

The Elie Wiesel Prize in Ethics

Honorable Mention - 2008

Colorblind America and the Death of Affirmative Action

Elaine Lai
Wesleyan University
Chicago, IL

PROPERTY OF:
The Elie Wiesel Foundation for Humanity
555 Madison Avenue, 20th Floor
New York, NY 10022

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During this past summer, when I was streamlining NPR radio from my mother's apartment in Shanghai, my attention was turned to an audio clip headed under the *Legal Affairs* section titled: "Supreme Court Rules on Race in the Classroom." I stopped short in my routine perusal of the different daily news briefs and re-read this title, slightly confused and suspicious as to what "Rules on Race" really insinuated. How would this ruling affect the American classroom as I knew it? I clicked on the red speaker icon to listen to the report. The date was June 28, 2007.

The Supreme Court on Thursday struck down two public school plans that used race as a factor in deciding where students attend classes. The 5-4 ruling on plans from two major public school districts — in Seattle and Louisville, Ky. — is likely to prompt revisions of similar plans in schools across the country...¹

I blinked several times, trying to translate and process what all this meant. The voice of the reporter was matter-of-fact, steady and official, her tone non-negotiable. From that morning on, affirmative action in public schools K-12 was no longer "constitutional" in the eyes of the law, a difficult decision that had been reached after much back and forth debate where neither side had been willing to budge on their positions. 5-4 meant split down the middle, a close call. Had one vote swung the other way, the law would have mandated the opposite of the day's ruling, upholding the constitutionality of affirmative action instead of its unconstitutionality. It was precisely because of this one swing vote belonging to Justice Kennedy that the law had changed suddenly. Despite the fact that the decision makers themselves did not express unanimous consent, but rather very conflicting and antagonistic dissent, the course of many students'

¹ National Public Radio. "Supreme Court Rules on Race in the Classroom"
<http://www.npr.org/templates/story/story.php?storyId=11515776>

lives would be forever altered because the higher authority of the court, the 5-4, had said so.

During my entire life as a student thus far, affirmative action has always emerged as a subject of divisive, angry debate among my classmates, parents, community members and local politicians. Because the two opposing sides generally agree that racism is immoral, it makes it all the more difficult to name the point of disagreement and to reconcile their different opinions. The argument consistently posed by those who want to discontinue affirmative action programs is usually framed in the following way: If the state now recognizes the equality of all people before the law, then the American people should likewise progress towards the ideal of a colorblind society, one in which nobody is judged on the basis of their race. Supporting a policy of affirmative action which practices racial preference would unjustly give black Americans a head start instead of judging everyone on the same basis of merit. This is a form of reverse racism and inimical to a democratic state.

Interestingly, it was while I was listening to the NPR report online, this moment when I was far removed from the U.S. and isolated from contact with everything “American,” that I felt an urgent desire to talk about the court ruling with someone who could relate to the American context and the specificity of the affirmative action debate in the U.S. I listened to all the related audio clips, trying to piece together the incongruous viewpoints in order to understand all of the decision’s unsaid, far-reaching implications and effects, many of which I could only start to speculate on. What did this mean for racial diversity and racial diversity quotas which helped to ensure integration in K-12 schools? What would happen to affirmative action measures like the Metco busing

program implemented at my former suburban high school? How would this decision determine the faces of the students in school districts like mine, where the students with residency were majority white, upper-middle-class?

It was during the next couple of hours as I listened intently to the equally divided public response to the court's decision that I realized, for the first time in my three tumultuous years at college—where my reference points and identity markers had been completely destabilized—that a part of me felt very strongly tied to this country, the United States. I felt it in the knot that formed in my stomach when I heard Justice Clarence Thomas quote the 1954 desegregation law, *Brown v. Board of Education*:

In a separate opinion siding with the majority, Justice Clarence Thomas, the court's only black member, said that school assignment plans based on race are just as unconstitutional as race-based segregation was in 1954. "What was wrong in 1954 cannot be right today," Thomas said.

