

Reconsidering Affirmative Action in Education as a Good for the Disadvantaged

Liz Jackson

Educational Policies Consultant, Republic of South Africa

It is of course fashionable and popular to deny this; to try to deceive ourselves into thinking that race prejudice in the United States across the Color Line is gradually softening and that slowly but surely we are coming to the time when racial animosities and class lines will be so obliterated that separate schools will be anachronisms.[1]

Introduction

Affirmative action in higher education remains a controversial topic in the US today,[2] as it is tied in directly with citizens' varying conceptions of the larger society, and the importance of racial and other differences (in particular, socioeconomic class) in individual experiences and outcomes. This essay examines different arguments for and against race-based affirmative action in higher education, continually circling in on the question of in whose interests arguments for affirmative action are successfully being made.

After reviewing philosophical underpinnings for affirmative action as a means to increase equality and social justice for blacks in US society, I contrast these approaches with the diversity argument sanctioned by the US Supreme Court in its recent decision in *Grutter vs. Bollinger*, arguing that unlike the former, this latter case defends affirmative action primarily on behalf of the political-economic majority in US society. Critically considering the complex interweaving of racist and capitalist conditions in contemporary experiences of racial oppression and ideological white supremacy in the US, this essay concludes with a critical assessment of affirmative action's potential to rectify systemic racism for the benefit of marginalized racialized groups, and to increase social justice and equality, lacking other movements toward alleviating other related exacerbating factors.

Philosophical Underpinnings

Philosophical arguments for and against affirmative action often reflect different perspectives on “strategic essentialism,” an approach to social relations that recognizes the differences between cultural, racial, or ethnic groups as essential, as if groups (for instance, blacks and whites) were mutually exclusive, to some extent monolithic, social entities. Coined by Gayatri Spivak, strategic essentialism is the use of this position on difference to attempt to advance a particular group among others toward one or more social goals.[3] Any race-based social policy, from US slavery in the earlier part of the nation's history, to affirmative action today, must rely upon an understanding of social groups being distinct from one another, in order to benefit one (or more) groups.

Strategic essentialism enters into arguments for (and against) affirmative action in various ways. For some, the legacy of slavery in the US context implies that even today the conditions in which people are born vary dramatically by race, and thus that “affirmative action compensates present day blacks for the injuries they suffer as a result of unjust injuries inflicted on other blacks in the past.”[4] Bernard Boxill regards this as the clearest version of a “backward-looking” argument for affirmative action, aiming to justify contemporary race-conscious strategies for increasing social justice by looking to the past.

Arguments that more directly tie in contemporary social life to the American slave experience are “non-starters,” Boxill writes, as “no one can be compensated for someone else's injury.”[5] One can, however, be compensated for being born into a class which has in fairly recent history been heavily burdened through no fault of its own and never significantly assisted in achieving greater equality. Because of the demonstrably inching and reluctant nature of the elite in expanding opportunity, Boxill similarly supports affirmative action for women in higher education: in each case, a key social group has been systematically denied and then practically hindered in actualizing so-called equal opportunities for social and political leadership, necessary to benefit them relative to white men.[6]

People of color are hindered today by predictably unequal educational and socioeconomic outcomes, related to, among other things, disproportionately

homogenous and white higher education environments and ongoing racial prejudice. That affirmative action can help increase equality and social justice through alleviating these as factors effecting future generations has been defended by Ronald Dworkin as a “forward-looking” argument for affirmative action.[7] As Boxill notes, this argument can be harder to make, as it relies upon strategic essentializing groups not just in terms of very concrete historical facts, but also in their experience in US society today.

That blacks as a whole $\frac{3}{4}$ as whites as a whole $\frac{3}{4}$ do not fare equally today complicates this approach. If racism is primarily conceived here as a corollary or property of the unequal distribution of key material and social resources, or capital, race-based policies make little sense in resolution.[8] One potential outcome of a race-based, class-blind policy has been examined recently by Henry Louis Gates, who has publicly criticized US elite institutions admitting primarily middle class and/or recently immigrated blacks through affirmative action,[9] to the plausibly increased detriment of those who most need affirmative actions on their behalf: poor African Americans and others descended from slaves, whose experiences and outcomes today can be seen as more directly tied up with the legacy of American slavery.

