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Difference, Multicultural Education, Affirmative Action: The Case of California

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Abstract

In November of 1996, the electorate of California voted to abolish “affirmative action”. In this article I trace the history of the “affirmative action” model in California and its impact on multicultural education policies. I also discuss the possible effects of the abolition of “affirmative action” on the multicultural future of the University of California.

1 Introduction

In July of 1995, as the University of California campuses had sent most of their faculty, their graduate students, and many of their regular undergraduate students on their three months summer semester break, the Regents of the University of California voted behind closed doors – and what seemed to be against the will of most chancellors, faculty, staff and students of the nine campuses – to terminate the university’s “affirmative action” programs. While there was no major organized resistance to this decision made behind closed doors, some segments of the university community publicly criticized this decision. However, in the aftermath to this historic July 1995 event, it remained unclear for a while whether members of the university community primarily criticized the move to terminate “affirmative action” because it meant to terminate “affirmative action”, or whether they criticized the way this move was put into effect. For by not consulting with the various governing boards of the university, the regents apparently disregarded a venerable University of California tradition of shared governance. Given the recent election results in California concerning Proposition 209, a proposition which moved to abolish “affirmative action”, it is probably reasonable to assume that the university community was as split on the issue as the electorate of California at large: the Proposition to abolish “affirmative action” was passed, by however slight a margin. 54% of the electorate proposed it, and 46% opposed it. It is quite possible that the nature of these electoral results attest to the complexities or even ambiguities inscribed in the notion of “affirmative action”, as well as to the ways in which these complexities and ambiguities are perceived in particular

historical moments and by diverse social strata and groups. For this reason, in the course of this article, I will attempt to understand the current shift in educational politics in California not independently from internal and externally driven socio-economic developments. For if the success of “affirmative action” in the seventies and eighties cannot be simply viewed in its U.S. American dimensions, but rather as a phenomenon that is also tied to developments in international relations, the plight of “affirmative action” in California of 1995-1996 must also be viewed in its connectedness to national and international developments. In the age of globalization, political developments in California enclose global relations.

2 The History and Politics of Affirmative Action

Before engaging with the complex relations which obtain between “affirmative action” and global developments, let me remain with the simple relations which the “affirmative action” model obtains with similar measures typically passed in western European social democratic welfare states. For indeed, on some level “affirmative action” can be viewed as a typical western social welfare measure. It is common in the twentieth century history of western democracies to assuage economic and social differences between social strata by proposing and implementing difference eliminating policies and measures. In the context of such policies, citizens who fulfill specific criteria have access to programs over and above citizens who do not fulfill such criteria. As it works out, citizens who do not fulfill such criteria for qualifying for specific programs are usually also those who do not need to benefit from specific programs. For instance, under German social law, a single mother of limited financial self-sufficiency who would like to increase her skills and thus improve her condition for greater employability and eventually for greater financial self-sufficiency is eligible for government aid, whereas an already gainfully employed, and thus financially self-sufficient single mother, is not. By the same token, young men and women from families of the lower end of the economic income ladder are entitled to government support for their university studies, whereas those from families in the middle and upper ranks of the economic income ladder, as determined by taxable income, are not. Although there are probably cases where eligibility requirements are subject to diverse interpretations, the intentions informing such government policies and programs ultimately focus on diminishing the impact of economic and social differences on the educational options of its citizens, since, as long as educational levels directly correspond to income level, access to educational options determine economic life chances. If the better educated the citizen the more economically self-sufficient he/she becomes, the lesser educated the less self-sufficient, and thus the more dependent on welfare state measures, the citizens become. While this equation may now run up against the massive modernization impacts the various countries within the European Union face in light of dramatic global transformations in the area of finance, trade, markets, information processing, and production, it is still worth pointing to the basic model of redistributive justice originally inscribed in that equation.¹

