“Affirmative action” reconsidered

THOMAS SOWELL

Images and labels have taken the place of facts in the controversies surrounding “affirmative action.” Words like “quota,” “qualified,” and “under-utilization” are flung about, and defined in strange and tortuous ways; and images are conjured up of either massive benefits conferred on blacks and females at the expense of white males, or cynical evasions of “affirmative action” programs by employers whose discriminatory practices are ignored by inept or cowardly government agencies. For the academic world, there is the additional image of an “old-boy network” through which professors are hired by their cronies. But despite an abundance of horror stories, there has been pathetically little analysis establishing the general conditions in the academic world before or after “affirmative action.”

To make these intricate and emotionally charged issues manageable, it is necessary to 1) distinguish the basic concepts and legal rationale of “affirmative action” from the many specific laws, regulations, and practices that have developed under that label; 2) measure in some general terms the magnitude and severity of the problem that was intended to be solved or ameliorated by “affirmative action” programs; 3) consider the actual results achieved and general trends set in motion by such programs; and finally 4) weigh
the implications of "affirmative action" policies both for those directly affected and for the general society.

**Undoing the past**

The general principle behind "affirmative action" is that a court order to "cease and desist" from some discriminatory practice may not be sufficient to undo the harm already done, or even to prevent additional harm as the result of a pattern of events set in motion by the prior illegal activity. This general principle goes back much further than the civil-rights legislation of the 1960's, and extends well beyond questions involving ethnic minorities or women. In 1935, the Wagner Act prescribed "affirmative action" as well as "cease and desist" remedies against employers whose anti-union activities had violated the law. Thus, in the landmark Jones and Laughlin Steel case which established the constitutionality of the Act, the National Labor Relations Board ordered the company not only to stop discriminating against those of its employees who were union members, but also to post notices to that effect in conspicuous places and to reinstate unlawfully discharged workers, with back pay. Had the company merely been ordered to "cease and desist" from economic (and physical) retaliation against union members, the *future* effect of its *past* intimidation would have continued to inhibit the free-choice elections guaranteed by the National Labor Relations Act.

Racial discrimination is another obvious area where merely to "cease and desist" is not enough. If a firm has engaged in racial discrimination for years, and has an all-white work force as a result, then simply to stop explicit discrimination will mean little as long as the firm continues to hire by word-of-mouth referrals to its current employees' friends and relatives. (Many firms hire in just this way, regardless of their racial policies.) Clearly, the area of racial discrimination is one in which positive or affirmative steps of some kind seem reasonable—which is not to say that the particular policies actually followed make sense.

Many different policies have gone under the general label of "affirmative action," and many different organizations—courts, executive agencies, and even private organizations—have got involved in formulating or interpreting the meaning of that term. The conflicting tendencies and pressures of these various institutions have shifted the meaning of "affirmative action" and produced inconsistent concepts at the same time. There is no way to determine *the*
meaning of "affirmative action." All that can be done is to examine
the particulars—the concepts, intentions, and actual effects.

In a society where people come from a wide variety of back-
grounds and where some backgrounds have been severely limited
by past discrimination, the very definition of equality of opportunity
is elusive. For example, a seniority system in a company which pre-
viously refused to hire minority individuals means that present and
future discrimination occur because of past discrimination. A Court
of Appeals decision struck down such a system on the grounds of
its current discriminatory effect. In another case, the Supreme Court
struck down a mental test for voters in a community with a long
history of providing segregated and inferior education for Negroes.
Again, the rationale was that the case involved present discrimina-
tion, considering the past behavior; but this case touches the crucial
question of what to do when the effects of past discrimination are
incorporated in the current capabilities of individuals. Is equal op-
portunity itself discriminatory under such circumstances? If so, is
anything more than equality of treatment justifiable under the 14th
Amendment and corollary statutes and court rulings? As important
as the question of whether a legal basis exists for any compensatory
or preferential treatment is the question of who should bear the in-
evitable costs of giving some citizens more than equal treatment. A
question may also be raised as to whether such treatment really
serves the long-run interests of the supposed beneficiaries.

