

NOTE: THE AUTHOR WROTE THIS PAPER AS AN INDEPENDENT CONSULTANT. THE PAPER DOES NOT EXPRESS THE VIEWS OF GOVERNMENT

AFFIRMATIVE ACTION IN THE US

Introduction: definition and rationale

1. For the purpose of this note, I take affirmative action to be any institutional policies or programmes, in the public or private sector, that use race, ethnicity or gender as a consideration in order to expand opportunity or provide benefits to members of groups that have suffered discrimination.¹ This includes quotas, targets and set-asides for employment or admission to educational establishments, or for the award of contracts; numerical or non-numerical preferences given in such circumstances; or targeted programmes whose beneficiaries are confined to the groups above. This paper focuses on affirmative action and blacks or African-Americans, and, as relevant, other disadvantaged racial or ethnic groups. I do not discuss affirmative action as it applies to women, which could easily provide material for a separate paper, although many of the programmes discussed below also apply to women, as does some of the empirical economic evidence.

2. Within a political and philosophical framework which includes a commitment to equality of opportunity – in other words one which holds it inappropriate that race, ethnicity and gender should determine life chances or opportunities for individuals – there are at least three different possible rationales for the use of affirmative action programmes, as defined above:

- discrimination. The setting of quantitative targets may be the only way to ensure that institutions do not discriminate against disadvantaged groups, either deliberately or unwittingly. Here affirmative action is simply used as a means to achieve the standard liberal objective of non-discrimination and equality of treatment;
- restitution. Even if institutions no longer discriminate, past discrimination (either against specific individuals, or against groups as a whole) could have put individuals who are members of disadvantaged groups in such a position that failure to take account of past discrimination may ensure that they do not have access to certain opportunities. Here affirmative action is being used to compensate individuals who have been directly or indirectly harmed by past discrimination;
- diversity. Certain institutions (a police department, or a university) may require racial, ethnic or gender diversity in order to function better. In this case, race, ethnicity or gender may be a qualification for employment or admission that should legitimately be taken into account. Here, affirmative action is being used to achieve a collective good: the benefit to favoured individuals (and harm to disfavoured ones) is in some sense incidental.

¹ This is a more precise version of the definition used in the Clinton Administration review of affirmative action: “*Review of Federal Affirmative Action Programs, Report to the President*”, George Stephanopoulos et. al, July 19, 1995.

3. As will be seen below, all of these three rationales have been advanced in the US context. Over time, however, the emphasis, and the legal and political debate, has arguably shifted from the first to the second, and more recently to the third.

4. This paper is structured as follows. I begin by setting out the history of affirmative action; its origin at the time of the broader civil rights movement, its growth in the 1970s, and more recent political and legal reactions against it. I then summarise the evidence of contemporary discrimination in labour and other markets which affirmative action is designed to address, and attempt to provide a (non-comprehensive) taxonomy of current affirmative action programmes and policies in the public, education and private sectors. The following section discusses the economic theory of, and empirical evidence on, the outcomes of affirmative action, covering both distributional and efficiency effects. Finally, I discuss the current political environment in the US and the likely implications for future affirmative action policies.

History

Discrimination in the US

5. The first legislative action against discrimination in the United States was taken in the immediate aftermath of the Civil War. During this period, known as Reconstruction, Congress legislated aggressively to extend full legal protection to black citizens. The [Thirteenth Amendment](#) to the Constitution made slavery illegal; the [Fourteenth Amendment](#) guarantees equal protection under the law;² the [Fifteenth Amendment](#) forbids racial discrimination in access to voting. The 1866 Civil Rights Act guarantees every citizen "the same right to make and enforce contracts ... as is enjoyed by white citizens ..". During Reconstruction, Republican state governments – elected in large part by black votes, and protected by federal troops – were installed in most Southern states, and a number of black representatives were elected to Congress.

6. Reconstruction came to an end in 1876, with the disputed (and almost certainly fraudulent) election to the Presidency of Republican Rutherford B. Hayes. In return for allowing Hayes to take office, the Republicans agreed to withdraw federal troops from the South. Southern Democrats took back power in all the Southern states. Gradually, white supremacy was restored. "Jim Crow" laws enshrined segregation in the provision of public services, despite the Fourteenth Amendment, and ensured that, despite the Fifteenth Amendment, most (although not all) blacks were denied the vote. These laws were given federal legal sanction in 1896 by the Supreme Court's decision in *Plessy v. Ferguson*, which upheld the doctrine of "separate but equal" provision of public (and by extension private) services to blacks and whites as being consistent with the Equal

² The crucial Equal Protection Clause – highly relevant to the legal challenges to affirmative action described below – reads: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Note that this applies to states, not *prima facie* to the federal government or private sector.

Protection Clause. In practice, of course, “separate but equal” was an oxymoron; separate was never anything but hugely inferior. This edifice of legalised segregation lasted largely unchallenged until World War II.

7. In 1940, then, although there had long been a small black intelligentsia, the vast majority of blacks were poor and uneducated, and had very little opportunity to be anything else. Approximately 90% lived in poverty; less than 1 in 8 completed high school. Male earnings were about 40% of those of whites, and less than 2% of male professionals were black.³ Political representation was almost entirely absent, with no black mayors, governors, or senators. Few statistics are available for Hispanic Americans, but it is likely that Mexican-Americans, at least, experienced comparable disadvantages (the situation of the non-assimilated native American population was perhaps even worse).

8. World War II, with the increase in demand for factory labour, and a huge wave of black migration to the North, did much to expand black economic opportunity. In parallel – and largely as a consequence of the perceived need for black labour to support the war effort – came the first federal moves against legalised discrimination. In 1941, President Roosevelt – in response to a strike threat by the black trade union leader A. Philip Randolph – signed Executive Order 8802, which outlawed segregationist hiring policies by defense-related industries which held federal contracts. In 1945, a further Executive Order by President Truman desegregated the Armed Forces.⁴

The growth of affirmative action

9. In 1954 the Supreme Court decision in *Brown v. Board of Education* overturned *Plessy v. Ferguson*, inaugurating the modern civil rights era. In March 1961, shortly after taking office, President Kennedy issued Executive Order 10925, which established the President's Committee on Equal Employment Opportunity. Its mission was to end discrimination in employment by the government and its contractors. The order required every federal contract to include the pledge that "The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action, to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin."

