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## Diversity of What?

MANY COLLEGES AND UNIVERSITIES PRACTICE some form of affirmative action based on race or ethnicity in their admissions process. They often justify affirmative action on the grounds that it promotes educational “diversity,” somewhat loosely defined as a multiplicity of ideas, experiences, and viewpoints in the classroom and on the campus as a whole. A diverse student body and faculty is often said to be desirable for two main reasons. Schools hope that having a student body and faculty that hold many different viewpoints and approach issues from different perspectives will promote learning and lead to the production of greater knowledge for all. Seeing their mission as one of socializing their students and helping them to grow into good citizens, many schools also believe that if people from different backgrounds, who hold different values, can learn to communicate and respect differing points of view, both in and out of the classroom, they will be better prepared to deal with the challenges of living in a pluralistic and multicultural democracy.

A racially and ethnically diverse student body is generally thought to be necessary for the accomplishment of these goals. No one can deny the power and importance of racial and ethnic categories. These categories are not arbitrary; instead, they reflect powerful social and historical forces. Like it or not, the racial and, to a lesser extent, ethnic categories with which a person identifies, or which others ascribe to a person, make an enormous difference in the way a person lives her life. People from different races and ethnicities are therefore reasonably presumed to have different experiences and thus to have developed different perspectives and viewpoints.<sup>1</sup> Affirmative action is one way to ensure that people from different cultural backgrounds, especially people whom the school identifies as belonging to certain racial or ethnic groups, are represented on campus.<sup>2</sup>

My purpose in this article is not to question the importance of these categories. Rather, my purpose is to probe their salience to the educational mission of diversity. Although race and ethnicity are concepts with considerable power, one can argue that they fail to capture adequately the actual social diversity of various groups. Such categories thus may fail to promote the goal of diversity of many schools’ affirmative action programs.

Although there are other justifications for affirmative action, such as the need to make reparation for past discrimination or the desire to prevent historically disadvantaged groups from remaining disadvantaged, schools most often publicly embrace the goal of creating a diverse student body and faculty because

diversity relates directly to their educational mission. Affirmative action programs premised on diversity are less vulnerable to legal challenge because the Supreme Court has deemed the promotion of diversity on university campuses a compelling state interest; schools may thus take race explicitly into account when making admissions decisions.<sup>3</sup> In contrast, affirmative action programs designed as reparation for the harm done by past discrimination are vulnerable to constitutional challenge if a particular school has not itself practiced racial discrimination in the past.<sup>4</sup> Affirmative action programs founded on notions of distributive justice that hope to promote the future success of members of specific racial groups are even more constitutionally vulnerable; the state interest of undoing the consequences of past societal discrimination (as opposed to state-enforced discrimination) in order to insure the future success of a group has been held to be too amorphous an interest to justify taking race into account when making admissions decisions.<sup>5</sup>

My discussion of the structure of many schools' affirmative action programs begins with the premise that race and ethnicity are socially constructed concepts. There is nothing immutable about the definition or content of racial categories. Although people from different "races" share certain gross morphological similarities, there is no gene or cluster of genes that determine race.<sup>6</sup> Whatever physical or genetic differences exist are inconsequential to our daily lives and to public policy. Their only importance is that which we attribute to them. "Race" is thus a conclusion we come to—a category that represents decisions and biases influenced by many different factors. Because race is socially constructed, we can disagree about the proper way to draw racial lines.

Much the same can be said about ethnicity. Indeed, the difference between race and ethnicity is sometimes unclear and contested.<sup>7</sup> Ethnic categories can be seen as divisions among groupings of people within a given "race," generally based more on cultural similarities among people than on perceived physical differences between the group and others.<sup>8</sup> But because ethnicity is related to culture, it is, if anything, a more elusive concept than race. Culture is not an inherited characteristic; it is a practice or group of practices. As such, it too is constructed and, in theory at least, mutable.

