can see that it is broad in scope, but opaque in meaning. What does it mean to “deny to any person the equal protection of the laws?” Are race conscious policies by definition unconstitutional? The idea of colorblindness suggests just that. Race is seen as an irrelevant characteristic, and discrimination as a thing of the past. This perspective turns the meaning of the Fourteenth Amendment inside out, and calls for the elimination of race conscious programs such as affirmative action.

The History of the Fourteenth Amendment

The ideology of colorblindness falsely implies that the American Constitution forbids the use of race conscious initiatives. This is a clear misreading of constitutional history. And, it is easily refuted. In point of fact, the Fourteenth Amendment expressly authorized race conscious remedies, such as the Freedman’s Bureau, to address the legacy of slavery and continuing manifestations of racism. (To read more about the Fourteenth Amendment and race-conscious remedies, read Eric Foner’s authoritative history, *Reconstruction: America’s Unfinished Revolution, 1863-1877*)

There is simply no basis for the belief that colorblindness was contemplated by the Framers of the Constitution, or that it was a value that motivated the passage of the Fourteenth Amendment.

Did you know?

The primary purpose of the Fourteenth Amendment was to incorporate Blacks into the civic, economic and political mainstream of American life following the Civil War. To advance this purpose, Congress, the same entity that crafted the Fourteenth Amendment, routinely used race-conscious methods such as:

- The establishment of a freedmen’s bureau to assist former slaves in overcoming systemic racial oppression
- The funding of race-conscious school integration programs in Kentucky and elsewhere
- The passage of a “Resolution Respecting Bounties to Colored Soldiers”
- The creation of Black colleges and universities such as Howard University.

In a brief before the United States Supreme Court, 51 distinguished historians, including John Hope Franklin, argued

it is beyond serious historical dispute that the Congress that passed the Fourteenth Amendment ...did not strive for [an] antiseptic race-neutrality.... Instead, [it] vigorously enacted race-conscious legislation which [it] understood as wholly consistent with the Fourteenth Amendment—and indeed, sometimes, the only way to realize that Amendment’s purpose.

It was this history of the Fourteenth Amendment -- a history that fully supports the use of state sponsored race conscious initiatives -- that inspired the Civil Rights Movement and that served as a backdrop to the historic Supreme Court decision in *Brown v. Board of Education*. Ironically, conservative forces that once actively and sometimes violently opposed such initiatives have now adopted the language of the Civil Rights Movement to undermine its goals.

After all, the fourteenth amendment was enacted with the race-based purpose of removing the barriers to citizenship and equal opportunity confronted by African Americans in the aftermath of chattel slavery. To promote this goal, the federal government enacted laws and policies which quite explicitly utilized race to remedy both individual and systemic forms of discrimination.

The Judicial Invention of Colorblindness

Colorblindness is not a viable constitutional principle. It is an ideological construct that masks discrimination and facilitates racial subordination in American society. This form of judicial invention traces its origins to Justice Harlan's famous dissent in *Plessy v. Ferguson*, the Supreme Court opinion upholding the "separate but equal" doctrine. In his dissenting opinion, Justice Harlan holds that "our constitution is color-blind, it neither knows nor tolerates classes among citizens."

With this single phrase, adherents to colorblindness found the basis by which to narrow and diminish the gains of the Civil Rights Movement. Their most recent target is affirmative action. In this context, they maintain that the Constitution must be "neutral" with respect to race: that the use of race to arbitrarily exclude people of color perfectly parallels the use of race to dismantle systemic forms of discrimination that unwarrantedly discriminate against them.

The politically motivated nature of this vision of colorblindness is evident in the selectiveness with which Justice Harlan's dissent is read.

Did you know?

The genesis of the colorblindness movement can be found in Justice John Marshall Harlan's dissenting opinion in *Plessy v. Ferguson*, a case in which the Supreme Court upheld the "separate but equal" doctrine. In this case, Justice Harlan remarked as follows:

The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth, and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage, and holds fast to the principles of constitutional liberty. But in the view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. (Dissenting Opinion of Justice John Harlan in *Plessy v. Ferguson*)

As we can see, the advocates of colorblindness draw selectively from this passage because, in significant ways, it supports the opposite of colorblindness. In all things social, a case for white supremacy is advanced. Today, the mask of colorblindness functions to trivialize racial concerns. In so doing, it obscures the continuing problems of racism in American society, and serves the interests of white privilege.

What about Brown?

The “Little Rock Nine” being escorted into school by the National Guard in the face of violent opposition to their attempt to integrate Little Rock Central High School in Little Rock, AK.

Brown v. Board of Education was a watershed moment in the history of the United States. The Supreme Court ruled that the Constitution would not tolerate “separate but equal” facilities in the public school system. Yet, the Court did not embrace colorblindness in this decision. Instead it lived up to its responsibilities to remove the racial barriers



confronted by African Americans. It ruled that it was unconstitutional to use race to arbitrarily exclude American citizens. But, it neither explicitly nor implicitly ruled that race conscious policies designed to dismantle racist barriers were unconstitutional.