The complex relationship between race and class enables many whites to claim that racism is no longer the major serious problem in US society, and that, rather, affirmative action gives jobs or educational opportunities to less qualified or unqualified people of color over presumably more qualified whites. This latter view is, on one level, fairly easy to debunk. As those involved in whiteness studies and similar research point out, that privileged members of society do not perceive their privilege is not in itself compelling evidence; even if white people do actually, honestly fail to see racism play out around them, there is reasonable evidence suggesting that it still does.[10] One may critically question the nature and shape of a privileged undiscovered or a prejudice not experienced by its subjects — especially as whites and increasing numbers of poor blacks believe that “‘the average African American’ is as well off as or better off than ‘the average white person’ in terms of jobs,” education, or housing[11] — yet testimonies regarding the persistence of racial prejudice along with antithetical statistical findings compellingly suggest otherwise.

K, my friend and traveling companion, has been called to the front of the plane and publicly attacked by white female stewardesses who accuse her of trying to occupy a seat in first class that is not assigned to her. Although she had been assigned the seat, she was not given the appropriate boarding pass. When she tries to explain they ignore her. They keep explaining to her in loud voices as though she is a child, as though she is a foreigner who does not speak airline English, that she must take another seat. They do not want to know that the airline has made a mistake. They want only to ensure that the white male who has the appropriate boarding card will have a seat in first class.[12]

While a cursory look at the history of integration in the mid-twentieth century makes it difficult to deny the effects of unsanctioned racism once legal barriers are dissolved, anecdotal evidence further confirms the oppression of people by race in contemporary educational settings, as well.

On Tuesday, January 27, 1987, a group of Black women were holding a meeting in a dormitory lounge in Couzens Hall. A racist flier was slipped under the door. It announced the beginning of a “hunt” against Black people and used a variety of pejorative terms: . . . There will be an OPEN SEASON on PORCH MONKEYS (Regionally known as Jigaboos, Saucerlips, Jungle Bunnies, and Spooks).[13]

Such experiences, as well as overwhelming evidence regarding unequal outcomes in academic achievement and ownership and wealth by race in US society today, make it hard for poor whites to compellingly make the case that they too deserve preferential treatment, or deserve preferential treatment over people of color. As Boxill notes, “Americans love to see the member of the lower classes rise — if they are white — for it confirms the idea of America as the land of opportunity, and the most successful Americans like to boast of their humble origins.”[14] That class (or gender or ethnicity) harm people as much as or more than race in the US today is hard to justify.

Still, not all members of a minority group fare equally well under affirmative action policies. Affirmative action is unlikely to serve particularly those who are perhaps the most deserving: those who face the double stigma of race and class, or the trifecta of race, class, and gender.[15] As a forward-facing argument for equality across race, however, a class-based affirmative action schema (at the higher-education level) faces additional serious challenges. First, class as a marker of material conditions directly ties into educational preparedness, all else equal; class transcendence impresses because students lacking key resources are typically unable to “pull themselves up by

their bootstraps” and perform competitively as if on an even playing field. These structural inequalities in educational experience will remain without a structural remedy. Second, there is no evidence that middle-class and upper-class blacks experience racial prejudice less intensely than do those in the poorer classes, or that race and class are alike in their effects.[16] Indeed, relatively privileged people of color experience discomfort and challenges to their integrity in academia and other elite places,[17] and the role of social or cultural capital, much of which can be understood in racial terms, cannot be overlooked in one's understanding of the factors shaping different groups' educational outcomes.[18]

Thus, race is distinct from class in its effects, such that race cannot merely be seen, as it is in some Marxist accounts, as a quality of a particular form or expression of class-based oppression.[19] Therefore, forward-facing arguments related to potential race-based group benefits are still needed to make a compelling case for preferentially treating African Americans to increase racial equality and social justice. Boxill, for one, invokes W.E.B. DuBois's “Talented Tenth” of blacks, who can more aptly serve the rest in their communities than can whites. As DuBois's argument against integration into racist settings is echoed in work on the potential use of segregation in some educational contexts today,[20] it is worth seriously considering the likelihood that one must identify with another, their experiences and/or values, to benefit from their knowledge. The importance of educational relation is crystallized in calls for education as praxis in minority communities, as is well known in Paulo Freire's *Pedagogy of the Oppressed*. [21]

Related to this is the psychosocial theory of the “multiplier effect”: that increasing opportunities for some members of a minority group leads in various ways to greater equality of opportunity and outcomes for others of that same group; the visibility of blacks in positions of power expand the horizons of other blacks, allowing for increasing social change. Padilla quotes past Stanford Law School Dean Paul Brest and Miranda Oshige in explaining this.