Justice Thomas's definitive claim, "What was wrong in 1954 cannot be right today," replayed itself in my head repeatedly as I tried to understand and to sort through his logic of comparing the unconstitutionality of racial segregation in 1954 to current affirmative action programs. If affirmative action was originally created to offer compensatory justice for those who had been disadvantaged economically, socially and politically by the law and its racist institutions, didn't it in fact represent the complete opposite of former segregation laws? Unlike the segregation laws enacted by the 1896 ruling *Plessy v. US*, which facilitated the systematic subordination of black Americans, affirmative action is based on the principle of *anti*-subordination. As such, it aims to ensure equal opportunity for people who have historically been denied equal rights due to

state policies which have discriminated against certain races, ethnicities and genders at the benefit of protecting the property interests of white male Americans. While the segregation laws forcibly divided neighborhoods, schools, facilities and public spaces on the basis of race, affirmative action seeks to integrate different races in these same spaces. Whereas segregation ratified an uneven distribution in wealth, resources and opportunities, affirmative action attempts to compensate for these inequalities, to “equalize” the playing field so that we can progress towards the realization of a true democracy.

Repeating again Justice Thomas’s words to myself, I realized that I could neither justify his logic, nor agree with his comparison of segregation laws to affirmative action, another version of the “reverse racism” argument. And yet his statement was sealed with the righteousness of authority—the law. Furthermore, because the report drew attention to the fact that Justice Thomas is “the court’s only black member,” his stance against affirmative action gained a degree of dangerous, unquestionable power that it would not have retained had he been a white member. In the eyes of the public, his skin color held symbolic significance and elevated him as spokesperson and representative for all black Americans. His highly vocal anti-affirmative action position was therefore doubly charged as it carried the weight of his skin color and implicated all those associated with it. How could I argue with the logic of his statement when Justice Thomas was backed by the law and also implicitly authenticated because of the color of his skin? How could I voice the unease I felt in both the Supreme Court decision *and* the public metaphor which Justice Thomas had been transformed into? How could I criticize the court ruling for increasing discrimination when the dominant public ideology embraced diversity and

integration as core American values, values which have been assimilated into the public discourse since the abolition of state racism under the 1965 Civil Rights Voting Act? I knew from my personal experiences, from the high school that I went to, from the tutoring programs that I engaged in, that eliminating affirmative action programs would undoubtedly disfavor minorities, particularly black Americans, living in school districts which did not offer equal education facilities, state funding, or as many varied educational programs as schools in the suburbs. But how was I to even begin to express this when the ruling was not *overtly* discriminatory, when the law had Justice Thomas's token presence on its side to prove the legitimacy and fairness of its decision?

My mother walked in the room right at that moment, and I played the clip for her, seeking a second opinion. She was never interested in American politics, but she listened for my sake. Afterwards she shrugged her shoulders and said very simply: "Isn't that what America believes in? Everybody says they're colorblind."

Colorblind.

It is one of those loaded, powerful words whose meaning I could never decipher as a kid, though I heard it, saw it, and felt its subtle presence everywhere I went. The first time I heard it used was in elementary school, on the designated days when the school celebrated "Diversity Day" and "Martin Luther King Day." My teachers would spend the afternoon teaching the class the history of the Civil Rights movement, a lesson which year after year, consisted of playing an audio clip of Dr. King's "I have a dream" speech and looking at slides of the Montgomery Bus Boycotts. The teacher would always end our brief history lesson emphasizing that "today we live in a multicultural, colorblind society," a mark of progress thanks to individuals like Dr. King who had the courage to

dream for equality, integration and a better future for his children. At the end of the day, students and teachers felt good—Civil Rights and the fight for equality was a hard battle that was won and its celebrated by-products—multiculturalism and diversity—became our proof that we had overcome our racist history.

