

academically ablest students, with appropriate allowance for the representation of groups. We simply cannot predict much of interest with the other intuitively pleasing criteria now available.

These conclusions are, in my opinion, sound and well supported by the available evidence.

OUT OF ORDER: AFFIRMATIVE ACTION AND THE CRISIS OF DOCTRINAIRE LIBERALISM. By Nicholas Capaldi.¹ Buffalo, New York: Prometheus Books. 1985. Pp. x, 201. \$17.95.

*Marylee C. Taylor*²

In this book, Nicholas Capaldi endeavors to persuade us that liberalism is bad, that it dominates university culture, and that one of its pernicious outgrowths is affirmative action. We are told at the outset: “[A]ffirmative action was the inevitable consequence of the social philosophy known as doctrinaire liberalism, . . . doctrinaire liberalism is the entrenched philosophy of academic social science, . . . affirmative action very nearly destroyed the university as a viable, independent institution—and it would have if that policy had remained unchecked.”

Since affirmative action is such a central target for Capaldi, I will begin by considering his description of affirmative action and its social context. I will then look at Capaldi’s theoretical depiction of liberalism.

I

Capaldi attempts to attack the foundation of affirmative action, which he identifies as “the assumption that the potential of blacks is roughly equivalent to that of whites.” Elsewhere he explains his meaning: in line with their assumption that talent is proportionally distributed across races and sexes, affirmative action proponents interpret unequal outcomes to reveal unequal societal treatment in need of remedy. Capaldi is right on this. Phrased differently, unless one believes that races or sexes differ in potential or natural talent, social factors become the only reasonable explanations for differences in outcomes. He is also right in noting that we do not

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have direct evidence about the distribution of natural talent, and we probably never will.

Objection must be voiced, however, to Capaldi's claim that in the absence of evidence the "burden of proof" lies with those who claim proportional distribution of talent across races and sexes. Capaldi's refusal to assume that races and sexes are equal in natural talent is the linchpin of his argument against affirmative action. Few notions seem farther from our nation's modern ideals than the proposition that races and sexes should be assumed innately unequal unless proven otherwise.

Other lines of the author's argument against affirmative action introduce false claims, factual errors, and unsupported perceptions that could only contribute negatively to an understanding of this complex policy area. A few examples will be instructive.

As preface to the discussion of affirmative action, the author states that "de jure" segregation never did exist in northern schools and had disappeared from southern schools by 1963. As a substantial body of judicial opinions testify, this is false. The distinction between de jure and de facto segregation of schools has been crucial for the courts: only de jure segregation provides the basis for judicial orders mandating busing and other measures designed to increase racial balance. In the famous *Keyes* decision³ the Supreme Court describes "the essential elements of *de jure* segregation" as "stated simply, a current condition of segregation resulting from intentional state action." In *Keyes*, crucial state actions (of the school board) included manipulation of student attendance zones and school site selection; at issue was the scope of the remedy that could be imposed in response to demonstrated constitutional violations. In other cities the particulars have been different. But evidence of state-imposed, de jure school segregation has been found in the great majority of cases in the North and West.⁴ Capaldi's characterization of de jure segregation as an obsolete southern phenomenon runs directly contrary to fact.

Capaldi proceeds to argue that federal intervention on behalf of racial equity in higher education was unnecessary, because:

In the North, the last vestiges of discrimination in higher education admissions had all but disappeared by the early fifties, including quotas in professional graduate schools. In fact, as one admissions officer of a leading university told me in confidence, the universities had been quietly employing a double standard preferential admissions policy with regard to blacks since the late fifties. Any black applicant

3. *Keyes v. School Dist. No. 1, Denver, Colo.*, 413 U.S. 189 (1973).

4. G. ORFIELD, *MUST WE BUS? SEGREGATED SCHOOLS AND NATIONAL POLICY* 19-22 (1978).

who in the eyes of the admissions committee seemed likely to complete the program was accepted, even in preference to non-black students with better credentials.

The author provides no documentation for his general claim about another "higher education" or "the universities," save this chat with one admissions officer. This reviewer might balance that anecdote with her own, recalling the admissions director in an up-state New York college who in 1967 could still brag about his success in "keeping the niggers off this campus." Readers could undoubtedly add their own varied stories. With respect to minority admissions or just about anything else, there is no uniform practice across colleges and universities. In fact, graduate school admissions for various disciplines and professional programs are typically so decentralized *within* institutions that describing the range of practices employed in a single university necessitates a major institutional research effort.