[A group member's] rise may benefit members of her group and may reduce outsiders' prejudice against group members. Her material success may enable her to support group-related institutions. Her access to power may enable her to promote or protect the interests of other group members. She may serve as an

example or inspiration for young members and thus encourage their pursuit of higher education and professional career paths...[22]

Those sanctioning or administering affirmative action programs in the US today, however, do not often employ the “multiplier effect” or “Talented Tenth” schemas. They focus instead on the benefits to the political-economic majority (that is, whites and/or the elite class) in laying out arguments in favor of affirmative action, foregrounding the majority, then, and its interests, over those of minorities, the disadvantaged. More often, affirmative action in education is justified by reference to the need for diversity within the privileged class. Increased diversity among this group is seen to provide society as a whole with a number of goods. For instance, a variety of perspectives and experiences in close proximity can lead to new insights and a better educational experience for all students, as well as facilitate more peaceful interactions (and thus greater social stability) stemming from better mutual understanding across lines of difference.

This view has been researched extensively; most recently Chang and colleagues found that “cross-racial interaction” significantly aided freshmen of the University of California, Los Angeles (UCLA) in becoming open to diversity, as well as in their cognitive and emotional development. Those with high levels of what they call “CRI” — cross-racial interaction —

report significantly larger gains made since entering college in their knowledge of and ability to accept different races/cultures, growth in general knowledge, critical thinking ability, and problem-solving skills, and intellectual and social self-confidence than their peers who had lower levels of interaction.[23]

Thus, diversity was of value to students already admitted to UCLA, an elite institution clearly seeking diversity as a resource valuable for their predominantly homogeneously white, upper-middle-class, campus.

The diversity argument for affirmative action is elsewhere referred to as the “critical mass” theory. As Justice Sandra Day O'Connor noted in her decision for affirmative action in the 2003 case *Grutter v. Bollinger*, “a critical mass serves the purpose of contributing to cross-racial understanding, breaking down racial stereotypes, and helping achieve overall better understanding of different races.”[24] While student Barbara Grutter argued that a race-based admissions policy had led to her being

discriminated against by admissions officers of the University of Michigan Law School, O'Connor's judgment reflected a traditional, longstanding appreciation by the US Supreme Court of diversity in education being necessary for effectively educating citizens of a diverse nation, where racism still hindered (if to an increasingly small extent, in O'Connor's view) the ideal of diversity across classes and social groups.

Dissenting judges were less favorable toward the diversity rationale in this case; dissenting judge Clarence Thomas felt the term “diversity” was used indeterminately here, conflated uncritically with racial or skin-color diversity, while Chief Justice William Rehnquist similarly argued in his dissenting opinion that Michigan “never offered any race-specific arguments explaining why significantly more individuals from one underrepresented minority group are needed in order to achieve 'critical mass' or further student body diversity.”[25] In none of their judgements was the plight of racial minorities against systemic racism or white supremacy factored in. This recent ruling highlighting the social value of diversity and educational integration to the educated, law-school attending elite, while not commenting substantively on affirmative action's potential benefit to historically underserved and mistreated groups, demonstrates a foregrounding of elite interests over minority interests or the demands of social justice.

However, as noted previously, the opaque relationship between race and class in US society (as elsewhere), as it relates to academic preparedness as shaped by class, can be seen to undermine argument for race-based affirmative action in higher education for social justice on behalf of the systemically, racially marginalized. Thus it is important to return to analyzing the complex interrelations between race and class in considering the potential benefits of affirmative action for decreasing systemic racism.

On Structural Inequality and Critical Race Theory

Race and class as systems of privilege and oppression should not be seen simply as like phenomena in the US today ³/₄ their effects on individuals are different, such that one could hardly claim that, for instance, poor whites and middle-class blacks face like challenges or share a similar experience of marginalization. Nor can we reduce race, to repeat, to a form of class-based oppression, for racism operates differently and holds different implications for social or cultural capital than does marginalization

understood as primarily materially based. Nevertheless, the structural view of racism as demonstrably tied into severe inequalities in wealth in US society can clarify our understanding of some crucial aspects of how racism operates in the US today and what they imply for potential remedial actions.

