Affirmative Action: The End of Discrimination

Affirmative Action both supported and opposed as an answer to racial inequality. Affirmative Action is a topic that has been argued for many years now, we’ve battled with this topic through thick and then yet we still have no concrete answer to it. Though not as controversial as the common topics such as abortion or gun control it still sparks major conflicts between individuals as they debate about it. Every time we face this topic we often ask ourselves these same common questions over and over, do the pros outweigh the cons? Is it an ethically right plan? Questions after questions run through our minds as we try to find an answer that fits to our liking. Throughout this research paper I will be informing you about the history of this topic and arguing for affirmative action, even though this topic has many different perspectives to it I will state both positive and negative effects, ethical theories and facts to support my claim.

The birth of affirmative action was in 1961; it came to be about by President Kennedy, who issued Executive Order 10925 which required government contractors to “take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, creed, color, or national origin.” (“A Brief History of Affirmative Action”). President Kennedy wanted to fight discrimination so everyone would have equal rights when it came to employees and applicants for employment. Later in years President Johnson moved for this and further developed this law saying, “This is the next and more profound stage of the battle for civil rights.” He embraced affirmative action in 1965 by issuing U.S Executive Order 11246 and 11375. The orders aim was to correct the effects of past and present discrimination. It prohibited contractors to discriminate against any employee or applicant for employment because of race, skin color, religion, gender, or national origin. With the new Executive Orders they added a new addition to this plan it now required certain organizations
accepting federal funds to take affirmative action. Meaning if your firm was receiving help from
the government you would have to take affirmative action to increase employment of members
of prospective minority employees in all aspects of hiring and employment. On October 13, 1967
the order was amended to tackle discrimination against basis of gender. Even though these laws
were enacted we still struggle with the process of affirmative action. Till this day we still battle
issues about affirmative action, recently the Supreme Court even took on a new case dealing
with this issue, Schuette v. Coalition. (Liptak, “Supreme Court Takes New Case on Affirmative
Action”)

Regents of the University of California v. Bakke, was the first case to battle affirmative
action, with this process it began to show the world the flaws of this topic. It made a negative
example of affirmative action; they now called it reverse discrimination. In this case Allan
Bakke, a 33 year old white male was rejected twice from the Medical School at University of
California at Davis even though there were many other minority applicants that were admitted
with much lower test scores. He had been a National Merit Scholar at Coral Gables Senior High,
which later he was accepted at the University of Minnesota and graduated with a GPA of 3.51.
He also scored in the top three percent on the Medical College Admissions Test. But even with
his high test scores and great achievements he was still denied admission due to the fact that the
University set aside 16 of the 100 seats for minorities such as Blacks, Chicanos, Asians and
American Indians. After his second rejection Bakke filed an action in state court for mandatory
injunctive and declaratory relief to compel his admission to Davis. Bakke argued that judging
him because of the basis of his skin was against his rights, it violated the Equal Protection Clause
of the Fourteenth Amendment. University of California at Davis Medical School counter-
claimed for a declaration that its special admissions program was lawful. On the 26 of June 1978,
the Supreme Court reached a split decision of 5 for Bakke and 4 against, since the decision California banned the state’s use of race as a factor to consider in public schools admission. California now has Proposition 209 that mandates “the state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.” Bakke was admitted to the University of California Medical School at Davis in fall of 1978 and graduated in 1982. Though this was the first case to battle against affirmative action and win there were also landmark cases that won the support of affirmative action.

In 2003 the Supreme Court upheld the affirmative action admission policy of the University of Michigan Law School in the case of Grutter v. Bollinger. “In a 5-4 opinion delivered by Justice Sandra Day O'Connor, the Court held that the Equal Protection Clause does not prohibit the Law School's narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body.” ("GRUTTER v. BOLLINGER"). The case came to be about because Barbara Grutter a female Michigan resident with a 3.8 GPA and 161 LSAT score was denied admission to University of Michigan Law School. She later filed a law suit against the University saying that she had been discriminated against because the basis of her race which violated the Fourteenth Amendment, Title VI of the Civil Rights Act of 1964 and 42 U.S.C. 1981. She protested that she was denied admission because the Law School uses race as a predominant factor. The Law School gave minority groups a greater chance of admission even though other non-colored students had the same or even better credentials. Lee Bollinger, the President of the University was name the defendant of this case. The University argued that there was a compelling state interest to ensure a “critical mass” of students from minority groups. The University argued against Grutter that
their goal was to ensure that minority students wouldn’t feel discriminated and isolated against, also it was to challenge all students to think critically and reexamine stereotypes. As stated above earlier the Supreme Court ruled in favor of Bollinger, 5-4. This landmark case sparked a change in our minds that affirmative action was still relevant in today’s society.

I only exampled 2 cases out of the many to demonstrate that people still support and oppose this topic. Through these 2 examples we can tell that society is still struggling with this issue. We still cannot find an answer even through years of work, one year affirmative action is just and the next it is unjust. To get a better perspective of this topic we will need to explore the positive and negative effects on topic.

