JUSTICE AND REVERSE DISCRIMINATION pdf

1: Reverse discrimination suits flourish - US news - Life - Race & ethnicity | NBC News

Through careful consideration of the mutually plausible yet conflicting arguments on both sides of the issue, Alan Goldman attempts to derive a morally consistent position on the justice (or injustice) of reverse discrimination. From a philosophical framework that appeals to a contractual model of.

Additional Information In lieu of an abstract, here is a brief excerpt of the content: THREE Compensation and the Past In opening this chapter, I shall briefly indicate once more what was and was not established in the earlier sections of the previous chapter. I maintained that society has the right to enforce a rule for hiring the most competent in the name of public welfare and to protect individuals from arbitrary denials of equal opportunity. Individuals then acquire rights to various positions by satisfying the rule through their efforts. Although this rule was held to be superior to general distributive alternatives, it is important at this point to recognize its limits. First, it is applicable mainly to positions that call for openended degrees of excellence. For other positions, qualifications above those minimally necessary for performance are less relevant, and therefore more random methods of choosing are fairest. Hence the rule is applicable principally for awarding positions in the professions, in graduate and professional schools, and to some degree in undergraduate colleges. At lower levels, educational opportunities should be equally provided to all. To defend this rule even in these areas is not to defend the status quo or the system prevalent in our society, for we have employed the merit system only partially within business and the professions, and mainly in relation to a privileged class of potential applicants. Second, it is essential to realize as well that the rights ideally created through the satisfaction of the rule, where applicable, are prima facie; that is, they are subject to exceptive clauses for compensatory and distributive reasons relating to the rule itself. The adoption of any distributive rule implies that when violations occur, perpetrators are to be held liable and victims compensated in order to keep distributions as consistent with the demands of the rule as possible. If the results of violations are as a rule allowed to stand, then there cannot have been a sincere desire to distribute benefits according to the original principle. In the case of the principle of awarding positions by competence, compensatory considerations may entail specific suspensions of its further application until those who formerly deserved positions but were denied them are compensated in kind by being granted the positions as they open up. In this way, distribution of positions is kept as consistent as possible through time with the distribution that would have resulted from continuous application of the principle. Thus the apparent violations for compensatory reasons, rather than being truly inconsistent with the application of the rule for rewarding competence, are necessary to its maintenance. Third, although the principle of rewarding competence with positions was held to be superior to general distributive alternatives from the point of view of justice, the distributive results of applying the rule are just only when advantages from initial social positions have been eliminated. In the absence of equal opportunity to acquire competence, its application can perpetuate injustice against those who begin with social disadvantages. We may therefore be justified in temporarily suspending specific applications of the rule if greater equality of opportunity can be created for the future by doing so. This can be seen to follow from the original justification of the rule in terms of utility and protection of equal opportunity. Such suspensions , if justified, will have to be limited in time and number, since indefinite suspension of a rule, for whatever reasons, cannot be seen to follow from its original adoption. If equality of opportunity has not existed in our society, and if compensation is owed for prior injustice in the form of rampant first-level discrimination, why emphasize prima facie rights to positions that are overridden by these considerations? The importance of these rights in the context of the later argument will be to show that the supposed utilitarian benefits to be gained from preferential policies are irrelevant to its justification. Granting preference to the undeserving is not merely inefficient, it is unjust. The issue of preference as compensation will be examined in You are not currently authenticated. View freely available titles:

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2: Project MUSE - Justice and Reverse Discrimination

Justice and Reverse Discrimination Alan H. Goldman Published by Princeton University Press Goldman, H.. Justice and Reverse Discrimination. Princeton: Princeton University Press,

