

John Kekes' Arguments of Affirmative Action: Revisited

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ABSTRACT

Affirmative action, in contemporary political philosophy, has been the most debatable issue. Some Philosophers say that there should not be any policy which is far from the equality before law and Affirmative Action is a policy of preferential treatment which is done to uplift the deprived and underrepresented class on the cost of others' possession that is against the equality before law. While, some Philosophers say that there should be Affirmative Action for assuring a level playing field. It's because there is disparity in social-economical scenario dispersed in the society. The deprived class is far from the favorable socio-economical scenario as the groups of main stream are entertaining. In this paper, I will discuss John Kekes' arguments in disfavor of Affirmative Action. The paper will conclude by advancing my own position regarding this issue.

Keywords: *Affirmative Action, Preferential Treatment, Equality, Liberty, Justice.*

Introduction

To attain the aims of the paper, the paper is divided into following elaborations:

1. Affirmative Action: In General
2. Philosophical Basis of Affirmative Action
3. John Kekes' arguments of Affirmative Action

1. Affirmative Action: In General

The idea of affirmative action came in existence in 1965 when president of Lyndon Johnson, President issued an Executive order 11246. The order contains the provisions that all the agencies of the government have to ensure that that the considerations of the applicants for employment should be regardless to their race, color and national origin. As the order was implemented on the ground, passed two years, the sub clause of sex is also added in the order. But now the policy of affirmative action is being integral part of every college and university in United States of America. As the efforts are made to strengthen the policy, the profit became known to all. So, each country tries to adopt the policy of affirmative action.

It's difficult to bind up the policy of Affirmative Action in words, but some attempts are done to describe it, are as follows:

According to Taylor (2009), an affirmative action program is a spectrum consisting of at least five categories:

1. Category. Formal equality of opportunity: In this approach, an affirmative action program aims to implement a neutral policy to ensure that opportunities are open to everyone regardless of race, gender, religion, or any demographic attribute.
2. Category. Aggressive formal equality of opportunity: Instead of neutrality and non-intervention, supporters of Category 2 would aggressively use sensitivity training, external monitoring, and outreach efforts to achieve a fair outcome in admission and employment.
3. Category. Compensating support: In this approach, special training programs, financial support, mentoring, or tutoring are provided to minorities to compensate for their disadvantages.
4. Category. Soft quotas: In this method, "bonus points" are added to the selection indices of minorities in admission and employment while no explicit quota is set.
5. Category. Hard quotas: As the name implies, this approach aims to achieve a proportional representation of the population by gender and racial composition in the student body and the work force.

According to *the Economic Times* "Affirmative action is directed at increasing the number of people, from certain parts of the society, within business or educational institutions or in areas where they are underrepresented. It can also be looked at as eliminating or bringing down discrimination against a particular set or group of people". Thus, Affirmative Action policies are aimed at increasing opportunities for those groups of people which have been neglected by the society. They are mainly focused on providing employment and educational opportunities.

According to Encyclopedia of Philosophy (by Shanti Nath Gupta) Affirmative action are Positive steps to enhance the diversity of some groups, often to remedy the cumulative effect of subtle as well as gross expressions of prejudice. When numerical goals are set, they are set according to the group's representations in the applicant pool rather than the group's representation in the general population. For example a medical school with an affirmative action program would seek to admit the members of an underrepresented group in proportion to their representation in the population of those who had completed pre medical requirements and wished to attend medical school.

To sum up, it can be said that Affirmative action is public policy of preferential hiring designed to compensate the victims of injustice; in which some positive steps are to be taken that can be in the form of policies, laws, or change in perspectives that is geared towards the upliftment of, development of an increase of representation of deprived class.(1993)

2. Philosophical basis of Affirmative Action

In contemporary philosophy, the ideal of justice has been a great debatable issue. It is unfortunate that most of the debates nullified by the later one. Some philosophers say that justice should be based on fairness i.e. procedures, that are fair. On other hand, some philosophers say that the state should be color-blind state i.e., providing everything to everyone regardless to their race and gender. The supporters and defenders of affirmative action rely on very different notions of fairness and Justice. (2017)

Equality is a concept which appeals to each and every individual in a society. Every individual aspiring to grow in position, or to elevate him for a better position in life, knows well that equality is indispensable. Likewise the fullest development of an individual is possible only through the principles of equality. The view of equality keeps on changing from time to time, but the concept of equality remains unchanged. Equality as a principle is bound to stay in every society. It's been a matter of disagreement among philosophers over just what "equality as a political notion signifies". Equality is a comprehensive notion. It has many dimensions and prospective as an individual is capable of his own perception of it. Like many familiar phrases of political philosophy, equality is vague, ambiguous and has changed in connotation from one thinker and society to another. Thus, the word 'equality' possesses more than one meaning. (2010)

