

An Issue Transformed

How immigration is changing the debate over affirmative action, and vice versa

by Hugh Davis Graham

The recent convergence of debate over affirmative action and over immigration policy is disrupting the liberal coalition that has dominated civil rights and immigration policy for 30 years. Why has this happened so suddenly, and what will be its consequences?

For a quarter-century after the legislative breakthrough in civil rights policy of 1964-1965, the American public saw little connection between civil rights and immigration policy. When the Immigration Act was passed in 1965, no one anticipated that it would be the third great civil rights law of the 1960s, joining the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Civil rights was seen as primarily an African-American issue, and the civil rights movement was a crusade against racial segregation in the South — where there were few immigrants,

Immigration on the other hand was seen as a Cold War issue, embarrassing to the United States because Soviet and Chinese propaganda emphasized the racism of national-origin quotas in American immigration law. Both supporters and opponents of the Immigration Reform Act in 1965 agreed that it would *not* significantly change the volume of immigration to America, which had remained relatively small since World War I. The 1965 reform's family reunification policy was designed to increase the flow of European

refugees from communist oppression. This would improve the American image in world opinion, the immigration reformers believed, and at the same time maintain the European preponderance in American immigration patterns.

On both counts, the reformers of American civil rights and immigration law in the 1960s were wrong. The civil rights reforms of 1964-1965 did destroy the Jim Crow system in the South. But ghetto rioting in northern and western cities during

the summers of 1965 through 1968 led federal agencies to devise affirmative-action programs requiring minority preferences in employment. During the 1970s a bandwagon effect expanded the civil rights coalition as additional groups — Hispanics, American Indians, women, Asians, the disabled — successfully

demanded inclusion in affirmative-action benefits. By 1980 the Leadership Conference on Civil Rights, expertly led and representing the influence of more than 170 organizations, coordinated a program of lobbying and litigation that won new federal requirements for bilingual education, electoral redistricting, minority contract set-asides, and job preferences for minorities and women, enforced by the Equal Employment Opportunity Commission and the Labor Department.

What did this have to do with immigration? Not much, initially. Family reunification policy produced not an increase in European immigration, where the "iron curtain" blocked refugee escape, and prosperity kept other Europeans at home, but rather a flood of immigration from Latin America and Asia. It provided the mechanism for chain migration, where individual immigrants brought over entire extended families. The reforms of 1965 together with global changes in communications, transportation, and the economy, within a

Public opposition to affirmative action and mass immigration, always strong in the polls but weak in organized lobbying clout, suddenly exploded in the 1990s.

Hugh D. Graham is a professor of history at Vanderbilt University and author of *The Civil Rights Era: Origins and Development of National Policy*.

generation brought more than 20 million immigrants to America, 75% of them from Latin America or Asia.

Because the civil rights protections of the 1960s had covered discrimination by national origin as well as by race and sex (civil rights statutes for generations had routinely covered race, religion, and national origin, often to combat discrimination against European Jews and Catholics), the millions of Latin American and Asian immigrants arriving in the 1970s and 1980s were theoretically covered by affirmative-action programs. But few sought to use them initially. Asian immigrants were culturally

50%.

So powerful was the civil rights coalition by the 1980s that President Reagan, despite his popularity, failed in his attempt to reverse affirmative-action policies. Defeated in the voting rights renewal of 1982, Reagan declined to revise the affirmative-action executive order even though his strongest conservative advisors implored him to do so. Congress heeded the civil rights coalition in rejecting Reagan's nomination of an opponent of affirmative action, Judge Robert Bork, for the Supreme Court in 1987, and in 1988 in overriding

© 1994 Tribune Media Services, Inc. All rights reserved.

unaccustomed to seeking benefits from the state. Latin American immigrants, like the Asians, were dissuaded by language barriers, and often by fear of deportation for illegal entry.

