Curriculum Guide

Social Studies

Grade 11/US History II

OBE Approval Date: December 10, 2019

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Social Studies 11

United States History II (Marking Cycle I—40 days)

Content Area:	**11th Grade (United States History II)**
Unit Plan Title:	***The Great Depression and World War II: The Great Depression, The New Deal, & World War II***
Social Studies NJ Standard	
• 6.1.12.A.9.a Analyze how the actions and policies of the United States government contributed to the Great Depression. • 6.1.12.A.10.a Explain how and why conflict developed between the Supreme Court and other branches of government over aspects of the New Deal. • 6.1.12.A.10.b Assess the effectiveness of governmental policies enacted during the New Deal period (i.e., the FDIC, NLRB, and Social Security) in protecting the welfare of individuals. • 6.1.12.A.10.c Evaluate the short- and long-term impact of the expanded role of government on economic policy, capitalism, and society. • 6.1.12.A.11.a Evaluate the effectiveness of international agreements following World War I in preventing international disputes during the 1920s and 1930s. • 6.1.12.A.11.b Compare and contrast different perspectives about how the United States should respond to aggressive policies and actions taken by other nations at this time. • 6.1.12.A.11.c Determine if American policies regarding Japanese internment and actions against other minority groups were a denial of civil rights. • 6.1.12.A.11.d Analyze the decision to use the atomic bomb and the consequences of doing so. • 6.1.12.A.11.e Assess the responses of the United States and other nations to the violation of human rights that occurred during the Holocaust and other genocides. • 6.1.12.B.9.a Determine how agricultural practices, overproduction, and the Dust Bowl intensified the worsening economic situation during the Great Depression. • 6.1.12.B.10.a Assess the effectiveness of New Deal programs designed to protect the environment. • 6.1.12.B.11.a Explain the role that geography played in the development of military strategies and weaponry in World War II. • 6.1.12.C.9.a Explain how government can adjust taxes, interest rates, and spending and use other policies to restore the country's economic health. • 6.1.12.C.9.b Explain how economic indicators (i.e., gross domestic product, the consumer index, the national debt, and the trade deficit) are used to evaluate the health of the economy. • 6.1.12.C.9.c Explain the interdependence of various parts of a market economy. • 6.1.12.C.9.d Compare and contrast the causes and outcomes of the stock market crash in 1929 and	

other periods of economic instability.

- 6.1.12.C.10.a Evaluate the effectiveness of economic regulations and standards established during this time period in combating the Great Depression.
- 6.1.12.C.10.b Compare and contrast the economic ideologies of the two major political parties regarding the role of government during the New Deal and today.
- 6.1.12.C.11.a Apply opportunity cost and trade-offs to evaluate the shift in economic resources from the production of domestic to military goods during World War II and analyze the impact of the post-war shift back to domestic production.
- 6.1.12.C.11.b Relate new wartime inventions to scientific and technological advancements in the civilian world.
- 6.1.12.D.9.a Explore the global context of the Great Depression and the reasons for the worldwide economic collapse.
- 6.1.12.D.9.b Analyze the impact of the Great Depression on the American family, migratory groups, and ethnic and racial minorities.
- 6.1.12.D.10.a Analyze how other nations responded to the Great Depression.
- 6.1.12.D.10.b Compare and contrast the leadership abilities of Franklin Delano Roosevelt and those of past and recent presidents.
- 6.1.12.D.10.c Explain how key individuals, including minorities and women (i.e., Eleanor Roosevelt and Frances Perkins), shaped the core ideologies and policies of the New Deal.
- 6.1.12.D.10.d Determine the extent to which New Deal public works and arts programs impacted New Jersey and the nation.
- 6.1.12.D.11.a Analyze the roles of various alliances among nations and their leaders in the conduct and outcomes of the World War II.
- 6.1.12.D.11.b Evaluate the role of New Jersey (i.e., defense industries, Seabrook Farms, military installations, and Battleship New Jersey) and prominent New Jersey citizens (i.e., Albert Einstein) in World War II.
- 6.1.12.D.11.c Explain why women, African Americans, Native Americans, Asian Americans, and other minority groups often expressed a strong sense of nationalism despite the discrimination they experienced in the military and workforce.
- 6.1.12.D.11.d Compare the varying perspectives of victims, survivors, bystanders, rescuers, and perpetrators during the Holocaust.
- 6.1.12.D.11.e Explain how World War II and the Holocaust led to the creation of international organizations (i.e., the United Nations) to protect human rights, and describe the subsequent impact of these organizations.

Overview/Rationale

1. The Great Depression and World War II: The Great Depression: The Great Depression resulted from government economic policies, business practices, and individual decisions, and it impacted business

and society.

2. The Great Depression and World War II: New Deal: Aimed at recovery, relief, and reform, New Deal programs had a lasting impact on the expansion of the role of the national government in the economy.
3. The Great Depression and World War II: World War II: The United States participated in World War II as an Allied force to prevent military conquests by Germany, Italy, and Japan. Domestic and military policies during World War II continued to deny equal rights to African Americans, Asian Americans, and women.

Career Readiness Practices

- CRP2 – Apply appropriate academic and technical skills.
- CRP4 – Communicate clearly and effectively and with reason.
- CRP5 – Consider the environmental, social, and economic impacts of decisions.
- CRP6 – Demonstrate creativity and innovation.
- CRP8 – Utilize critical thinking to make sense of problems and persevere in solving them.
- CRP9 – Model integrity, ethical leadership, and effective management.
- CRP12 – Work productively in teams while using cultural global competence.

Interdisciplinary Standard(s)	Interdisciplinary Standard(s)
Language • NJSLSA.L1. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking. • NJSLSA.L2. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing. • NJSLSA L4. Determine or clarify the meaning of unknown and multiple-meaning words and phrases by using context clues, analyzing meaningful word parts, and consulting general and specialized reference materials, as appropriate. • NJSLSA L5. Demonstrate understanding of word relationships and nuances in word meanings. • NJSLSA L6. Acquire and use accurately a range of general academic and domain-specific words and phrases sufficient for reading, writing, speaking, and listening at the college and career readiness level; demonstrate independence in gathering vocabulary knowledge when encountering an unknown term important to comprehension or expression.	**Reading** • RL.9-10.1. Cite strong and thorough textual evidence and make relevant connections to support analysis of what the text says explicitly as well as inferentially, including determining where the text leaves matters uncertain. • RL.9-10.2. Determine a theme or central idea of a text and analyze in detail its development over the course of the text, including how it emerges and is shaped and refined by specific details and provide an objective summary of the text. **Writing** • NJSLSA.W1 Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence. • NJSLSA. W2 Write informative/explanatory texts to examine and convey complex ideas and information clearly and accurately through the effective selection, organization, and analysis of content. • NJSLSA.W4 Produce clear and coherent writing

Speaking and Listening	
• NJSLSA.SL1. Prepare for and participate effectively in a range of conversations and collaborations with diverse partners, building on others' ideas and expressing their own clearly and persuasively. • NJSLSA.SL2. Integrate and evaluate information presented in diverse media and formats, including visually, quantitatively, and orally. • NJSLSA.SL3. Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric. • NJSLSA.SL4. Present information, findings, and supporting evidence such that listeners can follow the line of reasoning and the organization, development, and style are appropriate to task, purpose, and audience.	in which the development, organization, and style are appropriate to task, purpose, and audience. • NJSLSA.W5 Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach. **Technology** • 8.1.12.A.2 Produce and edit a multi-page digital document for a commercial or professional audience and present it to peers and/or professionals in that related area for review. • 8.1.12.C.1 Develop an innovative solution to a real world problem or issue in collaboration with peers and experts, and present ideas for feedback through social media or in an online community. • 8.1.12.E.1 Produce a position statement about a real world problem by developing a systematic plan of investigation with peers and experts synthesizing information from multiple sources. • 8.2.12.B.4 Investigate a technology used in a given period of history, e.g., stone age, industrial revolution or information age, and identify their impact and how they may have changed to meet human needs and wants. • 8.2.12.B.5 Research the historical tensions between environmental and economic considerations as driven by human needs and wants in the development of a technological product, and present the competing viewpoints to peers for review.
Essential Question(s)	
• How can wars be prevented? • How do economic depressions affect societies? • How can governments fix economies?	
In this unit plan, the following 21st Century themes and skills are addressed.	

Check all that apply. **21st Century Themes**		*Indicate whether these skills are **E**-Encouraged, **T**-Taught, or **A**-Assessed in this unit by marking **E, T, A** on the line before the appropriate skill.* **21st Century Skills**	
X	**Global Awareness**	E	**Creativity and Innovation**
X	**Environmental Literacy**	A	**Critical Thinking and Problem Solving**
X	**Health Literacy**	A	**Communication**
X	**Civic Literacy**	A	**Collaboration**
X	**Financial, Economic, Business, and Entrepreneurial Literacy**		

Enduring Understandings

- Changes in a nation's economy can directly affect its citizens both positively and negatively
- People engage in politics to solve problems in society.
- Leaders can bring about change in society.
- Disputes over ideas, resources, values, and politics can lead to change.

Student Learning Targets/Objectives

By the end of the unit students will be able to

- Compare and contrast the causes and outcomes of the stock market crash in 1929 with other periods of economic instability (e.g., the depression of 1807, the Long Depression of 1873, the Panic of 1907, the "double dip" of the 1980s, the Great Recession of 2008).
- Investigate how U.S. governmental policies (e.g., high tariffs, limited banking regulations) affected the 1929 stock market crash.
- Determine how agricultural practices, overproduction, and the Dust Bowl intensified the worsening economic situation during the Great Depression.
- Analyze the impact of the Great Depression on the American family, migratory groups, and ethnic and racial minorities.
- Determine the extent to which the Treaty of Versailles, war debt repayment, and international banking contributed to the worldwide economic collapse.
- Explain how the government uses monetary policy (e.g., interest rates, printed currency) to affect the nation's economy.
- Explain how the government uses fiscal policy (e.g., adjusting taxes, spending) to affect the nation's economy.
- Produce coherent writing to explain the relationship between producers and consumers in a market economy, including how supply and demand determine the price of a good or service, in this time period and current times.
- Use multiple credible sources including economic indicators (i.e., gross domestic product, consumer index, national debt, and trade deficit) to evaluate the health of the U.S. economy during this time period and in current times.

- Evaluate the effectiveness of economic regulations and standards established during this time period in combating the Great Depression, including measures provided by the Glass-Steagall Act, and the Fair Labor Standards Act.
- Explain how members of FDR's "Brain Trust" and cabinet secretaries shaped the core ideologies and policies of the New Deal.
- Assess the effectiveness of New Deal programs (e.g., Civilian Conservation Corp, Tennessee Valley Authority) designed to protect the environment.
- Determine the extent to which the Works Progress Administration impacted New Jersey and the nation by improving infrastructure, investing in education, and employing artists.
- Write an argument assessing the effectiveness of governmental policies (i.e., FDIC, NLRB, and Social Security) enacted during the New Deal period in protecting the welfare of individuals.
- Evaluate the impact of the New Deal's expanded role of government with regard to economic policy (e.g., spending), capitalism (e.g., increased regulation), and society (e.g., government assistance).
- Evaluate how and why conflict developed over the New Deal between the Supreme Court and other branches of government by analyzing the decisions of Schechter v. U.S., and Butler v. U.S., as well as other primary source documents, assessing the authors' claims, reasoning, and evidence.
- Conduct short research to compare and contrast the roles of Eleanor Roosevelt and Frances Perkins in promoting equality for women and minorities during the New Deal era.
- Compare and contrast the leadership abilities of Franklin Delano Roosevelt with past presidents (e.g., T. Roosevelt, Wilson, Hoover) and recent presidents (e.g., Reagan, Obama).
- Draw evidence from informational texts to support analysis, reflection, and research to determine the economic ideological leanings of the two major political parties during the New Deal and today.
- Compare and contrast America's response to the Great Depression with other nations (e.g., Germany, Italy, and Japan).
- Evaluate the effectiveness of international agreements following World War I (e.g., Treaty of Versailles, League of Nations, appeasement policies) in preventing international disputes during the 1920s and 1930s.
- Evaluate authors' premises regarding the philosophies of isolationism, neutrality, appeasement, and interventionism in response to aggressive policies and actions taken by other nations at this time.
- Analyze the roles of Axis leadership (e.g., Hitler, Hirohito, Mussolini) and Allied leadership (e.g., Stalin, Churchill, FDR) in the conduct and outcomes of WWII.
- Evaluate authors' differing points of view to determine if the American internment of Japanese, German, and Italians was a denial of civil rights.
- Explain the role that geography played in the development of military strategies and weaponry in World War II.
- Evaluate the role of New Jersey (i.e., defense industries, Seabrook Farms, military installations, and Battleship New Jersey) and prominent New Jersey citizens (i.e., Albert Einstein) in World War II.
- Explain the contribution of minority groups to the war effort despite the discrimination that they faced (e.g., the Tuskegee Airmen, Native American Code Talkers, Women Air Force Service Pilots, Japanese American 442nd Infantry Regimental Combat Team, Mexican Americans).
- Relate new wartime inventions to scientific and technological advancements in the civilian world (e.g., nuclear technology, improved aeronautical design, communication innovations, food preservatives).
- Evaluate the short and long-term impacts of the conversion of American industries from consumer-oriented

manufacturing to military production during WWII.

- Analyze the decision to use the atomic bomb and the consequences of doing so. 6.1.12.A.11.d 32 Compare the varying perspectives of victims, survivors, bystanders, rescuers, and perpetrators during the Holocaust.
- Assess the responses of the United States and other nations to the violation of human rights that occurred during the Holocaust and other genocides.
- Explain how World War II and the Holocaust led to the creation of international organizations (i.e., the United Nations) to protect human rights, and describe the subsequent impact of these organizations.

Assessments

- Pre and Formative
  - -**All Chapters and Sections**
  *One-Minute Essay - (A focused question with a specific goal that can be answered in a minute or two.)
  *Student Conference - (One on one conversations with students to check their understanding.}
  *Journal Entry - (Students record in a journal their understanding of the topic, concept, or lesson taught. The teacher reviews the entry to see if the student has gained an understanding of the topic, concept, or lesson taught.
  *Readers Theater - (From an assigned text have students create a script and perform it.)

- Summative
  - -**All Chapters and Sections**
  *Section quizzes and tests.
  *Document based analysis

- Authentic
  - -**All Chapters and Sections**
  *Argumentative and Narrative Responses (Written: advertisements, biography, essay, editorial, historical fiction, journal, letter, log, poem, script, or website. Oral: voice recording, conversation, debate, dramatic reading, dramatization, interview, oral report, rap, skit, or speech. Visual: advertisement, banner, cartoon, collage, computer graphic, data display, drawing, flyer, graph, map, poster, or digital presentation.)