The post-world-war two history of California’s educational politics is embedded in a similar philosophical framework. For one, the State of California has a distinguished record in terms of broadening the accessibility to public education for its citizenry. In fact, admirers of the California university system like to call it the world’s most outstanding public university, and with good reason. California’s so-called educational master plan, as

it emerged in the early sixties, structured university education along three distinct tracks – the community college system, the state university system, and the University of California system respectively. Since, in contradistinction to state supported European universities, which only demand a small fee from students in exchange for their services, U.S. American universities typically demand high fees and tuition from their students, economically disadvantaged students are typically educationally disadvantaged. California's master plan hence designated the community college as its least expensive institution for students, and the University of California as its most expensive. The California State University system remained in the middle. This tripartite system enabled most citizens, in principle, and whether rich or poor, to have access to public education. In addition, since students who enrolled in community colleges were entitled to transfer into the University system by fulfilling academic quality requirements, in principle socially disadvantaged students could move up into the ranks of one of the most prestigious public universities. Given this socially conscious master plan educational politicians and educators developed in California of the late fifties and early sixties, it should come as no surprise that in the course of the implementation of federally mandated "affirmative action" models in the later sixties and seventies, the University of California would embrace not only federally mandated plans, but also additional measures in order to attempt to preempt life chances of its citizens. In other words, when "affirmative action", the right to equal educational and professional opportunity, swept through the educational systems of the United States, the University of California not only followed the basic contours of the programs as outlined by federal measures. It also expanded a variety of programs by adding its own interpretations of "affirmative action". For a university which is located in the state of California, a state which is undergoing dramatic demographic shifts and transformations, there were compelling reasons to expand the "affirmative action" model beyond the federal mandate.

In its original form, the federal "affirmative action" model, often referred to as Title VII and Title IX, by law required all those institutions receiving federal grants to not discriminate against candidates for staff and professorial positions on the basis of race, creed, color, or national origin. It also considered it illegal to discriminate on the same basis against students who applied for admission to a public university. As historian of the "affirmative action" model, J.D. Skrentny (1996), has recently pointed out, built into this particular federal "affirmative action" model were features of its pre-history in a civil rights model, which, tied to classical liberalism and specific notions of justice, attempted to protect individuals from racist hiring practices by insisting on their universal rights as abstract individuals.² In other words, what civil rights laws attempted to protect were the rights of individuals to be judged not on color but on merit. As the concept of "affirmative action" developed further in the context of civil rights administrative agencies and the courts, its original insistence on non-discrimination on the basis of color, or its color-blind abstract universality, gradually turned into the legitimation of race-conscious concrete particularities. In this evolution, the "affirmative action" model required all those institutions receiving federal grants to not only to protect applicants from discrimination, but also to specifically give preference in hiring for staff positions and academic positions to specific candidates. This preferential treatment, to which, next to candidates for staff and academic positions, also students as well as contractors with the university were entitled, was clearly based on a concept of difference: individuals were entitled to preferential treatment on the basis of their racial or ethnic rootedness in a group that differed from the

predominant group in terms of the economic, social, and cultural advantages the predominant groups typically enjoy. Those non-dominant, or marginal, groups who typically did not enjoy or had not enjoyed specific social privileges were designated as minority groups. Members of such groups legally received minority status, which enabled them to become eligible for preferred consideration when contracting with or when applying to federally supported institutions.³

