

# Affirmative Action for Blacks

## Past, Present, and Future

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**The civil rights movement** of the 1960s pushed the federal government into adopting a three-pronged strategy for helping blacks catch up with whites economically. First, the government spent a lot of money on both compensatory education and job training, so that blacks could qualify for better jobs. Second, the government tried to use its power to get private employers to hire blacks for jobs traditionally reserved for whites, and did the same itself. Third, the government increased both cash and in-kind benefits for families without breadwinners that were unable to take advantage of the new job opportunities.

Federal expenditures on compensatory education and job training threatened no important vested interests and were quite popular. But they were predicated on unrealistic notions about what modest interventions could accomplish, especially in slack labor markets. Once these programs' modest benefits became obvious, expert enthusiasm waned. Popular support, in contrast, persists unabated.

Federal pressure on private employers to hire more blacks was also widely accepted so long as it focused on eliminating overt discrimination against black workers. But as the federal government's emphasis switched from eliminating overt discrimination to increasing the number of black workers regardless of their apparent qualifications or past performance, white opposition increased steadily. This opposition came from employers who had to implement such programs, from white

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workers who felt they were put at an unfair disadvantage vis-à-vis black colleagues, and from the general public, which opposed reverse discrimination in principle and saw it as a symbol of all that was wrong with the liberal approach to race.

Welfare payments to families without breadwinners were quite unpopular from the very start. Even in the early 1960s many whites felt that Aid to Families with Dependent Children (AFDC), which was a major source of income for black families without male breadwinners, encouraged both promiscuity and idleness. As more white mothers entered the labor force over the next two decades, the idea that the government should pay women to stay home and take care of their children became less and less popular.

The Reagan administration has abandoned the notion that the federal government should try to make black incomes equal to white incomes, and has won congressional support for cutting back all the major federal programs designed to accomplish this goal. Real federal spending on education and job training has been cut. Full employment has been deemphasized, and federal pressure to hire blacks has almost disappeared. At the same time, eligibility for AFDC, food stamp, and Medicaid has been narrowed, and real benefits have been cut, making life harder for families without an employed breadwinner.

The liberal strategy for promoting racial equality that prevailed from 1964 to 1980 still has many supporters, both black and white. Until 1984, many of these traditional liberals assumed that once the Democrats recaptured the White House they could and would revive the old strategy. The 1984 election killed that illusion. The main lesson Democratic politicians drew from Walter Mondale's defeat was that they would never recapture the White House by promising a return to the "good old days" of the late 1960s and 1970s—a period most Americans want to forget. But unlike the Republicans, the Democrats cannot simply abandon the notion that the federal government should promote racial equality, because they cannot regain the White House without overwhelming black support. Thus while neo-liberals can revise the old liberal strategy, deemphasizing some of its ingredients and redefining others, they cannot simply walk away from the problem, as the Republicans have, or hope that it will solve itself if subjected to benign neglect.

Any reappraisal of the traditional liberal approach to racial equality is bound to begin with affirmative action. This has become the most controversial part of the old liberal strategy, outranking even AFDC as a target of popular anger. But most black leaders still use affirmative

action as a litmus test for assessing white political candidates' commitment to blacks. Therefore, Democrats seem to be stuck with it. But what is "it?" Must affirmative action imply reverse discrimination? Our institutions make it hard to formally adopt new rhetorical goals or abandon old ones. Political change thus tends to involve infusing old goals like affirmative action with new meanings. The question confronting blacks, traditional liberals, the Left, and the Democratic Party is what affirmative action ought to imply. This article addresses that issue.

I have divided the discussion into four parts. First, I discuss the economic theory of discrimination, examining various reasons why employers might discriminate and the likely effects of each kind of discrimination on black workers' earnings. Second, I review historical evidence regarding income differences between ethnic groups prior to affirmative action, showing how the evidence fits—or fails to fit—the theoretical arguments in the first section of the article. Third, I look at changes in the economic situation of blacks since affirmative action, asking who has gained and lost as a result. Finally, I turn to the political and ethical question of what form affirmative action should take in the future.

My first conclusion is that for the foreseeable future many employers will find it in their economic interest to discriminate against black job applicants. Thus if we want to prevent discrimination, the government must make such behavior legally and economically costly. I also argue that we can only prevent such discrimination by establishing realistic numerical goals (quotas) for minority hiring. But my second conclusion is that existing hiring goals are often deliberately unrealistic, having been designed to ensure reverse discrimination rather than color-blind policies. I argue that reverse discrimination is counterproductive in the long run, reinforcing white racism in its most insidious forms. Quotas that lead to reverse discrimination should therefore be revised downward, making them compatible with color-blind hiring and promotion policies.

## VARIETIES OF DISCRIMINATION

By law, the term "discrimination" subsumes almost all instances in which an employer considers a worker's race when making decisions about hiring, promotion, or pay, regardless of the employer's motive. As I will argue later, any other legal definition is fraught with danger. But if

we want to analyze the causes and consequences of discrimination, employers' motives are critically important. The first and most crucial distinction is between economically rational and economically irrational reasons for discrimination.

The economically irrational reasons for discrimination can be divided into two classes: malicious and myopic. Malicious discrimination involves conscious hostility toward the ethnic group of which the victim is a member, although not necessarily toward the victim him- or herself. If an employer refuses to promote a black worker who is clearly better qualified than any available white, on the grounds that putting blacks in positions of power over whites will undermine white supremacy in society as a whole, that is what I will call malicious discrimination.

Myopic discrimination is often rooted in malice, but its immediate motive is an erroneous ethnic stereotype that convinces an employer that it is in his or her interest to hire or promote members of one ethnic group rather than another. Refusing to promote qualified blacks because one consistently underestimates their performance in their present job is an obvious example.

Both malicious and myopic discrimination raise firms' costs by causing firms to hire inferior workers without reducing their wage bill. If all competing firms engage in the same amount of such discrimination, they can pass on these costs to their customers through higher prices or inferior products. But if some employers stop such discrimination, competition will ensure that the public no longer has to bear the cost. Instead, those employers who continue to discriminate will have to absorb the cost.

So long as no major-league baseball team hired blacks, for example, the costs of discrimination fell on promising black players, who could not get work, and on fans, who saw worse games than they would have seen in the absence of discrimination. But once a few clubs hired blacks, those that refused to do so had a harder time assembling winning teams and hence attracting fans. Owners who persisted in hiring only white players therefore had to pay for their prejudice through lost revenue. Black players no longer had to pay because if even a few clubs were prepared to hire them on the same basis as whites, they could earn competitive salaries.

As this example indicates, competition tends to eliminate both malicious and myopic discrimination. These forms of discrimination persist only when competing firms can collude with one another to ensure that they all discriminate equally, and hence that their customers

will pay the costs. Such collusion usually requires sanctions against employers who refuse to discriminate. Without sanctions there will sooner or later be an entrepreneur who puts short-term profits ahead of noneconomic principles such as white supremacy, or who figures out that the quality of his or her labor force can be improved by ignoring some traditional ethnic stereotype.

