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Multiculturalism in the United States: Affirmative Action Policy

"Is Affirmative Action Policy an effective response to discrimination?"

Anne Mwendar

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Introduction

This semester we have been exploring the concept and reality of multiculturalism with its role in today's different societies. We have examined topics of multiculturalism ranging from its very definition and place in forming self and group identity to the role multiculturalism plays for minority and women populations. Now we have begun to analyze the centrality of multiculturalism in different countries having looked at the different contexts of France and Britain, and the exploration of multicultural societies would not be complete without looking at the United States of America. The most diverse country in the world, the USA is home to over 300 million people with vast ancestries of culture ranging from Europe to Africa, Latin America to Asia, and everywhere in between. US philosopher and intellectual, Michael Walzer, discusses the meaning of the "American" identity. He describes, "It [American] is a name that doesn't even pretend to tell us who we are. Anybody can live here, and just about everybody does… The adjective provides no reliable information about the origins, histories, connections, or cultures of those whom it designates"[1]. Today the word "American" represents something much more than a political nationality or a simple association to the country. "American" represents a polyvalent and dynamic past of multiple cultures somehow forming one.

Consequently then, as the United States as a nation is an amalgamation of cultures, multicultural conflicts, namely discrimination, are an integral part of the nation's past and present. A particular government solution that has been adopted in response to the nation's plight of discrimination is **Affirmative Action (AA)**[2]. In the words of American economists and academics Ronald Fryer and Glenn Loury, "Affirmative Action policy regulates the allocation of scarce positions in education, employment, or business contracting so as to increase the representation in those positions of persons belonging to certain population subgroups"[3]. AA works to ensure equal representation and opportunity for success of subgroups or subpopulations that are disadvantaged, whether that be through lack of resources or outright discrimination. While the purpose of AA policy is clearly very positive in its aim by promoting diversity within social institutions, AA is very controversial in American society and viewed by some as

[1] Walzer, Michael. "What does it mean to be an" American"?." Social Research (1990) (1)
[2] Throughout this paper I will use the terms Affirmative Action (AA) and Affirmative Action Policy interchangeably, because in actuality Affirmative Action is presented in the form of proposed policy. The policy is what propones the purpose of Affirmative Action, bringing change and effect to laws and procedures to embrace diversity. Hence, I believe the two terms can be used interchangeably.
[3] Fryer, Ronald & Loury, Glenn. "Affirmative Action & Its Mythology". 2005. (3)

reverse discrimination or unjust preferential treatment. In general, Americans seem to hold wide-ranging and conflicting viewpoints on the purpose and effects of Affirmative Action.

The targeted groups that mostly benefit from Affirmative Action policy are women and more controversially[4], peoples of color. As the policy is geared towards helping underrepresented populations gain more visibility and presence in various social institutions, it has great relevance in high-stake arenas such as the workplace and higher education. And while Affirmative Action works to promote inclusion, it intrinsically must also perpetuate exclusion, of those populations deemed as advantaged and justly represented in such social institutions. In this paradoxical situation, we see that in a multicultural society the efforts to help certain ethnic populations in reversing an older discrimination, may possibly hurt other ethnic populations by perpetrating a newer discrimination.

Therefore in this debate of Affirmative Action, the question arises if the targeted inclusion of specific marginalized and minority groups does actually create for a discrimination against people within the majority subpopulation. This essay will attempt to address this issue and offer solutions to it through the Problématique: **How does a multicultural society reconcile the atrocities of a historical discrimination, while avoiding the commission of an evolved future discrimination?** Firstly, I will deal with the Narrative of Affirmative Action, in discussing its historical development and the current cultural context for AA. Secondly, I will propose an Analysis of Affirmative Action, offering a deeper understanding of the Affirmative Action debate and what truly needs to be resolved, while offering possible solutions and goals for future policy.