The United States Census, for example, has a racial classification for Asians and an ethnic classification for Hispanics. Both categories define people according to their own or their ancestors' geographic origins. But the contours of these categories are subject to debate, as is the question whether these groupings are "racial" or "ethnic" in any meaningful sense at all. Some definitions of the racial category Asian, for example, include persons of Pakistani or Indian descent, while other definitions do not.<sup>9</sup> Some include persons of Pacific Islander descent, while others consider Pacific Islanders racially distinct.<sup>10</sup> Recently, the term Latino has begun to replace the term Hispanic. As the terms have evolved, the definition of the category has also changed. People from Spain can be Hispanic, but they are

generally not considered Latinos, who are persons of Central and South American descent. That people can disagree over who is Asian or Latino (or Hispanic) underlines the social constructedness of race and ethnicity and the blurred line between the two concepts. Professor David Hollinger's observation that the category *Latino* has come to be a category with race-like overtones further emphasizes the constructedness of race. As Hollinger points out, until relatively recently (perhaps twenty years ago) people within this category were generally considered racially "white." But *Latino* is increasingly referred to more and more as a race. In fact, the National Council of La Raza has asked the Census to reclassify *Hispanic* as a race rather than as an ethnicity for the next census.<sup>11</sup>

Because there is no biological definition of race or ethnicity, these concepts must be socially defined. In defining them for the purposes of administering affirmative action in admissions processes, schools must face at least three distinct issues. First, they must decide which individuals belong to which races and ethnicities. For example, is a person Asian American, African American, or something else if her mother is Asian American and her father is African American? Is a person Mexican American or white if her father is Mexican American and her mother is Irish? At what point does she become one race or another, and will the school take into consideration the way she defines herself racially or the way that others define her? Do some groups assimilate more easily than others into racial or ethnic categories not normally included in diversity-based affirmative action programs? Is there a principled basis for a school to conclude, for instance, that a child of one white and one Asian parent is "white," while a child of one white and one African American parent is African American?

Second, schools must determine whether racial or ethnic groups are internally uniform with respect to their contributions to diversity. If a school decides that *Latino* is an ethnic category, and that being a Latino will contribute to diversity, it will ask whether there are a sufficient number of Latinos on campus, but it will not necessarily consider whether there are any Salvadoran, Cuban, or Mexican Americans who attend the school. Even if all of the Latino students happen to be of just one national origin, that school might not notice or care if it is only concerned with making sure that the Latino experience is represented on campus.

Finally, in deciding this question, schools must decide whether they will look to a group's conception of itself or to dominant social conceptions of racial and ethnic groups. These are often different, and this difference forces us to choose between an individual's definition of himself and others' definitions of him. That choice is a critical one for schools seeking to increase diversity. For example, if an individual of Filipino heritage identifies most closely with other Filipino Americans but feels little affinity with Japanese or Chinese Americans, is that person "Asian" in a way that contributes to a school's goal of promoting diversity?

This analysis exposes a subtle but fundamental problem. As affirmative action

programs have expanded to include groups other than African Americans, it has become quite difficult to construct coherent definitions of different racial and ethnic groups and their memberships.<sup>12</sup> This problem arises because many members of the groups schools include in (or, conversely, exclude from) their affirmative action programs do not primarily define themselves in racial, or even in ethnic, terms. Instead, culture, national origin, religion, or how recently they immigrated to the United States may be more important to the self-conception of many individuals than their race or ethnicity. Similarly, rather than identifying with others of the same race or ethnicity, some people identify and form communities with people of the same national origin, who speak the same language,<sup>13</sup> or who face the same problems they do as recent immigrants.

The lack of symmetry between the definition of groups within schools' affirmative action programs and the self-definition of persons within these groups is in tension with the goal of these programs to promote diversity of ideas and viewpoints through group preferences. This lack of symmetry undercuts the assumption that racial and ethnic identity play pivotal roles in defining how the members of these groups perceive and experience the world; it means that race and ethnicity may be less important than other characteristics not taken into account when deciding who should benefit from affirmative action. By choosing race or ethnicity as the proxy for diverse viewpoints and perspectives, schools may fail to consider the factors that members of these groups see as defining themselves and distinguishing themselves from other groups, which they presumably would bring to bear in campus life.