Former Chief Justice William Rehnquist provides a prime example of an individual who resisted equality and yet nonetheless embraced this restricted notion of colorblindness.

According to law professor Alan Dershowitz, “as a law clerk, William Rehnquist wrote a memorandum for Justice Jackson while the court was considering several school desegregation cases, including Brown v. Board of Education. Rehnquist’s memo, entitled “A Random Thought on the Segregation Cases,” defended the separate-but-equal doctrine embodied in the 1896 Supreme Court case of Plessy v. Ferguson. Rehnquist concluded the Plessy “was right and should be reaffirmed.”

As the Chief Justice of the Supreme Court, Rehnquist would become one of the architects and principle advocates for a colorblind vision of America that erased the reality of racial subordination from the court’s decision making process.

The Consequences of Colorblindness

Pretending either that America has a colorblind history or that we can have a colorblind present is a dangerous fantasy. It does not move us magically beyond our history of racism. It simply collapses all uses of race into one. From this perspective, they all exist on the same moral plane. In this narrative, all Americans are to be treated as though they are “similarly situated.” In a discourse on equality in the Kingdom of Heaven this makes a lot of sense. In a beloved community, one can assume that people are similarly situated. But, on the planet earth in the United States this makes little or no sense at all. In this context, race matters and must be accounted for, if people are going to be treated fairly and equitably as they strive to compete for goods and resources in society.

Bottom Line: Today colorblindness continues to act to entrench segregation, even as it takes away our vocabulary for talking about racism. In *Washington v. Seattle School District No. 1*, for instance, the court ruled that a busing program aimed at integrating public schools was "no more permissible than [is] denying [members of a racial minority] the vote, on an equal basis with others." In precisely this respect, colorblindness as an ideology is rich in absurdity. Its an idea that leads to outcomes like placing the process of integrating schools in post-apartheid America on the same moral plane as denying Blacks the right to vote. In this sense, it is a destructive idea with destructive consequences. Indeed, if we had to once again today fight the famous civil rights battles, it would undermine the *Brown v. Board of Education* decision, and the achievements of the Civil Rights Movement over the past half century.

Mythbusting Homework:

During the Katrina aftermath, seasoned CNN reporter Wolf Blitzer said "You simply get chills every time you see these poor individuals... so tragically, so many of these people, almost all of them that we see, are so poor and they are so black, and this is going to raise lots of questions for people who are watching this story unfold."

What questions did Katrina raise for you? What lessons can Katrina offer us about the remaining differences between whites and Blacks in America? Do you think it is possible to be colorblind in a nation where race continues to impact the lives of so many? Is it desirable?

MYTH: Absent affirmative action race is as empty and meaningless as skin color; it is affirmative action that creates racial differences.

FACT: Skin color might be meaningless, but race is a socially-constructed category that is tied to skin color, and race has been and continues to be used in order to create and enshrine privileges for one group at the expense of other groups. Racial differences in the United States have been present at least ever since whites made themselves dominant over all non-white groups, and the only way to address this is by acknowledging the ways in which "whiteness" functions. We live in a society with deeply-entrenched and zealously-guarded racial differences. Affirmative action serves to break down these constructed differences (for instance, by introducing diversity into spaces that would otherwise remain barred to non-whites). Affirmative action is part of a strategy aimed at ending racial domination that otherwise would continue unchallenged. Affirmative action, therefore, represents a response to, not the cause of, the racial disparities that emerge from a norm of privileged whiteness.

Undergirding the myth that affirmative action creates racial differences is the belief that without affirmative action race is as empty and meaningless as skin color. By this logic, it follows that equality can be brought about by treating everyone the same without any consideration of race at all. Reducing race to something as innocuous as skin color permits critics of color-conscious policies to argue that people are treated equally as long as no one's race is taken into account. But this superficial equality is blind to the reality that race is not primarily skin color. Indeed, race itself is not even a biological category. As Ian Haney Lopez notes, what we have come to think of as race is the cumulative effect of legal rules, social policy and cultural practice. The effects of these cumulative practices are NOT the same for whites and nonwhites. Some find themselves running in lanes on a track cluttered with obstacles, whereas others can find themselves running a race completely free of unwarranted impediments as we discussed in Myth 1. In other words, it is simply not the same thing to be white as it is to be of color. As Professor Lopez shows in his book "White By Law," race is a fluid category that is determined as much by public attitude as it is by any visual indicators that we have come to associate with it. Race is simply a way of keeping benefits in the hands of one group, while leaving everyone else in a systematically subordinated role.

Whiteness: Membership Has Its Privileges

The creation of white privilege is a process that passes acquired goods and benefits over generations. From America's inception, whiteness has been used to keep certain groups out in order to exploit them. The clearest example of this is slavery, but there have been many lesser examples, such as the use of immigrants as cheap labor by exempting them from the standards and pay that one would reserve for white workers. Over time, many groups that were not originally "white" have been able to become white through assimilation and the accumulation of resources -- this group includes Italians, Irish, and Jews. However, whiteness needs an "Other" to define itself by, and those whose skin is most different from the skin color associated with "whiteness" -- that is to say, people of color--are forever shut out from the benefits of white privilege. As a result, people of color are shut out from all the opportunities that whiteness reserves for itself, and instead are damaged by all the ways in which a system that rewards whites and subordinates others maintains the status quo of white domination.

