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Elliot D. Cohen

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Are You Entitled to Affirmative Action?

by Iddo Landau

iddu Landau is a lecturer in the department of philosophy, the University of Haifa, Israel. Dr. Landeau received his B.A. and M.A. in philosophy from the Hebrew University in Jerusalem, and his Ph.D. from McGill University. He works mainly on European philosophy and political theory from Descartes to the present, applied ethics, and feminist philosophy. His work has appeared in CLIO, The Cardozo Law Review, The Monist, Philosophy, The International Journal of Applied Philosophy, and The Philosophical Quarterly.

In this paper I suggest that if affirmative action is justified, the poor are entitled to it no less than women and African Americans, and even more.¹ Remarkably, the literature on affirmative action has concentrated on arguments for and against the practice. It is hard to find discussions on *who* is entitled to affirmative action, what criteria should be applied, and whether some groups should be given precedence over others. This is surprising, since some groups which have a *prima facie* claim to affirmative action (e.g. the poor) are excluded from it today. Moreover, in some programs (e.g. that of the United States Department of Labor Employment Service) some minorities are given precedence over others (e.g. African Americans over Hispanics).²

The entitlement and precedence questions are important not only because several groups which may be entitled to affirmative action are at present excluded, but also because the situation of excluded groups is *aggravated* by affirmative action. By its nature, affirmative action excludes some groups by preferring others. But of those excluded, the most likely to suffer are the least advantaged. For example, a white man deprived of advancement because of affirmative action is more likely to be poor than rich; gay than heterosexual; and physically challenged than unchallenged. Thus, affirmative action incurs the risk of helping some disadvantaged people at the expense of other disadvantaged people. Those who would have the right to enjoy affirmative action but are excluded from it may suffer triple discrimination: by society; by not being included in affirmative action programs

although they should be; and by their situation *worsening* because of affirmative action programs.³

In average, the poor enjoy less health than the rich. They also die younger. This is true not only of natural deaths, but also of crime-related deaths. Poor people, even if not involved in unlawful activities in any way, are more likely to die as the result of a violent crime than rich people are. On the other hand, although they are more exposed to criminal violence, the poor are less protected by the police than the rich are.

The poor receive less satisfactory representation in court than the rich. Their lawyers are frequently less experienced and eloquent, and less research is done on possible loopholes in their opponents' cases. Unlike rich people, they are not financially able to sustain a lengthy trial. Not all are equal before the legal system.

In average, poor people's children receive worse elementary and secondary education than rich people's children. When they grow up, children of poor families are less likely to be accepted by the best colleges or by programs preparing students for more desirable and higher paid jobs. When the achievements poor people's children are sufficient for entering such colleges and programs, they are less likely to be able to afford them.

The poor are also not likely to become rich.⁴ Notwithstanding the popular myth, those born into poverty are likely to stay there. Stories about people who were shoe-shiners in childhood and are multi-millionaires today are appealing, but in reality such cases are rare.

Although, from early childhood, the poor do not have the same opportunities as others, and their poverty is not their fault, they are frequently seen both by themselves and by others as at least partial "failures" or "losers." Notwithstanding sayings such as "there is nothing to be ashamed about in being poor" people frequently try to hide their poverty. There is a tendency to view the poor with some well hidden (or

not so well hidden) suspicion and fear. Such stereotypes, in turn, again reduce the chances of the poor to climb the economic ladder.

The poor, then, are underprivileged and discriminated against, both explicitly and implicitly, in ways resembling those that women and African Americans have known. They enjoy less protection from the police; are not equal before the legal system; receive inferior (frequently segregated) education; have fewer opportunities from the very beginning; and have little chance to exit from their underprivileged situation.

Many arguments for and against affirmative action are as strong or as weak applied to the poor or to women and African Americans. This is true, for example, of arguments such as that affirmative action is contrary to the merit principle and thus may lower the level of research and of service given to the public;⁵ that it is unjustified since it harms those who were never themselves guilty of discrimination;⁶ that affirmative action contradicts the liberal-individualistic principle;⁷ or that it will alienate members of the privileged groups who otherwise would have supported the cause of the underprivileged.⁸ The analogy also holds good for answers to these critical objections, such that there is still a fair degree of both explicit and implicit discrimination;⁹ that all members of the privileged groups have profited from the disadvantages of the underprivileged;¹⁰ or that since the merit and the liberal-individualistic principles are anyway not strictly upheld, enforcing them fully is not justified when the underprivileged stand to lose from this.¹¹