I. Narrative of Affirmative Action: Historical Development to Current Context

A. Historical Background

To accurately understand the purpose and aim of Affirmative Action, we must look into the gruesome racial history of the United States. The beginnings of Affirmative Action can be traced to the Reconstruction Era from 1865 – 1877, after the US Civil War. The Reconstruction was an effort initiated by President Abraham Lincoln, to end discrimination within the nation. Firstly in 1865, the 13th

[4] Controversial is in reference to the most recent cases, debates, and long history of pertaining to racism and peoples of color. The focus of this paper is on AA and its effectiveness as a response to discrimination in a multicultural society. Hence I find it most appropriate to focus on racial or ethnic discrimination as this better constitutes *multicultural* conflict

Amendment to the US Constitution was ratified nullifying the system of slavery, which had oppressed and subjugated hundreds of millions of Black-Americans for over 200 years. In 1865 as well, the Bureau of Refugees, Freedmen, & Abandoned Lands (Freedmen's Bureau) was established as an official federal government body that would offer health, educational, and other social services specifically to Black Americans, newly freed slaves. Even with these monumental shifts in law and policy overt discrimination against Black-Americans still persisted with the birth of Black Codes and Jim Crow laws across the country. Such laws limited the mobility and progress of Black-Americans by encouraging segregation and exclusion. In 1868, the 14th Amendment arose in a response to the evolved discrimination, outlining that *any* (and every) person born or naturalized in the United States is a citizen not be deprived of life, liberty, or property and also entitled to equal protection of the law. Yet again, this was another pivotal point in American legal and constitutional history, but not much of an evolution in the lives of citizens, such as Black-Americans, deemed as unworthy and sub-citizen. This brought about the need for the Civil Rights Movement in the 20th century. Among many other judicial and cultural victories for Black-Americans, was the Civil Rights Act of 1964 which called for overall desegregation and no discrimination tolerable within public institutions, specifically towards minority populations of color and women. While the Civil Rights Movement along with these other developments were extremely influential in helping achieve justice and equity for peoples of colors, much racial discrimination insidiously still persisted in the matrix of American culture and its socio-economic institutions.

To understand the purpose of Affirmative Action, it is essential to understand the effects of the past in the United States. In the arena of employment, we can presume that candidates should be evaluated based solely on their skills of productivity, but the acquisition of these skills themselves is heavily influenced by their parents, family upbringing, and past inheritance[5]. As much as society may want to neglect an ugly past, it is still the foundation of all present situations. This history of physical, systematic, and structural discrimination is what initially created a need for Affirmative Action.

B. Current Cultural Context

In the contemporary cultural context of the United States we see much controversy brewing around Affirmative Action policy. In the employment and business sector, legislature passed and proposed in certain states has called into question what measures can constitutionally be taken to stop discrimination. In California, Proposition 209 of 1996 successfully banned the use of Affirmative Action

[5] In regards to employment and lifetime income economists Ronald Fryer and Glenn Loury articulated, "the evolution of inter-racial income distributions over the long-run depends to some significant extent on initial conditions" (Fryer & Loury, 15)

by any local or state government institution, including public colleges and universities. This was a testament to the state's preference of color-blind public policy. Proposition 54 of 2003, however, unsuccessfully attempted to ban local and state government from even collecting racial demographic information to categorize students, workers, and contractors. These propositions speak to the state of California's view on racial differentiation and the extent to which they find Affirmative Action tolerable. While gathering statistical and government information on racial demographics was maintained as necessary and acceptable, racial differentiation in terms of selection for opportunities of advancement was deemed as unconstitutional and unjust. Since California is arguably one of the most ethnically diverse states in the United States, their responses to such legislature is a testament to what equality truly can mean in a society where people of varying cultures, ethnicities, and socio-economic backgrounds must co-exist.

Relating to the legitimacy of Affirmative Action in higher education, in the past decade alone, the United States Supreme Court has seen three landmark cases. In *Grutter v. Bollinger (2003)*, the Supreme Court supported the University of Michigan Law School's admission policy, which took into account race as one factor of an individualized evaluation. The Court upheld that the state had a compelling interest in promoting diversity and that the University was, in fact, just in considering minorities' racial status as "a plus"[6]. Most recently, the Supreme Court heard oral arguments for the *Fisher v. University of Texas at Austin (2012)* case. The Court once again ruled in favor of a university's admission policy favoring diversity, even though the University of Michigan maintained race had nothing to do with Abigail Fisher's rejection from the university. Fisher argued that her right to equal treatment before the law, guaranteed by the 14th amendment, had been violated in the University of Michigan favoring minority students based solely on their race. Her legal team called for a complete referendum of the 14th Amendment, which would enumerate how race cannot be used in public administration[7], even if it is to overcome the nation's legacy of racism and remedy current segregation. However, once again the courts upheld that universities have a compelling interest in diversity on campus, meaning another victory for Affirmative Action policy.