Those who have benefited from white privilege are unaware of it because of the way in which whiteness operates. Whites find themselves reaping the fruit of trees that they never planted, but that were there as long as they can recall -- always just there and to which they have always been entitled. Their ignorance as to who planted, and tended the tree in the first place thwarts the efforts of those who are trying to shake the fruits loose for themselves in the post-civil rights era. The MCRJ is an attempt to keep whiteness, and its "serendipitous" fruits above the reach of people of color and to hinder their ability to negotiate for resources and opportunities in the institutions in which they live and work.

Did you know?

It's great to be white in America:
If you are white in America you can expect...

- to live long enough to receive social security benefits
- that your child will live longer than a Black child
- to be only only 25% as likely as a black family to live below the poverty line
- to be only half as likely to be unemployed as a Black person
- to score higher on standardized test that are calibrated to your performance
- to be more likely to have access to costly preparation for standardized tests
- to be more likely attend a high school that teaches a substantial number of "AP" courses
- to be more likely to have a relative who attended the college or university of your choice than a person of color
- to be less than 1/3 as likely to be murdered as Latinos and Asians and less than 1/6 as likely as Blacks
- to be more likely to have inherited a home or some other form of wealth
- to be able to live in an integrated neighborhood if you so choose
- to be called back for a job interview (even if you have a criminal record and your competition doesn't!)

Sources:

Rebecca Blank, America Becoming, Racial Trends and their Consequences, Volume 1
HUD report on discrimination in metropolitan housing markets
United Nations development programme
press release: May 25, 1993

Believe it or not!

From the beginning, law has played a central role in demarcating who was white and who was not. Although we have come to see these categories as natural, race is actually a product of numerous legal rules that prescribe certain behaviors, create certain privileges and disabilities, and distribute them to various members of the population. Consider for example the rule of hypodescent, aka the "one-drop-rule." Obviously, it cannot simply be skin color that creates whiteness, because someone with "one drop" of "black blood" but who looks white cannot be considered white. Moreover, these rules creating race are not symmetrical. While one drop of blood might render a white looking person Black, no amount of white blood could render any person "with discernible Negro blood" white. The only explanation for this asymmetry is that whiteness is kept separate from and above everything (and everyone) else. In this respect, Virginia's 1924 Act for the "Preservation of Racial Integrity," defined as white a person with "no trace whatsoever of any blood other than Caucasian." However exceptions were made for individuals with less than 1/16th Indian blood, a concession to honor the role of Pocahontas.

Interestingly, the very person for whom the exception was made would not herself have been able to enjoy the benefits of whiteness. As a full-blooded Indian, Pocahontas would have remained "nonwhite."

Peggy McIntosh introduces a way of thinking about racism that is often ignored. Even those of us who have come to understand that racism manifests itself not only in the actions of individual, irrational actors, but also in structures and institutions, think of racism as something that puts subordinated others at a disadvantage. Racism, in the form of white privilege, puts whites at an advantage. McIntosh describes white privilege as "an invisible weightless knapsack of special provisions, maps, passports, codebooks, visas, clothes, tools, and blank checks." Not only does white privilege put whites at an advantage, there is no mechanism by which their privilege is brought to their attention. Thus, whites often are fully oblivious to the reality of white privilege and come to view disparities in wealth, educational, employment and housing opportunities, and even in health outcomes as normal.

White Privilege Requires Affirmative Action To Remedy

Our Constitution was built on special rights - for whites: property rights, contract rights, voting rights, and of course the right to own humans during the era of chattel slavery, to "recover" Blacks if they dared steal themselves away, (to escape from slavery would have been considered a theft, of oneself!) and to benefit in the form of tax breaks and increased representation under the 3/5 compromise (allowing whites to have apportioned representation based on their own numbers plus 3/5 of a person for each slave, but NOT be taxed based on such fractions of humanity).

Since reconstruction, non-whites seeking to assert the same rights as whites have been rebuffed as seeking "special rights." Just 20 years after the abolition of slavery, African Americans seeking federal enforcement of antidiscrimination laws were admonished by the Supreme Court to stop making a federal case out of their predicament and to learn to make do like everyone else. Framing civil rights as preferential treatment, the Supreme Court intoned, "Slavery is over," you can't be the "special favorite of the laws"

forever. The court, just one generation after the end of slavery saw the plaintiff's claims for access to the same accommodations, facilities and services as whites, an unwelcome attempt to access those rights that had been reserved for whites. Whites comprised the universe of people who could possess such rights. Thus, whiteness was (and arguably is) the requisite admission ticket to partake in the American Dream. White privilege is guarded carefully, and for non-whites (and even for white women) the path to access to privileges reserved for whites is long and hard. For example, Blacks did not gain the simple emblem of citizenship - the right to vote - until 1865. The franchise was not extended to women until 1920, and Native Americans until 1924!

