

## FRAMING AFFIRMATIVE ACTION KIMBERLÉ W. CRENSHAW\* †

The campaign to eliminate race and gender conscious remedies has been largely underappreciated for the radical social movement that it actually represents. Anti-affirmative action activists frame their efforts as a simple plea to return to a fairer time before affirmative action distorted and unfairly denied deserving whites and men equal opportunity. In this light, this movement promises to deliver us to that past and release us from an unfortunate and divisive conflict about race and gender preferences. Even many of those who would rather maintain affirmative action at least for the short run are sympathetic to the idea that its elimination will bring an end to racial and gender jockeying and the divisive politics of resentment. They may have preferred an end to come later, perhaps on Justice O'Connor's twenty-five year time frame, but eliminating affirmative action now is seen to have many positive effects. To them, the struggle over affirmative action is merely a squabble about a particular tool toward achieving socially desirable ends. The debate is thus a distraction that might be productively conceded in order to fashion more effective approaches to addressing ongoing inequalities in access and achievement across American society.

This assumption is a mistake. As citizens in Michigan and residents in Seattle and Louisville will soon witness, opponents of affirmative action do not regard their victories as the end game, but simply a beachhead from which to ground a dizzying attack on a wide array of policies and practices. There is simply no end to the affirmative action debate because its purpose is not simply to take a specific set of policies off the table, but to install a particular orientation towards inequality itself -- one that seeks to discredit all race or gender discourse rooted in distributive justice. Organized under the mantra of colorblindness, advocates seek to stabilize the dramatically inequitable status quo by framing it as the natural product of individual initiative. To them, the unhappy history of race rears its head not in the production of racial disparities, but when such societal outcomes are viewed through a racial prism. Colorblindness holds that policy makers should be blinded from even noticing these disparities, much less fashioning policies to eliminate them. Installing this orientation across a host of institutions is where the next battle lies.

Even voters who recently voted to eliminate affirmative action in Michigan might be surprised at the great lengths that the movement will take to install this vision. If the experience of California serves as a true measure, Michiganders will witness attacks against a broad array of programs and policies that stretch even the most conventional definitions of what constitutes "preferential treatment." They should not be surprised to witness attacks on ethnic and women's studies programs, identity-based student organizations, ethnic alumni associations, outreach and noticing requirements, even

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breast cancer screenings and domestic violence shelters as forms of preference. Not all of these efforts will be successful, but they clearly confirm that there is a broader agenda at play. These battles will reveal that the agenda here is to erase our very ability to articulate any legitimate rationale for recognizing -- must less neutralizing --the profound asymmetries in opportunity and access throughout American society. What is really at stake here is more than eliminating so-called “reverse discrimination.” There is a much more radical agenda at play, one designed to resolve the problem of inequality by essentially removing it from political and legal discourse altogether...

### Competing Backstories

At the end of the day, whether the MCRI and other initiatives like it can successfully extend their campaign deeply into our political culture turns on the relative strength of their backstory in comparison to the counter-narrative offered by those who defend affirmative action. The MCRI back story paints a clear portrait, although it is in fact a societal fantasy. Its language invites voters to cast a vote for a return to the past where people were given a fair shake based not on who they were, but on their merit. Affirmative action is said to have disrupted this past to create specific outcomes with respect to the participation of underrepresented minorities throughout American institutions.

This back story, obviously fabricated and thin on reality, nonetheless finds amplification in the opinions of more influential and legitimate sources such as the Supreme Court and the media. The public debate on affirmative action amplifies the opponents’ backstory both in terms of what it chooses to highlight and what it systematically chooses to ignore. The growing sense that race discrimination and inequality is passé and largely irrelevant is amplified, if not produced, in the media’s failure to actively report on current patterns of discrimination and their relationship to affirmative action. A study by the media watchdog Fairness and Accuracy in Reporting drives this point home. FAIR researched the coverage of affirmative action in major newspapers over a (10) week period and found that in over 80% of the stories affirmative action was not linked in any way to processes of discrimination or inequality. Affirmative action in these stories is wholly disconnected from any sense of unfairness, or obstacles and disadvantages. Readers are thus invited to view the absence of minorities that would otherwise prevail without affirmative action policies as simply the natural outcome of market realities. Without saying so, affirmative action is thus easily presented at best as an act of noblesse oblige, and at worst as unfair act of social engineering.

