

Reflections
of an
Affirmative
Action
Baby

STEPHEN L. CARTER

BasicBooks

A Division of HarperCollins Publishers

CHAPTER 1

Racial Preferences? So What?

I

got into law school because I am black.

As many black professionals think they must, I have long suppressed this truth, insisting instead that I got where I am the same way everybody else did. Today I am a professor at the Yale Law School. I like to think that I am a good one, but I am hardly the most objective judge. What I am fairly sure of, and can now say without trepidation, is that were my skin not the color that it is, I would not have had the chance to try.

For many, perhaps most, black professionals of my generation, the matter of who got where and how is left in a studied and, I think, purposeful ambiguity. Some of us, as they say, would have made it into an elite college or professional school anyway. (But, in my generation, many fewer than we like to pretend, even though one might question the much-publicized claim by Derek Bok, the president of Harvard University, that in the absence of preferences, only 1 percent of Harvard's entering class would be black.) Most of us, perhaps nearly all of us, have learned to bury the matter far back in our minds. We are who we are and where we are, we have records of accomplishment or failure, and there is no rational reason that anybody--employer, client, whoever--should care

any longer whether racial preference played any role in our admission to a top professional school.

When people in positions to help or hurt our careers do seem to care, we tend to react with fury. Those of us who have graduated professional school over the past fifteen to twenty years, and are not white, travel career paths that are frequently bumpy with suspicions that we did not earn the right to be where we are. We bristle when others raise what might be called the qualification question—"Did you get into school or get hired because of a special program?"—and that prickly sensitivity is the best evidence, if any is needed, of one of the principal costs of racial preferences. Scratch a black professional with the qualification question, and you're likely to get a caustic response, such as this one from a senior executive at a major airline: "Some whites think I've made it because I'm black. Some blacks think I've made it only because I'm an Uncle Tom. The fact is, I've made it because I'm good."

(liven the way that so many Americans seem to treat receipt of the benefits of affirmative action as a badge of shame, answers of this sort are both predictable and sensible. In the professional world, moreover, they are very often true: relatively few corporations are in a position to hand out charity. The peculiar aspect of the routine denial, however, is that so many of those who will bristle at the suggestion that they themselves have gained from racial preferences will try simultaneously to insist that racial preferences be preserved and to force the world to pretend that no one benefits from them. That awkward balancing of fact and fiction explains the frequent but generally groundless cry that it is racist to suggest that some individual's professional accomplishments would be fewer but for affirmative action; and therein hangs a tale.

For students at the leading law schools, autumn brings the recruiting season, the idyllic weeks when law firms from around the country compete to lavish upon them lunches and dinners and other attentions, all with the professed goal of obtaining the students' services—perhaps for the summer, perhaps for a longer term. The autumn of 1989 was different, however, because the nation's largest firm, Baker & McKen-

zie, was banned from interviewing students at the University of Chicago Law School, and on probation—that is, enjoined to be on its best behavior—at some others.

The immediate source of Baker & McKenzie's problems was a racially charged interview that a partner in the firm had conducted the previous fall with a black third-year student at the school. The interviewer evidently suggested that other lawyers might call her "nigger" or "black bitch" and wanted to know how she felt about that. Perhaps out of surprise that she played golf, he observed that "there aren't too many golf courses in the ghetto." He also suggested that the school was admitting "foreigners" and excluding "qualified" Americans.'

The law school reacted swiftly, and the firm was banned from interviewing on campus. Other schools contemplated taking action against the firm, and some of them did. Because I am black myself, and teach in a law school, I suppose the easiest thing for me to have done would have been to clamor in solidarity for punishment. Yet I found myself strangely reluctant to applaud the school's action. Instead, I was disturbed rather than excited by this vision of law schools circling the wagons, as it were, to defend their beleaguered minority students against racially insensitive remarks. It is emphatically not my intention to defend the interviewer, most of whose reported questions and comments were inexplicable and inexcusable. I am troubled, however, by my suspicion that there would still have been outrage—not as much, but some—had the interviewer asked only what I called at the beginning of the chapter the qualification question.