Hispanic participation in affirmative action was concentrated in bilingual education, where regulations from the Office of Civil Rights in Washington required local school districts to employ thousands of Spanish-speaking teachers and aides. Women and blacks filed most job discrimination complaints handled by the EEOC. African Americans dominated the contract set-aside programs, begun under President Carter in 1977 and spreading rapidly during the 1980s to include most major cities, often under black mayors. In Richmond, Virginia, for example, the black-controlled city government required that 30% of city contracts go to minority-owned businesses. In Washington, D.C., the contract set-aside was

Reagan's veto of the Grove City bill, which strengthened civil rights regulation by federal agencies.

In 1991 President Bush, facing re-election, signed essentially the same comprehensive (and internally contradictory) civil rights and affirmative action statute that he had vetoed in 1990 as "a quota bill." In 1992 Bush lost to Arkansas Governor Bill Clinton, a Democrat with strong civil rights support who won the White House (in a three-way race) with a Democratic Congress. The civil rights coalition seemed triumphant. Yet it was about to shatter.

In April, 1992, Los Angeles exploded in communal riots pitting blacks against Latinos and Asians. Blacks especially resented Korean merchants in the black neighborhoods. Hispanics, comprising more than 40% of the city's population but holding less than 15% of public service jobs,

resented black overrepresentation in public employment. In Los Angeles County, blacks held more than 30% of public service jobs but comprised only 12% of the population. Ironically, but not surprisingly, Latino leaders demanded affirmative action to redistribute jobs from blacks to Hispanics.

“So powerful was the civil rights coalition by the 1980s that President Reagan, despite his popularity, failed in his attempt to reverse affirmative-action policies.”

In the 1990s public opposition to affirmative action and mass immigration, always strong in the polls but weak in organized lobbying clout, suddenly exploded — linking the two issues negatively in the public mind. By 1990, national surveys showed that 4 of 5 Americans felt that immigration should be restricted. This belief showed little variance among Democrats, Republicans, and independents, or whether measured by gender, income, education, religion — and surprisingly little even by race and ethnicity.

In the Latino National Survey of 1990, for example, 75% of Mexican-Americans agreed that there were “too many immigrants” coming to the United States. In California the overwhelming vote in 1994 for Proposition 187, designed to slow the tide of immigration by restricting certain tax-supported benefits, included substantial numbers even among Hispanic voters.

Similarly, opinion surveys on affirmative action showed that 80% of white Americans of both sexes opposed preference policies for minorities and women. A 1988 Field poll in California reported that 56% of California blacks favored “special privileges” for minorities in hiring and promotions, but only 36% of Hispanics agreed — and only 15% of Asians.

Black and Hispanic political leaders, not surprisingly, defended affirmative-action programs more vigorously. But disagreement was increasing over how to share the pie. Rising competition for affirmative-action preferences began to split the

civil rights coalition. At the same time the rise of immigrant claims to affirmative-action benefits was alienating whites, the residual unprotected class, and also blacks, the original protected one.

Two examples illustrate the tendency of the affirmative action system to spread to new groups, including immigrants, and generate increasing resentment. The first involves an Indonesian-born woman, an American citizen, who owned a small business in California. She had some office experience in Indonesia, but after immigrating she worked as a dishwasher and waitress, improved her English, and began her own business. Learning that many of her competitors were advantaged by subsidized loans and other benefits from the SBA's 8(a) affirmative-action program, she applied in 1988 for certification in the SBA's minority business enterprise (MBE) program, but was turned down. The SBA replied that Indonesian-Americans were not named as “members of a designated group.”¹

Rejected as an individual, but quick to learn how the system worked, she petitioned for group 8(a) eligibility for all Indonesian-Americans. Although the approximately 20,000 Indonesians in the U.S. were recently arrived, yet on average were better educated, had better jobs, and were more prosperous than other Americans, she emphasized the attributes of victimhood. She explained that her color was yellow and she faced language barriers. Indonesians, she said, like other Asian Pacific Americans had suffered economic deprivation and “the chronic effects of discriminatory practices for a very long time.”

