ABSTRACT. Affirmative action refers to positive steps taken to hire persons from groups previously and presently discriminated against. Considerable evidence indicates that this discrimination is intractable and cannot be eliminated by the enforcement of laws. Numerical goals and quotas are justified if and only if they are necessary to overcome the discriminatory effects that could not otherwise be eliminated with reasonable efficiency. Many past as well as present policies are justified in this way.

KEY WORDS: affirmative action, preferential policies, quotas, reverse discrimination

INTRODUCTION

Affirmative action policies have had their strongest appeal when discrimination that barred groups from desirable institutions persisted although forbidden by law. Policies that establish target goals, timetables, and quotas were initiated to ensure more equitable opportunities by counterbalancing apparently intractable prejudice and systemic favoritism. The policies that were initiated with such lofty ambitions are now commonly criticized on grounds that they establish quotas that unjustifiably elevate the opportunities of members of targeted groups, discriminate against equally qualified or even more qualified members of majorities, and perpetuate racial and sexual paternalism.

Affirmative action policies favoring groups have been controversial since former United States President Lyndon Johnson's 1965 executive order that required federal contractors to develop affirmative action policies.1 Everyone now agrees that individuals who have been injured by past discrimination should be made whole for the injury, but it remains controversial whether and how past discrimination against groups justifies preferential treatment for the group's current members. Critics of group preferential policies hold that compensating individuals for unfair discrim-

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ination can alone be justified, but it is controversial whether individuals can be harmed merely by virtue of a group membership.²

Most who support affirmative action and those who oppose it both seek the best means to the same end: a color-blind, sex-blind society. Their goals do not differ. Nor do they entirely disagree over the means. If a color-blind, sex-blind society can be achieved and maintained by legal guarantees of equal opportunities to all, both parties agree that social policies should be restricted to this means. Here agreement ends. Those who support affirmative action do not believe such guarantees can be fairly and efficiently achieved other than by affirmative action policies. Those who seek an end to affirmative action believe that the goals can be achieved in other ways and that affirmative action policies themselves unjustifiably discriminate. I will be supporting affirmative action policies against this counterposition.

TWO PIVOTAL CONCEPTS

Like virtually all problems in practical ethics, the meaning of a few central terms can powerfully affect one’s moral viewpoint. The terms “affirmative action” and “quotas” have proved particularly troublesome, because they have been defined in both minimal and maximal ways. The original meaning of “affirmative action” was minimalist. It referred to plans to safeguard equal opportunity, to protect against discrimination, to advertise positions openly, and to create scholarship programs to ensure recruitment from specific groups.³ Few now oppose open advertisement and the like, and if this were all that were meant by “affirmative action,” few would oppose it. However, “affirmative action” has assumed new and expanded meanings. Today it is typically associated with quotas and preferential policies that target specific groups, especially women or minority members.

I will not favor either the minimalist or the maximalist sense of “affirmative action.” I will use the term to refer to positive steps taken to hire persons from groups previously and presently discriminated against,


leaving open what will count as a “positive step” to remove discrimination. I thus adopt a broad meaning.

A number of controversies have also centered on the language of quotas.4 A “quota,” as I use the term, does not mean that fixed numbers of a group must be admitted, hired, or promoted – even to the point of including less qualified persons if they are the only available members of a targeted group. Quotas are target numbers or percentages that an employer, admissions office, recruitment committee, and the like sincerely attempt to meet. Less qualified persons are occasionally hired or promoted under a policy that incorporates quotas; but it is no part of affirmative action or the meaning of “quotas” to hire persons who lack basic qualifications. Quotas are numerically expressible goals pursued in good faith and with due diligence.

The language of “quotas” can be toned down by speaking of hopes, objectives, and guidelines; but cosmetic changes of wording only thinly obscure a policy established to recruit from groups in which the goals are made explicit by numbers. Thus, when John Sununu – presumably a strong opponent of quotas – told Secretary of Defense Richard Cheney that he “wanted 30 percent of the remaining 42 top jobs in the Defense Department to be filled by women and minorities,”5 he was using a quota. Likewise, universities sometimes use quotas when the subtleties of faculty and staff hiring and promotion and student admission make no mention of them. For example, if the chair of a department says the department should hire 2 to 3 women in the next 5 available positions, the formula constitutes a quota, or at least a numerical target.