I suspect this because in my own student days, something over a decade ago, an interviewer from a prominent law firm addressed this very question to a Yale student who was not white, and the student voices—including my own—howled in protest. "Racism!" we insisted. "Ban them!" But with the passing years, I have come to wonder whether our anger might have been misplaced.

To be sure, the Yale interviewer's question was boorish. And because the interviewer had a grade record and resume

right in front of him, it was probably irrelevant as well. (It is useful here to dispose of one common but rather silly anti-affirmative action bromide: the old question, "Do you really want to be treated by a doctor who got into medical school because of skin color?" The answer is, or ought to be, that the patient doesn't particularly care how the doctor got into school; what matters is how the doctor got out. The right question, the sensible question, is not "What medical school performance did your grades and test scores predict?" but "What was your medical school performance?") But irrelevance and boorishness cannot explain our rage at the qualification question, because lots of interviewers ask questions that meet the tests of boorishness and irrelevance.

The controversy is not limited to outsiders who come onto campus to recruit. In the spring of 1991, for example, students at Georgetown Law School demanded punishment for a classmate who argued in the school newspaper that affirmative action is unfair because students of color are often admitted to law school on the basis of grades and test scores that would cause white applicants to be rejected. Several universities have considered proposals that would deem it "racial harassment" for a (white?) student to question the qualifications of nonwhite classmates." But we can't change either the truths or the myths about racial preferences by punishing those who speak them.

This clamor for protection from the qualification question is powerful evidence of the terrible psychological pressure that racial preferences often put on their beneficiaries. Indeed, it sometimes seems as though the programs are not supposed to have any beneficiaries-or, at least, that no one is permitted to suggest that they have any.

And that's ridiculous. If one supports racial preferences in professional school admissions, for example, one must be prepared to treat them like any other preference in admission and believe that they make a difference, that some students would not be admitted if the preferences did not exist. This is

¹I discuss campus regulation of racial harassment in chapter 8.

not a racist observation. It is not normative in any sense. It is simply a fact. A good deal of emotional underbrush might be cleared away were the fact simply conceded, and made the beginning, not the end, of any discussion of preferences. For once it is conceded that the programs have beneficiaries, it follows that some of us who are professionals and are not white must be among them. Supporters of preferences must stop pretending otherwise. Rather, some large segment of us must be willing to meet the qualification question head-on, to say, "Yes, I got into law school because of racial preferences. So what?"-and, having said it, must be ready with a list of what we have made of the opportunities the preferences provided.

Now, this is a costly concession, because it carries with it all the baggage of the bitter rhetorical battle over the relationship between preferences and merit. But bristling at the question suggests a deep-seated fear that the dichotomy might be real. Indeed, if admitting that racial preferences make a difference leaves a funny aftertaste in the mouths ⁴ proponents, they might be more comfortable fighting against preferences rather than for them.

So let us bring some honesty as well as rigor to the debate, and begin at the beginning. I have already made clear my starting point: I got into a top law school because I am black. Not only am I unashamed of this fact, but I can prove its truth.

As a senior at Stanford back in the mid-1970s, I applied to about half a dozen law schools. Yale, where I would ultimately enroll, came through fairly early with an acceptance. So did all but one of the others. The last school, Harvard, dawdled and dawdled. Finally, toward the end of the admission season, I received a letter of rejection. Then, within days, two different Harvard officials and a professor contacted me by telephone to apologize. They were quite frank in their explanation for the "error." I was told by one official that :the school had initially rejected me because "we assumed from your record that you were white." (The words have always stuck in my mind, a tantalizing reminder of what is expected of me.) Suddenly coy, he went on to say that the school had

obtained "additional information that should have been counted in your favor"-that is, Harvard had discovered the color of my skin. And if I had already made a deposit to confirm my decision to go elsewhere, well, that, I was told, would "not be allowed" to stand in my way should I enroll at Harvard.