10. This appears to be the first time that the government called directly for “affirmative action”. In this context, the phrase appears to mean the taking of appropriate steps to eradicate racial, religious, and ethnic discrimination; it thus relates to the first rationale set out in paragraph 2 above, and does not necessarily imply – although it could – affirmative action within the definition set out above. The goal, as the President stated, was "equal opportunity in employment." The Civil Rights Act of 1964 restated and

³ See e.g. *The Shape of the River*, Derek Bok and William Bowen, Princeton University Press, 1998.

⁴ This met considerable resistance from senior military commanders, who argued that it would prejudice morale; an irony lost on Colin Powell, who as Commander of the Joint Chiefs of Staff argued strongly against the Clinton Administration's efforts to liberalise policy on gays in the military.

broadened the application of this principle. Title VI declared that "No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

11. In 1965, however, President Johnson made clear the Administration's view that fairness required more than simply a commitment to impartial treatment. In what remains the most famous statement of the rationale for "affirmative action" (corresponding to the second rationale set out in paragraph 2), as it is now understood, he said:

*You do not take a person who for years has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say, "you're free to compete with all the others," and still justly believe that you have been completely fair. Thus it is not enough just to open the gates or opportunity. All our citizens must have the ability to walk through those gates We seek not...just equality as a right and a theory but equality as a fact and equality as a result.*⁵

12. Several months later President Johnson issued Executive Order 11246, which stated that "It is the policy of the Government of the United States to provide equal opportunity in federal employment for all qualified persons, to prohibit discrimination in employment because of race, creed, color or national origin, and to promote the full realization of equal employment opportunity through a positive, continuing program in each department and agency." [emphasis added]. Two years later the order was amended to prohibit discrimination on the basis of sex.

13. Affirmative action became institutionalized throughout the federal bureaucracy over the next decade, particularly during the Nixon Administration. In December 1971, the Department of Labor issued Revised Order No. 4, requiring all contractors to develop "an acceptable affirmative action program," including "an analysis of areas within which the contractor is deficient in the utilization of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies." Contractors were instructed to take the term "minority groups" to refer to "Negroes, American Indians, Orientals, and Spanish Surnamed Americans." The concept of "underutilization" meant "having fewer minorities or women in a particular job classification than would reasonably be expected by their availability."⁶ Both Nixon and his Attorney General (John Mitchell) made clear that they thought that affirmative action was both necessary and constitutionally permissible, provided that "goals" were not to be "rigid and inflexible quotas" but "targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work".

⁵ Commencement Address, Howard University, June 1965.

⁶ The concept of underutilization is still in use today for federal contracting and in anti-discrimination litigation. It is generally taken, as a rule of thumb, to mean an employment rate relative to the relevant labour pool of less than 80% that of the most advantaged group (usually white males). In other words, if 12% of the qualified labour pool for a position consisted of black females, then a firm employing less than 9.6% black females would be *prima facie* "underutilizing" this group – although this would not necessarily imply the firm was guilty of illegal discrimination.

14. At the same time that the federal government was promoting affirmative action through legislation and regulation, the courts were imposing affirmative action on employers in the public and private sectors. For example, in 1970, in response to the fact that the State of Alabama had never hired a single black trooper (in a state where the population is more than 30% black), a federal district court ordered various detailed non-numerical provisions designed to end discrimination. However, eighteen months later, the position remained unchanged. The court then entered a further order requiring the hiring of one *qualified* black trooper or support person applicant for each white hired until 25 percent of the force was comprised of blacks.⁷ Similarly, in 1975, a federal district court found that Local 28 of the Sheet Metal Workers' International Association had systematically discriminated against non-white workers in recruitment, training and admission to the union, and established a 29 percent membership goal, reflecting the percentage of minorities in the relevant labor pool.

15. In contrast to other sectors, affirmative action in the higher education sector was not generally imposed by the government or the courts. Rather, it reflected a consensus among the educational establishment, particularly in the elite research universities (private and public) that they had a duty both to remedy past discrimination and to provide a more general benefit to race relations by educating future black leaders.⁸

Challenges to affirmative action

16. There was surprisingly little political opposition to affirmative action in the 1960s. In retrospect, the Presidential campaign of Barry Goldwater in 1964 – which relied in part on white resentment of the civil rights movement – is generally agreed to be the defining event in the origins of modern American conservatism, prefiguring the realignment of white Southern voters with the Republican party and the eventual rise of Reagan. However, Goldwater was heavily defeated, and at the time affirmative action commanded a wide degree of consensus among much of the political class. As noted above, despite Nixon's own personal racism, it was under his administration that affirmative action was extended and institutionalized. Opposition to affirmative action was also muted by the fact that – as in the cases described above – it was frequently imposed by the courts in response to what was clearly blatant and deliberate racism rather than simply numerical imbalances.

17. However, in the 1970s, as blatant racism declined, and with general economic weakness making access to jobs and education appear to be more of a zero-sum game, opposition – particularly on the part of relatively less well-off whites, who had most to lose – grew. For the most part, this took the form of legal challenge, on the grounds that affirmative action programmes violated the Equal Protection Clause of the Fourteenth Amendment.

18. The 1978 *Bakke* case set the parameters of affirmative action for the next two decades. The University of California at Davis medical school had reserved 16 available

⁷ The order was upheld by the Supreme Court in 1974.

⁸ Bok and Bowen, *op. cit.*

places for qualified minorities . In a splintered decision, with Justice Powell casting the deciding vote, the Supreme Court essentially decided that setting aside a specific number of places in the absence of proof of past discrimination was illegal, but that minority status could be used as a factor in admissions . In Justice Powell's controlling opinion, race could be taken into account in allocating places only if there was a "compelling state interest"; the desire to obtain a "diverse" student body – the third rationale set out in paragraph 2 above - was found to be such a goal in the educational context.⁹

19. With affirmative action programmes – albeit not quotas – having been legitimized by the courts, affirmative action was not a significant national political issue in the 1980s, although it had some salience in Southern states, where the historic shift of white voters from the Democrat to the Republican party was continuing. In 1990, Jesse Helms won a very close Senate race against a black challenger, with an advertisement showing a pair of (white) hands holding and then crumpling a letter while an announcer said: "You needed that job, and you were the best qualified. But they had to give it to a minority because of a racial quota." However, this direct appeal to racism was widely condemned outside (and to some extent inside) the South, and was very much the exception rather than the rule.

