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**Affirmative Action:
A Contradiction of Theory and Practice**

Kimberly Hellmers

The struggle for equality has been long and difficult and it is on-going. We have made great efforts to acknowledge past wrongs through word and deed and to use knowledge gained to create a more positive and beneficial future for all. As a society, we have come to champion those causes that strive towards and support equal opportunity in every aspect of life. Policies have been, and still are, created in the name of equality alone. The civil rights movement of the 1960's offered the possibility of equality in a way that had never been politically or socially attempted in this country. It proposed the idea of a true and just equality that would be guaranteed to all individuals. Each and every one of us would be given the same opportunity to grow and prosper. The Civil Rights Act of 1964¹ deems that all people have the right to be free from individual discrimination based on race, color, religion, national origin and sex. The act was intended to address all individuals, not groups, not classes, not genders. These are the words and ideas that

people have fought and died for. These are the words and ideas that just may save us as a civil society. In September of 1965, less than two years after signing the Civil Rights Act, President Johnson signed Executive Order 11246, giving legal life to what is commonly known as Affirmative Action. The argument to made here is that Affirmative action policies, although implemented to bolster individual, equal rights as designated under Title VII in the Civil Rights Act, have come to reject the very ideas behind those rights, and therefore need to be abolished.²

For years, women and minorities have fought for the right of equal status; in position, in pay, in recognition and opportunity. It was not a fight for special or elevated status, but simply, equal status. Affirmative Action (hereafter referred to as AA) was intended to be a policy that ended individual discrimination and promoted equality. It ended up being a policy that acknowledges and ultimately pursues preference, not equality, in hiring and admittance practices (among others) for minorities and women based on a group status. This is, by definition, a discriminatory practice. As a minority and/or a woman, one can expect to be granted preference, not based on character or

qualification, but on the group status of one's race and/or sex. It is one thing to target specific groups for the purpose of soliciting the most diverse and qualified individuals to apply or otherwise seek out a position on their own for the sake of diversity, but AA takes a great step further and *awards* positions with preference to those who fit a racial or biological category. This is blatantly contradictory to the Civil Rights Act which states,

Nothing contained in this title shall be interpreted to require...preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may [already] exist...³

AA is a policy that actively pursues, and gives preference to, groups of people, as opposed to granting equal opportunity to individuals based on individual qualification and character. The design of the Civil Rights Act was to acknowledge people as individuals. It grants equal opportunity for everyone. It was written in response to the categorizing and rejection of people based on a group status. It was an attempt to curb discrimination. AA is itself doing the one thing that the civil rights act

set out to rectify and is therefore itself a contradictory policy. By granting preference based on race and sex, it is, at the same time discriminating against people based on those same group identifying features. It is in this respect that AA intentionally and willfully rejects specific groups of people, which, is how we have come to define discrimination.

The obvious and logical objection here is that AA is distinguishing certain groups as in need of preferential treatment based on their race and gender alone. The one thing that women and minorities have been fighting against all along. In the present climate of political correctness at all cost, how can they ever be certain that their gained status is just? How can they ever be certain that their position was granted on ability alone? They cannot. Because of the promotion of AA, women and minorities can not be certain that they have been granted a position or have gained admittance based on their individual abilities and accomplishments. Even those who do succeed on their own merits are, unfortunately, statistically grouped with those who are a product of a policy of prejudice. The unfortunate consequence of AA is that women and minorities are in many cases given preference over more qualified candidates, in an

attempt to make up for past prejudices and discrimination. Under Title IV of the Civil Right Act, when discussing education, it is specifically stated that, ... “ ‘desegregation’ shall not mean the assignment of students to public schools in order to overcome racial imbalance.”⁴

Compensation is a complex issue, and as a justifiable reason for AA, it is unobtainable and impossible. As a society, or even a culture, we can change our ways. We have, and we continue to do so. What we can not change is the past. The fact is that the policies made today need to be those that will affect, and be a reflection of, the people of tomorrow. When the legal system upholds *any* policy that gives a favorable nod to a group of people based on anything other than their character and skill, the door is opened for a tidal wave of resentment, fear and hate. It is time for forward looking policies that hold equality up to the highest standard. AA is a policy that is backfiring on those it was intended to aid and is only serving to widen the gap between those who would otherwise be brought together.

In striving for equal opportunity, the goal was, and still is, to strike a balance, to find a single standard by which every person could be evaluated without regard to race, color, religion

and sex. This is a noble and needed goal indeed, and one that should not be thrown out with the proverbial bath-water. In the process to achieve this balance, AA policies have succeeded in gaining for certain groups position through a redistribution of political and social weight. The scales, simply put, have been tipped in the other direction. The idea of equal opportunity has been rendered either useless, or incapable of accomplishment.

In the age of political correctness it is risky to point at any policy that deals with race or gender and claim discrimination, or worse, reverse discrimination. But when one policy, any policy, is replaced by it's opposite, there are very few ways to describe it in a palatable manner. Discrimination by any other name, is the same. AA does not provide equality, it only replaces one preference with another

It is by this standard alone that AA is completely, and by definition, counter intuitive to the goal of Equal Opportunity and the Civil Rights Act in general. How can we expect to achieve equality in any respect, when there are socially and politically embraced policies that grant racial and gender preference, whomever the recipient may be? The answer is, we can not.

This is not a claim that equality has been achieved. There are obviously many obstacles to be overcome, but they are social and psychological obstacles, not political policy ones. We cannot force people to change their ways of thinking with laws. AA is a policy that was never capable of being implemented in any useful manner and now only stands to make matters worse. Through these types of continued preferential practices, we as a society move further away from the harmony we want and from the equality we deserve.

Affirmative Action has shown itself to be inherently contradictory and at the very least, morally questionable. It certainly has not lived up to its name as a 'positive' movement. Being a form of discrimination, it should be abolished altogether.

NOTES

1. "Civil Rights Act of 1964" Public Law 88-532 - July 2nd, 1964 (H.R. 7152) An Act.
2. For the purposes of this discussion I will be referring to academic and other hiring or placement opportunities. These should not be viewed as exhaustive categories.
3. Public Law 88-532, Title VII - Equal Employment Opportunity - Section 703.2.j.
4. Public Law 88-532, Title IV - Desegregation of Public Education - Definitions, Section 401.b