While malicious and myopic discrimination are economically irrational in the sense that they do not advance an employer's short-term economic interests, there are at least three other motives for discrimination that must be labeled economically "rational." One possible motive for discriminating against blacks is that a firm's customers are racially prejudiced. A second is that its employees are prejudiced. A third possibility is that black and white workers with similar credentials really differ in the skills, work habits, or attitudes they bring to their jobs. This last possibility is what Lester Thurow (1975) has called "statistical discrimination."

Consumer conscious discrimination is akin to malicious discrimination in that the employer recognizes that the victim could perform a given job satisfactorily. In this case, however, the employer refuses to hire the victim not because of his own malice but because of malice or myopia among his customers. Owners of major-league baseball teams refused to hire blacks, for example, partly because they felt that the (predominantly white) fans preferred all-white teams. If we assume the owners were right, the fans were engaged in malicious discrimination. In other cases employers suspect their customers of myopic rather than malicious discrimination. If a significant fraction of the public still believes that blacks cannot master complex technical skills, for example, people may avoid airlines with black pilots. Airlines may then avoid hiring black pilots, even if the airline itself is completely satisfied with their competence.

Worker-oriented discrimination may be even more common than consumer-oriented discrimination. Economists habitually talk about work as if it were an isolated activity, in which performance depended only on the amount of "human capital" workers had accumulated. But most work is done by groups, not isolated individuals, so a worker's value to an employer usually depends at least in part on how well the worker in question gets along with fellow workers. If most of the workers in a group are white, and if some of these whites have trouble getting along with blacks, black workers will be less valuable as a result. Blaming this on blacks rather than on whites is obviously unjust. But

from the employer's viewpoint justice is irrelevant. The employer needs a work force capable of collaborative effort. If this means that all workers must be the same color, or that only blacks with an unusual talent for getting along with whites can fit in, the employer must live with this fact or lose money.

Like myopic discrimination, "statistical" discrimination is based on ethnic stereotypes. In this case, however, the stereotypes are accurate. Suppose, for example, that a firm has found over the years that its black clerical workers have worse attendance records than its white clerical workers, and that they make more mistakes when they show up. Suppose, moreover, that these differences persist even when the firm compares clerical workers with the same formal credentials: years of schooling, scores on standard tests, references, and so on. The firm might respond by refusing to hire blacks for clerical jobs, but this response would probably be a mistake as it implicitly assumes that the firm cannot identify *any* group of black applicants who will perform as well as the whites it normally hires. A more likely scenario is that, say, black college graduates do as well as white college dropouts, and black college dropouts do as well as white high school graduates. Under these circumstances the economically rational policy might be to hire blacks only if they had two more years of schooling than the best available white. This is clearly illegal under Title VII of the Civil Rights Act of 1964, but it might well make economic sense from the firm's viewpoint. Refusing to hire blacks at all would not make economic sense, as the firm would then have to hire whites even when it could get more competent blacks at the same price. That would be myopic discrimination.

In most clerical jobs, however, the truly rational course is usually to ignore race when hiring, to set clear performance standards, and then to fire everyone who falls below these standards, regardless of race. This approach will yield a higher level of performance than will relying on *any* proxy for performance, be it educational credentials, test scores, or skin color. It will also protect the firm from legal action, at least so long as the firm can demonstrate that its performance criteria make sense and are administered in a color-blind way.

Unfortunately, the "hire everyone and then fire the incompetents" rule is only efficient when incompetents are easy to identify, easy to fire, and unlikely to do much damage before they are fired. These conditions are by no means universal. Suppose, to take an exaggerated example, that an airline has found that its black pilots have more crashes than their white counterparts, even though they do equally well on preflight

ests. The only reliable way to detect this form of incompetence is to wait until a pilot has had several crashes. This is a very risky strategy from the airline's viewpoint. From its perspective the rational course of action may be to avoid hiring black pilots. Of course this is "guilt by association" in that it blames all black pilots for the sins of a few. But the fact that such policies violate our notions of procedural justice does not make them economically irrational. Economic efficiency requires endless decisions based on inadequate evidence. Procedural justice makes such decisions almost impossible. The two criteria are thus in constant conflict.

Whether ethnic differences in job performance will lead an economically rational employer to adopt discriminatory policies depends on all sorts of technical considerations. Suppose, for example, that a large firm has found that its black cashiers are slightly more likely than its white cashiers to be caught with their hands in the till. If the firm knows that there is a lot of undetected theft, and if the amounts of money involved are substantial, it may conclude that it would be better off hiring only white cashiers. But whether such a policy makes economic sense depends on the alternatives. If more careful screening of applicants' previous employment records could produce an applicant pool in which blacks were no more likely to steal than whites, this would increase the pool of potential cashiers and allow the firm to pay less without sacrificing competence. Such a policy would clearly make more sense than using the poor proxy of skin color to predict probity. Likewise, if a new accounting system could ensure that thefts were detected more quickly, so that the amounts lost were small, the firm might be able to save money by cutting wages, hiring on a color-blind basis, and then firing cashiers who stole. But in situations where there are genuine statistical differences between ethnic groups, where these differences persist even after employers have screened applicants using all other demonstrably relevant criteria, and where the cost of hiring the wrong person is high, failure to engage in statistical discrimination can cost an employer a lot of money.

Confronted with arguments of this sort, liberals usually challenge the factual premise that blacks make less satisfactory employees than do whites. In a society pervaded by racist stereotypes, skepticism about alleged racial differences certainly makes sense. In the case of cashiers, for example, blacks might get caught stealing more often than whites not because they stole more but because white (or even black) supervisors watched blacks more carefully than whites. But to assume that

careful inquiry will always prove that blacks are indistinguishable from whites is folly. Two centuries of slavery and a century of Jim Crow have left scars on many blacks that will take a long time to eradicate, especially in a world where both overt racism and statistical discrimination remain widespread.

This analysis suggests that the standard conservative case against affirmative action contains an internal contradiction. Conservatives argue that we cannot infer the presence of discrimination simply by observing that blacks earn less than whites with the same paper qualifications because there are often important differences between blacks and whites whose paper qualifications are identical. But if this argument is correct, as I believe it is, employers in competitive industries will engage in statistical discrimination against black applicants whenever the “hire everyone and fire the incompetents” strategy is unworkable. Furthermore, even when this strategy is workable, competition will force firms to discriminate against black workers if either their customers or their employees are racially prejudiced. The only way to make any of these kinds of discrimination economically unattractive is for the government to harass firms that engage in it.