20. Affirmative action rose up the political agenda in the early years of the Clinton Administration, largely because of Proposition 209 in California. Known as the "Californian Civil Rights Initiative", and proposed by a well-known black businessman, Ward Connerly, who was subsequently named Chairman of the Board of Regents of the University of California, Proposition 209 forbade the state to "discriminate against, or grant preferential treatment to" any person or group in public employment, education or contracting.¹⁰

21. It was widely expected that, having passed (albeit only by 54% to 46%) in relatively liberal California, Proposition 209 would lead to a wave of similar ballot initiatives across the country. This has largely not been the case. While a similar initiative passed in Washington state, another failed in Houston, and in most states proposals have failed to get off the ground. Meanwhile, the Clinton Administration's review of affirmative action – culminating in the President's pledge to "mend it not end it" largely succeeded in defusing affirmative action as a political issue. During the 2000 campaign, George W. Bush said that he opposed quotas but favoured "affirmative access." Post-election, the Bush Administration does not appear to have altered policy significantly.¹¹

⁹ Powell was in fact the only justice to argue for this compromise position; four justices found that using race as a criterion at all was constitutionally impermissible, while four found that the UC Davis programme was acceptable.

¹⁰ Affirmative action in California universities was particularly politically charged since the main group disadvantaged was arguably Asian-Americans – who are over-represented in the state system – rather than whites. Opponents of affirmative action compared it to the Jewish quotas operated by Ivy League universities in the 1920s and 1930s.

¹¹ In the first significant test, the administration defended the Transportation Department's highway construction program that favors minority and disadvantaged businesses, saying that the program's regulations were "narrowly tailored to serve a compelling government interest" and that "Congress has a compelling interest in eliminating discrimination and its effects on government spending and procurement."

22. Some other states – notably Florida, under Governor Jeb Bush, and Texas, in response to the *Hopwood* case described below – have tried to move away from affirmative action in access to state universities. However, these moves have been combined with other programmes designed to give minorities greater access, by guaranteeing admission to a certain proportion of students in each high school. Since schools are often highly segregated, and black (and poor) students generally attend lower quality schools, such programmes are more likely to give admission to blacks than simply relying on raw test scores. Nevertheless, these moves have been fairly unpopular. In Florida, Jeb Bush’s opposition to affirmative action is regarded as largely responsible for the overwhelming black vote against George W. in the Presidential election. Meanwhile, in California, the UC Board of Regents has voted to at least partially reverse the effect of Proposition 209.

23. Overall, then, there is relatively little political momentum behind efforts to end or limit affirmative action at the moment. Instead, sensing a more favourable judicial climate, opponents of affirmative action have returned to the courts, which are generally significantly more conservative than they were 20 years ago. In *Hopwood vs. Texas*, and subsequently in one of two cases involving the University of Michigan¹², district courts held that the use of affirmative action in admissions, scholarships, hiring and financial aid programs at all state colleges and universities was illegal – despite the arguments of the universities that diversity still represented a “compelling state interest”.¹³ In other words, lower courts have decided that *Bakke* no longer applies. Meanwhile, in the *Adarand* case, the Supreme Court found that – despite the fact that the Equal Protection Clause is not directly applicable to the federal government – the federal government too needed to show a “compelling state interest” to justify federal affirmative action programmes.

24. The Supreme Court is likely to return to the issue in the near future in the context of the University of Michigan cases (as well as to the *Adarand* case, which has still not finally been resolved). This will pose a difficult dilemma both for the swing justices on the Court, notably Sandra Day O’Connor – who has a strong inclination to split the difference in this type of case – and for the Bush Administration, which will have to take sides in a much more politically charged case than that mentioned above.

Discrimination today

25. In order to justify the use of affirmative action programmes it is necessary to show that discrimination is still a problem (although, arguably – see below – affirmative action

¹² In the other case, a different judge found the reverse. Both cases have been appealed.

¹³ It is worth noting that private universities which have affirmative action programmes – which means most of the major selective universities, see below – have largely escaped legal challenge. This is because, since they are not state institutions, the legal standard required to show that their conduct is illegal would be much stricter.

could still be useful even if conscious discrimination and racism had been eliminated). Clearly, overall black economic outcomes are far inferior to those of white¹⁴:

- The black unemployment rate remains over twice the white unemployment rate, and the black and Hispanic poverty rates are two and half times the white poverty rate.
- 97 percent of senior managers in Fortune 1000 corporations are white males.
- In 1990, blacks accounted for 12% of the population, but black-owned firms accounted for only 1% of turnover.

Similar discrepancies exist for virtually all measures of educational, economic and social well-being. But how much of this is due to direct discrimination, and how much to historical and other complex social factors, remains an open question.

26. The traditional approach to this question in the labor market is to estimate earnings regressions on observable characteristics (e.g. education) and to see if, controlling for these characteristics, race and/or sex remain significant determinants. Here the evidence is mixed. One reasonably representative study found that in 1991, black males earned 29 percent less than white males without any adjustments, 15 percent less after adjusting for education and experience, and 9 percent less after additionally adjusting for test scores.¹⁵ This residual differential is significant, but arguably not dramatic.

27. Two caveats should be noted, however: first, unobserved differences in skills may account for some of the remaining differences in wages, implying that the estimated effect of discrimination is overestimated; second, differences in education or test scores may themselves represent discrimination, implying that the effect of discrimination is underestimated.

28. These estimates do not seem that large. By contrast, however, “audit” studies – where researchers send matched pairs of equally qualified white and black applicants to employers - almost universally find substantial evidence of fairly severe discrimination; the consistency of these results, as well as the intuitive nature of the experiment design, is quite convincing.¹⁶ It is possible to reconcile these results using the Becker argument (that is, black applicants rejected by racist employers find almost equally good jobs with non-racist employers; equilibrium wages are little changed) but the overall conclusion must still be that labour market discrimination is fairly widespread (as well as in other markets where such experiments have yielded similar results, such as the housing market).

¹⁴ See e.g. ““*Review of Federal Affirmative Action Programs, Report to the President*”, George Stephanopolous et. al, July 19, 1995

¹⁵ ,”*What Does the AFQT Really Measure: Race, Wages, Schooling and the AFQT Score*,” Bill Rodgers and William Spriggs, *Review of Black Political Economy*, 1996, 24(4).

