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Affirmative Action and Faculty in Higher Education

Victor A. Sánchez

Lawsuits that dispute the need of affirmative action have surfaced since the establishment of the law in the early 1960s (Park & Liu, 2014). Higher education practitioners and faculty must expand its understanding of affirmative action, racism, and oppression to better understand the need for affirmative action. The relationship between affirmative action and faculty must be studied further to understand the role of affirmative action in higher education. This literature review defines affirmative action, provides arguments that support and oppose affirmative action, explores the relationship between affirmative action and faculty, and provides implications for higher education.

Affirmative action is widely contested and misunderstood in academia and many other fields (Crosby, Iyer, & Sincharoen, 2006). Affirmative action practices and laws have been disputed since their establishment and continue to make headlines through controversial cases such as *Fisher v. University of Texas at Austin* and *Schuetz v. Coalition to Defend Affirmative Action* (Park & Liu, 2014). In academia, the emphasis on affirmative action research and disputes has primarily focused on admissions (Ibarra, 2001). The relationship between affirmative action and faculty must be studied further as a means to understand the role of affirmative action in higher education. This literature review defines affirmative action, provides arguments that support and oppose it, explores the relationship between affirmative action and faculty, and provides implications for higher education.

Affirmative Action

Affirmative action definitions and interpretations vary across organizations and institutions. In this literature review, affirmative action is defined as the organizational efforts to ensure “people are not discriminated against on the basis of their gender or ethnic group” (Crosby et al., 2006, p. 587). A distinctive trait of affirmative action is the proactivity that is absent from equal opportunity efforts. Crosby and Cordova (as cited in Crosby et al., 2006) distinguished between equal opportunity and affirmative action by defining equal opportunity as a means to address discrimination if noticed and affirmative action as efforts “not only to sub-

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vert, but also to avert, discrimination” (p. 587). In 1965 President Johnson signed Executive Order 11246, which mandated federal agencies to institute affirmative action plans (Crosby et al., 2006). These plans have acted as tools organizations use to monitor their own performance and address issues of discrimination in their hiring practices. Affirmative action plans can include goals that an institution has set to increase the diversity of their student body, faculty and administration. Colleges and universities can use race or other characteristics as “plus factors” when making decisions among qualified candidates for admission or employment but not as the deciding factor (Crosby et al. 2006). The goals may not include quotas or set-asides because these were outlawed in 1978.

The need for affirmative action has been disputed since the 1960s. Miller (as cited in Crosby et al., 2006) emphasized that affirmative action can serve as a tool to ensure the diversification of student bodies and workforces. It can also be utilized to ensure that admissions selection processes and decisions are equitable. Opponents of affirmative action claim these policies violate meritocratic systems by basing decisions on identities and demographics at the expense of ability and achievement. Crosby et al. (2006) maintained that affirmative action, if implemented intentionally, could be more efficient and successful to reduce discrimination than equal opportunity efforts. Furthermore, affirmative action is an effective tool that removes responsibility from historically marginalized parties to correct the injustices made against them (Crosby et al., 2006).

Why is Affirmative Action Needed?

American higher education is threatened with the end of race-based affirmative action (Solórzano & Yosso, 2002). Solórzano and Yosso (2002) maintained “race was specifically designed to differentiate people for the purposes of discriminating against them”; we cannot discuss race without “a substantive discussion of racism” (p. 158). Conversations about institutional racism are often left out of the analysis when discussing race-based affirmative action efforts because of the misconception that racism has been dismantled. Marable (as cited in Solórzano & Yosso, 2002) defined racism as a “system of ignorance, exploitation, and power to oppress” (p. 24) *People of Color*. This definition calls for an analysis that goes beyond overt racist ideals and deconstructs racism as an institution that favors Whites over People of Color. Quotas were outlawed after the *Regents of University of California v. Bakke*, a Supreme Court case that laid the groundwork for current views on affirmative action (Solórzano & Yosso, 2002). Allen Bakke argued he was the victim of reverse discrimination due to the 16 seats that were reserved for historically underrepresented students. However, the 84 seats that were taken by White students were not part of the discussion (Solórzano & Yosso, 2002). Solórzano and Yosso (2002) use a critical race theory framework to argue that the permanence of racism requires the need to take affirmative steps to dismantle

racism. These steps have taken many forms such as preferential scoring, quotas, and the use of race as a “plus-factor” but not the deciding one.