It is tempting to argue, of course, that if blacks really perform worse than whites with comparable credentials, employers who refuse to hire blacks are not really discriminating. But that argument is spurious. Consider the cashier again, and assume for the moment that 5% of black cashiers with good references steal, compared to 3% of similarly recommended white cashiers. Refusing to hire black cashiers may make economic sense under these circumstances, but it is still discriminatory. After all, 95% of black cashiers are honest. Refusing to hire them because other cashiers who happen to be the same color have been caught stealing is a classic case of guilt by association. Such a policy is no different in principle from a police policy of picking up black men who are walking around in white neighborhoods on the grounds that black men are more likely than their white counterparts to be planning a burglary. In both cases we are putting a burden on individuals because they belong to a “suspect” category. And in both cases such behavior is illegal, precisely because people have been abused so often in the past solely because they were members of this category.

Economic analysis also raises serious questions about the internal logic of the liberal argument for affirmative action. Both white liberals and black proponents of affirmative action almost always start out by denying the existence of economically relevant differences between



black and white workers with the same formal credentials. In the absence of customer or worker prejudice—factors that can only affect a limited range of jobs—this would mean that labor market discrimination was economically irrational, based on some combination of malice and myopia. If discrimination is, in fact, based largely on malice or myopia rather than economic self-interest, then the demise of Jim Crow legislation and the maintenance of competitive pressure on large firms should eventually eliminate most discrimination, just as conservatives claim it will. In such a world government action would only be necessary to accelerate the transition to economic rationality. Once this transition is complete, the need for government action should disappear.

A society does not have to eliminate all instances of discrimination in order to bring black earnings up to white levels. It is true that prospective victims of discrimination usually argue that even sporadic discrimination will lower their earnings. But this is not very likely. Consider major-league baseball again. Suppose that a third of the nation's best baseball players are black. Suppose, further, that two-thirds of major-league baseball teams hire on a color-blind basis, while the remaining third prefer white players because they believe that the whiter the team, the larger the crowd will be. Intuitively, we almost all assume that such a situation will drive down black players' salaries, and that blacks will earn less than whites with comparable skills as a result. In fact, this is unlikely. If two-thirds of the teams hire color-blind and only a third of the potential players are black, color-blind teams will be half black and will pay blacks as much as comparable whites. The remaining teams will end up lily white, but since blacks will not play for them, their salaries will not suffer. Nor will these teams have any reason to pay whites more than the other teams pay. Discrimination would only affect black players' salaries if it affected almost every major-league team—as it would, for example, if all owners thought their fans preferred a slightly worse, all-white team to a slightly better, half-black team.

As this example indicates, sporadic discrimination may have important political and psychological effects, but only universal discrimination is likely to have direct effects on workers' earnings that are large enough to matter. This generally ignored fact has profound consequences. Consider the case of two students graduating from a good law school in the 1930s, one of whom was Jewish, the other black. If the Jew sought a job with a leading New York firm he soon discovered—if he did not already know—that most of these firms hired only Gentiles. But he also discovered some exceptions. The likely result of such a lawyer's job

search was twofold. First, he would conclude that there was a great deal of discrimination against Jews and would probably become a supporter of both "fair employment" legislation and the Anti-Defamation League. Second, he would get a job that allowed him to contribute generously to these causes. If he surveyed his law school class 30 years later and compared the earnings of Jews and Gentiles, he would probably find no evidence that Jews suffered economically from discrimination. This would not mean that discrimination did not exist, only that it did not prevent Jews from finding economic niches in which they could do as well as Gentiles.

For our black lawyer, however, the story would be quite different. No leading New York firm hired blacks in the 1930s. Even liberal firms assumed that their clients would never accept a black attorney. Blacks therefore looked elsewhere for work, sometimes entering government, sometimes joining a civil rights organization, sometimes establishing their own practices dealing with black clients. As a result, even a leading black lawyer was likely to earn far less than his white classmates.

Few would argue that black workers still face the kind of color bar that black lawyers faced in the 1930s. There is still plenty of discrimination, but it is certainly not universal. If blacks show a modicum of ingenuity in selecting occupations in which their performance will be evaluated more or less objectively, or in selecting employers who will treat them fairly, they can usually earn as much as an equally competent white. As a result, the case for government action no longer rests on the short-term economic benefits of eliminating discrimination, which are probably quite small. Rather, the case for government action rests on the proposition that even sporadic discrimination should be stamped out, both because it is morally unacceptable and because it helps perpetuate psychological attitudes among blacks that continue to make some of them undesirable employees.

Consider just one example. Suppose that blacks are slightly more likely than whites to steal from white-owned firms, that white firms recognize this fact, and that they respond by refusing to hire blacks for jobs where they will have an opportunity to steal. Now suppose the federal government accepts such policies as legitimate. How are the victims likely to respond? First, some will not bother to acquire the skills they would need for jobs that require trustworthiness because they know that employers will not give them such jobs anyway. Second, some will probably conclude that they have little to lose from stealing because even if they are caught, a record of petty theft will not bar them from many jobs they would otherwise have gotten. Third, those who do not

steal will be embittered when they are treated as if they did, and will see no reason to make a white firm's interests their own. This will, of course, make whites even less willing to hire blacks. Even in strictly economic terms, the long-run costs of such a policy are likely to be very large. If we also consider the impact of such a policy on blacks' noneconomic behavior—crime rates, family stability, inclination to riot, and so on—the cost will be even greater.

## THE HISTORICAL IMPACT OF DISCRIMINATION

To assess the cumulative impact of sporadic discrimination on a group's economic situation, it is instructive to compare the family incomes of different white ethnic groups. Family income statistics do not tell us much about current labor market discrimination. Family incomes may vary because of ethnic differences in family structure and attitudes toward employment, or because of ethnic differences in educational attainment, work habits, and hence individual productivity, as well as because of discrimination. Family income statistics do, however, provide a crude measure of the cumulative impact of the way many generations of discrimination have shaped a group's current skills, attitudes, and behavior.

Table 1 uses data collected from 1972 through 1980 by the National Opinion Research Center's General Social Survey (GSS) to estimate the family income of people who said their ancestors came to America from Europe—people who, for convenience, I will simply call "Europeans." The table includes all sizable white ethnic groups except Hispanics, most of whom came to America via Latin America and most of whom are much poorer than those who came to America directly from Europe.

Table 1 shows that the victims of discrimination are often more affluent today than their former oppressors. Jews, for example, are far better off than any other American ethnic group. Irish Catholics are second. Americans of British origin—the WASPs who were once said to run the country—have only 1% more income than the average American of European origin. Northern Europeans are for the most part worse off than southern or eastern Europeans. Contrary to what one might suspect, these differences persist even when one looks exclusively at families living in the urban North.

