

Equitable But Not Equal: An Academic Reading on Affirmative Action

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Abstract

As the twentieth century begins, a legitimate question emerges as to whether or not Affirmative Action and its application are still effective and compulsory. The historical background, legal ground and current social changes introduce many challenges to the half-a-century-old policy. A reading from an academic perspective presents a trial to understand the past, the present and the future for this act. Using the Archeology Method framework, this paper presents a re-viewing of artifacts on whether to retain or abandon Affirmative Action. From history, no single perspective works in isolation; what is necessary is a holistic approach. This holistic method seeks an equitable, albeit not always equal, approach to the current diverse population mosaic in order to produce a more balanced result.

Key words: Education, Affirmative Action, Policy Making, Race

International Journal Of Core Engineering & Management (IJCEM)
Volume 1, Issue 10, January 2015

Introduction

“We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today.” Justice Sandra Day O’Connor cited from 2003 Supreme Court Case Grutter vs Bollinger, which decided that race could be a deciding factor in school admissions policy.

Affirmative action is defined as a positive step to enhance the diversity of a given group, intended to remedy the cumulative effect of either subtle or gross expressions of prejudice. When numerical quotas are set, they are set by the group's representation in an applicant pool, rather than the group's representation in the general population. Governments, businesses, or educational institutions have undertaken Affirmative Action to combat the effects of past minority discrimination.

Before the mid-1960s, legal barriers prevented racial minorities in the United States from entering jobs or educational institutions. Although women were rarely legally barred from jobs or education, many universities would block their admittance or hiring. The term, *affirmative action* has its genesis from a 1961 executive order, signed by President John Kennedy amidst the unrest of the Civil Rights movement. Affirmative Action was initially established to encourage federally funded contractors to racially integrate their workforces, hiring without concern for race, creed, color or national origin.

This discussion traces the elements of Affirmative Action from past to present towards a new approach for the act, using an analytical framework called the Archeology Method (Foucault, 1972). This qualitative method reviews past discourse and events, evaluating artifacts in order to assimilate different historical processes and draw conclusions for what is happening in the present.

Retain or Abandon Affirmative Action?

For both the “*retain*” and “*abandon*” camps, academic studies produce reasonable conclusions. Affirmative Action has had remarkable achievements as a policy of higher education admission, with effectiveness in hiring minorities. The challenge is that even with the best results from both approaches, Affirmative Action still is not equal for all (Figure 1). In fact, some of the same studies that would advocate retaining Affirmative Action also show reasons to abandon the practice.

One inner-city police force study showed that an Affirmative Action policy helped successfully integrate women and people of color into police ranks (Allen, 2003). However this study also purported that in this context, African American men benefitted the least from Affirmative Action. “As a result, police organizations are still struggling to find the right balance of racial, gender and ethnic diversity” (p. 411.)

**International Journal Of Core Engineering & Management (IJCEM)
Volume 1, Issue 10, January 2015**

In 2006 Kalev, Kelly & Dobbin evaluated different measures of diversity programs in organizations. They suggest that efforts to change *individuals' beliefs* do not produce long-term change. To which, “academic departments [may] have abandoned the old-boy system of hiring in favor of open job advertisement, but department chairs still ask their pals for leads” (p. 592). Kalev et al express that many managers and employees are over worked, and in effect, ignore diversity policies and training efforts. These employees may disengage (called *decoupling*) from adopting new diversity missions or goals. Unless policies are reinforced, people will stick to something familiar, rather than adopt the new. To adhere to diversity goals, organizations must assign them as a *structured responsibility*. “Thus targeting individual bias...[is] less effective than remedies that establish responsible parties” (p. 591).

Jayne and Dipboye (2004) indicate that successful diversity programs are “based on specific goals with feedback provided on how well the programs achieve these goals” (p.414) Organizations that reinforce specific performance goals for diverse teams, in given contexts, encourage energized and effective strategies. Non-performance goals could even be developed, such as, “improved relations with minority communities, mentoring...and a variety of other outcomes” (pps. 413- 414.)

