

Liberator

JOURNAL OF THE COALITION TO DEFEND AFFIRMATIVE ACTION BY ANY MEANS NECESSARY (BAMN)

The Struggle for Women's Equality and the Defense of Affirmative Action

Social inequality between women and men permeates this society. From birth, stereotypes and expectations shape human development into gendered, unequal categories.

When handling toddlers, adults of both sexes tend to allow baby boys to explore and wander more while keeping baby girls closer within reach. Ordinary, insidious sexism means that women and girls are interrupted vastly more often than their male counterparts in conversation. Less funding is applied to research women's health. Murder by lovers and husbands is a leading cause of death for younger women.

On average, women are poorer, have less education and work under worse conditions than men. Statistical analysis of wage, employment and education demographics illustrates the breadth and depth of inequality between women and men that intermingles with the tremendous inequalities of class in our society.

While progress toward workplace equality had been made, the workforce is still largely partitioned by sex. Women's participation in the workforce increased from 34% in 1960 to 46% in 1992—but disproportionately in low-paying jobs. Structural inequality buttressed with direct employer discrimination has created a vast wage gap that permeates almost every sector of the workforce.

Women have benefited substantially from affirmative action

The mass movement for women's equality developed out of the high point of struggle of the Civil Rights and Black Power Movements. The integration of women into previously all-male, all-white institutions of

higher education coincides with the implementation of affirmative action and with the beginning of racial integration. Affirmative action has been an essential pressure on employers and school administrators to break down the sexual partition in the various fields of work and education.

Women's progress in education saw a concomitant step in the direction of integration into the better-paying, skilled and professional strata of the workforce. Substantial sexual segregation still exists in some of the highest paying, most technically elite and most influential fields, beginning, logically enough, with institutions of higher education. In 1991, women comprised only 8.7% of engineering doctorates, and only 18.4% of doctoral degrees in the physical sciences, and only 14.7% of full professors at colleges and universities. Today at the University of Michigan law school, women are only about 1/3 of the student body.

The combination of dramatically increased access to higher education and broader participation in historically male-dominated jobs has led to important improvements in opportunities and living conditions for women. Progress and stark, empirical inequality combine to complex effect. For instance: while the

proportion of women physicians went from 7.6% in 1970 to 16.9% in 1990, women physicians between 40 and 49 years old earned only 58.4% of their male counterparts in 1989.

The phrase "white women have benefited most from affirmative action" is often said and, while complicated, is true. What does it mean? From 1979 to 1992, real wages for white women rose while those for

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BAMN'S PROGRAM

1. Defend affirmative action! No resegregation of higher education!
2. Stop the implementation of the racist, sexist Proposition 209 in California.
3. Force the University of California Regents to rescind their vote to destroy affirmative action.
4. Build mass, militant actions to stop the University of California, University of Michigan and other university administrations from implementing any anti-affirmative action policy in employment and/or admissions.
5. Stop the implementation of racist anti-immigrant Proposition 187 in California.
6. Build a mass, militant, integrated, independent movement that uses any means necessary, including education, rallies, marches, building occupations and strikes to defend affirmative action, win our demands and to fight for equality in American society.
7. Use democracy to build the movement. Hold open mass meetings and conferences, vote on strategies and tactics, and elect a steering committee accountable to the members of the Coalition.
8. Build a democratic statewide coalition that is financially and in every way independent of the Regents, University of California, University of Michigan and other administrations and government. Open it up to anti-racist activists and organizations from high schools, community colleges, state universities, unions, black, Latino and other minority organizations, anti-racist groups, women's rights groups, lesbian/gay organizations, etc. ✕

Send letters to:
bamn@umich.edu.

The name *Liberator* is taken from the Abolitionist paper of William Lloyd Garrison that published from 1831 through the Civil War. During the 1840's, Frederic Douglass was a regular contributor. In his autobiography, *My Bondage and My Freedom*, he writes: "*The Liberator* was a paper after my own heart. It detested slavery—exposed hypocrisy and wickedness in high places—made no truce with the traffickers in the bodies and soul of men; it preached human brotherhood, denounced oppression, and with all the solemnity of God's word, demanded the complete emancipation of my race. I not only liked—I *loved* this paper..."