Reasons typically offered in defense of targeted affirmative action, with or without quotas, are the following: “We have many women students who need and do not have an ample number of role models and mentors.” “The provost has offered a group of special fellowships to bring more minorities to the university.” “More diversity is much needed in this department.” “The goals and mission of this university strongly suggest a need for increased representation of women and minorities.” In pursuing these objectives, members of departments and committees commonly act in ways that suggest they willingly endorse what either is or has a strong family resemblance to a specific target.


The Prevalence of Discrimination as the Rationale for Affirmative Action

The moral problem of affirmative action is primarily whether specific targets, including quotas in the broad sense, can legitimately be used. To support affirmative action as a weapon against discrimination is not necessarily to endorse it in all institutions. Racial, sexual, and religious forms of discrimination affecting admission, hiring, and promotion have been substantially reduced in various sectors of US society, and perhaps even completely eliminated in some. The problem is that in other social sectors it is common to encounter discrimination in favor of a favored group or discrimination against disliked, distrusted, unattractive, or neglected groups. The pervasive attitudes underlying these phenomena are the most important background conditions of the debate over affirmative action, and we need to understand these pockets of discrimination in order to appreciate the attractions of affirmative action.

Statistics. Statistics constituting at least prima facie evidence of discrimination in society are readily available. These data indicate that in sizable parts of US society white males continue to receive the highest entry-level salaries when compared to all other social groups; that women with similar credentials and experience to those of men are commonly hired at lower positions or earn lower starting salaries than men and are promoted at one-half the rate of their male counterparts, with the consequence that the gap between salaries and promotion rates is still growing at an increasing rate; that 70% or more of white-collar positions are held by women, although they hold only about 10% of management positions; that three out of seven US employees occupy white-collar positions, whereas the ratio is but one of seven for African-Americans; and, finally, that a significant racial gap in unemployment statistics is a consistent pattern in the US, with the gap now greatest for college-educated, African-American males. Whether these

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statistics demonstrate invidious discrimination is controversial, but additional data drawn from empirical studies reinforce the judgment that racial and sexual discrimination are reasons for and perhaps the best explanation of these statistics.

**Housing.** For example, studies of real estate rentals, housing sales, and home mortgage lending show a disparity in rejection rates – for example, loan rejection rates between white applicants and minority applicants. Wide disparities exist even after statistics are adjusted for economic differences; minority applicants are over 50% more likely to be denied a loan than white applicants of equivalent economic status. Other studies indicate that discrimination in sales of houses is prevalent in the US. Race appears to be as important as socioeconomic status in failing to secure both houses and loans, and studies also show that the approval rate for African-Americans increases in lending institutions with an increase in the proportion of minority employees in that institution.7

**Jobs.** A similar pattern is found in employment. In 1985 the Grier Partnership and the Urban League produced independent studies that reveal

striking disparities in the employment levels of college-trained African-Americans and whites in Washington, DC, one of the best markets for African-Americans. Both studies found that college-trained African-Americans have much more difficulty than their white counterparts in securing employment. Both cite discrimination as the major underlying factor.8

In a 1991 study by the Urban Institute, employment practices in Washington, DC and Chicago were examined. Equally qualified, identically dressed white and African-American applicants for jobs were used to test for bias in the job market, as presented by newspaper-advertised positions. Whites and African-Americans were matched identically for speech patterns, age, work experience, personal characteristics, and physical build. Investigators found repeated discrimination against African-American male applicants. The higher the position, the higher the level of discrimination. The white men received job offers three times more often than the equally qualified African-Americans who interviewed for the same position. The authors of the study concluded that discrimination against African-American men is “widespread and entrenched.”9

These statistics and empirical studies help frame racial discrimination in the US. Anyone who believes that only a narrow slice of surface discrimination exists will be unlikely to agree with what I have been and will be arguing, at least if my proposals entail strong affirmative action measures. By contrast, one who believes that discrimination is securely and almost invisibly entrenched in many sectors of society will be more likely to endorse or at least tolerate resolute affirmative action policies.

Although racism and sexism are commonly envisioned as intentional forms of favoritism and exclusion, intent to discriminate is not a necessary condition of discrimination. Institutional networks can unintentionally hold back or exclude persons. Hiring by personal friendships and word of mouth are common instances, as are seniority systems. Numerical targets are important remedies for these camouflaged areas, where it is parti-

9 See Margery Austin Turner, Michael Fix, and Raymond Struyk, Opportunities Denied, Opportunities Diminished: Discrimination in Hiring (Washington, DC: The Urban Institute, 1991).
cularly difficult to shatter patterns of discrimination and reconfigure the environment. ¹⁰

The US Supreme Court has rightly upheld affirmative action programs with numerically expressed hiring formulas when intended to quash the effects of both intentional and unintentional discrimination. ¹¹ The Court has also maintained that such formulas have sometimes been structured so that they unjustifiably exceed proper limits. ¹² The particulars of the cases will determine how we are to balance different interests and considerations.

