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Affirmative Action Defended

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Study of Ethics in Society



Affirmative Action

Defended

Laurence Thomas

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Center for the Study of Ethics in Society Western Michigan University Kalamazoo, MI 49008

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Affirmative Action

Defended

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The practice of affirmative action, as I shall understand it, comes to this: When two equally qualified persons apply for a single position, and one is a member of a suspect group (a woman or a minority), then preference is and should be given to the member of the suspect group. I want to offer an intuitive, non-technical defense, of this practice. My discussion shall be limited to the academic setting, especially positions of instruction. I shall not be talking about admission policies to undergraduate, graduate, or professional schools. Persons entering these schools enter to be taught rather than to teach. Accordingly, I think that the very issue of affirmative action might not be applicable to admission programs. Traditional criteria such as test scores are one measure of a person's intellectual ability (or her capacity to learn), but not the only one. And there is no reason why academic institutions should avoid applying both traditional and nontraditional criteria of excellence for admitting students to various programs and schools.

I shall not have anything to say about what the policy should be when competition for a single position is between two members of a different suspect group; nor shall defend my belief that when the competition is between a woman and a male member of a suspect group, preference should be given to the woman. I hold this view because I believe [as I have argued in "Sexism and Racism: Some Conceptual Difference," *Ethics 90* (1980)] that sexism is more entrenched

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than racism. Sexual interest, and the sexism that is generally characteristic of the male's self-conception in this regard, considerably complicates matters for women in a way that is not normally the case for men. For reasons offered in the conclusion of this essay, I reject the role-model argument for affirmative action. Finally, I shall for the sake of simplicity generally confine my remarks to a single suspect group, namely blacks.

Ι

Suppose that I cause \$1000 worth of damage to your car. Then I take it that I owe you that much for repairs. This is so whether you ever intend to get the car repaired or whether, on the one hand, you are extremely rich and I, on the other, am extremely poor. To be sure, if you are extremely rich and I am extremely poor, it would be awfully kind of you to waive this debt: but I certainly have no right to your doing so. Now, suppose that one day you receive in the mail a check from me for the amount of \$1000 accompanied by a note. On the note you expect me to say that the enclosed money is for the damage which I did to your car; however, I tell you, instead, that the money is a birthday gift. From that day on, I treat you as if my debt with you has been settled. That is, never again do I make mention of owing you any money for the damage that I did to your car.

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Though you have in your possession the amount of money that I owe you for damaging your car, I take it to be clear that something has gone wrong. For if the \$1000 I gave you on your birthday was, indeed, a birthday gift, then I still owe you \$1000 for repairs. If, instead, it was intended to settle the debt that I owe you, then I really should say as much and not present it to you as if it were a gift. For I assume that the following is true: X's giving A to Y can be construed as X's giving Y a gift if and only if it is not the case that X's giving A to Y constitutes a settling of a debt to Y, where it is understood that the debt is something other than that of reciprocating gifts.

Now, if I present the \$1000 to you as a gift when, in fact, I mean to settle thereby my debt to you, then I dare say that I add insult to injury, as here I am giving you the money it takes to repair the damage without acknowledging that I am responsible for the damage. I am acting as if you just so happen to have found yourself with \$1000 worth of damage to your car (something fell on it or you were the victim of a hit and run accident), and I am being generous enough to give you the money it takes to repair the damages--when in truth nothing of the sort is true. With these considerations in mind, the truth of the following claim seems evident: if X's giving A to Y is what it takes for X to settle X's debt to Y, then in giving A to Y, X is thereby settling X's debt to Y and, moreover, X implies (at least) implicitly

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that it is not for some other purpose that X gives A to Y.

Applying these remarks to affirmative action, my position quite simply is that because blacks have been the victim of racism they have been wronged-egregiously wronged in many instances. On account of racism, academic institutions all across America have in the past either restricted the admission of blacks or refused blacks admission entirely. I take it to be clear that this constituted a wrong and, therefore, that there is a debt--a moral debt, if you will--to blacks which needs to be settled; for in general to wrong a person is to put oneself in moral debt to that person. For American academic institutions not to acknowledge this debt by, in this case, attempting to settle it is, I contend, an affront to the self-respect of blacks, just as my not acknowledging my debt to you on account of the damage that I did to your car would be affront to you. To acknowledge the wrong that one has done to a person makes it clear to that individual that one believes there to be limits on how morally one ought to treat a person. And this, needless to say, is extremely important.