Affirmative action also interpreted as reverse discrimination could cause a lot of problems on society. The birth of affirmative action was made because of the discrimination and unfair treatment towards minority in jobs and school. The government wanted to treat everyone equally and to go about this they had to end these terrible acts so they enforced the policies of affirmative action. But what people don’t see is that even though these policies were placed for the good of all it actually produced quite a bit of negative effects. Reverse discrimination, defined as “the unfair treatment of members of majority groups resulting from preferential policies, as in college admission or employment, intended to remedy earlier against minorities” from dictionary.com, came to play because the Whites who worked harder and had better achievement were still being denied admission to Universities. Instead of accepting the people who worked extra hard to be where they should they accept the minorities who didn’t work as hard just because the color of their skin. In a sense this policy ruins the American dream, even though you work hard you still won’t be rewarded what you deserve. Another issue that affirmative action brings up is the way it devalues minorities. Some minorities may feel like their
accomplishments and qualifications are not being noticed. They work extra hard and get accepted to a job or university just because of affirmative action, that itself devalues the accomplishments of minorities. The negative effect of affirmative action causes a lot of issues amongst society that’s the reason why this topic has been debated for so many years now.

Though there are quite a few negatives to affirmative action we cannot forget the positive effects it also offers. Of course one of the positives effects is that this policy ends discrimination and inequality to an extent. This law came to be about so it could compensate for the effects of past and present discrimination against minorities. It gives disadvantaged minority groups the chance to succeed in life. Minority groups often immigrants usually live in poverty. The children who grow up in these families don’t get the chance of a good education; they attend public schools that don’t have enough money to provide different educational programs. With these effects one cannot succeed to a higher level of education, as stated from Kelly Sharp because of this minority groups tend to produce lower test scores and lower achievements. (Sharp, “Poverty Affects Education”). But with the process of affirmative action it helps eliminate this threat. It gives people the chance to succeed in life. One of the bigger positives of affirmative action is to diversify work places and university; with the help of affirmative action we can offer diverse environments. Just like Lisa Cullen’s article title says if affirmative action was not a law diversity would be in trouble within United Sates. (Cullen “Without Affirmative Action, Diversity Suffers”). In the past when they had no affirmative action there was practically no diversity in higher colleges and job employments. Whites would only hire whites, majority of people would only hire their own kind, that even includes minorities. It used to be a very segregated time, but thanks to Kennedy we can now grow up in a more diverse environment. Part of growing up is learning how to interact with different races and nationalities of people. Many
people live in segregated places their whole life and never actually get the chance to interact with people from different backgrounds. So when they enter college they can get the opportunity to explore new cultures and backgrounds, this will in turn increase the knowledge of everyone. We learn to become less stereotypical and racist through these means. By learning about one another’s background and culture we can fully understand a them, and not judge them by the color of their skin but instead by their character. After explaining these pros and cons we can see that the pros do outweigh the cons, Affirmative Action has definitely benefited a lot of minorities throughout history.

Using one of the main ethical theories, consequentialism or more commonly known as utilitarianism, we can dissect affirmative action to see if it is right or not. Quoted directly from dictionary utilitarianism is “the doctrine that the morally correct course of action consists in the greatest good for the greatest number, that is, in maximizing the total benefit resulting, without regard to the distribution of benefits and burdens”. In short, utilitarianism is the ethical theory that maximizes pleasure and minimizes pain for the majority. It doesn’t involve in morals or not, it is just based on pleasure and pain. Using this ethical theory we can see that affirmative action is not a wrong process. As stated earlier affirmative action helps the disadvantaged and diversify workplaces and school grounds which benefit everybody. The only ones who suffer are the people who face rejection because of this process, but even those who get rejected will find success elsewhere. If you see this equation as a whole it definitely maximizes the pleasure for the majority and minimizes the pain. Another ethical theory is the deontological theory; this theory has to deal with your “duty” or moral obligations. This theory is the opposite of utilitarianism because morals matter. Using this theory we can see that affirmative action has some wrongs to it also. It is clear that rejecting someone from a job or university because the basis of their skin is
morally wrong. We shouldn’t use a person’s skin color, gender, or racial background as a factor, they should be judged on their qualifications. After reviewing these two ethical theories we can see why this is such an big issue, just like the Supreme Court cases one will battle for affirmative action and one will battle against it. There are many people who support this issue and just as much who oppose it.

After reviewing all the facts, ethical theories, and effects of affirmative action we can determine that it is still a very much controversial topic. Even though there are so many people against this topic arguing about the negative effects it brings and such we cannot forget about the positives it offers. Through affirmative action we can begin the elimination of past and present discrimination against minorities. We can rid the common stereotypes and racism that occurs within our schools and work place. Affirmative action was created for the goodness of all and that’s exactly what it has been doing, helping the less fortunate and creating equality for all. Though we’ve faced tough battles throughout history I believe that if we continue to support this process one day we will reach a world of equality.
Works Cited