"McCarthyism left a legacy of social paralysis. Fear persisted through succeeding years, and social reform remained inhibited and defensive. A blanket of conformity and intimidation conditioned young and old to exalt mediocrity and convention. Criticism of the social order was still imbued with implications of treason. ...

"The blanket of fear was lifted by Negro youth. When they took their struggle to the streets, a new spirit of resistance was born. Inspired by the boldness and ingenuity of Negroes, white youth stirred into action and formed an alliance that aroused the conscience of the nation. ...

"The repressive forces that had not been seriously challenged for almost a decade now faced an aroused adversary. A torrent of humanist thought and action swept across the land, scoring first small and then larger victories. The awakening grew in breadth, and the contested issues encompassed other social questions. ...

"The Negro and white youth who in alliance fought bruising engagements with the status quo inspired each other with a sense of moral mission, and both gave the nation an example of self-sacrifice and dedication."

- Martin Luther King, Jr., *The Trumpet of Conscience*

"The swift changes of mass views and moods in an epoch of revolution thus derive, not from the flexibility and mobility of man's mind, but just the opposite, from its deep conservatism. The chronic lag of ideas and relations behind new objective conditions, right up to the moment when the latter crash over people in the form of a catastrophe, is what creates in a period of revolution that leaping movement of ideas and passions which seems to the police mind a mere result of the activities of "demagogues."

- Leon Trotsky, *The History of the Russian Revolution*

Statement of Purpose

The purpose of *Liberator* is to defend affirmative action. *Liberator* rejects the apologetic, tepid tone and language and the half-stepping, unpersuasive, tokenist argumentation of the reluctant, moderate "defenders" of affirmative action. A real defense of affirmative action requires a far-reaching and forceful system of arguments and a searching criticism of the existing order of things.

Liberator seeks to be the voice of a new, radical civil rights movement.

Liberator will serve as a forum for the clarification of the key questions that arise in the course of the struggle to defend affirmative action.

Liberator will provide an ideological pole and weapon for those involved in the fight to defend affirmative action and to win equality in American society.

Affirmative Action and the Law

Virtually every faction on both sides of the battle line has underestimated the sweeping historical significance of the attack on affirmative action. The basic character of the coming period in American politics will be determined by the development of the fight over affirmative action. This fact will become clearer to more people in the near future. While we have no time to waste, we should understand that this struggle is not likely—even from a legal standpoint—to be resolved decisively anytime soon.

The attack on affirmative action continues to develop. The right wing is launching new legal challenges and is trying to get anti-affirmative action ballot measures in various locations around the country.

The defenders of affirmative action must use the mechanism of the court system. Each time the question of affirmative action is up in court we must develop and execute the most methodical and aggressive legal strategy possible. We must understand, however, it is absolutely insufficient to struggle exclusively on this terrain.

The Obstacle of Recent Precedent

First, the case law that has developed over the last two and a half decades of atrophy and acquiescence of the mass social movements has been very negative. Beginning in the mid-1970's, a series of Supreme Court decisions severely undermined the force of the previously standing progressive legal precedents. Diminished and challenged were not only the elements of law codifying affirmative action, but also the anti-segregationist measures of the preceding twenty years.

In *Milliken v. Bradley* (1974), the Supreme Court majority, in overturning the decision of the District Court, contrived the sanctity of metropolitan school districts as a means to codify overwhelming segregation between Detroit and suburban schools. Sighting the “substantial local control” of public education as a “deeply rooted tradition”, the court used the existing partition of K-12 education to put the stamp of state sanction on the racist inequality and segregation that exist throughout the nation's public school system. By this decision, the real condition of separate, unequal schools was legitimized as constitutional by

the highest court in the land.

Affirmative action itself has also suffered hard legal blows.

The 1978 *Bakke* decision dramatically diminished the force of affirmative action programs by ruling that the University of California at Davis medical school could not set aside 16 slots for minority freshman to guarantee some measure of integration. The decision allowed for the use of race as a factor among others that could be considered in college and university admissions if it served in the interest of “educational diversity”.