Additional Information In lieu of an abstract, here is a brief excerpt of the content: TWO Awarding Positions by Competence The issue to be settled in this chapter is that of a general rule for hiring or awarding scarce desirable positions in society. In recent political debates on the subject of reverse discrimination or preferential hiring the principle of hiring by competence has seemed to remain sacrosanct, at least if one is to judge from the lip service paid to it by all sides of the discussion. Proponents of affirmative action at the level of hiring in universities go to great lengths to distinguish minority "goals" from quotas. While strict quotas for raising percentages of blacks and women employed by a fixed date, which would result in strong reverse discrimination, are acknowledged to be incompatible with the maintenance of strict competence standards, percentage goals for minorities are held to encourage minority hiring while maintaining existing standards. Some affirmative action supporters also argue that because minority-group members have suffered discrimination in the past, their real competence cannot be judged in terms of their "paper credentials," that some women and blacks who appear to have lower qualifications on paper in terms of degrees, experience , etc. Opponents of the policy, on the other hand, seem to feel that affirmative action programs in universities can be shown to be unjust by demonstrating that academic standards of excellence suffer and that the most qualified individuals fail to receive positions through pressure for reverse discrimination. They seem to believe the argument won if they can only show that affirmative action in practice violates the rule of hiring by competence. Libertarians argue or imply that corporations or organizations with positions to fill can give them to whomever they choose, that society has no right to interfere in this free process. Corporations, like individuals , have the right to control their legitimately acquired assets and to disburse them to whomever they choose; the right to hire freely is part of this more general right. Egalitarians , on the other hand, hold the principle of hiring by competence to be unjust because it rewards initial social positions and purely native talents that individuals do not deserve and for which they can claim no responsibility. I shall argue here that these attacks are misguided. Philosophical clarification regarding the issue of preferential hiring for minorities demands prior consideration of the justification of hiring by competence for two reasons. First, reverse discrimination, or first-order discrimination for that matter, can only be precisely defined relative to some rule for hiring that is held to be just. Discrimination, as the concept is used in this context, involves treating relevantly similar persons differently or relevantly different people the same. Any award of scarce goods or positions requires some differentiation among those individuals considered; such differentiation amounts to unjust discrimination only when the characteristics on the basis of which it is made are irrelevant to the rewards from a moral point of view. But to know whether discrimination is occurring in practice, we must first know what constitutes relevant distinctions in the area under consideration. The question of its morality would then be decided on utilitarian grounds, which I hold to be largely irrelevant. Thus I shall be concerned in this chapter with two central questions: You are not currently authenticated. View freely available titles:

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3: Harvard's Affirmative Action Program is Now the Subject of a DOJ Investigation

On November 5, the people of the state of California passed one of the most important ballot questions pertaining to the question of affirmative action, the California Civil Rights Initiative (CCRI).

Strict racial quotas were unconstitutional, the court said â€” affirmative action was not. But that ruling far from decided what many considered the big-picture issue: More than 30 years, and scores of lawsuits later, the question remains unanswered. Meanwhile, more Americans came to believe that affirmation action is no longer necessary, and that instead of leveling the playfield for minorities, it unfairly punishes whites. Last week, the Supreme Court heard arguments in a case filed by white firefighters who claimed they were denied promotion because of the color of their skin. Not just Latinos, but whites. Several states have recently faced legal battles waged by whites claiming they were unfairly treated in favor of protecting and promoting blacks and Hispanics. Earlier this month in South Carolina, the U. Equal Employment Opportunity Commission sued a historically black college on behalf of three white faculty members who complained they were forced from or denied jobs because of their race. The institution denied the accusations. And in Florida, two transportation companies sued Broward County over efforts to steer public contracts to minority-owned businesses. Affirmative action â€” policies designed to promote and protect groups previously and currently denied equal standing â€” originated with Title VII of the Civil Rights Act. Broadly speaking, it outlaws bias toward race, creed, color or national origin in school admissions, voting rights, employment and government contracting. Sometimes those policies have set aside jobs, college admissions and government contracts for minority applicants, students and firms. In the Bakke case, the Supreme Court ruled 5 to 4 that universities could take race and ethnicity into account when deciding student admissions. But using rigid racial quotas to increase minorities on campus was unconstitutional, justices said. Twenty years later, a more conservative court declared that public school systems cannot try to achieve or maintain integration based on explicit race rules. In its first consideration of race under the presidency of Barack Obama , a divided court heard arguments from white firemen claiming the city discriminated against them by jettisoning the results of a promotion exam that no blacks had passed. The city contends it got rid of the test results because it was concerned that no African-American firefighters, and only two Hispanics, received passing scores. Officials said they worried the test was somehow flawed because it had such a disproportionate effect on minorities. Justice Anthony Kennedy, as is common on social issues, appeared to have the swing vote. That is the key legal question â€” can the test and its results legally be thrown out after the fact? We have a black president.