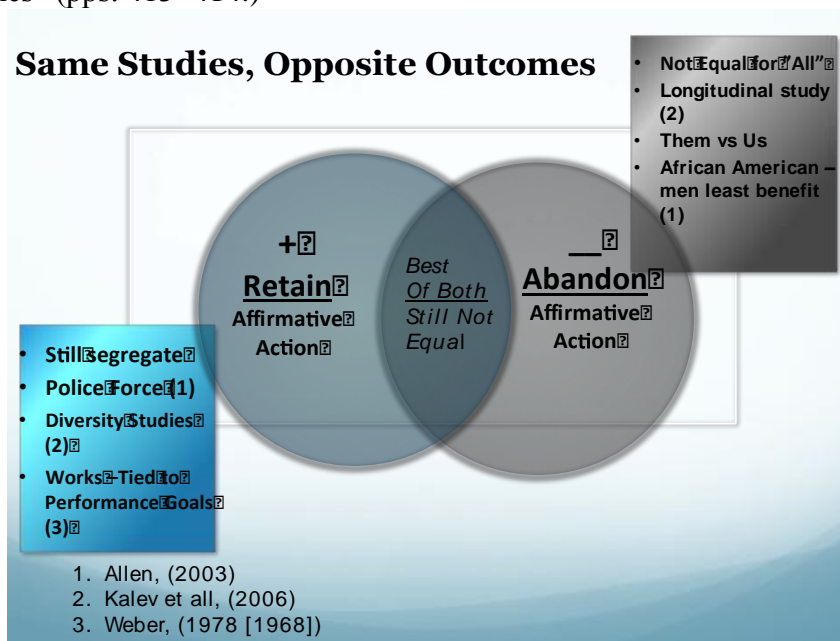


Figure 1

As notes, some studies show definite positive outcomes from Affirmative Action policies. According to a 2000 report from the National Women’s Law center, in a ten-year period after IBM embraced an Affirmative Action program, its female leaders and managers tripled in

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size (nwlc.org). However, again, Kalev et al(2004)reviewed a previous study by Baron et al (1991), where annual data “from 89 California state agencies between 1975 and 1981...found that, all else being equal, agencies with affirmative action programs made significantly slower progress in gender desegregation of jobs. Yet those agencies were more integrated originally, so it may be that pre-existing affirmative action programs had left little room for improvement” (Kalev et al p. 592)

Additionally, some research on work-team diversity has shown that peoples in multi-cultural work groups tend to focus on difference factors first, creating *Them versus Us* negative perceptions. And some studies have shown an increase in bias, rather than a decrease. One report on the effects of a diverse team on task delivery showed that *non-identification* between diverse members resulted in reduced willingness to participate and perform with the team (van Knippenberg, De Dreu & Homan, 2004).

In reality, no single solution holds the answer to fair and equitable treatment. Affirmative Action effectiveness could be achieved by employing multiple strategies, with an eye toward finding an *equitable* approach, even though equitable doesn't necessarily mean *equal*.

Compartmentalization of Contexts

The artifacts of the past indicate that compartmentalizing issues or crusading a singular cause may be at the heart of the problem for achieving equitable outcomes.

Consider first a policy in light of future population shifts. The National Center for Education Statistics (nces.org, September, 2011) recently reported US population shifts and predictions between 1980 and 2025. Their predictions showed the White population changing from 80% in 1980 to 58% of the population in 2020; the Hispanic population growing from 6.4 to 21%; the African American population showing flat growth with 11.5 in 1980 and 12% in 2020; while the Asian sector of the population predicted to grow from <2% to 6%. These statistics also importantly project that as of 2045 the White sector of the population in the US will be under 50% (Figure 2.) These shifts reinforce that a white-centric workforce or college admission emphasis soon will not reflect the predominant population at large.

Gandara in a 2012 study evaluated the effects of the loss of affirmative action on UC campuses, especially UC Berkeley and UCLA. She reported that starting in 1995, UC trends showed 37 percent of the California high school graduates were Latino or African American; yet only 20 percent of these populations were represented in the entering UC freshmen. “Although the [elimination of Affirmative Action] policy had not yet been implemented, the effects were almost immediate” (p. 4) where incoming candidates from these groups already held the perception that they were not welcome.