3 Social Justice and Cultural Recognition

Originally both minority and majority status were determined by race, whereby African Americans typically represented the minority group and European Americans, federally classified as Caucasians, the majority group. In addition, by the seventies and eighties, this minority status was determined not simply by race, but also by ethnicity, and gender. Typically, these included African Americans, Hispanics, Native Americans, and women. Still, while European American male citizens, who are mostly white, would not qualify under minority status, most members from minority groups, whether non-white or white, were usually eligible. Also eligible were women. That is to say, while many individuals, whether they belonged to a minority group or not, may have had limited chances to enjoy equal educational opportunities due to their rootedness in an economically and socially disadvantaged group, the social justice “affirmative action” intended to bestow excluded non-minority groups. By the same token, although the demographic constitution of the United States includes many different ethnic groups, including Asian Americans, Italian Americans, and Americans from the Pacific Islands, the ethnic groups legally designated as minority groups included African Americans, American Indians, and Hispanics in addition to women. The logic informing this classificatory system is based on a common denominator members of these various groups share. What these minority groups and women had in common is that they have historically suffered and continue to suffer discrimination due to racism and sexism. The philosophical and ethical framework which enabled the subsequent evolution of the concept of “affirmative action” was based on the premise that social discrimination of specific groups had taken place, and that, therefore, a social solution would constitute the best solution to such a social problem. As the “affirmative action” model moved through the seventies and eighties, it was understood as being designed to not only acknowledge or recognize that social discrimination had taken place, but also to redress historical discriminations with a social solution. Thus, one of the key concepts in the evolution of multicultural social justice is the notion of “recognition”, a term which received considerable attention in the philosophical, ethical, political, and legal scholarship.⁴ If on a federal level the state made it illegal to discriminate against a person on the basis of sex, race, religion, national origin and other features, specific plans promoted under the concept of “affirmative action” enabled public institutions, such as the University of California, to set up guidelines and regulations for promoting the expansion of the eligibility of members of minority groups for preferred access to social resources. Promoting the eligibility for admission to the University of California for minority students, and for hiring of minority candidates for professorial positions and staff positions turned into the major point of attention of educational policy makers.

Since the number of the faculty positions and staff positions at the university are finite – the positions are contingent on state funding – giving preference to a minority candidate, or to women, thus opened up the possibility for individual members of minority groups of

having greater access to a limited social resource after the implementation of “affirmative action” policies. By the same token, since only a finite number of students can be admitted each year to the university’s entering undergraduate class, the university developed a set of criteria on the basis of which to accept students. Before the advent of “affirmative action”, the most important criteria for admission at the University of California, as elsewhere, were scholarly achievements. Since achievements of this nature were and are related to the economic background and social status of the student’s family, high school students from economically advantaged backgrounds tended to come up with higher scores on achievement test. Since historically members of minority groups belong to the poorer segments of U.S. American society, the scholarly achievements of minority students tended to not unrelated to the economic status of their families.⁵ In short, since there were more non-whites than whites who scored below the scholarly level required for eligibility for application to the university system, more minorities than whites were not eligible to apply. And since there were more non-minority students who met the eligibility requirements, more non-minority students attended the university. The model of equal opportunity, fairness, and justice, deeply embedded in the classical liberal justice tradition, seemed to run up against economic indicators, which in turn were often related to race.⁶ Since the early to mid seventies, the University of California designed a series of additional programs in the context of “affirmative action” which attempted to pay more detailed attention to the intersection between race and class. In particular, due to the rapidly changing demographic constitution of California’s population, the university sought measures to redress historical discrimination against particular ethnic groups as it actively promoted admissions policies which would reflect the increasing diversity of California’s citizens. While it actively reserved a certain number of admission slots for members of minority groups and women, its overall policy, as reflected in the 1989 Karabel report (Karabel 1989), aimed at developing admissions criteria on the basis of which the extraordinary diversity of the population of the State of California, and not simply members of minority groups as classified by federal policy, would be reflected in the undergraduate student population.⁷ As a public university, the University of California aimed at serving its diverse public.

Since the number of undergraduate and graduate students the university can admit each year is limited, reserving admission slots for minority students in practice precluded the admission of non-minority students who fulfilled the scholarly eligibility requirements. This led to a common assumption among some sectors of the population that the university admitted unqualified minority students over and above qualified non-minority students, a practice which was termed “reverse discrimination”. Indeed, individual cases tried in the courts brought the notion of reverse discrimination to public attention, but reintroduced debates on fairness, equal opportunity, and justice to the public sphere. However, contrary to the belief that the scholarly records of minority students and women do not completely fulfill the general admission requirements of the university, and that, by implication, educational standards have been compromised, all substantive indicators point to the fact that minority students and women admitted to the university not only fulfill the scholarly admission requirements, but also that their scholarly output has hardly diminished educational standards. For what the university “affirmative action” regulations instituted was not admission procedures for underqualified candidates, but rather procedures by which highly qualified minority high school students would gain access to the university in the context of a quota system. The actual constitution of the student body of the University