The legislative history of the Civil Rights Act of 1964 shows that
many of these concerns and dilemmas were present from the outset.
Senator Hubert Humphrey, in helping to steer this legislation
through Congress, attempted to meet criticism by pointing out that
the Act "does not require an employer to achieve any kind of racial
balance in his work force by giving any kind of preferential treat-
ment to any individual or group." He said that there must be "an
intention to discriminate" before an employer can be considered in
violation of the law, and that the "express requirement of intent" was
meant to prevent "inadvertent or accidental" conditions from lead-
ing to "court orders." Senator Joseph Clark, another supporter,
made it clear that the burden of proof was to be on the Equal Em-
ployment Opportunity Commission (EEOC) to "prove by a pre-
ponderance" that a "discharge or other personnel action was because
of race." Clark added flatly: "Quotas are themselves discriminatory."

Congress also faced the difficult question of what to do about
groups whose historic disadvantages left them in a difficult position
to compete on tests with members of the general population. Sen-
ator Tower of Texas cited, as an example of what he was opposed to, a case in Illinois where a state agency had forced a company to abandon an ability test which was considered "unfair to culturally deprived and disadvantaged groups." Senator Case replied that "no member of the Senate" disagreed with Tower concerning such examples, and Senator Humphrey affirmed that such tests "are legal unless used for the purpose of discrimination." Humphrey rejected Tower's proposed explicit amendment on this point because he considered it redundant: "These tests are legal. They do not need to be legalized a second time." Senator Case characterized the actions of the Illinois state agency as an "abuse," and said that the Civil Rights Act did not embody "anything like" the principle involved in the Illinois case. Humphrey brushed aside the Illinois case as "the tentative action of one man," which he was sure the Illinois commission as a whole would "never" accept.

**The shift in the burden of proof**

Despite the clear Congressional intent, expressed by both supporters and opponents of the Civil Rights Act of 1964, the actual administration of that law has led precisely in the direction which its sponsors considered impossible. The burden of proof has been put on those employers whose proportional representation of employees by race or sex is not satisfactory to federal agencies administering that law. The chairman of EEOC has demanded that employer witnesses at public hearings cite "the action taken to hire more minority people." The position of EEOC is that "any discussion of equal employment opportunity programs is meaningful only when it includes consideration of their results—or lack of results—in terms of actual numbers of jobs for minorities and women. . . ." Numbers and percentages are repeatedly invoked to show "discrimination" without any reference to individual cases or individual qualifications—with percentages below EEOC's expectations characterized as "exclusions" or "under-utilization." The notion of qualified applicants has been expanded to mean "qualified people to train"—i.e., people lacking the requirements of the job, whom the employer would have to pay to train. Contrary to the Congressional debates, the burden of proof has been put on the employer to show the validity of tests used, and the notion of "tests" has been expanded to include job criteria in general, whether embodied in a test or not. As for employer intentions, a poster prepared by EEOC includes among 10 true-or-false questions the statement: "An em-
ployer only disobeys the Equal Employment Opportunity laws when it is acting intentionally or with ill motive)—and the answer to that question is false. Despite Senator Humphrey's assurances about "express requirement of intent," legal action can be taken on the basis of "inadvertent or accidental" conditions.

EEOC is only one of many federal agencies administering the Civil Rights Act in general or the "affirmative action" programs in particular. There are overlapping jurisdictions of the Labor Department, the Department of Health, Education, and Welfare (HEW), the Justice Department, the EEOC, and the federal courts. There are also regional offices of all these agencies, which vary significantly in their respective practices. Moreover, when one federal agency approves—or requires—a given practice, following such an approved course of action in no way protects an employer from being sued, on the grounds of following that very same course of action, by another federal agency or by private individuals. Indeed, federal agencies have sued one another under this Act.

Parallel to this development of the interpretation of the Civil Rights Act, and more significant for higher education, has been the elaboration of an Executive Order requiring "affirmative action" by federal contractors. This order is enforced by different federal agencies under the general supervision of the Labor Department. For higher education, the regulating agency is HEW.

The courts have not gone so far as the administrative agencies in forcing numerical "goals and timetables" on employers. Such numerical specifications have typically been invoked by the court only where there has been demonstrable discrimination—not simply "wrong" racial proportions—by the particular employer in question: They are a "starting point in the process of shaping a remedy" for "past discriminatory hiring practices" by the employer to whom the court order applies. In the landmark Griggs vs. Duke Power Company case, the Supreme Court included the company's past racial discrimination as a reason why the company could not use tests which eliminated more black job applicants than white job applicants and had no demonstrated relationship to actual job performance. In general, the courts have rejected the notion that "any person be hired simply because he was formerly the subject of discrimination, or because he is a member of a minority group. . . ." Legal remedies under the Civil Rights Act and related Executive Orders range from "cease and desist" orders, through individual reinstatement or group preferential hiring, to the cutting off of all federal contracts to the offending employer. The latter is a virtual
sentence of death to any leading research university, whether public or "private," for they are all dependent upon federal money to maintain their competitive standing, and will sustain a massive loss of top faculty without it.

