TAFM-MICHIGAN CHAMBER FORUM REMARKS – William B. Allen

We cannot well conduct this conversation without being clear about the meaning of the terms. Accordingly, I will dwell first on two possible meaning of affirmative action, and then, secondly, I will illustrate the differences between the possible definitions. Before I do either, however, I call your attention to the table that appears on the monitor before you. I won't comment upon it until the end of these remarks, but I ask you to take the time to study it and try to divine its message.

TABLE I
Number and Percent of Black Full-Time Employment in Kentucky State Government 1967-1987

	Nov. 1967	Nov. 1971	Nov. 1975	Nov. 1977	Nov. 1979	Nov. 1981	Nov. 1983	Nov. 1985	Nov. 1987
Total Full-time Employees	26,708	31,263	34,924	35,388	40,927	35,832	34,715	36,446	37,504
Black Full-time Employees	1,408	1,540	2,023	2,125	2,707	2,567	2,520	2,667	2,751
Absolute Change in Black Employment	--	132	483	102	582	-140	-47	85	84
Percent Black Employment	5.30%	4.90%	5.80%	6.00%	6.60%	7.20%	7.30%	7.30%	7.30%
Change in Black Share of Employment	--	0.40%	0.90%	0.20%	0.60%	0.60%	0.10%	--	--

Source: Black Employment in Kentucky State Agencies, Kentucky Commission on Human Rights, 1988, page. 5

Now, to definitions: you will find these displayed on the website of Toward A Fair Michigan dot org:

<u>What is Affirmative Action?</u>

- Its Immediate Goals
    1. Outreach

2. Remedying Discrimination
   Putting an End to Discrimination
   Compensating for Past Discrimination
3. Diversity

- Its Ultimate Goals
  1. A Colorblind (Racially Just) and Gender-free (Sexually Just) Society

"Affirmative Action is a policy of favoring qualified women and minority candidates over qualified men or nonminority candidates, with the immediate goals of outreach, remedying discrimination, or achieving diversity, and the ultimate goals of attaining a colorblind (racially just) and gender-free (sexually just) society.

In general, if we want to get beyond any kind of significant wrongdoing, we need to take into account who wronged whom, and what were the consequences, and then try to set things right. There is no other morally acceptable way to get beyond significant wrongdoing."

"Of course, in the real world in which we live, we do not have the option of having [an] equal education opportunity program. This alternative to maintaining and developing existing affirmative action programs is simply not a feasible option in our current social and political context, at least in the United States."

James P. Sterba, "Defending Affirmative action, Defending Preferences"
in *Affirmative Actin and Racial Preference: A Debate*,
by Carl Cohen and James P. Sterba
(Oxford Univ. Press, 2003), pp. 200-201, 231

<u>What is Affirmative Action</u>?

Racial, Gender, or Similar Preferences—the consummate policy choice of those who employ the "disadvantaged group perspective"—the view that civil rights protect so-called disadvantaged minorities rather than all Americans.

Supreme Court Justice Stevens expressed the true meaning in the *Wilks* case: "Just as white employees in the past were innocent beneficiaries of illegal discriminatory practices, so is it inevitable that some of the same white

employees will be innocent victims who must share some of the burdens resulting from the redress of the past wrongs."

These excuses for injustice would be more patently clear if we placed them in juxtaposition with policies and practices everyone experiences and understands. But what is better understood than the progressive income tax? Suppose, however, that the progressive tax scale were calculated rather by race than by level of income—call it the Affirmative Action Tax. Historically, the differences would not be noticeable. Whether one said white folk or rich folk had to pay more, one would still be collecting largely from the same people. Thus, the same practical result would follow. Does the same moral result follow? Does it not matter that at least some of the white folk are actually poor, while at least some of the black folk are actually rich? A progressive tax based on actual income affects people equally, as to race, while the other is unequal and unfair. The question is not whether but how sacrifices are made in the common interest. Under a "jurisprudence of minorities" sacrifices are made unevenly—and based on irrelevant diversities, which deny by imputation the existence of a common good.

It is better to eliminate once and for all routine public references to race and gender—wherever the logic of the profession itself does not impose such categories. The fact that such usage is pervasive and deeply rooted describes the nature of the task before us—the first thing that must fall, accordingly, is the very concept of group representation or, more precisely, "protected groups." All Americans must be protected by freedom, or, in the end, none will be.

Affirmative Action seems to say that we may discriminate against a black person yesterday, pay a different black person for the injury today, and call it even. Under this principle, one black person is pretty much the same as another." The point is precisely to move our polity toward the day when "one black, one woman, one minority" is not pretty much the same as another—when counting noses is no longer an objective of public policy.