[6] The University of Michigan outlined their aim as to "ensure that minority students do not feel isolated or like spokespersons for their race; to provide adequate opportunities for the type of interaction upon which the educational benefits of diversity depend; and to challenge all students to think critically and re-examine stereotypes" (Grutter v. Bollinger, 2003) http://www.law.cornell.edu/supremecourt/text/02-241/

[7] This objective was gathered from the Homepage of the Project Fair Representation (legal team representing Fisher) website http://www.projectonfairrepresentation.org/

Critics of Affirmative Action in higher education often cite the *Mismatch Theory*, proposed by UCLA professor Richard Sanders, which purports the inefficiency of Affirmative Action in that it places underachieving and incapable minority students in higher education positions, to their own detriment. Sanders study is based off information from about 27,000 law school students in 1991. While Mismatch Theory does offer valid concerns in the preparedness of disadvantaged and minority students in higher education, it is crucial to note the theory has been highly contested in its vast methodological flaws. As articulated by UC Riverside professor and assistant provost, William Kidder, "What matters most is the cumulative weight of peer-reviewed social science research, and on that score the shortcomings of the Mismatch hypothesis are conspicuously apparent"[8]. We can see that Affirmative Action in the arena of higher education has had overall positive effects against discrimination. AA certainly provides opportunities and enhanced social mobility for minority populations in the United States. Sociological studies have demonstrated that, in fact, "there is little incremental payoff for individuals from advantaged backgrounds associated with attending selective colleges, whereas the benefit for disadvantaged students is substantive"[9]. Studies further go on to support that any hypothetical[10] displacement of advantaged students in the college admission process actually has "little impact"[11] on the lifetime income of said advantaged students. This information goes to show that in an economic-style cost-benefit analysis, Affirmative Action policy can be considered an overall positive addition to the college admissions process.

Unfortunately even with these monumental points in the evolution of Affirmative Action, the historical residues of discrimination are still alive and well in today's America. Historically established and intrinsic within the structured society of the US is a disadvantage and bias against racial minority groups. So what is the problem with Affirmative Action? And what is not being addressed by the policy? In an age of so much development, innovation, and growth, how can the discrimination of disadvantaged populations of color still exist?

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[8] New York Times. "Affirmative Action: Looking at the Data". 2013 http://www.nytimes.com/2013/03/20/opinion/affirmative-action-looking-at-the-data.html?src=recg&_r=1&

[9] Fryer & Loury (21)

[10] I use the word "hypothetical" because statistically, minority students who do benefit from Affirmative Action in higher education are not necessarily taking the place of a better qualified White (majority) student. Fryer & Loury explicate, "Many rejected White applicants imagine themselves to have fallen just below the margin, though by *definition* this could be true only for a few of them" (18). White students' perception of unjust and wrongful rejection from a university may stem more from a sense of entitlement, rather than an actual injustice perpetrated against them.

[11] Fryer & Loury (21)

II. Analysis of Affirmative Action

A. What Needs to be Fixed

This persistent discrimination that Affirmative Action seeks to address in America's multicultural society is most visible in the educational system. All the way from pre-school to high school, there is a tremendous discrepancy in the distribution of resources and consequently, achievement in public schools across the nation. This phenomenon has come to be known as the "Achievement Gap" or "Educational Debt"[12]. Local goods like educational resources that are extremely pertinent for individual productivity, are provided and distributed dependent on community or neighborhood. This means that two publically funded schools even within the same school district can be at two opposite ends of the spectrum of resource-richness. In some public schools, teachers even have to buy books, chalk, whiteboard markers, and other material to manage their classrooms[13]. This discrepancy is simply reflective of a much larger socio-economic gap in the United States. The "disadvantaged" populations that Affirmative Action seeks to assist are disadvantaged for a reason. In today's America, discrimination may not appear in its traditional physical and violent form, but it remains alive in a very structural and possibly more damaging sense. Black and Latino populations represent almost 60% of the incarcerated population in the United States, even though they composite in total only about a quarter of the US population. Additionally, reports show "dramatic racial disparities in the incarcerated population"[14]. African-Americans particularly represent nearly 1 million of the total 2.3 million incarcerated population[15]. So in essence, not only are minority populations of Blacks and Latinos underrepresented in the worlds of higher education, high income and achievement, they are also overrepresented in the nation's imprisonment system and structure.