**Discrimination in academia**

There is little real question that if one goes back a number of years one finds a pervasive pattern of discrimination against minorities in academic employment. This applies not only to blacks and other minorities regarded as "disadvantaged," but also to Jews, who were effectively excluded from many leading university faculties before World War II. The situation with respect to women is somewhat more complicated and will be deferred for the moment. However, the question that is relevant to "affirmative action" programs for both minorities and women is what the situation was at the onset of such programs and how the situation has changed since.

While colleges and universities were subject to the general provisions of the Civil Rights Act of 1964 and to subsequent Executive Orders authorizing cancellation of federal contracts for non-compliance, the *numerical proportions* approach dates from the Labor Department's 1968 regulations as applied to academic institutions by HEW. More detailed requirements—including a written "affirmative action" program by each institution—were added in 1971. The "Revised Order No. 4" contains the crucial requirement that to be "acceptable" an institution's "affirmative action program must include an analysis of areas where the contractor is deficient in the utilization of minority groups and women" and must establish "goals and timetables" for increasing such "utilization" so as to remedy these "deficiencies."

For purposes of establishing a chronology, 1971 may be taken as the beginning of the application of numerical "goals and timetables" to the academic world. The question thus becomes: What were the conditions in academic employment, pay, and promotions as of that date? With respect to minorities in general, and blacks in particular as the largest minority, *virtually nothing* was known about these crucial matters at that point. Assumptions and impressions abounded, but the first national statistical study of black academic salaries was not published until the spring of 1974 by Professor Kent G. Mommsen of the University of Utah. *In short, "affirmative action" programs were going full blast for years before anyone knew the dimensions of the problem to be solved.*
Nevertheless, it is relatively easy to find out what the situation is in academic employment, for the academic profession is unique in the mountains of statistical data that exist giving detailed information on crucial career factors for individuals. It is a relatively straightforward process to match individuals of similar characteristics—as regards degrees, research publications, experience, etc.—and to determine what pay and promotions differences there are by race or sex. Moreover, each of the major academic fields has long-established ratings of its own departments across the country, so that the crucial qualitative dimension of an individual's training or of the employing department can be gauged much more easily than in most other occupations. The American Council on Education (ACE) has made massive surveys covering all these factors, with samples of more than 50,000 academics each, in 1968-69 and in 1972-73—perfect for a "before" and "after" look at the effects of employment "goals and timetables," which were established in 1971 for colleges and universities. In addition, the National Science Foundation (NSF) and the National Academy of Sciences (NAS) have similarly massive samples of data on holders of doctoral degrees, going back for more than a decade. In short, it is easy to get the facts about academics—for those who want the facts, instead of the overheated rhetoric and indignant posturing that have become standard procedure in the controversy concerning "affirmative action" in academia.

**The situation "before"**

What was the situation in academia that the employment "goals and timetables" of 1971 were designed to correct? Blacks as a group earned less than whites as a group, and women as a group earned less than men as a group—and both minorities and women were a smaller percentage of the academic profession than of the general population. This far everyone can agree on the facts. But when seeking reasons for these facts, different observers split into warring camps. But there are innumerable facts on file to permit matching individuals on the crucial variables of an academic career, in order to determine how much of the gross racial or sex differentials in employment, pay, and promotion are due to different career characteristics and how much to employer discrimination against equally qualified individuals.

A mere glance at academic career characteristics shows vast differences between blacks or women and the rest of the profession.
Black or female academics have a Ph.D. less than half as often as the rest of the profession, publish less than half as many articles per person, and specialize in the lowest-paying fields—notably education, the social sciences, and the humanities, with very few being trained in the natural sciences, medicine or law, or other highly-paid specialties. Even if no employer had a speck of prejudice, black and female academics would still have lower pay and promotion prospects. But in the real world, where prejudice obviously exists, how much concrete difference remains when the career characteristics are the same?

