

# Affirmative Action

**1. Affirmative Action:** An example of affirmative action is the following:

**College Application:** Harry and Mark both apply to the University of Virginia. Harry is white. Mark is black. Harry's application is just slightly better than Mark's (his SAT scores and GPA are just a bit higher, for instance). The university, seeing that he is black, accepts Mark.

Affirmative action is the practice of giving preferential selection (for job hiring, college admissions, etc.) to someone based on their race or gender.

The reason for such a policy is this: Due to persistent discrimination throughout history, white males have traditionally benefited from unfair advantages which women and minorities do not enjoy, in both the workplace and in schools. Affirmative action seeks to adjust for these unfair advantages.

Question: Is affirmative action fair? Is it morally permissible?

**2. Objections:** Opponents of affirmative action oppose the practice because: (1) It wrongly denies goods to those who deserve them. (2) It wrongly discriminates against white males. Consider the first of these two claims. In argument form:

1. The Merit Principle: It is morally wrong not to give a position (in a job or school) to the most qualified person.
2. Affirmative action is the act of giving a position to someone other than the most qualified person.
3. Therefore, affirmative action is morally wrong.

Is premise 1 true? Himma argues that it is false. Consider this case:

**Cashier Application:** Harry and Mark both apply for a job as a cashier. Harry is slightly faster at the cash register than Mark, and so is slightly more qualified for the job. But, Mark and the boss hit it off during the interview, causing the boss to like Mark more than Harry. The boss hires Mark.

Is it morally WRONG to hire Mark in this case? It doesn't seem so. But then, The Merit Principle (P1) is false. That is, there are cases where it is NOT wrong to hire someone who is not the most qualified.

*[Perhaps getting along with the boss just IS one of the attributes that make an employee the "most qualified" for a position? Can we make Himma's example better or clearer?]*

Perhaps, instead, the wrongness has to do with the fact that affirmative action is a form of discrimination (based on race or gender). Consider the second claim:

1. The Nondiscrimination Principle: It is morally wrong to discriminate.
2. AA is the act of giving a position to someone based on race or gender.
3. Giving a position to someone based on race or gender is discrimination.
4. Therefore, affirmative action is morally wrong.

P2 is clearly true. P1 may SEEM true, but what counts as “discrimination”? Consider:

**Actor application:** Harry and Mark both audition for the role of Martin Luther King, Jr. in a new movie. Harry is white. Mark is black. Mark is given the job because he is black.

This is an example of “giving a position to someone based on race”—and therefore (if P3 is true) it is a case of discrimination. But, is it morally WRONG? It doesn’t seem so. But, then, The Nondiscrimination Principle (P1) is false. That is, there are cases where it is permissible to discriminate based on race or gender.

What matters when assessing the permissibility of a discriminatory act is the MOTIVE of the discrimination. For instance, having separate restrooms for men and women IS a form of discrimination (based on gender). But, it seems permissible because the motive is privacy and safety. Having separate restrooms for white and black people is ALSO a form of discrimination (based on race). But, in this case, it is NOT permissible because the motive is (most plausibly) the racist idea that black people are inferior to whites.

Permissible discrimination: The question becomes, then: Is the motive for the discrimination involved in affirmative action morally justified? Is the REASON for differential treatment based on race a fair one or an unfair one? Himma writes,

what is needed to justify preferences [affirmative action] as a permissible form of discrimination is a morally acceptable motivation that does not involve impermissible stereotypes. (284)

**3. Obligatory Restitution:** Some think that affirmative action is *obligatory*. That is, if we do NOT engage in preferential hiring based on race or gender, we are doing something WRONG. Here is reason for thinking that this affirmative action is morally obligatory:

1. If person A harms person B, person A is morally required to compensate person B in some way.
2. Women and minorities have been harmed by racism and sexism.
3. Therefore, we are morally required to compensate women and minorities in some way.

Objection: The problem with this argument, Himma notes, is that—in cases of affirmative action—the person who does the compensating is almost never the person actually responsible for the harm to the person being compensated. For instance, in the College Application case, it is likely that Harry has never even met Mark before—yet he has to give up his spot at UVA for Mark. It seems unfair to ask Harry to pay restitution (in the form of, e.g., giving up his spot at UVA) for something he did not do.

*[Is Himma right? Surely it is at least **SOMETIMES** morally obligatory to pay restitution or “make things right” when you are benefiting from someone else’s loss, even if someone **ELSE** committed the injustice. Consider:*

**Stolen Gift:** *Your friend gives you an expensive gift for your birthday (say, an apple watch). It’s really great. You love the gift. Later, you find out that your friend **STOLE** the watch from their neighbor.*

*What should you do in this case? Probably, you should give the stolen item back to its rightful owner—**EVEN THOUGH** you are not the one who took it. Here is a case where **you owe restitution to someone whom you have never directly harmed**. Himma’s objection, then, is not obviously convincing.*

*But, if we really can have obligations to repay others when we have benefited at their expense (even if we did not personally wrong them), the question then becomes: How far removed from this Stolen Gift scenario can a situation be before such an obligation no longer exists? Similarly, if we accept that white males presently do in fact benefit from systemic oppression others (even if they have not personally wronged anyone), the question remains: **DO** they have any obligation to try to make up for this discrepancy?]*

**4. The Fair-Start Defense:** Himma offers a different reason for affirmative action—but it is one which only makes preferential hiring **PERMISSIBLE** rather than obligatory. He argues that affirmative action is really just the same as what happens in **THIS** case:

**Head Start:** You are at the starting line of a race. You mistakenly begin the race a quarter second before the starting gun actually fires. The judges notice this on instant replay and decide to add a quarter second to your time.