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Gandara’s report at UC Berkeley showed the policy (which went into effect in 1997 and 1998) resulted in declining African American enrollments by 52%; Latino enrollment declined by 42%. At UCLA the African American enrollment declined by 32% and Latino enrollment declined by 54%. Gandara concedes, “there has been a modest recovery since that time” (p. 3), however neither institution has regained its diversity profile of pre-1995. The UC system now uses a top percentage approach for admitting high school high-achieving students.

In the last 15 years, either court or states’ initiatives have taken the approach to ban Affirmative Action altogether in college admissions or public hiring. Hinrich’s 2010 study reported that the typical ballot initiative has been worded such that, “The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting” (p. 1.)

In Texas, there has been a successful holistic program instituted for Affirmative Action. The Texas Talented Top 20 initiative (enacted under Jeb Bush in 1997) has been considered a model program. The state uses 18 academic and socioeconomic criteria to give students the support the need to be college focused; additionally the program gives colleges admissions flexibility, resulting in a more fair application of the policy platforms. In fact, in a 2013 case in Texas, the Supreme Courts said that universities **should** use race in admissions but only after exhausting all the other non-race alternatives.

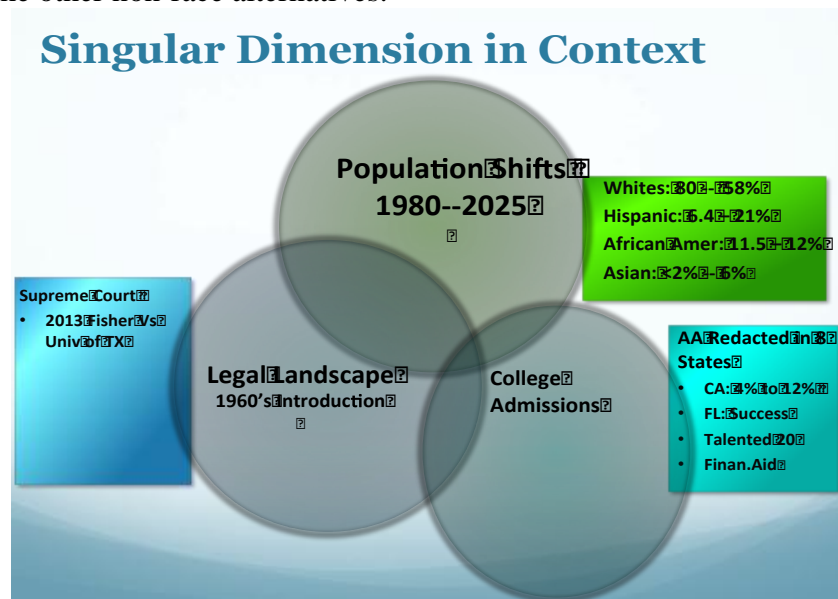


Figure 2

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Many studies indicate that screening college applicants on economic standards would level the playing field for disadvantaged students. In a 2013 report, Kahlenberg, citing Carnevale, Rose, and Strohl, (2013), described how SAT scores, known to be discriminatory, are being considered as *optional* admission criteria, substituted by grade point average, which is considered a better overall predictor for performance. Even college recruiting that casts a wider, (versus targeted) net is cited as producing more equitable results. By actively searching a large range of zip codes, institutions can diversify the students admitted. It is also commonly believed that the students themselves are the reason they are excluded. Called “under matching,” lower-income or under-represented students don’t apply to colleges, either unaware of the financial aid available or because they lack the confidence to believe they will be admitted (Kahlenberg, 2013).

In fact, combining several socioeconomic-based college acceptance approaches, looking at grades, income and need, with a top percentage selection, would double the college populations of both African American and Hispanic students admitted (apps.org, 2013.)

From its beginnings in the 1960s in the United States, Affirmative Action has been highly controversial. Affirmative Action policies, which give preferential treatment to people based on their membership in a group, are charged with violating the principle that all individuals are equal under the law. Critics argue that it is unfair to discriminate against members of one group today to compensate for discrimination against other groups in the past. They regard Affirmative Action as a form of reverse discrimination that unfairly prevents whites and/or men from being hired and promoted.