- Other Assessments
  - -**All Chapters and Sections**
  *Vocabulary Builder, Modified Vocabulary Builder, & Flash Cards (for lower level and ELL students)
  *Chat Stations, Learning Menu
  *Webquest, Google Slide Presentation
  *Do Now, Exit Tickets
  *Bell Ringers

Teaching and Learning Actions

	Chapter 18

Activities	
	• Great Depression Statistics: Close Read – Review the chart, using the definitions from the chart to help you interpret the data. When you are done, answer the analysis questions for each column of data. – Using the documents and your knowledge of US history - respond to the prompt: When President Franklin Roosevelt took office in 1933, he faced all of the economic problems described in the chart & statistics above. To alleviate the economic impact of the Great Depression on American citizens, President Roosevelt created a series of federal reforms known as the New Deal. These programs provided relief for the needy, economic recovery, and/or reform of American capitalism. Which of these three do you think was the MOST urgent from the perspective of American citizens? Which one do you think they felt the most impact of in their everyday life? Economic relief for the needy (unemployment & fall of per capita personal income) Economic recovery (rehabilitating GDP) Economic reform of American capitalism (addressing the rise in bank suspensions)? In ONE paragraph EXPLAIN which federal reforms most directly impacted the daily lives of American citizens. • Dust Bowl Migrants: Primary Source Deep Dive – Review the captions and photographs of Dust Bowl Migrants; while reviewing them, use the observations and inferences chart attached to record your thoughts. – Read the excerpt of John Steinbeck's Harvest Gypsies provided and answer the questions that follow in the space provided. The bolded words are defined below the reading. – Read the excerpt of Starvation Under the Orange Trees provided and answer the questions that follow in the space provided. The bolded words are defined. – Using the evidence that you have gathered from the primary sources, develop a script for a dialogue or conversation between President Franklin D. Roosevelt and a dust bowl migrant farmer. The script should have two characters - FDR and the dust bowl migrant farmer Indicate which state they have left, and assume they are migrating to California. The dialogue or conversation should highlight why the farmer is migrating from the Midwest to California, and what he or she found when he or she arrived in California. What the farmer thinks the government needs to do for farmers who were left poor and penniless as a result of the dust bowl. Use the documents above to support your creation of the script. Your script should be at least 2 pages long **Chapter 19** • New Deal: Alphabet Soup

- Use the graphic organizer to keep track of and describe the programs meant to provide aid to the citizens of America during the Great Depression and subsequent reform known as the "New Deal". Under each program title, describe: The purpose of this program or federal act. Explain WHY it is an example of either relief for the needy, economic recovery, or reform of American capitalism. When you are done, answer the analysis questions.

- Fireside Chat: Close Read
  - Closely examine the graph and answer the three analysis questions that follow.
  - You will be assigned to one of two groups - each group will examine a specific economic problem facing the American economy during the Great Depression, and how FDR addressed that issue during his Fireside Chats. Each group will document their findings in the chart and prepare to present their findings to the whole class.
  - Using the documents, and your knowledge of US history - respond to the prompt: The image was drawn by Fred O. Seibel in 1933. It first appeared in the Richmond Times - Dispatch. In two well written paragraphs: Compare the image of FDR in the image below to the image he portrays in the fireside chats excerpted above. Explain how he demonstrates confidence in the fireside chats and compare this to the tools the artist uses to imply his confidence in the image below.

Chapter 20

- World War II Posters and Propaganda
  - Read the historical context and answer the four questions that follow.
  - View the following selection of 20 posters. For each poster, fill out the corresponding row in the table on the next page. In the second column note the theme you think the poster is best associated with by checking the appropriate box. In the third column, explain why you chose that theme(s). You may use the same theme for multiple posters, and you might not use all six themes. See the example.
  - Using information from the documents, please respond to the following task: Read the article, "Every Citizen a Soldier: WW2 Posters on the American Home Front" by William L. Bird Jr. and Harry Rubenstein (abridged from The Gilder Lehrman Institute of American History), excerpted below. Following the article are a series of analysis questions - answer them in the space provided.

- The Holocaust
  - Proceed to the U.S. Holocaust Memorial Museum website and use one or more of the following lesson plans: Overview of the Holocaust, Holocaust Timeline, Why Didn't They Just Leave?, Americans and the Holocaust: Exploring the Online Exhibition, History Unfolded: US

Newspapers and the Holocaust, Interpreting News of Past Events: 1933-1938, Immigration and Refugees: A Case Study on the Wagner-Rogers Bill, Isolation or Intervention: A Case Study on the Lend-Lease Act, History of Antisemitism and the Holocaust, Ethical Leadership, Oath and Oppression: Education Under the Third Reich, Deconstructing the Familiar: Photo Activity, Collaboration and Complicity during Kristallnacht, Redefining How We Teach Propaganda, & Three Minutes in Poland.

- DBQ: Wilson and FDR
  - This question is based on the accompanying documents. The question is designed to test your ability to work with historical documents. Some of these documents have been edited for the purposes of this question. As you analyze the documents, take into account the source of each document and any point of view that may be presented in the document. Keep in mind that the language used in a document may reflect the historical context of the time in which it was written.
  - Presidents Woodrow Wilson and Franklin D. Roosevelt both faced the challenge of leading the United States during world wars. These challenges included establishing foreign policies prior to the entry of United States into the war, preserving civil liberties while protecting national security during the war, and planning a role for the United States in world affairs after the war.
  - Using the information from the ten documents in part A and your knowledge of US history, write an essay in Part B in which you: Discuss the similarities and/or differences between the presidencies of Woodrow Wilson & Franklin D. Roosevelt in terms of their: policies prior to entering the war, actions affecting civil liberties during the war, and plans for the role of the United States in world affairs after the war

Chapter 21

- Letters from Pearl Harbor: Primary Source Document Analysis
  - Read the primary source and analyze it by answering the analysis questions that follow.

- The Decision to Drop the Atomic Bomb: Document Based Question
  - This question is based on the accompanying documents. The question is designed to test your ability to work with historical documents. Some of these documents have been edited for the purposes of this question. As you analyze the documents, take into account the source of each document and any point of view that may be presented in the document. Keep in mind that the language used in a document may reflect the historical context of the time in which it was written.
  - Historical Context: World War II & the atomic bomb: The US decision to drop atomic bombs on the Japanese cities of Hiroshima and

<table>
<tr><td></td><td colspan="2">Nagasaki in August 1945 has generated much controversy over the years. Some argue that the bombing was necessary to end World War II, while others believed that more than 200,000 civilians died in vain.
– Task: Using the information from the eight documents in part A and your knowledge of US history, write an essay in Part B in which you Discuss the different perspectives on the US decision to drop the atomic bomb on Hiroshima and Nagasaki during World War II. Explain the arguments of those in support of using the atomic bomb. Explain the arguments of those against using the atomic bomb.</td></tr>
<tr><td><u>MTSS</u></td><td><u>Special education student's modifications:</u>
– Adhere to all modifications and health concerns stated in each IEP.
– Give students a MENU option allowing students to pick assignments from different levels based on difficulty. Students have the option of learning the curriculum in their comfort level and challenge themselves for growth.
– Use the online reading software, which can revise the reading the Lexile level to meet students at current reading level.
– Accommodating Instructional Strategies: Reading Aloud, Graphic Organizers, Reading Study Guides, one-on-one instruction, class website, Handouts, Definition List, Syllabus, Large Print, Outlines.
– Utilize a speech to text resources.
Activities:
– Determining Word Meaning – Chapter 18, page 427 in TE
– Writing Skills: Informative/Explanatory – Chapter 19, page 442 in TE
– Reading Skills: Discussing – Chapter 20, page 460 in TE
– Reading Skills: Listing – Chapter 21, page 480 in TE</td><td><u>At risk of failure students</u>
– Give students a menu option allowing students to pick activities based on interest that address the objectives and standards of the unit.
– Modified Instructional Strategies: Reading Aloud, Graphic Organizers, Reading Study Guides, small learning group instruction, class website, syllabus, inclusion of more visuals and films, field trips, virtual reality/augmented reality fieldtrips, peer support, one on one instruction.
– Constant parent contact along with mandatory tutoring along with mandatory tutoring appointments.
– Academic Contracts
Activities:
– Determining Word Meaning – Chapter 18, page 432 in TE
– Critical Thinking Skills – Chapter 19, page 444 in TE
– Critical Thinking Skills: Making Inferences – Chapter 20, page 462 in TE
– Visual Skills: Analyzing images – Chapter 21, page 484 in TE

<u>Gifted and Talented Students:</u>
– Modified instructional strategies Socratic Seminar, Group Discussion, Think-Pair-Share,</td></tr>
</table>

	<u>English Language Learners (ELL) students:</u> – Use the district purchased software; give students the option to change the language of the articles to the student's native language for most articles. – Speech to text platform extension additions. Will read to the student in the language selected. – Online word banks – Use visuals whenever possible to support classroom instruction and classroom activities. – Teacher modeling and written instructions for every assignment. ***Activities***: – Determining Word Meaning – Chapter 18, page 427 in TE – Reading Skills: Determining Word Meaning – Chapter 19, page 445 in TE – Reading Skills: Defining – Chapter 20, page 466 in TE – Reading Skills: Determining Word Meanings – Chapter 21, page 481 in TE	Individual Assignments graded on a more rigorous rubric, Multimedia Projects, working with more primary source documents and completing case studies. – Student led classroom instruction also Project Based Learning. ***Activities***: – Narrative Writing Skills – Chapter 18, page 428 in TE – Critical Thinking Skills – Chapter 18, page 432 in TE – Critical Thinking Skills: Identifying Points of View – Chapter 19, page 444 in TE – Critical Thinking Skills: Making Connections – Chapter 19, page 454 in TE – Critical Thinking Skills: Hypothesizing – Chapter 20, page 463 in TE – Writing Skills: Informative/Explanatory – Chapter 20, page 467 in TE – Writing Skills: Informative – Chapter 21, page 481 in TE – Critical Thinking Skills: Identifying Alternatives – Chapter 21, page 499 in TE **<u>Students with 504:</u>** – Adhere to all modifications and health concerns stated in the 504 plans. Then assess the academics of the student to implement the necessary modifications as described in this document. ***Activities***: – Critical Thinking Skills: Drawing Conclusions – Chapter 18, page 434 in TE – Visual Skills: Analyzing Maps – Chapter 19, page 446 in TE – Reading Skills: Summarizing – Chapter 20, page 471 in TE

		– Reading Skills: Explaining, Chapter 21, page 488 in TE
Experiences	• The Smithsonian Institute is the world's largest museum, education, and research complex. We are a community of learning and the opener of doors. Join us on a voyage of discovery in person or learn and explore online. • Franklin Delano Roosevelt Presidential Library: The Library's mission is to foster research and education on the life and times of Franklin and Eleanor Roosevelt, and their continuing impact on contemporary life. Our work is carried out by four major areas: Archives, Museum, Education and Public Programs.	

Resources

- Appleby, Joyce, Alan Brinkley, Albert Broussard, James McPherson, Donald Ritchie, & Jay McTighe, *United States History and Geography*. Ohio: McGraw Hill Education, 2014.
- **Introduce or Reinforce**: Question Formulation Technique
- **Introduce or Reinforce**: Stanford History Education Group: Reading Like a Historian
- Facing History and Ourselves
- Gilder Lehrman
- New Visions
- New Jersey Council for Social Studies Education
- Curriculum Pathways
- PBS Learning Media
- Library of Congress Lessons
- Think CERCA: Argumentative Writing
- Amistad
- Holocaust
- End Genocide
- Common Sense
- Foreign Policy Research Institute Lesson Plans

Suggested Time Frame:	1st Marking Period (40 days)
Pacing Guide	25 days for entire marking cycle Chapter 18 = 5 days Chapter 19 = 6 days Chapter 20 = 6 days Chapter 21 = 8 days

Social Studies 11

United States History II (Second Marking Cycle- 40 days)

Content Area:	11th Grade (United States History II)
Unit Plan Title:	***Postwar United States: Cold War*** **Postwar United States: Civil Rights and Social Change**

Social Studies NJ Standard

- 6.1.12.A.12.a Analyze ideological differences and other factors that contributed to the Cold War and to United States involvement in conflicts intended to contain communism, including the Korean War, the Cuban Missile Crisis, and the Vietnam War.
- 6.1.12.A.12.b Examine constitutional issues involving war powers, as they relate to United States military intervention in the Korean War, the Vietnam War, and other conflicts.
- 6.1.12.A.12.c Explain how the Arab-Israeli conflict influenced American foreign policy.
- 6.1.12.B.12.a Evaluate the effectiveness of the Marshall Plan and regional alliances in the rebuilding of European nations in the post-World War II period.
- 6.1.12.C.12.a Explain the implications and outcomes of the Space Race from the perspectives of the scientific community, the government, and the people.
- 6.1.12.C.12.b Assess the impact of agricultural innovation on the world economy.
- 6.1.12.C.12.c Analyze how scientific advancements impacted the national and global economies and daily life.
- 6.1.12.C.12.d Assess the role of the public and private sectors in promoting economic growth and ensuring economic stability.
- 6.1.12.D.12.a Analyze the impact of American governmental policies on independence movements in Africa, Asia, the Caribbean, and the Middle East.
- 6.1.12.D.12.b Analyze efforts to eliminate communism, such as McCarthyism, and their impact on individual civil liberties.
- 6.1.12.D.12.c Evaluate how the development of nuclear weapons by industrialized countries and developing counties affected international relations.
- 6.1.12.D.12.d Compare and contrast American public support of the government and military during the Vietnam War with that of other conflicts.
- 6.1.12.D.12.e Analyze the role that media played in bringing information to the American public and shaping public attitudes toward the Vietnam War.
- 6.1.12.A.13.b Analyze the effectiveness of national legislation, policies, and Supreme Court decisions (i.e., the Civil Rights Act, the Voting Rights Act, the Equal Rights Amendment, Title VII, Title IX, Affirmative Action, Brown v. Board of Education, and Roe v. Wade) in promoting civil liberties and equal opportunities.
- 6.1.12.A.13.c Determine the extent to which changes in national policy after 1965 impacted

immigration to New Jersey and the United States.

- 6.1.12.B.13.a Determine the factors that led to migration from American cities to suburbs in the 1950s and 1960s and describe how this movement impacted cities.
- 6.1.12.B.13.b Evaluate the effectiveness of environmental movements and their influence on public attitudes and environmental protection laws.
- 6.1.12.C.13.a Explain how individuals and organizations used economic measures (e.g., the Montgomery Bus Boycott, sit downs, etc.) as weapons in the struggle for civil and human rights.
- 6.1.12.C.13.b Evaluate the effectiveness of economic policies that sought to combat post-World War II inflation.
- 6.1.12.C.13.c Determine the effectiveness of social legislation that was enacted to end poverty in the 1960s and today.
- 6.1.12.C.13.d Relate American economic expansion after World War II to increased consumer demand.
- 6.1.12.D.13.a Determine the impetus for the Civil Rights Movement and explain why national governmental actions were needed to ensure civil rights for African Americans.
- 6.1.12.D.13.b Compare and contrast the leadership and ideology of Martin Luther King, Jr., and Malcolm X during the Civil Rights Movement, and evaluate their legacies.
- 6.1.12.D.13.c Analyze the successes and failures of women's rights organizations, the American Indian Movement, and La Raza in their pursuit of civil rights and equal opportunities.
- 6.1.12.D.13.d Determine the extent to which suburban living and television supported conformity and stereotyping during this time period, while new music, art, and literature acted as catalysts for the counterculture movement.
- 6.1.12.D.13.e Explain why the Peace Corps was created and how its role has evolved over time.
- 6.1.12.D.13.f Relate the changing role of women in the labor force to changes in family structure.

Overview/Rationale

1. Postwar United States: Cold War Cold War tensions between the United States and communist countries resulted in conflict that influenced domestic and foreign policy for over forty years.

2. Postwar United States: Civil Rights and Social Change The Civil Rights movement marked a period of social turmoil and political reform, resulting in the expansion of rights and opportunities for individuals and groups previously discriminated against.

Career Readiness Practices

- CRP2 – Apply appropriate academic and technical skills.
- CRP4 – Communicate clearly and effectively and with reason.
- CRP5 – Consider the environmental, social, and economic impacts of decisions.
- CRP6 – Demonstrate creativity and innovation.
- CRP8 – Utilize critical thinking to make sense of problems and persevere in solving them.
- CRP9 – Model integrity, ethical leadership, and effective management.
- CRP12 – Work productively in teams while using cultural global competence.