THE JUSTIFICATION OF AFFIRMATIVE ACTION

This balancing strategy is warranted. Numerical goals or quotas are justified if and only if they are necessary to overcome the discriminatory effects that could not otherwise be eliminated with reasonable efficiency. It is the intractable and often deeply hurtful character of racism and sexism that justifies aggressive policies to remove their damaging effects. The history of affirmative action in the US, though short, is an impressive history of fulfilling once-failed promises, displacing disillusion, and protecting the most vulnerable members of US society against demeaning abuse. It has delivered the US from what was little more than a caste system and a companion of apartheid.

We have learned in the process that numerical formulas are sometimes essential tools, sometimes excessive tools, and sometimes permissible but optional tools—depending on the subtleties of the case. We can expect each case to be different, and for this reason we should be cautious about general pronouncements regarding the justifiability of numerical formulas—as well as the merit of merit-based systems and blinded systems. The


better perspective is that until the facts of particular cases have been carefully assessed, we are not positioned to support or oppose any particular affirmative action policy or its abandonment.

The US Supreme Court has allowed these numerical formulas in plans that are intended to combat a manifest imbalance in traditionally segregated job categories (even if the particular workers drawn from minorities were not victims of past discrimination). In *Local 28 v. Equal Employment Opportunity Commission*, a minority hiring goal of 29.23 percent had been established. The Court held that such specific numbers are justified when dealing with persistent or egregious discrimination. The Court found that the history of Local 28 was one of complete “foot-dragging resistance” to the idea of hiring without discrimination in their apprenticeship training programs from minority groups. The Court argued that “affirmative race-conscious relief” may be the only reasonable means to the end of assuring equality of employment opportunities and to eliminate deeply ingrained discriminatory practices.  

In a 1989 opinion, by contrast, the US Supreme Court held in *City of Richmond v. J. A. Croson* that Richmond, Virginia, officials could not require contractors to set aside 30 percent of their budget for subcontractors who owned “minority business enterprises.” This particular plan was not written to remedy the effects of prior or present discrimination. The Court found that this way of fixing a percentage based on race, in the absence of evidence of identified discrimination, denied citizens an equal opportunity to compete for subcontracts. Parts of the reasoning in this case were reaffirmed in the 1995 case of *Adarand Constructors Inc. v. Pena*.

Some writers have interpreted *Croson, Adarand*, and the 1997 decision of a three-judge panel of the 9th US Circuit Court of Appeals to the effect that California’s voter-approved ban on affirmative action (Proposition 209) is constitutional as the dismantling of affirmative action plans that use numerical goals. Perhaps this prediction will turn out to be correct, but the US Supreme Court has consistently adhered to a balancing strategy that

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13 In 1964 the New York Commission for Human Rights investigated the union and concluded that it excluded nonwhites through an impenetrable barrier of hiring by discriminatory selection. The state Supreme Court concurred and issued a “cease and desist” order. The union ignored it. Eventually, in a 1975 trial, the US District Court found a record “replete with instances of bad faith” and ordered a “remedial racial goal of 29% nonwhite membership” (based on the percentage of nonwhites in the local labor pool). Another court then found that the union had “consistently and egregiously violated” the law of the land (Title 7, in particular.) In 1982 and 1983 court fines and civil contempt proceedings were issued. In the early 1980s virtually nothing had been done to modify the discriminatory hiring practices after 22 years of struggle.
I believe captures the fitting way to frame issues of affirmative action.\textsuperscript{14} It allows us to use race and sex as relevant bases of policies if and only if it is essential to do so in order to achieve a larger and justified social purpose.

These reasons for using race and sex in policies are far distant from the role of these properties in invidious discrimination. Racial discrimination and sexual discrimination typically spring from feelings of superiority and a sense that other groups deserve lower social status. Affirmative action entails no such attitude or intent. Its purpose is to restore to persons a status they have been unjustifiably denied, to help them escape stigmatization, and to foster relationships of interconnectedness in society.\textsuperscript{15}

Affirmative action in pockets of the most vicious and visceral racism will likely be needed for another generation in the US, after which the US should have reached its goals of fair opportunity and equal consideration. Once these goals are achieved, affirmative action will no longer be justified and should be abandoned in the US. The goal to be reached at that point is not proportional representation, which has occasionally been used as a basis for fixing target numbers in affirmative action policies, but as such is merely a means to the end of discrimination, not an end to be pursued for its own sake. The goal is simply fair opportunity and equal consideration.