**TABLE 1**  
**Family Income of European Ethnic Groups**  
**in the United States, 1972-1980**

<i>Ethnic Origin</i>	<i>Income as Percentage of European Average</i>	<i>Percentage of All American Adults</i>
Jews	138	2 3
Irish Catholics	114	2.0
French	104	1 5
Italians	102	3 7
Czechs	101	0 9
British (including Scots)	101	8 3
Germans	96	11.2
Poles	95	2 0
Irish Protestants	91	3 2
Dutch	88	1 0
Scandinavians	88	3 2
Other non-Hispanic Europeans	104	3 7
Mixed European	107	32 5
"Don't Know"	74	9 4
All Europeans	100	84 9

SOURCE National Opinion Research Center: General Social Survey. Ethnicity is based on responses to the questions, "From what countries or part of the world did your ancestors come?" and "What is your religion?" Those naming two or more countries are classified as "mixed." Nonwhites and Hispanics are excluded. N = 11,216. "Families" include individuals living alone

There is plenty of room for controversy about which European groups encountered the most discrimination in America, but few would argue that the Dutch or the Scandinavians had a harder time than the Jews, that the country was run by a French establishment that kept immigrants of British origin in their place, or that Irish Protestants encountered more discrimination than Irish Catholics. Indeed, Irish Protestants (often known as "Scotch Irish" to distinguish them from Irish Catholics) blended so easily with their British cousins that few people are even aware they constitute one of the largest ethnic groups in America—larger, for example, than Irish Catholics. Because Irish Protestants never established their own churches, political machines, or voluntary associations, they never entered American consciousness the way Irish Catholics did. The absence of organizations for mutual aid may, in turn, help explain why Irish Protestants are now worse off economically than Irish Catholics, although many other factors are also involved.

Far from suggesting that discrimination kept its European victims impoverished, Table 1 suggests that it spurred them on to greater success. Table 1 also does not offer much support for the argument that an ethnic group's success in America depended on the values, skills, or traditions it brought from the old country. If cultural legacies were of critical importance we would expect groups that prospered in Europe to have done the same in America. This may be true of the Jews, who may have been more affluent than their Gentile neighbors in Europe as well as in America, but I know of no hard data on this point. Among Gentiles, however, the European economic order seems to have been almost completely reversed in America. Germans and Scandinavians are richer than Italians and Czechs in Europe, but poorer in America. Irish Protestants are richer than Irish Catholics in Ulster, but poorer in America.

Indeed, the whole tradition of Protestant affluence and Catholic poverty that inspired Max Weber's reflections on the economic impact of religious ideas has been stood on its head here. Catholics from virtually every European country are today better off in America than Protestants from the same country, although the differences are seldom as large as those shown for the Irish in Table 1. None of this denies that an immigrant ethnic group's initial economic position in America was heavily influenced by its values and traditions. But ethnic traditions that encouraged affluence in Europe did not always have the same effect in America, and in many cases a group's skills and values changed rapidly once it arrived in the New World.

Unfortunately, the fact that many European ethnic groups overcame discrimination and prospered in America has little direct bearing on the situation of non-Europeans, as discrimination against European minorities was never anything like universal. The descendants of European immigrants have almost all had the option of shedding their ethnic identity and passing as just plain Americans. Physical differences, combined with extreme social sensitivity to the significance of these differences, made this much more difficult for most blacks and somewhat more difficult for Asians, Native Americans and even Latin Americans.<sup>1</sup> Perhaps as a result, discrimination seems to have had more effect on black culture and behavior than it has had on the culture and behavior of European minorities. It has also had more effect on black incomes than on European incomes.

Column 1 of Table 2 shows Thomas Sowell's estimates of relative income for non-European families in America in 1969, before affirmative action had had much impact. The Japanese were doing much better

**TABLE 2**  
**Non-European Incomes as a Percentage**  
**of U.S. Average in 1969**

<i>Geographic Origins</i>	<i>Family Income</i>	<i>Men with 9-12 Years of School</i>	<i>Men with 16 Years of School</i>	<i>Women with 9-12 Years of School</i>	<i>Women with 16 Years of School</i>
Native Americans	60	66	64 <sup>a</sup>	79	127 <sup>a</sup>
Black Africa	62	69	61	87	108
West Indies	94	82	65 <sup>a</sup>	122	132 <sup>a</sup>
China	112	91	80	117	93
Japan	132	111	86	122	95
Phillipines	99	76	59	93	97
Latin America <sup>b</sup>	79	84	84	89	93
Puerto Rico	63	76	80 <sup>a</sup>	104	96 <sup>a</sup>
U S Average	\$10,930	\$7,408	\$12,952	\$3,230	\$5,289

**SOURCES:** Family Income data for all groups but Latin Americans are from Sowell (1982b tab 1) Individual incomes are from Sowell (1978) All of Sowell's estimates are based on tabulations from two 1/100 samples of 1970 census respondents. The U S and Latin American averages are from Bureau of the Census (1974 tabs 249, 250).

a Estimate based on less than 100 respondents

b Includes all "persons of Spanish heritage," a small percentage of whom came to the United States directly from Spain

than the average European, the Chinese somewhat better, and the Filipinos only marginally worse. Hispanics in general were doing worse than Europeans, and Puerto Ricans were doing much worse. Native Americans and blacks were also doing much worse than Europeans, although West Indian blacks were only a little worse off than Europeans.

Columns 2 to 5 of Table 2 indicate, however, that ethnic differences in family income are only loosely related to anything that might plausibly be called current labor market discrimination. Looking only at the family income statistics, for example, one might infer that Asians today benefited from discrimination, perhaps because of their reputation for diligence. Yet if we compare the individual incomes of Asian men to the national average for men with the same amount of schooling, the Asians almost always earn less than their European counterparts. Japanese high school graduates are the exception, and even they earn only a little more than the average. Asian families do well primarily because they often include more than two adults. As these adults almost all work, the number of earners per family is well above the European average.

The family income statistics for blacks also convey a misleading picture of prevailing labor market practices. Blacks of West Indian origin had 1969 family incomes half again as large as blacks who came to America directly from Africa, suggesting that West Indians had somehow escaped the debilitating effects of American racism and that it was black American culture, not skin color per se, that accounted for black Americans' low family income. Yet when we compare West Indian men to black American men with the same amount of schooling we see that the West Indians were only slightly better paid. This small difference probably derives from the fact that West Indians seldom settled in the South. Looking at individual earnings rather than family income shows that West Indian men earned far less in 1969 than their white counterparts. The West Indian "success story" seems to be largely attributable to the fact that West Indian women earn a lot more than other women with comparable schooling.

Evidence of the kind shown in columns 2 and 3 of Table 2 has traditionally persuaded liberals (including myself) that employers paid black men less than they paid equally competent whites. Conservatives have rightly argued that such evidence is not conclusive. One alternative explanation that appeals to academic observers is that blacks learn less in school. Blacks at all educational levels performed worse than whites on virtually every known achievement test in 1969. (The gap narrowed during the 1970s, at least at the elementary school level, but it is still huge.) The trouble with this explanation is that mastery of what schools try to teach has only a modest relationship to subsequent earnings for either blacks or whites. As a result, differences in test performance explained only a small part of the earnings gap between blacks and whites with the same amount of schooling in the 1960s (see, e.g., Duncan, 1968).