However, some arguments for and against affirmative action do apply differently to women and African Americans on the one hand, and the poor on the other. In some cases affirmative action is justified as a compensation to the underprivileged and discriminated against.¹² At other times it is intended as a means for changing the situation of the disadvantaged in the future.¹³ It is assumed to do so in several ways: (a) People tend to help members of their own group through advice, connections, or inside information. If there were more, e.g., African American or women lawyers and executives, they would help more African Americans and women to enter these professions. (b) Knowing of the existence of affirmative action would encourage African Americans or women to try to reach higher positions. (c) The presence of more African Americans and women in desired positions would change (even unconsciously) the self-image of other women and African Americans and would help them believe themselves more capable of achieving such positions (this is the "role model argument"). (d) The presence of more women and African Americans

in enviable positions would change their social image, and society in general would come to respect them more, diminishing part of the implicit social discrimination against them. However, whereas the compensatory justification as well as (a) and (b) apply to the poor as much as to women or African Americans, (c) and (d) do not. When the poor reach higher positions they will not be conspicuous as having been poor.

However, affirmative action affecting the poor is also immune to a criticism that applies to affirmative action favoring women and African Americans. According to this objection, a woman and an African American in a desired position will not be admired since everyone will assume that they reached it through affirmative action; it will be said that they did not arrive where they did through their own competence. Thus, women's and African Americans' image will not be improved. Moreover, African Americans and women who could and would have achieved the position without the help of affirmative action will also be "contaminated," since they too will be suspected of owing their achievements not to merit but to affirmative action. Thus, affirmative action would actually damage the image and social status of the individuals who enjoy it and the groups to which they belong.¹⁴ This argument, however, does not apply to affirmative action for the poor, since when they reach higher positions they are, again, inconspicuous as having been poor.

These two arguments seem to balance each other. But even if only the first is accepted, it does not seem that the case for affirmative action for the poor becomes much weaker than that for African Americans or women.

One justification for affirmative action, the argument from diversity, may seem to apply differently to the poor on the one hand and to women or African Americans on the other, but in fact does not. According to this contention, affirmative action is recommendable also because it helps introduce women's and African Americans' perspectives and ways of thought into circles hitherto dominated by those of white men. Thus, affirmative action should be welcomed since it makes us more pluralistic and sensitive to the variety of needs that exist in society.¹⁵ However, the poor too can help introduce new perspectives into the social discourse, and they too can encourage pluralism and sensitivity. In some ways, the perspectives of poor and rich probably differ more widely than those of middle-class African Americans and middle-class whites, or women and men.

Similarly, one argument against affirmative action may seem to apply to the poor more than it does to women or African Americans, but in fact does not:

that other means of helping deprived groups are as helpful but less problematic. Such means may include remedial schooling and job training, condemnation of discriminatory and unfair treatment, advertisement of objective merit criteria, anti-discriminatory legislation, 'outreach' programs, or fellowships.¹⁶ Some means that have been suggested for ameliorating the situation of the poor are high minimum wage, guaranteed income, reduction of taxes, health care, and early childhood educational programs.¹⁷ But again it is not clear why the poor should be seen as different here from African Americans or women. The discrimination and disadvantages the poor suffer, like those that women and African Americans do, have both financial and cultural aspects. Poverty is not only a matter of money but also of tacit and explicit discrimination, self-image, and social image. Since the 1960's economists and social scientists have been discussing what has come to be called "the culture of poverty."¹⁸ The argument that other means are as helpful as affirmative action but less problematic is as strong, or as weak, in application to women, African Americans, or the poor.

There are a few other arguments that may be made for and against applying affirmative action programs to the poor. One is that although the poor are disadvantaged, they are not *discriminated* against. Supporters of affirmative action who are also strong adherents of free market economy may assert that whereas discrimination against African Americans and women should not be "part of the game," the disadvantages that the poor suffer should. The rich make more money, and may use it as they see fit. It is only to be expected that they will buy themselves and their families better police protection, finer legal representation, superior education, and preferential opportunities. It is also only natural that they will want to leave their wealth to their offspring, and not to strangers.

The question of how fair the present "economic game" is, is too wide to be discussed in this context. Supporters of affirmative action who deem the "game" fair will indeed not see the disadvantages the poor suffer as having to do with discrimination, and should not support affirmative action for the poor. Those who do see the present "economic game" as unfair should accept that the poor are entitled to affirmative action. Of course, there will be many degrees between the two poles. The more unfair and discriminatory the economic game is believed to be, the more one will be committed to affirmative action also for the poor.