This failure subordinates the individual and group self-conception to the conceptions held by policy makers and administrators, which are likely to reflect dominant social constructions. Such programs, in other words, may fall victim to the same lack of understanding they are supposed to promote. Schools cannot expect to increase the variety of perspectives and experiences on campus without taking seriously the ways in which people actually identify themselves and identify with others. Taking a cue from critical race theorists, schools that seek to promote diversity should look to the actual experiences, history, and cultures of people when they define the groups they wish to include in their affirmative action programs.<sup>14</sup> In doing so, schools should value the actual experience of these groups rather than express dominant social conceptions. Admittedly, any assertion that members of a particular group see themselves in a certain way will necessarily fail to capture the complexity of opinions and experiences among individuals. Thus, any definition of group membership will be subject to the attack I level here against the definition of racial and ethnic groups: all categories are incorrect at some level and for some people. Yet an attempt to see how individuals and groups define themselves and what factors are important in forming a group identity will have at least a comparative advantage over group definitions arrived at with reference only to the dominant social understanding of race and ethnicity.

The racial category *Asian* provides an example of how such categories can undermine the goal of diversity. As touched upon earlier, people categorized racially as Asian often do not view themselves as such, nor do they necessarily feel a sense of identity or kinship with others categorized as Asian. Instead, many Asian Americans define themselves primarily in terms of national origin and feel an affinity with others of the same national origin. Often Asian Americans feel they share common interests and goals with people of the same national origin but not with people with different national ancestry.<sup>15</sup> Filipino Americans, for example, often feel that Japanese and Chinese American interests and goals differ from their own and that aligning with Japanese and Chinese Americans would undercut the progress of Filipino Americans.<sup>16</sup> Other cleavages between different national origin groups can be traced back to age-old historical conflicts like those between Japanese and Koreans. Linguistic, cultural, and religious differences also make a unified Asian American identity difficult.<sup>17</sup>

Complex Asian immigration patterns complicate issues of racial identity further. For example, 63 percent of Chinese Americans are foreign born,<sup>18</sup> as are more than 75 percent of Filipinos.<sup>19</sup> In contrast, only 28 percent of Japanese Americans are foreign born.<sup>20</sup> Many foreign-born Asians see themselves as Chinese, Cambodian, or Filipino, not as “Chinese American,” “Cambodian American,” or “Filipino American,” and they have little in common with, and thus feel little affinity toward, their American-born counterparts.<sup>21</sup> Linguistic and cultural differences have made for little commonality of experience upon which common identity might be forged.

A multilayered diversity of experience, culture, and identity thus exists within the racial group *Asian American*. This diversity makes itself apparent in political affiliations and attitudes on social issues.<sup>22</sup> An immigrant who fled communist Vietnam may have a different opinion on American military support for anticommunist factions than would a third-generation Japanese American; a wealthy Taiwanese American businessperson may have no interest in providing low-income housing in Chinatown.<sup>23</sup> It can be argued that the category *Asian American* makes little sense in light of historic animosities, linguistic differences, cultural distinctions, and diverse experiences as immigrants.<sup>24</sup> Professor Bill Ong Hing notes that “the diversity of Asian America” calls into question the very notion of a unified racial identity.<sup>25</sup> Individuals from some Asian national origin groups may share little more than “similar racial features in a predominately white society”<sup>26</sup> and the experience of discrimination because they are “Asian.”

This is not to say that the racial category *Asian American* is meaningless to all who fall into it. Some people do see themselves as Asian. For example, American-born Chinese and Japanese Americans whose ancestors immigrated to the United States decades ago often do identify themselves as Asian American.<sup>27</sup> This raises a different problem, however. American-born Japanese, Chinese, and Korean Americans are the Asian Americans most likely to attend college without the help

of affirmative action.<sup>28</sup> Schools that are attuned only to the absolute numbers of Asians in attendance may find that, while many Japanese, Chinese, and Korean Americans are present, other groups, such as Filipinos, Southeast Asians, and Pacific Islanders are nearly absent. Moreover, American-born Japanese, Chinese, and Korean Americans may have little in common with these other Asian groups.