Ask this question: Is adding a quarter second to your time in this race fair? Is it morally permissible? Himma asserts that it **IS** permissible. Consider this argument:

1. Adding a quarter second to your time in the footrace is morally permissible.
2. But, affirmative action is morally analogous to adding a quarter second to your time in the footrace.
3. Therefore, affirmative action is morally permissible.

The intuition seems to be that penalizing you in this case is morally permissible because you are benefitting from an unfair advantage that you—through no intentional fault of your own—have over the other runners.

**Thus, affirmative action isn't about *compensating* minorities and women for harms done to them. Nor is it about taking away something that was *earned* by white men and giving it to women or non-whites. Rather, it is about **NEGATING** the unfair advantage that white males all enjoy. In short, affirmative action is about leveling the playing field, such that everyone has an equal opportunity for success.**

But, we are not OBLIGATED to level the playing field. If you are having dinner at my house, and I see that you ended up with the smallest plate of food, I may offer you more to make things more equal. It would be a nice thing to do. However, I am not obligated to do so. In the same way, affirmative action is not obligatory, says Himma. Yet, it is permissible. Schools and companies have some right to autonomy—they have the final say who they hire or accept. If they WANT to hire only the most qualified candidates, they may do so. On the other hand, if they WANT to provide greater opportunities to disadvantaged social classes, they may also do so. It would be a good/nice thing to do.

*[Note: Affirmative action may not ALWAYS be a good thing. For instance, if giving you more food will cause you an upset stomach, then giving you more food won't benefit you. Similarly, SOMETIMES giving a position (in a school or job) to the lesser qualified student will do more harm than good—for instance, if the environment of a school is so competitive that the least qualified students are almost certain to fail. Such factors should always be taken into consideration.]*

Disidentification: What exactly is the disadvantage? Himma claims that it is a tendency of women and minorities to “disidentify” with certain types of success. While the data does not support the earlier hypothesis that the segregation that occurs without affirmative action leads to low self-esteem in women and minorities, it DOES show that such segregation is correlated with women and minorities placing less importance in academic achievement and career success.

As we saw in Young's article on oppression, women and minorities exist in a society which reinforces the implicit assumption that white men BELONG in positions of power, influence, and authority, while women and non-whites do not. We all have certain expectations for people of various races and genders (for others and ourselves) and these expectations are simply HIGHER for white males than everyone else. Ultimately, this can cause non-white-males to both aim at and perform well below their potential.<sup>1</sup>

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<sup>1</sup> The phenomenon that Himma is referring to can be quite subtle and entirely unconscious. Consider a couple of experiments:

**5. Objection:** Adjusting times in a race where one player has a clear and unfair advantage differs significantly from affirmative action.

First, adjusting scores in a race does not promote damaging inferences, immoral behavior, or bigotry, while affirmative action DOES. Affirmative action just serves to REINFORCE racism and sexism: (a) It could lead white men to resent women and minorities for stealing what they—in their minds—have “rightfully earned”. (b) It could cause resentment or insecurities in women and non-whites because they do not want to be given handouts, or because it gives them (and possibly others) the impression that they are “not as good as white males”.

Second, in the footrace example, the person whose score is being worsened is CLEARLY at an unfair advantage before the deduction. In affirmative action, it is not so clear that the person (e.g., some white male) who loses a position to someone else (e.g., a black female) is at an unfair advantage. What if that particular woman/minority applicant benefitting from affirmative action is NOT someone who “disidentifies” with success? And/or what if the particular white male being passed over for the job, position, etc. DOES disidentify with success?

Do these differences make a MORAL difference to Himma’s argument by analogy? Can you think of any other potential morally relevant differences? Furthermore, does Himma’s theory imply anything about OTHER classes of people (i.e., the handicapped, poor, or unattractive)? i.e., do the able-bodied, the rich, the beautiful, etc. enjoy an unfair advantage over others?

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- Researchers at [Stanford University](#) discovered that women and minorities performed WORSE on standardized tests if they were reminded of their race or gender just before taking the exam. This is an indication that society shapes women and minorities to be such that they sometimes subconsciously sabotage THEMSELVES because of their own race or gender.
  - Unconscious biases as a saboteur of one’s success comes from external sources as well, of course. For instance, in [a 2012 study](#), scientists were asked to look at applications and choose who to hire, and how much to pay them. The applicants all had equal qualifications, but some of the applicants had typical female names, while the rest had typical male names. The scientists primarily recommended hiring males. Furthermore, when asked how much the starting pay of each applicant should be, the average suggestion for a woman’s starting pay was significantly less than the average suggestion for a male (less than 90%). (This is similar to a [2002 University of Chicago study](#) where applicants with stereotypically white names received 50% more interviews than applicants with stereotypically African-American names.)