¹⁶ See e.g. “*Measuring Employment Discrimination through Controlled Experiments*”, Mark Bendick, Charles Jackson and Victor Reinoso, *Review of Black Political Economy*, 1994, 23(1); “*Clear and Convincing Evidence*”, Michael Fix and Raymond Struyk, Urban Institute Press, Washington D.C., 1994.

29. There is less information about discrimination against minority owned businesses, but a number of studies show that black-owned businesses (and homeowners) are significantly less likely to be granted credit than whites, after controlling for other factors.¹⁷

Current affirmative action programs

Federal government

30. Minorities are a large proportion of the federal workforce – about 30 percent, compared to 22 percent of the total workforce. However, minorities (and women) continue to be disproportionately employed in clerical and lower grade jobs; only 8.5 percent of Senior Executive Service – roughly equivalent to SCS – jobs were held by minorities (although this compares rather well with the private sector, see above). The Clinton Administration review examined six federal agencies considered to have relatively successful programmes¹⁸: Key points which emerged were the following:

- Each agency had aggressive affirmative employment programmes, including targeting sources, requiring recruiters to consider and report, management awareness/accountability, external and internal communications strategies, but success rates were nonetheless relatively modest.
- Available data were confined to the numbers and percentages of minorities and women employed by grade level by year; there were no systematic data about the actual operation of minority preferences in hiring and promotion.
- Several agencies expressed the belief that agency educational efforts are effective in ameliorating white-male concerns (which were visible in each agency), but this belief was purely anecdotal.
- Agencies subject to downsizing face special pressures.
- Agencies with high percentages of professional or technical jobs attributed their limited progress to competition with the private sector for a limited labor pool.

31. There is a wide variety of other federal affirmative action programmes, and it would not be possible to list them all here.¹⁹ The box shows illustrative examples of the different types of such programmes.

¹⁷ See e.g. Blanchflower (1998)

¹⁸ Department of the Navy, Smithsonian Institution, Defense Intelligence Agency, NASA, Pension Benefit Guaranty Corporation, and Health and Human Services.

¹⁹ See “*Review of Federal Affirmative Action Programs, Report to the President*”, George Stephanopoulos et. al., July 19, 1995 for a comprehensive treatment.

Current Federal Government Affirmative Action Programmes (illustrative)

Outreach

- Various statutes encourage recipients of Federal funds to use minority-owned banks.
- The Office of Federal Contract Compliance Programs offers a periodic award for contractors with superior affirmative-action practices, such as innovative recruitment or training strategies.

Disclosure of Data:

- The Small Business Act requires the Small Business Administration (SBA) to monitor and report on agency contracting with small disadvantaged businesses (SDBs)..
- the Administration publishes the rates at which financial institutions make federally guaranteed loans to women- and minority-owned firms.

Affirmative Action Plan Requirements

- Federal contractors must maintain affirmative action plans, which must in certain circumstances contain flexible goals and timetables.
- The Community Reinvestment Act requires certain chartered financial institutions to conduct and record efforts to reach out to underserved communities.

Targeted Training & Investment Efforts

- The Foreign Service maintains a minority internship program
- the EPA maintains a Mentor/Protege program to encourage contractors to develop relationships with SDBs

Goals:

- The Small Business Act requires each agency to set goals for contracting with small businesses and SDBs;
- the SBA sets management goals to increase diverse participation in its loan guarantee program.

Market Advantages:

- the Defense Department is permitted to provide a 10 percent bid price preference, and to employ reduced-competition systems as a means of meeting its SDB contracting goals.
- The Surface Transportation Assistance Act, authorizes use of "subcontractor compensation" bonuses to prime contractors who use SDBs;

"Soft" Set-Asides

- The Intermodal Surface Transportation Act and the Airport and Airway Improvement Act require that 10 percent of contracts be allocated to disadvantaged business enterprises, except to the extent that the Secretary determines otherwise.

"Hard" Set-Asides

- The Omnibus Diplomatic Security & Antiterrorism Act requires that a minimum of 10 percent of funds appropriated for diplomatic security projects be allocated to minority business enterprises.

32. A number of points are worth noting:

- affirmative action at the federal level covers a huge variety of programmes and policies. This makes it very difficult to generalize about the philosophy, purpose, or effectiveness of “affirmative action”, since it is not really a unified concept;
- however, for the most part, these programmes do not related directly to civil service employment; in part, this reflects the generally good record of the federal government in employing minorities, at least at upper and middle levels, as described above (since upper level appointments are frequently political, affirmative action as such is less relevant);
- there are a surprising number of programmes relating to minority- (and women-) owned businesses.
- At least in principle, it is the position of the federal government that all of these programmes now respect the *Adarand* ruling – that is, that they are justified by a “compelling state interest”.²⁰

Higher Education sector

33. As shown above, affirmative action in the higher education sector is by far the most politically charged issue. However, almost by definition, it is limited in its extent; it is only really relevant in selective institutions, which account for no more than 20-25% of total enrollment (most state and community colleges are open to all qualified applicants). Within the selective institutions, there are two main groups:

- selective state universities, such as the University of California system and state universities elsewhere. Here affirmative action programmes have tended to take the form of numerical targets and/or of quantitative preferences (for example, different test score cut-offs for blacks and other minorities);
- private universities such as the Ivy League, as well as exclusive liberal arts colleges. Here affirmative action is less quantitative – since such schools do not select solely on test scores anyway – but takes the form of strong competition between universities for qualified minority applicants. Nevertheless, as with state universities, the result is that successful minority students have significantly lower test scores than successful white students.

Private Sector

34. Except in the relatively limited number of cases where the courts have imposed a remedy in response to past discrimination, or the company has agreed to an out-of-court

²⁰ See e.g. the Bush Administration position on the transportation programmes, footnote 11 above.

legal settlement, it is rare for private sector companies to have numerical employment targets.²¹

35. However, most large US companies emphasize their commitment to diversity – it is extremely rare to see a corporate report that does not make a point of doing so- and are generally supportive of affirmative action in the government and education sectors. For example, my local phone company – selected more or less at random – included the following passage in a press release announcing its new CEO:

“Mr. Seidenberg champions diversity both within and outside the company. Under his leadership, the company has made great strides in increasing minority employment and initiated a partnership with the U.S. Small Business Administration to increase the company's purchasing from minority suppliers to \$1 billion by the end of the year 2000. Verizon's commitment to diversity has been widely recognized, with the company being cited by Fortune magazine in its list of "The 50 Best Companies for Minorities."²²

36. In the University of Michigan case mentioned above, 20 large companies (including Microsoft, Texaco, Dow Chemical and others) filed court papers supporting the university on the grounds that business required a diverse graduate workforce²³. Many companies have mentoring programmes and/or internships or training programmes that are targeted at minority communities.

