

What is Wrong with Reverse Discrimination?

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Many people think it obvious that reverse discrimination is unjust. Calling affirmative action reverse discrimination itself suggests this. This discussion evaluates numerous reasons given for this alleged injustice. Most of these accounts of what is wrong with reverse discrimination are found to be deficient. The explanations for why reverse discrimination is morally troubling show only that it is unjust in a relatively weak sense. This result has an important consequence for the wider issue of the moral justifiability of affirmative action. If social policies which involve minor injustice are permissible (and perhaps required) when they are required in order to overcome much greater injustice, then the mild injustice of reverse discrimination is easily overridden by its contribution to the important social goal of dismantling our sexual and racial caste system.¹

By 'reverse discrimination' or 'affirmative action' I shall mean hiring or admitting a slightly less well qualified woman or black, rather than a slightly more qualified white male,² for the purpose of helping to eradicate sexual and/or racial inequality, or for the purpose of compensating women and blacks for the burdens and injustices they have suffered due to past and ongoing sexism and racism.³ There are weaker forms of affirmative action, such as giving preference to minority candidates only when qualifications are equal, or providing special educational opportunities for youths in disadvantaged groups. This paper seeks to defend the more controversial sort of reverse discrimination defined above. I begin by considering several spurious objections to reverse discrimination. In the second part, I identify the ways in which this policy is morally troubling and then assess the significance of these negative features.

Spurious Objections

1. Reverse Discrimination As Equivalent To Racism And Sexism

In a discussion on national television, George Will, the conservative news analyst and political philosopher, articulated the most common objection to reverse discrimination. It is unjust, he said, because it is discrimination on the basis of race or sex. Reverse discrimination against white males is the same evil as traditional discrimination against women and blacks. The only difference is that in this case it is the white male who is being discriminated against. Thus if traditional racism and sexism are wrong and unjust, so is reverse discrimination, and for the very same reasons.

But reverse discrimination is not at all like traditional sexism and racism. The motives and intentions behind it are completely different, as are its consequences. Consider some of the motives underlying traditional racial discrimination.⁴ Blacks were not hired or allowed into schools because it was felt that contact with them was degrading, and sullied whites. These policies were based on contempt and loathing for blacks, on a feeling that blacks were suitable only for subservient positions and that they should never have positions of authority over whites. Slightly better qualified white males are not being turned down under affirmative action for any of these reasons. No defenders or practitioners of affirmative action (and no significant segment of the general public) think that contact with white males is degrading or sully, that white males are contemptible and loathsome, or that white males--by their nature--should be subservient to blacks or women.

The consequences of these two policies differ radically as well. Affirmative action does not stigmatize white males; it does not perpetuate unfortunate stereotypes about white males; it is not part of a pattern of discrimination that makes being a white male incredibly burdensome.⁵ Nor does it add to a particular group's "already overabundant supply" of power, authority, wealth, and opportunity, as does traditional racial and sexual discrimination.⁶ On the contrary, it results in a more egalitarian distribution of these social and economic benefits. If the motives and consequences of reverse discrimination and of traditional racism and sexism are completely different, in what sense could they be morally equivalent acts? If acts are to be individuated (for moral purposes) by including the motives, intentions, and consequences in their description, then clearly these two acts are not identical.

It might be argued that although the motives and consequences are different, the act itself is the same: reverse discrimination is discrimination on the basis of race and sex, and this is wrong in itself independently of its motives or consequences. But discriminating (i.e., making distinctions in how one treats people) on the basis of race or sex is not always wrong, nor is it necessarily unjust. It is not wrong, for example, to discriminate against one's own sex when choosing a spouse. Nor is racial or sexual discrimination in hiring necessarily wrong. This is shown by Peter Singer's example in which a director of a play about ghetto conditions in New York City refuses to consider any white applicants for the actors because she wants the play to be authentic.⁷ If I am looking for a representative of the black community, or doing a study about blacks and disease, it is perfectly legitimate to discriminate against all whites. Their whiteness makes them unsuitable for my (legitimate) purposes. Similarly, if I am hiring a wet-nurse, or a person to patrol the women's change rooms in my department store, discriminating against males is perfectly legitimate.