Once established, the privileges associated with whiteness become the basis for future entitlement and are very difficult to alter. Many whites have responded to political demands and even governmental policies designed to modestly alter these expectations as a violation of their civil rights. Laws promoting school integration, desegregating public accommodations, the protection of voting rights, and even the repeal of miscegenation laws were all met with venomous denunciation (and sometimes violence) and characterized as special rights that unjustly impinged on white rights.

White Privilege Is No Secret

In fact, most Americans are aware that there is a huge advantage in being born white in America. That's why Andrew Hacker, a prominent sociologist, asked white students what amount of money they felt they would need in order to "compensate" them if they became suddenly and irrevocably black. Many of the students felt that \$50 million, or \$1 million for every year for the rest of their lives would be required in order to make up for the loss of their whiteness. These students were admitting something the rest of us intuit quite easily: white privilege provides a host of advantages, many of them monetary.

Colorblindness Has Long Been Used To Protect White Privilege

The meaning of whiteness has throughout the history of the United States conferred a host of privileges, benefits and expectations upon some individuals that have been denied to others. These entitlements, once conferred, provide a permanent reservoir of social goods that is automatically

Mythbusting Homework:

1. Can you...

- ...arrange to be in the company of people of your race most of the time?
- ...be pretty sure of your ability to rent or purchase housing in an area where you can afford and in which you would want to live should you want or need to move?
- ...be pretty sure that your neighbors in such a location will be neutral or pleasant to you?
- ...turn on the television or open to the front page of the paper and see people of your race widely represented?
- ...be sure that your children will be given curricular materials that testify to the existence of their race?
- ...choose public accommodation without fearing that people of your race cannot get in or will be mistreated in the places you have chosen?
- ...be sure that if you need legal or medical help, your race will not work against you?.
- choose blemish (continued on next page)

(continued from previous page) cover or bandages in "flesh" color and have them more or less match your skin?

- ...swear, or dress in second hand clothes, or not answer letters, without having people attribute these choices to the bad morals, the poverty or the illiteracy of your race?
- ...do well in a challenging situation without being called a credit your race?
- ...criticize our government and talk about how much you fear its policies and behavior without being seen as a cultural outsider?
- ...be pretty sure that if you ask to talk to the "person in charge", you will be facing a person of your race?
- ...worry about racism without being seen as self-interested or self-seeking?

[source: Peggy McIntosh, White Privilege: Unpacking the Invisible Knapsack]

2. Ask these questions of friends or colleagues of different races. How are your answers similar or different?

passed on and down through the generations. Affirmative action has been a modest effort to negotiate entry into the stream of resources for those who have been stranded upstream of the flow of white entitlement.

The modest successes of people of color in breaking down the exclusive hold that some Americans have on whiteness has prompted a vitriolic backlash. Michigan's Proposal 2 is just one example of a broader effort to place the entitlements of whiteness out of the reach of people of color and their social justice allies. It does not reflect the pursuit of social justice. Rather it represents an effort to shore up and stem the diminishing overrepresentation of those who have historically been racially privileged across our nation's institutions.

Whiteness As The Normative Standard

Colorblindness is a preference. It is preference for the status quo of systemic institutionalized white domination. Colorblindness allows institutional and structural racism to continue, propelled by its own inertial force unless acted upon by a directional force. It takes no action (or intent) to perpetuate it, but directed efforts, in the form of affirmative action policies, are required to stop it. Understanding white privilege reframes the affirmative action debate in two ways. First, once we recognize white privilege -- and the US's history of protecting it at all cost -- it is obvious why the arguments in this debate have been framed in terms of harm to white people. Second, once we understand that white privilege is almost always invisible to its beneficiaries, it is easy to understand why those advantages are taken to be normal. That is, the "invisible weightless knapsack of special provisions, maps, passports, codebooks, visas, clothes, tools, and blank checks," the unacknowledged regime of white supremacy has come to be accepted as the natural state of things.

Lastly, standards of "merit" are culturally defined. The markers of a "professional looking" applicant, a "collegial" colleague or a "good student" are centered on whiteness. Given this, white privilege, and racial subordination will continue, swathed in colorblindness, without affirmative action to adjust for a norm that is far from normal.

MYTH: Affirmative action is a domestic policy that reflects an obsession with race that is peculiar to America

FACT: Affirmative action is not the product of an American obsession with race. In fact, affirmative action is an international phenomenon and is fully supported by human rights principles, including the International Covenant for the Elimination of Race Discrimination. Around the globe, both historically and currently, many countries have pursued and embraced affirmative measures to address various forms of subordination and inequity that exclude or marginalize socially distinct groups. Furthermore, in an increasingly globalized society and economy, affirmative action is supported and used by corporations and by their clients who recognize the competitive advantages of a workforce comprised of people from diverse backgrounds with a wide variety of skills and cultural competencies.