Academic salaries in 1969-70 for black academics with a Ph.D. averaged exactly $62 a year below that of white academics with a Ph.D. This was before “goals and timetables” were applied to colleges and universities, and makes no allowance for the different distribution of black academics by field. On a field-by-field basis, blacks with doctorates sometimes earned less and sometimes earned slightly more than white doctorates in the same field:

Table I. Race Differentials Before Affirmative Action (1969-70 Mean Academic-Year Salary of Ph.D.’s) ¹

<table>
<thead>
<tr>
<th>Field</th>
<th>White Academics</th>
<th>Black Academics</th>
<th>Black/White Salary Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural sciences</td>
<td>$17,225</td>
<td>$15,176</td>
<td>88%</td>
</tr>
<tr>
<td>Social sciences</td>
<td>$16,872</td>
<td>$17,527</td>
<td>104%</td>
</tr>
<tr>
<td>Humanities</td>
<td>$15,572</td>
<td>$15,034</td>
<td>97%</td>
</tr>
<tr>
<td>All fields</td>
<td>$16,677</td>
<td>$16,037</td>
<td>96%</td>
</tr>
</tbody>
</table>


This does not prove the purity of the academic soul. The situation that existed just before “affirmative action” was the result of more than a decade of civil-rights legislation, demonstrations, and changes in American public opinion. “Affirmative action,” however, must be judged against the background of the situation that actually existed when numerical “goals and timetables” were applied to colleges and universities in 1971, not against the background of virtually total exclusion of blacks from leading academic institutions a generation earlier. Some proponents of “affirmative action” persistently make comparisons with that earlier era, as if all the anti-discrimination forces of the 1960’s had never existed.

The issue of equal “representation” is a little more complicated than the issue of equal pay, and the case of women is somewhat different from that of minorities—but the end results are equally
clear-cut. If "representation" in academic employment is measured against the "qualified" supply, everything depends upon how "qualified" is defined. Taking the standard academic requirement of a Ph.D. for a long-term career as a tenured professor (though non-Ph.D.'s fill many non-tenured positions), both blacks and women are over-represented among academics. Women hold about 10 per cent of all Ph.D.'s, but are more than 20 per cent of the academics. Blacks hold less than one per cent of the Ph.D.'s, but are more than two per cent of the academics. These figures are, of course, nowhere near the population proportions for either group, nor are they any reason for complacency, but they do suggest that the cause of "under-representation" is not necessarily employer discrimination. (The complex social processes behind the figures reach back well before the date when the statistics were collected, and extend well beyond the institution at which they were collected.)

Although minorities and women are often lumped together, it is very questionable to lump even minorities together. Orientals have very different patterns from blacks, and women are quite different from either. The crucial variable for academic women's careers is marriage. Single academic women with a Ph.D. achieve the rank of full professor more often than do other academics with similar years of experience—though married female Ph.D.'s achieve that rank far less frequently. This was true before "affirmative action." Moreover, the average 1968-69 academic-year salary of full-time female academics who were never married was slightly higher than that of males who were never married (Table II). Indeed a number of

<table>
<thead>
<tr>
<th></th>
<th>MALE ACADEMICS</th>
<th>FEMALE ACADEMICS</th>
<th>FEMALE/MALE SALARY PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Never married</td>
<td>$11,070</td>
<td>$11,523</td>
<td>104%</td>
</tr>
<tr>
<td>Presently married</td>
<td>$13,562</td>
<td>$10,264</td>
<td>76%</td>
</tr>
<tr>
<td>Divorced, widowed, etc.</td>
<td>$15,065</td>
<td>$13,176</td>
<td>88%</td>
</tr>
</tbody>
</table>

1 Source: American Council on Education

measures and indicators show that the basic difference in pay and promotion was between married women and all other persons. The gross "male" versus "female" comparisons are lopsided largely because married women (and especially married women with children) drag down the averages of other women.

It is not difficult to understand why married female academics
fall so far behind others. Innumerable surveys show that 1) married academic women put more time than married academic men into the home and family; 2) the geographical location of academic couples is usually determined by the husband’s career prospects, with little concern for how this affects the wife’s career; and 3) women interrupt their careers more often than men, usually for child-bearing or other reasons related to the needs of others. Surveys of academics show that men and women both overwhelmingly agreed that marriage advances a man’s career and retards a woman’s. Income statistics confirm these beliefs: While academic women who never married have an edge over their male counterparts, married academic men have a huge advantage over married female academics. The situation averages out to a “male” advantage over “females,” but this average conceals more than it reveals. What it conceals is that 1) people who are independent do about the same in the academic world, regardless of sex; 2) people with help (married men) do much better; and 3) those who are doing the helping (married women) do worst of all in their own careers. Such a situation may not be just—but it does not result, however, from employer discrimination.