Interdisciplinary Standard(s) **Language** • NJSLSA.L1. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking. • NJSLSA.L2. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing. • NJSLSA L4. Determine or clarify the meaning of unknown and multiple-meaning words and phrases by using context clues, analyzing meaningful word parts, and consulting general and specialized reference materials, as appropriate. • NJSLSA L5. Demonstrate understanding of word relationships and nuances in word meanings. • NJSLSA L6. Acquire and use accurately a range of general academic and domain-specific words and phrases sufficient for reading, writing, speaking, and listening at the college and career readiness level; demonstrate independence in gathering vocabulary knowledge when encountering an unknown term important to comprehension or expression. **Speaking and Listening** • NJSLSA.SL1. Prepare for and participate effectively in a range of conversations and collaborations with diverse partners, building on others' ideas and expressing their own clearly and persuasively. • NJSLSA.SL2. Integrate and evaluate information presented in diverse media and formats, including visually, quantitatively, and orally. • NJSLSA.SL3. Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric. • NJSLSA.SL4. Present information, findings, and supporting evidence such that listeners can follow the line of reasoning and the organization, development, and style are appropriate to task, purpose, and audience.	**Interdisciplinary Standard(s)** **Reading** • RL.9-10.1. Cite strong and thorough textual evidence and make relevant connections to support analysis of what the text says explicitly as well as inferentially, including determining where the text leaves matters uncertain. • RL.9-10.2. Determine a theme or central idea of a text and analyze in detail its development over the course of the text, including how it emerges and is shaped and refined by specific details and provide an objective summary of the text. **Writing** • NJSLSA.W1 Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence. • NJSLSA. W2 Write informative/explanatory texts to examine and convey complex ideas and information clearly and accurately through the effective selection, organization, and analysis of content. • NJSLSA.W4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience. • NJSLSA.W5 Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach. **Technology** • 8.1.12.A.2 Produce and edit a multi-page digital document for a commercial or professional audience and present it to peers and/or professionals in that related area for review. • 8.1.12.C.1 Develop an innovative solution to a real world problem or issue in collaboration with peers and experts, and present ideas for feedback through social media or in an online community. • 8.1.12.E.1 Produce a position statement about a

	real world problem by developing a systematic plan of investigation with peers and experts synthesizing information from multiple sources. • 8.2.12.B.4 Investigate a technology used in a given period of history, e.g., stone age, industrial revolution or information age, and identify their impact and how they may have changed to meet human needs and wants. • 8.2.12.B.5 Research the historical tensions between environmental and economic considerations as driven by human needs and wants in the development of a technological product, and present the competing viewpoints to peers for review.

Essential Question(s)

- **How do tensions effect international relationships?**
- **How can a government change the social mores of a country?**
- **How can motivated people alter the course of a nation's civil rights?**

In this unit plan, the following 21st Century themes and skills are addressed.

Check all that apply. **21st Century Themes**		*Indicate whether these skills are **E**-Encouraged, **T**-Taught, or **A**-Assessed in this unit by marking **E, T, A** on the line before the appropriate skill.* **21st Century Skills**	
X	**Global Awareness**	E	**Creativity and Innovation**
X	**Environmental Literacy**	A	**Critical Thinking and Problem Solving**
X	**Health Literacy**	A	**Communication**
X	**Civic Literacy**	A	**Collaboration**
X	**Financial, Economic, Business, and Entrepreneurial Literacy**		

Enduring Understandings

- Countries are affected by their relationships with each other.
- The movement of people, goods, and ideas causes societies to change over time.
- The struggle for individual rights and equality often shapes a society's politics.

Student Learning Targets/Objectives

By the end of the unit students will be able to

- Cite specific textual evidence to evaluate the effectiveness of the Marshall Plan in the rebuilding of European nations in the post-World War II period.
- Evaluate the effectiveness of the regional alliances (i.e., Warsaw Pact and NATO) in the rebuilding of European nations during this time period.
- Gather relevant information from multiple sources to analyze how ideological differences between the United States and its allies, and the Soviet Union and its allies, contributed to the Cold War.
- Compare and contrast how the pursuit of nuclear weapons by industrialized countries (e.g., U.S., Soviet Union) and developing countries (e.g., Pakistan, India) affected international relations.
- Integrate information from diverse sources, noting discrepancies among sources, to analyze the impact of McCarthyism on individual civil liberties.
- Draw evidence from informational text to evaluate the United States' involvement in conflicts intended to contain communism, including the Korean War, the Cuban Missile Crisis, and the Vietnam War.
- Write an informative text that explains constitutional issues involving war powers, as they relate to United States military intervention in the Korean War and the Vietnam War.
- Use technology to produce an individual and shared writing product that analyzes the role of newspapers and television in bringing information to the American public and shaping public attitudes toward the Vietnam War.
- Write an explanatory text that compares American public support of the government and military during the Vietnam War with previous conflicts such as WWII or modern-day conflicts (e.g., Iraq, Afghanistan).
- Conduct research to analyze the impact of the U.S. policy of containment on independence movements in Africa (e.g., Congo, Ethiopia, Somalia), Asia (e.g., Cambodia, China, Indonesia), the Caribbean (e.g., Cuba), and the Middle East (e.g., Israel, Palestine).
- Explain how the Arab-Israeli conflict (e.g., formation of Israel, Six-Day War, Yom Kippur War) has influenced American foreign policy in the Middle East during this time period and today.
- Evaluate authors' differing points of view of the implications and outcomes of the Space Race from the perspectives of the scientific community, the government, and the public.
- Assess the impact of agricultural innovation on reducing food scarcity to the world economy in this time period.
- Analyze how scientific advancements (e.g., vaccinations, telecommunications, atomic energy) impacted national and global economies and daily life.
- Assess the role of public and private sectors in promoting economic growth and ensuring economic stability through regulatory practices, education, internal improvements, and employment opportunities.
- Evaluate the effectiveness of federal economic policies in promoting a smooth transition from a wartime to a peacetime economy.
- Produce clear and coherent writing that explains how the following trends affected consumer demand and contributed to economic expansion after WWII: • baby boom, • suburban consumerism, • technological innovation • women in the workforce, and; • increased access to education.
- Identify trends in the changing role of women in the labor force and changes in the family structure by analyzing labor statistics and demographic data during this time period.
- Use technology, including the Internet, to produce, publish, and update individual or shared writing products to show the extent to which suburban living and television supported conformity and stereotyping during

this time period.

- Analyze the origins and outcomes of the youth counter culture movement including the Beat Movement, rock and roll music, and abstract art.
- Use multiple credible sources to determine the factors (e.g., employment, interstate highway, GI Bill, urban decay) that led to migration from American cities to suburbs in the 1950s and 1960s and describe how this movement impacted cities.
- Evaluate various explanations for the impetus for the Civil Rights Movement and determine which explanation best accords with textual evidence, acknowledging where the text leaves matters uncertain.
- Conduct short research to explain how individuals and organizations used economic measures (i.e.., Montgomery Bus Boycott, sit downs, etc.) as weapons in the struggle for civil and human rights.
- Integrate information from primary and secondary sources into a coherent understanding of the passive resistance and militant response philosophies as they relate to the Civil Rights movement.
- Draw evidence from informational texts to compare and contrast the legacies of Dr. Martin Luther King and Malcolm X.
- Explain why national governmental actions were needed to ensure civil rights for African Americans.
- Write an argument that analyzes the federal government's effectiveness in promoting civil liberties and equal opportunities after examining: • national legislation (Civil Rights Act of 1964, Voting Rights Act of 1965, Equal Rights, Amendment, Title VII, and/or Title IX), • policies (Affirmative Action), and; • Supreme Court decisions (Brown v. Board of Education and Roe v. Wade).
- Write an argument that analyzes the effectiveness of New Jersey's government in eliminating segregation and discrimination after examining: • New Jersey Constitution of 1947 • New Jersey Supreme Court decisions (i.e., Hedgepeth and Williams v. Trenton Board of Education), and; • New Jersey's Law against Discrimination (i.e., P.L. 1945, c.169).
- Evaluate the effectiveness of the women's rights movement by analyzing key events and documents, The Feminine Mystique, the National Organization of Women, the Equal Rights Amendment, Title IX, and Roe v. Wade decision.
- Evaluate the effectiveness of the American Indian Movement including the occupation of Alcatraz, Wounded Knee, and the Indian Self-Determination Act of 1975.
- Evaluate the effectiveness of the La Raza Movement including the Mendez v. Westminster School District decision, United Farm Workers Strike, and the actions by Cesar Chavez.
- Determine the extent to which the 1965 Immigration and Nationality Act changed immigration patterns to New Jersey and the United States.
- Write a narrative account that summarizes key social legislation enacted to end poverty (e.g., Economic Opportunity Act of 1964, Medicare and Medicaid, Elementary and Secondary Education Act, Head Start) and describe their effectiveness to end poverty today.
- Evaluate the effectiveness of environmental movements (e.g., creation of EPA) and their influence on public attitudes and environmental protection laws (e.g., Clean Water Act, Clean Air Act).
- Explain the origins of the Peace Corps (Executive Order 10924) and evaluate its role today.

Assessments

- Pre and Formative

- -**All Chapters and Sections**
*One-Minute Essay - (A focused question with a specific goal that can be answered in a minute or two.)
*Student Conference - (One on one conversations with students to check their understanding.}
*Journal Entry - (Students record in a journal their understanding of the topic, concept, or lesson taught. The teacher reviews the entry to see if the student has gained an understanding of the topic, concept, or lesson taught.
*Readers Theater - (From an assigned text have students create a script and perform it.)

- Summative
  - -**All Chapters and Sections**
  *Section quizzes and tests.
  *Document based analysis

- Authentic
  - -**All Chapters and Sections**
  *Argumentative and Narrative Responses (Written: advertisements, biography, essay, editorial, historical fiction, journal, letter, log, poem, script, or website. Oral: voice recording, conversation, debate, dramatic reading, dramatization, interview, oral report, rap, skit, or speech. Visual: advertisement, banner, cartoon, collage, computer graphic, data display, drawing, flyer, graph, map, poster, or digital presentation.)

- Other Assessments
  - -**All Chapters and Sections**
  *Vocabulary Builder, Modified Vocabulary Builder, & Flash Cards (for lower level and ELL students)
  *Chat Stations, Learning Menu
  *Webquest, Google Slide Presentation
  *Do Now, Exit Tickets
  *Bell Ringers

Activities	**Chapter 22** • McCarthyism and the Red Scare: Close Read – The 4 primary source documents on McCarthyism & the Red Scare. Read / view each document carefully and answer the analysis questions that follow. – Using information from the documents, please respond to the following task. – Task: Read the prompt below. Using the sources provided, the documents above, and your knowledge of US history - respond to the prompt below. – Imagine you are an American citizen in the 1950's. How could these four primary source documents have added to an atmosphere of paranoia or hysteria amongst you and your fellow citizens? Write a letter to an editor of the New York Times regarding your feelings of anxiety & demand that the government takes further action to protect American citizens during the Cold War. Cite evidence from at least two of these primary sources to provide evidence for your claims: Explain why you feel paranoid or anxious about your safety. Explain how it impacts your daily life. Describe what the government could do, in

your opinion, to keep Americans safe.

Chapter 23

- Eisenhower's Farewell Address: Close Read
  - Using this word cloud, in 15 words, predict what you think the main idea of President Eisenhower's speech will be. Record your prediction in the space provided.
  - Listen to the clips of Eisenhower's Farewell Address and answer the corresponding questions.
  - Read the prompt below. Using the sources provided, the documents above, and your knowledge of US history - respond to the prompt below:
  - The 4 themes President Eisenhower addresses in this speech are America's role as a global leader, the expansion of military, the military industrial complex, and changes in scientific research. Keeping the historical context of the cold war in mind, in a short-written response: Explain why President Eisenhower might be speaking to the American public about these four themes. Explain how these four themes are related in the context of the Cold War.

Chapter 24

- The Cuban Missile Crisis: Close Read
  - Here are two maps of the Western Hemisphere & North American nations. Use the maps to answer the one questions attached.
  - Watch: JFK's Radio and Television Report to the American People on the Soviet Arms Buildup in Cuba, October 22nd, 1962. After watching the speech, read the transcript of three sections the speech & answer the analysis questions that follow.
  - Read the prompt below. Using the sources provided, the documents above, and your knowledge of US history - respond to the prompt below:
  - Why did the United States and Soviet Union come to the brink of nuclear war in 1962?
  - Attached here are four additional primary sources related to the Cuban Missile Crisis. They include: President Kennedy to Chairman Khrushchev - Oct 22, 1962. Telegram from Chairman Khrushchev to President Kennedy - Oct 23, 1962. Letter from Fidel Castro to Chairman Khrushchev - Oct 26, 1962. Letter from Chairman Khrushchev to President Kennedy - Oct 27, 1962.
  - After reading these four primary sources, corroborate evidence from the four sources and President Kennedy's address to the American people on October 22nd, 1962 analyzed above to complete the following task: From the point of view of EITHER President Kennedy OR Chairman Khrushchev, discuss why the United States and Soviet Union came to the brink of nuclear war in 1962. You may use additional

	outside information regarding the events of the Cold War from 1947 - 1962 to support your claims. **Chapter 25** • C3 Inquiry: Civil Rights: – What made the Nonviolent Protest Effective during the Civil Rights Movement? – Summative Performance Task: Using specific claims & relevant evidence from historical sources, answer the following prompt: what made the nonviolent protest effective during the civil rights movement?	
MTSS	**Special education student's modifications:** – Adhere to all modifications and health concerns stated in each IEP. – Give students a MENU option allowing students to pick assignments from different levels based on difficulty. Students have the option of learning the curriculum in their comfort level and challenge themselves for growth. – Use the online reading software, which can revise the reading the Lexile level to meet students at current reading level. – Accommodating Instructional Strategies: Reading Aloud, Graphic Organizers, Reading Study Guides, one-on-one instruction, class website, Handouts, Definition List, Syllabus, Large Print, Outlines. – Utilize a speech to text resources. ***Activities***: – Reading Skills: Summarizing – Chapter 22, page 512 in TE – Reading Skills: Finding the Main Idea – Chapter 23, page 538 in TE	**At risk of failure students** – Give students a menu option allowing students to pick activities based on interest that address the objectives and standards of the unit. – Modified Instructional Strategies: Reading Aloud, Graphic Organizers, Reading Study Guides, small learning group instruction, class website, syllabus, inclusion of more visuals and films, field trips, virtual reality/augmented reality fieldtrips, peer support, one on one instruction. – Constant parent contact along with mandatory tutoring along with mandatory tutoring appointments. – Academic Contracts ***Activities***: – Visual Skills: Creating Charts – Chapter 22, page 514 in TE – Technology Skills: Making Presentations – Chapter 22, page 522 in TE – Critical Thinking Skills: Speculating – Chapter 23, page 543 in TE – Critical Thinking Skills: Determining Cause and Effect –

	– Visual Skills: Reading a Map – Chapter 24, page 557 in TE – Reading Skills: Using Context Clues – Chapter 24, page 562 in TE – Reading Skills: Specifying – Chapter 25, page 580 in TE **English Language Learners (ELL) students:** – Use the district purchased software; give students the option to change the language of the articles to the student's native language for most articles. – Speech to text platform extension additions. Will read to the student in the language selected. – Online word banks – Use visuals whenever possible to support classroom instruction and classroom activities. – Teacher modeling and written instructions for every assignment. ***Activities***: – Critical Thinking Skills: Interpreting – Chapter 22, page 515 in TE – Critical Thinking Skills: Speculating – Chapter 23, page 543 in TE – Reading Skills: Citing Text Evidence – Chapter 24, page 558 in TE – Reading Skills: Determining Word Meaning – Chapter 24, page 566 in TE – Reading Skills: Explaining – Chapter 25, page 581 in TE	Chapter 24, page 560 in TE – Reading Skills: Using Context Clues – Chapter 24, page 562 in TE – Reading Skills: Explaining – Chapter 25, page 586 in TE **Gifted and Talented Students:** – Modified instructional strategies Socratic Seminar, Group Discussion, Think-Pair-Share, Individual Assignments graded on a more rigorous rubric, Multimedia Projects, working with more primary source documents and completing Case Studies. – Student led classroom instruction also Project Based Learning. ***Activities***: – Writing Skills: Narrative – Chapter 22, page 513 in TE – Writing Skills: Argument – Chapter 22, page 531 in TE – Technology Skills: Researching on the Internet – Chapter 23, page 545 in TE – Critical Thinking Skills: Making Inferences – Chapter 23, page 549 in TE – Critical Thinking Skills: Making Connections – Chapter 24, page 556 in TE – Critical Thinking Skills: Making Inferences – Chapter 25, page 575 in TE – Critical Thinking Skills: Analyzing Primary Sources – Chapter 25, page 577 in TE **Students with 504:** – Adhere to all modifications and health concerns stated in the 504 plans. Then assess the academics of the student to implement the

		necessary modifications as described in this document. ***Activities***: – Reading Skills: Paraphrasing – Chapter 22, page 516 in TE – Reading Skills: Listing – Chapter 22, page 524 in TE – Visual Skills: Interpreting Visual Information – Chapter 23, page 542 in TE – Reading Skills: Citing Text Evidence – Chapter 24, page 558 in TE – Reading Skills: Using Context Clues – Chapter 24, page 562 in TE – Reading Skills: Defining, Chapter 25, page 587 in TE
Experiences	• Submarine Growler at the Intrepid Sea and Air Museum Complex: The former USS Growler first opened at the Intrepid Museum in 1989 and is the only American guided missile submarine open to the public. Growler offers museum visitors a firsthand look at life aboard a submarine and a close-up inspection of the once "top-secret" missile command center. Access is available to the various compartments as they were used during operations.	