Excerpts from "Black and White Together," by W. B. Allen
in *Reassessing Civil Rights*, edited by Ellen Frankel Paul, Fred D. Miller, Jr., and Jeffrey Paul
(Cambridge, MA: Blackwell Publishers, 1991), pp. 172-195.

ILLUSTRATION

For purposes of illustration we may turn to the very recently released National Urban League's "The State of Black America: 2005." I choose to

look at the actual economic implications of affirmative action in that context for the sufficient reason that the fate of American blacks remains the relevant issue in discussions of affirmative action. If for no other reason, the manifest changes in circumstance of white women make them decreasingly relevant for the purpose of these discussions (and it is irrelevant whether those changes resulted from affirmative action or from the historical fact of a massive entry into the work force of laborers who theretofore had remained largely outside).

"The State of Black America" summarizes the issue in the most exquisite fashion, suggesting both the paradox and the reason for continuing attachment to affirmative action:

> African Americans were frozen out of the mainstream of American life over the first half of the last century, but since the 1954 (sic) civil rights movement has won many battles against racial injustice, and America has reached a broad national consensus in favor of a more tolerant, more inclusive society. Yet we live with a great paradox: Why is racial inequality increasing in this new era?

So there we have it; it is a mere factual question: Is racial inequality increasing even as society becomes less intolerant? The basis for the assertion that racial inequality is increasing is the radical argument that the baseline for analyzing racial inequality must be shifted from comparison of relative income and status to something called "family wealth." The result is that dramatic improvements of individual positions in closing the income gap become less significant, while differences in net family assets become determinative. That leads to the observation, accordingly, that "one needs to be asking how it is that blacks with equal accomplishments in income, jobs, and degrees possess only about a quarter of the wealth of their white counterparts/"

Now the obvious answer to this question is a so-called "inheritance disadvantage," which leads the "Report" to calculate "the cost of being African American" or "the wealth difference between typical white and black families with equal accomplishments on all the factors that we think lead to wealth accumulation." On this basis, our social analyst argues, "the cost of being black amounts to $136, 174." Moreover, because "wealth represents the sedimentation of historical inequalities in the American experience," there is no way to alter this formula save through "government

[in] enabling families to build a wealth pillar for their mobility, stability, and well-being."

If you follow me to this point, you will not be slow in realizing that nothing, and least of all affirmative action, can accomplish the goal in view, which is nothing less than a massive redistribution of wealth, on the order of $137,000 for every black citizen in America.

But where does the argument for persistent, systemic, and historic disadvantage leave the defense for affirmative action? I submit that it leaves it without work to do.

Observe, the same report chronicles the advances of sixty percent of American blacks, and concludes that it is in reality only forty percent who can be called truly disadvantaged, that is, "who comprise the most fragile sector of African-American society: the twenty-five percent who are poor; and the fifteen percent of the weak working class, whose heads of the house work at jobs with wages that are barely enough to make ends meet. The difficulties ensnaring this latter group are profound," it goes on to observe. "The three most important are: its family structure and poverty; its interaction with a racist criminal justice system; and its difficulties with the system of public education."

Now, here is the dilemma: neither affirmative action nor a redistribution of wealth can address these three specific issues. The euphemism, "family structure," points to issues of female-headed households and out of wedlock births; the "interaction with a racist criminal justice system" speaks of issues of criminality, whether the criminals are treated fairly or unfairly on comparison; and the "difficulties with the system of public education" cannot be remediated by pretending that people who drop out of school or otherwise do not perform are nonetheless college able. And to place a massive infusion of wealth into the hands of people in these circumstances, while it will doubtless help solve certain immediate problems, cannot offer much promise of creating a culture of wealth creation.

It appears, then, that we seek to solve with affirmative action problems that cannot be addressed in that manner.

The final irony of affirmative action is that, necessarily, it entails racial discrimination against the very people it purports to help. It is not the

disadvantaged who benefit from admission to universities by affirmative action rules; it is rather the well-to-do or at least the middle class. More importantly, because affirmative action always issues in a tacit quota at the very least, it means precisely discrimination against the most needful in those situations in which their numbers exceed their group's proportion of the population or workforce.

That is the meaning of the table you have been pondering: Consider, Kentucky practiced robust affirmative action for twenty years, and systematically hiring black people into state government until it reached the correlative population ratio. Thereafter, it steadfastly maintained that ratio. That is something that could have happened only in one circumstance – namely, black folk seeking employment beyond their population ratio were denied employment on the basis of their race.