These examples show that racial and sexual discrimination are not wrong in themselves. This is not to say that they are never wrong; most often they clearly are. Whether or not they are wrong, however, depends on the purposes, consequences, and context of such discrimination.

2. Race And Sex As Morally Arbitrary And Irrelevant Characteristics

A typical reason given for the alleged injustice of all racial and sexual discrimination (including affirmative action) is that it is morally arbitrary to consider race or sex when hiring, since these characteristics are not relevant to the decision. But the above examples show that not all uses of race or sex as a criterion in hiring decisions are morally arbitrary or irrelevant. Similarly, when an affirmative action officer takes into account race and sex, use of these characteristics is not morally irrelevant or arbitrary. Since affirmative action aims to help end racial and sexual inequality by providing black and female role models for minorities (and non-minorities), the race and sex of the job candidates are clearly relevant to the decision. There is nothing arbitrary about the affirmative action officer focusing on race and sex. Hence, if reverse discrimination is wrong, it is not wrong for the reason that it uses morally irrelevant and arbitrary characteristics to distinguish between applicants.

3. Reverse Discrimination As Unjustified Stereotyping

It might be argued that reverse discrimination involves judging people by alleged average characteristics of a class to which they belong, instead of judging them on the basis of their individual characteristics, and that such judging on the basis of stereotypes is unjust. But the defense of affirmative action suggested in this paper does not rely on stereotyping. When an employer hires a slightly less well qualified woman or black over a slightly more qualified white male for the purpose of helping to overcome sexual and racial inequality, she judges the applicants on the basis of their individual characteristics. She uses this person's sex or skin color as a mechanism to help achieve the goals of affirmative action. Individual characteristics of the white male (his skin color and sex) prevent him from serving one of the legitimate goals of employment policies, and he is turned down on this basis.

Notice that the objection does have some force against those who defend reverse discrimination on the grounds of compensatory justice. An affirmative action policy whose purpose is to compensate women and blacks for past and current injustices judges that women and blacks on the average are owed greater compensation than are white males. Although this is true, opponents of affirmative action argue that some white males have been more severely and unfairly disadvantaged than some women and blacks.⁸ A poor white male from Appalachia may have suffered greater undeserved disadvantages than the upper-middle class woman or black with whom he competes. Although there is a high correlation between being female (or being black) and being especially owed compensation for unfair disadvantages suffered, the correlation is not universal.

Thus defending affirmative action on the grounds of compensatory justice may lead to unjust treatment of white males in individual cases. Despite the fact that certain white males are owed greater compensation than are some women or blacks, it is the latter that receive compensation. This is the result of judging candidates for jobs on the basis of the average characteristics of their class, rather than on the basis of their individual characteristics. Thus compensatory justice defenses of reverse discrimination may involve potentially problematic stereotyping.⁹ But this is not the defense of affirmative action considered here.

4. Failing To Hire The Most Qualified Person Is Unjust

One of the major reasons people think reverse discrimination is unjust is because they think that the most qualified person should get the job. But why should the most qualified person be hired?

a. Efficiency

One obvious answer to this question is that one should hire the most qualified person because doing so promotes efficiency. If job qualifications are positively correlated with job performance, then the more qualified person will tend to do a better job. Although it is not always true that there is such a correlation, in general there is, and hence this point is well taken. There are short term efficiency costs of reverse discrimination as defined here.¹⁰

Note that a weaker version of affirmative action has no such efficiency costs. If one hires a black or woman over a white male only in cases where qualifications are roughly equal, job performance will not be affected. Furthermore, efficiency costs will be a function of the qualifications gap between the black or woman hired, and the white male rejected: the larger the gap, the greater the efficiency costs.¹¹ The existence of efficiency costs is also a function of the type of work performed. Many of the jobs in our society are ones which any normal person can do (e.g., assembly line worker, janitor, truck driver, etc.). Affirmative action hiring for these positions is unlikely to have significant efficiency costs (assuming whoever is hired is willing to work hard). In general, professional positions are the ones in which people's performance levels will vary significantly, and hence these are the jobs in which reverse discrimination could have significant efficiency costs.