While the purpose of Affirmative Action is to foster in-roads for minorities to compete as effective and productive contributors, the law now is considered to elevate one segment of society at the expense of other. The Affirmative Action equal opportunity and anti-discrimination foundations now bring legal arguments from different interpretation of laws, which defeat sits noble origins.

Holistic vs. Compartmentalized

Eliminating Affirmative Action or its enforcement approaches has tactical value only; what is needed is more of a strategic and systemic consideration. Only thoughtful employment and admissions programs, which weigh goals of fair and equal treatment, alongside merit and purpose in a given context, can overcome objections to either system-wide banning or Affirmative Action enforcement.

Advocates of Affirmative Action respond that discrimination is, by definition, unfair treatment of people because they belong to a certain group. Therefore, effective remedies must systematically aid groups that have suffered from discrimination.

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Tyson (2003) studied the use and application of Affirmative Action based on financial ability only. His research showed that higher-income households support greater success. Parents with university degrees may earn more, set higher educational goals, and give more time to their children's schooling than parents who have a high-school education. Kahlenberg's 2013 review of research supports the fact that offspring of high-income parents will attend better schools and receive better preparation for college (Kahlenberg, 2013). This review on the multi dimensions of Affirmative Action shows how socioeconomic status and selective-college admissions reinforces the link between family background and admission into institutions of higher education.

Many argue that in a competitive global environment, enrollment and hiring policies must be grounded in finding the best and most capable candidates. Because business enterprises and educational systems must support the brightest and most able, Affirmative Action isn't economically feasible anymore. Although hiring programs and admissions policies must accept that diversity is now a business reality, these entities must first evaluate why the emerging global landscape would benefit from embedded aspects of Affirmative Action in academic and business strategy. The best institutions celebrate a multi-ethnic mosaic and foster programs to extend opportunities for all. No single country or culture holds all the best people or practices in a global economy. And many emerging economies are rapidly becoming more technically trained and agile at capturing innovation and business success. The US needs many faces and cultures in its educational institutions and organizations to globally compete in the long term.

Multi-Dimensional Solutions

Affirmative Action was a timed executive order to boost opportunities for oppressed minorities. As such, it enabled disadvantaged people a secured admission to higher education and employment at workplaces. So what is missing?

Educational systems and global organizations must create holistic approaches to admission and hiring policies (Figure 3). We as a society must understand that a holistic approach would result in equitable, albeit no always equal, system to ensure under represented populations have a fair opportunity to work or attend college. If University regents and organizational executives value human's capacity they will integrate and foster diversity with, context- and goal-driven strategy. This strategy must be part of routine business and admissions policy. Organizational diversity needs to be tied to accountability—only when someone's bonus or paycheck is tied to diversity does it work. Universities and organizations must embrace the many dimensions of Affirmative Action intentionally, so that all the artifacts build an integrated approach. Then Affirmative Action will be modeling a practice that understands societal effects. Then will it be a policy that celebrates and benefits the current cultural mosaic that demonstrates what the US is known for and what the US has historically celebrated.

AA: Multi-Dimensional Solution



Figure 3

As the US population shifts to a non-White majority, qualification becomes only one factor for consideration to promote a diverse industrial or educational environment. Because traditional methods, such as the SAT favor a declining population, institutions must evaluate equitable treatment, eliminating the obsolete, in order to benefit any and all populations. The factors of race, income, and grades should be part of the overall portfolio evaluated for college admissions. But Universities and colleges have to be intentional to target and seek students in a variety of contexts, actively marketing and recruiting those students who don't believe they have a place at the table. Affirmative Action policies importantly focused on both education *and* workplace contexts; if a student isn't extended an education opportunity they are much less likely to find enhanced opportunities at work.

Instead, the overall need in education and in workplace hiring should not be to reinstate Affirmative Action through law or executive order, but to commit to valuing human diversity. If college systems and organizations first establish *why* it is important to value humans to create a diverse culture, then fair practices and strategic actions would follow. The White majority must carry its responsibility to move forward what it takes to include all members of society to become a productive nation. This is especially important now, as in the near future, Whites will need the same opportunity they extend to other underrepresented, non-majority populations today.