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4: Talk:Reverse discrimination - Wikipedia

Justice and Reverse Discrimination Book Description: Through careful consideration of the mutually plausible yet conflicting arguments on both sides of the issue, Alan Goldman attempts to derive a morally consistent position on the justice (or injustice) of reverse discrimination.

In Parents Involved in Community Schools v. Seattle School District No. Jefferson County Board of Education, Chief Justice John Roberts stated that, "The way to stop discrimination based on race is to stop discriminating based on race. It took me all of 90 seconds to find a reliable source with a simple Google search, so I am curious: Why were you unable or unwilling to do so? And, why did you attempt to include so many different incorrect versions of what Chief Justice Roberts actually said? Apparently you found the very same source on Google that I did. All of my posts did have the correct quote by Justice Roberts as well as the correct source. I did not come close to violating any Wikipedia rules. Because I am new to Wikipedia, I very carefully reviewed all the rules. I took great care in adding the information, but apparently the accuracy and importance of the finding was disregarded. If there is any lack of good faith, it is not on my part. Perhaps, given your self-righteous tone, you should examine your own motives. Better yet, you should re-read your own philosophy you posted on your Wikipedia page: Most articles on Wikipedia have problems. If you can make a contribution to an article, please be bold and go right ahead, even if it means leaving a problem only partly fixed, or leaving other problems in the article totally untouched. It is not a forum for credentials-wielding statesmanship, nor is it appropriate to beat editors over the head with the rules. The verifiability and reliability criteria for information sources and all the other protocols and regulations exist to facilitate the improvement of the project, not to foment the aggrandizement of one editor over another. Speaking of editing cooperatively, each time my entry was deleted I checked the talk page to see if an explanation had been posted but found none. Malke talk What actually ties his statement to Reverse discrimination? The quote shouldnt be there unless those questions can somehow be answered and those questions of analysis and interpretation need to be done by third parties, not Wikipedia editors implying such connections by simply placing inserting a primary source quote into the article. The case and the majority and minority opinions of the Court speak for themselves, just as the Bakke case does. Wikipedia articles are not like essays for school or opinion pieces for newspapers where you are encouraged to take Fact A and Fact B and draw Conclusion C. The quote by Justice Roberts most definitely addresses reverse discrimination. The section where the case and the quote are positioned in the article speak to what is happening in the United States in terms of reverse discrimination. The Seattle case cited is another example. I have not provided any original research or personal commentary. Wikipedia is an encyclopedia and the case and the quote are appropriate and would benefit any user doing research on the subject of reverse discrimination. That is a violation of our policies WP: You are presenting a nonsensical circular argument that almost borders on the paranoid. The entire case involves reverse discrimination. Read the case and the opinions and you will see for yourself. If you are upset that the United States is moving toward a day when discrimination is not sanctioned against any race, then you are out of luck. I could easily add the quotes of the majority opinion in the Bakke case. That would really upset you. You most definitely would not like what the Justices had to say about the polices of UC Davis at the time Dr. Bakke was applying to medical school. The dispute here is whether the quote is an accurate summary of the holding of the case, and therefore appropriate for this encyclopedic summary definition of "reverse discrimination". It is a select quote, a cute tag line. W E Hill talk Every sentence contains a misstatement and some of these show bias. For example - reverse discrimination is not always a denial of equal protection of the law, this is a conclusion for a court to reach. Yet sentence 1 declares without qualification that: A gross misstatement which shows bias is also found in sentence 1: Weight For example, a blanket and inaccurate definitions of racial quotas are given, followed by a quote from one ultra conservative law professor with no rebuttal from the other side of this controversial issue. Finally, a quote from Roberts, that the way to stop discriminating is to just stop discriminating is given as if it was the holding of the case, and it is not. It is a catch phrase that conservatives may like, and although it is cute and succinct, it