In this more holistic socio-economic sense we can come to see that in the United States, race is symbolic of much more than skin color. It has historically and is still statistically correlated to other common traits related to income and socio-economic level, educational level and achievement, parental background, incarceration and criminal rates. While opponents of Affirmative Action may seek to promote a race-

[12] In the progressive discourse of this issue the term *Educational Debt* is preferable, because "Achievement Gap" implies a lack on behalf of the students, yet the problem is truly traceable and reflective of the educational administration.
[13] Please see the video "A Tale of Two Schools" (http://www.youtube.com/watch?v=5xdfVAPvv9A) for illustration of this problem. Also see the film *Waiting for Superman* for a comprehensive understanding and information on the Educational Debt in America.
[14] Human Rights Watch. "US Incarceration Rates Reveal Striking Racial Disparities". 2002. http://www.hrw.org/news/2002/02/26/us-incarceration-rates-reveal-striking-racial-disparities
[15] NAACP. "Criminal Justice Fact Sheet. " http://www.naacp.org/pages/criminal-justice-fact-sheet

neutral arena for selection and achievement, it is quite impossible to separate such defining features as those attached to race from any fair evaluation process. As affirmed in the Fisher v. University of Texas at Austin case, "the impact of race/ethnicity/and cultural background is contextually individualized to each applicant. It is not a value or figure that can be removed, after the fact… there is no place from which race can be removed"[16]. As the discrimination that Affirmative Action seeks to remediate has clearly evolved, in thinking of solutions from hence forth so too must the policy be evolved.

B. Future Solutions & Goals

Hence, as race and its commonly associated traits do play such a central role in educational outcomes and lifetime achievements, how can they be addressed in a more effective and efficient way to end discrimination? What are the possible solutions? It should be established that the content and heart of Affirmative Action must change. The purpose of policy must shift to a double-faceted paradigm emphasizing not only entry access for disadvantaged populations, but also resource access and *preparedness* of disadvantaged populations. Solutions to the inefficiencies of Affirmative Action can be seen on a two-fold scale, firstly focusing on shorter-term change that can be effected now and secondly focusing on longer-term change that can be effected for the future.

Short-Term Solutions

In a shorter-term focus, an emphasis on "race targeted recruitment and outreach programs… so long as all applicants are judged by a common-place independent standard,"[17] could reap positive results. Targeted recruitment and outreach programs at the university and employment level have been shown to work in strengthening diversity. Such programs not only reach out to underrepresented minority populations (as the name suggests), but they also help prepare students and candidates for future opportunities of higher education or employment. In this sense, the recruitment and outreach programs act as training programs as well in giving disadvantaged populations the resourceful information they have been deprived of. One example of such an organization would be the University of Washington Dream Project. Dream Project works to overall "assist low-income and first-generation high school students in attaining higher education"[18]. Their activities include mentorship with high school students, events hosted on campus to acclimate high school students to university life, and intensive preparation and assistance with college applications. Affirmative Action policy supporting this type of holistic

[16] Fisher v. University of Texas at Austin, 631 F.3d 213 (5th Cir. 2011). http://scholar.google.com/scholar_case?case=6518803924997784308&q=Abigail+Fisher&hl=en&as_sdt=2%2C5
[17] Fryer & Loury (5)
[18] UW Dream Project. Mission & Core Values. http://www.washington.edu/dreamproject/about/

outreach to disadvantaged students would be vastly more efficient in helping eradicate structural discrimination.