\section*{Voluntary Affirmative Action Plans}

Many affirmative action policies are voluntary plans, and these plans have often been more successful than government mandated policies.\textsuperscript{16} Numerous US institutions have learned that discrimination causes the institution to lose opportunities to make contact with the full range of qualified persons who might be contacted. Their competitive position is thereby weakened, just as a state university would be weakened if it hired faculty entirely from its own state. These institutions have found that promoting diversity in the workforce is correlated with high quality employees, reduc-

\begin{thebibliography}{16}
\bibitem{StewartDrakich1995} For an interesting example in academia, Janice Stewart and Janice Drakich, "Factors related to Organizational Change and Equity for Women Faculty in Ontario Universities," \textit{Canadian Public Policy} 21 (1995), pp. 429–448.
\end{thebibliography}
tions in the costs of discrimination claims, a lowering of absenteeism, less turnover, and increased customer satisfaction.17

If we were now to abolish these established forms of affirmative-action hiring, we would open old wounds in many institutions that have been developing plans through consent-decree processes with courts as well as direct negotiations with minority groups and unions. Many corporations report that they have invested heavily in eliminating managerial biases and stereotypes while training managers to hire appropriately. They are concerned that without the pressure of an affirmative action plan, which they draft internally, managers will fail to recognize their own biases and stereotypes.18

**TOLERATING REVERSE DISCRIMINATION**

It has often been said that reverse discrimination is caused by affirmative action policies and that this discrimination is no better than the racial or sexual discrimination that affirmative actions allegedly frustrates.19 Some instances of such discriminatory exclusion do occur, of course, and compensation or rectification for an injured party is sometimes the appropriate response. However, some of these setbacks to the interests of those excluded by a policy may be no more objectionable than various burdens produced by social policies that advantage some members of society and disadvantage others. Inheritance laws, for example, favor certain members of society over others, whereas policies of eminent domain disadvantage persons who wish to retain what is legitimately their property in order


to advance the public good. Such laws and outcomes are warranted by a larger public benefit and by justice-based considerations that conflict with the interests of the disadvantaged parties. The point is that disadvantages to majorities produced by affirmative action may be warranted by the promotion of social ideals of equal treatment for groups that were severely mistreated in the past.

In assessing the disadvantages that might be caused to members of majorities (primarily white males), we should remember that there are disadvantages to other parties that operate in the current system, many of which will not be affected by affirmative action or by its absence. For example, just as young white males may now be paying a penalty for wrongs committed by older white males (who will likely never be penalized), so the older members of minority groups and older women who have been most disadvantaged in the past are the least likely to gain an advantage from affirmative action policies. Paradoxically, the younger minority members and women who have suffered least from discrimina-
tion now stand to gain the most from affirmative action. Despite these unfairnesses, there is no clear way to remedy them.

Policies of affirmative action may have many other shortcomings as well. For example, they confer economic advantages upon some who do not deserve them and generate court battles, jockeying for favored position by a multiple array of minorities, a lowering of admission and work standards in some institutions, heightened racial hostility, and continued suspicion that well-placed women and minority group members received their positions purely on the basis of quotas, thereby damaging their self-respect and the respect of their colleagues. Affirmative action is not a perfect social tool, but it is the best tool yet created as a way of preventing a recurrence of the far worse imperfections of our past policies of segregation and exclusion.

Judging the Past and the Present

Looking back at this deplorable history and at the unprecedented development of affirmative action policies over the past thirty years in the US, what moral judgments can we reach about persons who either initiated these policies or those who failed to initiate such programs? Can we say that anyone has engaged in moral wrongdoing in implementing these policies, or exhibited moral failure in not implementing them? Addressing these questions should help us better judge the present in light of the past.

I will examine these questions through the classic AT&T affirmative action agreement in the 1970s. The salient facts of this case are as follows:
The US Equal Employment Opportunity Commission (EEOC) had investigated AT&T in the 1960s on grounds of alleged discriminatory practices in hiring and promotion. In 1970 the EEOC stated that the firm engaged in "pervasive, system-wide, and blatantly unlawful discrimination in employment against women, African-Americans, Spanish-surnamed Americans, and other minorities."20 The EEOC argued that the employment practices of AT&T violated several civil rights laws and had excluded women from all job classifications except low paying clerical and operator positions.