We have to take into consideration the other notions of equality, expressed by some well known Philosophers from multi Dimensional Perspectives. Prof. Harold J. Laski has says that "Equality does not mean identity of treatment. There can be no ultimate identity of treatment so long as men are different in want, capacity and, need. It's because everyone is different having one's own unique character and quality. So, he ascribes that equality means the absence of special privilege which implies that adequate opportunities are open to all. Whatever Laski had said can be applied to the present day society. (2002). According to him, the concept of equality, which demands that equals must be treated equally and those who are similarly situated must be accorded similar treatment, is undoubtedly a statutory legal principal which can be seen in almost all the world. But in India, a few unfortunate sections are suppressed, socially and economically, culturally for many centuries in the past, which created an imbalanced socio-economic order came into existence. In such an imbalanced socio-economic order, strict observance of concept of equality would lead to vanishing of the existing inequality. So, necessarily, some initial advantages should be granted to the weaker sections as compensation for the lost opportunities, or opportunities which were denied to them in the past.

Moreover, the state is providing the scenario which a human being should have, the society is called harmonious. But today's society is disintegrated into several forms. It's because of the unequal distribution of laws and rights. As a result, two groups came into existence. The first group is entertaining more than they should entertain. The second group is entertaining less laws and rights than they should entertain. These are the factors which are creating a difference that leads injustice. This injustice can be found in every society. To abolish the in justice, equality should be assured. That leads to the emergence of Affirmative action.

The presence of Affirmative action is not merely to abolish the factual imbalance i.e. unequal representation in all the socio-political structures of the society. It is because the state and society which formulates some norms or normative theories to ensure the total welfare of the society which is the ultimate goals of the state. The point shows that whatever norms are made, they made after the philosophical inquiry in to the nature of the society in which some factors are being inquired such as the distribution of justice, the presence of equality and absence of inequality, the dispersion of social justice, the presence of social inclusion and absence of social exclusion, the gap between the equity and equality, the distribution of rights and laws in human on being human. All these factors are inquired philosophically. (1992)

In its ideal form, affirmative actions are those actions in forms of some special laws and rights which are

done in a society to pull the targeted or deprived or backward class into the main stream of the society. It's because they have been treated as a differentiated class on the basis of their class, religion, culture, color, race, and sex. This differentiation led to the class into an underrepresented class in every sectors of the society. Thus, it's now very clear that that affirmative action is a kind of compensatory justice. This will lead to the total welfare of the society which a philosophy sees.

John Kekes Arguments of Affirmative Action

In Social philosophy, each and every process of philosophizing demands a logicity which leads to argumentation. The process of argumentation is solely based on arguments. Argument is a set of propositions which are set logically in order, and the order of the propositions lead to a fair, just and logical conclusion.

In social philosophy, it is difficult to argue some ideas on the original basis of argument forms; it's because when we strive to delve within the subject matter of social philosophy the concepts are closely interrelated to each other, well formed argumentative structure is quite difficult. Arguments of Affirmative Action which are given to defend the Affirmative Action are as Forward Looking Argument, Backward Looking Argument, Compensatory Argument, Corrective Argument, Diversity Argument, Argument against Meritocracy, Role model Argument, Open Access Argument, Argument from Equality, and Argument from Favoring the Same.

John Kekes in his article "The Injustice of Affirmative Action Involving Affirmative Action" and "The Strong Affirmative Action" has discussed his contrary views of Affirmative Action. In the very beginning of the article he has discussed that there are two kinds of Affirmative Action.

The First kind of Affirmative Action is Weak Affirmative action, and the second kind of Affirmative Action is strong affirmative action.

1. Weak Affirmative Action

This kind of Affirmative action is based on the principle of liberty principle of liberalism, which says that there should be fair and just procedures to ensure the universal access to all the individuals regardless to their race, gender, religion, culture and ethnicity. Thus this form of Affirmative Action is based on the idea of possessive individualism.

2. Strong affirmative action

This kind of affirmative action is based on the difference principle of John Rawls. The difference principle asserts that the inequalities are fair when they are related to the benefitting the least advantaged people of the society. Thus the aim of this kind of affirmative action is to go beyond the rule of procedural justice to the rule of substantive justice, in order to fill the all the social scarcities, which they might have owned , if the discrimination might have not occurred.

