

### Affirmative Action: Excellence, Injustice, and Asian Americans ( **Prompt 2** )

Affirmative action in hiring or college admissions is a contentious policy in modern politics. Louis P. Pojman and Amy Gutmann offer two conflicting philosophical arguments against and for affirmative action, respectively. Pojman follows a logic predicated on a narrow focus of merit and excellence, while Gutmann provides a broader model that inclusively assesses large-scale societal outcomes. I will start by focusing on Pojman's strongest arguments derived from merit and demonstrating areas where his view fails, and then show how these are better comprehended by Gutmann's social benefit system. Similarly, I will further describe how Gutmann's considerations can readily handle Pojman's additional arguments. Contemporary grievances against affirmative action are often by Asian Americans. However, I will subsequently build on Gutmann's argumentation to show how negative selection against Asian Americans is also unjustifiable, but can be separated from ideal affirmative action.

In "The Moral Status of Affirmative Action", Pojman outlines several objections and arguments against affirmative action. Pojman's position is primarily against "strong" affirmative action, which he defines as when candidates of a racial minority may be selected preferentially over more strongly qualified candidates, as opposed to when racial minorities are preferred between candidates of equal merit. Accordingly, Pojman's main arguments rest on the premise that merit is superior to all other factors (7th objection, 5th argument) (Pojman 196, 201). Pojman states that in contrast, affirmative action "encourages mediocrity and incompetence" (3rd arg.) (Pojman 200). To Pojman, the primary goal of hiring and admissions for society is to maximize efficiency and excellence. This necessitates that merit is the overwhelmingly weightiest factor, and the principle wrong with affirmative action is its devaluation of merit.

There are some inconsistent assumptions with Pojman's interpretation. Principally, Pojman presupposes that only selecting on merit is the most effective way to achieve efficiency and excellence. However, no evidence is offered for this joint connection between merit and excellence. Similarly, another problem concerns the definition of merit that Pojman sets up. From the examples Pojman includes, it is implied that the merit critical for excellence constitutes specific markers such as test scores (Pojman 188, 191). This definition, although a traditional definition of American merit, adheres to a set of societal benchmarks that is made by and tailored to already privileged groups, including mostly whites. To illustrate this, consider an example with Doris, who has scored an 80% on a test, and Edvard, who has scored a 90%. Let's say Edvard has academic parents and attended the best schools with the best resources customized for this test. Doris, on the other hand, has an uneducated, single parent and graduated from a school without resources. In overcoming their disadvantages, it is possible that Doris has exerted greater *effort*, has greater *resilience*, and may succeed equally well given future access to resources, despite a lower test score. In this way, traditional merit based on achievement test scores fails to comprehend non-traditional backgrounds. Moreover, although not merit and not voluntary, Doris's background identity may make Doris a *better* candidate than Edvard by allowing Doris to be more sensitive to how society works and fighting inequality while implementing their job functions. This may be especially so in higher-skilled jobs, including "law or medicine or university professorships", which often have higher societal impact contrary to Pojman's statement that these jobs require the most singular priority on merit (Pojman 201). Thus, not only does a narrow definition of merit ignore the context of diverse backgrounds, but factors further outside of merit can contribute to job excellence.

Notably, Pojman's promotion of merit serves an outcome centered justification. The result of hiring and admissions based on merit is excellence. This involves another assumption Pojman makes; it can also be shown that maximizing excellence is not always the most important outcome to strive for. Pojman contends that universities are seeking "diversity for diversity's sake... obfuscat[ing] rational distinctions" (6th obj.) (Pojman 196). Diversity itself without a clear societal purpose is not morally sufficient to override the social good of excellence. What Pojman ignores is the possibility that diversity and affirmative action may have societally beneficial outcomes as well, both for the students and society overall. If there is social good that can be derived from affirmative action, then sacrificing some small amount of excellence can be rationally justified. In fact, in countries with a heavy cultural value on meritocracy, recent phenomena such as elementary cram schools, 996 (9am to 9pm, 6 days a week) culture, and *karōshi* (in English, "overwork death") suggest *a fortiori* that overvalue of excellence can have detrimental societal outcomes, not only on encouraging success, but also societal well-being and mental health. Therefore, in addition to restrictively presuming that merit is the sole factor in job excellence, Pojman has also blindly accepted the superiority of excellence without equal consideration of the possible outcome benefits of affirmative action.