A more plausible explanation of the black-white earnings gap focuses on noncognitive differences. Employers are as likely to complain about their black employees' work habits and motivation as about their technical competence. The fact that black-white wage differences are greatest among poorly educated black males suggests that employers may be reacting more to ghetto culture than to skin color per se.

Measuring work habits and motivation is almost impossible. I have been struck in my own research, for example, by the fact that blacks claim to be less satisfied with their jobs than do whites in comparable occupations who make the same amount of money (Jencks, 1982). This remains true even when one accounts for differences in fringe benefits,

job security, hours, unionization, and the like. If dissatisfaction is linked to job performance, as countless organization theorists claim, the fact that blacks are dissatisfied could mean that they perform poorly. If so, even unprejudiced employers would end up paying blacks less than whites with similar skills and credentials. This would remain true even if, as one can readily imagine, blacks had good reasons for being dissatisfied. If, through no fault of their own, blacks had worse relations with their white supervisors or fellow workers, this would probably lead to worse performance. It would then make economic sense for employers to pay blacks less than whites with similar credentials and skills—unless employers could somehow make white supervisors and workers treat blacks better without incurring significant costs.

The complexity of the issue is underscored by the other striking fact in Table 2—namely, that black women with college degrees earned more than their white counterparts in 1969. Even black women who had not attended college earned nearly as much in 1969 as their white counterparts. Some have argued that black women benefited more than black men from affirmative action, because employers knew that hiring black women allowed them to meet two quotas instead of just one. The trouble with this theory is that federal affirmative action programs paid very little attention to gender in the 1960s, so firms had little reason to prefer black women to black men unless women performed better once hired or encountered less resistance from coworkers.

And what about Asian men, whom most employers described as model workers, but who in 1969 also earned less than Europeans with the same amount of schooling? This was not because Asians attended worse schools or scored lower on standardized tests than European men. If it was not because of almost universal discrimination, what is the explanation? But if Asian men encountered such universal discrimination, why did Asian women do as well as Europeans? Table 2 does not, I think, fit either a simple liberal model of ethnic inequality, with its emphasis on color prejudice, or a simple conservative model, with its emphasis on unmeasured cultural differences.

Still, the historical record prior to 1970 does seem to me to point to two conclusions. First, sporadic discrimination against white ethnic minorities had no cumulative negative impact on their economic situation. If anything, sporadic discrimination prodded white minorities to higher achievement by promoting the myth that minority group members had to be better than average in order to earn an average income. As white minorities could usually find economic niches in which



they did not encounter discrimination, the melting pot eventually worked for them.<sup>2</sup>

Second, nearly universal discrimination probably did lower nonwhite men's incomes. One can never prove definitively that wage differences between whites and nonwhites with the same measured credentials, skills, and attitudes are due to employer prejudice. There is always a chance that unmeasured worker characteristics explain the difference. But the unmeasured differences between whites and nonwhites with the same amount of schooling and the same test scores involve work habits and attitudes that are themselves likely to be a product of past discrimination by employers.

## **THE IMPACT OF AFFIRMATIVE ACTION**

Title VII of the 1964 Civil Rights Act prohibited almost all employers from discriminating on the basis of race or ethnic origin. Executive Order 11246, issued in 1965, required all federal contractors to establish a written "affirmative action" program, including "goals and timetables," for eliminating the effects of past discrimination. Most large firms do business with the federal government, so most now have some kind of affirmative action program. Many firms that do no business with the federal government also have programs designed to eliminate the effects of past discrimination. Some established these programs as a result of lawsuits brought under Title VII. Others established them in order to forestall legal action. Still others acted because their owners or managers believed that "affirmative action" was desirable on its own merits.

While some of these programs began to exert an appreciable effect on recruitment and hiring practices during the late 1960s, most of them did not become fully operational until the early 1970s, when tough enforcement began. After 1980 federal enforcement again became less active. At the same time unemployment skyrocketed, which would have hurt blacks more than whites even if affirmative action had been as strong as ever. Assessing the impact of affirmative action on blacks is thus largely a matter of assessing changes in opportunities for blacks during the 1970s. In assessing these changes, however, we must bear in mind that the economic environment as a whole was less favorable during the 1970s than during the 1960s, and that economic problems always hit

TABLE 3

## Nonwhite Incomes as a Percentage of White Incomes: 1955-1979

	1955	1959	1969	1979
Regularly employed men	55	54	64	73
Regularly employed women	57	63	82	95
Families	58	54	65	63

SOURCE: Bureau of the Census (1981b: tabs 11, 67).

NOTE: "Regularly employed" individuals are those who worked full-time throughout the relevant year. "Families" exclude individuals living alone or with other unrelated individuals.

blacks harder than they hit whites. Thus we cannot answer the question, What would have happened without affirmative action? simply by looking at what happened during the early 1960s. We can answer it somewhat more satisfactorily by also looking at what happened during the late 1950s, which was also a time of slow economic growth. But this comparison may still be misleading because many blacks lived on southern farms in the 1950s. Moving to cities boosted black incomes substantially during this period. There was no comparable source of easy economic progress during the 1970s, which was probably one reason why blacks pushed harder for affirmative action.

Table 3 shows how the ratio of nonwhite to white earnings changed from 1955 through 1980. Nonwhite men's earnings rose less than those of white men during the late 1950s, when the labor market was slack and affirmative action nonexistent. During the 1960s, when the labor market was tighter but affirmative action was weak, nonwhite men gained more than did whites. During the 1970s, when the labor market was slack but affirmative action strong, nonwhites again gained more than did whites. Nonwhite women's earnings rose faster than white women's earnings throughout this 25-year period.