is not the law or the holding. It might be appropriate to include this statement in a much longer article that discusses the case at length, but such discussion is beyond the scope or the purpose of this article -- at least until we get the basic definitions and holding right. Cherry Therefore I am tagging the article. Please do not remove the tag until consensus is reached, per Wikipedia policies. I may get to looking at the court case material, but probably not right now. At this stage I think it should possibly be deleted as not relevant to the concept under discussion in this WP article, but I would need a closer reading to be sure. That is obviously a POV label invented at some point to make that particular form of discrimination look "good", and therefore necessarily imply that its counterpart is "the bad one". Backhandedly bypassing the opposing argument that both are in fact bad. But people use lots of POV terms these days. Consider job candidates asked to walk up a flight of stairs, clearly Equality of Provision is ensured because both are being asked to do the same thing. But if one candidate is a wheelchair user, then Equality of Outcome is not ensured. Ensuring Equality of Outcome by simply putting a ramp in place is a form of Positive Discrimination that is hopefully acceptable to all. The article as a whole seems not to recognise these distinctions and could clearly be improved by discussing the legal situation WRT Equality of Provision vs Equality of Outcome in each country. DWG 17 Jan â€"Preceding unsigned comment added by The other big problem is a failure to acknowledge the existence of both historical discrimination and continuing discrimination. The opening paragraph refers repeatedly to historical and only historical discrimination against minority groups, suggesting implicitly that discrimination against minorities is "over", and that "reverse discrimination" against majority groups has taken its place. But discrimination against minority groups does, of course, continue in the present, and is much more common and systemic than discrimination against majority groups. True, the split articles would each be short stubs, however, as long as notability is established in each stub, they will each remain on Wikipedia and will grow incrementally. I would like to split the articles within one week and will check back here for comments before doing so. One of the benefits of good Wikipedia articles is that they present worldwide views of their subjects. Reverse discrimination is a concept, and this article should focus on explaining the concept and how it is relevant in various contexts. We should not give undue weight to its application in the United States, and we should not split the article up, as what is most needed is an article about the concept, rather than about the concept as it applies in any particular country. India and the U. The only thing that might be in common is the use of the term. W E Hill talk I do not see a benefit in dividing one cohesive topic into multiple articles. To argue that would mean that all whites who favor reverse discrimination operate on the basis of some sort of self-hatred, and there is no evidence offered for this. There appear to be three meanings of the phrase "anti-white bias" in use so far: We need to be careful not to conflate these meanings, because they are clearly not the same thing. The opinions expressed in the links above argue against reverse discrimination on constitutional grounds. That argument is an interesting potential addition to this article, but does not support the thesis that reverse discrimination and anti-white bias are always the same thing. Empty Buffer talk In the case of the Frankfurt School, the bias is self-interested. So the problem we are facing here is whether we are showing enough sensitivity to neutrality or if we are relying on tainted catch-phrases to describe a phenomenon. If we were to apply the same semantic extremism to your example then there should be such a thing as "reverse murder" -- but I think you will agree that that would be equally inappropriate. Racially motivated crimes is not relevant to the article about reverse discrimination. Discrimination IS racism, and racially motivated crimes are driven by discrimination. For the sake of historical reference or even example, this incidents section is necessary - Gunnanmon talk This is absurd, and speaks to the bias which these "examples" illustrate. These crimes do not provide either "historical reference" or "example" of reverse discrimination, they provide examples of racially motivated crimes. The definition of reverse discrimination is fairly loose, I admit, but these incidents fall clearly out of these bounds; nobody would justify a killing by calling it reverse discrimination. Acts committed for racist reasons by a racial minority against a racial majority is the perfect definition of "Reverse Discrimination". These incidents do, in fact, provide historical reference and example -- "res ipsa loquitur". Racially-motivated crimes, while could be classified under "discrimination", hardly fit the definition of "reverse discrimination". At the momment this just seems to be your POV , and possibly original research , do you have reliable sources to support your statements? If this