of California should reflect the actual demographic constitution of the state. Since there are fewer European Americans than non-European Americans in California, in the context of a social policy aimed at fair representation, fewer European Americans should have access to state resources, including educational university resources. And since students of Asian American origin tend to achieve good high school test scores, thereby raising the overall eligibility level of Asian Americans for the University of California system, “affirmative action”, by promoting the eligibility levels of non-Asian American and non-European American ethnic groups, in principle attempted to assure that some disadvantaged groups were offered a chance at educational advantage. Indeed, for as long as it lasted, the University of California was proud of its institutionally practiced diversity based on a concept of multi-racial, multi-ethnic, and multicultural justice. By voting to terminate “affirmative action”, the regents of the University of California perhaps turned the most famous public university of the United States into a more infamous institution: it should become first among all public universities to terminate “affirmative action”. Earlier this year, the “affirmative action” program at the University of Texas was ruled unconstitutional by a New Orleans judge. And in recent electoral weeks, when explicitly asked to either vote for or against “affirmative action”, more citizens of California voted against than for it. They abolished “affirmative action”.

4 The End of an Era?

Given the impressive history of socially conscious educational policies in California, it is somewhat surprising that the first steps towards ending preferences in staff and faculty hiring and in university admissions policies – preferences which are steeped in models of redistributive justice, however incompletely they may have been put into practice – should have taken place in California and that many of the citizens of California followed electoral suit on November 4, 1996 by abolishing “affirmative action”. Those less concerned with the consequences surrounding the eventful November 4, 1996 may argue that while the abolition of “affirmative action” has put a stop on the preferential treatment of groups of citizens on the basis of the concept of difference, it has not put a stop on respecting the actual diversity and multiculturalism of California. After all, since California is, next to Texas, the major immigration states in the United States, major immigration flows will continue to reach it, and with these flows immigrants will continue to participate in the formation of ethnic groups and identities. Historically, California not only received major immigration from Latin American countries via Mexico, but also, and in the wake of increasing transnational migration flows, it has absorbed many exiles and immigrants from the Pacific Rim, from Japan, China, Korea, Vietnam, and the Pacific Islands, to name but a few. Since 1989, it has also been a major port of entry for immigrants from the former state socialist countries. The 25% increase in population in the period from 1980 to 1990 in California is mostly due to processes of population movements in the age of global migration.⁸ While demographic predictions estimate that the overall population of the United States will be 50% white and 50% non-white by the year 2050, the percentage of non-whites to whites will probably be higher in border states such as California and Texas, due not only to continuous major immigration waves from Latin America but also to the higher birth rate among Hispanic families as compared to many other ethnic groups. A simple look at the demographics of California in relation to “affirmative action” may lead

one to the simple conclusion that since the ethnic composition of the state of California naturally continues to diversify with dramatic increases in migration flows to California – it is, after all, as mentioned above, the number one U.S. American immigration state – its institutions, including its universities, should eventually reflect the natural diversity of its population. Given such processes of ethnic diversification due to immigration, “affirmative action”, so one might argue, would sooner or later anyhow become obsolete, if diversity is the ultimate issue and goal. While there resides some merit in such argument, the social bias inscribed in it contains none: since admission to the university, as explained above, hinges on meeting stiff eligibility requirements, not meeting such requirements becomes the condition for exclusion from education in California’s public universities. Given that high academic scores are usually linked – and nowadays more than ever before – to the economic status of a student’s family or to culturally specific attitudes towards high scholarly achievement, students belonging to the upper echelons of society will meet eligibility requirements, and those from the lower echelons will not. And conversely, if culturally specific attitudes towards high scholarly achievements are the mark of some ethnic groups, students belonging to these ethnic groups will get the necessary scores, without necessarily commanding the increasing financial means indispensable for study at the university. Those students commanding greater economic resources will typically enjoy greater chances for being admitted to the public universities in the post-affirmative action period, and those students who do not command similar resources will not.⁹ In other words, in the absence of “affirmative action” programs, the increasing diversity of California’s population will not necessarily proportionately diversify the population of its universities. As far as the ethnic groups are concerned, it is likely that although Asian American do not constitute the largest ethnic group in California, students of Asian descent will proportionately profit from the abolition of “affirmative action”. Many students from Asian American families are not only culturally and socially predisposed for preparing themselves for meeting high educational standards, but are also overall moving into economic positions which will allow them to meet rising fees, particularly if they are second or third generation Asian Americans. For Asian Americans are, just as Italian Americans or European Americans and many others, part of those immigrant groups whose economic achievements and status typically increase over a few generations. While Asian American students may proportionately win access to the university, African American students, Native American students, and Hispanic students will disproportionately lose. The minority equation will no longer hold. Surely, even at the prestigious Berkeley campus, which has the highest eligibility and admission requirements of all of the nine University of California campuses – only the upper 10% of all of California high school graduates typically are eligible to apply –, the undergraduate student body may not ever again return to being primarily European American and white, as it was the case in the pre-affirmative action decades. Yet it will not reflect the diversity of California’s population either. In other words, there is little reason to assume that flows of immigration will no longer arrive in California. Yet there is reason to believe that the newly arriving immigrants will be able neither to become eligible to be considered for admission at the University of California, nor to pay its continuously increasing tuition and fees. Are we to conclude that the multicultural educational experiment, which enabled hundreds of minority students to enter professional sites – as it brought enormous benefit to minority communities, since minority students, turned professionals, in large numbers