Considering that both nonwhite men and nonwhite women gained ground relative to whites during the 1970s, how did nonwhite families manage to lose ground, as Table 3 indicates they did? One answer is that fewer nonwhites—or at least fewer blacks—got married. Furthermore, when blacks did marry, they were less likely to stay married. If two parents are both married and living together, the Census Bureau imputes both parents' income to a single family unit. If the two parents are either unmarried or living apart, the bureau imputes their incomes to two separate units. This lowers the mean of family income. If the parents live apart, this also lowers their material standard of living. If

**TABLE 4**  
**Black Annual Earnings as a Percentage of**  
**White Annual Earnings, 1959-1979**

	1959	1969	1979
<b>Men Aged 25-34</b>			
High school graduates	67	75	74
College graduates	59	68	86
<b>Men Aged 35-44</b>			
High school graduates	64	71	76
College graduates	45	66	71

**SOURCES.** Smith and Welch (1977 323-338); Bureau of the Census (1981b: tab 53)

**NOTE:** The estimates for 1959 and 1969 exclude the self-employed. The estimates for 35-44 year olds in 1959 and 1969 are based on linear interpolation. The estimate for 35-to 44-year-old college graduates in 1979 assumes that the earnings of black men with only a B.A. differed from the earnings of all black men with a B.A. or more by the same percentage among 35- to 44-year-olds as among all men over 18.

parents live together without marrying, the apparent reduction in living standards is spurious. As the proportion of nominally single-parent families rose far more among nonwhites than among whites during the 1970s, nonwhite family incomes fell relative to white family incomes.<sup>3</sup>

Table 3 does not tell us much about the effects of affirmative action per se, as nonwhites could have caught up with whites during the 1970s because they were better educated than in the past, or because their work habits changed for the better, or for half a dozen other reasons. Table 4 does not solve this problem, but it takes a step in that direction. It shows the ratio of black to white earnings for high school and college graduates in 1959, 1969, and 1979. Looking first at 25- to 34-year-olds, who are most likely to be affected by changing employment opportunities, we see that black male high school and college graduates both gained relative to their white counterparts during the 1960s. Black male college graduates gained even more during the 1970s, but black male high school graduates did not gain at all. If anything, they lost a little ground relative to whites during the 1970s. The story for high school dropouts (not shown in Table 4) is much the same as for high school graduates.

As a result of these changes, attending college raised a black man's earnings more than it raised a white man's earnings in 1979—not because black college graduates earned more than their white counterparts but because black high school graduates earned so much less.

Graduate education was also worth more to black BAs than it was to white BAs. The Association of MBA Executives reports, for example, that whites with a master's in Business Administration (MBA) typically started out with salaries of \$24,259 in 1980. Members of minority groups with MBAs started out at \$24,145—a difference of less than 1% (*New York Times*, 1982). Thomas Sowell reports that black Ph.D.s earned as much as whites in the same field during the 1970s (Sowell, 1982a). Anecdotal evidence suggests that the same was probably true among recent law school and medical school graduates.

The rapid increase in relative earnings for highly educated black men during the 1970s could, of course, have causes other than affirmative action. But when Richard Freeman compared the rate of increase in black men's wages after 1964 to the rate of increase during the 1950s and early 1960s, he found that the black-white gap narrowed much more rapidly after 1964 than it had before. While other factors also helped blacks to catch up with whites after 1964—notably migration from the rural South to the urban North and the narrowing of the educational gap between blacks and whites—they accounted for only a modest fraction of the overall change (see Freeman, 1981).

Instead of looking at societywide trends, some economists have tried to estimate the effect of affirmative action on black employment opportunities by comparing firms with federal contracts to firms without such contracts. Four studies focus on the early period, from 1967 to 1973. Three of these studies found that the percentage of black workers rose appreciably faster in firms with federal contracts than in other firms. The fourth study found no clear difference. None of these studies of the early period found that firms with affirmative action plans moved blacks into better jobs than firms without such plans.<sup>4</sup> It is true that the ratio of black to white wages in 1969 was higher in industries that did a lot of business with the federal government than it was elsewhere in the private sector. But the black-white wage ratio in industries that did a lot of business with the government was lower in 1969 than it had been in 1959, before affirmative action (Smith and Welch, 1977). Federal contractors added a lot of high-level jobs during the 1960s, but these jobs still went mainly to whites.

While the ratio of black to white wages fell in industries doing a lot of business with the federal government, it rose elsewhere in the private sector. This is not as surprising as it might seem. Title VII outlawed discrimination even in firms that did no business whatever with the government, and legal action forced many firms with a history of

discrimination to make sweeping changes in their hiring and promotion practices. Fear of legal action led many other firms to make such changes. As industries that did little business with the federal government generally started the decade in a much worse position with regard to black employment than did federal contractors, it is not surprising that these were the industries in which blacks made the greatest gains.

This picture changes after 1973, when the new era of tough enforcement began. Not only did the percentage of black employees continue to rise faster in firms with federal contracts than in other firms from 1974 to 1980, but after 1974 blacks in these firms were more likely to move into well-paid jobs than blacks in other firms (see Leonard, 1984a, 1984b). This seems broadly consistent with Table 4, which suggests that employment opportunities for black college graduates improved substantially during the 1970s.

How, then, are we to explain the fact that the black-white earnings ratio actually fell slightly during the 1970s among young male high school graduates? Why should affirmative action have helped black women and highly educated black men, but not less educated black men? The fact that black-white wage ratios lagged among poorly educated black males suggests that employers may have been reacting more to such men's behavior than to skin color per se. Poorly educated black men behave in all sorts of ways that employers dislike. Black men are 5 to 10 times more likely than whites to be arrested for serious crimes, for example.<sup>5</sup> This difference is partly due to the fact that black men are less educated than whites and are also more likely to be between the ages of 15 and 30, which is the "criminal age." Police, prosecutors, and judges may also be harder on blacks than on whites. Nevertheless, a prudent employer would certainly have to assume that young black high school graduates are more likely to end up in trouble with the police than are young white high school graduates.

Black men are also five times more likely to father illegitimate children than are white men (Bureau of the Census, 1984: 70), and more likely to abandon their wives and children if they marry. Only 14% of black men provide their children with any financial support after leaving home, compared to 43% of white men (Bureau of the Census, 1981a: tab. 1). None of this is of direct concern to employers; but if young black men approach their work in the same way that they approach contraception and parenthood, employers would have good reason to avoid hiring them for responsible jobs.

It is also possible that Title VII actually discouraged many employers from hiring young, poorly educated black men. Employers know that if they fire a black worker, he or she can appeal to the Equal Employment Opportunity Commission (EEOC). Fighting such cases can cost employers huge sums. If an employer is considering high-risk applicants, many of whom will have to be fired, high-risk whites look more attractive than high-risk blacks because whites can be fired with impunity. In addition, EEOC investigations often focus on promotion rates. This could make employers reluctant to hire blacks they do not think likely to earn a promotion. Indulging such preferences is illegal, but that does not necessarily mean it is unusual.

As Title VII increased both the potential cost of hiring the "wrong" blacks and the potential cost of not hiring any blacks at all, it forced employers to intensify their search for the "right" blacks. This presumably explains why the wages of black men with college degrees and of black men over 35 with high school diplomas rose faster than those of their white counterparts, while the wages of black men under 35 without college degrees lagged behind those of their white counterparts. Men with either college degrees or extensive work histories were a relatively low-risk proposition; and in an era of constant litigation, low risk was what employers wanted.