Some supporters of affirmative action may believe that any *disadvantaged* group is entitled to it. Oth-

ers may believe that any group suffering from *discrimination* is entitled, and yet others that only groups which are both discriminated against and disadvantaged are. I belong to the third group. However, those belonging to the first group are necessarily committed to affirmative action for the poor even if they hold the present "economic game" to be fair and non-discriminatory.

Another argument against instituting affirmative action for the poor may be that whereas there is hope that affirmative action for women and African Americans will eventually prevail against discrimination to the point that there will be complete equality among ethnic groups and between the sexes, complete economical equality will never exist. There will always be richer and poorer.

However, I do not think that affirmative action programs are committed to equality; they are committed to fairness or non-discrimination. Fairness and non-discrimination between sexes and among ethnic groups consists in equality. But one may believe that the economic game may be fair even if it incorporates some degrees of inequality. The aim of affirmative action for the poor does not have to be complete equality; it can be a fairer and more humane economic system.

It may also be claimed that since economical positions exist on a continuum, it is not clear where the poverty line should be drawn. The approach for drawing the poverty line I rely on here was first suggested by Benjamin S. Rowntree in 1901, and since revised both by him and others.¹⁹ It relies on the calculation of the level of income needed to meet the minimal standards of subsistence. In Rowntree's first study these standards covered the minimum diet needed to maintain physical health, cheap clothing, and modest housing. In later suggestions by him and others allowance was made also for minimal educational needs, health insurance, and the minimal standards of appearance needed for social interaction. According to this approach, the criteria for being poor would frequently concur with the criteria qualifying for state aid such as food stamps.²⁰

Similarly, it may be argued that many of the claims about the poor, presented in section 1 above, are not true of people who fell to poverty from affluence. I believe this is certainly true; people who fell from affluence to poverty are frequently better educated, more healthy, and enjoy a better self-image than people born into poverty. Moreover, they have better chances of climbing the economic ladder again. (However, the quality of the medical care, police protection, and legal representation they receive immediately drops, and their likelihood of being harmed by

criminal violence immediately rises.) Thus, people who fell from affluence to poverty may form a special group among the poor, a group to which my arguments do not apply as strongly as to the poor in general, and hence whose members are not entitled to affirmative action as the poor in general do.

I think it has been sufficiently shown that the poor are entitled to affirmative action no less than women or African Americans. But I argue also that the poor should be given precedence to affirmative action over African Americans and women. First, poverty is an important indicator for having been disadvantaged and discriminated against. When we help rich African Americans or rich women, we can be less sure that we are really helping those who have been discriminated against and disadvantaged than when we help the poor. (Of course, this argument is weaker for those supporters of affirmative action who see the "role model" argument as the main justification for it, and for those who think the "economic game" is fair.)

Second, the logic of the justification for affirmative action entails that the more underprivileged and discriminated against a group is (all other things being equal), the more should its members be given precedence over members of other groups. But the poor seem underprivileged and discriminated against more than African Americans as such or women as such. To illustrate this let us perform the following thought experiment: assume that you are given the choice whether to be born (all other things being equal) a poor white or a rich African American; or to be born a poor man or a rich woman. Which would you choose? Which is more likely to enable you to develop your potential, live longer, enjoy good health, succeed in your career, have a positive self-image, and live happily? Alternatively, in which option are you more likely to experience humiliation, lack of fulfillment, frustration, and a sense of failure? I think that the answer is obvious. All other things being equal, it is worse to be poor than to be an African American or a woman. But if this is so, the poor have a stronger claim to affirmative action than do women or African Americans. (Again the argument becomes weaker the more one is an adherent of free market economy who believes that the poor are "fairly disadvantaged." In such a case it may be claimed that being a poor white man is thought worse than being a rich woman or a rich African American because of disadvantages that

are irrelevant to affirmative action.)

I believe the above arguments to have shown that, all other things being equal, if affirmative action is justified, the poor are entitled to it no less than women or African Americans, and even more. Thus, if affirmative action programs are instituted, the poor should be included in them, and be given precedence over rich women or rich African Americans. A rich African American man or a rich white woman have, all other things being equal, a weaker claim to affirmative action than a poor white man.

