

Is Affirmative Action Beneficial in Protecting Educational Rights of Minority Students?

Author: Hyeonbin Cho

Affiliation: 'Iolani School

E-mail: dc2201@iolani.org

ABSTRACT

Affirmative action in the United States has been an ongoing societal controversy due to its decisive role in college admissions and job employment. Historical correlation between the recent 2019 Harvard Admission Case and the landmark UC v. Bakke decision proved that affirmative action and quota system have historically played a negative role for the educational majority, including the white and Asian Americans. In this article, I conducted literature review on American foundational documents, as well as historical remarks and recent Supreme Court cases on the issue of racial inequality and reverse-discrimination, to analyze the effects of affirmative action to educational minorities and the impact it has on the future success of the historical minorities.

Keywords: Affirmative action, minority rights, racial inequality, reverse-discrimination, Supreme Court cases, gender inequality, history of the United States

1. INTRODUCTION

Affirmative action refers to a set of practices within a government or organization seeking to increase the representation of particular groups based on

their gender, race, sexuality, creed, or nationality in areas in which they were excluded in the past, such as education and employment. Even until the 20th century, institutional racism had been prevalent in American society. Minority group students were discriminated against in their admission to colleges and universities and later on during employment. The history of affirmative action dates back to the era of the Civil Rights Movement in the 1960s. In 1961, President John F. Kennedy's Executive Order 10925 used affirmative action for the first time by instructing federal contractors to take "affirmative action to ensure that applicants are treated equally without regard to race, color, religion, sex, or national origin." Aftermath of JFK's assassination, Lyndon B. Johnson took on the task of accomplishing racial justice. In 1964, the renowned Civil Rights Act of 1964 was signed into law, prohibiting employment discrimination by large employers, over 15 employees, whether or not they have government contracts. A few years later, President Johnson ordered the inclusion of affirmative action for women [1]. Affirmative action also has a long history of Supreme Court disputes, including U.C v. Bakke, Johnson v. Transportation Agency, and Adarand Constructors, Inc. v. Peña.

2. BACKGROUND OF AFFIRMATIVE ACTION IN THE UNITED STATES

Although it may lead to phenomena such as reverse discrimination, affirmative action guarantees the rights of previously discriminated groups of students to have the opportunity for equal education and employment. There are two main arguments for affirmative action; first, promoting diversity leads to meritocratic expansion. Second, providing minorities with the right to higher education helps bridge the socioeconomic gap between races and gender.

By its definition, affirmative action provides racial minorities more opportunities to be admitted to prestigious colleges and be successful later in life. By enabling colleges and universities to consider race as a factor in admission, more students from the minority group constitute the university's overall student body. According to the 2000 study from the American Association of University Professors (AAUP), affirmative action promotes diversity within colleges and universities. This has been shown to have positive effects on the educational outcomes and experiences of college students as well as the teaching of faculty members [2]. Diversity is one of the most important aspects of a college experience, and by promoting diversity in the student body, affirmative action acts positively to create the optimal learning environment for every student.

Despite several efforts to bring equality for all, white males still dominate the best universities, boards of the largest companies, the legal profession, the media, and politics. People's perceptions regarding race and social justice changed throughout history, but the status quo still

favors certain groups of people. Due to this, without affirmative action policy instilled in colleges worldwide, admissions committees would favor the white majority of students over minority students [2]. The inequality that minorities face in their everyday lives stems from the structural barriers that were erected against them, such as not being able to vote, work in many professions, or enter prestigious universities. The philosophy of affirmative action helps restore racial equality and justice that have not been achieved for several centuries.