Theorists focused on better understanding the relationship between capitalism and racism, or Marxism and Critical Race Theory, recognize the need for better tools for determining the relationship between the two as they operate together in various contexts. As Zeus Leonardo notes, while “class status remains one of the strongest, if not the strongest, predictors for student achievement,” there is a subjective quality to the experience of people of color in racist environments that threatens to undermine the achievement of blacks and other racial minorities. Thus, there is a danger in theorizing, on the one hand, reducing race to class as like subjective and relational experiences reducible to social prejudice or stigma,[26] and on the other, to foregrounding one over the other, such that the distinct operations and effects of the other are obscured, and productive and effective affirmative action toward increasing equality and social justice is thereby substantially undermined.

Critical Race Theory (CRT) thus tries to highlight both the subjective and relational aspects of race-based oppression, as well as the structural economic conditions shaping race-based experience and possibilities. Such research can be understood as crystallized in the understanding that while all blacks suffer from the lingering material effects of historically institutionalized racism, a kind of racism continues to be justified in higher education and elsewhere without official affirmative sanctions, as merit is constructed in part as white property, meaning both that whites literally own the vast majority (nearly all) of US wealth, and that whiteness can be understood in this environment effectively as synonymous with merit, goodness, and social value or cultural capital.

As Otoniel Jimenez Morfin and colleagues write,

interest convergence in CRT demonstrates how White European Americans will only support policies that will result in a clear political or social advantage for them along with a lesser benefit for persons of color. Furthermore, White European Americans are quite willing to tolerate disadvantageous conditions

(i.e., poverty, poor schools, health care) for persons of color as long as the former group is not compromised or threatened.[27]

Racist conditions have been literally set in stone by requiring property ownership for political participation and forbidding blacks until quite recently rights to property or equal access to opportunities for gaining and growing wealth in the US. As Gloria Ladson-Billings writes,

The salience of property is often missed in our understanding of the USA as a nation. Conflated with democracy, capitalism slides into the background of our understanding of the way in which the U.S. political and economic ideology are entangled and read as synonymous.[28]

Historical white supremacy directly relates to educational opportunity today, as property taxes fund (and defund) public education. In what she titles a “Radical Critique” of the Grutter court case, Daria Roithmayr outlines a “lock-in model of inequality” blacks face, modeled after those monopolies persisting despite laws prohibiting monopolies: for instance, Microsoft, the QWERTY keyboard, and the videotape. Roithmayr writes that,

Just as a firm's early monopoly advantage can become locked into the market over time, so too can a racial cartel's early monopoly advantage become institutionally impossible to dismantle, even in the absence of continuing intentional discrimination. In the same way that a monopoly advantage can become self-reinforcing because of institutional structures, institutional racism can also reproduce inequality indefinitely.[29]

Whites historically excluded blacks (and others) from education. By segregating students by law or by re-zoning practices, whites ensured that blacks would not be in white schools; in the Southwest, similarly, Mexicans were segregated for “Americanization.”[30] Today, residential segregation ensures that pockets of advantage and disadvantage perpetuate as “neighborhood effects” that lead to one doing approximately as well as their neighbors steadily over time.[31] As Roithmayr explains, public school finance feedback loops ensure that “non-white neighborhoods with poor tax bases produce under-funded schools,” which in turn “produce non-white neighborhoods with poor tax bases, because poorer schools produce graduates with less income and wealth,” while on the other hand, “white neighborhoods with good tax bases produce schools with good funding, which in turn produce good tax bases. In addition, because property with good schools costs more... non-white residents are

less able to move to a neighborhood with good schools.”[32] Citing economist Roland Benabou's work, Roithmayr argues that even slight differences in income lead to increased residential segregation by class over time that is nearly impossible to change, given increasing disparities in property values: the poor cannot move in, and the rich would never move out.[33]

Of course, colleges and universities do not look primarily at class or parental income, but at measures of educational aptitude — grades, advanced coursework, and aptitude tests scores — in admitting incoming freshmen. Yet as aptitude test scores and advanced placement vary mostly by race, parental income, and neighborhood, there is no level playing field among candidates for college admission. While the Supreme Court accepted the statement by Michigan's counsel in *Grutter* that they could not reduce emphasis on grades or tests due to compelling interest in “excellence”; Roithmayr's research (like Ladson-Billings's and that of others) also questions merit as historically racist and racially biased today. As she explains,

for merit standards to measure the ability to create social value, as they are said to do, the standards must necessarily defer to social preferences about what constitutes social value, and how that value is produced. These...are developed in a historically contingent social context and are authored by members of groups who have enough social power...to define what counts.[34]