Two objections to affirmative action come readily to mind. One is that slavery and racism constitute a past rather than a present wrong; and whites today should not be held accountable for the wrongs of their ancestors. Another is that often enough the black who benefits from affirmative

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action turns out to need it the least. I deal with these objections in the section which follows.

II

The first objection--namely that slavery and racism are past wrongs--really speaks to the issue of justice across generations. It assumes that these wrongs are rather self-contained; and it is mistaken in this assumption. One result of past racism is that it gave rise to deep stereotypes concerning blacks-stereotypes under which present blacks now labor. And stereotypes profoundly influence the way we interact with one another. To illustrate consider the so-called innocent Polish joke: "How many Poles does it take to do such-and-such? Three to do this and four to do something else." The humor of Polish jokes trades upon the stereotype that Poles are stupid. Thus, observe that Polish jokes are rarely, if ever funny, when Jews are substituted for Poles. The explanation for this is hardly mysterious. While the stereotype of the Jew has it that Jews are parsimonious or conniving or have an otherwise shady character, the stereotype of the Jew is not that of a person who is stupid. So-called innocent Polish jokes have as their background assumption that those who are the butt of the joke are stupid; and Jews are not that -- so the stereotype has it.

Slavery and racism have their legacy of

negative stereotypes concerning blacks. They are shiftless and stupid; they dance well and love sex; and, in particular, they are not capable of rigorous intellectual thought. Never mind that there are thousands upon thousands of whites who are rather inept intellectually, whites as such do not labor under the stereotype of being intellectually incapable. Now, this stereotype does not attach itself only to blacks who are in fact poor and not much given to rigorous intellectual thought, it attaches itself to all blacks, period. It creates a presumption under which all blacks labor. Now, to be sure, there are blacks in this world who rebut this presumption the minute they open their mouths. But the fact that some blacks are masterfully able to rebut this presumption does not show that the stereotype passes over them. After all, being a gifted black is not something that one can just see from afar.

Having to labor under negative stereotypes readily deals with the problem of justice across generations, as we have a present harm (the negative stereotypes) owing to past wrongs (slavery and racism). I take it as a given that blacks--whether dumb or smart, rich or poor--should not have to labor under the negative stereotypes that have resulted from past injustices. The moral debt that white America must settle has to do with eradicating the negative stereotypes that its past unjust actions have given rise to. In short, therein lies the justification for affirmative action.

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Before moving on, let me underscore the point about stereotypes in another way. In America, to speak with an English accent is to secure all thirty-six inches on the social yardstick--expecially among academicians. It just sounds more charming or more witty or more incisive or whatever when said with an English accent. Observe that foreigners who have lived in this country for years often maintain their accent, whereas Americans who return to the United states after having spent only a few years in England manage to pick up an English accent--which somehow sticks. Allowing for the moment that osmosis suffices to account for why an American in England picks up an English accent when in England, I often wonder why osmosis seems not to work upon the return to America. The moral of this amusing aside is this. Stereotypes range over nearly every aspect of a person's non-verbal behavior: from his speech pattern and tone of voice to his gait and style of clothes. And the very point of observation about the English accent is that the very way in which one hears something can have more to do with the accent with which a person speaks than the content of his remarks. If an English accent can make the sort of difference I have mentioned, where there is no built in presumption that the English are more intelligent than Americans (certainly none that amounts to much), then it has to be absurd for anyone to think that the negative stereotype of blacks does not influence their thinking and receptivity

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towards blacks.

Now, one might agree that the negative stereotypes which prevail concerning blacks should be eliminated and still maintain that the practice of affirmative action is unfair to whites. Let me deal with this difficulty specifically.

III

Suppose two people, X and Y, apply for the one and only chemistry position at Small College. Suppose further that when it comes to academic abilities, publication potential, collegiality, and teaching skills, X and Y are extremely good and equally qualified. However, X is an excellent piano player and Y is an excellent soccer player. Now, it just so happens that the piano player for Small College's choir has resigned, and Small College is anxious to get a new piano player. But this is a voluntary position, you see, since Small College simply cannot afford to pay anyone for the position. Now, I ask you: Does Small College do what is morally wrong if, in virtue of its concern to have a piano player for the choir, it hires X, it being understood that X would be delighted to play for the choir? Does justice require that a coin be flipped in this situation?