Resources

- Appleby, Joyce, Alan Brinkley, Albert Broussard, James McPherson, Donald Ritchie, & Jay McTighe, *United States History and Geography*. Ohio: McGraw Hill Education, 2014.
- **Introduce or Reinforce**: Question Formulation Technique
- **Introduce or Reinforce**: Stanford History Education Group: Reading Like a Historian
- Facing History and Ourselves
- Gilder Lehrman
- New Visions
- New Jersey Council for Social Studies Education
- Curriculum Pathways
- PBS Learning Media
- Library of Congress Lessons
- Think CERCA: Argumentative Writing
- Amistad
- Holocaust
- End Genocide

- Common Sense
- Foreign Policy Research Institute Lesson Plans

Suggested Time Frame:	2nd Marking Period **40 days for entire marking cycle** Chapter 22 = 12 days Chapter 23 = 9 days Chapter 24 = 9 days Chapter 25 = 9 days

Social Studies 11

United States History II (third marking cycle)

Content Area:	11th Grade (United States History II)
Unit Plan Title:	***Contemporary United States: Domestic Policies***

Social Studies NJ Standard

- 6.1.12.A.12.a Analyze ideological differences and other factors that contributed to the Cold War and to United States involvement in conflicts intended to contain communism, including the Korean War, the Cuban Missile Crisis, and the Vietnam War.
- 6.1.12.A.12.b Examine constitutional issues involving war powers, as they relate to United States military intervention in the Korean War, the Vietnam War, and other conflicts.
- 6.1.12.D.12.e Analyze the role that media played in bringing information to the American public and shaping public attitudes toward the Vietnam War.
- 6.1.12.A.14.a Evaluate the effectiveness of the checks and balances system in preventing one branch of national government from usurping too much power during contemporary times.
- 6.1.12.A.14.b Analyze how the Supreme Court has interpreted the Constitution to define the rights of the individual and evaluate the impact on public policies.
- 6.1.12.A.14.c Assess the merit and effectiveness of recent legislation in addressing the health, welfare, and citizenship status of individuals and groups.
- 6.1.12.A.14.d Analyze the conflicting ideologies and actions of political parties regarding spending priorities, the role of government in the economy, and social reforms.
- 6.1.12.A.14.e Evaluate the effectiveness and fairness of the process by which national, state, and local officials are elected and vote on issues of public concern.
- 6.1.12.A.14.f Determine the extent to which nongovernmental organizations, special interest groups, third party political groups, and the media affect public policy.
- 6.1.12.A.14.g Analyze the impact of community groups and state policies that strive to increase the youth vote (i.e., distribution of voter registration forms in high schools).
- 6.1.12.A.14.h Assess the effectiveness of government policies in balancing the rights of the individual against the need for national security.
- 6.1.12.A.16.b Analyze government efforts to address intellectual property rights, personal privacy, and other ethical issues in science, medicine, and business that arise from the global use of new technologies.
- 6.3.12.A.1 Develop a plan for public accountability and transparency in government related to a particular issue(s) and share the plan with appropriate government officials.
- 6.1.12.B.14.a Determine the impact of recent immigration and migration patterns in New Jersey and

the United States on demographic, social, economic, and political issues.

- 6.1.12.B.14.b Analyze how regionalization, urbanization, and suburbanization have led to social and economic reform movements in New Jersey and the United States.
- 6.1.12.B.14.c Evaluate the impact of individual, business, and government decisions and actions on the environment, and assess the efficacy of government policies and agencies in New Jersey and the United States in addressing these decisions.
- 6.1.12.B.14.d Analyze the use of eminent domain in New Jersey and the United States from a variety of perspectives.
- 6.1.12.C.14.a Use economic indicators to evaluate the effectiveness of state and national fiscal (i.e., government spending and taxation) and monetary (i.e., interest rates) policies.
- 6.1.12.C.14.b Judge to what extent government should intervene at the local, state, and national levels on issues related to the economy
- 6.1.12.C.14.c Analyze economic trends, income distribution, labor participation (i.e., employment, the composition of the work force), and government and consumer debt and their impact on society.
- 6.1.12.C.14.d Relate the changing manufacturing, service, science, and technology industries and educational opportunities to the economy and social dynamics in New Jersey.
- 6.1.12.C.15.b Assess economic priorities related to international and domestic needs, as reflected in the national budget.
- 6.3.12.C.1 Participate in a real or simulated hearing about a social issue with a related economic impact (e.g., growing health care costs, immigration), and justify conclusions after weighing evidence from multiple experts and stakeholders.
- 6.1.12.D.14.a Determine the relationship between United States domestic and foreign policies.
- 6.1.12.D.14.b Assess the effectiveness of actions taken to address the causes of continuing urban tensions and violence.
- 6.1.12.D.14.c Determine the impact of the changing role of labor unions on the economy, politics, and employer-employee relationships.
- 6.1.12.D.14.d Evaluate the extent to which women, minorities, individuals with gender preferences, and individuals with disabilities have met their goals of equality in the workplace, politics, and society.
- 6.1.12.D.14.e Evaluate the role of religion on cultural and social mores, public opinion, and political decisions.
- 6.1.12.D.14.f Determine the influence of multicultural beliefs, products (i.e., art, food, music, and literature), and practices in shaping contemporary American culture.
- 6.1.12.D.15.d Analyze the reasons for terrorism and the impact that terrorism has had on individuals and government policies and assess the effectiveness of actions taken by the United States and other nations to prevent terrorism.
- 6.3.12.D.1 Analyze current laws involving individual rights and national security and evaluate how the laws might be applied to a current case study that cites a violation of an individual's **constitutional rights.**

Overview/Rationale
Contemporary United States: Domestic Policies Differing views on government's role in social and economic issues led to greater partisanship in government decision making. The increased economic prosperity and opportunities experienced by many masked growing tensions and disparities experienced by some individuals and groups. Immigration, educational opportunities, and social interaction have led to the growth of a multicultural society with varying values and perspectives.
Career Readiness Practices
• CRP2 – Apply appropriate academic and technical skills. • CRP4 – Communicate clearly and effectively and with reason. • CRP5 – Consider the environmental, social, and economic impacts of decisions. • CRP6 – Demonstrate creativity and innovation. • CRP8 – Utilize critical thinking to make sense of problems and persevere in solving them. • CRP9 – Model integrity, ethical leadership, and effective management. • CRP12 – Work productively in teams while using cultural global competence.

Interdisciplinary Standard(s)	**Interdisciplinary Standard(s)**
<u>Language</u> • NJSLSA.L1. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking. • NJSLSA.L2. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing. • NJSLSA L4. Determine or clarify the meaning of unknown and multiple-meaning words and phrases by using context clues, analyzing meaningful word parts, and consulting general and specialized reference materials, as appropriate. • NJSLSA L5. Demonstrate understanding of word relationships and nuances in word meanings. • NJSLSA L6. Acquire and use accurately a range of general academic and domain-specific words and phrases sufficient for reading, writing, speaking, and listening at the college and career readiness level; demonstrate independence in gathering vocabulary knowledge when	<u>Reading</u> • RL.9-10.1. Cite strong and thorough textual evidence and make relevant connections to support analysis of what the text says explicitly as well as inferentially, including determining where the text leaves matters uncertain. • RL.9-10.2. Determine a theme or central idea of a text and analyze in detail its development over the course of the text, including how it emerges and is shaped and refined by specific details and provide an objective summary of the text. <u>Writing</u> • NJSLSA.W1 Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence. • NJSLSA. W2 Write informative/explanatory texts to examine and convey complex ideas and information clearly and accurately through the effective selection, organization, and analysis of

encountering an unknown term important to comprehension or expression. **<u>Speaking and Listening</u>** • NJSLSA.SL1. Prepare for and participate effectively in a range of conversations and collaborations with diverse partners, building on others' ideas and expressing their own clearly and persuasively. • NJSLSA.SL2. Integrate and evaluate information presented in diverse media and formats, including visually, quantitatively, and orally. • NJSLSA.SL3. Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric. • NJSLSA.SL4. Present information, findings, and supporting evidence such that listeners can follow the line of reasoning and the organization, development, and style are appropriate to task, purpose, and audience.	content. • NJSLSA.W4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience. • NJSLSA.W5 Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach. **<u>Technology</u>** • 8.1.12.A.2 Produce and edit a multi-page digital document for a commercial or professional audience and present it to peers and/or professionals in that related area for review. • 8.1.12.C.1 Develop an innovative solution to a real world problem or issue in collaboration with peers and experts, and present ideas for feedback through social media or in an online community. • 8.1.12.E.1 Produce a position statement about a real world problem by developing a systematic plan of investigation with peers and experts synthesizing information from multiple sources. • 8.2.12.B.4 Investigate a technology used in a given period of history, e.g., stone age, industrial revolution or information age, and identify their impact and how they may have changed to meet human needs and wants. • 8.2.12.B.5 Research the historical tensions between environmental and economic considerations as driven by human needs and wants in the development of a technological product, and present the competing viewpoints to peers for review.

Essential Question(s)

- How do students, women, and Latinex learn from the civil rights movement?
- How does one movement for a particular group of people impact other marginalized groups?

In this unit plan, the following 21st Century themes and skills are addressed.

	*Indicate whether these skills are **E**-Encouraged, **T**-Taught, or **A**-*

Check all that apply. **21st Century Themes**			*Assessed in this unit by marking **E, T, A** on the line before the appropriate skill.* **21st Century Skills**		
	X	**Global Awareness**		E	**Creativity and Innovation**
	X	**Environmental Literacy**		A	**Critical Thinking and Problem Solving**
	X	**Health Literacy**		A	**Communication**
	X	**Civic Literacy**		A	**Collaboration**
	X	**Financial, Economic, Business, and Entrepreneurial Literacy**			

Enduring Understandings

- **The struggle for individual rights and equality often shapes a society's politics.**
- **People engage in politics to solve problems in their society.**
- **Learning about the past helps us understand the present and make decisions about the future.**

Student Learning Targets/Objectives

By the end of the unit students will be able to

- Evaluate the effectiveness of the United States' checks and balances system in contemporary contexts (e.g., the invocation of executive privilege and the creation/use of the War Powers Act).
- Examine the reasons for terrorism, analyze the impact that terrorism has had on individuals and government policies, and assess the effectiveness of actions taken by the United States and other nations to prevent terrorism (e.g., executive order after 9/11, PATRIOT Act, war in Afghanistan, the use of drones).
- Determine the relationship between United States domestic and foreign policies.
- Write an argument that assesses the effectiveness of government policies in balancing the rights of the individual against the need for national security in recent United States history.
- Examine how the Supreme Court has interpreted the Constitution to define the rights of the individual by analyzing (in detail) the Supreme Court opinions and impact on public policies.
- Analyze current laws involving individual rights and national security and evaluate how the laws might be applied to a current case study that cites a violation of an individual's constitutional rights.
- Analyze government efforts to address intellectual property rights, personal privacy, and other ethical issues in science, medicine, and business that arise from the global use of new technologies.
- Evaluate authors' differing points of view to assess the merit and effectiveness of recent legislation (e.g., Americans with Disabilities Act, Personal Responsibility and Work Opportunity Act, Patient Protection and Affordable Care Act, the Immigration and Nationality Act of 1965) in addressing the health, welfare, and citizenship status of individuals and groups.
- Cite specific textual evidence regarding the national budget to assess economic priorities related to international and domestic needs.
- Integrate information from primary and secondary sources to evaluate the actions of political parties and

elected officials with regard to their stated economic ideologies, considering taxation, balancing of the budget, defense spending, and social programs.

- Develop claims and counterclaims that thoroughly evaluate the process by which national, state, and local officials are elected and vote on issues of public concern, (e.g., referendum, recall, gerrymandering, recounts, runoffs, Bush v. Gore).
- Determine the extent to which nongovernmental organizations, special interest groups, third party political groups, and the media affect public policy.
- Analyze the impact of community groups (e.g., the League of Women Voters and MTV's Rock the Vote) and state policies that strive to increase the youth vote.
- Develop a plan for public accountability and transparency in government related to a particular issue(s) and share the plan with appropriate government officials.
- Conduct research to determine the impact of recent immigration and migration patterns in New Jersey and the United States on demographic, economic, and political issues (e.g., federal vs. state role in setting and enforcing immigration policy).
- Examine how changing industries (i.e., manufacturing, service, science, and technology) and educational opportunities impacted economic development, social change, and reform movements in New Jersey and the United States.
- Evaluate the impact of individual, business, and government decisions and actions on the environment, and assess the efficacy of government policies and agencies (e.g., Superfund and other Environmental Protection Agency programs) in New Jersey and the United States in addressing these decisions.
- Evaluate authors' different points of view on the use of eminent domain in New Jersey and the United States.
- Use economic indicators (e.g., budgets, measures of economic prosperity) to evaluate the effectiveness of state and national fiscal (e.g., government spending, taxation) and monetary (e.g., interest rates, currency printing) policies.
- Develop claims and counterclaims that judge to what extent government should intervene at the local, state, and national levels on issues related to the economy (e.g., bailouts).
- Evaluate authors' differing points of view to determine the impact of the changing role of labor unions on the economy, politics, and employer-employee relationships (e.g., air traffic controllers, public employees).
- Draw evidence from informational texts to analyze economic trends, income distribution, labor participation (i.e., employment and composition of the work force), and government and consumer debt and their impact on society.
- Participate in a real or simulated hearing about a social issue with a related economic impact (e.g., growing health care costs, immigration), and justify conclusions after weighing evidence from multiple experts and stakeholders.
- Determine the influence of multicultural beliefs, products (i.e., art, food, music, and literature), and practices in shaping contemporary American culture.
- Determine the central ideas of the Christopher Commission and the five-year follow-up findings to assess the effectiveness of actions taken to address the causes of continuing urban tensions and violence.
- Gather relevant information from multiple authoritative print and digital sources to evaluate the extent to which women, minorities, individuals with gender preferences, and individuals with disabilities have met their goals of equality in the workplace, politics, and society.
- Evaluate the role of religion on cultural and social mores, public opinion, and political decisions.