A fortiori, considerations of wealth should be taken into account when deciding between members of the same group. Just as the logic of the justification for affirmative action entails that an African American woman should have precedence over a white woman or an African American man, so a poor woman should have precedence to affirmative action over a rich woman, and a poor African American over a rich African American. Of course, for similar reasons a poor African American should be given precedence over a poor white, and a poor woman over a poor man.

But the discussion above has also indicated the general criteria that should be used in decisions concerning entitlement and precedence to affirmative action. Decisions involve determining whether discrimination against a certain group, its disadvantage, or both, should be taken into account; assessing the degree of the discrimination or disadvantage (or both); deciding which justifications of affirmative action apply to which groups; and evaluating how central these justifications are to affirmative action. For example, when judging whether, or to what extent, gays or the physically challenged are entitled to affirmative action, an assessment should be made of how discriminated against they are, how disadvantaged they are, and whether both should be taken into account. Like women and African Americans, the physically challenged will be conspicuous in desirable positions, and thus the "role model" argument will apply to them. Gays, like the poor, will not be conspicuous (unless they chose to assert themselves publicly) and hence the "role model" argument will not apply. But a decision will also have to be made on how central is the "role model" argument for affirmative action. Those who think it very central will endorse (in this respect) the claim of the physically challenged more readily than that of gays, or will give the former precedence over the latter.²¹

FOOTNOTES

1. The term "affirmative action" has been used in a variety of ways. I employ it here in its narrow sense, i.e. preferring (in hiring or admission to various programs) members of underprivileged groups when their qualifications are equal or inferior to those of members of privileged groups.
2. Louis P. Pojman, "The Moral Status of Affirmative Action," *Public Affairs Quarterly* 6, 1992: 188-89.
3. The right of the poor to affirmative action is anticipated in some of the literature. Richard Wasserstrom, for example, asserts that "whites from a very low socioeconomic class background" are entitled to affirmative action ("The University Case for Preferential Treatment," *American Philosophical Quarterly* 13, 1976: 165). Similarly, Pojman claims that "[T]he children of the wealthy have no trouble getting...into the best universities...[A]ffirmative action simply shifts injustices, setting blacks and women against...ethnic and poor white males." ("The Moral Status of Affirmative Action," p. 198.) In all these discussions, however, the issue is not treated with the elaborateness it deserves.
4. See, e.g., Patricia K. Smith, "Downward Mobility: Is It A Growing Problem?" *American Journal of Economics and Sociology* 53, 1994: 57-72; Lynn A. Karloy, "The Trend in Inequality Among Families, Individuals, and Workers in the United States: A Twenty-Five Year Perspective," in Sheldon Danziger and Peter Gottschalk, *Uneven Tides: Rising Inequality in the 1980's* (New York: Russell Sage Foundation, 1993), 19-97.
5. See, e.g., Pojman, "The Moral Status of Affirmative Action," pp. 199-200; Robert Simon, "Preferential Hiring: A Reply to Judith Jarvis Thomson," *Philosophy and Public Affairs* 3, 1974: 319.
6. Thomas E. Hill, Jr., "The Message of Affirmative Action," *Social Philosophy and Policy* 8, 1991: 112, 114; Rudolph V. Vanterpool, "Affirmative Action Revisited: Justice and Public Policy Considerations," *Public Affairs Quarterly* 3, 1989: 51.
7. J. Angelo Corlett, "Racism and Affirmative Action," *Journal of Social Philosophy* 24, 1993: 170; David L. Kirp and Nancy A. Weston, "The Political Jurisprudence of Affirmative Action," *Social Philosophy and Policy* 5, 1987: 227-28.
8. Pojman, "The Moral Status of Affirmative Action," p. 204; Allan Bloom, *The Closing of the American Mind* (New York: Simon and Schuster, 1987), 96.
9. Laura M. Purdy, "Why Do We Need Affirmative Action?" *Journal of Social Philosophy* 25, 1994: 138-41; Judith Jarvis Thomson, "Preferential Hiring," *Philosophy and Public Affairs* 2, 1973: 365-66.
10. Thomas E. Hill, Jr., "The Message of Affirmative Action," *Social Philosophy and Policy* 8, 1991: 118. David L. Kirp and Nancy A. Weston, "The Political Jurisprudence of Affirmative Action," *Social Philosophy and Policy* 5, 1987: 227.
11. Mark Tushnet, "Change and Continuity in the Concept of Civil Rights: Thurgood Marshall and Affirmative Action," *Social Philosophy and Policy* 8, 1991: 159-160; Irving Thalberg, "Themes in the Reverse Discrimination Debate," *Ethics* 91, 1980: 149-50.
12. E.g. Purdy, "Why Do We Need Affirmative Action?" p. 137; Allison Jaggar, "Relaxing the Limits on Preferential Hiring," *Social Theory and Practice* 4, 1977: 231.
13. See, e.g., Margaret Jane Radin, "Affirmative Action Rhetoric," *Social Philosophy and Policy* 8, 1991: 132-34, 140-42; Purdy, "Why Do We Need Affirmative Action?" p. 137; Corlett, "Racism and Affirmative Action," 171-73; Hill Jr., "The Message of Affirmative Action," pp. 115-16; Ronald Dworkin, *Taking Rights Seriously* (Cambridge, Mass.: Harvard University Press, 1977), 223-39; Thomas Nagel, "Equal Treatment and Compensatory Discrimination," *Philosophy and Public Affairs* 2, 1973: 361.
14. Pojman, "The Moral Status of Affirmative Action," p. 191; Radin, "Affirmative Action Rhetoric," pp. 136-40; Nagel, "Equal Treatment and Compensatory Discrimination," p. 362.
15. Radin, "Affirmative Action Rhetoric," p. 133; Pojman, "The Moral Status of Affirmative Action," pp. 195-96.
16. See, e.g., Thomas Sowell, *Preferential Policies: An International Perspective* (New York: Morrow, 1990), 116; Alan H. Goldman, *Justice and Reverse Discrimination* (Princeton, Princeton University Press, 1979), 132-33; Idem, "Affirmative Action," *Philosophy and Public Affairs* 5, 1976: 194-95.
17. See, e.g., Theda Skocpol, "Targeting Within Universalism: Politically Viable Policies to Combat Poverty in the United States," in Christopher Jencks and Paul E. Peterson, eds., *The Urban Underclass* (Washington D.C.: The Brookings Institution, 1991), 411-36; Felicia Kornbluh, "Subversive Potential, Coercive Intent: Women, Work, and Welfare in the '90s," *Social Policy* 21, 1991: 23-39; Shari M. Binford, Mark A. Siegal, and Carol