There are some further indications that the location of the problem is the home rather than the work place: low marriage rates and high divorce rates among academic women. Academic women are married less frequently than academic men and divorced several times as often. This tendency reflects more than the general problem for women of combining a career with marriage. Non-academic female Ph.D.’s have higher marriage rates than academic female Ph.D.’s, as do women in other professions. The academic profession is unique not only in the Draconian “publish or perish” rule which demands great amounts of time for research, but also in the geographical isolation of most top research universities. The demands of continuous research are an obvious strain on whoever assumes the primary responsibility for maintaining domestic life—the wife, in most cases. The geographical isolation is a less obvious but very potent force, as well. An academic woman whose husband teaches at Cornell will not have an equally prestigious institution available as a potential employer within a radius of 200 miles (for UCLA the comparable figure would be 400 miles). So her career faces a major setback, barring the happy coincidence that the same institution has an opening for her at the same time that it has one for him—unless her husband considers her career equally important in deciding where to locate, which may be an even more unlikely circumstance.
If she resigns herself to working at a less prestigious institution nearby, she may be accepting not only a lower salary but also a lesser prospect of developing her own abilities in the environment that such growth requires. While Cornell or UCLA may be unusually isolated, it is rare to have several top-rated research universities within commuting distance of one another. The result is that a married academic woman, equally qualified with her husband, is going to be "under-utilized" unless the couple agree to alternate, or somehow share, the inherent disadvantages of their professional situation—or unless a coincidence rescues them from some hard choices.

The situation "after"

What drastic changes have been wrought by "affirmative action" in the academic world to result in the great outpourings of words and emotions? Practically none, as far as the pay, employment, or promotions of women and minorities are concerned. The ACE data show that blacks were 2.1 per cent of academics in 1968-69 and 2.9 per cent in 1972-73, while women were 19.1 per cent in 1968-69 and 20.0 per cent in 1972-73. These are hardly revolutionary changes. Later data from other studies also show very little change.

Neither are there dramatic changes in the salaries of minorities or women relative to other members of the academic profession. A tabulation of ACE data shows a black/white salary differential of $640 per year for academic year 1972-73 in favor of whites ($16,677 versus $16,037); but blacks usually earn slightly more than whites on a field-by-field basis, with degrees and publications held constant. This is very similar to the statistical results before "affirmative action." For women, NAS data show that full-time, continuously employed female doctorates in the natural sciences and the social sciences earn identical percentages of the incomes of male doctorates in these fields in 1970 and in 1973.

What is a drastic change is that the process of academic hiring has become a bureaucratic nightmare, regardless of who ends up being hired. A university's "affirmative action" report to the government typically weighs several pounds—and may still be rejected for not being detailed enough! The University of Michigan spent $350,000 for compiling statistics alone. HEW prescribes elaborate and arbitrary formulas for determining the "available supply" of "qualified" applicants—formulas which defy economics, statistical theory, or logic. Moreover, the long-standing practice of having a professor's qualifications judged by other specialists in his field is
increasingly being overturned by academic administrators who now either take the decision out of the hands of academic departments or put the departments under heavy pressure to act in a way that will preserve the institution's access to federal money. This need not involve hiring a minority or female faculty member—and usually does not, as the statistics indicate—but does involve a legalistic and bureaucratic manner of recruiting, screening, and evaluating candidates in order to generate enough paperwork to show "good faith efforts" to meet numerous "goals and timetables" for minority and female employment. These charades take the place of meeting quotas which no one seriously expects to be met. For example, if American colleges and universities were to hire every black Ph.D. in the United States, active or retired (or indeed, living or dead)—a 100 per cent drain from industry, government, and other institutions—the result would still be less than three black faculty members per institution. Given the hard facts of the situation, it is not surprising that colleges and universities do not fulfill their employment "goals," but instead go through a costly and demoralizing process called "good faith efforts"—a process equally embittering to supporters and opponents of "affirmative action." This produces few jobs and much anguish.

An additional source of bitterness is the current academic retrenchment in hiring, brought on by financial conditions. This retrenchment means that many aspiring academics would necessarily have had their career hopes disappointed, regardless of "affirmative action." Now, when a hundred white male applicants are rejected, they can all blame it on one or two minority or female academics who were hired—even though over 90 per cent of the white males could not have been hired anyway, and there are probably 10 or 20 other white males hired for the one or two "affirmative action" professors. But administrators can, of course, tell rejected applicants that they lost out because of "affirmative action," whether it is true or not, because that may be easier than telling them the real reasons. Again, the situation has high potential for bitterness for both the supporters and the opponents of "affirmative action."