The very first year that I celebrated “Martin Luther King Day,” I noticed a giant poster hanging above the chalk board, one with the image of an iconographic pair of hands shaking—black and white—interlaced with the bold word “Unity” printed loudly above. I looked at that poster everyday, we all did, and assumed its public presence was warranted because the teacher had put it there, because the United States supposedly meant unity, brotherhood and equality. The poster’s firm and assured place in the most visible part of the classroom discouraged us from ever questioning the validity of its message—black and white in peaceful coexistence, the word UNITY reinforcing the visual signs. In this simple poster, the color line was simultaneously evoked, through the image, and then dissolved, through the text. The image—the fusion of these two different colored hands, meant the erasure of color, a disavowal of any difference or hierarchy; the hands were the same size, posed in the same gesture and mirror images of each other. Image and text combined lead me to conclude that color did not matter when all else was equal, the same and one.

It was during these unquantifiable moments of observing and absorbing the suggested meanings from posters like this one, and from the lessons taught on days like “Martin Luther King Day,” that the words “unity,” “equality,” “diversity” and “multicultural” slowly began to print their ambiguous meanings into my mind, eventually weaving their way into my lexicon and self-conception as I entered each successive

grade. By the time I was in the fourth grade, I could tell you all about Rosa Parks, recite verbatim the preamble and the first amendment in the Constitution, and sing “We shall overcome” with a perfect soprano pitch for our school chorus. I told my mother I was American. More American than Chinese, and didn’t think twice.

It was not just on these special national holidays, but through the accumulation of varying experiences on any given day—every time I participated in class activities, did my homework assignments, watched cartoons on television, listened to the news with my mother—that I came to internalize these American codes: “Life, liberty and the pursuit of happiness,” were inalienable rights, and anyone could pull themselves up by the bootstraps if they just worked hard enough. These moral messages formed my understanding of American values during the early years of my childhood as the world was making its first tangible impressions on me. I listened attentively to my teachers, wanting to believe them and to trust in them because they represented authority and were supposed to provide the “right” answers. And so I wrapped my mind around these images and lessons, memorized them, and branded them into my little mind in order to try to secure my place on that poster with the fixed hand shake, though deep down I knew that the poster never acknowledged the shades of gray between the black and the white. That was perhaps the beauty of its simplicity; it enabled the invisible omissions of gradations camouflaged in the background; it allowed an easy denial of the complications that arise when color is so quickly integrated in order to satisfy our aesthetic and national desires for unity, creating for us a complete, pleasing and pretty narrative. The more that I chased after this narrative however, the further it would slip from my grasp. I would realize little by little, as I attempted to mirror this colorblind ideal, the impossible contradiction

between the illusion of unity put forth by the image, and the fragmented disunity which was the world around me.

On “Martin Luther King Day,” in fourth grade, my teacher called on Jessica, the only black student in my class, and asked her: “What are the most important aspects of African-American culture and heritage?” Pause. I watched her from the corner of my eye, feeling a slight prickle at the back of my neck, as she stuttered quietly, “I don’t know...” My teacher tried a second time, more confident in his tone: “Of course you do! As an African American, what is most important to your culture?” My stomach knotted inside and I shifted my gaze down towards my untied shoelaces. The umbrella of silence suspended itself in the air and stretched over the eager gaze of the entire class awaiting a ‘fuller’ response. Jessica did not respond. As the silence lingered, I grew more tense and shifty in my uncomfortable seat. Aside from Jessica’s refusal to respond, everybody else seemed completely at ease with my teacher’s question. One boy even yawned. Why did I feel that tight knot in my stomach which made me avert my gaze from Jessica? Why did I feel uncomfortable with the way that everyone was looking at her, expecting a lesson on African American culture? You’re too sensitive, I had told myself.

But I was *not* too sensitive, though I would only realize it years later when I was able to gain some distance from my childhood experiences and to critically reexamine the assumptions that I had been making since I was a kid. My memory of Jessica’s silence and my own silent disapproval returns to me a lot these days, particularly when I am so overwhelmed by our ideologically saturated vocabulary that I can no longer deconstruct the double meanings that pervade our public discourses—within politics, classroom

spaces, among friends and family. Whenever the terms, the statistics and the defensive voices start to confuse me, I remember my gut unease that day in fourth grade and how I should have trusted my gut instead of letting the language blur my senses.