The language of diversity finds its roots in this despicable capitulation to white racism by the Supreme Court. Centering the defense of affirmative action on extolling the virtues of “diversity” allows the reactionary *Bakke* decision to obstruct the elucidation of the substantive truth.

Its use reduces the defense of affirmative action to weak, tokenist appeals about what amounts to broadening the educational experience and social horizons of a student body that, until the Civil Rights Movement and the implementation of affirmative action, was overwhelmingly composed of elite white men.

The right of black, other minority and women students to education and the fight for equality in our society is what drives this fight, not the undoubted educational enrichment of an otherwise homogeneous, wealthy, white, male student body.

The legal arguments must reflect the political and social struggle, not the other way around. Rather than artificially circumscribing the political arguments, diluting them into the pauper's broth of legal jargon, the fight on the legal front must take on the robust spirit and language of the social movement. Truth and passion must be combined.

The right wing's assault on affirmative action is centralized in the Washington, D.C.-based Center for Individual Rights (CIR: Center for Implementing Resegregation?). This gaggle of racist miscreants is familiar with the legal history of the last 25 years. The political momentum of a conservative judiciary is on their side; they build from a position of strength.

[OVER]

Our Wealthy and Influential Enemies Are Exerting Their Social Pressure

There is another reason why a successful defense of affirmative action on an exclusively legal terrain is impossible. This second reason is in some ways obvious, and in some ways elaborately obscured. It is fundamental to the relationship between law and society.

Popular prejudice holds that law is an abstract, self-contained and independent system of rules designed to facilitate the peaceful and productive functioning of society. Closer, more careful analysis makes clear that this is not true. While the law is often abstract and is certainly a self-contained system of sorts, it is by no means independent of the society in which it operates. Conflicting social forces exert this or that pressure on the court system whose charge is to mediate conflict in the long-term, overall interest of those who dominate the status quo. This has obvious ramifications for the current situation.

The current campaign by the more reactionary sectors of the American ruling class to overturn the gains made by the last several generations has created a political climate that coincides with the rightward slide of the judiciary. Aided by their wealth and myriad connections to the government, our enemies are struggling to defeat affirmative action. They are better funded, more centralized and, until now, have pursued their goals more energetically. We must change all this.

As an example of the dominant position of the social struggle over the law, take *Brown v. Board of Education* (1954). On the one hand, an integrationist decision was wrested from a majority segregationist Supreme Court by the beginnings of the Civil Rights Movement in the early 1950's; on the other hand, school segregation persisted despite the law due to the overwhelming inertia of American racism. This decision has laid in the law books for decades helpless against the weight of real racist segregation and inequality.

Each of the above-mentioned legal turning points are social struggles reflected in the changing interpretation of existing constitutional law. In historical terms, the question of affirmative action is no more likely to be resolved by court suits and ballot initiatives alone than were slavery and Jim Crow.

A third factor presents substantial obstacles for the defense of affirmative action in the legal theater of operations; that is the distinction between formal, legal equality and real, social equality, and the contradiction that exists between the two in real life.

Modern western law is, in its theory, based on the ideological foundation of formal, legal equality. With the long overdue killing of Jim Crow, basic legal equality between black and white was established in America. We have won legal equality, we will defend it with everything, at the same time, we decry its paltriness—it is the spirit without the flesh. Real, social inequality still abounds.

Affirmative action “discriminates” in defiance of formal equity in pursuit of greater real, substantive equality. To have the best chance of succeeding, the movement to defend affirmative action must take reckoning of the difference between the two.

As with slavery and Jim Crow, mass social struggle will be necessary to overcome and circumvent the obstacles inherent in the legal defense of affirmative action. New political organizations and political leaders are required to build and lead these coming struggles. ✖



Linda Brown

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also refused to give the legal case against 209 a hearing because they found that this law, which is destroying opportunities for millions of minorities and women, is not “contentious” enough. While these legal decisions masquerade under the guise of abstract concepts of justice, they are in reality a reflection of the political policies of society’s ruling circles refracted through the judiciary. To win at the level of the courts, the present struggle must remind these justices of the massive upsurge of black and anti-racist white fighters who forced right-wing courts and racist, sexist politicians in the 1950’s and 60’s to legally end Jim Crow and to establish affirmative action.

