

# Unintended Results

## *The convergence of civil rights legislation and immigration reform*

by Hugh Graham

James Robb's study of affirmative action programs (in *The Social Contract*, Vol. VI, No. 2, Winter 1995) cited abuses of the program by such Hispanic millionaires as the Rodriguez brothers (Portuguese) in Washington and the Faniul brothers (Cuban) in Miami. They used their Hispanic minority

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status to get even richer on "minority business" set-aside contracts. In my new book, *Collision Course*, I draw attention to the convergence of 1964 civil rights programs for affirmative action and 1965 immigration reform legislation into a consequence of historic change in the American job market.

Affirmative action programs, coupled with mass immigration in the past thirty years, have had an unintended but profound effect on U.S. jobs. Between 1965 and 2000, 35 million immigrants came to America, 26 million of them from Latin America or Asia. As members of official minority groups, they became eligible for affirmative action preferences. They flooded the job market, hurting inner-city blacks and low-skilled whites, but were sought by employers who ironically used affirmative action programs as a rationale. The main ingredients of the story are these:

(1) Within a decade, unintended consequences transformed the Civil Rights Act of 1964 and the Immigration and Naturalization Act of 1965 into the opposite of their original intent. Action to legislate for nondiscrimination was transformed into minority-preference affirmative action programs, and status-quo immigration reform became mass immigration from Latin America and Asia.

(2) President Nixon, ironically the father of affirmative action, institutionalized it through the Philadelphia Plan in 1969-71. It was designed to nourish black capitalism, attract black middle-class conservatives to the GOP, punish organized labor for blocking the Haynsworth Supreme Court nomination, and split the Democrats= civil rights-labor coalition. But, to avoid charges of supporting quotas, the Nixon administration said its goals and timetables were not quotas and deadlines. The target numbers were to be set by employers, not government officials, and required only a good-faith effort rather than actually meeting the target numbers.

(3) Business, especially large employers, embraced affirmative action and used it as a rationale for hiring immigrants from Latin America and Asia under a diversity umbrella that emphasized the utility of workers= cross-cultural ties and foreign language capacity in the global marketplace. William Julius Wilson's Chicago-based social studies (in which 179 firms were interviewed) document the resulting employer preference for immigrants, especially over black workers. And once this preference started, ethnic network recruiting sped it up.

(4) Eleanor Holmes Norton, chair of the Equal Employment Opportunity Commission, angry that firms were hiring immigrants over native blacks, cited a 1980 GAO study showing black youth jobless at 38.5% and Latino youth at 16.4%. She targeted Chicago for lawsuits to compel proportional employment on the basis of minority group representation. The first EEOC suit was against Chicago Miniature Lamp Works. In the 1970s that firm hired 66 % Hispanics, 16.5 % Asians, and 6 % blacks in the face of a 36 % black workforce in the Chicago area. Winning in a 1985 court trial, EEOC also sued Consolidated Service Systems, a Chicago janitorial business owned by Koreans and hiring 81 % Korean. But in the early 1990s, EEOC lost both suits

on appeal in 7<sup>th</sup> Circuit Court with its majority of Reagan-Bush judges.

(5) The compromises forged to make possible the 1986 Immigration Reform and Control Act defanged employer sanctions provisions, so businesses continue immigrant hiring, undeterred by either EEOC or courts or IRCA.

(6) A study of the post office revealed that by the 1990s Hispanic immigration was so heavy these immigrants were able to attack black over-representation in affirmative action programs, especially public employment. Newly elected Puerto Rican Rep. Gutierrez in his now-Latino-majority Chicago congressional district, was able to get a GAO study of post office jobs by race/ethnicity. The resultant 1993 study, in which 100 index means perfect proportionality, shows for Chicago: 439 for blacks, 56 for Asians, 33 Hispanics, 20 whites. (In Los Angeles, the black index is 646, Hispanics 42, etc.).

### Some conclusions

The 1964 civil rights reform produced the unintended consequence of minority-preference policies.

The 1965 immigration reform produced the unintended consequence of mass immigration from Latin America and Asia.

The clearly expressed opinion of the majority of Americans has consistently opposed both these consequences.

Affirmative action programs have unintentionally provided the "diversity" rationale employers used to hire immigrants over blacks.

Affirmative action and immigration policies together hurt both low-skilled whites and, ironically, inner-city blacks. Affirmative action programs by-passed inner-city blacks in order to aid middle-class blacks, while at the same time mass immigration was lowering wages and enabling competition for the same jobs.

Protest against these consequences and their sources was strongest during economic stress (1973-1983 and early 1990s) and possibly will be again following the 2001 terrorist attacks and a resultant economic recession. •