We can be sure, however, that preferential admissions of blacks has not been common, much less ubiquitous, since "the late fifties." Nor had other aspects of race and sex inequity been eradicated before the advent of affirmative action. A few particularly relevant facts from other sources can be mentioned:

(1) Black and white college enrollment rates began to converge not during the 1950's and 1960's, but during the 1970's. And even in 1981, only 19% of young black men were going to college, compared to 28% of white men in their cohort.⁵ The underrepresentation of blacks in graduate school has always been even more dramatic than at the undergraduate level.

(2) Pennsylvania, along with nine southern and border states, was named in the 1970 *Adams v. Richardson* case, in which plaintiffs asked the court to order HEW enforcement of desegregation in state colleges and universities. Resultant programs for desegregation were developed slowly, state by state. It was 1983 before Pennsylvania submitted an acceptable plan for desegregation of the state system of higher education.⁶

(3) From their 1975 survey, E.C. Ladd, Jr., and S.M. Lipset noted that blacks "make up 11 percent of the general public, but only 3 percent of academics," a proportion that "has remained basically the same over the last decade." Further, "Blacks are no more heavily represented in the young faculty groups than in the older, and they remain clustered at the less prestigious schools." The reasons? In the words of Ladd and Lipset, "Jews, Catholics, and blacks have encountered 'direct' discrimination in admissions and faculty hiring, apart from 'indirect' discrimination found in limits on general social and economic opportunity. Some of this has been eradicated while other elements of it remain."⁷

(4) Using data gathered by the American Council on Education, H.S. Astin

5. R. FARLEY, *BLACKS AND WHITES: NARROWING THE GAP?* 21 (1984).

6. Farrell, *Pennsylvania Submits Its Desegregation Plan; Is Last State to Meet Deadlines Set by Court*, 26 *CHRON. HIGHER EDUC.*, July 27, 1983, at 8; *Status of Desegregation Cases in 19 States*, 26 *CHRON. HIGHER EDUC.*, June 2, 1983, at 17.

7. Ladd & Lipset, *Professors' Religious and Ethnic Backgrounds*, 11 *CHRON. HIGHER EDUC.*, Sept. 22, 1975, at 2.

and M.B. Snyder found that "women constituted only 16.7% of all new college hires between 1967 and 1972." The difference between actual salary and the salary that would be predicted on the basis of qualifications in the 1972 sample was, on the average, \$1622 for married women and \$1895 for single women.⁸

As if it were not enough to offer a thoroughly inaccurate portrayal of the context in which affirmative action arose, Capaldi goes on to misrepresent the character of affirmative action itself. Readers are led to believe that, as a matter of definition, implementation of affirmative action in higher education means relaxation of standard criteria for admissions and hiring. Regarding student body composition, the author implies that all affirmative action programs entail the kind of two-pronged admissions procedure at issue in the *Bakke* case, saying: "One of the consequences of implementing affirmative action is to funnel all blacks into a separate admissions procedure." Later discussion refers to "discount" admittees. And, ignoring evidence he himself had presented in an earlier chapter showing that only a minority of faculty favor preferential hiring, Capaldi provides this description of affirmative action in faculty appointments:

Armed with what looked like a mere platitude, committed liberals engage in preferential hiring of women and minorities. Black and female Ph.D.'s with even minor achievements are to be preferred over other Ph.D.'s with major achievements. Black and female graduate students are to be preferred over current holders of the Ph.D. degree. There is a mountain of incriminating reports and documents to substantiate many claims of this kind.

The book, however, doesn't give any clue as to where that "mountain" of evidence might be found. Instead, the only substantiation Capaldi provides is an account of a discussion he had with some members of his own department.

These discussions of student admissions and faculty hiring are gravely misleading. As noted earlier, the diversity of institutional practices defies attempts at facile generalization.⁹ But if a single pattern were to be picked as typical of affirmative action implementation in higher education, it would be fairer to say that affirmative action has most often entailed expanded recruitment publicity for student and faculty slots, perhaps some formalization of selection procedures, and more systematic recordkeeping for the entire process.¹⁰ With respect to faculty selection, the Carnegie Council on

8. Astin & Snyder, *Affirmative Action 1972-1982: A Decade of Response*, 14 CHANGE: MAG. OF HIGHER LEARNING, July 1982, at 26-31, 59.