Opponents of affirmative action are keen to portray it as a particular symptom of the American obsession with race. In this view, it can be neatly cabined as a peculiar invention grounded in a particularly vile history of racial discrimination. Critics of affirmative action warn other societies against proceeding down that perilous path. In fact, affirmative action is neither unique to the US, nor limited to the particular post-apartheid type of society that the US represents. Many countries around the world, each with different histories, ideologies and populations, employ various forms of affirmative action to advance social justice and the full utilization of its citizens. Let's examine some of them:

Dr. Bhimrao Ramji Ambedkar

“Father of the Indian Constitution”

Dr. Bhimrao Ramji Ambedkar was an Indian scholar, lawyer and politician who dedicated his life to fight the inequality of the Indian Caste System and to advance social justice on behalf of the Untouchables, a group which faces the most severe forms of discrimination in Indian society.

Known as the father of the India Constitution, Ambedkar ensured that the Indian Constitution provided equal opportunity for untouchables and other oppressed castes through what we would call affirmative action.

As a graduate of Columbia University, Ambedkar acquired many close contacts in the American Civil Rights Movement and frequently consulted with W.E.B. Du Bois, the celebrated U.S. scholar and civil rights activist, about the shared plight of Untouchables and African Americans and the strategies to attain greater freedom for their respective communities.

In fact, when seeking to petition the General Assembly of the United Nations regarding the injustices against African Americans, Du Bois referenced a letter from Ambedkar describing similar international efforts by the untouchables to eliminate caste discrimination in India.

South Africa's Constitution explicitly endorses affirmative action. Section 9 of the bill of rights is dedicated to equality. Section 9(2) provides: "To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken."

India has a long history of using reservations to ensure that all classes are included in the representative government and in governmental positions. Article 330 of the Constitution requires that seats in the House of the People be reserved for Scheduled Castes and Scheduled Tribes. Article 332 requires similar set-asides of seats in the Legislative Assemblies of States. Article 338 establishes the National Commission for the Scheduled Castes and Scheduled Tribes. The purpose of the Commission is to participate in the economic development of these historically subjugated classes, and to assure the protection of their rights.

Brazil is pursuing affirmative action in higher education and in corporate employment. In 2001, the State Legislative Assembly in Rio de Janeiro set aside 40% of the state university seats for black and brown people. Later that year, the Ministry of Justice mandated that no less than

20% of its high level staff, consultants, and subcontractors be Black. Moreover, the Federal Supreme court mandated that not less than 20% of the employees of subcontracting firms be Black. The following year, 20% of the Worker Assistance Financing budget was allocated to professional training for Blacks, particularly Black women.

Affirmative action is consistent with the Canadian Charter of Rights and Freedoms. Its equality clause lays the foundation for affirmative action, giving the government the power to create "any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability"

Did you know?

Affirmative Action is good for business.

Major companies from across the United States have identified at least four reasons why affirmative action is important to global business and the national economy:

1. "[A] diverse group of individuals educated in a cross-cultural environment has the ability to facilitate unique and creative approaches to problem solving arising from the integration of different perspectives."
2. "Such individuals are better able to develop products and services that appeal to a variety of consumers and to market offerings in ways that appeal to those consumers."
3. "[A] racially diverse group of managers with cross-cultural experience is better able to work with business partners, employees, and clientele in the United States and around the world."
4. "[I]ndividuals who have been educated in a diverse setting are likely to contribute to a positive work environment, by decreasing incidents of discrimination and stereotyping."

They conclude that "[o]verall, an educational environment that ensures participation by diverse people, viewpoints and ideas will help produce the most talented workforce.

Israel uses affirmative action to better integrate Arabs and Ethiopian Jews into their society by instituting affirmative action programs in government employment, education and through home and property buying assistance programs.

Global Business, And Business Around The Globe Support Affirmative Action

Many international companies support affirmative action as a way to meet their global business needs. A group of 65 U.S. based global businesses joined together to support the University of Michigan's race based admissions policies challenged in the Supreme Court in the Grutter case. These companies indicated that:

“Because our population is diverse, and because of the increasingly global reach of American business, the skills and training needed to succeed in business today demand exposure to widely diverse people, cultures, ideas and viewpoints. Employees at every level of an organization must be able to work effectively with people who are different from themselves. We need the talent and creativity of a workforce that is as diverse as the world around it.”

Joining in the brief was 3M, a \$16.7 billion manufacturing and technology company with operations in more than 60 countries and customers in nearly 200 countries. Another was, Boeing, which makes 70 percent of its commercial airplane sales to international customers. Procter & Gamble, another supporter of affirmative action, sold a branded product to more than 2.5 billion people across the world in 2002, yielding more than \$40 billion in sales. Similar figures could be provided for many of the companies participating in the amicus brief as they operate and compete in a global environment while serving and working with diverse peoples and cultures.

Given that employers draw portions of their workforce from American colleges and universities, they also support affirmative action in higher education. For example, DaimlerChrysler, a Michigan employer, was able to employ a diverse workforce largely

Did you know?

International human rights agreements not only facilitate, but in fact encourage affirmative action.