Deconstructing the history of scholastic aptitude, Roithmayr shows how past head of Educational Testing Services and inventor of the Scholastic Aptitude Test (SAT) Carl Brigham modeled his work after that of Robert Yerkes, who used testing to argue for the inferiority of blacks (and relative inferiority of Southern and Eastern Europeans). As Roithmayr demonstrates, Yerkes's research “led directly to passage of the Immigrant Restriction Act of 1924 and to segregation in higher education,” with Brigham also championing “restrictions on immigration and eugenic regulation of reproduction.”[35] In these cases, intelligence tests were created within an environment where researchers sought justification for viewing and treating different groups in society $\frac{3}{4}$ in schools and elsewhere $\frac{3}{4}$ differently by race; Brigham himself was known for believing the SAT proved the intellectual superiority of “Nordic” races.[36] Arguably, aptitude tests today serve similar functions where whiteness continues to hold social value. Ladson-Billings find evidence of this continuing valuation of whiteness itself, citing research by Andrew Hacker which considered

whites' responses to the question of how much money they would take to trade in their “whiteness,” that is, to be black in US society: some would not accept fifty million dollars to be black.[37]

On the other hand, it is still important to consider the significance of educational preparedness, a thorny area Roithmayr largely glosses over (and that Ladson-Billings, for her part, handles differently than I do here, probing instead the preparation of public school teachers to adequately teach racially diverse students[38]). Statistically, Heather Rose analyzes affirmative action policy and outcomes at the University of California, San Diego to find that academic preparedness, as calculated based on high school grades, honors courses, and aptitude test scores combined, better demonstrated student success and failure than did one's neighborhood or class, while overall results suggested that other factors beyond precollege experience were also significantly involved.[39] Of course, in the context of systemic racism, grades, honors courses, and test scores correlate to race and class in ways that Rose's quantitative study was not particularly well equipped to consider.

Such analyses nonetheless enable critical responses to affirmative action in the context of the perceived need for academic preparedness; Richard Sanders argues for instance in observing disparate law school outcomes at UCLA — with whites ending at the top of the class, and blacks at the bottom — that

the real scandal here, is that these disparities are largely the result of [affirmative action] policies of law schools themselves. [The disparities are] almost entirely caused by the preferences that are given to [Black students], the position that they are put in, which essentially sets them up for failure.[40]

Similarly, some argue that blacks face inferiority complexes in being given “unfair advantages” in such settings (which is distinct from, if related to, the claim earlier put forward that blacks face subjective challenges in a racist society, from overt prejudice as well as more subtle aspects of their racialized experiences).

Other voices fill out a spectrum of views on black experiences in higher and graduate-level education. William Bowen and Derek Bok emphasize contrary to Sanders that black students do well in the short and long run at more selective institutions and are not “paralyzed by insecurity.”[41] Tim Wise also emphatically asks, “What do you

call someone who graduates last in his class at medical school? Doctor.”[42] And while many speak to blacks' personal insecurities related to white supremacy being exacerbated by affirmative actions (and its continued reference to white agency[43]), this too must be put into a more critical context:

Blacks and whites must face the fact that affirmative action has made no significant difference in the way whites look at blacks. Competent and successful blacks are still seen as exceptional. Before and since affirmative action, most white people see other white as competent until proven incompetent and a black person as incompetent until proved competent. Thus, there is little risk that affirmative action would wound our self-esteem to the point of disabling us, and it certainly would not be the worse wound we have borne.[44]

Once we concede that merit or social value has historically been constructed as white, or at least that qualities associated with whiteness, such as socioeconomic and cultural resources, are important indicators of success on aptitude tests, how can we expect people lacking these resources or privileges to perform on par, or at least effectively if not optimally, to the best of their abilities, in a racist and capitalistic environment? Without remedies to address a lack of resources coupled with merit's ideological link to whiteness, how can blacks have the opportunity to succeed? These unresolved dilemmas also complicate the diversity argument discussed previously, as Mitchell Chang observes: “one irony of the benefits of the diversity argument is that bringing together people of different races adds educational value because racism causes people of different races to have distinctly different experiences in the first place.”[45] Diversity would hold no value if inequality and injustice were not implicated in relation; note that diversity has value here for the privileged class, not for marginalized groups experiencing ongoing race and/or class-based oppression.