9. For an attempt at description of affirmative action implementation within one university, see Steele & Green, *Affirmative Action and Academic Hiring: A Case Study of a Values Conflict*, 47 J. HIGHER EDUC., 413-35 (1976).

10. Here I use the term affirmative action in the broad sense intended by Capaldi. Because the formal affirmative action plan generally required of universities covers employees

Policy Studies in Higher Education found in 1975 that only a small minority of university affirmative action plans provided even that women or minorities be given preference over candidates who were otherwise *equally qualified*.¹¹ And the AAUP recommendations for affirmative action explicitly note that "standards should be the same for all candidates" and that "appointments should be made on the basis of individual merit."¹² The moderate tone and modest content of recommendations for affirmative action implementation provided by these two groups, both of which presumably fall squarely in Capaldi's liberal camp, give some clue to the deviation of Capaldi's portrayal from reality.

Other factual errors in Capaldi's discussion of affirmative action might be mentioned. In the discussion of black economic status, we read: "[T]here is little or no evidence to support the contention that a lack of jobs or discrimination in available jobs is the serious problem." And regarding undergraduate education, Capaldi tells us: "If the body is warm, some college will actively pursue you. There is hardly any excuse available in our society for anyone who does not go to college."

Besides its inaccuracy, the book is badly dated. The essays react to a perceived onslaught of affirmative action, but they reach us five years into the Reagan administration. Minorities are now a declining portion of undergraduate and graduate student bodies. Apparently, Capaldi's essays were written long before their May 1985 publication date. The repeated present tense references to HEW, an agency name that vanished under reorganization in 1979, are revealing.

II

While Capaldi's account of affirmative action is merely muddled, his portrayal of liberalism and its role in academia seems almost delusional. Quoting a few of his key passages will convey the flavor of Capaldi's ideas.

Capaldi portrays liberal social scientists¹³ as self-styled social

but not students, many institutions reserve the term affirmative action for employee issues and refer to student recruitment and selection in some other terms, e.g., as an equal opportunity program.

11. CARNEGIE COUNCIL ON POLICY STUDIES IN HIGHER EDUCATION, *MAKING AFFIRMATIVE ACTION WORK IN HIGHER EDUCATION* 81 (1975).

12. *Affirmative Action Plans*, 68 *ACADEME*, Jan.-Feb. 1982, at 19A.

13. First, liberalism is described as consisting of:

[A] basic psychological theory and derivative theories of social structure, politics, and history. The theory of liberalism in general and its basic psychological compo-

engineers, finding a rationale for their behavior in “doctrinaire liberalism,” which we learn about in the following passage:

The heart of doctrinaire liberalism is the belief that man is the victim of circumstances greater than himself—social, political, and psychological. The masses cannot comprehend these great impersonal forces that guide their destiny. Understanding is necessarily limited to a vanguard of enlightened men and women who can free mankind by obtaining control of the state machinery and using their new-found power for the purpose of breaking the chains that have always fettered mankind.

The role of liberalism in higher education is sketched as follows:

The first move of liberalism within higher education is to crush internal opposition. . . .

. . . .

The second move of liberalism within higher education is to establish that there are no legitimate external frames of reference in terms of which it can be judged. . . . In practice this means that if the community at large or relevant funders of the university democratically decide that what the university is doing is wrong, the new class will not allow the outside democratic structure to circumvent its plans. It clearly does not have a fundamental commitment to democracy. Nor does it have a fundamental commitment to university autonomy. These slogans are hypocritically invoked as means to ends.

How does it justify this hypocrisy? It does this by refusing to recognize that there is such a thing as a moral choice or an ethical conflict or even a legitimate political difference. All value judgments or decisions will be based on the purely objective assessment of the most efficient means to achieve the ends built into human nature. Social scientists and fellow travelers in the humanities who teach relevant literature and art will become the experts. . . .

. . . .

The third movement of liberalism within higher education is the reform of external society. . . . Liberals confuse their own rallies and teach-ins with critical reappraisal. The only thing they never reappraise is doctrinaire liberalism itself. Under the guise of criticism, the rally turns into a form of mass persuasion and subliminal propaganda for liberalism. . . .

The mass rally is an ideal tool because it is an extension of the large lecture. The large lecture, as you will recall, is the natural home of rhetoricians of liberal-culture. Unlike the small seminar and the laboratory, it conditions students to become passive recipients of someone else's thought.

ment can be defined as *teleological*. A theory is teleological if it seeks to explain any act, event, or process as the outcome of goal-directed behavior.