The International Covenant on the Elimination of Racial Discrimination (ICERD), article 1, paragraph 4, endorses special measures that are designed to ensure that minorities shall not be excluded from the full equal enjoyment or exercise of their human rights and that these measures shall not be deemed racial discrimination.

The Durban Program of Action, paragraph 99, explicitly encourages States to develop and elaborate national action plans that target racially marginalized groups. These remedial plans are not regarded as discriminatory, but as necessary to realize civil, cultural, economic, political and social rights in all spheres of life.

The Court of Justice of the European Community has endorsed affirmative action as a remedy for gender discrimination in various high profile cases over the last several years. Thus, affirmative action lies firmly within the parameters of mainstream human rights discourse. It is a legitimate expression of the rights of minorities and women to the elimination of barriers that preclude their full access to and enjoyment of all spheres of national life.

because of affirmative action programs at places like the University of Michigan. Similarly, Microsoft Corporation goes further than simply supporting affirmative action, they invest in such programs as well by spending millions of dollars each year to provide financial and other support for minority students to participate in undergraduate and graduate programs. For each of these businesses, "diversity is an increasingly critical component of their business, culture and planning."

Businesses In Other Countries Support Affirmative Action

Non-US based companies are similarly investigating, supporting and developing affirmative action-type programs in education and in hiring. For example, French companies have created initiatives designed to increase opportunities for groups that have been excluded from mainstream society. Spurred to action after post-September 11th attacks on North Africans, and later by riots in North African Parisian districts, 175 leading French companies have signed onto a "Company Diversity Charter." In 2004, the Institut Montaigne published a call for the introduction of U.S.-style affirmative action policies to end discrimination against "visible minorities" -- French nationals of North African or African origins.

These companies recognize the significant discrimination faced by visible minorities and the need for affirmative measures to counteract such obstacles. For example, a study commissioned by a the Zurich temporary employment company, Adeco, showed that white French job applicants get three times as many offers as minority applicants with the same qualifications. Although Arab and African minorities represent more than 10% of the population, they are all but absent from France's elite institutions. There is, for instance, not a single Arab representative in the Parliament.

The Diversity Charter signals a "commitment to ethical and social diversity within [their] organizations." Among the signatories are private and public companies, including leaders of the national economy: BNP, R.ATP, Carrefour, L'Oréal, Total, Airbus, PSA Peugeot Citroën, PPR, France Télécom, Schneider Electric, SNCF, Rhodia, Société générale, Pernod Ricard, etc. These signatories have made a commitment to "respect and promote the application of the principle of non discrimination" in the "employment, training, advancement or professional promotion of collaborators". By signing, they signal a commitment to "endeavour to reflect the diversity of French society and in particular its cultural and ethnic diversity in [their] workforce, at different levels of qualification".

In addition to the Diversity Charter, the Institut report called for:

- Recruitment of electoral candidates to ensure that elected officials reflect the ethnic diversity of the country
- The institution of admissions criteria that target communities of "visible minorities" living in segregated areas
- The modification of recruitment criteria at top universities to increase the diversification amongst future French elites.
- The promulgation of an "anti-ghetto" law to put an end to the concentration of social and ethnic minorities in the districts.

Bottom Line: Affirmative action is a global project with global implications and global benefits.

Given that numerous countries have recognized the need to take affirmative steps toward inclusion and have created a variety of affirmative action programs toward that end, it is impossible to conclude that affirmative action is an American export. In the area of affirmative action, the United States is not the leader but an outlier, given our recent renege on the promise of the American dream. When we look at affirmative action in a global context, we must wonder, what's going on with us? It seems that the "American race obsession" argument is really about resistance to equality. America's obsession is not with race, but with IGNORING race, ignoring racial inequalities, ignoring our nation's history racial subordination, and ignoring the reality that such subordination cannot be curbed without affirmative action

Mythbusting Homework:

1. In 2000, the "Bellagio Consultation on the UN World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance" was convened in Bellagio, Italy by Gay J. McDougall, then Executive Director of the International Human Rights Law Group, and Member of the UN Committee on the Elimination of Racial Discrimination. In 2001, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, was held in Durban, South Africa.

Another meeting, "Affirmative Action Around the World," will be hosted by AAPF's Affirmative Action Research and Policy Consortium and is scheduled for August, 2007 again in Bellagio. What issues do you think should be addressed by the participants in the Bellagio meeting next year? How can social inclusion around the world be better advanced by cooperation and knowledge-sharing among social justice advocates? How might affirmative action constitute a building block for social justice advocates seeking to challenge discrimination and exclusion in a variety of countries around the world? Consider the following developments that have transpired since 2001:

- a rise in anti-Muslim violence in U.S., and across the globe,
- the establishment and enforcement of racist laws, such as Malaysia's enforced discriminatory laws limiting access to university education for Chinese students who are citizens by birth of Malaysia,
- elections of political leaders running on racist platforms, such as the Australian nationalist party who won 25 percent of the votes and a seat in government by rallying against immigration by non-whites.