Affirmative action is criticized for causing reverse discrimination and lowering the standards for employment (Nierdele, Segal, & Vesterlund, 2012). Nierdele et al. (2012) suggested affirmative action could have a corrective impact when qualified candidates fail to apply for a job because of self-doubt or discouragement from others. Although quotas are illegal, these authors argued that quotas could remedy the wrongdoings of meritocracy and competition. People of Color are disadvantaged in many ways and are discouraged from applying to jobs they “may not be ready for,” such as faculty and administrative roles.

Lawsuits, Racism and Tenure

Tenure decisions are based on meritocratic standards (Baez, 2002). Despite these meritocratic claims, Baez (2002) explained that the traditional standards for tenure are inherently racist. When tenure lawsuits occur, White people and institutions are favored disproportionately. For example, Baez (2002) studied 52 cases initiated by tenure-track faculty members who were denied tenure or reappointment allegedly due to racial discrimination. Out of the 52 cases, only six faculty members were victorious on grounds that proved racial discrimination. Furthermore, out of the six, four were Whites who sued historically Black institutions, and only two were successful against historically White institutions (Baez, 2002). Racism is not simply a prejudice but a system that favors Whites over People of Color. Academic merit is a racist principle that establishes credentials that can be met by Whites yet raise questions about the legitimacy of People of Color to occupy academic spaces. Baez (2002) argued that race-based affirmative action will be needed until racism as an institution is acknowledged and dismantled. There are some scholars who do not agree with Baez (2002) and suggest alternatives to race-based affirmative action such as in social class-based affirmative action plans or plans that do not favor People of Color (Oldfield, 2011; Sackett, Schmitt, Ellingson & Kabin, 2001).

The Case Against Race-Based Affirmative Action

Oldfield (2011) argued that basing affirmative action on race limits the diversity that could be embraced through other identities. As a solution, he presented social class-based diversity as the tool to diversify an institution or company. Candler (as cited in Oldfield, 2011) preferred a “class-conscious” approach that targets those who are marginalized both racially and economically. Oldfield (2011) argued that his stance is extensive while Candler’s approach is illegal. Focus on social class allows employees at all levels to better grasp how much we are products of our origins and opportunities (Oldfield, 2011). Oldfield (2011) failed to acknowledge the two racial differences that are present within social classes. First, People of

Color remain perpetual outsiders in spaces that are considered middle-class spaces, such as colleges and universities (Sue et al., 2007). Second, Delgado and Stefancic (2012) identified that People of Color are less likely to benefit from social-class mobility than Whites; and their middle-class status, if achieved, is less secured than that of Whites.

Schott (as cited in Oldfield, 2011) explained that class-based affirmative action “broadens opportunity, corrects past injustices, and does not partly disadvantage poor Whites...while redressing inequalities that others suffered” (p. 375). Oldfield argued that this approach fosters compromise and coalition and is within the law. The argument proceeds that it is better to have a form of affirmative action that is legal than losing affirmative action entirely (Oldfield, 2011). Oldfield failed to acknowledge the results of class-based affirmative action on racial diversity. Hander (1997) studied the impact of class-based affirmative action and found that such efforts highly increased social class diversity at an institution, while the number of People of Color decreased or remained stagnant. In the United States, low-income People of Color have little contact with mainstream society as compared to Whites (Gandara, 2012). This lack of exposure results in limited knowledge of social and educational expectations for People of Color when seeking employment or admission to an institution.

Campus cultures encourage academics from working-class backgrounds to hide their origins (Oldfield, 2011). A college diploma is presented as a strategy to disconnect from one’s working-class background and fit into middle-class environments. Oldfield’s plan for social class-based affirmative action encourages faculty from “working-class backgrounds to ‘come out’ by taking pride in their [roots]” the same way racial minorities were encouraged to during the Civil Rights movement (Oldfield, 2011, p. 378). A main argument that is missing from Oldfield’s analysis is the acknowledgment of racist political and economical structures that favor Whites and historically persecuted People of Color (Delgado & Stefancic, 2012).