Outcomes

Economic theory

37. There is a considerable economic literature which examines the question of whether affirmative action can, in principle, improve efficiency and welfare. Intuition would suggest that if there is substantial discrimination in the labour market that the market would not function efficiently; by countering this discrimination, affirmative action would increase efficiency. By contrast, if there is not significant discrimination, then affirmative action would reduce efficiency.

38. In fact this may not be the case. If labour supply is inelastic, all workers are identical, and the labour market is otherwise well-functioning, then discrimination (either by some employers against blacks, or imposed by government in favour of blacks) will simply lead to redistribution between different employers and firms; total employment and

²¹ There have been a number of controversial settlements of this type on the part of large companies, including Chrysler and others, which have involved substantial payments to black empowerment organisations such as the Rev. Jesse Jackson's PUSH. These have been described by those opposed to anti-discrimination legislation as essentially blackmail payoffs.

²² www.verizon.com

²³ <http://aad.english.ucsb.edu/docs/fortune500.html>

output will remain unchanged.²⁴ At the extreme, even if some firms simply refuse to hire blacks, wage rates will still be equal in equilibrium (because non-discriminating firms will hire cheaper blacks up to the point at which wage differences are arbitrated away).

39. Varying the assumptions produce different results. Notably, if jobs vary in required qualifications, and employers discriminate against qualified blacks, then firms that discriminate will be less efficient and have lower profits²⁵. If so, affirmative action, by forcing firms to employ more (qualified) blacks, would enhance efficiency. On the other hand, if firms are not actually discriminating, then affirmative action reduces efficiency. This framework has a useful empirical implication – if affirmative action is justified by discrimination and is efficiency-enhancing, then job performance among blacks in firms affected by affirmative action should be comparable to that of whites; on the other hand, if discrimination is absent, affirmative action will reduce efficiency among these firms.

40. Extending the model to include human capital investment – that is, workers have to invest in order to gain qualifications – introduces a further inefficiency resulting from discrimination, in that blacks will tend to underinvest in human capital.²⁶ This seems quite plausible. Unfortunately, it vastly complicates empirical analysis, since assessing the optimal pattern of human capital investment is very difficult.

41. The most interesting recent developments in this area are models which incorporate the effects of “rational discrimination”; self-fulfilling negative stereotypes. Interest in these issues has probably been stimulated by the fact that even as blatant racial discrimination has largely been eliminated, blacks continue to perform relatively poorly in the labour market. Typically, in these models, employers observe qualifications imperfectly; as a result, they make judgments in part on the basis of group membership; this in turn leads to underinvestment in human capital on the part of the disadvantaged group. In equilibrium, then, negative stereotypes are confirmed. This is inefficient overall but rational for individual employers (and workers). In this framework, affirmative action could be efficient – by shifting the economy to a new equilibrium without stereotypes – but it could also be the reverse; under certain assumptions, affirmative action could reduce still further the incentive for blacks to invest in human capital.²⁷

42. As usual, then, economic theory provides guidance not so much on whether a particular very broadly defined policy – “affirmative action” is beneficial, but on what factors policy-makers should be focusing on in taking decisions. The conclusions I would draw are the following:

²⁴“*The Economics of Discrimination*”, Gary Becker, Chicago University Press, 1971; “*Some mathematical models of race discrimination in the labor market*”, Kenneth Arrow, in “*Racial Discrimination in Economic Life*”, A. Pascal (ed.), Heath, 1972.

²⁵ “*A model of employment outcomes illustrating the effect of the structure of information on the level and distribution of incomes*”, Michael Rothschild and Joseph Stiglitz, *Economics Letters*, 1982.

²⁶ “*Private Discrimination and Social Intervention in Competitive Labour Markets*”, Shelly Lundberg and Richard Startz, *American Economic Review*, 1983, 73(3).

²⁷ “*Will Affirmative Action eliminate negative stereotypes?*”, Stephen Coate and Glenn Lowry, *American Economic Review*, 1993, 83(5).

- the need to take careful account of not just the partial equilibrium effects of affirmative action (employment patterns in the short-run and for specific firms) but also of general equilibrium effects (levels of wages and employment in the economy as a whole);
- the particular importance of affirmative action for the incentives to acquire human capital, which can in theory work either way;
- the fact that affirmative action could in principle be justified even if direct racism itself no longer exists (because of the need to break out of self-fulfilling negative stereotypes).

43. There is considerably less economic theory about the use of affirmative action in education (and still less that is relevant to other programmes, such as government procurement). This is largely because economic theory doesn't tell us much about the optimal allocation of education in the first place, let alone about how affirmative action might impinge on such allocation. It is however likely that the broad conclusions described above for employment hold.

Empirical evidence – the labour market

44. The ratio of the average black workers' earnings to the average white workers' earnings increased significantly in the 1940s, increased slightly if at all in the 1950s, increased significantly between 1960 and the mid 1970s, and declined somewhat since the late 1970s. There is general consensus that the increase in this ratio in the 1940s reflected migration to the North, and the recent decrease largely reflects the increased returns to education and the decline in the relative wage of unskilled workers.

45. The increase between the 1960s and mid 1970s appears to be at least in part the result of government policy, including anti-discrimination legislation and affirmative action, as well as improvements in the relative quality of black education. In particular, there was a clear, discrete and statistically significant jump in the trend level of black earnings starting around 1964 – coinciding with the passage of the Civil Rights Act and the beginning of positive anti-discrimination action on the part of the federal government, as described above.²⁸ The Clinton Administration review sums up the evidence as follows:

“There is near-unanimous consensus among economists that the government anti-discrimination programs beginning in 1964 contributed to the improved income of African Americans. Nevertheless, it is difficult to draw conclusions about which specific anti-discrimination programs were most effective. And it may well be that the programs collectively helped even though no single program was overwhelmingly effective.”

²⁸ “*Continuous vs. Episodic Change: The Impact of Affirmative Action and Civil Rights Policy On The Economic Status of Blacks*”, J. Heckman and J. Donohue, *Journal of Economic Literature*, Vol. 29, No. 4, December, 1991, pp. 1603-1643

46. This conclusion in itself is interesting, particularly given the general prejudice among most US economists against government intervention in the labour market.

