ENROLMENT POLICIES

Assessing class-based affirmative action

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The concept of class-based affirmative action, based on relative economic disadvantage rather than on race, ethnicity, or gender, has been used with respect to admission to American law schools for only a short time and actual programs are even more recent.

The first step in analysing any program is to identify its goals. One can broadly identify two leading approaches to class-based affirmative action: race-neutral and race-conscious. Race-neutral advocates believe that class and race are separable phenomena, and that therefore one can use race-neutral criteria to identify economic disadvantage. Race-conscious advocates value it only to the extent that it can be used to remedy race-based disadvantage. The race-neutral position values class-based affirmative action in and of itself; the race-conscious position values it only insofar as economic disadvantage serves as a useful proxy for race.

Is class-based affirmative action worth pursuing as a program in and of itself, solely as a response to economic inequality? Can it serve people of colour as a replacement for race-based affirmative action? Class-based affirmative action is likely to be a poor tool for achieving economic equality in higher education, for reasons that stem from the operation of some very basic principles of how economic disadvantage and affirmative action operate. First, it is impossible to talk about 'class-based affirmative action' without talking about race, ethnicity, and gender. Secondly, the tendency of affirmative action is to affect individual mobility rather than the society's class structure. That is one of the many reasons why affirmative action, standing alone, cannot be expected to change the underlying structures of inequality that called it into being and that motivate demands for its retention.

Much evaluation of class-based affirmative action follows from some basic principles about how race-based affirmative action programs operate in a world marked by economic inequality. Those same principles will impede the success of class-based affirmative action. The principle of least cost applies not only to the choice of which candidates to admit through affirmative action, but also to the choice of which candidates to displace. The principles of least cost is not a law of nature. Any institution can safeguard the interests of the least privileged of its on-affirmative action candidates by making sure they are not predominant among those displaced by affirmative action. But few do, and few will.

Secondly, the social scientists who measure class position or socioeconomic status for a living have a notoriously complex job. Numerous variables can be used to measure class-for example, income, occupation, education, wealth, and combinations thereof. Social scientists and institutional policy makers favour relatively straightforward measurement techniques that reduce their data-collection burden. But the harder-to-measure variables and the subtler distinctions do not go away. They remain buried and continue to have causal effects that are not captured by the analysis.

What this means is that the residuum left after 'class' or 'economic disadvantage' (as measured) has been taken into account is not (or at least is not necessarily) something fairly called 'merit' or 'individual achievement' or 'overcoming obstacles'. A portion of the residuum will instead be determined by the unmeasured effects of variables (or aspects of variables) that were kept out of the 'class' analysis but that nonetheless influence performance on traditional entrance criteria. This principle will always operate to some extent in any affirmative action program: it is impossible, or at least highly impracticable, to measure each and every socioeconomic variable that might affect students' performance on traditional entry criteria.

Affirmative action programs tend to benefit the best-off among those who have been deemed sufficiently disadvantaged to be eligible for affirmative action. A corollary of this principle is that those most likely to be displaced by affirmative action are the worst-off among those who have been deemed sufficiently privileged to be ineligible for affirmative action. The top of the bottom thus tends to displace the bottom of the top. This is the principle of the close swap which will survive public scrutiny only if there is broad consensus that the bottom of the top is meaningfully less in need than the top of the bottom.

There are good grounds for a broadened affirmative action eligibility: lower economic status correlates with lower scores on typical standardised tests not just for the poor, but for everyone, at every step in the economic hierarchy. The middle class is disadvantaged relative to the upper middle class and the latter is disadvantaged relative to the wealthy. For reasons of ideology and practical politics, the plight of the middle and upper middle class will never lead to calls for affirmative action. What seems more likely, however, is that policy makers will decide that members of the working class and the lower middle class are sufficiently disadvantaged in

comparison to the middle and upper middle classes to be worthy beneficiaries of affirmative action programs.

Race-based affirmative action was never much help to the minority poor. The basic principles of affirmative action explain why this is so. Minority-group status may in general correlate with economic disadvantage but not all membersiof minority groups suffer equal economic disadvantage. If the only eligibility criterion for affirmative action is being a member of a minority group, institutions will select the highest-scoring minority candidates, who will also tend to be those candidates who are the better-off economically. The principle of the close swap means that the least economically advantaged whites have a reasonable basis for believing that affirmative action disproportionately disadvantages them.

Class-based affirmative action could not succeed where race-based affirmative action failed for two reasons. First, minorities are minorities: there are more white poor people than black and Latino poor people, even though white poverty rates are lower than black and Latino poverty rates. Most of the poverty-based affirmative action slots will go to whites, by simple force of numbers. Second, the principle of the top of the bottom operates: it will be the best-off people in the eligible group (here, the poor) who will be in the position to benefit from affirmative action. To the extent that minorities are dually disadvantaged by their poverty and race, they are the bottom of the bottom and are thus likely to be underrepresented as beneficiaries of poverty-based affirmative action. The beneficiaries of poverty-based affirmative action will be disproportionately white.

Experimenting with class-based affirmative action

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In recent years the question of whether 'class' should replace or supplement 'race' in affirmative action programs has gathered increasing national attention. Almost all of the discussion of alternatives, however, has occurred in an empirical vacuum. There is relatively little careful analysis of the workings of race-based affirmative action, especially in higher education, and none at all in class-based programs. The UCLA School of Law incorporated extensive class-based preferences into its admissions system last year.

Class-based preferences are substantially more complex than race-based preferences. The UCLA experience suggests, however, that the complexity can be managed successfully. This system used multiple, complementing measures of disadvantage, was not plagued by fraud and was not terribly expensive to administer. The conceptual and administrative challenges of class-based affirmative action are not trivial, but they are solvable.

Our class preference system dramatically increased the socioeconomic diversity of the student body. The proportion of students from poor families increased fourfold; the proportion of students from low-income neighbourhoods probably tripled. The law school's first-year class is almost certainly the only group of students at any 'national' school that reasonably reflects the economic diversity of the general population.

UCLA's class-based preferences had only mixed success in preserving racial diversity at the law school. The enrolment of blacks and American Indians fell by more than 70 percent from the levels typically achieved under the old race-based preference system. Minority groups benefited disproportionately from the class-based preferences. What varied was the size of the old racial preference. The greater the traditional preference, the less effectively class worked as a 'substitute' for race. How the class-for-race tradeoffs would operate in other schools or other contexts, then, would depend on the magnitude of current racial preferences in those settings.

In order to factor socioeconomic status into admissions in a systematic way, six elements would be particularly important. First, take into account the neighbourhood as well as the family background of applicants. A dominant trend in the sociology literature of the past decade has been a growing array of findings pointing to the large role neighbourhood and school environments play in shaping the life chances of children and teenagers.

Second, make the index multidimensional. Any enterprise aimed at gauging someone's socioeconomic status is intrinsically faulty, since no perfect measure of a person's true material, social and intellectual environment exists. The best way to deal with this problem is to use multiple factors in evaluation.

Third, create a quantitative index. If one is going to use multiple bits of socioeconomic information to evaluate a large number of applicants, it is essential to systematise the data into a systemised index; otherwise, the heuristics of applying the background data fairly and consistently are simply overwhelming. This in turn implies that one should adopt some uniform system of assigning weightings to the various components, and some method of comparing the socioeconomic data with other, academic data.