Keeping this question in mind, imagine an analogous situation. Suppose two people, B (a black) and W (a white) apply for the one and only

philosophy position at Small College. Suppose further that when it comes to academic abilities, publication potential, collegiality, and teaching skills, B and W are extremely good and equally qualified. As one might gather, because B is so talented (as talented as W), he would play a most significant role in rebutting the negative presumptions regarding the intellectual abilities of blacks which might prevail at Small College. Does Small College do what is morally wrong if, in virtue of its concern to rebut the negative presumption regarding blacks, it hires B over Y? Does justice require that a coin be flipped in this situation?

At this point, one might be tempted to maintain that the two situations are not analogous, since being a piano player is an acquired skill, whereas being black or white surely is not. To my mind, this is to cavil mightily. For suppose that in my first story what Small College needs is a midget for their annual play to raise money, and X is exactly that. Well, needless to say, height is not an acquired skill; it is more like being black than being a piano player.

I assume, then, that the stories are exactly parallel and, therefore, that Small College does no wrong in hiring X over Y if, and only, if it does no wrong in hiring B over W. And I maintain that it does no wrong in the former instance.

To begin with, it should be noted that neither X nor Y (and so neither B nor W) have a right to the job. And it will be remembered that only one would

get the job. What each has a right to is that his credentials be fairly considered by Small College. What this amounts to is a right not to be ruled out of the job competition on grounds that have to do with an improper weighting of one's credentials. This is not a right which precludes any introduction of considerations which are not tied to the position; though, to be sure, the introduction of such considerations is precluded just so long as considerations which pertain to the job are met by one or more of the candidates. Small College should not hire X over Y, however well X plays, if X is unqualified to teach chemistry. If these considerations are sound, then it is a mistake to suppose that in the choice betwen either X and Y or B and W, justice requires that Small College flip a coin. Specifically, the hiring of X and B for the reasons mentioned cannot in any way be construed as ruling out either Y or W for reasons having to do with an improper weighting of credentials.

Since by hypothesis, the two sets of candidates are tied with respect to their professional credentials, it follows that the tie can be broken only by introducing a non-professional consideration. Flipping a coin is certainly such a consideration. However, there is no reason to suppose that this is the only non-professional consideration which, if introduced would be fair. If, in the case of B and W, anyone is inclined to think that for the reasons mentioned the hiring of B over W amounts to no

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more than racism in reverse she should think again. For the racism which has so tainted American history did not amount to the practice of simply hiring whites over blacks in the case of ties. Rather, the racism of this country meant that in a great many instances to be black was to be automatically unqualified for the job. It was to be summarily dismissed. The case of hiring B over W does not even come close to being a reverse of this practice.

So far, my argument has been that Small College does nothing morally objectionable in hiring B over W. But I want to say that Small College morally ought to hire B. If it is morally permissible for Small College to hire X over Y, then, even more so, it must be morally permissible for Small College to hire B over W. Indeed, it is not just a good thing that Small College take steps to correct the negative stereotypes of blacks which academic institutions have fostered by their past discriminatory practices against blacks, they owe this much to blacks. There is a wrong which should be made right. B should be hired over W precisely because Small College owes it to blacks to correct the negative presumption which has been fostered with respect to blacks. Notice, it does not matter at all whether B is actually from a low socio-economic class or is well-off. The hiring of a well-off black is no embarrassment to the argument at all, since they, too, must bear up under the negative stereotypes; and, for all we know, they may be the most effective at eradicating the negative

stereotypes of blacks that prevail.

Let me now bring out the way in which the account of affirmative action offered is institutionallyrelative, as I shall say. To begin with, we must distinguish between (1) the quality of candidate an institution would like to hire and (2) the quality of candidate an institution is prepared to settle for. Quite often (2) is less than (1). For I take it that most institutions would like to hire the very best candidate on the job market each year. But, of course, as a matter of logic alone, not every institution can do that, as not everyone can hire the very best person among all available job candidates in any given year. Accordingly, some settle for less than the best person without feeling that they in any way jeopardize their standards. When adjusted to institutions, my position is this: An institution must hire a minority candidate if the minority is as qualified as a white candidate for whom the institution is prepared to settle. These remarks render the account of affirmatiave action offered institutionally-relative. Whether or not a minority is good enough to be hired by a given institution is tied to the quality of the white candidate for whom the institution is prepared to settle. The black candidate must be at least as good as that candidate. Some institutions are prepared to hire a candidate only if he will rank among the very top in his profession. Institutions such as these should not have to settle for a black who does not measure up in this regard.