Equally telling was the fact that the vast majority of stories failed to mention either white women or other people of color as beneficiaries of affirmative action. Most of the very few that did mention white women or other racial groups soon abandoned even this momentary recognition to focus exclusively on African Americans as the sole focus of the controversy. The role of African Americans as the central representative of affirmative action was starkly symbolized by a cover illustration on the Newsweek issue

that provided coverage on *Grutter v. Bollinger* and *Gratz v. Bollinger*. Appearing under the title, *Affirmative Action: Do We Still Need It?* was a picture of a young African American man, dressed in preppy khakis, shirt, and tie. Wearing spectacles and sporting a book, the figure cut a confident pose reflecting an apparent class advantage and perhaps even a sense of racial entitlement. Unknown to the casual observer however, the image itself was utterly staged—credits on the inside cover provide appropriate acknowledgements to the various vendors that supplied the tie, the specs and the clothes. The illustration suggested at least the three ways of thinking about the question off the bat: that the programs were about race, not about gender;; that they were about African Americans, not other people of color; and they were about extending the advantage to elite African Americans, not the broader community of impoverished Blacks. Thus, the graphic powerfully amplified the distorted discourse around affirmative action, a discourse that suggests that it is an entitlement program for middle class and potentially undeserving African Americans. This approach represents a gross distortion of reality, especially given that the primary beneficiaries of affirmative action have been Euro-American women.

This image captures in multiple ways the distorted framing of affirmative action that advocates must learn to meet more effectively. Recognizing that anti-Black stereotypes constitute readily deployable capital against affirmative action presents a delicate Catch 22 for its proponents. They must meet the stereotypes squarely while at the same time, broadening the beneficiary class to reveal the multitude of non-African Americans who have benefited from these programs and also stand to lose should they be eliminated. Yet the call to perform this delicate maneuver gave way to a rather blunt and ultimately ineffective strategy of highlighting women and girls as beneficiaries of affirmative action in Michigan. Replicating the strategy used in Washington state, the campaign to defeat MCRI featured images, testimonials and radio spots demonstrating affirmative action's benefits to women in providing them access and opportunities that would otherwise have been denied to them. In this sense, the campaign sought to reframe affirmative action as something other than a black entitlement program. Instead, it was presented as a friendlier, familiar, and family-centric set of programs that worked for working families and upwardly mobile women. Supporters of affirmative action also sought an upbeat chord, amplifying the trend away from the negative imagery associated with racial discrimination toward a positive message of opportunity and shared destiny across racial group differences. Media gurus, pollsters, and opinion researchers seemed to advise that contested social justice issues might be better positioned in the public mind if they were reframed in a manner that avoided the "divisiveness" of racial discourse.

But, there are serious limitations to this strategy and the outcomes in California, Washington and Michigan suggest that this approach is not the recipe for success. The strategy hardly seemed effective in persuading white women—only 43% of them voted against Proposal 2 in Michigan while 57% voted for its passage. In the ten years since the adoption of Prop. 209 in California, there has been virtually no movement in persuading white women to vote in favor of affirmative action. In fact, this framing managed to capture only 42% of the overall vote. The only good news is that greater percentages of people of color voted against the proposal than in California, an even more impressive

fact given that many minority organizers complained that the messaging was not targeted to their communities.

It is possible that this strategy proved ineffective because it failed to contest the racially tinted frames that Americans already have about this issue. Foregrounding (white) women in the frame does little to erase the omnipresent racial subject that serves as a lightning rod for most of the stereotypes associated with affirmative action. Blacks are still at the center of the picture, and voters who show some receptivity to the gender analysis still must be inoculated in some way against the stereotyping and race-baiting that pervade this debate. Opponents of affirmative action managed to simply roll the campaign's highlighting of women into their unchanged view that the debate was really about black people. Said one Michigan woman of her white friends, "A lot of them see right through this campaign strategy. They say that it is obvious that *'the blacks'* are getting the white women to carry their water for them." (emphasis added).

The fact that many voters continue to "see" the stereotypical Black beneficiary squarely in the middle of the picture despite efforts to deemphasize his presence prompts some advocates to relocate the social justice project even further away from the toxic ideological ghetto in which notions of entitlement and complaint reside with African Americans. This "sighting" also erases the history of contemporary discrimination faced by other minorities behind the ostensibly more positive stereotypes such as the "model minority" or the 'hard working immigrant. The strategy to more fully represent the role of affirmative action in addressing a wide range of exclusionary practices must take up the task of repopulating its image with the full range of groups that are targeted by social inclusion policies—white women, Latinos, Asians, Indians and others. Yet there is only so far advocates can go in accommodating the distorted views animated by anti-black stereotypes before succumbing to the race-specific ideologies that cast African Americans as the anti-model minority in the first place. The effort to sustain targeted social interventions such as affirmative action cannot succeed by erasing or burying the Black subject but by activating alternative narratives about social justice that denaturalizes the status quo and compels greater empathy and support.

### Track Metaphor

If affirmative action is to be rescued, the distorted conceptual box which it has been forced to occupy in law, politics and culture must be revealed, contested and discarded. Affirmative action is at a crossroads and may indeed cease to exist *as we know it*, but ending affirmative action as we know it can in fact be an opportunity to know affirmative action in a different way. In fact, what most people think they know about affirmative action isn't right, and what is right about affirmative action most people don't know. The contest now is to reframe and reground these vitally important opportunity policies at every level in society. The campaign to defend affirmative action has to be a campaign to reframe the terms of the debate. Not only must new images, new messages and new strategies be deployed to squarely meet the pre-existing misconceptions about the programs themselves, the mystifying role of law in naturalizing and insulating the status quo must also be radically rethought. Central to both these efforts is the steady

development of persuadable backstories and telling metaphors to wrest away from supporters as well as opponents their critical investment in the naturalness of the current distribution of rewards and opportunities. Nothing is more important to this mission than challenging the idea of preference.

