

## Affirmative Action

*Jolenn Williams*

Often affirmative action is presented in the context of African Americans regaining the many advantages that were taken away when they were enslaved and then segregated. However, Jonathan Stubbs took another approach by looking at history in terms of the many different ways that laws and the Constitution were established to provide the best circumstances for White people and to keep African American people in inferior conditions. Stubbs (2004) called this system "invisible affirmative action," and since White people have benefited from it for centuries, today's affirmative action for African Americans is justified.

Stubbs provided many instances of Black persons being kept inferior to White people. For example, in 1667 a colonial law was passed saying that converting to Christianity did not make a Black person free (Stubbs, 2004). If a person were not free, then he or she would not be afforded any rights or liberties. Another example occurred in 1787, when the new Constitution was drafted, including Article 1 Section 9, which stated, "Congress could pass no law against slavery for twenty years" (Stubbs, 2004). Clearly, this law was passed solely for the benefit and continued success of White people at Black people's expense. During this same time, another law said that a slave was only 3/5 of a person, the so-called the "3/5 clause" (Stubbs, 2004). This law meant that a slave was not even considered a whole person and therefore had none of the rights of a White person.

Also, in education many actions were intended to keep Black people inferior. Since Blacks were slaves, and therefore free labor, White people did not want to do anything that might compromise their own success, so they made laws against the education of slaves. They feared that if Blacks were educated, they would be able to free themselves. The idea is best expressed by Booker T. Washington, who claimed, "The ignorance of the slave is the best safeguard to the system of slavery" (1904). Education was withheld from slaves so that White people could continue to be successful. The labor of the slaves was so important that laws were passed to make sure that education would not be given to slaves. Although many slavery laws were passed, "there were no laws in the slave code that were more rigidly enforced than those prohibiting the giving or receiving of education by slaves or free persons of color" (Washington, 1904).

In 1857, the Dred Scott case was brought before the Supreme Court, and it was decided that "a Black man had no rights that a White man was to recognize" (Stubbs, 2004). This decision confirmed that Blacks could not be citizens. By not being citizens, many rights were restricted from Blacks. For example, since Blacks were not citizens, they did not have the right to land, to vote, or to many other freedoms that White men enjoyed.

Many pieces of legislation, such as the 3/5 clause, laws preventing the education of slaves, and the Dred Scott decision, were instituted to make sure that White people could continue to maintain their way of life in America. By restricting Blacks with laws, White men made it nearly impossible for Black people to have the same rights as White people, so that White people had no opposition. The 3/5 clause, the laws against educating Blacks, and the Dred Scott decision were the keys to the later part of the invisible affirmative action plan: the Homestead Act and the Federal Housing Act, whose effects can still be seen today.

In 1862, the Homestead Act encouraged settlers to go west to settle on "free" land. However, there was a catch. The land was available only to U.S. citizens, and since the Dred Scott case had just made it clear that Blacks were not citizens, Blacks received none of the thousands of acres that were given to the White settlers for free (Stubbs, 2004).

Then in 1934, the Federal Housing Act meant that loans were offered to people to buy houses and to gain wealth. However, the loans were available only to people who were applying to live in

"homogenous" neighborhoods. This Act meant that a Black person could not apply for a loan to live in a predominately White neighborhood, which in turn was a way of keeping African Americans out of certain areas and essentially restricting them to inferior neighborhoods.

There are many other examples of laws that were passed in the interests of keeping the races separate and of maintaining a better lifestyle for White people. Many of the effects of these laws are still present today. Stubbs gave several examples, including the fact that in 1960 out of 82,000 residents in Evington, Long Island, not one was Black. Also, Stubbs explained that in the last five fiscal years, in Virginia, only 1.27% of tax payers' money was given to businesses owned by women, and only 0.5% was given to minority-owned businesses, compared to 98% of the money that was given to businesses owned by White males (2004). The previous statistics show that not only did the written laws restrict Blacks in the past, but the effects of the legislation are still visible today. Hence, the affirmative action plan for Blacks is justified today to combat the "invisible" affirmative action plan, which has favored Whites for so many centuries. Today affirmative action is necessary to counter the many laws and their negative effects that remain from the "invisible" affirmative action plan of the past.

#### Works Cited

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- Washington, Booker T, 1900. "The Education of the Negro." Excerpted in *Addressing Education: Plans, Purposes, and Politics*. Lynchburg College Symposium Readings, Volume I. Eds. Peggy A. Pittas and Katherine M. Gray. 3<sup>rd</sup> ed. Philadelphia: Xlibris, 2004. 255-270.