Democrats, Republicans and College Administrations Pose Bogus Alternatives

The fear of a new social movement has got Republicans, Democrats and university administrators scrambling to try to smooth over the attack on affirmative action. Our movement must be unwavering in its defense. We must beware that there are many forces in California today who are trying to pull us off course.

The present tactic of the Republicans and the right wing is to try to deflect the debate away from affirmative action by feigning concern for the fundamental issues of poor K-12 education, the question of social class, and the rights of Asian students.

Their shameless hypocrisy is exposed by their actions.

The right-wing Center for Individual Rights (CIR) has brought a lawsuit against a magnet high school in Buffalo, NY with the aim of undermining its progress towards integration. The right wing has expanded their attack by attempting to reverse the small steps towards integration that have been achieved in the public K-12 schools. Scholarship programs for poor minority and women students are among Republican Governor Pete Wilson’s first targets for cuts. Filipino, Pacific Islander, Chinese, Indian and Pakistani enrollment at UC Berkeley graduate programs decreased this year. The truth is the Republicans and the right wing are fundamentally opposed to every conceivable measure that could integrate American education and institutions.

The position of the Democrats and their liberal supporters is hardly any better. From the beginning, the Democrats chose defeat over struggle. In the cam-

paigned period preceding the vote on 209, they buried the issue of affirmative action in order to avoid losing votes of the more racist and sexist Democratic electorate

On November 5, 1996, Proposition 209 passed by a margin of just 8%—with the lowest voter turnout since 1928. The fact that the same

voters who passed 209 delivered the presidency to Clinton makes clear that if the Democrats had made even a little noise in defense of affirmative action, then 209 could have been defeated.

Defeating the attack on affirmative action requires doing what they are not prepared to do—calling into being a broad social movement

for equality. Instead, they have obediently dropped the words affirmative action from their vocabulary and replaced them with “diversity.” In the “interest of diversity” Republicans, Democrats, and liberal college administrations develop all sorts of inadequate “solutions.”

At Berkeley this has taken the form of the chancellors’ Berkeley Pledge/Break the Cycle program, an outreach program intended to prepare poor public school students to apply to the UC’s. Entirely dependent on funding from the Chancellor and volunteer time from university students for its existence, the Berkeley Pledge is a completely inadequate, unreliable substitute for affirmative action.

Mass Struggle vs. Moral Appeals & Voter Registration

The liberal leaderships, such as Jesse Jackson and the National Organization for Women, sidelined the defense of affirmative action in favor of campaigning for Clinton. Pro-affirmative action activists were told to register voters. The voter registration campaign dispersed our forces and dulled the impact that we could make against 209. In addition, it did nothing to ensure that the many already registered voters who are disenchanted with the Democrats and the Republicans actually came to the polls to vote against 209. Turning out black, Latino, other minority, women, and anti-racist white voters to the polls against 209 required building a movement, and building a movement re-

[OVER]

From the beginning, the Democrats chose defeat over struggle.

quires being prepared to organize independently of the Democratic Party.

On September 25, 1996, the Democrats, working through their supporters in the student government and the administration at the California State University at Northridge (CSUN), brought KKK spokesman David Duke to the CSUN campus as the first stop in his planned speaking tour against affirmative action. The liberals' bizarre logic was that once people understood that the Republican position against affirmative action was the same position that the KKK held, then they would be so morally repulsed by the Republicans and Proposition 209 that they would go to the polls to vote for Clinton simply to prevent a Republican victory. In reality, this gimmick provided Ward Connerly and Pete Wilson with an opportunity to come out looking like anti-racists by opposing the liberals' invitation and payment to Duke. At the same time, it provided Duke with an opportunity to gain legitimacy and organize support for the KKK.