In that simple, seemingly innocuous gesture of singling out Jessica to ask her about African American culture, my teacher had made Jessica the unwilling spokesperson for all African Americans, transforming the title “African American” into a monolithic and all-encompassing racial category which refused nuanced gradations and variations in definition. And the class responded likewise, forming expectations and assumptions in their mind about the relationships between race and culture. And perhaps in this moment, the students in the class would begin to conflate and replace the subjective identity of individuals like Jessica with an immutable racial category, one readily attached to a set of defined ‘cultural’ characteristics. Jessica did not tell the class that she identified as African American, though perhaps she did. She did not tell us if she identified with a specific cultural identity or several different ones for that matter, though perhaps she did. Instead, she was spotlighted as an informant of all black experiences, an unjust burden of metaphor that she could not carry. She remained silent. The question was not phrased so that she could respond otherwise.

In that instance, and other countless instances like it, the borders which ensnare us all into tight boxes which dictate our identities based on race and ethnicity, began to take their unforgiving, uniform shape. These borders would only become more clearly delineated as we grew older and entered each new stage of our socialized adult life. Part of that socialization was learning to check off our appropriate boxes—white, African American/black, Latino/Hispanic, Asian/Pacific Islander, American Indian/Alaskan

Native, Other—in application forms for schools, scholarships, jobs and every other public function we would ever attempt to gain. We would check off so many boxes in the following years that the response would eventually become automatic; when asked about our identities, we would begin to deliver a version of the automatic response if not the automatic response itself. I am Asian-American, I would say, without a second thought. And that label would immediately associate me with a host of characteristics which perhaps did not define me in any way.

At the end of class that day, I had wanted to say something to Jessica, but there were no words that would come to me. Part of the difficulty with finding the words to describe my gut unease was due to the fact that my teacher and my peers had acted as if nothing was wrong in the interaction that took place. “Martin Luther King Day” was a day of celebration, of talking about and appreciating “difference,” because we were now, in the eyes of the law, all equal. As long as we were equal and believed that diversity was good, what was so wrong in asking Jessica to speak for the African American experience? Wasn’t my teacher’s interest just a way of expressing tolerance for racial diversity?

Secretly too, I felt relieved that Jessica was forced to speak and not me, although there was an unspeakable guilt and shame in my relief which I did not want to face. I wanted to say something to her but I had chosen not to because I was scared, because we weren’t friends and because I did not know how to say what I felt. I walked home sensing an inexplicable disconnectedness and exclusion from the conversation and all the activities that went on that day. Like the poster, there was no space for my presence, my

voice or my participation; the celebration of diversity was simple, and its simplicity refused complications, gradations. Within the moment of interaction between my teacher and Jessica, I was pushed into the anonymous background while the story of black and white played itself out in a semi-scripted scene. But if this was true, if I really had no place in the nation's history of Civil Rights, in the celebration of Martin Luther King Day, in my teacher's burdening question towards Jessica, why did my body stiffen up so when the gaze of the class fell upon her? Why did I feel implicated in that classroom space, and guilty for not having said something which I did not know how to say?

It was because I recognized the gaze. It was a part of my life in all the places where I had been in the minority. It was a gaze I knew very well, both similar and different to the gaze that I witnessed in class that day.

I would feel it hovering over me whenever I rode my purple bike through my own neighborhood, a place I never quite called home. I would feel it when other children's parents would watch me from their front porches, and then sometimes stop me on my bike to ask me when my mother and I had moved in and how I liked living in the United States, when I had lived here my entire life. They spoke to me in slow, pressing tones, smiling evenly but not with their eyes. I would again feel that prickle at the back of my neck while I tried desperately to see past their unflinching gazes, which made my voice come out even smaller and more uncertain than I already felt.

There would be other gazes from my peers at school, especially during lunch when I would unpack the rice dishes or dumplings that my grandmother had prepared the night before; the other girls would look at me disapprovingly over their square

sandwiches and string cheese, sometimes interrupting by asking “What *is* that?” and sometimes not saying anything at all. Whether they spoke to me or not, they always looked at me with that coldness of judgment and exclusion which would make my neck prickle yet again, and kill my appetite. More than once, I threw out my lunch, silently scorning my grandmother for making me food which drew attention to my difference, this difference which was growing ever more tangible and intangible in my life.