All else equal, we cannot discontinue the public sanctioning of affirmative action, if and when it occurs. Yet one wonders when various studies find slight-to-no increase in opportunities for minorities in face of the view affirmed by the Supreme Court that “bias” compromises “excellence,”[46] if policies aiming for diversity rather than rectifying injustice do not ultimately protect “elite meritocracy, in a way that further privileges white interests,” as Roithmayr concludes.[47] Similarly, Morfin and colleagues find that “though Grutter salvaged a form of affirmative action, it can be argued that the victory in reality was a loophole for the retreat from race.”[48] Indeed, as Saran Donahoo observes comparatively in both the French and US experiences,

existing affirmative actions programs can be seen “to protect White privilege by providing a limited pathway that allows a few non-Whites to succeed in what continue to be racially hostile environments.”[49] More is needed if racial equality is our end.

The Supreme Court's accepting minimal affirmative action for the intellectual interest of the political-economic majority betrays their accepting the view that “racial diversity and academic excellence are at odds with one another, and cannot be reconciled except through diversity-based affirmative action programs,” despite evidence suggesting that traditional measures of excellence — grades and aptitude test scores — are better indicators of race and the nature of white supremacy in US society than of the likelihood of college success, however the latter is defined. In this context, I concur with Roithmayr that Justice O'Connor's white supremacy-sympathetic expectation that “twenty-five years from now, U.S. educational institutions will no longer need to use racial conscious affirmative action in admissions to admit a racially diverse class,” rings hollow.[50]

Conclusion

It is important, of course, for those of us on the left to remain committed to preserving affirmative action no matter the scale, even as conservatives gear up for another round of attacks... Race-conscious affirmative action serves as a symbolic bulwark, a race-conscious counter to the meritocratic admissions standards that serve to reproduce racial inequality. But those of us on the left should also recognize the significant limitations of diversity-based program and the importance of dismantling locked-in monopoly of resources. It is important that we not abandon a more expansive view of racial justice in the quest to preserve the limited remedy of affirmative action.[51]

Affirmative action could certainly do less in US society — it could do nothing at all if it were banned outright by the Supreme Court, in line with contemporary politically conservative interests — but it could also do more. As Morfin and colleagues note, state propositions in California and elsewhere can effectively prohibit affirmative action, and as Roithmayr articulates, merit standards which reproduce inequality are still approved and deemed valid by this nation's highest court. While a “hard” rather than “soft” policy, of not just allowing but encouraging or enforcing affirmative actions, might help, large scale structural changes are also needed if our country is to become significantly more equal in the future. Thus, while affirmative action as currently practiced can be seen, of course, to benefit many people of color, directly

and indirectly, it is still, however, insufficient by itself in correcting for systematic disadvantage, in its myopia regarding the monopoly or “lock-in” whites have on education and on merit, or ideological goodness, in the US. Small-scale change in educational policy is insufficient for meeting the larger goals of those interested in substantially increasing social justice for racial minorities.

Two major changes seem fundamental to increasing justice and equality, in education and elsewhere. First, the standards by which we determine merit must be “deconstructed, reconstructed, and constructed,” as Ladson-Billings notes, given what we know of the racist, positivist historical context of intelligence and aptitude testing, as well as the lack of confirmation as to what exactly such testing indicates, relative to individual outcomes. Even if such tests reflect some things about one's aptitude to perform well in their first year of college or beyond, they also reflect excellence or merit biased by the effects of the white supremacist historical practice of intellectually differentiating and valuing differently humanity by race, and monopolizing wealth in the US. Challenging these entrenched practices is more important than affirmative action pedagogy in public schools for increasing racial equality, and it deserves more of our time and energy. Second, we must think more critically about the severity with which political and legal historical and contemporary practices of zoning schools and enabling widespread residential segregation decrease educational and opportunities for disadvantaged members of our society if we are to begin to address the needs of those who might not have the structural resources the set foot in our offices.