John Kekes asserts in his article that there are no strong philosophical grounds on which we can defend the Affirmative Action. John Kekes assertions are as follows:

1. John kekes says that the nature of procedure is more important, if, in attempt to assure justice in the society, one is violating the fair procedure. This kind of remedying injustice is quite morally wrong. According to John Kekes:

“But this rejoinder is unconvincing. It fails to recognize that protecting fair procedures is far more important than remedying injustice. One indication of their differing importance is that if the already existing injustice were permitted to continue to exist without remedy, our society would not be harmed more than it has already been. It is true that there would remain one or two generations of victims, but if we concentrate on guaranteeing open access and fair procedures, no new victims would be added. Injustice is bad, of course, and it ought to be remedied, but the point is that the welfare of the large majority of nonvictims would not be appreciably affected if no feasible remedy were available.” (2005)

2. John kekes says asserts that there is not a single feasible way to find out the victims of injustice. It's quite arbitrary that some groups of the society are assumed as the victims of injustice without any justification. In his own words:

“Moreover, the identification of the groups whose members are supposed to be victims of injustice is intolerably vague. No account is taken of socioeconomic status; thus upper-middle-class women or blacks may be favored over the sons of impoverished white migratory workers. It is not recognized that there have been waves of immigration and that

many blacks and Hispanics, both male and female, have come and are coming to this country voluntarily. It is most implausible to assimilate eager immigrants to those groups whose ancestors were transported here as slaves or as migratory workers. Nor is there any systematic attempt to distinguish between those members of the unjustly treated groups whose lower qualifications are due to injustice and those whose personal defects are responsible for them. Also, it is often and fallaciously assumed that since there is a statistically significant correlation between injustice and the lower qualifications of members of a group taken collectively, there will also be a like correlation when members of the group are taken individually.” (2005)

3. John Kekes asserts that if the policy of affirmative action is applied to all the social institutions, it will increase the representation of the individuals having lower academic qualification. As a result, the institutions would weaken by favoring the less qualified persons of the lower class. In his own words:

“It is against this background that we should evaluate the unavoidable consequence of preferential treatment that the people favored by it are less qualified for the positions they receive due to the policy than the people whom they displace. No one would voluntarily choose the services of a physician, a lawyer, an architect, or a dentist if a better one were available on comparable terms. What preferential treatment does is to make it a policy to do what no one would consider doing when acting individually on his or her on behalf. Moreover, by focusing on higher education, preferential treatment imposes this policy not on any particular area of life but on all areas within which the acquisition of the relevant forms of knowledge depends on higher education. For preferential treatment is the policy of favoring the appointment, tenure, and promotion of less qualified victims of injustice over those of better qualified nonvictims. The inevitable result is that as the policy is implemented so the vital functions of teaching and research already compromised by other causes are further weakened.” (2005)

4. In the last section of his article, he asserts that the policy of preferring less qualified persons over the well qualified persons in the institutions. In order to remove the causes of injustice, and to compensate the victims of injustice. But rather it is creating the same causes of injustice in alter form by discriminating one group over other groups by suspending the fair procedures of justice. It needs a special reference:

“But we must not forget about the consequences of preferential treatment for those who have been injured by it. These people will feel Unjustly harmed, and they would be right in so feeling. They have not been responsible for the past injustice, or, at the very least, no more so than other people in their society, and yet the effect of the policy is to force them to bear an unfair share of the burden of it. The victims in this group will typically be actual or prospective academics who have invested many years of their lives and considerable financial resources in order to have an academic career, and they have foregone prospects of a different career. And, by hypothesis, the likelihood of their doing well at an academic career is higher than the likelihood of those who ended up getting the appointment, tenure, or promotion which they sought and which they would have received if it had not been for the preferential treatment of others. It is natural, therefore, for this new class of victims to be as indignant and resentful as the old class of victims who are now being favored at their expense. And, of course, this class of new victims will increase at exactly the same rate at which the supposed benefits are bestowed through preferential treatment on the old class of victims.” (2005)

Conclusion

After discussing all the arguments in favor of Affirmative Action, the proponents of Affirmative Action have their own moral ground to support Affirmative Action. The essence is that the society should make the environment where all the individuals can entertain their rights.(2011) That will help them to elevate their status. If it is not so, the diversion from the concept of equality, would lead to emerge the society with classes. Some class would entertain higher rights than the others classes. The gap between the targeted class and untargeted class would increase day by day. This is what happening with the today’s society and conflicts are taking place. A great initiative has to be taken to fill the gap. Otherwise, it would disturb the

integrity of Nations by making the room for extraterritorial affection. Affirmative Action might play a great role to balance the society by allocating the rights and laws in equal proportion and compensating with the properties and opportunities which the targeted groups might have entertained, if the discriminations would not have occurred.

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