While concern for efficiency gives us a reason for hiring the most qualified person, it in no way explains the alleged injustice suffered by the white male who is passed over due to reverse discrimination. If the affirmative action employer is treating the white male unjustly, it is not because the hiring policy is inefficient. Failing to maximize efficiency does not generally involve acting unjustly. For instance, a person who carries one bag of groceries at a time, rather than two, is acting inefficiently, though not unjustly.

It is arguable that the manager of a business who fails to hire the most qualified person (and thereby sacrifices some efficiency) treats the owners of

the company unjustly, for their profits may suffer, and this violates one conception of the manager's fiduciary responsibility to the shareholders. Perhaps the administrator of a hospital who hires a slightly less well qualified black doctor (for the purposes of affirmative action) treats the future patients at that hospital unjustly, for doing so may reduce the level of health care they receive (and it is arguable that they have a legitimate expectation to receive the best health care possible for the money they spend). But neither of these examples of inefficiency leading to injustice concern the white male "victim" of affirmative action, and it is precisely this person who the opponents of reverse discrimination claim is being unfairly treated.

To many people, that a policy is inefficient is a sufficient reason for condemning it. This is especially true in the competitive and profit oriented world of business. However, profit maximization is not the only legitimate goal of business hiring policies (or other business decisions). Businesses have responsibilities to help heal society's ills, especially those (like racism and sexism) which they in large part helped to create and perpetuate. Unless one takes the implausible position that business' only legitimate goal is profit maximization, the efficiency costs of affirmative action are not an automatic reason for rejecting it. And as we have noted, affirmative action's efficiency costs are of no help in substantiating and explaining its alleged injustice to white males.

b. The Most Qualified Person Has A Right To The Job

One could argue that the most qualified person for the job has a right to be hired in virtue of superior qualifications. On this view, reverse discrimination violates the better qualified white male's right to be hired for the job. But the most qualified applicant holds no such right. If you are the best painter in town, and a person hires her brother to paint her house, instead of you, your rights have not been violated. People do not have rights to be hired for particular jobs (though I think a plausible case can be made for the claim that there is a fundamental human right to employment). If anyone has a right in this matter, it is the employer. This is not to say, of course, that the employer cannot do wrong in her hiring decision; she obviously can. If she hires a white because she loathes blacks, she does wrong. The point is that her wrong does not consist in violating the right some candidate has to her job (though this would violate other rights of the candidate).

c. The Most Qualified Person Deserves The Job

It could be argued that the most qualified person should get the job because she deserves it in virtue of her superior qualifications. But the assumption that the person most qualified for a job is the one who most deserves it is problematic. Very often people do not deserve their qualifications, and hence they do not deserve anything on the basis of those qualifications.¹² A person's qualifications are a function of at least the following factors: (a) innate abilities, (b) home environment, (c) socio-economic class of parents, (d) quality of the schools attended, (e) luck, and (f) effort or perseverance. A person is only responsible for the last factor on this list, and hence one only deserves one's qualifications to the extent that they are a function of effort.¹³

It is undoubtedly often the case that a person who is less well qualified for a job is more deserving of the job (because she worked harder to achieve those lower qualifications) than is someone with superior qualifications. This is frequently true of women and blacks in the job market: they worked harder to overcome disadvantages most (or all) white males never faced. Hence, affirmative action policies which permit the hiring of slightly less well qualified candidates may often be more in line with considerations of desert than are the standard meritocratic procedures.