The idea that different Asian nationalities identify with one another implies that one group can in some situations represent the interests of another. This idea is likely correct in many circumstances. But Professor Hing is rightly troubled by the idea “that Japanese and Chinese Americans . . . are viewed by others as spokespersons for Vietnamese or Asian Indians” because too often that has meant “a de facto incorporation or loss of identity for other Asian Americans. Japanese and/or Chinese American experiences cannot duplicate the Vietnamese refugee, Asian Indian, Korean, or Pacific Islander immigrant experience.”<sup>29</sup>

Persons who fall into the racial or ethnic category *Latino*, or *Hispanic*, similarly tend not to identify themselves primarily as Latinos or Hispanics. For example, in a recent study 82 percent of American-born Cubans, 55 percent of Mexican Americans, and 49 percent of Puerto Ricans identified themselves as racially white, while very few of the Cubans, and less than half of the Mexican Americans and Puerto Ricans surveyed, identified themselves as racially Latino.<sup>30</sup> Although this result may be to some degree problematic because many consider *Latino* an ethnicity, not a race, it nonetheless underscores the lack of resonance *Latino* has for many persons who might fit into that category.<sup>31</sup> Equally troubling for diversity programs that seek to increase the number of “Latinos” on campus is the fact that persons from the different national origins included in the group *Latino* also report feeling little cultural affiliation with one another. Cuban Americans, Mexican Americans, and Puerto Ricans say they feel closer to whites than to any of the other Latino national origin groups.<sup>32</sup> These groups also report that they have little contact with people from other nationalities, which may account for some of the lack of Latino identity.<sup>33</sup>

To complicate matters further, one cannot make meaningful generalizations about the socioeconomic status of the groups *Latinos* or *Asians*. To say that Asians are a model minority is to ignore that the category contains wide disparities in wealth and education, many of which track national origin divisions and recency of immigration.<sup>34</sup> For example, Laotians, Hmong, and Cambodians have poverty rates far above the national average, while Japanese, Chinese, Koreans, and Filipinos have poverty rates far below the national average.<sup>35</sup> Furthermore, even though the Filipino poverty rate is very low, school-age Filipino Americans are far less likely to attend college or professional school than are Japanese, Chinese, and Korean Americans.<sup>36</sup>

Similarly, on average Cuban Americans tend to be far better educated than either Puerto Ricans or Mexican Americans.<sup>37</sup> Cubans are also on average less

likely to live in poverty than Mexican Americans, Puerto Ricans, or Central or South Americans.<sup>38</sup> Some schools, including Stanford, have noticed this fact and have chosen to include Mexican Americans but not Cubans in their diversity programs.<sup>39</sup> Oddly, though, schools tend not to make the same differentiations within the race of Asians.

Moreover, all of these groups have very different experiences as immigrants. Indeed, national origin communicates little about the immigrant experience because there have been waves of immigration from a single country. For example, descendants of nineteenth-century Chinese immigrants have a vastly different history from those who immigrated in the 1960s and from those now immigrating. Third-generation Chinese Americans bring different experiences and perspectives to the university than those of recent Chinese immigrants. The experience of Latino immigrants also varies greatly for different national origin groups. Many Cuban immigrants are, or are the descendants of, political refugees who fled communist Cuba, while most Mexican immigrants have come to the United States because of poor economic conditions at home. Some Mexican Americans are not the descendants of immigrants at all; their ancestors were already living in the Southwest when it was annexed by the United States. Many Puerto Ricans have come to the United States with the intention of returning home, and many do. (As United States citizens, Puerto Ricans are not even technically immigrants.) Because these groups have each had such different immigration experiences, their contribution to a school's diversity will also be very different.

The foregoing suggests that categorization by race or ethnicity fails to capture the complexity of social experience of many groups and their members. Diversity programs that use race or ethnicity as proxies for diversity of social experience and social affiliation may thus fail to capture accurately the perceptions and experiences of the groups they seek to include. As a result, real diversity may suffer. Thus, when deciding whom to admit through affirmative action, schools should pay closer attention to the ways in which individuals and groups define themselves rather than defaulting to the socially dominant understanding of who belongs to what race or ethnicity. Instead of having students "check the box" for a given racial or ethnic category, schools could ask more open-ended questions, perhaps asking applicants to explain how they define themselves racially, ethnically, or otherwise. Giving students a limited range of racial or ethnic categories to choose from presupposes strong affiliations even when in actuality they may be weak. From the responses to these questions, schools could devise categories that more accurately reflect different groups' and individuals' conceptions of identity and affiliation.