Long-Term Solutions

In a longer-term focus the entire educational system in the United States must surely change[19]. Affirmative Action could work to allot additional funding to the public schools mainly composited of disadvantaged populations. Affirmative Action could afford such schools opportunities for more resources and exposure that could help students. Affirmative Action could also work to provide alternative educational methods for the disadvantaged populations. American professor of law Kevin D. Brown posed the question in one of his article if, "African-American males need race and gender segregated education?"[20] Some educational advocates argue that a segregated education for this specifically more disadvantaged population may reap great benefits in providing a culture and environment for more personalized education. With this type of segregated education teaching techniques and strategies could be tailored to the lifestyles and uniqueness of the targeted population. As attractive as this solution may seem in theory, we know from historical precedent that in reality a completely segregated educational system can never be optimal. In *Brown v Board of Education (1954)* the US Supreme Court ruled that separate cannot be equal and the state and future of society has a great interest in integration. Ultimately, the United States and this world is an integrated and diverse populous, thus it makes no logical sense to promote a divided education where populations (disadvantaged and advantaged) are not acclimated to each other. Another less radical proposition has been offered in the UK educational model of *Black Supplementary Schooling*[21]. As the name suggests such schooling would work as type of supplementary or after-school program, not an alternative to mainstream education. With an emphasis on the 3Rs—reading, writing, & arithmetic—in addition to civil classes on Black history and culture, the Black Supplementary Schooling method offers an innovative environment for minority students to intensively learn, where their unique culture and life predications are studied and celebrated, as seen of White (majority) people and culture in mainstream education. These are long-term solutions that can be supported by Affirmative Action Policy.

Revised Goal

[19] See world-renowned Education and Creativity expert, Sir Ken Robinson's proposal for a further understanding of what changed educational paradigm could look like http://www.youtube.com/watch?v=zDZFcDGpL4U
[20] Brown, Kevin. "Do African-American boys need race and gender segregated education?" (General referencing)
[21] Reay, Diane & Mirza, Heidi. "Black Supplementary Schooling" (General referencing)

To offer a metaphorical illustration, the ultimate goal of Affirmative Action should be removing the clump of Educational Debt clogging the pipes of society, rather than just filling up the pipe with shallow access-centered policy. We must dig to the heart of the problem and current Affirmative Action policy barely scratches the surface. Disadvantaged minority populations are realistically less equipped to achieve educational and necessarily career success. More *Developmental Affirmative Action*[22] needs to be offered in promoting preparedness. Additionally, on a technical level, periodic reviews should be integrated into all pieces of future Affirmative Action policy. Such reviews allow for an objective assessment of the continued necessity of the Affirmative Action policy. If the policy is being effective in its purpose of ending discrimination, then there should come a logical point where the playing ground is finally even and the policy is no longer needed. We can conclude that Affirmative Action is an appropriate response and solution to discrimination in providing assistance to the targeted discriminated against populations, but it does need to change (in any of the above proposed ways) to be truly more effective.

Conclusion

In response to my Problématique (how can a multicultural society reconcile the atrocities of a historical discrimination, while avoiding the commission of a future evolved discrimination?), I believe the root of the problem must be addressed. In psychological therapy the first step towards any type of reconciliation or healing is acceptance and recognition of the issue. The same steps of recognition and exposure of the US structural discrimination against minority populations needs to be taken. Each and every citizen and policy maker accepting and realizing that this evolved discrimination is very real and present will be the correct and appropriate way to address the issue, without offending and perpetrating any further injustices against any population. But acceptance leads to accountability, and accountability directly leads to remediation.

In bringing this study of Affirmative Action back to an ongoing theme of *What it Means to be American*, and multiculturalism in the United States, what conclusions can be drawn? Firstly, there is no typical "American". "*American"* is polyvalent, complex, divergent, and evolving, yet still united (as the nation's name so boldly affirms). Being *American* is a unique identity that comes with very particular values and ideals. Being *American* is a coveted privilege that millions of immigrants have, do and will continue to strive for. *Being American* means understanding that difference and diversity is the glue that cements a

[22] "Developmental Affirmative Action" is a term offered by Loury (1999) seen in Fryer & Loury on page 19

masterpiece together. In the United States, multiculturalism is the foundation and the future of society. From segregation of schools and drinking fountains for Blacks and Whites to the first African-American president in less than 50 years we can observe, of the American society, that evolution is possible. *We may not be perfect, but every day, we progress.*

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