Naturally, I was insulted by this miracle. Stephen Carter, the white male, was not good enough for the Harvard Law School; Stephen Carter, the black male, not only was good enough but rated agonized telephone calls urging him to attend. And Stephen Carter, color unknown, must have been white: How else could he have achieved what he did in college? Except that my college achievements were obviously not sufficiently spectacular to merit acceptance had I been white. In other words, my academic record was too good for a black Stanford University undergraduate, but not good enough for a white Harvard law student. Because I turned out to be black, however, Harvard was quite happy to scrape me from what it apparently considered somewhere nearer the bottom of the barrel.

My objective is not to single out Harvard for special criticism; on the contrary, although my ego insists otherwise, I make no claim that a white student with my academic record would have been admitted to any of the leading law schools. The insult I felt came from the pain of being reminded so forcefully that in the judgment of those with the power to dispose, I was good enough for a top law school only because I happened to be black.

Naturally, I should not have been insulted at all; that is what racial preferences are for-racial preference. But I was insulted and went off to Yale instead, even though I had then and have now absolutely no reason to imagine that Yale's judgment was based on different criteria than Harvard's. Hardly anyone granted admission at Yale is denied admission at Harvard, which admits a far larger class; but several hundreds of students who are admitted at Harvard are denied admission at Yale. Because Yale is far more selective, the chances are good that I was admitted at Yale for essentially

the same reason I was admitted at Harvard-the color of my skin made up for what were evidently considered other deficiencies in my academic record. I may embrace this truth as a matter of simple justice or rail against it as one of life's great evils, but being a member of the affirmative action generation means that the one thing I cannot do is deny it. I will say it again: I got into law school because I am black. So what?

One answer to the "So what?" question is that someone more deserving than I-someone white-may have been turned away. I hardly know what to make of this argument, for I doubt that the mythical white student on the cusp, the one who almost made it to Yale but for my rude intervention, would have done better than I did in law school.* Nor am I some peculiar case: the Yale Law School of my youth trained any number of affirmative action babies who went on to fine academic performances and are now in the midst of stellar careers in the law.

Even in the abstract, what I call the "fairness story" has never struck me as one of the more convincing arguments against preferential policies. The costs of affirmative action differ from the costs of taxation only in degree, not in kind. People are routinely taxed for services they do not receive that are deemed by their government necessary to right social wrongs they did not commit. The taxpayer-financed "bailout"

*It has always struck me as quite bizarre that, so many otherwise thoughtful people on both sides of the affirmative action controversy seem to think so much turns on the question of how the beneficiaries perform. I would not dismiss the inquiry as irrelevant, but I am reluctant to say that it is the whole ball game. It may be the case, as many critics have argued, that the affirmative action beneficiary who fails at Harvard College might have performed quite well at a less competitive school and gone on to an excellent and productive career that will almost surely be lost because of the shattering experience of academic failure; but one must weigh this cost (and personal choice) against the tale of the student who would not have attended Harvard without affirmative action and who succeeds brilliantly there. It may be that those who do less well in school because of preferences outnumber those who do better, but such statistics are only the edge of the canvas, a tiny part of a much larger and more complex picture, and that is why I think the energy devoted to the qualification question is largely wasted.

of the weak or collapsed savings-and-loan institutions is one example. Another is the provision of tax dollars for emergency disaster assistance after a hurricane devastates a coastal community. The people who bear the costs of these programs are not the people who caused the damage, but they still have to pay.