The SBA agreed, and in 1989 made Indonesians as a group eligible for 8(a) benefits. Sri Lankans, using the same arguments, had won SBA certification for the 8(a) program the year before. By the early 1990s, with the economy in recession, the news media and talk shows with increasing frequency featured stories about Cubans, Central Americans, Pacific Islanders, and others taking advantage of affirmative-action programs.

The second example emphasizes growing tensions between immigrants and blacks in competing for affirmative-action benefits. In the wake of the Los Angeles riots of 1992 a General Accounting Office study, requested by

Congressman Luis V. Gutierrez (D-Ill.), a Mexican-American elected in 1992 in a newly redistricted Hispanic-majority district in Chicago, reported in 1993 that blacks were heavily overrepresented and Hispanics underrepresented in the U.S. Postal Service.² In the GAO study, a representation index of 100 indicated demographic parity between groups (blacks, for example, holding 15% of jobs in the civilian workforce and also 15% in the postal service).

In Chicago, the GAO found, the representational index for blacks in postal service jobs was 439, meaning they were overrepresented in postal jobs by a factor greater than four. For Hispanics the index was 33 (an index lower than 50, according to

“...the multiculturalist obsession with group differences ... allowed the Right to seize the White House while the Left seized the English Department.”

— Todd Gitlin

the EEOC, showed “extreme underrepresentation”). The index for Asians in Chicago was 56. For whites it was 20. For postal service employment nationwide, the representational index was: blacks 204, Asians 169, whites 85, Hispanics 76.

In Los Angeles, the postal service index for blacks was 646. For Hispanics it was 42. Latino leaders, citing southern California's exploding Hispanic population, pressed their affirmative-action claims against black overrepresentation. Little public complaint was heard from whites, although the white representation index in Los Angeles postal service was 16!

By the early 1990s, resentment was mushrooming among many groups against an affirmative-action numbers game bid upward by massive immigration inflows. Increasingly, the unpopularity of affirmative action was linked in the public mind with immigration.³ In a globalized economy characterized by corporate downsizing,

growing job insecurity, job-migration to Mexico and other third-world countries, and a widening wage gap between workers and managers, affirmative action and immigration became prime targets of voter resentment.

In 1994, Californians by an overwhelming margin passed Proposition 187, which sought to slow the tide of immigration by denying certain tax-supported benefits. In the fall 1994 elections Republicans captured both houses of Congress in an astonishing sweep. In the winter of 1994-1995 the pent-up debate over affirmative action, long effectively suppressed by charges of racism, exploded on radio and television talk shows all across the nation.

In 1995, California Governor Pete Wilson campaigned for the Republican presidential nomination by attacking uncontrolled immigration *and* affirmative-action preferences. In 1995 the University of California Regents, faced with rising complaints that white and Asian applicants were rejected in favor of affirmative-action admission for blacks and Hispanics, voted to end all minority and gender preferences in the university. In 1996, opponents of affirmative action placed the California Civil Rights Initiative on the fall ballot. The civil rights coalition, rarely defeated in public policy contests since the victories of 1964-1965, was suddenly on the defensive. What explained such a rapid reversal of fortune, and what did it mean?

With one exception, the sharp increase in public attacks on immigration and affirmative action in the 1990s cannot be traced to changes in Washington policy. Despite the efforts of immigration restrictionists, the floodtide that began after 1965 has not been significantly slowed by changes in the immigration statutes. Despite attempts to curb minority preference policies during the Reagan and Bush presidencies, affirmative-action programs have continued to spread. The exception is the Supreme Court, which, since overturning Richmond's contract set-aside quota in 1989, has increasingly applied the brakes of strict scrutiny to race-conscious government policies.