AT&T denied all charges and produced a massive array of statistics about women and minorities in the workforce. However, these statistics tended to undermine the corporation’s own case. They showed that half the company’s 700,000 employees were female, but that the women were all either secretaries or operators. It became apparent that the company categorized virtually all of its jobs in terms of men’s work and women’s work. The federal government was determined to obliterate this aspect of corporate culture in the belief that no other strategy would break the grip of this form of sexism. Eventually AT&T threw in the towel and entered a Consent Decree, which was accepted by a Philadelphia court in 1973. This agreement resulted in payments of $15 million in back wages to 13,000 women and 2,000 minority-group men and $23 million in raises to 36,000 employees who had been harmed by previous policies.

Out of this settlement came a companywide “model affirmative action plan” that radically changed the character of AT&T hiring and its promotion practices. The company agreed to create an “employee profile” in its job classifications to be achieved faster than would normally occur. It established racial and gender goals and intermediate targets in 15 job categories to be met in quarterly increments. The goals were determined by statistics regarding representative numbers of workers in the relevant labor market. The decree required that under conditions of a target failure, a less qualified (but qualified) person could take precedence over a more qualified person with greater seniority. This condition applied only to promotions, not to layoffs and rehiring, where seniority continued to prevail.

As was inevitable under this arrangement, reverse discrimination cases emerged. The well known McAleer case came before Judge Gerhard A. Gesell, who held in 1976 that McAleer was a faultless employee who became an innocent victim through an unfortunate but justifiable use of the

affirmative action process. Judge Gesell ruled that McAleer was entitled to monetary compensation (as damages), but not entitled to the promotion to which he thought he was entitled because the discrimination the Consent Decree had been designed to eliminate might be perpetuated if a qualified woman were not given the promotion.

This AT&T case history, like many affirmative action cases, is a story of changed expectations and changing moral viewpoints. At the core of any framework for the evaluation of such cases is a distinction between wrongdoing and culpability, which derives from the need to evaluate the moral quality of actions by contrast to agents. For example, we might want to say that AT&T's hiring practices were wrong and that many employees were wronged by them, without judging anyone culpable for the wrongs done.

Virtually everyone is now agreed, including AT&T officials, that AT&T's hiring and promotion practices did involve unjustified discrimination and serious wrongdoing. Even basic moral principles were violated – for example, that one ought to treat persons with equal consideration and respect, that racial and sexual discrimination are impermissible, and the like. Less clear is whether the agents involved should be blamed. Several factors place limits on our ability to make judgments about the blameworthiness of agents – or at least the fairness of doing so. These factors include culturally induced moral ignorance, a changing circumstance in the specification of moral principles, and indeterminacy in an organization's division of labor and designation of responsibility. All were present to some degree in the AT&T case.

Judgments of exculpation depend, at least to some extent, on whether proper moral standards were acknowledged in the culture in which the events transpired – for example, in the professional ethics of the period. If we had possessed clear standards regarding the justice of hiring and promotion in the 1950s and 1960s, it would be easier to find AT&T officials culpable. The absence of such standards is a factor in our reflections about culpability and exculpation, but need not be part of our reflection on the wrongdoing that occurred.

The fact of culturally induced moral ignorance does not by itself entail exculpation or a lack of accountability for states of ignorance. The issue


22 According to a representative of the legal staff in AT&T's Washington, Office (phone conversation on March 10, 1982).
is the degree to which persons are accountable for holding and even perpetuating or disseminating the beliefs that they hold when an opportunity to remedy or modify the beliefs exists. If such opportunities are unavailable, a person may have a valid excuse; but the greater the opportunity to eliminate ignorance the less is exculpation appropriate. Persons who permit their culturally induced moral ignorance to persist through a series of opportunities to correct the beliefs thereby increase their culpability.

The more persons are obstinate in not facing issues, and the more they fail to perceive the plight of other persons who may be negatively affected by their failure to act, the more likely are we to find their actions or inactions inexcusable. No doubt culturally induced moral ignorance was a mitigating factor in the 1960s and early 1970s, but I believe US history also shows that it was mixed with a resolute failure to face moral problems when it was widely appreciated that they were serious problems and were being faced by other institutions.