Unfortunately, it tells us little about whether affirmative action – as opposed to civil rights and anti-discrimination legislation more generally – was effective, let alone which specific programmes were helpful. A number of studies attempt to address this question by using federal data on contractors and non-contractors to see whether differential effects are observable (but see the above discussion of partial versus general equilibrium effects). Typically, these show small but measurable and significant effects of affirmative action on minority employment.²⁹ The majority of these effects took place in the late 1960s and early 1970s, perhaps because of the reduction in anti-discrimination enforcement efforts in the 1980s.

47. Other studies look not at federal contractors, but at firms which acknowledge the use of affirmative action in response to questionnaires.³⁰ Again, these show small but significant effects. They also show that affirmative action reduces wage differentials, and differential likelihood of promotion, between white and minority workers. One important point to note here is that firms which use affirmative action – especially if the use is voluntary – may not be those firms that are most likely to discriminate; indeed, the contrary is quite likely. This is particularly the case since such firms are likely to be larger, and such firms are less likely to discriminate. This has two implications: first, that affirmative action may work not so much to counter discrimination at the firm level, but at the economy-wide level; and second, that estimates of the impact of affirmative action may be understated.³¹

Efficiency Effects

48. Affirmative action therefore seems to have had some impact on the labour market performance of blacks. How has it impacted the efficiency of the firms affected? One set of studies examined supervisory performance ratings of employees in firms that did or did not practice affirmative action.³² It found that, as expected, qualifications of minority employees were lower in affirmative action firms; but performance was not, concluding “most groups of women and minorities hired under affirmative action perform their jobs roughly as well relative to white males as do those hired in firms that do not use affirmative action”.³³ Moreover, such firms recruited more extensively, attracted more

²⁹See e.g. “*The Impact of Affirmative Action on Employment*”, Jonathan Leonard, *Journal of Labor Economics*, 1984 2(4); and “*The Impact of Affirmative Action Regulation and Equal Employment Law on Black Employment*”, Jonathan Leonard, *Journal of Economic Perspectives* 1990 4(4), showing relative rises in the employment of black men and women of about 5% and 10% respectively at federal contractors.

³⁰“*Assessing affirmative action*”, Harry Holzer and David Neumark, NBER Working Paper No. 7323, August 1999.

³¹“*Assessing affirmative action*”, Harry Holzer and David Neumark, NBER Working Paper No. 7323, August 1999.

³²“*Are affirmative action hires less qualified? Evidence from employer-employee data on new hires*”, Harry Holzer and David Neumark, NBER Working Paper No 5603, 1996; “*What does affirmative action do*”, Harry Holzer and David Neumark, NBER Working Paper No. 6605, 1998..

³³ A similar study which focused only on the federal government found similar results. “*Race, Sex and Performance Ratings in the Federal Civil Service*”, Gregory Lewis, *Public Administration Review*, 1997, 57(6).

black applicants, paid less attention to negative personal attributes, provided more on the job training, and relied more on formal performance evaluations. All these secondary outcomes could be considered as positive.

49. There are a few studies which have looked directly at institutional outputs rather than just individual performance. A number of studies looked at police departments, many of which have been constrained by court order to use affirmative action to increase minority hiring. Little differences in outcomes (crime rates) is observable. In higher education, one study found that economics departments which increased the rates at which they hired women performed better.³⁴ A number of non-quantitative case studies suggest that affirmative action, if it leads to efforts to improve and broaden the recruitment process, can actually lead to increased overall applicant quality.³⁵

50. Overall, then, the evidence suggests that affirmative action in employment has been broadly successful; it has had a positive, although relatively small, effect on the hiring and wages of targeted minorities; while there is little or no evidence to suggest that affirmative action has a negative impact on efficiency, and in some circumstances the impact may be positive.

Empirical evidence – education

51. Black college attendance has expanded substantially over the last four decades. In 1960, black enrollment was less than 2% of total enrollment; it rose to 4% in 1970, 8% in 1980, and is now a little under 10%.³⁶ Enrollment in professional schools has grown even more sharply. Similar gains have been observed for Hispanics. It is however unclear how much of these increases are due to affirmative action, and how much to anti-discrimination legislation and general black economic advancement.

52. There is little doubt that affirmative action has led to a very substantial increase in the proportion of blacks attending selective universities. One estimate, looking at five selective universities, found that affirmative action raised the probability of acceptance for black applicants from 13% to 42%.³⁷ These figures are confirmed by the impact of Proposition 209 in California; in the year after implementation, the probability of acceptance for black candidates at UC Berkeley fell from 48% to 16%. These figures are dramatically higher than the estimates for employment effects described above. Note however that this does not necessarily mean that the overall black college attendance rate increased much, since most blacks admitted to selective universities under affirmative action would presumably have attended non-selective, or less selective, universities without affirmative action.

³⁴ “*The Gender Composition and Scholarly Performance of Economics Departments: A Test for Employment Discrimination*”, Van Kolpin and Larry Singell, *Industrial and Labor Relations Review*, 1996, 49(3).

³⁵ See “*Affirmative Action in a Changing Legal and Economic Environment*”, Lee Badgett, *Industrial Relations*, 1995, 34(4).

³⁶ “*America in Black and White: One Nation, Indivisible*”, Stephan Thernstrom and Abigail Thernstrom, Simon and Schuster, 1997..

³⁷ Bok and Bowen, op. cit.

53. Most studies find that minority students admitted as a result of affirmative action have lower performance than whites with similar test scores, both at undergraduate level and at professional schools³⁸. However, black undergraduates admitted to selective schools as a result of affirmative action appear to perform better than similar blacks at non-selective schools, so they at least appear to benefit from affirmative action (in contrast to the theory that such students will feel inferior or stereotyped).³⁹ Perhaps not surprisingly, there is as yet little or no economic evidence about the benefits of “diversity” in the educational context.

54. Overall, though, as noted above, in the absence of much in the way of economic theory about how higher education should be most efficiently allocated, it is very difficult to say anything conclusive about the efficiency effects, although it is probably fair to say that the more overheated rhetoric about the negative effects of affirmative action on the US higher education system has little evidence to support it.