Assessments

- Pre and Formative
  - -**All Chapters and Sections**
  *One-Minute Essay - (A focused question with a specific goal that can be answered in a minute or two.)
  *Student Conference - (One on one conversations with students to check their understanding.}
  *Journal Entry - (Students record in a journal their understanding of the topic, concept, or lesson taught. The teacher reviews the entry to see if the student has gained an understanding of the topic, concept, or lesson taught.
  *Readers Theater - (From an assigned text have students create a script and perform it.)

- Summative
  - -**All Chapters and Sections**
  *Section quizzes and tests.
  *Document based analysis

- Authentic
  - -**All Chapters and Sections**
  *Argumentative and Narrative Responses (Written: advertisements, biography, essay, editorial, historical fiction, journal, letter, log, poem, script, or website. Oral: voice recording, conversation, debate, dramatic reading, dramatization, interview, oral report, rap, skit, or speech. Visual: advertisement, banner, cartoon, collage, computer graphic, data display, drawing, flyer, graph, map, poster, or digital presentation.)

- Other Assessments
  - -**All Chapters and Sections**
  *Vocabulary Builder, Modified Vocabulary Builder, & Flash Cards (for lower level and ELL students)
  *Chat Stations, Learning Menu
  *Webquest, Google Slide Presentation
  *Do Now, Exit Tickets
  *Bell Ringers

Teaching and Learning Actions	
Activities	**Chapter 26** • Vietnam War: Close Read – Closely exam the political cartoon. Annotate it using the labeled prompts. When you are done, in the box provided, jot down what you think the main idea or point the cartoonist was trying to make with this illustration.

- Read the lyrics & follow along as you listen to Fixing to Die Rag: Joe McDonald 1967. When you are done listening, please answer the analysis questions that follow.
- Read the lyrics & follow along as you listen to Draft Dodger Rag - Phil Ochs 1964. When you are doing listening, please answer the analysis questions that follow.
- Read the prompt below. Using the sources provided, the documents above, and your knowledge of US history - respond to the prompt below:
- Over the course of America's involvement in the Vietnam War, many Americans began to disagree with the government's response to increased American presence in Vietnam; most Americans wanted the United States to leave the war. Using the primary sources above, explain the answer to the following question in two to three paragraphs: How did disagreement with the war lead to disillusionment with the government?

Chapter 27

- Feminist Movement
- This lesson can be used to launch a unit on the Feminist Movement. It uses the first chapter of Betty Friedan's book The Feminine Mystique. This has been edited but captures the main points of the chapter. The unit may then go on to focus on political activism, legislative success, the social revolution of later feminist groups, and continuing challenges facing women today.
- Students will be able to define the feminine mystique and explain how Betty Friedan launched the feminist movement by examining evidence and conducting interviews. (resource provided my Indiana University Bloomington)

- Cesar Chavez and Civil Rights:
- Have students read the parts of speeches by Cesar Chavez, one honoring the memory of Rev. Martin Luther King, Jr. after his assassination in 1968 and the other, from the end of a fast that helped reduce the use of pesticides in grape farming in 1970.
- Have students work in groups to read each part and look up the words, ideas, and places that they are not familiar with. You may want to start with the first paragraph of Part One for the whole group and model for them the importance of understanding everything they do not know and how to look up the information.
- After they understand the words in each part, have them discuss the questions that follow, share their responses, and then have them go to the conclusion section. (resource provided by Edutopia.org)

Chapter 28

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- Watergate and the Limits of Presidential Power:
  - For homework, students should read the Watergate Background handout.
  - In class, as a group, students should complete the Watergate Background Worksheet together. They should discuss any terms that are unfamiliar.
  - In class, students should read the excerpt on U.S. v. Nixon and the transcript excerpt from the June 23, 1972 White House tapes.
  - After they read these documents, they should work in small groups to fill out the Watergate Primary Source Worksheet.
  - As a class, students can discuss their answers to the questions on the Watergate Primary Source Worksheet.
  - What do they think of the idea that Nixon's downfall was due to the fact that he imitated his enemies and put himself above the law?

Chapter 29

- Reaganomics
  - First, review the Reaganomics Teacher Materials, then you can either assign the documents and Guiding Questions as homework or have students complete them in class. Doing them in class would allow you to support students who find the content of the documents challenging. However, if feel your students can engage with the documents independently, then completing them as homework will free up class time for discussion and debate.
  - Use the Reaganomics PowerPoint to cover background information on Reagan's presidency as needed.
  - Divide students into groups of four and then divide each group of four into Team A and Team B. Pass out the Guiding Questions, Structured Academic Controversy directions, Graphic Organizer, and Documents A-E. Instruct teams to use the Graphic Organizer to collect data for their side. If the Guiding Questions were not assigned for homework in advance, students should answer them before collecting evidence for their argument.

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<td>MTSS</td>
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Special education student's modifications:

- Adhere to all modifications and health concerns stated in each IEP.
- Give students a MENU option allowing students to pick assignments from different levels based on difficulty. Students have the option of learning the curriculum in their comfort level

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At risk of failure students

- Give students a menu option allowing students to pick activities based on interest that address the objectives and standards of the unit.
- Modified Instructional Strategies: Reading Aloud, Graphic Organizers, Reading Study Guides, small learning group instruction, class website, syllabus, inclusion

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	and challenge themselves for growth. – Use the online reading software, which can revise the reading the Lexile level to meet students at current reading level. – Accommodating Instructional Strategies: Reading Aloud, Graphic Organizers, Reading Study Guides, one-on-one instruction, class website, Handouts, Definition List, Syllabus, Large Print, Outlines. – Utilize a speech to text resources. ***Activities***: – Reading Skills: Defining – Chapter 26, page 598 in TE – Reading Skills: Specifying – Chapter 27, page 613 in TE – Reading Skills: Specifying – Chapter 28, page 630 in TE – Reading Skills: Defining – Chapter 28, page 641 in TE – Reading Skills: Finding the Main Idea – Chapter 29, page 654 in TE – Critical Thinking Skills: Cause and Effect – Chapter 29, page 661 in TE **English Language Learners (ELL) students:** – Use the district purchased software; give students the option to change the language of the articles to the student's native language for most articles. – Speech to text platform extension additions. Will read to the student in the language selected. – Online word banks – Use visuals whenever possible to support classroom instruction and classroom activities. – Teacher modeling and written instructions for every assignment.	of more visuals and films, field trips, virtual reality/augmented reality fieldtrips, peer support, one on one instruction. – Constant parent contact along with mandatory tutoring along with mandatory tutoring appointments. – Academic Contracts ***Activities***: – Reading Skills: Summarizing – Chapter 26, page 599 in TE – Reading Skills: Summarizing – Chapter 27, page 617 in TE – Critical Thinking Skills: Making Connections – Chapter 28, page 631 in TE – Critical Thinking Skills: Synthesizing – Chapter 28, page 647 in TE – Critical Thinking Skills: Drawing Conclusions – Chapter 29, page 656 in TE – Reading Skills: Finding the Main Idea – Chapter 29, page 660 in TE **Gifted and Talented Students:** – Modified instructional strategies Socratic Seminar, Group Discussion, Think-Pair-Share, Individual Assignments graded on a more rigorous rubric, Multimedia Projects, working with more primary source documents and completing Case Studies. – Student led classroom instruction also Project Based Learning. ***Activities***: – Critical Thinking Skills: Identifying Alternatives – Chapter 26, page 598 in TE – Critical Thinking Skills: Making Inferences – Chapter 26, page 600 in TE – Technology Skills: Evaluating a

	Activities: – Reading Skills: Defining – Chapter 26, page 598 in TE – Reading Skills: Discussing – Chapter 26, page 604 in TE – Reading Skills: Specifying – Chapter 27, page 613 in TE – Visual Skills: Analyzing Images – Chapter 27, page 614 in TE – Critical Thinking Skills: Sequencing – Chapter 28, page 635 in TE – Reading Skills: Listing – Chapter 28, page 643 in TE – Writing Skills: Explanatory – Chapter 28, page 648 in TE – Reading Skills: Determining Word Meaning, Chapter 29, page 657 in TE – Visual Skills: Reading a Map – Chapter 29, page 669 in TE	Web Site – Chapter 27, page 612 in TE – Technology Skills: Analyzing News Media – Chapter 27, page 616 in TE – Writing Skills: Argument – Chapter 28, page 629 in TE – Critical Thinking Skills: Contrasting – Chapter 28, page 642 in TE – Writing Skills: Argument – Chapter 29, page 657 in TE **Students with 504:** – Adhere to all modifications and health concerns stated in the 504 plans. Then assess the academics of the student to implement the necessary modifications as described in this document. ***Activities***: – Reading Skills: Discussing – Chapter 26, page 600 in TE – Visual Skills: Analyzing Images – Chapter 27, page 614 in TE – Critical Thinking Skills: Evaluating – Chapter 28, page 638 in TE – Reading Skills: Naming – Chapter 28, page 647 in TE – Critical Thinking Skills: Making Generalization – Chapter 29, page 659 in TE – Critical Thinking Skills: Determining Cause and Effect – Chapter 29, page 666 in TE
Experiences	• Vietnam Veterans War Memorial Wall: The Vietnam Veterans Memorial on the National Mall pays tribute to the brave members of the U.S. Armed Forces who fought in the Vietnam War and were killed or missing in action. The memorial consists of three separate parts: The Three Soldiers statue, the Vietnam Women's Memorial and the Vietnam Veterans Memorial Wall, which is the most popular feature.	

	• National Women's History Museum: The National Women's History Museum educates, inspires, empowers, and shapes the future by integrating women's distinctive history into the culture and history of the United States. • National Museum of African-American History and Culture: The National Museum of African American History and Culture is the only national museum devoted exclusively to the documentation of African American life, history, and culture. It was established by Act of Congress in 2003, following decades of efforts to promote and highlight the contributions of African Americans. To date, the Museum has collected more than 36,000 artifacts and nearly 100,000 individuals have become members. The Museum opened to the public on September 24, 2016, as the 19th and newest museum of the Smithsonian Institution.

Resources

- Appleby, Joyce, Alan Brinkley, Albert Broussard, James McPherson, Donald Ritchie, & Jay McTighe, *United States History and Geography*. Ohio: McGraw Hill Education, 2014.
- **Introduce or Reinforce**: Question Formulation Technique
- **Introduce or Reinforce**: Stanford History Education Group: Reading Like a Historian
- Facing History and Ourselves
- Gilder Lehrman
- New Visions
- New Jersey Council for Social Studies Education
- Curriculum Pathways
- PBS Learning Media
- Library of Congress Lessons
- Think CERCA: Argumentative Writing
- Amistad
- Holocaust
- End Genocide
- Common Sense
- Foreign Policy Research Institute Lesson Plans

Suggested Time Frame:	3rd Marking Period 40 days for entire marking cycle Chapter 26 = 9 days Chapter 27 = 9 days Chapter 28 = 12 days Chapter 29 = 10 days

Social Studies 11

United States History II (Fourth Marking Cycle- 40 days)

Content Area:	11th Grade (United States History II)
Unit Plan Title:	Contemporary United States: International Policies & Contemporary United States: Interconnected Global Society
Social Studies NJ Standard	

- **6.1.12.A.15.a Analyze the factors that led to the fall of communism in Eastern European countries and the Soviet Union and determine how the fall influenced the global power structure.**
- **6.1.12.A.15.b Determine the effectiveness of the United States in pursuing national interests while also attempting to address global political, economic, and social problems.**
- **6.1.12.A.15.c Evaluate the role of diplomacy in developing peaceful relations, alliances, and global agreements with other nations.**
- **6.1.12.A.15.d Assess the impact of the arms race and the proliferation of nuclear weapons on world power, security, and national foreign policy.**
- **6.1.12.A.15.e Analyze the impact of United States support for the policies and actions of the United Nations and other international organizations.**
- **6.1.12.A.15.f Evaluate the effectiveness of United States policies and actions in supporting the economic and democratic growth of developing nations.**
- **6.1.12.A.16.a Determine the impact of media and technology on world politics during this time period.**
- **6.1.12.A.16.b Analyze government efforts to address intellectual property rights, personal privacy, and other ethical issues in science, medicine, and business that arise from the global use of new technologies.**
- **6.1.12.A.16.c Assess from various perspectives the effectiveness with which the United States government addresses economic issues that affect individuals, business, and/or other countries.**
- **6.3.12.A.2 Compare current case studies involving slavery, child, labor, or other unfair labor practices in the United States with those of other nations, and evaluate the extent to which such problems are universal.**
- **6.1.12.B.15.a Evaluate the effectiveness of the United States government's efforts to provide humanitarian assistance during international natural disasters and times of crises.**
- **6.1.12.B.16.a Explain why natural resources (i.e., fossil fuels, food, and water) continue to be a source of conflict and analyze how the United States and other nations have addressed issues concerning the distribution and sustainability of natural resources.**
- **6.3.12.B.1 Collaborate with students from other countries to develop possible solutions to an issue of environmental justice, and present those solutions to relevant national and international**

governmental and/or nongovernmental organizations.

- 6.1.12.C.15.a Relate the role of America's dependence on foreign oil to its economy and foreign policy.
- 6.1.12.C.15.b Assess economic priorities related to international and domestic needs, as reflected in the national budget.
- 6.1.12.C.16.a Evaluate the economic, political, and social impact of new and emerging technologies on individuals and nations.
- 6.1.12.C.16.b Predict the impact of technology on the global workforce and on entrepreneurship.
- 6.1.12.C.16.c Assess the impact of international trade, global business organizations, and overseas competition on the United States economy and workforce.
- 6.1.12.D.15.a Compare United Nations policies and goals (i.e., the International Declaration of Human Rights and the United Nations Millennium Development Goals) intended to promote human rights and prevent the violation of human rights with actions taken by the United States.
- 6.1.12.D.15.b Compare the perspectives of other nations and the United States regarding United States foreign policy.
- 6.1.12.D.15.c Explain how and why religious tensions and historic differences in the Middle East have led to international conflicts and analyze the effectiveness of United States policy and actions in bringing peaceful resolutions to the region.
- 6.1.12.D.15.d Analyze the reasons for terrorism and the impact that terrorism has had on individuals and government policies and assess the effectiveness of actions taken by the United States and other nations to prevent terrorism.
- 6.1.12.D.16.a Analyze the impact of American culture on other world cultures from multiple perspectives.
- 6.1.12.D.16.b Explain how and why technology is transforming access to education and educational practices worldwide.
- 6.1.12.D.16.c Determine past and present factors that led to the widening of the gap between the rich and poor and evaluate how this has affected individuals and society.

Overview/Rationale

Contemporary United States: International Policies: The United States has used various methods to achieve foreign policy goals that affect the global balance of power, national security, other national interests, and the development of democratic societies.

Contemporary United States: Interconnected Global Society: Scientific and technological changes have dramatically affected the economy, the nature of work, education, and social interactions.