BAMN recognized the stupidity and danger in this scheme and called on anti-Klan youth to drive David Duke back out of the state. On the day of the CSUN debate, a 1000-person demonstration gathered to put a stop to Duke. After discussion hundreds of people resolved to confront him on his way out of the auditorium. An army of hundreds of LAPD attacked the unarmed demonstration and attempted to drive students from the campus with batons, horses, and rubber bullets. The scenes of the cop riot against the integrated group of anti-racist youth at CSUN were headline national news and came to symbolize the struggle against 209. Polls that were taken immediately after

the CSUN demonstration showed a 10-point drop in support for 209, and Republican vice presidential candidate Jack Kemp declared at the time that the Republicans would not push 209 because they didn't want to "tear up the state." David Duke was forced to cancel his speaking tour. The demonstration at CSUN proved that mass struggle—not catering to the Democrats—is the road to victory.

Draw the Lessons of the First Battle, Prepare for the War

In deciding the upcoming cases, the courts will look at how the political situation develops in California in the wake of Proposition 209 and the University of California Regents' anti-affirmative action policy. It is up to us to make resegregation an unthinkable proposition to these judges.

The focus of our fight must be to stop the implementation of the attacks on affirmative action. We will have to defend recruitment, retention, scholarship, and countless other programs that serve the needs of minorities and women. We will have to fight the racist and sexist attacks that will follow in 209's wake. We must build mass campaigns to force the campus administration to maintain affirmative action in employment and admissions.

Our fight in California will be an example and a source of confidence to students across the country. It can build up the reinforcements we need to beat the national attack on affirmative action and reverse Proposition 209 and the UC Regents' decision. By making this fight we will be creating the conditions to win much more. ✖

Myth ➔ Fact

Myth: *Affirmative action aids only women and minorities who are wealthy.*

Fact: Working class and poor black, Latino and other minority people have benefited significantly from affirmative action policies in college admissions and hiring. Affirmative action as a factor in college admission offsets the weight given to standardized tests on which wealthier people of all races and both sexes tend to score higher than their poorer counterparts.

Racist and sexist discrimination affects all social classes—therefore the measures designed to offset racist and sexist discrimination are applied to all social classes.

Myth: *The fate of affirmative action will be decided in the courts—so why bother with action and protest?*

Fact: Law is the product of society, not the other way around. The *Brown v Board of Education* 1954 decision was the product of a Supreme Court that was, in its political attitude, overwhelmingly segregationist. So why the integrationist decision? The answer cannot be found in law books. It is found in the street—in the beginnings of a new phase of struggle for black equality.

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white and black men fell and those for black women stayed relatively stable. Greater integration into higher education was an important factor in the rise in real earnings of white women and helped to offset the downward pressure of inflation on the earnings of black women. Affirmative action in training programs and promotions was also an important upward pressure on women's wages. Stronger income for women means greater economic independence from men including, importantly, more mobility to escape domestic violence.

The decrease of the wage gap in the last several years has been due less to increasing female earnings than to falling male earnings.

By 1993 the median yearly income of white women was 70.8% that of white men, while black women's was only 63.7% and Latina women's was 53.9%! Black and Latina women and young women of all races are still disproportionately in the worst paid sectors of the American workforce.

Progress has been made, but real equality is a long way off.

Cynical Device for the Right

The so-called Center for Individual Rights has chosen white women plaintiffs for their high-profile legal attacks on affirmative action as a cynical political device. They understand the simple rule of combat that an enemy divided is more easily fought.

This tactic has important historic precedents in American history. Following the Civil War, there were racists who argued that white women should be given the right to vote as a means of upholding white supremacy in the south. Dividing and sabotaging the movement for *universal* suffrage was the less stated goal.

We must explain the importance of the impact of affirmative action on the struggle for women's equality. The facts speak loudly. We must press for solidarity against inequality and discrimination.

Students for Access & Opportunity
at the University of Texas at Austin:

The fight to defend
affirmative action
in Texas ...

“WE WON'T GO BACK.”
“No resegregation of higher education.”