Empirical evidence - procurement

55. Preferences in government procurement appear to have had fairly strong effects. Between 1982 and 1991 the value of contracts with minority-owned businesses rose 125% (compared to a 25% overall rise).⁴⁰ By 1993, contracting with minority-owned businesses was roughly proportional to their overall economic weight. Effects at a regional and local level appear to have been even stronger. For example, in 1973, in majority-black Atlanta, only 0.1% of contracts went to black-owned firms; after implementation of a programme designed to increase minority business ownership, this rose to 20% in just three years.⁴¹ One study also suggests that such programmes help to increase the overall level of black self-employment.⁴²

56. Efficiency effects are more controversial, and the evidence is very limited. There is some evidence that companies that initially benefit from such preferences have long-term survival rates no worse than other small businesses, suggesting no negative efficiency effects. On the other hand, there have been suggestions that some minority owned firms are actually front companies for larger, white-owned businesses.⁴³ More generally,

³⁸“*Affirmative Action and other special consideration admission at the University of California, Davis, School of Medicine*”, Robert Davidson and Ernest Lewis, *Journal of the American Medical Association*, 1997, 278(14), looks at medical schools, while Bok and Bowen, *op. cit.* look at selective undergraduate universities.

³⁹ Bok and Bowen, *op. cit.*

⁴⁰ *Review of Federal Affirmative Action Programs, Report to the President*, *op. cit.*

⁴¹ “*Minority Business Access to Government Procurement*”, Timothy Bates, mimeo, Wayne State University, 1998.

⁴² “*Minority Set-Asides and Black Self-Employment*”, Kenneth Chay and Robert Fairlie, mimeo, UC Berkeley, 1998.

⁴³ “*Do Preferential Procurement Programs Benefit Minority-Owned Businesses*”, Timothy Bates and Darrell Williams, *American Economic Review*, 1996, 86(2).

studies of federal government programmes designed to assist small business through loan guarantees, etc., have suggested that such programmes are usually fairly inefficient.⁴⁴

The current politics of affirmative action

57. At a national political level, affirmative action is not a major issue at the moment, nor is it likely to become on in the near future.⁴⁵ Although the Bush administration is likely to have to take sides in an upcoming Supreme Court case on affirmative action in education, the Administration position will have limited practical impact⁴⁶. The degree of policy continuity between successive Administrations on this issue is quite notable:

- While the Reagan-Bush I administrations did reduce the resources devoted to the enforcement of anti-discrimination and affirmative action law, there was little change in the overall thrust of policy.
- Bill Clinton promised to “mend not end” affirmative action; however – and in sharp contrast to the radical changes the Clinton administration made to welfare policy – the 1995 review essentially opted for business as usual;
- Equally, George W. Bush’s commitment to “affirmative access rather than affirmative action” does not appear to signal any significant policy shift, although there may be some changes at the margin.⁴⁷ Again, this is contrast to some other social issues, such as abortion, where the Bush administration has shifted policy very sharply, even in the face of adverse public opinion.

58. This policy stability does appear to reflect public opinion more generally. There appears to be a general consensus – which has not shifted measurably in recent years – that affirmative action has by and large been a good thing, and that current policy is more or less appropriate:

On the whole, do you think affirmative action has been good for the country, or do you think it has not been good?

Good
Not good
No opinion

⁴⁴ “A Trojan Horse or the Golden Fleece? Small Business Investment Companies and government guarantees”, Federal Reserve Bank of Chicago Working Paper 22, 1997, Elijah Brewer et. al.

⁴⁵ For example, a Gallup poll in January 2001 rated “race relations” received the lowest rating (of 13 alternatives) in response to the question “what is the most important problem facing the country today”.

⁴⁶ The Administration usually files a brief setting out its view on important Supreme Court cases relating to public policy, of which this is certainly one. However, the Supreme Court doesn’t necessarily pay much attention, and is unlikely to do so in this case.

⁴⁷ Any significant changes will be constrained by the Democratic-controlled Senate, and by pledges made during the confirmation hearings by Attorney General Ashcroft.

2001 Aug 3-5	58%	33	9
2000 Aug 4-5	59%	33	8
1995 Jul 20-23	54%	35	11

In general, do you think we need to increase, keep the same, or decrease affirmative action programs in this country?

	Increase	Keep the same	Decrease	No opinion
2001 Aug 3-5	24%	34	35	7
1997 Jan 4-Feb 28	27%	28	33	12
1995 Mar 17-19				

31%
26
37
6

Source: Gallup⁴⁸

59. These results are not definitive – attitudes depend crucially on how questions are phrased with “racial preferences” attracting far more negative responses than “affirmative action” - but they certainly do not suggest a groundswell of opposition or increasing hostility. Two phenomena therefore require explanation:

- why is the general public largely indifferent to affirmative action?
- why is the current Administration unwilling to take a stronger stand against it?

60. The answer to the first question is probably the fairly simple one that the vast majority of white Americans have never been affected by affirmative action. The number of people who have actually been directly disadvantaged by affirmative action programmes is fairly small. Meanwhile, most white Americans believe that racism against blacks remains a problem (although, not surprisingly, they are much less firm in this view than blacks). Over the past year, there has been far more press attention to the issue of “racial profiling” in policing – which disadvantages blacks because of their race – than to affirmative action.⁴⁹

61. As noted above, the way in which policies are presented is also key. “Quotas” and “racial preferences” remain overwhelmingly unpopular, and public support for affirmative action reflects in part success on the part of the Clinton administration in convincing the public that current programmes do not represent “quotas” (although, as shown in the taxonomy above, some programmes, especially in procurement, could be so described).

62. The second question is more difficult. The conservative intellectual base of the Republican party is violently opposed to affirmative action; the Bush administration has sided with this wing of the party on a number of key social issues, notably abortion and gun control, despite the overwhelming evidence that the majority of the electorate disagrees. The most likely explanation is the obvious political one – Bush does not want to alienate minority voters, not just black voters (who are unlikely to vote for him under any circumstances) but Hispanic ones (a significant minority of whom did vote Republican, and who will be increasingly important in the next election).

⁴⁸ www.gallup.com

⁴⁹ This is confirmed by a search of the New York Times archive – racial profiling was mentioned in nearly twice as many articles over the last year as affirmative action.