Implicit in both these recommendations is the increased need for criticality, not just about what is detrimental or insufficient to the goals of increasing equality and social justice, but also about the horizons under which we operate. As Moses and Chang recently argue, the diversity rationale, while useful, shifts us intellectually “away from concerns about discrimination, inequality, and injustice” ³/₄ from the plight of the oppressed in US society.[52] Additional philosophies must be revised and strengthened in support of these latter goals generally and as they pertain to educational climates and educational policies. Social critique is sorely lacking where symbolic victories are celebrated and the difficult to understand, structural issues remain obscured. Reviewing recent reports indicating that American white students are among “the highest performing in the world,” while American blacks and

Hispanics remain among the poorest, James Anderson argues that “our pride in the advancement of constitutional equality should be matched by our shame regarding the state of unequal education in contemporary life.”[53] We must ask continuously what race-conscious policies are doing for marginalized communities in our society, and with that, what more could be done.

Notes

[1] W.E. Burghardt DuBois, “Does the Negro Need Separate Schools?,” *Journal of Negro Education* 4, no. 3 (1935), 328.

[2] And elsewhere; see Saran Donahoo, “Reflections on Race: Affirmative Action Policies Influencing Higher Education in France and the United States,” *Teachers College Record* 110, no. 2 (2008): 251-277.

[3] Spivak, “Can the Subaltern Speak?” in Cary Nelson and Larry Grossberg, eds. *Marxism and the Interpretation of Culture*. (Chicago: Uni of Illinois Press, 1988) p.271-313.

[4] Bernard Boxill, “Affirmative Action in Higher Education,” in *A Companion to the Philosophy of Education*, ed. Randall Curren (Malden, Mass.: Blackwell, 2006), 599.

[5] Boxill, “Affirmative Action in Higher Education,” 599.

[6] Much of this section applies to discussions of gender oppression and sexism. Because gender complicates the picture so much — various opportunities and outcomes are gendered differently, despite the likely potential of structural arguments regarding female oppression — I maintain focus primarily on race and ethnicity in this paper.

[7] Ronald Dworkin, “Race and the Uses of Law,” *New York Times*, April 13, 1991, A17.

[8] For a good elaboration of class-based analyses of racism and Critical Race Theory see Mike Cole, *Marxism and Educational Theory: Origins and Issues* (New York: Routledge, 2007). See also Zeus Leonardo, “The Unhappy Marriage Between

Marxism and Race Critique: Political Economy and the Production of Racialized Knowledge,” *Policy Futures in Education* 2, no. 3-4 (2004).

[9] Sara Rimer and Karen W. Arenson, “Top Colleges Take More Blacks, but Which Ones,” *The New York Times*, June 24, 2004,
<http://www.nuatc.org/articles/pdf/CollegesTakeMoreTopBlacks.pdf>.

[10] See for instance, Sandra Lee Bartky, “Race, Complicity, and Culpable Ignorance,” in her “Sympathy and Solidarity” and Other Essays (Lanham, Maryland: Rowman & Littlefield, 2002); Shannon Sullivan, *Revealing Whiteness: The Unconscious Habits of Racial Privilege* (Bloomington and Indianapolis: Indiana University Press, 2006); . Barbara Applebaum, “White Privilege, Complicity, and the Social Construction of Race,” *Educational Foundations*, 17/4, 2003; Sara Ahmed, “The Phenomenology of Whiteness,” *Feminist Theory*, 8/2, (2007); Charles W. Mills, *The Racial Contract*, (Ithaca, New York: Cornell University Press, 1997); and Shannon Sullivan and Nancy Tuana, (eds.) *Race and Epistemologies of Ignorance* (Albany, New York: State University of New York Press, 2007).

[11] Hochschild, “Affirmative Action in Higher Education.” For an excellent discussion of similar cases of white ignorance see Peg O'Connor, *Oppression and Responsibility: A Wittgensteinian Approach to Social Practices and Moral Theory* (Pennsylvania State University Press, 2002).

[12] bell hooks, *Killing Rage* (New York: Henry Holt, 1995), 8.

[13] James Anderson, unpublished manuscript, quoted in Otoniel Jimenez Morfin, et al., “Hiding the Politically Obvious: A Critical Race Theory Preview of Diversity as Racial Neutrality in Higher Education,” *Educational Policy* 20, no. 1 (2006), 262.

[14] Boxill, “Affirmative Action in Higher Education,” 600.

[15] Boxill's argumentation pattern is relied on in here from “Affirmative Action in Higher Education.”

[16] *Ibid.*, 601.