2. The following companies supported the University of Michigan's arguments that diversity should be considered in admissions:

3M, American Airlines, Inc., American Express Company, Amgen Corporation, The Boeing Company, Chevron, Texaco Corporation, The Coca-Cola Company, Coca-Cola Enterprises Inc., DaimlerChrysler Corporation, Deloitte & Touche LLP, The Dow Chemical Company, Eastman Kodak Company, Eli Lilly & Company, Ernst & Young LLP, General Electric Company, General Mills, Inc., John Hancock Financial Services, Intel Corporation, Johnson & Johnson, Kaiser Found. Health Plan, Inc., Kellogg Company, KPMG Int'l for KPMG LLP, Kraft Foods Inc., Lockheed Martin Corporation, Lucent Technologies, Inc., Medtronic, Inc., Merck & Co., Inc., Microsoft Corporation, Mitsubishi Motors North America, Nike Inc., Northrop Grumman Corporation, Pepsi Bottling Group, Inc., Pfizer Inc., Pricewaterhouse Coopers LLP, The Procter & Gamble Company, Reebok International, Schering-Plough Corporation, Shell Oil Company, Sterling Financial Group of Cos., United Airlines, Inc., Whirlpool Corporation and Xerox Corporation

Does the company that you work for support affirmative action? How can you tell?

MYTH: Opposing Affirmative Action is consistent with the vision of equality articulated in Dr. Martin Luther King Jr.'s Dream of a colorblind America.

FACT: Contrary to what critics of affirmative action contend, Dr. King actually supported affirmative action policies! In this respect, he wrote that “a society that has done something special to harm the Negro should now do something special to help him” - - otherwise equality will remain out of reach. Treating similarly situated people differently is un-American. But taking race and gender into account to dismantle systemic forms of discrimination represents nothing more than an effort to promote equal opportunity.

King's Dream Was Of Equality Not Blindness To Inequality

Affirmative action's opponents often claim that they symbolize the contemporary embodiment of Dr. King's colorblind vision for the future of America -- the vision he championed on the steps of the Lincoln Memorial during the historic “March on Washington.” On that occasion, Dr. King spoke of the day on which his children would be judged by the content of their character rather than the color of their skin. It is fidelity to this principle, critics say, that fuels their mission to ban affirmative action. As they see it, they are merely challenging policies that promote reverse discrimination on behalf of women and people of color -- policies said to abandon Dr. King's clarion call to judge people by the “content of their character rather than the color of their skin.”

In reality, these critics do not embody the values symbolized by Dr. King's colorblind dream. His dream, after all, did not embrace the idea that one could eliminate racial inequality by ignoring race in contemporary America. Nor did he assume that one could promote equality by treating people in decidedly different situations as though they were similarly situated. The roots of this perspective are actually steeped in the long standing tradition of resistance to equality measures for African Americans in the United States which dates back to the earliest efforts to address racial discrimination in this country.

Virtually every effort to lift the burden of racial iniquities in American society has been denounced as a form of preferential treatment. Examples of this phenomenon abound. Supporters of slavery resisted schemes to free those held in bondage on the grounds that it unfairly took away the slaveholders' property interest in the slave and redistributed property to the slave. In the aftermath of slavery, proposed laws creating the right of non-discrimination in contracting and property transactions were vetoed and denounced by Andrew Johnson, the sitting American President, as undeserved forms of special treatment which “favored” the freedmen. Black demands to end American style apartheid in public accommodations were repudiated by the Supreme Court which framed their integrationist aspirations as an unwarranted attempt to secure a degree of social equality that they had not yet earned. Similarly, *Brown v. Board of Education* was

critiqued by prominent constitutional law scholars as an unjustified preference for Black school children to associate with whites that conflicted with the white school children's right not to do so. Even the Thirteenth Amendment to the Constitution, which abolished involuntary servitude, was said by segregationists to compel them to behave in ways that were fundamentally unfair. That is to say, that they were compelled to treat Blacks as equals.

The rhetorical deployment of the idea that race based policies serving to eliminate discriminatory practices somehow advantage their beneficiaries has long been a standard tactic on the part of those who seek to subvert programs designed to redress racial inequality in American society. As such, anti-affirmative action critics pay homage not to Dr. King, but to Americans throughout history who have refused to provide fair opportunities to people of color on the grounds that such policies actually operate to advantage minorities over their white counterparts.

Martin Luther King Jr. Advocated For Affirmative Action

The truth is that Dr. King supported affirmative action. Where special measures had been used to harm minority Americans, he advocated the use of targeted race-conscious initiatives to level the playing field. Indeed, consistent with his expansive conception of social justice, he called for special programs to remedy all sorts of discriminatory practices including race, gender and class concerns.

Few people in contemporary America claim to be against fairness and equality. In this setting, challenges to the status quo, more often than not, are met with the charge that they privilege those who traditionally have been on the margins of society. Not only is this a false claim, our primary concern should be whether or not the status quo is actually operating "fairly." Dr. King understood this reality. Thus, he maintained that where the status quo unfairly serves the interest of the members of dominant groups, we must treat the privileged differently than the disadvantaged so as to promote a genuine vision of equality in the United States.