Unemployment statistics tell the same story. In 1964, when Title VII was enacted, unemployment was twice as common among nonwhite men between the ages of 20 and 24 as among those between 35 and 44. By 1979 the younger group was experiencing three times as much unemployment as the older group (Bureau of Labor Statistics, 1981). Again, no such trend is apparent among whites. All these statistics suggest that while most blacks have gained significantly from Title VII, young poorly educated black men have not.

Furthermore, despite its generally positive economic effects, Title VII has had important political and psychological costs. These derive not from Title VII's ban on discrimination against blacks but from the fact that affirmative action programs have often led to discrimination against whites. Some whites resent having been denied jobs or promotions that they think went to less qualified blacks because of affirmative action. Many others assume that every surly or incompetent black worker they encounter owes his or her job to federal pressure, while blaming surliness or incompetence among whites on permissive child rearing or junk food, depending on their political taste.

Reverse discrimination has also reinforced white assumptions about black incompetence. In some cases a double standard in hiring leads to

clear differences in performance between blacks and whites doing the same sort of work. Even when this does not happen, the fact that well-intentioned personnel officers and hiring committees contemplate using a double standard reinforces white prejudices about the likelihood of finding blacks who are really competent.

The same thing happens in elite private colleges that admit marginal black students. The presence of such students convinces many white students and faculty that blacks just are not very bright. The logic is precisely the same as the logic that convinces students and faculty that athletes, who are also admitted even if they are academically unpromising, are not very bright. The difference is that encouraging the nation's future professional and managerial elite to think that athletes are nitwits does no serious social harm, whereas encouraging the belief that blacks are nitwits does incalculable harm.

Perhaps even worse than the effect on whites is the potential effect of reverse discrimination on blacks. A disturbingly large number of blacks report that such policies have led them to doubt their own competence. This can have catastrophic psychological effects. It can also blunt the internal drive for excellence that is crucial to the development of high-level skills.

## **THE FUTURE OF AFFIRMATIVE ACTION**

How did Title VII, which was supposed to forbid discrimination on the basis of race and ethnicity, end by encouraging reverse discrimination? The answer is partly political and partly legal. The ground rules for interpreting Title VII were established at a time when cities were burning and violent racial conflict was ubiquitous. Public officials, lawyers, and judges almost all assumed that such conflict derived at least partly from black economic troubles, and that these troubles derived partly from past discrimination. Eliminating racial violence thus seemed to require an employment strategy that promised not only to treat black job applicants fairly in the future but to offset the effects of past discrimination as well.

This posed two problems. First, good jobs usually demand information, skills, personal contacts, and work habits that can only be acquired in other jobs that are almost equally good, or to a lesser extent in good schools. As blacks had been denied access to most good jobs and had had great difficulty in attending good schools, color-blind hiring rules

would have forever excluded most blacks already in the labor force from good jobs. Second, most good jobs carry an implicit guarantee of tenure so long as you continue to perform at whatever level your employer has judged acceptable in the past. Because most good jobs had been filled under Jim Crow rules, and because turnover in these jobs was often quite slow, even a system that guaranteed blacks fair access to jobs that fell vacant would not have guaranteed them their fair share of all good jobs for at least a generation.

The compromise that emerged was deliberately ambiguous in character. Firms were allowed to retain all their old employees, no matter how unfair the procedures used to hire them. But firms were also put under considerable pressure to revise their hiring procedures for new employees so as to increase the proportion of blacks hired. These pressures took two forms: changes in nonracial hiring criteria and the establishment of racial quotas.

In 1971 the U.S. Supreme Court held, in *Griggs v. Duke Power Company*, that if any formal job requirement excluded more blacks than whites, employers who imposed this requirement must show that it was necessary to obtain a competent labor force. If requiring a high school diploma excluded more blacks than whites, for example, as it inevitably did, the employer had to show that employees with high school diplomas really performed better than employees without high school diplomas. On its face, this requirement seems completely reasonable. In practice, however, it meant that employers who wanted to require a high school diploma had to invent a quantitative measure of job performance, collect data on the performance of many different workers in each job, and then show that performance was higher among high school graduates than among nongraduates. In many cases no significant relationship emerged. This did not necessarily mean that high school graduates were no better than dropouts. Employers use multiple criteria when hiring. If an applicant has a high school diploma, that counts in his or her favor. If the applicant has a pleasing personality and appears to be bright, these qualities also count in his or her favor. This means that successful applicants without high school diplomas usually have other virtues. As a result, employees with high school diplomas often perform no better than those without diplomas. The only way to solve this problem of selection bias would be to hire random applicants and then see whether those with high school diplomas did better than those without diplomas. Needless to say, few employers are prepared to do this



But even if high school graduates outperform dropouts, this is usually hard to prove. EEOC rules require firms to validate their hiring criteria using their own employees. This usually means that the sample for a given job is quite small. Even a substantively important difference is often "statistically insignificant" in these small samples. Furthermore, most performance measures involve a lot of random error. Such error makes statistically significant relationships even harder to find. Given these difficulties, many firms decided it was wiser to drop their traditional hiring requirements and just hire enough blacks to keep "the feds" happy.<sup>6</sup>

Many firms established numerical goals (quotas) for black hiring. They often did this under legal duress, in response to evidence that they had engaged in discrimination in the past. The quotas were supposed to raise black employment in the firm to the level that would have prevailed in the absence of past discrimination, and they were usually supposed to do this more rapidly than color-blind hiring would. If, for example, a firm agreed to a goal of 20% black workers in a given job, and if none were currently black, it might have to offer half its openings to blacks for several years in order to meet its goal. This often meant that firms had to hire some blacks whose credentials were less impressive than those of the least promising whites they hired.

Consider the case of academic departments in leading universities. Such departments have traditionally tried to hire people who have either already written or would soon write books and articles that exerted a major influence on scholars at other institutions. Other criteria, such as teaching competence, have been secondary. As pressure mounted in the late 1960s to hire blacks in these departments, it quickly became obvious that blacks who were qualified in terms of these criteria were almost nonexistent. Many blacks responded to this situation by condemning traditional standards. Federal officials and university affirmative action officers responded by fudging the issue. They did not deny the relevance of some traditional criteria, such as having a Ph.D., but they deliberately ignored the fact that by traditional scholarly criteria black Ph.D.s had been less productive than white Ph.D.s. As a result, they set minority hiring goals by looking at, say, the percentage of all Ph.D.s who were black, not the percentage of articles in leading journals written by blacks. Those who argued that qualitative differences between black and white Ph.D.s made proportional representation inappropriate were dismissed as racists. University departments then had three choices: They could hire some blacks whose scholarly records were weaker than

those of the best white applicants; they could fall short of their hiring targets; or they could formulate new criteria for evaluating both white and black applicants that would yield the desired black-white ratio when applied on a color-blind basis. Universities have chosen some combination of the first two options. None has even attempted the third.