AAPF seeks to advance this reframing by synthesizing existing knowledge from a variety of disciplines and sources and delivering these ideas in a way that represents the issues in a more compelling framework. Consider one of the most common metaphors used to capture the competing interests at stake in affirmative action, the image of the equal opportunity race. In an ideal race all runners start at the same point and the rightful rewards go to the best runners. But affirmative action is said to place some runners a half length or more ahead of non-preferred runners. In this context, both opponents and defenders of affirmative action tend to agree that this placement represents a preference for those who are placed ahead in the staggered start. They disagree, however, about whether such preferences are justified. For opponents, the head start is unfair, inefficient, divisive and counterproductive. In their view, the beneficiaries of affirmative action are tainted because they are given an unfair advantage. No matter how well they've run the race, their accomplishments cannot be credited or trusted. The non-preferred runners have every reason to be resentful because they have been forced to run in a rigged race and have likely lost their rightful place in the winner's box. The defenders of affirmative action worry about the resentment and other costs associated with sustaining such exceptions to the fair race, but they argue that the benefits of a diverse set of winners offsets these costs. While they differ in their normative assessment of whether the head start is defensible or not, what they share is actually more telling: both tend to see the problem of affirmative action in terms of damaged runners unable to compete on their own. As long as affirmative action is framed in terms of damaged runners, there is little wonder that opposition to it will remain intense, and that support, even among some of its beneficiaries, will often remain lukewarm.

But, there is an alternative narrative that can be presented, one that actually throws light on the conditions that affirmative action is designed to address. This alternative frame suggests that the problem affirmative action seeks to address is not damaged runners, but damaged lanes that make the race more difficult for some competitors to run in than others. Rethinking affirmative action so as to account for the unequal conditions of the lanes on the track — the debris that some runners must avoid, the craters over which some must climb, the crevices that some must jump and the detours that some must maneuver -- suggests that affirmative action is not about providing preferences at all. Rather it is about removing and neutralizing the obstacles and conditions that compromise the fair running of the race. Structural inequality, exclusionary institutional practices, transgenerational disadvantages and even unconscious biases are just a few of the conditions that crowd the lanes of would-be recipients of affirmative programs. These conditions are not mysterious nor unverifiable. In fact, they can be empirically demonstrated with relative ease, as research from a variety of fields reveals. To attend to the elimination of such circumstances is hardly to promote reverse discrimination. It reflects only a matter of simple justice.

Thus, for affirmative action to be productively reframed, the pervasive and troubling disconnect between what is knowable about contemporary inequality has to be brought into mainstream discourse on affirmative action.

Conclusion:

Affirmative action discourse can be strengthened by reconnecting it to its equality-based moorings and by building an effective counter-narrative to the prevailing back-stories that so utterly distort the causes and consequences of racial inequality today. Most fundamentally, affirmative action needs to be rescued from the distortions produced by the notion of colorblindness, which must be exposed and deposed. As demonstrated above, colorblindness manages to do its work without the opposition it might otherwise warrant by masquerading as the heir apparent to the very movement that it seeks to contain and destabilize. This strategy is all the more remarkable given the breathtakingly bold act of cooptation that the conservative re-deployment of colorblindness represents. Though it was conceived in the pitched battle against white supremacy, colorblind rhetoric has been ripped from the grasp of the movements' martyrs and reared to repudiate its liberationist legacy. Far from serving as a beacon of hope, a new baseline representing what America could have been in the absence of deeply entrenched patterns of white privilege, colorblindness now delivers its moral capital to a specious claim that the journey to the promised land is nearly complete.

(A)ffirmative action [has been] vacuumed out of its modest role as a facilitator of change, a corrector, a remover of obstacles, and it has now been installed as the quintessential embodiment of the posse of ideas that it was born to vanquish — discrimination, racial supremacy, segregation, and stereotype. While affirmative action struggles to escape these false associations, colorblindness is now poised to assume the throne of racial justice in American society. Should it succeed, the whole family of ideas bound up with affirmative action—the imperative of addressing institutional discrimination, the value of diversity, the relevance of disparate impact, the simple justice of Brown, will be banished from legitimate discourse.

At the end of the day, this is really what is at stake in these contests over affirmative action. If intellectual, legal and political resources are not deployed to arrest this development, the ever broadening category of “preference” will eventually grow to eliminate all race sensitive policies and practices--public and as well as private--including the conscious objective of achieving a fully diverse and integrated society.