The point is not that affirmative action is defensible because it helps insure that more deserving candidates get jobs. Nor is it that desert should be the only or even the most important consideration in hiring decisions. The claim is simply that hiring the most qualified person for a job need not (and quite often does not) involve hiring the most deserving candidate. Hence the intuition that morality requires one to hire the most qualified people cannot be justified on the grounds that these people deserve to be hired.¹⁴

d. The Most Qualified Person Is Entitled To The Job

One might think that although the most qualified person neither deserves the job nor has a right to the job, still this person is entitled to the job. By 'entitlement' in this context, I mean a natural and legitimate expectation based on a type of social promise. Society has implicitly encouraged the belief that the most qualified candidate will get the job. Society has set up a competition and the prize is a job which is awarded to those applying with the best qualifications. Society thus reneges on an implicit promise it has made

to its members when it allows reverse discrimination to occur. It is dashing legitimate expectations it has encouraged. It is violating the very rules of a game it created.

Furthermore, the argument goes, by allowing reverse discrimination, society is breaking an explicit promise (contained in the Civil Rights Act of 1964) that it will not allow race or sex to be used against one of its citizens. Title VII of that Act prohibits discrimination in employment on the basis of race or sex (as well as color, religion, or national origin).

In response to this argument, it should first be noted that the above interpretation of the Civil Rights Act is misleading. In fact, the Supreme Court has interpreted the Act as allowing race and sex to be considered in hiring or admission decisions.¹⁵ More importantly, since affirmative action has been an explicit national policy for the last twenty years (and has been supported in numerous court cases), it is implausible to argue that society has promised its members that it will not allow race or sex to outweigh superior qualifications in hiring decisions. In addition, the objection takes a naive and utopian view of actual hiring decisions. It presents a picture of our society as a pure meritocracy in which hiring decisions are based solely on qualifications. The only exception it sees to these meritocratic procedures is the unfortunate policy of affirmative action. But this picture is dramatically distorted. Elected government officials, political appointees, business managers, and many others clearly do not have their positions solely or even mostly because of their qualifications.¹⁶ Given the widespread acceptance in our society of procedures which are far from meritocratic, claiming that the most qualified person has a socially endorsed entitlement to the job is not believable.

5. Undermining Equal Opportunity For White Males

It has been claimed that the right of white males to an equal chance of employment is violated by affirmative action.¹⁷ Reverse discrimination, it is said, undermines equality of opportunity for white males.

If equality of opportunity requires a social environment in which everyone at birth has the roughly the same chance of succeeding through the use of his or her natural talents, then it could well be argued that given the social, cultural, and educational disadvantages placed on women and blacks, preferential treatment of these groups brings us closer to equality of opportunity. White males are full members of the community in a way in

which women and blacks are not, and this advantage is diminished by affirmative action. Affirmative action takes away the greater than equal opportunity white males generally have, and thus it brings us closer to a situation in which all members of society have an equal chance of succeeding through the use of their talents.

It should be noted that the goal of affirmative action is to bring about a society in which there is equality of opportunity for women and blacks without preferential treatment of these groups. It is not the purpose of the sort of affirmative action defended here to disadvantage white males in order to take away the advantage a sexist and racist society gives to them. But noticing that this occurs is sufficient to dispel the illusion that affirmative action undermines the equality of opportunity for white males.¹⁸

Legitimate Objections

The following two considerations explain what is morally troubling about reverse discrimination.