The use of double standards for hiring, firing, and promoting workers is not, of course, confined to blacks. The same thing happens with veterans, friends and relatives of the owner, members of the same religious faith, and so on. But all such practices are at odds with deeply held American values. Furthermore, when applied to blacks they have a host of pernicious long-run effects discussed in the previous section. These effects are less serious for veterans, relatives, and the like. The longer the double standard persists, the worse those consequences become. As more and more blacks benefit at one point or another from reverse discrimination, fewer and fewer know how they would do if people stopped making special allowances for their presumed handicaps. White stereotypes about black incompetence also grow steadily stronger. What once looked to liberal whites like a temporary, transitional problem now looks like a permanent condition.

If I am right about this, the time has come for liberal political leaders to join conservatives in repudiating reverse discrimination. This does not mean repudiating Title VII or even repudiating numerical hiring quotas. It simply means insisting that neither the federal courts, EEOC, nor the Office of Federal Contract Compliance Programs can require an employer to adopt an affirmative action program whose de facto result is reverse discrimination.<sup>7</sup>

Many conservatives want to go beyond such a modest change, however, and dismantle all the federal machinery for enforcing Title VII. Some argue that we can count on competition to ensure that firms hire qualified blacks whenever they are really available. As we have seen, this argument is false. Dismantling federal machinery for enforcing Title VII would force employers in competitive markets to discriminate against black workers under at least three circumstances:

- (1) when they had racist customers, and the job in question involved contact with the public,
- (2) when they had racist employees, and the job in question required collaborative work with such employees, or
- (3) when experience showed that blacks were less likely than whites with the same formal credentials to prove satisfactory employees, and it was too costly to hire everyone and then fire the incompetents

These conditions are quite common, so discrimination is likely to remain quite widespread unless the government makes it costly.

Nonetheless, discrimination of this kind is not likely to be universal. This means that it would probably not reduce black workers' earnings appreciably below what they would be in a color-blind labor market. The reason, as I argued in the section on "Varieties of Discrimination," is that black workers can almost always find *some* job that uses their skills and is filled on a color-blind basis. So long as even two color-blind employers are competing for a black worker's services, they will bid up his or her wage to about what it would be in an open market with many bidders. But the fact that discrimination will not appreciably depress black workers' earnings hardly means we should view it as harmless. The psychological and political costs of discrimination are enormous, even when the economic costs are minimal. This means, I would argue, that the federal government should continue to enforce rules against racial discrimination in the foreseeable future.

The critical question is *how* the federal government should enforce such rules. Most conservatives argue that enforcement should not involve hiring or promotion quotas, as quotas inevitably imply a double standard. This argument, while superficially plausible, strikes me as fundamentally wrong. Without numerical goals Title VII is virtually unenforceable. Hiring decisions inevitably depend on a multitude of complicated factors, the weighting of which is somewhat arbitrary. Proving that racial bias has affected any specific decision is therefore next to impossible. The only way to prove discrimination is to look at a series of decisions and ask whether they favored white applicants more often than comparable black applicants.

To do this one must reach some explicit agreement about the characteristics of desirable applicants and then calculate the percentage of all desirable potential applicants who are black. If blacks get less than this percentage of the jobs, something is awry. If one finds such a pattern of discrimination, the only practical remedy is to insist that a firm bring the percentage of blacks hired up to the level one would expect if hiring were color blind. Trying to monitor hiring decisions case by case is impossible, and attempting to do so creates a mountain of useless paper and a lot of unnecessary jobs for lawyers. Numerical quotas have acquired a bad name because they have been used to encourage reverse discrimination. But this is not inherent in the idea of quotas; it is a by-product of the political climate that prevailed during the late 1960s and 1970s, when quotas were first established. From 1965 to 1980 public

officials thought it more important to increase black job opportunities than to ensure color-blind hiring. But that era is over. Thus we need not assume that quotas will be used to promote reverse discrimination. Quotas could—and should—instead be used to encourage color-blind hiring.

Along with more realistic quotas, we need a more realistic approach to nonracial job requirements. The *Griggs* decision, especially as implemented by the EEOC, has placed an enormous burden of proof on employers who wanted to use test scores, educational credentials, or similar criteria for hiring workers. Rather than placing this burden on individual employers, Congress should shift the burden to society as a whole. We need a large-scale, federally financed program of research and experimentation to determine which tests and credentials best predict performance in various kinds of jobs and, among these, which are least likely to exclude blacks. We then need federal regulations that tell firms which credentials and tests they can legally use in various kinds of jobs.<sup>8</sup>

Both in reappraising racial quotas and in reappraising nonracial job requirements, a politically viable approach to affirmative action will have to embody two principles.

- (1) Competence is always a legitimate job requirement
- (2) A record of past competence is almost always the best predictor of future competence

The architects of affirmative action programs in the late 1960s and 1970s never denied the first of these principles. They merely fudged it in practice, for reasons that were perfectly understandable and made political sense at the time. They did, however, often deny the second principle. Many argued that blacks who had learned little in school, left school young, and compiled spotty employment records after school were simply the victims of past discrimination and that they would do better if given an opportunity.

Times have changed. Opportunities for able, college-educated blacks have improved dramatically, and the percentage of blacks who attend college has also increased substantially. This means we can no longer automatically excuse black failures on the grounds that they reflect deficient opportunities. We must recognize that past failures are as likely to imply future failures for blacks as for whites, and that employers who operate on this assumption are reasonable people, not

closest racists. None of this implies that employers never discriminate against blacks, or that we should abandon our efforts to stamp out such discrimination. But it does mean that we must use better criteria for identifying discrimination than we used from 1965 to 1980.

## NOTES

1 Almost all Latin American immigrants report their race as "white," and almost all GSS interviewers classify them this way too, even before knowing their geographic origin. Perhaps more surprisingly, GSS interviewers also classify as "white" most people who describe themselves as descended from American Indians, and a significant fraction of those who say their ancestors came from Japan, China, and other Asian countries.

2 The 1972-1980 GSS file shows no statistically significant ethnic variation in annual earnings among European Gentiles with schooling controlled, but Jews earn significantly more than comparable educated Gentiles.

3. For trend data on single-parent families see Bureau of the Census (1984)

4 Freeman (1981) provides a summary and bibliography of these studies

5 See Timothy Flanagan et al (1982: 352) for arrest data by race

6 See Jonathan Leonard discusses these changes in hiring procedures in his monograph "The Impact of Affirmative Action" (1983)

7 Whether Title VII should actually *forbid* reverse discrimination is a more complicated matter, which requires balancing the advantages of color-blind hiring against the disadvantages of federal intervention in other organizations' hiring decisions. The Supreme Court has generally held that private organizations can engage in reverse discrimination (see, e.g., the *Bakke* decision).

9. For a discussion of the traditional but fallacious doctrine that all tests must be separately validated for every firm, see Schmidt and Hunter (1981) and the sources cited there.

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