Like many, perhaps most, of America's domestic policies, affirmative action programs are essentially redistributive in nature. They transfer resources from their allocation in the market to other recipients, favored for social policy reasons. Much of the attack on affirmative action is fueled by the same instinct-the same American dream-that stands as a bulwark against any substantial redistribution of wealth. In America, most people like to think, it is possible for anyone to make it, and those who do not have been victims principally of their own sloth or lack of talent or perhaps plain bad luck-but not of anybody else's sinister plottings. Seymour Martin Lipset, among others, has argued plausibly that a stable democracy is possible only when an economically secure middle class exists to battle against radical economic reforms that the wealthier classes would otherwise resist by using means outside the system.⁹ In America, that middle class plainly exists, and racial preferences are among the radical reforms it is willing to resist.

Sometimes the fervent opposition of the great majority of white Americans to affirmative action is put down to racism, or at least racial resentment, and I do not want to argue that neither motivation *is ever* present. But affirmative action programs are different from other social transfers, and the way they differ is in the basis on which the favored and disfavored groups are identified. The basis is race, and sometimes sex-and that makes all the difference.

I say that race is different not because I favor the ideal of a color-blind society; indeed, for reasons I discuss in chapter 9, I fear that the rhetoric of color blindness conflates values that are best kept separate. Race is different for obvious historical reasons: the world in general, and this nation in particular, should know well the risks of encouraging power-

ful institutions to categorize by such immutable characteristics as race. Besides, even were race as a category less controversial, there is still the further fairness argument, that the sins for which the programs purportedly offer compensation are not sins of the current generation.

Many proponents of preferential policies, however, insist that the current generation of white males deserves to bear the costs of affirmative action. "White males," we are told, "have had exclusive access to certain information, education, experience, and contacts through which they have gained unfair advantage."¹⁰ In the words of a leading scholar, "[W]e have to say to whites, 'Listen, you have benefited in countless ways from racism, from its notions of beauty [and] its exclusion of minorities in jobs and schools.'¹¹ The argument has a second step, too: "For most of this country's history," wrote one commentator, "the nation's top universities practiced the most effective form of affirmative action ever; the quota was for 100 percent white males."¹² The analogy is fair-indeed, it is so fair that it wins the endorsement of opponents as well as supporters of affirmative action¹³-but what does it imply? For proponents of preferences, the answer is clear: if white males have been for centuries the beneficiaries of a vast and all-encompassing program of affirmative action, today's more limited programs can be defended as simply trying to undo the most pernicious effects of that one. That is how, in the contemporary rhetoric of affirmative action, white males turn out to deserve the disfavored treatment that the programs accord."

But there is risk in this rhetoric. To make race the determining factor not simply of the favored group but of the disfavored one encourages an analytical structure that seeks and assigns reasons in the present world for disfavoring one group. The simplest structure-and the one that has come, with mysterious force, to dominate the terms of intellectual

¹⁰Even accepting this dubious rhetorical construct, it is easy to see that racial preferences call for sacrifices not from white males as a group but from the subgroups of white males most likely to be excluded by a preference benefiting someone else-that is, the most disadvantaged white males, those who, by hypothesis, have gained the least from racism.

and campus debate-is what Thomas Sowell has called "social irredentism," an insistence that all members of the disfavored dominant group bear the mantle of oppressor." Affirmative action, then, becomes almost a punishment for the sin of being born the wrong color and the wrong sex.

All of this carries a neat historical irony. The personalization of affirmative action, the specification of white males as the villains, has diluted the message of the black left of the 1960s and early 1970s, which often (but by no means always) joined forces with the white left to insist that the problems were systemic, not individual. In those halcyon days of campus radicalism, the race struggle was widely described as hand-in-glove with the class struggle. Racial justice was said to be impossible under capitalism, and the principal debate among radical students was over what form of socialism was best for black people-a separate society or an integrated one, central planning or local communities?