. . . [W]hat is peculiar to liberalism is the belief that every human being has a built-in nature to achieve certain ends, that these ends are not matters of choice or of external factors.

Thus, the character of psychology and sociology are defined:

In liberal psychology, the ends are desires provided from within. The means are provided by the environment. There is no element of real choice. . . .

This leads us into the liberal conception of sociology. For the liberal, society is the individual writ large. That is, the structure of society is a macrocosm of the structure of the individual. Just as each individual is the product of his interacting drives, so society is the product of the interacting individuals who make it up. This mirror imaging of individual and society we can call *psychologism*.

In the concluding chapters, fascism becomes the key word. We read that "the New Deal was moving in the direction of fascism" and that "[f]ascism is not a reactionary or rightist movement but the fruit of liberalism itself." Then, since "it is safe to identify the norms of the argument for affirmative action as those of liberalism," the reader is not surprised when Capaldi finds "that affirmative action is a form of fascism." More specifically:

The parallels [of Mussolini's fascism] with affirmative action are obvious. Affirmative action is temporary. It is a bold and innovative program, an experiment that transcends traditional logic. Its goal is the organic recreation of America, and it is pragmatic certainly in the pejorative sense of bending principles to fit some objective. Like the followers of Mussolini, liberals are fascinated by the rhetoric and theory, and complacently ignore the practice

There are some puzzling inconsistencies in Capaldi's perspective. On the one hand, we have the portrayal of liberalism's "psychologistic view of the relationship between individuals and society," and its failure to "recognize anything as a motive force except individual desires," so that in the liberal view "all racism is the product of prejudice." On the other hand, Capaldi accurately describes the concept of institutional discrimination as distinguished from intentional discrimination and later disparages affirmative action advocates' "claim that 'discrimination' is not a mere matter of consciously held policies but of cumulative and indirect social forces." Does Capaldi believe that liberals see society as "the individual writ large," or not?

Equally difficult to reconcile are the author's various portrayals of liberalism. Often liberalism is a monolithic (indeed totalitarian) force responsible for affirmative action. But elsewhere the author outlines three versions of liberalism, one of which (the "meritocratic") believes that "policies like affirmative action will be detrimental in the long run even to minorities." At one point, the author says, "The incoherence of liberalism lies precisely in its being an empty set of formulas from which one can infer contradictory policies and any number of alternative versions." Indeed, the reader begins to suspect that for Capaldi, "liberalism" is simply a name for all the forces of evil.

The author sums up by saying:

I am convinced that the policy of affirmative action is the product of a kind of historical hallucination . . . I have tried in this book to provide a form of therapy for this misperception. If the historical review fails to accomplish a truer perception, it is because egalitarians, as we shall see, are driven by political fanaticism, not by any objective grievance that could be understood or dealt with within the historical framework of the social life we all share.

One wonders whether it is not the author, rather than his egalitarian targets, who suffers from "historical hallucinations."

COMMON GROUND: A TURBULENT DECADE IN THE LIVES OF THREE AMERICAN FAMILIES. By J. Anthony Lukas.¹ New York: Alfred A. Knopf. 1985. Pp. 659. \$19.95.

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This book documents one of the great failures in American life. It is a story of betrayal and the end of a part of the American Dream. It is a story of the conflict between constitutional law and social realities. It is the story of the desegregation of the Boston public schools, as told through the lives of three families. One reads it and weeps.

One weeps for Boston, which has never been the same since federal district court Judge Arthur Garrity issued his sweeping cross-city busing order in 1974. But one weeps for the rest of America too, because *Common Ground* is a parable. In it, one reads the story of every American city faced with the intractable problem of trying to uphold a constitutional mandate, while groping for the appropriate means to do so.

I

Judge Garrity's decision was backed by sufficient precedent. In 1968, *Green v. County School Board*³ required a "root and branch"⁴ elimination of racial discrimination in schools. *Swann v. Charlotte-Mecklenburg Board of Education*⁵ took that mandate one step further. It ruled that district courts could order a variety of measures, including those which were "administratively awkward, inconvenient, and even bizarre."⁶ To be sure, these precedents concerned Southern-style, de jure segregation, imposed by people who would just as soon have bused white children for miles to avoid going back to school with the black children who lived down the

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3. 391 U.S. 430 (1968).

4. *Id.* at 438.

5. 402 U.S. 1 (1973).

6. *Id.* at 28.