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References

- Affirmative Action and What it Means for Women, (July, 01, 2000), *National Women's Law Center*, retrieved from: <http://www.nwlc.org/resource/affirmative-action-and-what-it-means-women>
- Allen, R. (2003). Examining the implementation of affirmative action in law enforcement. *Public Personnel Management*, Vol. 32 Issue 3, p411, 8p; (AN 10980418)
- Barclay, D. (2004). Equal opportunity: our continuing challenge. *US Black Engineer & Information Technology*, Vol. 27 Issue 4, p7, 1p; (AN 12277548)
- Crosby, F. J., Iyer, A., Clayton, S. & Downing, R. A. (2003). Affirmative action: psychological data and the policy debates. *American Psychologist*, 58, 93-115.
- Foucault, M. (1972). *The archeology of knowledge*, trans. Alan Sheridan. New York: Harper & Row.
- Gandara, P. (2012). California: A Case Study in the Loss of Affirmative Action. Taken from: <https://escholarship.org/uc/item/6ps209pt#page-2>
- Greenberg, J. (2003). Diversity, the university, and the world outside. *Columbia Law Review*, Vol. 103 Issue 6, p1610, 12p; (AN 11277087)
- Hinrichs, P. (2012). The effects of affirmative action bans on college enrollment, educational attainment, and the demographic composition of universities. *Review of Economics and Statistics*, 94(3), 712-722. Taken from: http://faculty.georgetown.edu/plh24/hinrichs_aff_action.pdf
- Jayne, M. E., & Dipboye, R. L. (2004). Leveraging diversity to improve business performance: Research findings and recommendations for organizations. *Human resource management*, 43(4), 409-424.
Taken from: http://onlinelibrary.wiley.com/store/10.1002/hrm.20033/asset/20033_ftp.pdf?v=1&t=hwo2r6sp&s=ec63972c7a7200ef51344aac49f5ef2808692faf
- Kalev, A., Kelly, E., & Dobbin, F. (2006, August). Best practices or best guesses? Assessing the efficacy of corporate affirmative action and diversity policies, *American Sociological Review*, 71,4; 589-617.

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Kahlenberg, R. D., (2013), *The Future of Affirmative Action, new paths to higher education diversity after Fisher v. University of Texas*, The Century Foundation, retrieved from: <http://apps.tcf.org/future-of-affirmative-action>

September 2011, *Projections of Education Statistics to 2020*, Institute of Educational Sciences, Retrieved from <http://nces.ed.gov/programs/projections/projections2020/>

Pursley, B. (2003). Thinking diversity, rethinking race: toward a transformative concept of diversity in higher education. *Texas Law Review*, Vol. 82 Issue 1, p153, 47p; (AN 11690572)

Sackett, P. R., Schmitt, N., Ellingson, J. E. & Kabin, M. B. (2001). High-stakes testing in employment, credentialing, and higher education: Prospects in a post-affirmative-action world. *American Psychologist*, 56, 302-318.

Schramm, J. (2003). Acting affirmatively. *HR Magazine*, Vol. 48 Issue 9, p192, 1p; (AN 10784201)

Shea, H. (2003). *Racing to end preferences*. U.S. News & World Report, Vol. 135 Issue 2, p14, 1/2p, 1c; (AN 10238908)

Tyson, L. (2003). *Needed: affirmative action for the poor*. Business Week, Issue 3840, p24, 1p, 1c; (AN 10125954)

Van Knippenberg, D., De Dreu, C.K.W., and Homan, A. C. (2004) *Work group diversity and group performance: An integrative model and research agenda*, Journal of Applied Psychology, Vol. 89, No. 6, 1008–1022

Wade, Marcia A. (2003). *Race-conscious agenda*. Black Enterprise, Vol. 34 Issue 4, p30, 1p, 1c; (AN 11109403)

Zuriff, G. E. (2004). *Is affirmative action fair?* American Psychologist, Vol. 59 Issue 2, p124, 2p; DOI: 10.1037/0003-006X.59.2.124; (AN 12464226)