As for affirmative action, well, sophisticated nationalists understood that it was part of the problem. By funneling the best and brightest young black men and women into the white-dominated system of higher education, the critics argued, the programs would simply skim the cream from our community, co-opting into the (white) mainstream those who should have been our leaders. An attack on efforts to substitute enhanced educational opportunities for racial justice was a principal focus of Robert Allen's provocative 1969 book *Black Awakening in Capitalist America*. "The black student," Allen warned, "is crucial to corporate America's neocolonial plans." "The best and brightest among black youth, he argued, instead of criticizing capitalism from the outside, would be trained to serve it from the inside. Nationalist reviewers agreed. For example, Anne Kelley wrote in *The Black Scholar* that "the emphasis on higher education for black students" was part of a "neo-colonialist scheme" that was "designed to stabilize the masses."¹

But the language of protest is quite different now, and the success of affirmative action is one of the reasons; to paraphrase John le Carre, it is hard to criticize the system when it

has brought you inside at its own expense. Affirmative action programs in education are designed to move people of color into productive roles in capitalist society, and the best sign that they are working is the way the argument has shifted. White males have replaced "the society" or "the system" or "the establishment" in the rhetoric of racial justice, perhaps because the rhetoric of justice is no longer under the control of genuine radicals. The modern proponents of preferences rarely plan to spend their lives in community organizing as they await the revolutionary moment, and there is no particular reason that they should. They are liberal reformers, not radical revolutionaries; with the collapse of communism as a force in the world, nobody seems to think any longer that the solution is to burn everything down and start over. On campuses nowadays, especially in the professional schools, the students of color seem about as likely as their white classmates to be capitalists to their very fingertips; they have no desire to kill the golden goose that the (white male) establishment has created. Or, to switch metaphors, today's affirmative action advocates want mainly to share in the pie, not to see it divided up in some scientific socialist redistribution.

Which helps explain, I think, why the "So what?" that I advocate is not easy to utter. Students of color are in the professional schools for the same reason white students are there: to get a good education and a good job. Because so many people seem to assume that the beneficiaries of affirmative action programs are necessarily bound for failure, or at least for inferiority, there is an understandable tendency for people of color to resist being thought of as beneficiaries. After all, who wants to be bound for failure? (Especially when so many beneficiaries of racial preferences really *don't* succeed as they would like.)" Better not to think about it; better to make sure nobody else thinks about it either. Rather than saying, "So what?" better to say, "How dare you?"

I understand perfectly this temptation to try to make the world shut up, to pursue the fantasy that doubts that are not expressed do not exist. When I listen to the labored but heart-felt arguments on why potential employers (and, for that matter, other students) should not be permitted to question the admission qualifications of students of color, I am reminded uneasily of another incident from my own student days, a shining moment when we, too, thought that if we could only stifle debate on the question, we could make it go away.

The incident I have in mind occurred during the fall of 1978, my third year in law school, a few months after the Supreme Court's decision in *Regents of the University of California v. Bakke*,¹⁸ which placed what seemed to many of us unnecessarily severe restrictions on the operation of racially conscious admission programs. The air was thick with swirling critiques of racial preferences, most of them couched in the language of merit versus qualification. Everywhere we turned, someone seemed to be pointing at us and saying, "You don't belong here." We looked around and saw an academic world that seemed to be doing its best to get rid of us.

So we struck back. We called the critics racist. We tried to paint the question of our qualifications as a racist one. And one evening, when the Yale Political Union, a student organization, had scheduled a debate on the matter (the title, as I recall, was "The Future of Affirmative Action"), we demonstrated. All of us.

Our unanimity was astonishing. Then as now, the black students at the law school were divided, politically, socially, and in dozens of other ways. But on this issue, we were suddenly united. We picketed the Political Union meeting, roaring our slogan ("*We are not debatable*) *We are not debatable*") in tones of righteous outrage. We made so much noise that at last they threw wide the doors and invited us in. In exchange for our promise to end the demonstration so that the debate could be conducted, we were offered, and we accepted, the chance to have one of our number address the assembly. That task, for some reason, fell to me.