1. Judging On The Basis Of Involuntary Characteristics

In cases of reverse discrimination, white males are passed over on the basis of membership in a group they were born into. When an affirmative action employer hires a slightly less well qualified black (or woman), rather than a more highly qualified white male, skin color (or sex) is being used as one criterion for determining who gets a very important benefit. Making distinctions in how one treats people on the basis of characteristics they cannot help having (such as skin color or sex) is morally problematic because it reduces individual autonomy. Discriminating between people on the basis of features they can do something about is preferable, since it gives them some control over how others act towards them. They can develop the characteristics others use to give them favorable treatment and avoid those characteristics others use as grounds for unfavorable treatment.¹⁹

For example, if employers refuse to hire you because you are a member of the American Nazi Party, and if you do not like the fact that you are having a hard time finding a job, you can choose to leave the party. However, if a white male is having trouble finding employment because slightly less well

qualified women and blacks are being given jobs to meet affirmative action requirements, there is nothing he can do about this disadvantage, and his autonomy is curtailed.²⁰

Discriminating between people on the basis of their involuntary characteristics is morally undesirable, and thus reverse discrimination is also morally undesirable. Of course, that something is morally undesirable does not show that it is unjust, nor that it is morally unjustifiable.

How morally troubling is it to judge people on the basis of involuntary characteristics? Notice that our society frequently uses these sorts of features to distinguish between people. Height and good looks are characteristics one cannot do much about, and yet basketball players and models are ordinarily chosen and rejected on the basis of precisely these features. To a large extent our intelligence is also a feature beyond our control, and yet intelligence is clearly one of the major characteristics our society uses to determine what happens to people.

Of course there are good reasons why we distinguish between people on the basis of these sorts of involuntary characteristics. Given the goals of basketball teams, model agencies, and employers in general, hiring the taller, better looking, or more intelligent person (respectively) makes good sense. It promotes efficiency, since all these people are likely to do a better job. Hiring policies based on these involuntary characteristics serve the legitimate purposes of these businesses (e.g. profit and serving the public), and hence they may be morally justified despite their tendency to reduce the control people have over their own lives.

This argument applies to reverse discrimination as well. The purpose of affirmative action is to help eradicate racial and sexual injustice. If affirmative action policies help bring about this goal, then they can be morally justified despite their tendency to reduce the control white males have over their lives.

In one respect this sort of consequentialist argument is more forceful in the case of affirmative action. Rather than merely promoting the goal of efficiency (which is the justification for businesses hiring naturally brighter, taller, or more attractive individuals), affirmative action promotes the non-utilitarian goal of an egalitarian society. In general, promoting a consideration of justice (such as equality) is more important than is promoting efficiency or utility.²¹ Thus in terms of the importance of the objective, this consequentialist argument is stronger in the case of affirmative action. If one can justify reducing individual autonomy on the grounds that it promotes

efficiency, one can certainly do so on the grounds that it reduces the injustice of racial and sexual inequality.

2. Burdening White Males Without Compensation

Perhaps the strongest moral intuition concerning the wrongness of reverse discrimination is that it is unfair to job seeking white males. It is unfair because they have been given an undeserved disadvantage in the competition for employment; they have been handicapped because of something that is not their fault. Why should white males be made to pay for the sins of others?

It would be a mistake to argue for reverse discrimination on the grounds that white males deserve to be burdened and that therefore we should hire women and blacks even when white males are better qualified.²² Young white males who are now entering the job market are not more responsible for the evils of racial and sexual inequality than are other members of society. Thus, reverse discrimination is not properly viewed as punishment administered to white males.

The justification for affirmative action supported here claims that bringing about sexual and racial equality necessitates sacrifice on the part of white males who seek employment. An important step in bringing about the desired egalitarian society involves speeding up the process by which women and blacks get into positions of power and authority. This requires that white males find it harder to achieve these same positions. But this is not punishment for deeds done.

Thomas Nagel's helpful analogy is state condemnation of property under the right of eminent domain for the purpose of building a highway. Forcing some in the community to move in order that the community as a whole may benefit is unfair. Why should these individuals suffer rather than others? The answer is: Because they happen to live in a place where it is important to build a road. A similar response should be given to the white male who objects to reverse discrimination with the same "Why me?" question. The answer is: Because job seeking white males happen to be in the way of an important road leading to the desired egalitarian society. Job-seeking white males are being made to bear the brunt of the burden of affirmative action because of accidental considerations, just as are homeowners whose property is condemned in order to build a highway.