If the use of race and ethnicity as proxies for diversity of thought and experience is not an effective means of promoting such diversity, then the idea of affirmative action based on race or ethnicity may be undermined, at least insofar



as it is meant to achieve diversity. At the very least, this insight requires us to change our conclusions about how to define the groups that we think must be included to achieve diversity. Such altered definitions may in turn affect our conclusions as to which groups ought to benefit from affirmative action. If we resist giving up affirmative action based on race or ethnicity as a method to increase diversity on campus, it may not be because we fear that schools will become less diverse in the ideas and attitudes represented on campus; we may instead resist because we are motivated by goals other than diversity, such as reparations or distributive justice. Although race and ethnicity may not accurately reflect the self-perception of many groups, these categories are socially salient because throughout our history people have been given better or worse treatment based on their perceived race or ethnicity. Racial and ethnic categories may not serve the educational mission of diversity very well, but they may do a better job of serving the goals of reparations and distributive justice. Schools may feel constrained, however, to limit their stated objectives to diversity and to conceal genuine redistributive or reparative objectives because of *Bakke*, which allows schools to take race explicitly into account to promote educational diversity, but greatly limits their ability to do so for the purposes of reparations or distributive justice. Complete candor may be too risky.

Putting *Bakke* to the side for analytic purposes, however, a school can tailor an affirmative action program to fulfill its true goals only if it is clear about the nature of these goals. Different objectives will lead to different conclusions about which groups should be included in an affirmative action program and how these groups should be defined. If a school is motivated by distributive goals, race-based programs work well for some groups but less well for others.<sup>40</sup> For example, a school could defensibly grant affirmative action preferences to African Americans on the theory that affirmative action would help improve the socioeconomic status and political power of African Americans as a group. The long history of discrimination against African Americans and the importance of race to the social identity of African Americans make race a fairly useful category for analysis and for achieving the goals of distributive justice and reparations.<sup>41</sup>

It would be much more difficult, however, to make an analogous argument with regard to Latinos. Because Latino panethnic identity is relatively weak compared to other kinds of affiliations, granting affirmative action to racially or ethnically Latino students would likely not serve a school's distributive or reparative goals. A program more sensitive to differences among Latino nationalities and the complexities of Latino group affiliation would probably serve these goals better.

The point is that in the last analysis schools should be sensitive to the actual group identities and social affiliations of students and applicants, whatever the purpose of an affirmative action program, whether it be to promote diversity, or to grant reparations, or to promote distributive justice. If schools rely only on

dominant social understandings of race and ethnicity, their affirmative action programs will be handicapped.

## Notes

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1. See Paul Brest and Miranda Oshige, "Affirmative Action for Whom?" *Stanford Law Review* 47 (1995): 855, 860–61, 862–63.
2. Stanford University's affirmative action program is fairly typical of university affirmative action programs. Stanford aims to admit a "class characterized by diversity in terms of academic interests, artistic and athletic accomplishments, leadership qualities, and ethnic and social backgrounds." Stanford gives special admissions consideration to African Americans, Native Americans, and Mexican Americans. Gerhard Casper, "President Casper's Statement on Affirmative Action," reprinted in *Stanford Observer*, Fall 1995, 22. Stanford's inclusion of Mexican Americans rather than all members of the race (or ethnicity) of Latinos is interesting because it is an example of a school granting affirmative action based on a person's national origin rather than race. Interestingly, though, Stanford excludes all Asian Americans from its affirmative action program even though not all Asian national origin groups are well-represented on university campuses. See text accompanying notes 28–29.
3. *Regents of University of California v. Bakke*, 438 US 265, 312 (1978) (Powell, J.). Schools, however, may only consider race a "plus factor" and cannot have different sets of admissions criteria for persons of different races. *Ibid.*, 317.
4. *Ibid.*, 307.    5. *Ibid.*, 310.
6. L. Luca Cavalli-Sforza, Paolo Menozzi, and Alberto Piazza, *The History and Geography of Human Genes* (Princeton, 1994).
7. David A. Hollinger, *Postethnic America: Beyond Multiculturalism* (New York, 1995), 33.
8. *Ibid.*, 36.
9. Professor Bill Ong Hing, for example, includes Asian Indians in his study of Asian Americans because they share with other Asians a common experience of being defined by others as "Asian." He recognizes, however, that some might take issue with his doing so because the "unique racial features" of Asian Indians "supposedly set them apart from Chinese, Japanese, and Vietnamese" and because they have a distinctive culture. Bill Ong Hing, *Making and Remaking Asian America Through Immigration Policy, 1850–1990* (Stanford, 1993), 14.
10. The United States Census seems to consider Asians and Pacific Islanders one racial group. One of its collections of statistical data on socioeconomic status is entitled "Asians and Pacific Islanders in the United States." See also Paul Ong, ed., *The State of Asian Pacific America: Economic Diversity, Issues, and Policies* (Los Angeles, 1994).
11. Hollinger, *Postethnic America*, 31–33.
12. I should be clear that my discussion of the weakness of racial and ethnic identity probably does not apply, for the most part, to African Americans. The research Paul Brest and I have done indicates that schools rightly assume that the racial category *African American* is quite important to the social identity of the people generally considered to be African American: nearly all people identified by others as being African American