I remember my rising excitement as I stood before the

audience of immaculately attired undergraduates, many of them still in their teens. There was something sweet and naive and appealing about the Political Union members as they sat nervously but politely in their tidy rows, secure (or, perhaps, momentarily insecure) in their faith that a commitment to openness and debate would lead to moral truth. But I set my face against the smile that was twitching there, and tried to work up in its stead a glower sufficient to convey the image of the retributive fury of the radical black left. (Having missed those days in college, I thought perhaps to rekindle them briefly.) And while some of the kids seemed annoyed at the intrusion, others looked frightened, even intimidated, which I suppose was our goal. I spoke briefly, pointing out that it was easy for white people to call for color-blind admissions when they understood perfectly well that none of the costs would fall on them. I carefully avoided the word *racism*, but I let the implication hang in the air anyway, lest I be misunderstood.

And then we marched out again, triumphantly, clapping and chanting rhythmically as though in solemn reminder that should the Political Union folks get up to any more nonsense, we might return and drown them out again. (A few of the undergraduates and one of the speakers joined us in our clapping.) We were, for a shining moment, in our glory; the reporters were there, tapes rolling, cameras clicking; in our minds, we had turned back the calendar by a decade and the campuses were in flames (or at least awash with megaphones and boycotts and banners and an administration ready to compromise); the school would meet us with a promise of justice or we would tear it down.)

Then all at once it was over. We dispersed, returning to our dormitory rooms and apartments, our law review and moot court activities, our long nights in the library to prepare for class and our freshly cleaned suits for job interviews, our political differences and our social cliques. We returned to the humdrum interests of law school life, and suddenly we were just like everybody else again. Absolutely nothing had changed. *Bakke* was still the law of the land. There was no magic, the campus was not in flames, and there had never been

a shining moment. There was only the uneasy tension of our dual existence. The peculiar uncertainty provoked by affirmative action was still with us, and our outrage at being reminded of its reality was undiminished. And as for the eager young minds of the Political Union, I suppose they held their debate and I suppose somebody won.

IV

The demonstration at the Political Union seems very long ago now, not only in time but in place: Could that really have been Yale? Could that really have been us? (I look around at the chanting faces in my memory and pick out their subsequent histories: this one a partner in an elite law firm, that one an investment banker, this one a leading public interest lawyer, that one another partner, this one in the State Department, that one a professor at a leading law school, this one a prosecuting attorney, that one in the legal department of a Fortune 100 corporation, and so on.) We are not the people we were then, but the fact that the debate was held over our boisterous objections seems not to have diverted our careers. We are a successful generation of lawyers, walking advertisements, it might seem, for the bright side of affirmative action. Our doubts, seen from this end of the tunnel, seem vague and insubstantial.

At the time, however, the doubts, and the anger, were painfully real. I do not want to suggest that the doubts have persisted into our careers or those of other black professionals—I am as irritated as anybody else by the frequent suggestion that there lurks inside each black professional a confused and uncertain ego, desperately seeking reassurance—but it is certainly true that as long as racial preferences exist, the one thing that cannot be proved is which people of color in my generation would have achieved what they have in their absence.

At this point in the argument many of us are told, as though in reassurance, "Oh, don't worry, you're not here be-

cause of affirmative action—you're here on merit." But it is not easy to take this as quite the compliment it is presumably meant to be. In the first place, it continues the opposition of merit to preference that has brought about the pain and anger to begin with. More important, and perhaps more devastating, it places the judgment on how good we are just where we do not want it to be: in the minds and mouths of white colleagues, whose arrogant "assurances" serve as eloquent reminders of how fragile a trophy is our hard-won professional status.

Very well, perhaps we were wrong in our youthful enthusiasm to try to stifle debate, but that is not the point of the story. The point, rather, is that our outrage was misdirected. Even at the time of my glowering diatribe, I realized that not all of what I said was fair. Looking back, I have come to understand even better how much of my message—our message—was driven by our pain over *Bakke* and the nation's changing mood. "Don't you understand?" we were crying. "We have fought hard to get here, and we will not be pushed back!"