This analogy is extremely illuminating and helpful in explaining the nature of reverse discrimination. There is, however, an important dissimilarity that Nagel does not mention. In cases of property condemnation, compensation is paid to the owner. Affirmative action policies, however, do not compensate white males for shouldering this burden of moving toward the desired egalitarian society. So affirmative action is unfair to job seeking white males because they are forced to bear an unduly large share of the burden of achieving racial and sexual equality without being compensated for this sacrifice. Since we have singled out job seeking white males from the larger pool of white males who should also help achieve this goal, it seems that some compensation from the latter to the former is appropriate.²⁴

This is a serious objection to affirmative action policies only if the uncompensated burden is substantial. Usually it is not. Most white male "victims" of affirmative action easily find employment. It is highly unlikely that the same white male will repeatedly fail to get hired because of affirmative action.²⁵ The burdens of affirmative action should be spread as evenly as possible among all the job seeking white males. Furthermore, the burden job seeking white males face--of finding it somewhat more difficult to get employment--is inconsequential when compared to the burdens ongoing discrimination places on women and blacks.²⁶ Forcing job seeking white males to bear an extra burden is acceptable because this is a necessary step toward achieving a much greater reduction in the unfair burdens our society places on women and blacks. If affirmative action is a necessary mechanism for a timely dismantlement of our racial and sexual caste system, the extra burdens it places on job seeking white males are justified.

Still the question remains: Why isn't compensation paid? When members of society who do not deserve extra burdens are singled out to sacrifice for an important community goal, society owes them compensation. This objection loses some of its force when one realizes that society continually places undeserved burdens on its members without compensating them. For instance, the burden of seeking efficiency is placed on the shoulders of the least naturally talented and intelligent. That one is born less intelligent (or otherwise less talented) does not mean that one deserves to have reduced employment opportunities, and yet our society's meritocratic hiring procedures make it much harder for less naturally talented members to find meaningful employment. These people are not compensated for their sacrifices either.

Of course, pointing out that there are other examples of an allegedly problematic social policy does not justify that policy. Nonetheless, if this analogy is sound, failing to compensate job-seeking white males for the sacrifices placed on them by reverse discrimination is not without precedent. Furthermore, it is no more morally troublesome than is failing to compensate less talented members of society for their undeserved sacrifice of employment opportunities for the sake of efficiency.

Conclusion

This article has shown the difficulties in pinpointing what is morally troubling about reverse discrimination. The most commonly heard objections to reverse discrimination fail to make their case. Reverse discrimination is not morally equivalent to traditional racism and sexism since its goals and consequences are entirely different, and the act of treating people differently on the basis of race or sex is not necessarily morally wrong. The race and sex of the candidates are not morally irrelevant in all hiring decisions, and affirmative action hiring is an example where discriminating on the basis of race or sex is not morally arbitrary. Furthermore, affirmative action can be defended on grounds that do not involve stereotyping. Though affirmative action hiring of less well qualified applicants can lead to short run inefficiency, failing to hire the most qualified applicant does not violate this person's rights, entitlements, or deserts. Additionally, affirmative action hiring does not generally undermine equal opportunity for white males.

Reverse discrimination is morally troublesome in that it judges people on the basis of involuntary characteristics and thus reduces the control they have over their lives. It also places a larger than fair share of the burden of achieving an egalitarian society on the shoulders of job seeking white males without compensating them for this sacrifice. But these problems are relatively minor when compared to the grave injustice of racial and sexual inequality, and they are easily outweighed if affirmative action helps alleviate this far greater injustice.²⁷

Notes

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1. Thomas Nagel uses the phrase "racial caste system" in his illuminating testimony before the Subcommittee on the Constitution of the Senate Judiciary Committee, on June 18, 1981. This testimony is reprinted as "A Defense of Affirmative Action" in *Ethical Theory and Business*, 2nd edition, ed. Tom Beauchamp and Norman Bowie (Englewood Cliffs, NJ: Prentice-Hall, 1983), pp. 483-487.