"Qualifications"

Among the many crudities of the "affirmative action" program is the notion of "qualified" applicants. Given the enormous range of standards among the thousands of American colleges and universities, virtually anyone who has been to graduate school is "qualified"
to teach somewhere, while only a small fraction of the Ph.D.'s are "qualified" to teach at the top institutions. In the real world, the question of qualifications is the question whether an individual's career characteristics—degrees, publications, etc.—match those sought by the employing institution. If a university does not hire someone, that does not mean either that the candidate is "unqualified" to be in the profession or that the university is being unreasonable or discriminatory. But, obvious as this is, the government defines "under-utilization" as the existence of a lower representation of a given group among employees than the representation of that same group in the "available" supply of "qualified" people. Moreover, the meaning of "qualified" has been stretched to mean "qualified to be trained," and the "available" supply includes women who no longer work (usually because of their husbands' prosperity).

The government's crude concept of a pool of "qualified" individuals overlooks the basic fact that academic departments in general do not hire faculty in general. Departments hire specialists in different areas of their respective fields. An economics department will seldom be in the market for "an economist" or even a "qualified" economist. They will be looking for an international-trade theorist familiar with econometrics, or a labor economist knowledgeable about manpower-training programs. Statistics on the racial or sex composition of the economics profession are irrelevant. Women, for example, are distributed very differently among the specialties in economics than are their male counterparts. What matters is the pool of qualitatively comparable people in the specialty, which may be only a half-dozen for any given department at a given time. Schools at the top of the prestige rankings are unlikely to have even this many candidates actually available to move at a given time—although hundreds lacking the qualifications may submit resumés if the position is advertised. Moreover, it will be virtually impossible to draw up in advance a list of vacancies to be filled in the years ahead—as the government would like—for that means predicting which members of a department are likely to leave.

The "old-boy network"

Universities have long relied on the expertise of their respective departments in gauging job qualifications, rather than have administrators pretend to be experts on every field from art to zoology. The department, in turn, often has had to canvass the opinions of trusted colleagues at other institutions to develop a balanced assess-
ment of candidates, or to suggest likely prospects. Since no one department is in touch with the thousands of other kindred departments in the country, each is limited in its information network to a relative handful of similar departments for candidates about whom it can get the kind of detailed and reliable information it wants. This situation has led to charges of an "old-boy network" through which jobs are given to cronies, and in particular to the charge that minorities and women, as outsiders, are institutionally disadvantaged by the very existence of the network. As in so much of the "affirmative action" controversy, however, in this charge there is a premium on rhetoric, preconceptions, and insinuations, and a virtual moratorium on facts.

Two considerations must be separated: 1) the necessity and value of the informal communications network as a recruiting channel in general, and 2) the extent to which minorities and women are outside this network. The first is a large subject in itself. Long before "affirmative action," there were numerous attempts to replace the informal networks with a more "rational" system of academic hiring—with "rational" being used here in the usual sense of something plausible to those unfamiliar with the intricacies of the situation. It is significant that all these attempts at "rational" hiring systems failed miserably, in terms of the reported dissatisfaction of both employers and employees and their observable unwillingness to continue investing time in alternative systems. The more relevant question for "affirmative action" is whether minority and female academics are outside the recruiting channels, which are used especially frequently by top-rated academic institutions, and which are especially important at the beginning of an individual's academic career—before there has been time to establish a scholarly reputation independently of this informal network. The fact is that women receive their Ph.D.'s at the top universities—within the "old-boy network"—a higher percentage of the time than men. A comprehensive survey by Professor Kent Mommsen found the same to be true of blacks, with more than half of all black Ph.D.'s coming from just 10 universities (mostly top-ranked institutions), compared to 37 percent of all white Ph.D.'s being products of the 10 most frequent Ph.D.-granting institutions. The ACE sample, with different definitions, indicates that a higher percentage of white academics than of black academics received their Ph.D.'s from top-ranked institutions (29 percent vs. 22 percent). In any case, the hard facts show nothing like the exclusion of women and blacks from the "old-boy network" suggested by the prevailing rhetoric. It is significant that
the purveyors of such rhetoric have found it unnecessary to supply any supporting evidence.