I thought about Jessica and those moments of discomfort again when I heard the Supreme Court ruling that day on June 28, 2007. I thought about my experiences growing up and all the “Martin Luther King Day” celebrations I had gone through as a kid. I remembered my gut unease then, the same unease that I was feeling after having heard the NPR news bit. Was I too sensitive?

No. My dissent was warranted and my expression of it was important. In both instances of public dialogue—my teacher’s seemingly harmless question, and Justice Thomas’s comparison of affirmative action to reverse racism—the underlying assumption guiding their logic is that our constitution and our culture is colorblind. Colorblindness presupposes that race is neutral, that racial categories only function to group together people who share a common culture. However, these formal race categories not only completely ignore the historical, cumulative disadvantages that mark the unequal “starting point” for many black Americans and other minorities today, but they also threaten to conflate race with culture, creating standards for diversity which are based on misguided assumptions and harmful stereotypes.

“Americans share a common historical and cultural heritage in which racism has played and still plays a dominant role. Because of this shared experience, we also inevitably

share many ideas, attitudes, and beliefs that attach significance to an individual's race and induce negative feelings and opinions about nonwhites. To the extent that this cultural belief system has influenced all of us, we are all racists. At the same time, most of us are unaware of our racism. We do not recognize the ways in which our cultural experience has influenced our beliefs about race or the occasions on which those beliefs affect our actions."²

We do not, as we would like to think, all have an "equal starting point," in life. Although the 14th Amendment states that we are all equal before the law, inequality is still a lived reality for many racial minorities today. Our neighborhoods have in many ways re-segregated, mostly due to the fact that the political equality won in the '60s did not solve the problem of economic inequality. Furthermore, because of districting laws and the uneven distribution of wealth and state resources, quality of education is completely dependent upon what neighborhood one lives in. Affirmative action in public school systems is thus a necessary step to take if we are to actually equalize the educational opportunities for disadvantaged minorities, who continue to suffer from old, new and continuing discriminatory policies, though they are no longer overtly so.

If our neighborhoods are not integrated, and our schools are not integrated, what is to become of our cherished ideals of equality, of creating a truly pluralistic and progressive society? What is the framework we must envision so that true equal opportunity can flourish? To end affirmative action is to ignore responsibility. Unfortunately, race has, and continues to play a significant role in determining the amount of privileges that one receives or is born into. The United States and its citizens therefore have an obligation to rectify the country's racial inequalities, and while affirmative action is one means, it should not be the only means.

² Crenshaw, Gotanda, Peller & Thomas. Critical Race Theory. (New York: 1995). The New Press. See in Particular: Charles R. Lawrence III "The Id, the Ego, and Equal Protection Reckoning with Unconscious Racism." P. 237

“What is required among progressives is not a reflective, uncritical defense of affirmative action, but a recognition of its contradictory evolution and conceptual limitations, as well as its benefits and strengths. A movement toward the long-term goal of a “color-blind” society, the deconstruction of racism, does not mean that we become “neutral” about the continuing significance of race in American life.”³

We must be critical of our assumptions, our laws, our media, and most importantly, we must be critical of ourselves for unconscious racism is embedded in the social fabric of our cultural understandings. Because of this, we must necessarily be aware of our speech acts, how we negotiate difference, race, and culture, and we must be wary of the gaze that we might unconsciously place upon these differences. If we hold colorblindness as a true ideal for ourselves and our conception of being American, if we wish to view each other as equal human beings coexisting in integrated neighborhoods, schools and workplaces, we must *also* recognize the potential of our current colorblind discourse and beliefs to obscure us from facing the persistent inequalities that have carried over from our dark past. Only then can diversity truly come into meaning.

³ Marable, Manning. “Affirmative Action and the Politics of Race.” P. 353