Career Readiness Practices

- CRP2 – Apply appropriate academic and technical skills.
- CRP4 – Communicate clearly and effectively and with reason.
- CRP5 – Consider the environmental, social, and economic impacts of decisions.

- **CRP6 – Demonstrate creativity and innovation.**
- **CRP8 – Utilize critical thinking to make sense of problems and persevere in solving them.**
- **CRP9 – Model integrity, ethical leadership, and effective management.**
- **CRP12 – Work productively in teams while using cultural global competence.**

Interdisciplinary Standard(s)	Interdisciplinary Standard(s)
<u>Language</u> • NJSLSA.L1. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking. • NJSLSA.L2. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing. • NJSLSA L4. Determine or clarify the meaning of unknown and multiple-meaning words and phrases by using context clues, analyzing meaningful word parts, and consulting general and specialized reference materials, as appropriate. • NJSLSA L5. Demonstrate understanding of word relationships and nuances in word meanings. • NJSLSA L6. Acquire and use accurately a range of general academic and domain-specific words and phrases sufficient for reading, writing, speaking, and listening at the college and career readiness level; demonstrate independence in gathering vocabulary knowledge when encountering an unknown term important to comprehension or expression. <u>Speaking and Listening</u> • NJSLSA.SL1. Prepare for and participate effectively in a range of conversations and collaborations with diverse partners, building on others' ideas and expressing their own clearly and persuasively. • NJSLSA.SL2. Integrate and evaluate information presented in diverse media and formats, including visually, quantitatively, and orally. • NJSLSA.SL3. Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric. • NJSLSA.SL4. Present information, findings, and supporting evidence such that listeners can follow the line of reasoning and the	<u>Reading</u> • RL.9-10.1. Cite strong and thorough textual evidence and make relevant connections to support analysis of what the text says explicitly as well as inferentially, including determining where the text leaves matters uncertain. • RL.9-10.2. Determine a theme or central idea of a text and analyze in detail its development over the course of the text, including how it emerges and is shaped and refined by specific details and provide an objective summary of the text. <u>Writing</u> • NJSLSA.W1 Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence. • NJSLSA. W2 Write informative/explanatory texts to examine and convey complex ideas and information clearly and accurately through the effective selection, organization, and analysis of content. • NJSLSA.W4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience. • NJSLSA.W5 Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach. <u>Technology</u> • 8.1.12.A.2 Produce and edit a multi-page digital document for a commercial or professional audience and present it to peers and/or professionals in that related area for review. • 8.1.12.C.1 Develop an innovative solution to a real world problem or issue in collaboration with peers

organization, development, and style are appropriate to task, purpose, and audience.	and experts, and present ideas for feedback through social media or in an online community. • 8.1.12.E.1 Produce a position statement about a real world problem by developing a systematic plan of investigation with peers and experts synthesizing information from multiple sources. • 8.2.12.B.4 Investigate a technology used in a given period of history, e.g., stone age, industrial revolution or information age, and identify their impact and how they may have changed to meet human needs and wants. • 8.2.12.B.5 Research the historical tensions between environmental and economic considerations as driven by human needs and wants in the development of a technological product, and present the competing viewpoints to peers for review.

Essential Question(s)

- **How have science and technology improvements helped change society?**
- **How have immigration, technology, and global trade changed the world?**
- **How is American culture shaped by a set of common values and practices?**
- **How have disputes over ideas, values, and politics resulted in change?**

In this unit plan, the following 21st Century themes and skills are addressed.

Check all that apply. **21st Century Themes**		*Indicate whether these skills are* ***E****-Encouraged,* ***T****-Taught, or* ***A****-Assessed in this unit by marking* ***E, T, A*** *on the line before the appropriate skill.* **21st Century Skills**	
X	**Global Awareness**	E	**Creativity and Innovation**
X	**Environmental Literacy**	A	**Critical Thinking and Problem Solving**
X	**Health Literacy**	A	**Communication**
X	**Civic Literacy**	A	**Collaboration**
X	**Financial, Economic, Business, and Entrepreneurial Literacy**		

Enduring Understandings

- **The movement of people, good, and ideas causes societies to change over time.**

• **Learning about the past helps us understand the present and make decisions about the future.**
Student Learning Targets/Objectives

By the end of the unit students will be able to

- Evaluate the economic, political, and social impact of new and emerging technologies (e.g., satellite, computers, the Internet, and cellular technology) on individuals and nations.
- Determine the impact of media and technology on world politics during this time period by considering their role to inform, organize, and influence individuals, organizations, and government.
- Analyze government efforts to address intellectual property rights, personal privacy, and other ethical issues in science, medicine, and business that arise from the global use of new technologies.
- Gather relevant information from multiple sources to support a prediction regarding the impact of technology on the global workforce, entrepreneurship, and access to education.
- Synthesize multiple resources to analyze the social and economic impact of American popular political and consumer cultures other world cultures from multiple perspectives, during this time period.
- Evaluate various explanations of how the Cold War ended, and determine which explanation best accords with textual evidence, considering: • the foreign policy of the Reagan administration • internal weaknesses of the Russian economy • the leadership of Mikhail Gorbachev • pro-democracy movements within communist nations.
- Assess the impact of the arms race and the proliferation of nuclear weapons on world power, security, and national foreign policy, by examining U.S. relationships with the world's nuclear and non-nuclear powers since the fall of the Soviet Union.
- Explain why natural resources (i.e., fossil fuels, precious and rare-Earth metals, food, and water) continue to be a source of regional and international conflict.
- Relate the role of America's dependence on foreign oil to its economy and foreign policy in this time period.
- Analyze measures taken by the U.S. and others to address issues concerning the distribution and sustainability of natural resources (e.g., conservation, diplomacy, technological innovation, aid, security) in this time period.
- Evaluate authors' different points of view on the factors that led to the widening of the gap between the rich and poor, in the US and other countries, and evaluate how this has affected individuals and society.
- Compare United Nation policies and goals (i.e., the Universal Declaration of Human Rights and the United Nations Millennium Development Goals) intended to promote human rights and prevent the violation of human rights with actions taken by the United States.
- Analyze the impact of United States support for the policies and actions of international organizations created to address economic, health, societal, and security goals.
- Synthesize information from primary and secondary sources to evaluate the effectiveness of United States efforts (e.g., aid, military intervention, trade policy, diplomacy) in supporting the economic and democratic growth of developing nations.
- Conduct research to determine the effectiveness of the United States in pursuing national interests (e.g., securing shipping lanes, resources, military bases, suppressing foreign threats) while also attempting to address global problems (e.g., human rights abuses, regional instability, scarcity, economic stagnancy) during this time period.
- Compare the perspectives of other nations and those from the United States regarding United States foreign

policy towards Latin America, Middle East, and Asia during the presidential administrations of this time period.

- Write an informative text to explain how and why religious tensions and historic differences in the Middle East have led to international conflicts.
- Analyze the effectiveness of United States policy and actions (e.g., diplomacy, military intervention, humanitarian aid) in bringing peaceful resolutions to the Middle East region by comparing the perspectives of the US and other nations during this time period.
- Use credible sources to evaluate the effectiveness of the United States government's efforts to provide humanitarian assistance during international natural disasters and times of crises.
- Draw evidence from informational texts to evaluate the role of American diplomacy in developing peaceful relations, alliances, and global agreements with other nations during this time period.
- Conduct research to compare current case studies involving forced servitude, child labor, and/ or other unfair labor practices in the United States and other nations.
- Evaluate authors' differing points of view on the effectiveness with which the United States government addresses economic issues involving individuals, businesses and/ or other countries (e.g., free trade agreements, tariffs, foreign aid, trafficking, and immigration).
- Use technology to collaborate with students from other countries and develop a written product that proposes possible solutions to an issue of environmental or social justice and present those solutions to relevant national and international governmental and/or nongovernmental organizations.

Assessments

- Pre and Formative

  - -**All Chapters and Sections**

  *One-Minute Essay - (A focused question with a specific goal that can be answered in a minute or two.)

  *Student Conference - (One on one conversations with students to check their understanding.}

  *Journal Entry - (Students record in a journal their understanding of the topic, concept, or lesson taught. The teacher reviews the entry to see if the student has gained an understanding of the topic, concept, or lesson taught.

  *Readers Theater - (From an assigned text have students create a script and perform it.)

- Summative

  - -**All Chapters and Sections**

  *Section quizzes and tests.

  *Document based analysis

- Authentic

  - -**All Chapters and Sections**

  *Argumentative and Narrative Responses (Written: advertisements, biography, essay, editorial, historical fiction, journal, letter, log, poem, script, or website. Oral: voice recording, conversation, debate, dramatic reading, dramatization, interview, oral report, rap, skit, or speech. Visual: advertisement, banner, cartoon, collage, computer graphic, data display, drawing, flyer, graph, map, poster, or digital presentation.)

- Other Assessments

  - -**All Chapters and Sections**

*Vocabulary Builder, Modified Vocabulary Builder, & Flash Cards (for lower level and ELL students)
*Chat Stations, Learning Menu
*Webquest, Google Slide Presentation
*Do Now, Exit Tickets
*Bell Ringers

Teaching and Learning Actions

Activities

Chapter 30

- US Foreign Policy of the 1990s – Peacekeeping and Nation-building

– This lesson will review historical and political themes of the Cold War while at the same time it will introduce students to think about changes in US foreign policy after 1989. In effect, this lesson will have two parts: first, to review the Cold War, and second, to research US military engagements in the 1990s. In the first part of this lesson students will analyze documents from the Cold War era. Then, students will collaborate to research US foreign policy events in the 1990s. Students will also research video segments and read documents from the 1990s to present a multimedia presentation. After watching the FPRI video lecture by Janine Davidson on April 26, 2014, students will relate how US military involvements in the 1990's (humanitarian, peacekeeping, international cooperation) compared to Cold War engagements. In their culminating project, students will create an annotated timeline of US foreign policy events since 1945 and present a multimedia presentation of 1990s US foreign policy events. This lesson will focus on how US foreign and military policy changed over the course of 50 years. (lesson originated from Foreign Policy Research Institute)

Chapter 31

- Terrorism in the United States

– In this lesson, students will determine how the tactics of terrorists have changed and how the United States responded from the early 1990s to early 2000s. Teacher should review all vocabulary terms. Read the chronology of events as a class. Read the types of terrorist attacks. Students should use the chart to categorize the types of terrorist attacks, targets, locations of attacks, outcomes, and perpetrators/suspects. Outcomes should remember the victims as well as political or military response by the U.S. Read and discuss the critical thinking questions with students.

MTSS	**Special education student's modifications:**	**At risk of failure students**
	– Adhere to all modifications and health concerns stated in each	– Give students a menu option allowing students to pick activities based on interest that address the objectives and standards of the

	IEP. – Give students a MENU option allowing students to pick assignments from different levels based on difficulty. Students have the option of learning the curriculum in their comfort level and challenge themselves for growth. – Use the online reading software, which can revise the reading the Lexile level to meet students at current reading level. – Accommodating Instructional Strategies: Reading Aloud, Graphic Organizers, Reading Study Guides, one-on-one instruction, class website, Handouts, Definition List, Syllabus, Large Print, Outlines. – Utilize a speech to text resources. ***Activities***: – Critical Thinking Skills: Comparing – Chapter 30, page 678 in TE – Reading Skills: Identifying – Chapter 31, page 708 in TE **English Language Learners (ELL) students:** – Use the district purchased software; give students the option to change the language of the articles to the student's native language for most articles. – Speech to text platform extension additions. Will read to the student in the language selected. – Online word banks – Use visuals whenever possible to support classroom instruction and classroom activities. – Teacher modeling and written instructions for every assignment. ***Activities***: – Reading Skills: Applying – Chapter	unit. – Modified Instructional Strategies: Reading Aloud, Graphic Organizers, Reading Study Guides, small learning group instruction, class website, syllabus, inclusion of more visuals and films, field trips, virtual reality/augmented reality fieldtrips, peer support, one on one instruction. – Constant parent contact along with mandatory tutoring along with mandatory tutoring appointments. – Academic Contracts ***Activities***: – Reading Skills: Applying – Chapter 30, page 682 in TE – Reading Skills: Describing – Chapter 31, page 706 in TE **Gifted and Talented Students:** – Modified instructional strategies Socratic Seminar, Group Discussion, Think-Pair-Share, Individual Assignments graded on a more rigorous rubric, Multimedia Projects, working with more primary source documents and completing Case Studies. – Student led classroom instruction also Project Based Learning. ***Activities***: – Critical Thinking Skills: Recognizing Relationships – Chapter 30, page 679 in TE – Technology Skills: Using Visual Aids – Chapter 30, page 684 in TE – Writing Skills: Argument – Chapter 31, page 698 in TE – Writing Skills: Narrative – Chapter 31, page 701 in TE – Writing Skills: Informative/Explanatory – Chapter 31, page 707 in TE

	30, page 682 in TE – Reading Skills: Describing – Chapter 31, page 697 in TE – Reading Skills: Determining Word Meanings – Chapter 31, page 703 in TE – Reading Skills: Identifying – Chapter 31, page 715 in TE	**Students with 504:** – Adhere to all modifications and health concerns stated in the 504 plans. Then assess the academics of the student to implement the necessary modifications as described in this document. ***Activities***: – Reading Skills: Determining Word Meaning – Chapter 30, page 679 in TE – Reading Skills: Listing – Chapter 31, page 705 in TE – Visual Skills: Creating Charts – Chapter 31, page 715 in TE
Experiences	• 9/11 Memorial Museum: through commemoration, exhibitions and educational programs, The National September 11 Memorial & Museum, a nonprofit in New York City, remembers and honors the 2,983 people killed in the horrific attacks of September 11, 2001, and February 26, 1993, as well as those who risked their lives to save others and all who demonstrated extraordinary compassion in the aftermath of the attacks.	

Resources

- Appleby, Joyce, Alan Brinkley, Albert Broussard, James McPherson, Donald Ritchie, & Jay McTighe, *United States History and Geography*. Ohio: McGraw Hill Education, 2014.
- **Introduce or Reinforce**: Question Formulation Technique
- **Introduce or Reinforce**: Stanford History Education Group: Reading Like a Historian
- Facing History and Ourselves
- Gilder Lehrman
- New Visions
- New Jersey Council for Social Studies Education
- Curriculum Pathways
- PBS Learning Media
- Library of Congress Lessons
- Think CERCA: Argumentative Writing
- Amistad
- Holocaust
- End Genocide
- Common Sense

• Foreign Policy Research Institute Lesson Plans	
Suggested Time Frame:	4th Marking Period 35 days for entire marking cycle Chapter 30 = 18 days Chapter 31 = 17 days

Unit 1

SECTION 08

The Great Depression

Surplus cotton mattress.

Source: Franklin D. Roosevelt Presidential Library and Museum, Hyde Park, New York.

Enlarge image

While some African Americans were successful in retaining their land and establishing farms, this became more difficult in the 1920s and 1930s. The economic crisis known as the Great Depression actually began in the rural South with a severe crisis in agriculture. Approximately 150,000 African Americans left the state of Georgia in the decade of the 1920s to escape oppressive economic conditions as well as vigilante violence. As the price of cotton fell from eighteen cents in 1929 to only six cents a pound four years later, thousands of blacks once again began to migrate to the Northeast and the Midwestern states.

Federal Emergency Relief Administration camp July 1934.

Source: Franklin D. Roosevelt Presidential Library and Museum, Hyde Park, New York.