Morally, affirmative action guarantees the promises of the Founding Fathers to all Americans in the Declaration of Independence: "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." This monumental document suggests that every man and woman have the God-given right to be treated equally in their opportunities, including their right to be adequately educated and have a successful life if they wish. Founding Fathers intended that all Americans have the equal opportunities this land and the American dream had to offer, but the chains of slavery deprived the African Americans of certain unalienable rights, including the right to vote, receive higher education, and work for their own livings [3]. The most urgent reform was the right to higher education, as the decades of Jim Crow laws and 1896 Supreme Court case *Plessy v. Ferguson* reaffirmed the policy of "separate but equal" education, which in turn resulted in an ineliminable difference in the quality of education that white and black students received. Undoubtedly, minority students received more inferior education and grew up in a more antiquated environment, and affirmative action

policy remedies the past and allows disadvantaged minorities to enjoy the rights to life and pursuit of happiness.

Not only is affirmative action morally right, but it is the most expedient method of accomplishing racial equality. Although it is not always necessary or the most complete way of achieving equal representation, it is the quickest. Alternative government actions or radical social reforms can take decades to truly reflect the societies they serve. In contrast, affirmative action is a speedier remedy [2]. It simply extends the number of minority students getting accepted, as it is unfair to tell those who have already faced discrimination that they have to wait longer until they can attempt to have an equal shot at success. Stemming from diversity is the idea of meritocratic expansion, another theory that supports affirmative action. The theory states that in a racially diverse classroom, white students would refrain from making any discriminatory comments. In contrast, in a fully white classroom, they would be more inclined to make racist comments. The notion that affirmative action leads to ethnic and cultural diversity in classrooms, which then leads to meritocratic expansion, is a virtuous idea, as universities are giving back to society by forming a more diverse student body, who would eventually grow to become more mature and inclusive members of the world. In short, universities not only have a tremendous interest in ensuring the ethnic diversity of their student body but also are swayed by the argument that they have a moral obligation to ensure that the education is inclusive of all ideas, which, by implication, means that it must be inclusive of all people [4].

Besides, there is a growing socioeconomic gap between different races in America, as a greater percentage of black and Hispanic suffer from poverty compared to that of white and Asians. The socioeconomic gap leads to a significantly greater difference in the quality of education the students receive. For example, Asian Americans, with 54 percent of them having at least a bachelor's degree, would have children that are more exposed to the studying environment with the full support from their parents. Unfortunately, a black student from a poverty-stricken neighborhood would not have the same opportunities as white or Asian applicants would normally receive, no matter how hard he or she tries. Affirmative action, by addressing this major societal problem, drives the society in a positive direction and provides the racial minorities with the opportunity to study and become successful and give back to the community, as an African American doctor would more likely serve the black neighborhood with a lack of medical services than an Asian doctor or a white doctor.

In Dr. Martin Luther King Jr.'s Letter *from a Birmingham Jail*, he writes, "We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed." As Dr. King mentioned, affirmative action is a long-awaited result of the urgent call from the oppressed [5]. They have been demanding the equal opportunity of education, both to promote meritocratic expansion and to bridge the gap between the previously oppressed and the oppressor [6]. Laws that impose an equal burden on the majority as on minorities, he wrote in the letter, should be obeyed, and since affirmative action lifts some burdens of the minorities, such as poverty and violence during their adolescence, it is said to equate the burdens placed on the majority as on minorities.

3. EXISTING DISSENT AGAINST AFFIRMATIVE ACTION

3.1 Relevant Supreme Court Decisions

Some may argue against affirmative action that it leads to reverse discrimination, which means that members of a dominant or majority group can be “reversely” discriminated against in favor of a minority or historically disadvantaged group. This can be rephrased as affirmative action policies violate the principle of merit, which suggests that acceptance to colleges should be entirely based on individual people’s talent, effort, and achievement. For instance, in the 1978 Supreme Court case of *Regents of the University of California v. Bakke*, petitioner Allan Bakke, a white applicant, argued that UC Davis’ affirmative action policy to reserve 16 out of 100 spots for qualified minority students violated the Equal Protection Clause of the Fourteenth Amendment as well as the Civil Rights Act of 1964 [7]. Even with higher test scores and GPA, compared to the minority students who were accepted, Bakke was rejected from medical school twice. This, as some argue, might serve as a negative impact of affirmative action on white applicants with higher qualifications than minority applicants.