Mission Statement

“The purpose of our group, Students for Access and Opportunity, is to build a broad-based movement to struggle against racism and guarantee access and opportunity to higher education for under-represented groups.

“We believe racism is not reducible to personal prejudice, but is constituted by the disproportionate distribution of wealth and resources which has historically served to marginalize groups according to racial classification.

“We stand for a radically democratic, culturally diverse and inclusive society which guarantees the participation of all people, and access to the resources their hard work makes available. We also believe that diversity and access to education is a moral, political, and economic necessity.”

SAO website:

<http://www.geocities.com/CollegePark/Quad/2701/SAO.html>

Proponents of Women's Equality Must Defend Affirmative Action

The belatedly achieved formal, legal equality between men and women has been inadequate to secure social equality between the sexes. Affirmative action measures have been instrumental in achieving progress towards women's equality. It is imperative that a successful defense of affirmative action be conducted for that progress to continue.

The central importance of anti-black racism to American politics and the decisive character of the struggle for black equality to American history meant that the Civil Rights Movement paved the way for the mass movement for women's equality. A strategic alliance must be built again on the organic common interest of women and blacks and other minorities in the fight for real equality in society. This time, the connection between the fight against racism and the fight against sexism must be made explicit and fully conscious.

Building a new mass social movement that can fight racist and sexist inequality and discrimination is the only sure means to defend affirmative action and to achieve real social equality. ✕

Balance Sheet of the Struggle in California: A Call to Action to UC Berkeley Students

Students at UC Berkeley have a leading role to play. The University of California system has been the focus of the right wing's attack. Berkeley has been a focus of national media attention and the center of the movement to defend affirmative action in California. What we do now is especially important.

The narrow passage in November 1996 of the anti-affirmative action ballot initiative, Proposition 209, opened up a new period in the affirmative action fight. The national leadership of the Republican Party read the vote as confirmation that they can make electoral gains by attacking affirmative action.

The attack on affirmative action is being waged on many different fronts. Using lawsuits and ballot propositions in dozens of states, the right wing is attempting to overturn affirmative action nationwide.

Through the development of a powerful national movement we will have many opportunities to defeat the right wing at the local, state, and regional level. In this next period, we must coordinate our respective local efforts more closely at a national level. The lessons drawn from regions where the struggle has advanced quickest and earliest must be made available to places where the fight is a step or two behind. Defenders of affirmative action around the country will look to us in California for inspiration, confidence, and leadership.

If the justices who hear the anti-affirmative action lawsuits are forced to decide in favor of affirmative action, then the existence of conflicting circuit court decisions on affirmative action will have to be resolved at the Supreme Court level. Proposition 209 can be defeated by the outcome of this national fight.

The development and escalation of our struggle to defend affirmative action in California is a very important element of what

is needed to win nationally. Voters who face anti-affirmative action ballot initiatives and judges who will decide anti-affirmative action lawsuits will be looking at how the political situation has developed in California in the wake of the attack on affirmative action.

We must inspire and appeal to the progressive, anti-racist, anti-sexist sentiment of voters around the country who will be facing anti-affirmative action ballot initiatives.

A new phase in the fight

The right wing's attack on affirmative action in California is moving into its most difficult stage now: *implementation*. The reality of their racist and sexist program can no longer be disguised by civil rights language—it is revealed by cold, hard facts.

The abandonment of affirmative action for UC graduate school programs resulted in only a single black student and fourteen Latino students in the entering class at UC Berkeley's Boalt Law School. The first stage of the implementation process led 10,000 people, including large numbers of black workers, students, and professionals, to march in San Francisco on August 28, 1997 in defense of affirmative action. The resegregation of the public universities is proving to be a risky and unpopular move for the right wing.

We know the bias of the legal system. The 9th Circuit Appeals Court lifted the legal injunction against 209 and cleared the way for its implementation—without even the pretext of a hearing on its legality—by declaring that a single judge cannot be allowed to stand in the way of millions of voters (Yet the same Appellate Court struck down a different ballot initiative, one that set limits on the numbers of terms of office that a politician can hold, on the grounds that the voters may not have understood what they were voting on). The Supreme Court

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