[17] bell hooks, *Killing Rage*, Kal Alston, "Race Consciousness and the Philosophy of Education," in *Philosophy of Education Yearbook 1995*, ed. Alven Neiman (Urbana, Ill.: Philosophy of Education Society, 1996), María C. Lugones & Elizabeth V. Spelman, "Have We Got a Theory for You! Feminist Theory, Cultural Imperialism, and the Demand for 'The Woman's Voice'," *Women's Studies International Forum* 6, no. 6 (1983).

[18] Leonardo, "Unhappy Marriage Between Marxism and Race Critique."

[19] Ibid.

[20] See for instance, Lugones & Spelman, "Have We Got a Theory for You!," and, among others, Alison Jones, "Talking Cure: The Desire for Dialogue," in Boler, ed., *Democratic Dialogue in Education*.

[21] Paulo Freire, *Pedagogy of the Oppressed* (New York: Pantheon, 1982).

[22] Excerpt from Padilla, "Interectionality and Positionality," in Randall, ed., "Race, Racism and the Law," <http://academic.udayton.edu/race/04needs/affirm15d.htm>.

[23] Mitchell J. Chang, Nida Denson, Victor Sáenz, and Kimberly Misa, "The Educational Benefits of Sustaining Cross-Racial Interaction Among Undergraduates," *The Journal of Higher Education* 77, no. 3 (2006).

[24] Morfin, et al., "Hiding the Politically Obvious."

[25] Michele S. Moses and Mitchell J. Chang, "Toward a Deeper Understanding of the Diversity Rationale," *Educational Researcher* 35, no. 1 (2006), 7.

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[28] Gloria Ladson-Billings, "Just What is Critical Race Theory and What's It Doing in a Nice Field Like Education?," *Qualitative Studies in Education* 11, no.1, 15.

[29] Daria Roithmayr, "Tacking Left: A Racial Critique of Grutter," *Constitutional Commentary* 21, no. 191 (2004), 197.

[30] *Ibid.*, 199.

[31] *Ibid.*, 201.

[32] *Ibid.*, 203.

[33] *Ibid.*, 204-205.

[34] Daria Roithmayr, "Deconstructing the Distinction Between Bias and Merit," *La Raza Law Journal* 10, no. 363 (1998), 369.

[35] Roithmayr, "Bias and Merit," 403-404.

[36] See also Frontline, "Interview with Nicholas Lemann," <http://www.pbs.org/wgbh/pages/frontline/shows/sats/interviews/lemann.html>.

[37] Andrew Hacker, *Two Nations, Separate and Unequal*, quoted in Ladson-Billings "What is Critical Race Theory."

[38] See for instance, Gloria Ladson-Billings, "It's Not a Cultural of Poverty, It's the Poverty of Culture: The Problem with Teacher Education," *Anthropology and Education Quarterly* 37, no. 2 (2006).

[39] Heather Rose, "The Effects of Affirmative Action Programs: Evidence from the University of California at San Diego," *Educational Evaluation and Policy Analysis* 27, no. 3 (2005), 20.

[40] Quoted in David Pluviose, "Civil Rights Panel: Law School Affirmative Action May Hurt Blacks," *Diverse Issues in Higher Education* 23, no. 11 (2006), 6.

[41] Hochschild, "Affirmative Action as Culture War," 289.

[42] T.J. Wise, *Racial Preference in Black and White* (New York: Routledge, 2005), 112.

[43] See Lugones and Spelman, "Theory for You," or Sara Ahmed, "Declarations of Whiteness: The Non-Performativity of Anti-Racism," *Borderlands e-journal* 3/2, 2004, http://www.borderlandsejournal.adelaide.edu.au/vol3no2_2004/ahmed_declarations.htm

[44] Padilla, "Intersectionality and Positionality."

[45] Mitchell J. Chang, "Affirmative Action," *The Journal of Higher Education* 77, no. 5 (2006).

[46] For a good overview, see Morfin, et al., "Hiding the Politically Obvious."

[47] Roithmayr, "Tacking Left," 194.

[48] Morfin, et al, "Hiding the Politically Obvious," 240.

[49] Donahoo, "Affirmative Action Policies," 253.

[50] Roithmayr, "Tacking Left," 191; 214.

[51] *Ibid.*, 220.

[52] Moses and Chang, "Toward a Deeper Understanding," 10.

[53] James D. Anderson, "A Tale of Two Browns: Constitutional Equality and Unequal Education," forthcoming, 284-285.