needless to say, it is not the case that every insitution is prepared to hire a candidate only if he will rank among the very top in his profession. For if this were true, there would be very little hiring going on. In terms of whom they can get, most institutions lower their sights. They know that they will not be able to attract the very best candidates, barring some special story such as the candidate's spouse must move to the area. Barring an explanation such as this, a small college in North Dakota can be reasonably certain that it cannot compete against the ivy league schools. So, if this college plans to do any hiring at all, it must be willing to settle for less, which is not to say that it must be willing to settle for anything. And my position is that this small college in North Dakota must hire the black applicant who is as good as the white applicant it can get and for whom it is prepared to settle, though neither the black nor the white ranks among the very best candidates.

IV

Offhand, my defense of affirmative action would seem to be ever so limited, since it explicitly pertains ony to acdemic institutions. I suggest, however, that it is not as limited as one might suppose. The idea that the negative stereotypes, owing to slavery and racism, should be eliminated plays a central role in my argument; and we know

that these stereotypes of blacks pervade every aspect of American life. It is no accident that this is so. From the Jim Crow laws of the south to the defacto racism in the north, America has regarded blacks as second-class citizens in all walks of life. The idea that blacks are morally, intellectually, and socially inferior has been played out in virtually every crevice of the American society. It is hard to imagine an aspect of society which has not had a hand in doing so. This not to claim that everyone has set out to act in ways which convey this attitude of blacks, but that nearly everyone--including, in some instances, blacks themselves--have unwittingly participated in patterns of behavior which perpetuate the negative stereotypes of society. If so, then the arguments of this essay are more far reaching than one might have suspected.

Conspicuously absent in my defense of affirmative action is any reference to the role-model argument. Let me say a word about this argument. Briefly, this argument has it that a consideration which very much militates mightily in favor of affirmative aciton is that black students need black role-models: that is, if black students are to see themselves as being capable of succeeding as blacks, they need to see successful blacks. The main problem that I have with the argument is that it comes dangerously close to being in keeping with a racist view of blacks. For if in order to succeed blacks need black role-models, then it follows that the black

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who should manage to succeed in the absence of any such role-model proves to be an exception. Thus, the argument comes too close for comfort to suggesting that blacks are not able to make it on their own. And this is what racists have been saying all along.

While I do not want to deny the importance of black role-models, I should like to minimize the extent to which the idea is relied upon in arguments for affirmative aciton at least in regards to blacks. Black people are not the problem but white people who, unwittingly or otherwise, refuse to take black people seriously. Because of the misconceptions brought on by negative stereotypes, which in virtue of living in America it is very hard not to be influenced by, many well-meaning whites fail to take blacks seriously. I want to down play the significance which the role-model argument plays in affirmative action because I want to make more perspicuous the reality that affirmative action is needed, not because blacks have trouble measuring up, but because America, being caught in the grip of the very stereotypes about blacks which it created, has enormous difficulty acknowledging the fact that blacks can measure up, notwithstanding the good intentions of the very many who indeed care. Good intentions, alas, do not make one immune to the influence of stereotypes; and this truth needs to be appreciated. I take affirmative action to be the settling of a moral debt and that it can not be -- so it

seems to me--if its raison d'etre is that blacks need role-models. After all, good role-models are important for everyone, not just those who have been victims of oppression. I reject the implication that things might be otherwise--an implication which the role-model argument would seem to invite.*

* A version of this essay was originally presented at Southwestern University in (Georgetown) Texas, where Susan Wolf was a most thoughtful and gracious commentator; it has since been presented at the University of Nebraska. The present version was written during a research leave at Oberlin College 1987-88.

Laurence Thomas is professor of philosophy at Oberlin College. Formerly, he was an associate professor at the University of North Carolina at Chapel Hill. His professional career began at the University of Notre Dame. He has been an Andrew W. Mellon Fellow at Harvard University and a fellow at the National Humanities Center. He is a member of the editoral board of *Encyclopedia of Ethics* (Lawrence Becker, editor-in-chief). He is the author of numerous articles in the areas of moral and social philosophy.

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