2. What should count as qualifications is controversial. By 'qualifications' I refer to such things as grades, test scores, prior experience, and letters of recommendation. I will not include black skin or female sex in my use of 'qualification,' though there are strong arguments for counting these as legitimate qualifications (in the sense of characteristics which would help the candidate achieve the legitimate goals of the hiring or admitting institution). For these arguments see Ronald Dworkin, "Why Bakke Has No Case," *The New York Review of Books*, November 10th, 1977.

3. This paper assumes the controversial premise that we live in a racist and sexist society. Statistics provide immediate and powerful support for this claim. The fact that blacks comprise 12% of the U.S. population, while comprising a minuscule percentage of those in positions of power and authority is sufficient evidence that our society continues to be significantly racist in results, if not in intent. Unless one assumes that blacks are innately less able to attain, or less desirous of attaining, these positions to a degree that would account for this huge under-representation, one must conclude that our social organizations significantly disadvantage blacks. This is (in part) the injustice that I call racism. The argument for the charge of sexism is analogous (and perhaps even more persuasive given that women comprise over 50% of the population). For more supporting evidence, see Tom Beauchamp's article "The Justification of Reverse Discrimination in Hiring" in *Ethical Theory and Business*, pp. 495-506.

4. Although the examples in this paper focus more on racism than on sexism, it is not clear that the former is a worse problem than is the latter. In many ways, sexism is a more subtle and pervasive form of discrimination. It is also less likely to be acknowledged.

5. This is Paul Woodruff's helpful definition of unjust discrimination. See Paul Woodruff, "What's Wrong With Discrimination," *Analysis*, vol. 36, no. 3, 1976, pp. 158-160.

6. This point is made by Richard Wasserstrom in his excellent article "A Defense of Programs of Preferential Treatment," *National Forum* (The Phi Kappa Phi Journal), vol. viii, no. 1 (Winter 1978), pp. 15-18. The article is reprinted in *Social Ethics*, 2nd edition, ed. Thomas Mappes and Jane Zembaty (New York: McGraw-Hill, 1982), pp. 187-191. The quoted phrase is Wasserstrom's.

7. Peter Singer, "Is Racial Discrimination Arbitrary?" *Philosophia*, vol. 8 (November 1978), pp. 185-203.

8. See, for example, Robert Simon, "Preferential Hiring: A Reply to Judith Jarvis Thomson," *Philosophy and Public Affairs*, vol. 3, no. 3 (Spring 1974).

9. If it is true (and it is certainly plausible) that every black or woman, no matter how fortunate, has suffered from racism and sexism in a way in which no white male has suffered from racism and sexism, then compensation for this injustice would be owed to all and only blacks and women. Given this, arguing for affirmative action on the grounds of compensatory justice would not involve judging individuals by average features of classes of which they are members. Still it might be argued that for certain blacks and women such injustices are not nearly as severe as the different type of injustice suffered by some white males. Thus one would have to provide a reason for why we should compensate (with affirmative action) any black or woman before any white male. Perhaps administrative convenience is such a reason. Being black or female (rather than white and male) correlates nicely with the property of being more greatly and unfairly disadvantaged, and thus race and sex are useful rough guidelines for determining who most needs compensation. This does, however, involve stereotyping.

10. In the long run, however, reverse discrimination may actually promote overall societal efficiency by breaking down the barriers to a vast reservoir of untapped potential in women and blacks.