Sackett, Schimit, Ellingson and Kabin (2001) provided strategies to achieve diversity without minority preference. These included modifications to procedural aspects of testing and interviewing as well as the creation of alternative testing instruments that can alter the outcomes of a selection process. Disparate results between dominant and subordinate groups can be expected on standardized tests and employment interviews due to institutionally established difference in educational background and opportunities. Therefore, instead of utilizing affirmative action programs that preference minoritized applicants, Sackett et al. (2001) suggested coaching programs, use of portfolios, accomplishment records, and performance assessments as tools for addressing systemic inequalities. They argued that modifying the tests and interviews is difficult because “there is extensive evidence supporting the validity of well-developed traditional tests for

their intended purposes, and that institutions relying on traditional tests value the positive outcomes resulting from test use” (Sackett et al., 2001, p. 314). Their argument failed to acknowledge that the dominant cultural tools that favor Whites over People of Color dictate whom is a “qualified candidate.” In order to enact change, alternative measurements must be proclaimed to empower historically marginalized communities.

Faculty of Color and the Apartheid of Knowledge

According to the American Council on Education (2013), full-time tenured faculty of Color comprise 17% of tenured faculty. The presence of faculty of Color diversifies research possibilities but unfortunately, their research interests are devalued due to the “apartheid of knowledge in academia” (p. 169) that results from White privilege and White supremacy (Delgado Bernal & Villalpando, 2010). The impact that diverse research interests may have on an institution and its students is overshadowed by White standards of knowledge that dictate that faculty of Color and their scholarship are “illegitimate, biased, or overly subjective” (p. 171).

Delgado Bernal and Villalpando (2010) explored the *de facto* segregation of faculty of Color. Faculty of Color are overrepresented at “larger and less elite two-year institutions,” hold “lower and less prestigious academic ranks,” and reside in departments that “often have fewer resources and are considered less prominent and prestigious within higher education” (Allen, Epps, Guillory, Suh, Bonous-Hammarth, & Stassen as cited in Delgado et al., 2010, p. 170). The representation of faculty of Color across all types of institutions, academic ranks, and departments has remained stagnant since the 1970s.

In Critical Race Theory (CRT), counter-storytelling offers a method to analyze and deconstruct the apartheid of knowledge (Delgado Bernal & Villalpando, 2010). Counter-storytelling centers on non-dominant narratives shared by faculty of Color and their scholarship. Faculty of Color offer rich and fulfilling knowledge that can empower students of Color to see themselves reflected in the curriculum and discussions. To enact such change, “higher education must value the knowledge that faculty of Color bring to academia and welcome, engage, and encourage their perspectives and scholarship for the benefit of all students” (Delgado Bernal & Villalpando, 2010, p. 177).

Implications

Poorly designed affirmative action programs can be detrimental to an institution. There are many strategies that must be implemented in order to execute a legal and effective affirmative action plan. Crosby et al. (2006) recommended three approaches to ensure an effective implementation. Those approaches paired with

CRT counter-storytelling can ensure a stronger program that values the knowledge of faculty of Color.

Support from the executive level is crucial to the success of affirmative action programs (Crosby et al., 2006). This support can be ensured through multiple avenues such as institution-wide education and commitment to affirmative recruitment and hiring. Crosby et al. (2006) recognized the importance of “clear and persuasive communication about the goals and the mechanics of affirmative action” (p. 594). Such communication may include the goals of the search committee, the benefit that affirmative action programs have for non-beneficiaries, and a sense of social responsibility in its members. “Banding,” a third strategy for effective affirmative action programs, was designed to implement a range of test score requirements to determine a candidate’s eligibility (Crosby et al., 2006). Sackett et al. (as cited in Crosby et al., 2006) suggested that “banding” can produce a more diverse pool of candidates for a position “while compromising little in terms of merit or productivity” (p. 594-595).

Conclusion

The relationship between affirmative action and faculty must be explored to understand the role of affirmative action in higher education. Some researchers argue that affirmative action must be modified to focus on social class and include strategies that do not give preference to minoritized populations (Oldfield, 2011; Sackett et al., 2001). Research shows that when programs focus on social class, racial diversity is impacted (Gandara, 2012). To recognize the legitimacy of race-based affirmative action, an analysis of race and racism must be undertaken to deconstruct racism as a political and economical structure (Delgado Bernal & Villalpando, 2010). Finally, counter-storytelling and intentional affirmative action programs can be utilized as tools to address social inequities and deconstruct oppressive systems.

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