belongs anywhere, it is on the discrimination article, not here. And even if you could source it, it would still fall under WP: Evanh, Super Genius Who am I? You can talk to me HOWEVER, we can not and should not limit this to racial attacks againist whites if whites are the majority of said country. Sexism towards men, ageism towards adults , classism towards the upper class, mentalism towards the able minded especially anti-intellectualism , religious discrimination towards Christians note this only works if Christians are the majority in the country in question , sexualism towards heterosexuals, discrimination against cisgender people, and weightism towards thin people are all just as valid. I do think that at least some of these other discriminations should be addressed in order to make this less of an article about white bashing and more of an article about reverse discrimination. All the forms of discrimination you mention, are, by definition, "discrimination" and they might be appropriate for the discrimination article, but they should only be added here if there are multiple, reliable sources clearly describing them as "reverse discrimination", otherwise it would fall under WP:

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5: Affirmative Action is reverse discrimination

Defining reverse discrimination as hiring or admissions decisions based on normally irrelevant criteria, this book develops principles of rights, compensation, and equal opportunity applicable to the reverse discrimination issue. The introduction defines the issue and discusses deductive and.

In the Beginning In , affirmative action became an inflammatory public issue. But what did this mandate amount to? The Executive Order assigned to the Secretary of Labor the job of specifying rules of implementation. Through these contractor commitments, the Department could indirectly pressure recalcitrant labor unions, who supplied the employees at job sites. Its predecessor, Order No. At first, university administrators and faculty found the rules of Order No. The number of racial and ethnic minorities receiving PhDs each year and thus eligible for faculty jobs was tiny. Any mandate to increase their representation on campus would require more diligent searches by universities, to be sure, but searches fated nevertheless largely to mirror past results. The Revised Order, on the other hand, effected a change that punctured any campus complacency: Some among the professoriate exploded in a fury of opposition to the new rules, while others responded with an equally vehement defense of them. For several decades Anglo-American philosophy had treated moral and political questions obliquely. First, John Rawls published in A Theory of Justice, an elaborate, elegant, and inspiring defense of a normative theory of justice Rawls Properly understood, affirmative action did not require or even permit the use of gender or racial preferences. Affirmative action, if it did not impose preferences outright, at least countenanced them. Among the yea-sayers, opinion divided between those who said preferences were morally permissible and those who said they were not. The Controversy Engaged The essays by Thomson and Nagel defended the use of preferences but on different grounds. Thomson endorsed job preferences for women and African-Americans as a form of redress for their past exclusion from the academy and the workplace. Preferential policies, in her view, worked a kind of justice. Nagel, by contrast, argued that preferences might work a kind of social good, and without doing violence to justice. Institutions could for one or another good reason properly depart from standard meritocratic selection criteria because the whole system of tying economic reward to earned credentials was itself indefensible. Justice and desert lay at the heart of subsequent arguments. Preferential hiring seen as redress looks perverse, they contended, since it benefits individuals African-Americans and women possessing good educational credentials least likely harmed by past wrongs while it burdens individuals younger white male applicants least likely to be responsible for past wrongs Simon , â€”19; Sher , ; Sher , 81â€”82; and Goldman , â€”1. What rights were at issue? Defenders of preferences were no less quick to enlist justice and desert in their cause. Justice and individual desert need not be violated. Warren , Likewise, James Rachels defended racial preferences as devices to neutralize unearned advantages by whites. Given the pervasiveness of racial discrimination, it is likely, he argued, that the superior credentials offered by white applicants do not reflect their greater effort, desert, or even ability. Rather, the credentials reflect their mere luck at being born white. Rachels was less confident than Warren that preferences worked uniformly accurate offsets. Reverse discrimination might do injustice to some whites; yet its absence would result in injustices to African-Americans who have been unfairly handicapped by their lesser advantages. If racial and gender preferences for jobs or college admissions were supposed to neutralize unfair competitive advantages, they needed to be calibrated to fit the variety of backgrounds aspirants brought to any competition for these goods. Simply giving blanket preferences to African-Americans or women seemed much too ham-handed an approach if the point was to micro-distribute opportunities fairly Sher , ff. Rights and Consistency To many of its critics, reverse discrimination was simply incoherent. To count by race, to use the means of numerical equality to achieve the end of moral equality, is counterproductive, for to count by race is to deny the end by virtue of the means. The means of race counting will not, cannot, issue in an end where race does not matter Eastland and Bennett , Neither he nor other critics thought so. Principle must hold firm. Alan Goldman did more than anyone in the early debate to formulate and ground a relevant principle. Using a contractualist framework, he surmised that rational contractors would choose a rule of justice requiring positions to be