63. The California experience is likely to have been particularly influential for the Bush team. Republican Governor Pete Wilson's second term was dominated by his support for two high-profile ballot initiatives, Proposition 187 which denied benefits to illegal immigrants, and Proposition 209. Both were successful – but the eventual political result has been to alienate minorities (both black and Hispanic) from the Californian Republican Party, which has now been essentially destroyed as a statewide force. California, once safe for a Republican Presidential candidate, and a swing state as recently as 1992, is now safely Democratic. Bush observed this while Governor of Texas, and was careful not to alienate minorities in the same way (in particular, he declined to support a ballot initiative, which failed, to eliminate affirmative action in public procurement in Houston). Finally, unlike abortion, there is no evidence that Bush himself has any strong principled objection to affirmative action.

64. In the short to medium term, changes to affirmative action programmes are therefore likely to be the result of court decisions. Certainly the trend over the past few years is for the courts to impose steadily greater restrictions on such programmes. While it is difficult at the best of times to predict the actions of the Supreme Court, the best guess at the moment is that the Supreme Court will in the near future hear a major case on affirmative action; and that it will further restrict the ability of universities and the federal government to implement such programmes, but will stop short of banning them entirely on 14th Amendment grounds.

65. In the longer term, demographics will pose new challenges. There are already as many Hispanics as blacks in the US. Some Hispanics, especially Mexicans and central Americans, are as disadvantaged as blacks; others, like Cubans, are not. Many are white. Meanwhile, other non-white groups are growing even faster, and are not necessarily disadvantaged; Indians have higher average incomes than whites. It will become steadily more difficult to construct affirmative action programmes based on quantitative preferences for specific minority groups. At the same time, however, securing diversity in some form in universities and workforces may become steadily more important.

Implications for the UK

66. What are the implications of the above discussion for the UK? Clearly there are a number of major differences: the two most important are probably the importance of the historical legacy of slavery in the US, which is absent in the UK, and the strong connection between debate about race relations and about immigration in the UK, which is largely absent in the US. However, there are substantial commonalities in the general political culture, and the debate about multiculturalism and individual as opposed to group rights has run largely in parallel on both sides of the Atlantic.

67. This leads to the following conclusions:

- Compared to the US, there is relatively little economic evidence about the extent of discrimination in the UK. While we know that unemployment rates for ethnic

minorities are much higher than for whites, and that this remains true even when levels of education are taken into account, there is insufficient quantitative work to inform policy. Some questions that could usefully be addressed are the following: as in the US, are large firms less likely to discriminate? Do firms which have strong equal opportunities statements have better records? (and if so, is this cause, effect, or both?) “Audit” studies, of the type described above, would be particularly useful.

- the US experience shows that affirmative action in the workforce can work. Crucially, indirect impacts – on the recruitment, hiring, training, performance assessment, and promotion – policies of companies and institutions are at least as important as the direct impact. That suggests that policies should be structured so as to provide incentives for companies and institutions to rethink their policies in these areas;
- following on from this, one of the key elements in the US has been access to meaningful legal recourse for individuals *and groups* disadvantaged by discrimination. The possibility of collective legal action by groups which have suffered statistical discrimination – with the burden of proof, given that such discrimination exists, shifted to the employer – is an extremely powerful lever on employers to ensure that they have policies and processes in place that produce equitable outcomes. This seems to me a key area where UK policy could be developed.
- Policies need to be designed to break stereotypes not reinforce them. This does not imply that “racial preferences” are always and everywhere bad. It does suggest that they do need to be very carefully targeted, and the policies that risk hiring unqualified people could do more harm than good. For example, preferences may be more appropriate at the level of initial recruitment, or in shortlisting job applicants, than in actually choosing candidates or in promotion. And preferences may be more appropriate in occupations where there is little discernible correlation between quantitative “qualifications” and job performance (Members of Parliament, for example...).
- Perhaps most importantly, affirmative action need not be politically controversial, provided that it is carefully justified by reference to the negative effects of racism and discrimination (past and present) and that it avoids the obvious pitfalls described above – “hard” quotas, jobs being given to the obviously unqualified, or directly identifiable harm to non-minority individuals.

68. What does this mean in terms of specific policy options? Taking it as given that labour market discrimination remains pervasive in the UK, my feeling would be that there is a potential role for the following sorts of measures:

- the extension of greater collective rights for those disadvantaged by discrimination. This would enable the disadvantaged groups to bring class actions, or the equivalent,

before the courts or before an industrial tribunal; and empower the courts to enjoin general or collective remedies (rather than simply individual-level damages);

- an alternative or complementary approach would be to give the EOC and/or private bodies the right to conduct audit studies of the type described above, with penalties for employers found to be overtly discriminating; this could have a strong deterrent effect;
- requirements for large organisations (perhaps starting in the public sector and/or government contractors) to show that their recruitment pool, at least, was reasonably reflective of the potential recruitment pool; and if not to show that they had a plan to do something about it;
- these “sticks” would ideally be combined with carrots; financial and/or other types of awards for public or private sector organisations with exemplary programmes and/or records.
- More delicately, a much more serious effort to ensure representativeness in “symbolic” posts (high visibility posts where formal qualifications are relatively unimportant).

Appendix – Key Sources

There is an vast historical, political, and sociological literature on the history of slavery, racism and discrimination in the US, and on the civil rights movement. Similarly, there is an extensive economic literature on race and the labour market. However, there is much less which relates specifically to affirmative action. Four sources that are particularly useful and which I drew on extensively in preparing this note are:

- “*The Shape of the River: Long-term consequences of Considering Race in College and University Admissions*”, Derek Bok and William G. Bowen, Princeton University Press, 1998. Written by the former Presidents of Harvard and Princeton, this is a thorough quantitative account, both economic and sociological, of the effects of affirmative action at “elite” US universities. Both authors are broadly in favour of affirmative action, but the book is not polemical, and the conclusions are fairly measured.
- “*Assessing affirmative action*”, Harry Holzer and David Neumark, National Bureau of Economic Research Working Paper No. 7323, August 1999. This is a (indeed probably the only) comprehensive review of the economic literature, both theoretical and empirical, as it relates to affirmative action.
- The Clinton Administration’s review of affirmative action: “*Review of Federal Affirmative Action Programs, Report to the President*”, George Stephanopolous et. al, July 19, 1995. This report, commissioned by the President, found that most federal affirmative action programmes were working reasonably well. It contains a useful history of affirmative action as well as a comprehensive explanation of current federal affirmative action programmes.
- The Affirmative Action and Diversity web page [<http://aad.english.ucsb.edu/>] maintained by the University of California at Santa Barbara has a large amount of material, particularly on Proposition 209 in California and on current legal developments. It also has a number of useful links.