The problems of minorities

With all the caveats about "qualifications," it is still useful to get a general view of the career characteristics of minorities and women. The ACE data permit the inclusion of Orientals so that "minority" need not be synonymous with "black," as it so often is, because of relatively more abundant statistics on the black population compared with Mexican-American, Puerto Ricans, native American Indians, and other ethnic minorities.

The data in Table III show both the salary edge of white academics over blacks, and also the reason for that edge—a different distribution among various qualification brackets, rather than an edge within those brackets themselves. Blacks, in fact, have the salary edge over whites within three out of the four brackets. These

Table III. Mean Academic-Year Salary (1972-73) of Full-Time Faculty

<table>
<thead>
<tr>
<th></th>
<th>WHITE ACADEMICS</th>
<th>BLACK ACADEMICS</th>
<th>ORIENTAL ACADEMICS</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;Distinguished&quot; or &quot;strong&quot; Ph.D.</td>
<td>$17,991 (11%)</td>
<td>$20,399 (4%)</td>
<td>$18,235 (16%)</td>
</tr>
<tr>
<td>Lower-ranked Ph.D.</td>
<td>$17,414 (14%)</td>
<td>$19,014 (6%)</td>
<td>$17,035 (27%)</td>
</tr>
<tr>
<td>Unranked doctorates</td>
<td>$18,179 (12%)</td>
<td>$20,499 (8%)</td>
<td>$16,724 (17%)</td>
</tr>
<tr>
<td>Less than doctorate</td>
<td>$15,981 (62%)</td>
<td>$15,195 (82%)</td>
<td>$12,272 (41%)</td>
</tr>
<tr>
<td>All faculty</td>
<td>$16,677 (100%)</td>
<td>$16,037 (100%)</td>
<td>$15,419 (100%)</td>
</tr>
</tbody>
</table>

1 Source: American Council on Education

statistics also undermine the belief that "incompetent" blacks are generally earning "exorbitant" academic salaries because of "affirmative action." Actually it is the most qualified blacks who have the greatest edge over their white counterparts, while the least qualified blacks do not earn as much as the least qualified whites. This is even more apparent when these statistics are further broken down according to publication records: Black academics who have published five or more scholarly articles average about $3,000 per year more than white academics who have published five or more scholarly articles, while black faculty who have published nothing earn slightly less than white faculty who have published nothing. Insofar as this is attributable to "affirmative action" pressures, it suggests that that program has had its greatest financial impact on those blacks who needed it least.
The situation for Orientals is very different. Oriental faculty earn slightly less than black or white faculty, but are better qualified than either—whether measured by the percentage holding a Ph.D., the proportion of Ph.D.'s from top-rated departments, or the number of publications per person. More than 40 per cent of all Oriental faculty had published five or more scholarly articles, compared with 31 per cent for whites and 12 per cent for blacks.

The case of Oriental faculty illustrates the pitfalls in trying to determine the level of discrimination from the amount of gross differentials. There are minor salary differentials among all three racial groups, but these small differentials represent substantial underpayment of Oriental faculty relative to others with the same qualifications in the same fields. Orientals are in the high-paying natural sciences to a greater extent than either blacks or whites, so that they would tend to have the highest salaries overall, if everyone were paid the same within each field. But Orientals are almost invariably the lowest paid, by two or three thousand dollars per year in every field for any given level of degree and any given number of articles published. For example, Orientals in the natural sciences with five or more articles published averaged $17,852 in salary in 1972-73, compared to $19,469 for whites and $20,640 for blacks with these same qualifications. In the humanities, Orientals with five or more articles earned nearly $2,000 a year less than blacks and nearly $4,000 a year less than whites with the same publications records. In the social sciences the Orientals with the most publications earned $4,000 per year less than whites and $8,000 less than blacks in the same category. In all three fields, Orientals had Ph.D.'s more often than blacks or whites, and had these Ph.D.'s from higher-ranked departments than the other two groups. In short, just as substantial pay differentials overall do not prove discrimination—because groups fall in different qualifications categories—so an absence of large gross differentials between groups does not prove an absence of discrimination, if one group has large unrewarded qualifications differentials.

The complications of marital status make it impossible to directly compare women with men in the same way. However, a further breakdown of the data already cited in Table II shows that "never married" women with publications earned slightly more ($293 annually) than "never married" men in top-rated institutions, and slightly less ($114 annually) in other institutions; and "never married" women without publications in unranked institutions earned a hefty 45 per cent more than "never married" men in the same
category. This lends support to the belief that many able women end up in non-research institutions because they prefer teaching, and are therefore superior to the men who more often end up in such places simply because they could not do better. It also indicates that when women do better than men, they get paid more than men.