- also identify themselves as African American. Christopher Jencks, *Rethinking Social Policy: Race, Poverty, and the Underclass* (Cambridge, Mass., 1993), 29. Furthermore, this category appears to have a great deal of meaning for most African Americans. For example, many successful middle- and upper-class African Americans feel that they have a responsibility to help other African Americans and to give to that community. Lois Benjamin, *The Black Elite: Facing the Color Line in the Twilight of the Twentieth Century* (Chicago, 1991), 13. Of course other bases for social identity, such as language or national origin, have historically been denied to African Americans, except for recent immigrants, because of slavery.
13. Ian F. Haney Lopez, "The Social Construction of Race: Some Observations on Illusion, Fabrication, and Choice," *Harvard Civil Rights-Civil Liberties Law Review* 29 (1994): 1, 9 n. 34.
  14. See Mari J. Matsuda, "Looking to the Bottom: Critical Legal Studies and Reparations," *Harvard Civil Rights-Civil Liberties Law Review* 22 (1987): 323, 325.
  15. Brest and Oshige, "Affirmative Action," 895–96.
  16. Yen Le Espiritu, *Asian American Panethnicity: Bridging Institutions and Identities* (Philadelphia, 1992), 104.
  17. Hing, *Making and Remaking*, 172.
  18. Ronald Takaki, *Strangers from a Different Shore: A History of Asian Americans* (Boston, 1989), 421.
  19. *Ibid.*, 432.    20. *Ibid.*, 421.
  21. Hing, *Making and Remaking*, 178.
  22. *Ibid.*, 172.    23. *Ibid.*    24. *Ibid.*, 173.
  25. *Ibid.*, 171.    26. *Ibid.*, 175.
  27. Espiritu, *Panethnicity*, 29.
  28. See L. Ling-chi Wang, "Trends in Admissions for Asian Americans in Colleges and Universities: Higher Education Policy," in *The State of Asian Pacific America: Policy Issues to the Year 2020* (Los Angeles, 1993), 49, 55.
  29. Hing, *Making and Remaking*, 177.
  30. Rodolfo O. de la Garza et al., *Latino Voices: Mexican, Puerto Rican, and Cuban Perspectives on American Politics* (Boulder, Colo., 1992), 23.
  31. It may also reflect the advantage identifying as white has rather than any sense of cultural affiliation as white. Haney Lopez, "Social Construction," 28.
  32. De la Garza et al., *Latino Voices*, 66–67.
  33. *Ibid.*, 67–68.
  34. See Brest and Oshige, "Affirmative Action," 892–93.
  35. Bureau of the Census, *Asians and Pacific Islanders in the United States, 1990* (Washington, D.C., 1993), 5, table 5.
  36. Espiritu, *Panethnicity*, 107.
  37. Bureau of the Census, *Persons of Hispanic Origin in the United States, 1990* (Washington, D.C., 1993), 81–83, table 3.
  38. *Ibid.*, 157–59, 163, 174, table 5.
  39. Stanford Law School also includes Puerto Ricans in addition to Mexican Americans in its diversity program, but not Cubans. Brest and Oshige, "Affirmative Action," 855.
  40. For a much more extensive exploration of the importance of group identity and affiliation to the success of affirmative action programs intended to promote distributive justice or provide reparations for past discrimination, see generally *ibid.*, esp. section 3.
  41. *Ibid.*, 877–80.