In what would be a game-changer for the future of affirmative action in colleges, the Court split 4-4. Four of the justices agreed that any racial quota system supported by the government violated the Civil Rights Act of 1964. The remaining four justices held that the use of race as one of the criteria in admissions decisions in higher education was constitutionally permissible. In an opinion favoring UC Davis’s affirmative action policy, Justice Blackmun wrote. “To ask that this be so is to demand the impossible. In order to get beyond racism, we must first take account of race. There is

no other way. And in order to treat some persons equally, we must treat them differently.” Diversity and the idea of meritocratic expansion played a significant role in shaping justice’s opinion of whether affirmative action should be allowed in public-funded universities and whether it violates the Equal Protection Clause. To conclude the case, Justice Powell stated that colleges could use race as a factor in admissions but that colleges could not use quotas. He went on to say that the only justification for affirmative action was the educational benefits of having a diverse student body and that a state university has the obligation to assemble a more diverse class, which was then reaffirmed in a 2003 case involving the University of Michigan Law School [8].

Despite the arguments from the opponents of affirmative action that it violated the Equal Protection Clause of the Fourteenth Amendment, which prohibited states from “denying to any person within its jurisdiction the equal protection of laws,” the Court withheld the legitimacy of affirmative action in promoting racial diversity in higher education and only struck down quotas, which was one form of many affirmative actions. The Fourteenth Amendment, as one of the many Reconstruction amendments, originally intended to provide equal protection of laws to the previously oppressed, most prominently African Americans [9]. Bakke’s opinion that affirmative action did not equally protect him against the special applicants is not legitimate because affirmative action lifts the special minority applicants up so that they are on a par with the white applicants, not discriminating white applicants in favor of the minority applicants. For the concern that special applicants are not qualified enough to learn the materials taught in medical or law schools, and eventually result in

unskilled doctors or lawyers, the medical malpractice rate for doctors of different races is virtually the same.

Abundant evidence shows that compared to whites, African Americans and Hispanics have lower-incomes, less education, lower rates of private health insurance coverage, a higher probability of being underinsured, and greater dependence on public health care programs, and these impede their ability to seek and obtain timely medical services [10]. By growing and educating next generations of Hispanic and African American doctors, for example, medical schools are expecting them to serve their racial community of minorities, lacking even the basic medical services, and this benefit outweighs the concerns of malpractice among the special applicants.

3.2 Other Societal Concerns Regarding Affirmative Action's Application

Another counterargument against affirmative action is from Justice Clarence Thomas, one of the most conservative members of the Supreme Court and an ardent opponent of affirmative action. Justice Thomas gives two reasons: affirmative action reinforces the stigma that shadows African Americans and continues white supremacy by elevating whites to the status of benefactors [11]. While it is true that affirmative action places African Americans and other minority applicants

under the category of "inferior," without affirmative action, there is no legitimate reason to admit racial minorities in colleges, unless their GPA and test scores are on par with the majority of the applicants. Given the current living conditions of minority students and their families, it is unlikely that without affirmative action, they would have a chance at getting into top universities. According to the National Center for Education Statistics, the average SAT score for Asian students is 1223, 1123 for white students, 990 for Hispanic students, and 946 for black students [12]. This indicates that if there were to be no affirmative action, black and Hispanic students have to bring their 900 average SAT to 1100 or 1200, which is extremely challenging considering the poverty and crime rates in black and Hispanic neighborhoods.

4. CONCLUSION

Ideally, Justice Thomas's argument makes sense because affirmative action continues to categorize black and Hispanic students as minorities and whites as the benefactors, without discussing the core issue of deep-rooted institutional racism across the nation. However, realistically, affirmative action is the only legal method the minority students can benefit from, and certainly the only way they have a shot at being admitted to prestigious universities like the Ivies, Stanford, MIT, or Caltech.

5. REFERENCES

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