awarded by competence. On its face, this rule would seem to preclude filling positions by reference to factors like race and gender that are unrelated to competence. Goldman explained the derivation of the rule and its consequent limit this way: The rule for hiring the most competent was justified as part of a right to equal opportunity to succeed through socially productive effort, and on grounds of increased welfare for all members of society. Since it is justified in relation to a right to equal opportunity, and since the application of the rule may simply compound injustices when opportunities are unequal elsewhere in the system, the creation of more equal opportunities takes precedence when in conflict with the rule for awarding positions. Thus short-run violations of the rule are justified to create a more just distribution of benefits by applying the rule itself in future years. Where can such an unyielding principle be found? I postpone further examination of this question until I discuss the Bakke case, below, whose split opinions constitute an extended debate on the meaning of constitutional equality. The Workplace The terms of the popular debate over racial and gender preferences often mirrored the arguments philosophers and other academics were making to each other. Critics of preferences retorted by pointing to the law. And well they should, since the text of the Civil Rights Act of seemed a solid anchor even if general principle proved elusive. How could they be justified legally? The federal courts had to do that job themselves, and the cases before them drove the definition in a particular direction. Many factories and businesses prior to , especially in the South, had in place overtly discriminatory policies and rules. If, after passage of the Civil Rights Act, the company willingly abandoned its openly segregative policy, it could still carry forward the effects of its past segregation through other already-existing facially neutral rules. The objective of Congress in the enactment of Title VIIâ€¦was to achieve equality of employment opportunities and remove barriers that have operated in the past to favor an identifiable group of white employees over other employees. What is required by Congress is the removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to exclude on the basis of racial or other impermissible classification. Since many practices in most institutions were likely to be exclusionary, rejecting minorities and women in greater proportion than white men, all institutions needed to reassess the full range of their practices to look for, and correct, discriminatory effect. Against this backdrop, the generic idea of affirmative action took form: In order to make its monitoring and revising effective, an institution ought to predict, as best it can, how many minorities and women it would select over time, were it successfully nondiscriminating. There may still remain practices that ought to be modified or eliminated. However, suppose this self-monitoring and revising fell short? In early litigation under the Civil Rights Act, courts concluded that some institutions, because of their histories of exclusion and their continuing failure to find qualified women or minorities, needed stronger medicine. In all these cases, the use of preferences was tied to a single purpose: Courts carved out this justification for preferences not through caprice but through necessity. They found themselves confronted with a practical dilemma that Congress had never envisaged and thus never addressed when it wrote the Civil Rights Act. The dilemma was this: Reasonably enough, the federal courts resolved this dilemma by appeal to the broad purposes of the Civil Rights Act and justified racial preferences where needed to prevent ongoing and future discrimination. Its purpose was not to compensate for past wrongs, offset unfair advantage, appropriately reward the deserving, or yield a variety of social goods; its purpose was to change institutions so they could comply with the nondiscrimination mandate of the Civil Rights Act. The University In the s, while campuses were embroiled in debate about how to increase African-Americans and women on the faculty, universities were also putting into effect schemes to increase minority presence within the student body. Very selective universities, in particular, needed new initiatives because only a handful of African-American and Hispanic high school students possessed test scores and grades good enough to make them eligible for admission. These institutions faced a choice: Most elected the second path. The Medical School of the University of California at Davis exemplified a particularly aggressive approach. It reserved sixteen of the one hundred slots in its entering classes for minorities. In and again in , Allan Bakke, a white applicant, was denied admission although his test scores and grades were better than most or all of those admitted through the special program. In , his case, Regents of the University of California v. Bakke, reached the Supreme Court. The Court rendered its decision a year later U. So, too, thought four justices on the Supreme Court, who voted to order Bakke admitted to the Medical School. Led by Justice