Confronted with vehement opposition to social change, Dr. King called for programs designed to completely eradicate the racial barriers faced by those on the margins of American society. He rejected what he called the "bootstrap philosophy." In this respect, he argued as follows:

"Now there is another myth that still gets around: it is a kind of over reliance on the bootstrap philosophy. There are those who still feel that if the Negro is to rise out of poverty, if the Negro is to rise out of the slum conditions, if he is to rise out of discrimination and segregation, he must do it all by himself. And so they say the Negro must lift himself by his own bootstraps.

They never stop to realize that no other ethnic group has been a slave on American soil. The people who say this never stop to realize that the nation made the black man's color a stigma. But beyond this they never stop to realize the debt that they

owe a people who were kept in slavery two hundred and forty-four years.

...It's all right to tell a man to lift himself by his own bootstraps, but it is a cruel jest to say to a bootless man that he ought to lift himself by his own bootstraps.

We must come to see that the roots of racism are very deep in our country, and there must be something positive and massive in order to get rid of all the effects of racism and the tragedies of racial injustice. (Martin Luther King, Jr., *Remaining Awake Through A Great Revolution in A Knock at Midnight: Inspirations from the Great Sermons of Dr. Martin Luther King* 211 (Clayborne Carson & Peter Holloran, eds. 1998).

Affirmative Action Is An American Value

America sees itself as the land of opportunity. We like to think of our country as one in which hard work, talent, and dedication are all that is needed to succeed. But, our history reflects the denial of opportunity to a broad range of groups. Affirmative action programs serve to promote the inclusion of those who for generations have been denied the rights of full citizenship.

As Sandra Day O'Conner wrote in *Grutter v. Bollinger*, "[e]ffective participation by members of all racial and ethnic groups in the civic life of our Nation is essential if the dream of one Nation, indivisible, is to be realized." Affirmative action plays an essential role in this process. After all, to promote effective participation in a nation that previously worked to actively prevent the inclusion of certain groups, we must transform the institutions that were originally constructed during the era of American Apartheid.

Bottom Line: The critics of affirmative action have not truly embraced Dr. King's legacy. As we have shown throughout this series, the reality of America today falls far short of Dr. King's dream. Accounting for and correcting this reality is not only consistent with the values of fairness and equity, it is a moral imperative.

Mythbusting Homework:

1. When opponents of affirmative action use Dr. King's language out of context, they are stealing language intended to help people of color in order to harm them. When critics of affirmative action use the Fourteenth Amendment to attack affirmative action programs, when white males are the winners of most anti-discrimination law lawsuits, is this language theft of a similar magnitude?

Why or why not?

2. Do you think the civil rights movement has gone far enough? Have we achieved Dr. King's dream of equality? Look at your neighborhood: are the schools segregated or integrated? Is your neighborhood mixed or does one group predominate? How about your workplace?

Starting on October 24, for two exciting weeks the Affirmative Action Research and Policy Consortium (an AAPF project) produced an unprecedented radio series aimed at bringing information about affirmative action to a wide audience. During the two weeks leading to the November 7th elections, listeners from all over the country tuned in every weekday morning to the Michael Eric Dyson show to hear this special project entitled "13 Myths About Affirmative Action: A Special Series on a Public Policy Under Siege". Today, the series remains available at www.aapf.org/focus, and continues to be a valuable and easily accessible educational tool.

Joining AAPF Executive Director Crenshaw and Dr. Dyson were many of the nation's leading experts on affirmative action-related issues, a number of whom are Consortium members themselves. The guests ranged from litigators to academics, from directors of organizations to students at law students, from authors and playwrights to clergy. Appearing on the series, in alphabetical order were Reverend Wendell Anthony, Scot Brown, Devon Carbado, Sumi Cho, George Curry, Eve Ensler, Mark Fancher, Kevin Gaines, Cheryl Harris, Luke Harris, Janine Jackson, Robin D.G. Kelley, Marianne Lado, George Lipsitz, Gay MacDougall, Mari Matsuda, Priscilla Ocen, Dennis Parker, Thomas Shapiro, Eduardo Bonilla-Silva, Jory Steele, Rashida Tlaib, George A. Turner, Jr., Valerie Purdie-Vaughns, Heaster Wheeler, Betsy Leondar-Wright, Rafael Yaquian, Reverend Wendell Anthony, Scot Brown, Devon Carbado, Sumi Cho, George Curry, Eve Ensler, Mark Fancher, Kevin Gaines, Cheryl Harris, Luke Harris, Janine Jackson, Robin D.G. Kelley, Marianne Lado, George Lipsitz, Gay MacDougall, Mari Matsuda, Priscilla Ocen, Dennis Parker, Thomas Shapiro, Eduardo Bonilla-Silva, Jory Steele, Rashida Tlaib, George A. Turner, Jr., Valerie Purdie-Vaughns, Heaster Wheeler, Betsy Leondar-Wright, and Rafael Yaquian.