return to their community in order to serve it – are we to conclude that the multicultural educational project based on social justice has come to an end?

California, as the major immigration state of the United States, experiences major immigration waves as it continues to house those sites of revolutionary technological transformations – microelectronics, biotechnology, telecommunications, robotics, computers, and software – which see themselves increasingly challenged by competition from European and Asian regions. Given this double matrix informing Californian cutting edge material existence, it should come as no surprise if Californians indicate particular propensities for republican political issues. The passage of Proposition 209 makes this point. California's extraordinary propensities for the formation of a multicultural consciousness, what I have termed the "California Multicultural Dialectic" at the moment accommodates the republican call to arms. As I have tried to show elsewhere, this accommodation was also facilitated by widespread multicultural indifference to issues of class. While affirmations of race, ethnicity, and gender may be able to afford the dismissal of the issue of class as long as class, or economic justice, is not an issue, once class, in its form as economic survival, becomes an issue, it becomes indifferent to notions of race, ethnicity, and gender. This is, it seems to me, what the case of California invites us to see. As I finish this article, the constitutionality of Proposition 209 is getting repeatedly tested in the California courts. The survival of the "affirmative action" model, and with it, its social history in the struggle for civil rights, will ultimately stand the test of time not because a variety of judges deem it constitutional, but rather because a majority of people will be able to recognize the injustice of economic injustice next to other forms of injustice. The promises of an authentic multicultural education begin and end there.

Notes

1. One of the most powerful empirical sociological analyses of current global transformations taking place is Castells's book (1996).
2. Skrentny (1996) traces the history of the model of affirmative action in its relation to prevailing notions of justice in U.S. American culture at large. He also relates specific policies adopted by various administrations in relation to civil rights to the changing moral function of the United States in international relations.
3. For a brief overview of the multicultural educational policies in the universities of California see Steiner-Khamsi (1992: 169-174 and 193-198). Cahn's (1995) recent edition points to the problems of the issue of "affirmative action".
4. One of the most crucial volumes to capture the extent of the debate is Gutmann (1994).
5. For a discussion of the relation between economic status and scholarly achievement see Frank and Cook (1995), in particular chapter 8, "The Battle for Educational Prestige", pp. 147-166. See also Wolff (1996: 15-20). For income levels as these relate to race and ethnicity see Roberts (1994: 279-304).
6. One of the most significant theorists of classical liberalism who systematically upholds this tradition is John Rawls. See his recent edition (1993).
7. See the Karabel report (Karabel 1989).
8. See Castles and Miller (1993) for a concise introduction of contemporary global migration.
9. One of the most recent responses to the racist proposition that some racial or ethnic groups academically perform worse than others due to their race is the collective study by Fischer et al. (1996). They point to the many social and economic ways by which a young person becomes ineligible for academic requirements.

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