More important has been the multiplier effect on public opinion as immigrants took advantage of group-preference policies that were never popular in the first place. For a generation after 1964 white Americans were reluctant to attack race-conscious

remedies for the descendants of slaves. But extending the justification of historic discrimination to include newly-arrived Sri Lankans, illegal immigrants from Mexico, and Cuban and Hong Kong millionaires brought affirmative action into public ridicule and strengthened arguments for immigration reform.

The convergence of the immigration and affirmative-action issues damaged the civil rights coalition in four ways. First, whites who had muzzled their complaints since the 1960s, fearing charges of racism and xenophobia, were freed by the accumulating abuses to attack the new forms of social injustice. Second, the base of the civil rights coalition was split by growing competition between blacks and Hispanics. Leading students of civil rights policy, such as Lawrence Fuchs and Nathan Glazer, began to argue in the 1990s that affirmative-action preferences should be reserved for African-Americans, not Hispanics or Asians or immigrant groups.⁴

Third, traditional civil rights appeals to third-world solidarity among "people of color" fell apart as Asian Americans, never aggressive participants in affirmative-action politics, aligned themselves increasingly with white majorities in calling for color-blind merit competition.

Finally, voices on the Left, traditionally supporting affirmative action and open immigration, began to challenge traditional liberal assumptions. Michael Lind, a *New Republic* editor, in his 1996 book *The Next American Nation*, paints the marriage between multiculturalism, immigration, and affirmative action as a catastrophe for the left.⁵ It has fragmented the class-based New Deal coalition, Lind argues, leaving working class Americans defenseless as income distribution has polarized, paving the way for the "Brazilianization" of America. Berkeley sociologist and 1960s radical Todd Gitlin agrees: the multiculturalist obsession with group differences destroyed the commons by fracturing working-class solidarity. It allowed the Right to seize the White House while the Left seized the English Department!⁶

In today's volatile atmosphere, dramatic realignments are possible. Immigration reformers might rally African-Americans and organized labor, historic opponents of heavy immigration, to a coalition that includes environmentalists, populists, and traditional conservatives. Opponents of affirmative action might assemble a coalition of

classical "color-blind" liberals, traditional conservatives, labor unions, and meritocratic ethnic elites (Jews, Chinese-Americans, Japanese-Americans).

On the other hand, success in national policy-making traditionally has gone to those best organized on the inside track — meaning, in this case, the civil rights coalition. It may be that by building the affirmative-action regime and fueling it with mass immigration, the coalition has built a structure that will collapse of its own weight. Public resentment on both counts has never been higher. But in the past, public resentment has not been enough.

For the present, our eyes are focused on the November 1996 elections. And perhaps especially on California, where the superheated politics of immigration and affirmative action, now colliding, may reveal patterns that will shape our future. □

NOTES

¹ See George R. LaNoue and John C. Sullivan, "Presumptions for Preferences: The Small Business Administration's Decisions on Groups Entitled to Affirmative Action," *Journal of Policy History* 6 (1994): 439-67. In the SBA data, obtained by the authors through a Freedom of Information Act request, the identity of individuals was not revealed.

² General Accounting Office, *Hispanic Employment at USPS* (Washington, D.C.: General Accounting office, GAO/GGD-93-58R, 3 September 1993).

³ James S. Robb, "Affirmative Action for Immigrants: The Entitlement Nobody Wanted," *The Social Contract*, vol. VI, no.2 (Winter 1995-96), pp.86-97.

⁴ Lawrence H. Fuchs, *American Kaleidoscope: Race, Ethnicity, and the Civic Culture* (Hanover, N.H.: Wesleyan University Press, 1990), 435-57; Nathan Glazer, "Race, Not Class," *Wall Street Journal*, 5 April 1995.

⁵ Michael Lind, *The Next American Nation: The New Nationalism and the Fourth American Revolution* (New York: Free Press, 1995).

⁶ Todd Gitlin, *The Twilight of Common Dreams: Why America is Wracked by Culture Wars* (New York: Holt, 1995), 148-49, 230.