Enlarge image

Meanwhile, as people fled the economic devastation of the South, jobs rapidly disappeared in the northern and Midwestern cities. African American families were hit the hardest. While white unemployment had hit an extraordinarily high rate of 31.7 percent in 1931, it was well over 50 percent for Black Americans. As the economy spiraled downward, the jobs that black Americans had come North to obtain were given to white workers or eliminated entirely. Furthermore, discrimination in wages meant

that black workers suffered significantly in their attempts to provide for their families. Even when families were able to hold onto employment, the low level of income meant poverty for many.

The relief promised by Roosevelt's administration for a "new deal" held the promise for black people of equitable treatment. African American writers and artists benefited from Roosevelt's WPA programs, and migrant workers found a new kind of mobility previously unavailable to black laborers. WPA workers spent hours transcribing oral histories done with ex-slaves, the first attempt by the American government to recover this part of the African American experience. World-renowned African American painter Jacob Lawrence was trained and began his career painting as part of a WPA project.

Black jackhammer operator at the Tennessee Valley Authority, June 1942.

Source: Franklin D. Roosevelt Presidential Library and Museum, Hyde Park, New York.

Enlarge image

However, Roosevelt, who had been elected in no small part because of the emerging black vote, was ambivalent to taking a stand against segregation, and much of the New Deal's legislation was administered at a state level, where segregation could be enforced. Although African Americans benefited from New Deal housing programs that would later radically alter black urban living, in the South they were implemented strictly along Jim Crow segregation lines. A compelling example of this egregious racism in the dissemination of relief affected sharecroppers throughout the South. The Agricultural Adjustment Administration paid farmers to destroy their crops and livestock in order to increase market prices. Yet most federal funds, which were meant to benefit black sharecroppers and tenant farmers, ended up in the hands of white landlords as a result of local distribution. As a result, thousands of poor farmers were evicted from their land, while the federal government did little to intervene.

« Previous

Next »

Related Resources

- Documents
- Images

Excerpt from �Negro Workers and Organized Labor� by Jesse O. Thomas.
Jesse O. Thomas, �Negro Workers and Organized Labor,� Opportunity, Journal of Negro Life 12 (September 1934): 277. Reprinted at http://newdeal.feri.org/opp/opp34277.htm. Last accessed December 5, 2008.
Excerpt from �Ghost Town�Almost: The Depression Hits a Negro Town�.
Isabel Thompson and Louise T. Clarke, �Ghost Town�Almost: The Depression Hits a Negro Town,� Opportunity, Journal of Negro Life 13 (September 1935): 277. Reprinted at http://newdeal.feri.org/opp/opp35277.htm. Last Accessed December 5, 2008.

Black jackhammer operator at the Tennessee Valley Authority, June 1942.
During the Great Depression, African Americans were especially hit hard with high unemployment rates. Some found relief however through the Roosevelt administration's "new deal". Source: Franklin D. Roosevelt Presidential Library and Museum, Hyde Park, New York.

Federal Emergency Relief Administration camp July 1934.
A Federal Emergency Relief Administration (FERA) camp for unemployed Black women in Atlanta, GA. July 1934. Under President Roosevelt, the federal government created several agencies to assist those hit hardest by the Great Depression. Pictured here is a camp for unemployed black women in Atlanta. Source: Franklin D. Roosevelt Presidential Library and Museum, Hyde Park, New York.

Surplus cotton mattress.
Just one of the million mattresses made by low-income farm families, 1942. Shown here, a Maryland woman shows her mattress to a Federal field agent. Source: Franklin D. Roosevelt Presidential Library and Museum, Hyde Park, New York.

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Website URL: http://www.amistadresource.org/

Excerpt from "Ghost Town—Almost: The Depression Hits a Negro Town" by Isabel M. Thompson and Louise T. Clarke (September 1935)

By eighteen-eighty, there were five hundred inhabitants in Nicodemus, which boasted a bank, two hotels, a newspaper, drug store, a number of "general stores," and several other business houses. An area of twelve square miles was being cultivated.

… [T]he state-wide political influence of the town flourished. Ed McKabe, a Negro land agent, took the first census, was later elected county clerk, and was finally sent to the capital to be the first Negro State Auditor of Kansas. The founding of Nicodemus seems well worthwhile when one learns that more Negroes have been elected to county offices in Graham County than in all of the other one-hundred four Kansas counties combined. Some of these men were: John DePrad, a pioneer who was county clerk; J. R. Hawkins, court clerk; J. E. Porter, court clerk; G. W. Jones, county clerk and district attorney; Dan Hickman, chairman of the board of county commissioners; W. L. Sayers, county attorney; John Q. Sayers, county attorney. The two Sayers brothers are now practicing attorneys in Hill City.

In 1928, the farmers of Nicodemus were cultivating from fifty to one thousand acres each. When the seasons were favorable, the lands frequently yielded more value in wheat than the actual sale value of the land.

Everyone knows what happened to business in 1929, and what subsequently happened to the farmer's prices. Almost all of the young people left Nicodemus during the financial upheaval. Further, Nature has given a freak side-show of weather conditions in Western Kansas. Droughts of 1932, 1933, and 1934 were followed by destructive dust storms in the late winter and early spring of 1935. Entire families deserted this unproductive region.

SOURCE: Isabel Thompson and Louise T. Clarke, "Ghost Town—Almost: The Depression Hits a Negro Town," *Opportunity, Journal of Negro Life* 13 (September 1935): 277. Reprinted at http://newdeal.feri.org/opp/opp35277.htm. Last Accessed December 5, 2008.

Excerpt from "Negro Workers and Organized Labor" by Jesse O. Thomas (September 1934)

…[I]n so far as the different labor organizations thus benefited deny and exclude Negroes from their membership by constitutions or rituals, the position of Negro labor has been made less favorable. It was the intention of the government in passing this legislation on behalf of labor to benefit all workers. On account of the unsportsmanlike and anti-social attitude of the majority of the membership and heads of many of the unions and crafts, the position of Negroes has been made even more disadvantageous.

In the City of St. Louis, we learn that Negro laborers were forced out of employment by the threats of the American Federation of Labor-made by the Business Agent against the contractors. Jobs were picketed by Negroes and whites who were not affiliated with the American Federation of Labor. They were attacked by three car loads of American Federation of Labor representatives.

On the Homer Phillips Hospital, a new Negro municipal hospital in St. Louis, the General Tile Company employed a Negro as tile setter; whereupon all the A. F of L. men walked off and tied up the job.

As a result an organization has been formed known as the "Allied Building Contractors Association" in St. Louis composed of both Negro and white contractors who will not limit the employment of any particular race, but will extend the employment opportunity to all people on the basis of competency and efficiency.

The Homer Phillips Hospital project has been closed and nailed up for eight weeks, according to our informant, on account of the unwillingness on the part of the membership of the American Federation of Labor to work on the same job with Negroes.

In the midst of all that is being done, by, for, with or against organized labor, the Negro stands aghast.

SOURCE: Jesse O. Thomas, "Negro Workers and Organized Labor," *Opportunity, Journal of Negro Life* 12 (September 1934): 277. Reprinted at http://newdeal.feri.org/opp/opp34277.htm. Last accessed December 5, 2008.

African American Odyssey Introduction | Overview | Object List | Search

Exhibit Sections:
Slavery | Free Blacks | Abolition | Civil War | Reconstruction
Booker T. Washington Era | WWI-Post War | **The Depression-WWII** | Civil Rights Era |

The Depression, The New Deal, and World War II

Part 1: World War II, Segregation Abroad and at Home
Part 2

The stock market crash of 1929 caused soup lines to become the order of the day for the skilled and unskilled alike in urban areas across the nation. African Americans in both cities and rural areas, many already living in poverty, suffered greatly from the economic depression. When Franklin Delano Roosevelt was elected in 1932, he promised a "new deal" for all Americans that would provide them with security from "the cradle to the grave." Although there were many inequities in the New Deal housing, agricultural and economic programs, blacks had opportunities to obtain employment, some in areas previously closed to them. Black writers, for example, participated in the New Deal's writing projects, while other black Americans interviewed former slaves for the Works Project Administration (WPA). These New Deal programs generated numerous documents that found their way to the Library's collections.

The New Deal programs did not end the Depression. It was the growing storm clouds in Europe, American aid to the Allies, and ultimately, U.S. entry into World War II after the bombing of Pearl Harbor that revitalized the nation's economy. Remembering their experiences in World War I, African American soldiers and civilians were increasingly unwilling to quietly accept a segregated army or the discriminatory conditions they had previously endured. Northern black troops sent to the South for training often had violent encounters with white citizens there. Black-owned newspapers protested segregation, mistreatment, and discrimination. Labor leader A. Philip Randolph threatened a march on Washington, D.C. by hundreds of thousands of blacks in 1941 to protest job discrimination in defense industries and the military. To avoid this protest, President Roosevelt issued Executive Order 8802, reaffirming the "policy of full participation in the defense program by all persons, regardless of race, creed, color, or national origin."

World War II, Segregation Abroad and at Home

In the Grip of Segregation

Shot near the beginning of World War II, this photograph documents segregation in the United States. Although it was universal in the South, de facto and de jure segregation also existed in other parts of the U.S. Efforts to erode segregation by organizations such as the NAACP, the National Urban League, and the Brotherhood of Sleeping Car Porters were slow and laborious.

Marion Post Wolcott.
Negro Man Entering Movie Theatre by "Colored" Entrance.

Belzoni, Mississippi, in the delta area.
October 1939.
Copyprint.
Farm Security Administration/Office of War Information Collection, Prints and Photographs Division.
Reproduction Number: LC-DIG-ppmsca-12888 (8-3)

Traveling Jim Crow

John Vachon.
[Segregated facilities].
Manchester, Georgia, 1938.
Copyprint.
Farm Security Administration/Office of War Information Collection, Prints and Photographs Division.
Reproduction Number: LC-USF33-001172-M4 (8-4)

"Jim Crow" laws mandated that blacks have separate facilities for travel, lodging, eating and drinking, schooling, worship, housing, and other aspects of social and economic life. This railroad station sign in Manchester, Georgia, indicates the location of the restroom for black men. Failure to obey such signs could lead to arrest and imprisonment.

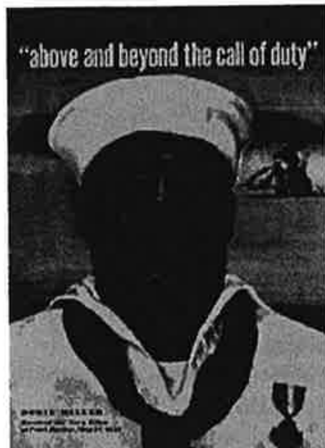
Non-White Households in Birmingham, Alabama, 1940

This atlas of Birmingham, Alabama, analyzes housing statistics from the 1940 census. It is part of a series of atlases entitled Housing: Analytical Maps that were produced by the New York City office of the Works Project Administration in conjunction with the U.S. Bureau of the Census. Based on block statistics, these atlases document cities with populations over 50,000 and cover such topics as average rent, major repairs, bathing equipment, persons per room, owner occupancy, and mortgage status, as well as percentage of non-white households per block. On these maps, showing non-white households for two sections of Birmingham, Alabama, the segregated residential pattern is readily apparent;

Birmingham, Alabama, Block Statistics.
Sixteenth Census of the United States, 1940.
Washington, 1943.
Geography and Map Division. (8-15)

the two darkest patterns represent the areas with over fifty percent non-white households.

A Naval Hero



"Above and Beyond the Call of Duty."
Dorie Miller with his Navy Cross at Pearl Harbor, May 27, 1942.
Color-offset poster.
Prints and Photographs Division.
Reproduction Number: LC-USZC4-2328 (8-10)

On December 7, 1941, during the Japanese attack on Pearl Harbor, Mess Attendant Doris "Dorie" Miller came to the aid of his shipmates on the *U.S.S. West Virginia*, helping to move the injured out of harm's way, including the mortally wounded captain. Though untrained in its use, Miller also manned an antiaircraft machine gun, downing several Japanese planes before being ordered to abandon the sinking ship. Miller's courage and devotion to duty at Pearl Harbor earned him the Navy Cross, the first ever awarded to an African American sailor. This honor is even greater in light of the fact African Americans were only allowed to serve in the messman's branch of the Navy at the time. Though later killed in action in 1943, Miller's legacy of bravery in the face of great danger and discrimination lives on.

Murder of African American Veterans

Charles White.
The Return of the Soldier, 1946.
Pen and ink on illustration board.
Prints and Photographs Division.
Reproduction Number: LC-USZC4-4886 (8-19)

African American veterans returning to the South after military service in World Wars I and II were often unwilling to be subjected to the humiliation and degradation of segregation and discrimination in the land for which they served and shed blood. Some whites, especially in the South, felt that these veterans needed to be terrorized into submission, whether they wore the nation's uniform or not. Charles White's drawing indicates the collusion between some law enforcement officers and the Ku Klux Klan.

African American Nurses Abroad

Even though an extreme shortage of nurses in World War II forced the federal government to seriously consider drafting white nurses, defense officials remained reluctant to recruit black nurses throughout the war. Allowing black nurses to care for whites was considered a violation of social norms. Nevertheless, the National Association of Colored Graduate Nurses, led by Mabel Staupers, and rights groups like the NAACP, loudly protested racial policies in the Army Nurse Corps and the military in general. These groups achieved some success. This photograph documents the arrival of the first African American nurses in England.

European Theater of Operations, Nurses in England, 1944.
Copyprint.
NAACP Collection, Prints and Photographs Division.
Reproduction Number: LC-USC4-6175/LC-USZ62-119985 (8-5)
Courtesy of the NAACP

Tuskegee Airmen with Lena Horne

Airmen with Lena Horne and Noel Parrish.
Silver gelatin print.
Noel Parrish Collection. Manuscript Division. (8-7)

General Noel Parrish, seated next to a youthful Lena Horne, stated in his memoirs that he often mediated between the Army officials, whites near Tuskegee who felt that the airmen were uppity, and the aviation trainees themselves. The third president of Tuskegee Institute, Dr. Frederick Douglass Patterson, wrote to Parrish on September 14, 1944: "In my opinion, all who have had anything to do with the development and direction of the Tuskegee Army Air Field and the Army flying training program for Negroes in this area have just cause to be proud. . . . The development had to take place in a period of emergency and interracial confusion."

Tuskegee Airmen--Breaking Flight Barriers

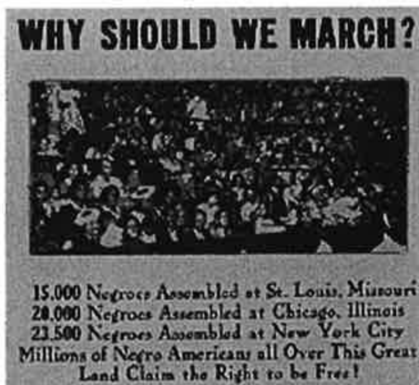
During World War II civil rights groups and black professional organizations pressed the government to provide training for black pilots

on an equal basis with whites. Their efforts were partially successful. African American fighter pilots were trained as a part of the Army Air Force, but only at a segregated base located in Tuskegee, Alabama. Hundreds of airmen were trained and many saw action.

Toni Frissell.
Tuskegee Airmen, 1945.
Silver gelatin print.
Prints and Photographs Division.
Reproduction Number: LC-F9-02-4503-330-5 (8-6)

Toni Frissell became the first professional photographer permitted to photograph the all-black 332nd Fighter Pilot Squadron in a combat situation. She traveled to their air base in southern Italy, from where the "Tuskegee Airmen" flew sorties into southern Europe and North Africa. Best known of those Frissell photographed was Col. Benjamin O. Davis,Jr., the son of the first African American general, pictured on the left, and first Lieutenant Lee Rayford.