Stevens, they saw the racially segregated, two-track scheme at the Medical School a recipient of federal funds as a clear violation of the plain language of the Title. Four other members of the Court, led by Justice Brennan, wanted very keenly to save the Medical School program. To find a more attractive terrain for doing battle, they made an end-run around Title VI, arguing that, whatever its language, it had no independent meaning itself. It meant in regard to race only what the Constitution meant. His vote, added to the four votes of the Stevens group, meant that Allan Bakke won his case and that Powell got to write the opinion of the Court. Powell, with this standard in hand, then turned to look at the four reasons the Medical School offered for its special program: Did any or all of them specify a compelling governmental interest? Did they necessitate use of racial preferences? As to the first reason, Powell dismissed it out of hand. Preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake. As to the second reason, Powell allowed it more force. A state has a legitimate interest in ameliorating the effects of past discrimination. Even so, contended Powell, the Court, has never approved a classification that aids persons perceived as members of relatively victimized groups at the expense of other innocent individuals in the absence of judicial, legislative, or administrative findings of constitutional or statutory violations Bakke, at And the Medical School does not purport to have made, and is in no position to make, such findings. Its broad mission is education, not the formulation of any legislative policy or the adjudication of particular claims of illegality. As to the third reason, Powell found it, too, insufficient. The Medical School provided no evidence that the best way it could contribute to increased medical services to underserved communities was to employ a racially preferential admissions scheme. Indeed, the Medical School provided no evidence that its scheme would result in any benefits at all to such communities Bakke, at This left the fourth reason. Here Powell found merit. The diversity that furthers a compelling state interest encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is but a single though important element.

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6: Supreme court validates reverse discrimination with University of Texas case - Washington Times

The Hidden Oppression of Social Justice and "Reverse Discrimination" In Pedagogy of the Oppressed, Paulo Feire () discusses what is still a serious issue in society; oppression and how education can either eradicate it or perpetuate it.