The preference of women for teaching over research is not only significant in itself, it also highlights the crucial element of individual choice which is routinely ignored in syllogistic arguments which go directly from statistical "under-representation" to "exclusion" or "discrimination." Blacks, too, exercise individual preference and choice. The Mommsen study found that black faculty were unwilling to move from their present positions—mostly in black colleges—for less than a $6,000-per-year raise. They are hardly standing with their noses pressed against the windows of universities from which they are "excluded."

The negative effects

If the "affirmative action" program were merely inane, futile, and costly, it might deserve no more attention than other government programs of the same description. But it has side effects which are negative in the short run and perhaps poisonous in the long run. While doing little or nothing to advance the position of minorities and females, it creates the impression that the hard-won achievements of these groups are conferred benefits. Especially in the case of blacks, this means perpetuating racism instead of allowing it to die a natural death or to fall before the march of millions of people advancing on all economic fronts in the wake of "equal opportunity" laws and changing public opinion. During the 1960's—before "affirmative action"—black incomes in the United States rose at a higher rate than white incomes. So too did the proportion of blacks in college and in skilled and professional occupations—and along with this came a faster decline in the proportion of black families below the poverty line or living in substandard housing. When people ask why blacks cannot pull themselves up the way other oppressed minorities did in the past, many white liberals and black "spokesmen" fall right into the trap and rush in to offer sociological "explanations." But there is nothing to explain. The fact is that blacks have pulled themselves up—from further down, against stronger opposition—and show every indication of continuing to advance.

While this advance is the product of generations of struggle, it
accelerated at an unprecedented pace in the 1960's, once the worst forms of discrimination had been outlawed and stigmatized. Black income as a percentage of white income reached its peak in 1970—the year before numerical "goals and timetables." That percentage has gone down since. What “affirmative action” has done is to destroy the legitimacy of what had already been achieved, by making all black achievements look like questionable accomplishments, or even outright gifts. Here and there, this program has undoubtedly caused some individuals to be hired who would otherwise not have been hired—but even that is a doubtful gain in the larger context of attaining self-respect and the respect of others.

The case of women is different in many factual respects, but the principle is the same. Unfortunately, there is much fictitious “history” used to apply the “minority” concept to women. The fact is that women were a higher proportion of college faculty, Ph.D.'s, M.D.'s, people in Who Who's, etc., generations ago than they are today—and female incomes in the nation as a whole were a higher percentage of male incomes then than they are now. While many factors may have influenced their relative decline over the decades, that long decline paralleled a rise in marriage rates among educated women and a rising birth rate among women in general—the "population explosion"—and the recent upturn for women has followed a reversal in these trends that had tied them to domesticity. In the case of women, as in the case of minorities, this all happened before "affirmative action" and its numerical "goals and timetables." Their achievements were also made to look like the government's gift.

Who were the gainers from "affirmative action" quotas? Politically, the Nixon Administration, which introduced the program, gained by splitting the ethnic coalition which had elected liberal Democrats for decades. Blacks and Jews, for example, were immediately at each other's throats, after having worked together for years on civil-rights legislation and other socio-political goals. Whether the architects of Watergate had any such Machiavellian design in mind is a question on which each can speculate for himself. Certainly, the clearest continuing beneficiaries are the bureaucrats who acquired power, appropriations, and publicity from their activities, and who have stretched the law far beyond any Congressional intent. Nothing in the Civil Rights Acts or the Executive Orders authorizes quotas by any name, and both the Congressional debates and the specific language of the law forbid them. But the boldness of the various agencies who interpret and administer “affirma-
tive action,” and the reluctance of courts to overrule administrative agencies, has permitted the growth of an administrative empire serving itself in the name of serving the disadvantaged.

The semantic evasions and political zigzags which have marked the evolution of “affirmative action” programs are symptomatic of the confused thinking that exists in this area. Central to this confusion is a failure to understand the tragic situation of disadvantaged groups—tragic both in the sense of involving unhappy circumstances and in the classical sense of involving a genuine conflict of rights, not merely a conflict between the “good guys” and the “bad guys.”

STATEMENT OF OWNERSHIP, MANAGEMENT, AND CIRCULATION

(Act of August 12, 1970: Section 3685, Title 39, United States Code)


Irving Kristol, Editor