- d. Foster, *Social Welfare—Help or Hindrance?* (Wilie, Texas: Information Plus, 1990); Lisbeth B. Schorr, *Within Our Reach: Breaking the Cycle of Disadvantage* (New York: Doubleday, 1988); Frank A. Furstenberg, Jr., J. Brooks Gunn, and S. Philip Morgan, *Adolescent Mothers in Later Life* (New York: Cambridge University Press, 1987), 153.
18. Christopher Jencks, "Is the American Underclass Growing?" in Christopher Jencks and Paul E. Peterson, eds., *The Urban Underclass* (Washington D.C.: The Brookings Institution, 1991), 28-100; Robert Rector, Kate Walsh O'Beirne, and Michael McLaughlin, "How 'Poor' Are America's Poor?" Printed position paper (Washington D.C.: The Heritage Foundation, 1990). Oscar Lewis, "The Culture of Poverty," in Daniel P. Moynihan, ed., *On Understanding Poverty* (New York: Basic Books, 1969), 187-200; Ralph Segalman and Asoke Basu, *Poverty in America: The Welfare Dilemma* (Westport, Connecticut: Greenwood Press, 1981).
 19. Benjamin S. Rowntree, *Poverty: A Study of Town Life* (London: Macmillan, 1901; idem, *Poverty and Progress: A Second Survey of York* (London: Longmans, 1941); idem and George R. Lavers, *Poverty and the Welfare State* (London: Longmans, 1951); Peter Townsend, "Measuring Poverty", *British Journal of Sociology* 5 (1954); idem, *Poverty in the United Kingdom: A Survey of Household Resources and Standards of Living*, (London: Allen Lane, 1979).
 20. See also discussions on the where the poverty line should be drawn in William J. Wilson, "Studying Inner-City Social Dislocations: The Challenge of Public Agenda Research," *American Sociological Review* 56, 1991: 1-14; Melvin L. Oliver and Thomas M. Shapiro, "Wealth of a Nation: A Reassessment of Asset Inequality in America Shows At Least One Third of Households Are Asset Poor," *American Journal of Economics and Sociology* 49, 1990, 129-52.
 21. I am very grateful to Elliot D. Cohen, Mira Reich, Saul Smilansky, and Shlomit Baruch for their helpful comments on an earlier draft of this paper.