Affirmative Action is reverse discrimination. Affirmative Action is compensatory justice. Summary Affirmative Action is not meant to help blacks because of the color of their skin, but because they deserve compensation for past and continuing injustices. Opponents may criticize the wisdom of how this compensation is meted out, but they cannot question the principle of compensatory damages, which enjoys a long tradition in our society. Argument To many opponents of affirmative action, a color-blind society should not discriminate at hiring time on the basis of color, sex, etc. This would make the preferential hiring of blacks just as wrong as preferential hiring of whites. Furthermore, opponents claim, the introduction of past injustices does not change this logic. If blacks were mistreated in the past for a morally irrelevant characteristic being black , then to give them preferential treatment for the same morally irrelevant characteristic is equally indefensible. There is an error of logic here: Preferential treatment is not being given to blacks because they are black. They are being given preferential treatment because they have been mistreated. And society has a long and approved tradition of awarding compensatory damages to victims of mistreatment. To put it another way, blacks came by their current disadvantage for two reasons: Whites decided that a morally irrelevant feature having black skin was in fact a morally relevant feature. Whites mistreated blacks on that basis. Affirmative action does not justify preferential treatment based on the first point; it justifies it on the second. That is, supporters do not believe that being black is a morally relevant feature which deserves discriminatory behavior; but they do believe that injustices based on that mistake should be compensated. Being black is only morally relevant in that it was used to justify the original sin. The situation is akin to the Jews who survived the Holocaust. Germany paid a large sum in compensatory damages to the state of Israel after World War II, and no one decried this as reverse racial discrimination. Now, opponents of affirmative action may question whether affirmative action is the right way to go about correcting past and present injustice. For example, can we compensate the living for sins committed against their ancestors? Is it right to compensate groups instead of specifically harmed individuals? But these are separate issues, ones that should be addressed elsewhere. The reader may find them in the next essay. The point here is that affirmative action is intended not as reverse discrimination, but as compensatory damages for injustice. Moral absolutism Those who use the term "reverse descrimination" are actually engaging in moral absolutism, a completely unworkable concept that has never been practiced by any society in history. An example may best highlight its difficulties. Suppose our society passed a law that says, "No one shall forcefully take a television set from the possession of another. Having identified your neighbor, you call the police. The police show up at his door and demand that he surrender the television; he refuses, whereupon they pull out their guns and forcefully take it from him. Now, it would be illogical for your neighbor to claim that the police were immoral and broke the law, since they forcefully took a television set from his possession. This is a completely invalid argument, because correcting injustice is neither immoral nor against the law. Only in a world of moral absolutism would an act be condemned in and of itself, without considering its context or its justness. And at any rate, falling back on a defense of moral absolutism is disingenuous. Your neighbor, having acquired the TV set immorally, would now evoke moral absolutism to avoid giving it up -- and act morally outraged in the process. This is nothing more than a weaselly attempt to protect his self-interest through slippery rhetoric. It is certainly not a morally consistent argument. Legitimate examples of "reverse discrimination" The U. The 13th Amendment abolished slavery, and the 15th and 19th Amendments gave blacks and women the right to vote. Do these laws compare to affirmative action? Opponents may think not, but they actually do, for the following reasons. And this translated directly into economic advantages for white men, in a number of ways. First, they could devise laws that gave them economic privilege, like slavery, or banning women from the workforce. Second, they could vote to spend percent of public funds on themselves. Thus, giving blacks and women the right to vote meant giving them a much larger slice of the economic pie. Abolishing slavery had the same effect. The gains to

women and blacks were at the proportional expense of white males. Now, what is interesting about this surrender of undue privilege is that it happened on a group basis, not an individual one. Even white men who never owned slaves or discriminated against women were effected by their loss of political and economic privilege. Even free blacks and women who had never suffered discrimination benefited from their increase in political and economic power. The following example is just one of thousands in this much larger trend: And this means that male interest groups seeking public funding or contracting are being turned away -- the "victims," if you will, of a policy that bans voting discrimination against women. And all this, based on blanket laws of race and gender. These examples do much to put everything in their proper light. White males did not lose rights; women and minorities gained them. What white males actually lost was unfairly gained money, power and privilege. How does this compare to affirmative action? White males do not lose the right to be hired for high-paying jobs; qualified women and minorities gain that right. True, awarding these rights will deprive some white males of their unfair chance to gain a high-paying job. But they should have never had such undue privilege in the first place, and taking it from them is not a violation of their rights. If critics of affirmative action can point to tangible "victims" who were shut out by the end of job discrimination, then we can also point to tangible "victims" who are shut out of public contracting and funding by the end of voting discrimination. If critics of affirmative action can point to "discrimination" in favor of minorities at hiring time, we can point to "discrimination" in favor of minorities in legislation and public funding. And penalizing someone who discriminates in the legitimate sense of the word against minorities by denying them jobs is no different from penalizing someone who discriminates against minorities by denying them the vote. The loss of undue privilege is not the same thing as the loss of rights. Unfortunately, many critics of affirmative action attempt to frame the debate that way.

7: Affirmative Action (Stanford Encyclopedia of Philosophy)

In lieu of an abstract, here is a brief excerpt of the content. THREE Compensation and the Past In opening this chapter, I shall briefly indicate once more what was (and was not) established in the earlier sections of the previous chapter.

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