11. See Thomas Nagel, "A Defense of Affirmative Action," p. 484.

12. This is Wasserstrom's point. See "A Defense of Programs of Preferential Treatment," in *Social Ethics*, p. 190.

13. By 'effort' I intend to include (1) how hard a person tries to achieve certain goals, (2) the amount of risk voluntarily incurred in seeking these goals, and (3) the degree to which moral considerations play a role in choosing these goals. The harder one tries, the more one is willing to

sacrifice, and the worthier the goal, the greater are one's deserts. For support of the claim that voluntary past action is the only valid basis for desert, see James Rachels, "What People Deserve," in *Justice and Economic Distribution*, ed. John Arthur and William Shaw (Englewood Cliffs, NJ: Prentice-Hall, 1978), pp. 150-163.

14. It would be useful to know if there is a correlation between the candidate who is most deserving (because she worked the hardest) and the one with the best qualifications. In other words, are better qualified candidates in general those who worked harder to achieve their qualifications? Perhaps people who have the greatest natural abilities and the most fortunate social circumstances will be the ones who work the hardest to develop their talents. This raises the possibility, suggested by John Rawls, that the ability to put forward effort is itself a function of factors outside a person's control. See his *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), pp. 103-104. But if anything is under a person's control, and hence is something a person is responsible for, it is how hard she tries. Thus if there is an appropriate criterion for desert, it will include how much effort a person exerts.

15. See Justice William Brennan's majority opinion in *United Steel Workers and Kaiser Aluminum v. Weber*, United States Supreme Court, 443 U.S. 193 (1979). See also Justice Lewis Powell's majority opinion in the *University of California v. Bakke*, United States Supreme Court, 438 U.S. 265 (1978).

16. This is Wasserstrom's point. See "A Defense of Programs of Preferential Treatment," p. 189.

17. This is Judith Thomson's way of characterizing the alleged injustice. See "Preferential Hiring," *Philosophy and Public Affairs*, vol. 2, no. 4 (Summer 1973).

18. If it is true that some white males are more severely disadvantaged in our society than are some women and blacks, affirmative action would increase the inequality of opportunity for these white males. But since these individuals are a small minority of white males, the overall result of affirmative action would be to move us closer toward equality of opportunity.

19. James Rachels makes this point in "What People Deserve," p. 159. Joel Feinberg has also discussed related points. See his *Social Philosophy* (Englewood Cliffs, NJ: Prentice-Hall, 1973), p. 108.

20. He could work harder to get better qualifications and hope that the qualifications gap between him and the best woman or black would become

so great that the efficiency cost of pursuing affirmative action would be prohibitive. Still he can do nothing to get rid of the disadvantage (in affirmative action contexts) of being a white male.

21. For a discussion of how considerations of justice typically outweigh considerations of utility, see Manuel Velasquez, *Business Ethics* (Englewood Cliffs, NJ: Prentice-Hall, 1982), Chapter Two.

22. On the average, however, white males have unfairly benefited from the holding back of blacks and women, and hence it is not altogether inappropriate that this unfair benefit be removed.

23. Nagel, "A Defense of Affirmative Action," p. 484.

24. It would be inappropriate to extract compensation from women or blacks since they are the ones who suffer the injustice affirmative action attempts to alleviate.

25. This is a potential worry, however, and so it is important to insure that the same white male does not repeatedly sacrifice for the goals of affirmative action.

26. Cheshire Calhoun reminded me of this point.

27. Of course one must argue that reverse discrimination is effective in bringing about an egalitarian society. There are complicated consequentialist arguments both for and against this claim, and I have not discussed them here. Some of the questions to be addressed are: (1) How damaging is reverse discrimination to the self-esteem of blacks and women? (2) Does reverse discrimination promote racial and sexual strife more than it helps to alleviate them? (3) Does it perpetuate unfortunate stereotypes about blacks and women? (4) How long are we justified in waiting to pull blacks and women into the mainstream of our social life? (5) What sorts of alternative mechanisms are possible and politically practical for achieving affirmative action goals (for instance, massive early educational funding for children from impoverished backgrounds)?