It is helpful to look at Gutmann's framework to understand how a comprehensive examination of social outcomes gives a more informed picture of affirmative action. In "Color Conscious", Gutmann explains that "nondiscrimination in hiring is a principle of fairness", not color blindness in itself (Appiah & Gutmann 124). A key point in Gutmann's overall argument is the non-ideality of real society, in which people have disparate life chances and racial discrimination continues to disadvantage racial minorities. Furthermore, in any selection process, "qualifications are relative to the social purpose of a job" (Appiah & Gutmann 121). It is

therefore necessary to evaluate if non-merit qualifications and enactment of “preferential treatment”, what Gutmann calls Pojman’s “strong” affirmative action, can “serve some other social goal that is deemed worthy of pursuit” such as working to counteract injustices and discrimination (Appiah & Gutmann 122-3, 130). In particular, Gutmann notes preferential treatment and affirmative action benefit society in several major ways: by breaking down racial stereotypes, by creating role models for both racial minorities and society as a whole, and by increasing contact between racial groups to develop the universal mutual respect necessary for democracy (Appiah & Gutmann 127, 131, 164). Simultaneously, Gutmann acknowledges the drawbacks that Pojman raises, including harm done to already highly disadvantaged members of a racial majority, the possibility of creating stereotypes that racial minorities are unable to succeed independently, and the possibility of abuse in cases where wholly unqualified candidates are admitted (1st, 2nd, 7th arg.) (Pojman 198-9, 202-3). Gutmann responds that these should be considered, that an ideal affirmative action would minimize further discrimination to already disadvantaged individuals (e.g. taking into account both race and class) and concerns candidates already “basically qualified”, but that the necessity of fighting and breaking racial injustice faster outweighs smaller costs (Appiah & Gutmann 133). Thus, Gutmann’s broad perspective of benefits enables a more thorough examination of affirmative action than Pojman’s concentration on merit and excellence.

Recently, some of the chief objectors against affirmative action have been on the part of Asian Americans, whom current affirmative action policies select against compared to all other races due to their overrepresentation in jobs and colleges. For the purposes of this paper, I will call this “negative affirmative action”. However, extending Gutmann’s framework on the underlying purpose of affirmative action can actually help us better understand why Asian

Americans might feel a sense of injustice from current negative affirmative action policies. Gutmann has shown that preferential treatment of affirmative action for other racial minority groups, such as African Americans, serves to benefit society by helping these groups break the racial injustice that occurs against them (Appiah & Gutmann 122-3). Along the same line of reasoning, a racial identity group should only have negative affirmative action if there is a clear societal benefit from excluding them. This is to say, for negative affirmative action against a racial identity to be morally justified, all other racial identities, including those without ongoing injustice such as white Americans, must be in need of additional critically necessary societal benefits from selecting less of this specific racial group. Nevertheless, in American society, we can reasonably infer that white Americans and racial identities without racial injustice do not require additional social advantages. White Americans do not suffer more racial discrimination than Asian Americans and arguably, may suffer less immigration challenges and cultural discrimination. So, on one hand, affirmative action for racial identities with clear racial injustice is necessary for effectively achieving equality, and on the other, Asian Americans should not be discriminated against compared to whites. These two assertions are not mutually exclusive; racial identities that do not clearly need preferential treatment could be allowed to play fair with white Americans, on equivalent terms and ground. We cannot be faithful to Gutman's reasoning for affirmative action while enacting negative affirmative action against a particular racial identity that does not directly further a societal goal.

In fact, negative affirmative action against a racial identity may cause significant societal harm if the racial group is more vulnerable to racial discrimination. This may be especially true if the negative affirmative action is specifically achieved by lowering personality scores (*SFFA v. Harvard*, 2018). Policies can affect society not only by the instrumentation itself, but also via

shaping people's perceptions regarding the motivations behind the policy. These beliefs regarding institutional motivation need not reflect actual intentions by policymakers, but instead involve intentions that can be reasonably inferred from how the policy is enacted (Hosein 6-7). Even if, in an ideal practice, admission officers were to use personality scores as a conduit to apply negative affirmative action without having any real racist belief about applicants' personalities themselves, the drop in personality scores as a policy can reasonably express to the public that Asians are mean, cowardly, and not "effervescent" enough—and to Asian Americans that our institutions believe this (Kang). Those arguing that white males suffer harmful discrimination fail to consider the context where they are not socially construed as innately inferior or with lesser character (6th arg.) (Pojman 202). Contrarily, Asian Americans do face strong racial stereotypes that lowering personality scores can play into, and negative affirmative action implemented via personality scores is further unjustifiable because it contributes to propagating the ideology of racism.

In conclusion, Pojman's argument against affirmative action relies on unsubstantiated assumptions about how merit is defined and the importance of excellence, while Gutmann's societal outcome conceptualization provides a more comprehensive analysis of the pros and cons of affirmative action. Furthermore, Gutmann's explanation of the goals of affirmative action as necessarily beneficial to society and breaking down racial ideology can be extended to understanding how negative affirmative action against Asian Americans is unjustifiable. Careful examination of the morality and purpose of affirmative action reveals that perhaps, if current policies were carried out more closely in line with the foundational philosophy of affirmative action, it would not be as contended as a subject as it is now and may not have become the Supreme Court case it is today.

## References:

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From page 7: “Asian-American applicants (unsurprisingly, therefore) receive higher overall scores from alumni interviewers than all other racial groups. And they receive strong scores from teachers and guidance counselors—scores that are nearly identical to white applicants (and higher than African-American and Hispanic applicants)... yet Harvard’s admissions officials assign Asian Americans the lowest score of any racial group on the personal rating”