Our anguish was not less real for being misdirected. Whether one wants to blame racial preferences or white racism or the pressures of professional school or some combination of them all, our pain was too great for us to consider for an instant the possibility that victory in the battle to "get here" did not logically entail affirmative action. We were not prepared to discuss or even to imagine life without preferences, a world in which we would be challenged to meet and beat whatever standards for admission and advancement were placed before us. We wanted no discussion at all, only capitulation. All we saw was that the Supreme Court had given us the back of its hand in *Bakke* (we even wore little buttons: FIGHT RACISM, OVERTURN BAKKE) and the forces of reaction were closing in.

Now that I am a law professor, one of my more delicate tasks is convincing my students, whatever their color, to consider the possibility that perhaps the forces of reaction are not closing in. Perhaps what seems to them (and to many other people) a backlash against affirmative action is instead (or in

addition) a signal that the programs, at least in their current expansive form, have run their course. Or perhaps, if the programs are to be preserved, they should move closer to their roots: the provision of opportunities for people of color who might not otherwise have the advanced training that will allow them to prove what they can do.

My students tend to disagree, sometimes vehemently. The bad guys are out there, they tell me, and they are winning. And one of the reasons they are winning, as I understand it, is that they get to set the rules. A couple of years ago, for example, a student complained to me that people of color are forced to disguise their true voices and write like white males in order to survive the writing competition for membership on the *Yale Law Journal*. One critic has argued that university faculties employ a "hierarchical majoritarian" standard for judging academic work—a standard that is not sensitive to the special perspective people of color can bring to scholarship.¹⁶ And all over the corporate world, I am led to believe, the standards of what counts as merit are designed, perhaps intentionally, to keep us out.

Nowadays, racial preferences are said to be our tool for forcing those bad guys—the white males who run the place, the purveyors, so I am told, of so much misery and the inheritors of so much unearned privilege—to acknowledge that theirs is only one way of looking at the world. Anyone who can't see the force of this argument is evidently a part of the problem. White people who ask whether the quest for diversity contemplates a lowering of standards of excellence are still charged with racism, just as in the old days. (The forces of reaction *are* closing in.) People of color who venture similar thoughts are labeled turncoats and worse, just as they always have been. (Don't they *know* that academic standards are a white male invention aimed at maintaining a eurocentric hegemony?) And through it all, the devotion to numbers that has long characterized the affirmative action debate continues.

Certainly the proportions of black people in the various professions are nothing to shout about. In my own field of law teaching, for example, a study prepared for the Society of

American Law Teachers shows that only 3.7 percent of faculty members are black at law schools that are; as the report puts it in an unfortunate bit of jargon, "majority-run."¹⁷ In other professions, too, although the numbers have generally improved in recent years, the percentages of black folk remain small. On medical school faculties, for example, 1.9 percent of the professors are black.¹⁸ On university faculties generally, just 4 percent of the faculty members are black. For lawyers and judges, the figure is 2.3 percent. For physicians, 3.3 percent. Financial managers, 4.3 percent. (And, as long as we're at it, for authors, 0.4 percent, about 1 out of 250.)¹⁹

But while we might agree on the desirability of raising these numbers, the question of strategy continues to divide us. To try to argue (as I do elsewhere in this book) that purported racism in professional standards is not a plausible explanation for most of the data is to risk being dismissed for one's naivete. And as to my oft-stated preference for returning to the roots of affirmative action: well, the roots, as it turns out, had the matter all wrong. My generation, with its obsessive concern with proving itself in the white man's world, pressed an argument that was beside the point. Had we but, understood the ways in which our experiences differ from those of the dominant majority, it seems, we would have insisted on an affirmative action that rewrites the standards for excellence, rather than one that trains us to meet them.