The central issue for my purposes is not whether discriminatory attitudes should be judged harshly in the pre-affirmative action situation at AT&T, but whether the affirmative action policy that was adopted itself involved wrongdoing or constituted, then or now, an activity for which we would blame persons who establish such policies. I do not see how agents could be blamed for maintaining and enforcing this program, despite its toughness. Given AT&T's history as well as the desperate situation of discrimination in US society, under what conditions could agents be culpable even if McAleer-type cases of reverse discrimination occasionally resulted? Even if we assume that McAleer and others were wronged in the implementation of the policy, it does not follow that the agents were culpable for their support of the policy.

Today, many corporate programs similar to the AT&T policy are in place. We can and should ask both whether persons are wronged by these policies and whether those who use the policies are culpable. The answer seems to me the same in the 1990s as it was in the 1970s: As long as there is persistent, intractable discrimination in society, the policies will be justified and the agents nonculpable, even if some persons are harmed and even wronged by the policies. To say that we should right wrongs done by the policies is not to say that we should abandon the policies themselves.

Indeed, I defend a stronger view: Affirmative action was a noble struggle against a crippling social ill in the 1960s and 1970s, and those who took part in the struggle deserve acknowledgment for their courage and foresight. Those who failed to seize the opportunity to enact affirmative action policies or some functional equivalent such as company-wide
enforcement of equal opportunity are culpable for what, in many cases, were truly serious moral failures.

There is no reason to believe that, in this respect, the situation is changed today from the 1970s. Today persons in corporations, universities, and government agencies who are aware or should be aware that a high level of racism or sexism exists are culpable if they fail to move to counteract its invidious effects by affirmative policies or similarly serious interventions such as meaningful enforcement of fair opportunity. To say that we should judge the officers of these institutions culpable for their moral failures is not to say that there are no mitigating conditions for their failures, such as the mixed messages they have received over the past fifteen years from federal officials and the general cultural climate of moral indifference to the problem. At the same time, the mitigating conditions are weaker today than in the 1970s because the excuse of culturally induced moral ignorance is weaker. In general, there are now fewer excuses available for not taking an aggressive posture to combat discrimination than ever before.

All of this is not to say that we are never culpable for the way we formulate or implement affirmative action policies. One aspect of these policies for which we likely will be harshly judged in the future is a failure of truthfulness in publicly disclosing and advertising the commitments of the policies – for example, in advertising for new positions. Once it has been determined that a woman or a minority group member will most likely be hired, institutions now typically place advertisements that include lines such as the following:

Women and minority-group candidates are especially encouraged to apply. The University of X is an equal opportunity, affirmative action employer.

Advertisements and public statements rarely contain more information about an institution’s affirmative action objectives, although often more information might be disclosed that would be of material relevance to applicants. The following are examples of facts or objectives that might be disclosed: A department may have reserved its position for a woman or minority; the chances may be overwhelming that only a minority group member will be hired; the interview team may have decided in advance that only women will be interviewed; the advertised position may be the result of a university policy that offers an explicit incentive (perhaps a new position) to a department if a minority representative is appointed, etc. Incompleteness in disclosure and advertising sometimes stems from fear

of legal liability, but more often from fear of departmental embarrassment and harm either to reputation or to future recruiting efforts.

The greater moral embarrassment, however, is our ambivalence and weak conceptions of what we are doing. Many, including academics, fear making public what they believe to be morally commendable in their recruiting efforts. There is something deeply unsatisfactory about a reluctance to disclose one's real position. This situation is striking, because the justification for the position is presumably that it is a morally praiseworthy endeavor. Here we have a circumstance in which the actions taken may not be wrong, but the agents are culpable for a failure to clearly articulate the basis of their actions and to allow those bases to be openly debated so that their true merits can be assessed by all affected parties.

CONCLUSION

During the course of the last thirty years, the widespread acceptance of racial segregation and sexual dominance in the US has surrendered to a more polite culture that accepts racial integration and sexual equality. This discernible change of attitude and institutional policy has led to an imposing public opposition to preferential treatment on the basis of race and sex in general. In this climate what should happen to affirmative action?

As long as our choices are formulated in terms of the false dilemma of either special preference for groups or individual merit, affirmative action is virtually certain to be overthrown. US citizens are now wary and weary of all forms of group preference, other than the liberty to choose one's preferred groups. I would be pleased to witness the defeat of affirmative action were the choice the simple one of group preference or individual merit. But it is not. Despite the vast changes of attitude in thirty years of US culture, the underlying realities are naggingly familiar. Perhaps in another thirty years we can rid ourselves of the perils of affirmative action. But at present the public good and our sense of ourselves as a nation will be well served by retaining what would in other circumstances be odious policies. They merit preservation as long as we can say that, on balance, they serve us better than they disserve us.

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