A Threatened March on Washington--1941



"Why Should We March?" March on Washington fliers, 1941. A. Philip Randolph Papers, Manuscript Division (8-8)
Courtesy of the A. Philip Randolph Institute, Washington, D.C..

The papers of A. Philip Randolph document his protests against segregation, particularly in the armed forces and defense industries during the war. Randolph led a successful movement during World War II to end segregation in defense industries by threatening to bring thousands of blacks to protest in Washington, D. C., in 1941.

The threatened March on Washington in 1941 prompted President Franklin D. Roosevelt to issue Executive Order 8802, stating that there should be "no discrimination in the employment of workers in defense industries or Government because of race, creed, color, or national origin." The Committee on Fair Employment Practices was established to handle discrimination complaints.

The Depression, The New Deal, and World War II: Part 1 | Part 2

Exhibit Sections:
Slavery | Free Blacks | Abolition | Civil War | Reconstruction
Booker T. Washington Era | WWI-Post War | **The Depression-WWII** | Civil Rights Era |

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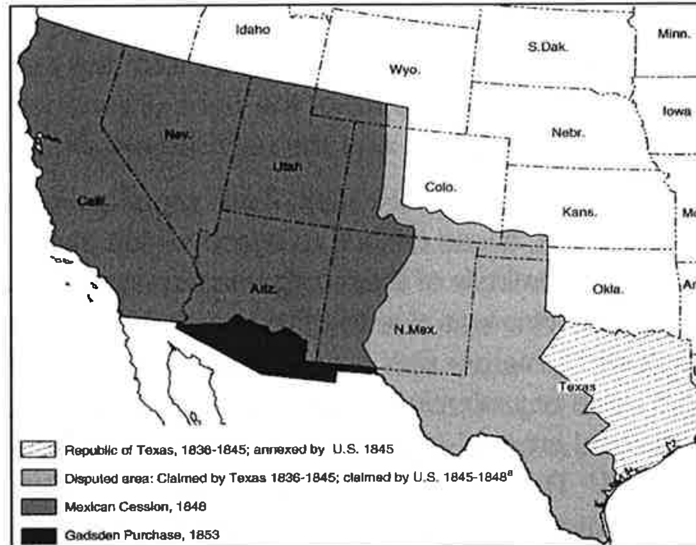
WELCOME TO THE NEW JERSEY
AMISTAD COMMISSION
INTERACTIVE CURRICULUM

League of United Latin American Citizens



At the conclusion of the Mexican-American War (1846 – 1848), the United States annexed a third of Mexico's territory. Nearly 77,000 Mexicans became United States citizens. These Mexican-Americans in the west faced many of the same challenges African Americans faced in the Jim Crow South. Signs that read "No Mexicans Allowed" hung in nearly every public place. Mexican-Americans faced open acts of prejudice, discrimination, and segregation throughout the country. In an effort to better their living conditions many Mexican-Americans joined mutual aid societies and civil rights organizations. By 1929, discrimination reached such extreme proportions that Mexican Americans had few other options but to organize. They wanted to defend their people and culture. The League of United Latin American Citizens (LULAC) was founded in Texas that same year. The organization hoped to improve the quality of life of Mexicans in the United States.

Racism towards Mexican Americans was rampant throughout the southwest. Mexican Americans were unable to vote. They also could not formally learn English. Many families performed exhausting work in fields and farms from sun up to sun down to support their families. Many Mexican American children could not attend school. His or her families depended on every family member to earn money in order to survive. If a family was lucky enough to send their children to school, they had to enroll in "Mexican Schools." These schools were legal in the Southwest. However, they were often in terrible condition and staffed with ill-equipped teachers. Employers often denied Mexican Americans jobs. They held stereotypes of Mexican Americans as lazy, dirty, poor, and uneducated. They also believed they were thieves. In the late nineteenth and early twentieth centuries,

discrimination and racism towards Mexican Americans was widespread. Mexican Americans needed organizations such as LULAC improve employment opportunities, housing, healthcare, and education for all Hispanic Americans.

Efforts to establish LULAC began in the early 1920s. In 1921, Mexican American leaders met in Helotes, Texas. They discussed the challenges their people faced. These talks led to the formation of the Order of the Sons of America. Leaders met again on August 14, 1927, in Harlingen, Texas. They attempted to merge the local factions of the Order of the Sons of America into a statewide group. However, the meeting resulted in the formation of another group, the Latin American Citizens League. On February 17, 1929, Mexican American leaders organized another meeting to merge the groups in Corpus Christi, Texas. At the conclusion of the meeting, four groups merged to form the League of United Latin American Citizens: the Corpus Christi council of the Sons of America, the Alice council of the Sons of America, the Knights of America, and the Latin American Citizens League.

Merging the organizations was no easy task. Each organization had its own constitution, structure, and leader. Therefore, it was difficult to agree on the structure and leadership of the new organization. Many members of these organizations had serious doubts about the merging of the organizations. This was due to differences in leadership. However, the leaders themselves believed a merger was a necessity. The leaders formed a committee with two delegates from each organization. They discussed new rules, came up with a name for the new organization, and created a basis for its future activities. They adopted the motto "All for One and One for All." This displayed the difficulties, but importance, of unification. On May 18, 1929, former president of the Orders of the Sons of America, Ben Garza, organized the first general assembly of LULAC. The assembly successfully adopted a constitution based on the Knights of America. It also elected Ben Garza as President General, Manuel C. Gonzalez as Vice President General, Andrés de Luna as secretary, and Louis Wilmot as treasurer. These men believed that Mexican Americans would strongly support LULAC. In 1931, LULAC obtained its charter.

LULAC concentrated its efforts on many issues that concerned Mexican Americans. It sought to desegregate public schools, housing, and all other public places. LULAC also fought to have Mexican Americans serve on juries. The organization wanted to increase the political representation of Mexican Americans. It also attempted to decrease poverty among Mexican Americans and build up the Mexican American middle class. LULAC's 1929 constitution established English as the official language of the organization. However, it promoted bilingualism in an effort to integrate Mexican Americans into American culture while still preserving their heritage. The organization selected a shield as its emblem. This symbolized the defense the organization provided Mexican Americans against racism.

Membership to LULAC has varied throughout its existence. Membership was originally extended to any "persons" of Mexican origin. A handful of the members of LULAC were lawyers who played a crucial role in the organization. However, most members were small business owners and skilled laborers. In 1949, LULAC opened its membership to white Americans. In 1986, they opened membership to any person living in the United States. LULAC did this in an effort to include Mexican immigrants. The organization was originally comprised of only male members. When it was first founded, the leaders discouraged

women from joining. At first, women participated in LULAC as wives and family relatives of the male members. This, however, changed over time. Women began to play a more direct role within the organization. In 1932, women began organizing in several women's auxiliaries. In 1933, women gained membership into segregated Ladies LULAC councils. Coed chapters of LULAC eventually developed in the 1950s. By the 1970s, coed chapters became the norm.

LULAC's focus on the assimilation of Mexican Americans into the Anglo dominated society of the United States generated criticism among Mexican Americans. In the early years of the organization, many Mexican Americans lived on the lands annexed by the United States after the Mexican-American War. They wanted to organize and revolt to regain the territories they lost. Others desired to perform acts of civil disobedience against authorities. They wanted to bring civil rights to Mexican Americans. Many Mexican Americans completely opposed LULAC. They could not understand why the organization wanted to embrace the Anglo society of the United States that had been cruel to them. The founders of LULAC, however, saw many other organizations that attacked mainstream society fail. They were determined to not let the same thing happen to them. They wanted to avoid any suspicion from the United States government of any un-American activities throughout the difficult eras of McCarthyism and war. In an effort to provide a safe haven for its members, LULAC adopted the American Flag, the song America the Beautiful, and the George Washington Prayer. They did this to establish harmony between Mexican American and Anglo society.

LULAC is responsible for aiding in the formation of several other organizations that are concerned with Mexican American civil rights. LULAC member Hector P. García organized the American G.I. forum. The American G.I. forum addresses the rights of Mexican American G.I.s. LULAC instituted the Little School of 400. This school served as a model for the federal education Head Start program. In 1964, the organization helped start SER Jobs for Progress, Incorporated. This served as the largest Latino employment agency in the United States. LULAC also played an important role in the desegregation of public schools and education improvement for Mexican Americans. In 1974, it established the LULAC National Education Service Centers and a national scholarship fund.

LULAC fought racism, segregation, and discrimination in several ways. In the 1940s LULAC fought to promote the teaching of Spanish in schools in Texas. At the outbreak of World War II, LULAC worked with the Federal Employment Practices Commission to provide jobs to Mexican Americans in the defense industry. In 1948, LULAC was involved in the United States Supreme Court case Delgado v. Bastrop ISD. This case attempted to end segregation in public schools. At this time, Mexican Americans were considered white citizens. However, they were systematically excluded from white schools because of their Latino nationalities. The case of Delgado v. Bastrop ISD therefore ruled that it was illegal to exclude Mexican Americans from public schools. Throughout the 1950s, LULAC worked alongside the American G.I. forum. Together they filed fifteen desegregation cases in the state of Texas alone. LULAC also opposed the McCarran Immigration Act. This act increased nationalization and citizenship restrictions, created a preference system for desired immigrants, and added labor qualifications to immigration standards. LULAC was

also involved in the Supreme Court case Hernández v. State of Texas. This case gave Mexican Americans the right to serve on juries. However, the ruling of the Supreme Court case, Brown v. Board of Education overshadowed the success of Hernández v. State of Texas. In 1974, LULAC endorsed the heavily debated Equal Rights Amendment.

Since its early struggles, LULAC has successfully improved the condition of Mexican Americans in the United States. The organization continues to hold voter registration drives, health fairs, tutorial programs, and raise money for the LULAC National Scholarship Fund. The organization holds seminars and public symposiums on language and immigration issues in order to reduce any anti-Hispanic sentiment. It uses television and radio programs to protest the "English Only" movement by bringing minority languages to the public. The founders of LULAC could not have imagined the success their organization would achieve. They feared that a lack of capital and intimidation from local authorities would prevent them from achieving national success. However, the organization has thrived. LULAC currently has offices in forty-eight states and as well as offices in Puerto Rico, Mexico, and South America. It even has an office at an armed service base in Heidelberg, Germany. LULAC was the first nationwide Mexican American civil rights organization. It has successfully assisted all people of Hispanic origin living in the United States in gaining access to the political process and equal education.

[-]

Lesson Details:

Learning Activities:

1. The educator introduces the historical progression of flight, which leads to Tuskegee Institute becoming the first experimental black pilot training center shortly before World War II.
2. The educator provides the students with either the websites or the printed pages, depending upon the availability of computers as well as educators' preference, for the Tuskegee Airmen Facts, Tuskegee Airmen-Text Version, and Fact Sheet, U.S. Air Force Fact Sheet Tuskegee Airmen.
3. Students may work in groups or independently to select ten questions and answers, two in each of the five categories of the Tuskegee Airmen Challenge Game. The educator may choose to reduce the number of questions if preferred. Five suggested categories are as follows:
    A. Heroes

    B. Government

    C. Tuskegee Institute

    D. World War II

    E. Military
4. Educator selects unduplicated questions for use in the game. Students also may create a PowerPoint challenge game if this skill is preferred over a class board game.
5. The educator determines the preferred format of the questions and answers or can follow the format of the Challenge Game in CICERO: History Beyond the TextbookTM.
6. The first homework activity is for the students to use either the web sites or the printed material provided to create the questions and answers. In order to practice grammar skills, students may be required to answer all

questions with a complete sentence and to form grammatically clear questions.

7. Students may create a super-sized Tuskegee Airmen Challenge Game Board, large enough for use in the classroom or may create it on the computer for projection use on a screen.
8. Students may participate in compiling the questions and answers for the game or the educator may limit their interaction with the selection. The educator may choose to create a study worksheet containing all the student-selected questions and answers to provide students with the opportunity to succeed at this challenge game.
9. Once the Tuskegee Airmen Challenge Game is completed, the class will play.

Assessment of Learning:

1. Students will know:
   A. how to synthesize and group factual information into specific categories and to create study questions and answers from this information.

2. Students will understand:
   A. that historical events and people shape each nation morally, economically, and governmentally. They will learn to recognize the names of significant people involved with Tuskegee Airmen training and how their contributions changed racial standards in the military.

3. Assessments:
   A. After the game is completed, a follow-up activity may be for the students to create an outline for a one-page report on the

information they learned because of this challenge game. The educator may use The Works! Outline format from CICERO.

B. The students also may create a brief speech about how the desire and goals of these African Americans to serve the United States of America as airmen transformed the manner in which people of diverse races were perceived in the 1900s.

C. The S.P.E.E.C.H. Graphic Organizer from CICERO may assist them.

Teacher Resources:

1. Books and Videos:

   A. *DVD PG-13 Tuskegee Airmen (AL) (Images of Aviation)* (paperback) Laurence Fishburne, Allen Payne Director: Robert Markowitz

   B. *Tuskegee Airmen (AL) (Images of Aviation)* (paperback) by Lynn M Holman, Thomas Reilly; ISBN-0-7385-0045-3

   C. *Black Knights: The Story of the Tuskegee Airmen* by Lynn M. Homan, Thomas Reily; ISBN-13: 9781565548282

   D. *332nd Fighter Group: Tuskegee Airmen* by Chris Bucholtz, ISBN-13: 9781846030444

   E. *Red Tail Capture, Red Tail Free: Memoirs of a Tuskegee Airman and POW* by Alexander Jefferson, Lewis Carlson; ISBN-13: 9780823223664

   F. *Tuskegee Airmen Story* by Lynn M. Homan, Thomas Reilly; ISBN-13: 9781589800052

2. Web sites:

   A. http://www.nps.gov/tuai/index.htm Tuskegee Airmen National Historic Site in Alabama

B. http://www.tuskegee.edu/global/story.asp?s=1127695 Tuskegee Airmen Facts

C. http://www.nationalmuseum.af.mil/factsheets/factsheet_print.asp?fsID=1356&page=1 National Museum of the U.S. Air Force Fact Sheet Tuskegee Airmen

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African American Troops in the Italo-Ethiopian War

Prior to the outbreak of World War II, many of the world's leading powers gradually established colonial rule in countries in Asia, Africa, and Latin America. In 1895, Italy failed to establish colonial rule in Ethiopia at the conclusion of the First Italo-Ethiopian War. Under the direction of fascist dictator Benito Mussolini, Italy again attempted to colonize Ethiopia during the Second Italo-Ethiopian War in 1935. This upset the African Diaspora, or people of African descent living around the world who support African unity. They mobilized to preserve the country's freedom and independence throughout the war and Italian occupation. In the United States, organizations formed to generate economic support for the country. They also opposed the colonization of one of the only independent countries in Africa. Many African Americans volunteered to fight the Italians in Ethiopia. However, few were able to make the journey for political and economic reasons. However, the war produced a heightened sense of political consciousness among African Americans. Italy's brutal aggression toward Ethiopia displayed to Africans everywhere that Europeans wanted to conquer, dominate, and exploit the African people.

The Ethiopian army was no match for the advanced Italian military. On October 3, 1935 Benito Mussolini ordered the invasion of Ethiopia. His armies invaded from the neighboring Italian colonies of Eritrea and Italian Somaliland. Ethiopia sought the help of the League of Nations. They hoped the League would impose economic sanctions on Italy. This put pressure on Mussolini to end the war quickly or withdraw. Mussolini took to the use of chemical weapons to quickly gain control. Italian troops threw mustard gas on the unprotected feet of Ethiopians. They also had groups of nine to eighteen planes follow one another and spray a constant sheet of mustard gas on the Ethiopian population. The advanced weaponry of the Italians made the Ethiopian government desperate for international support in order to maintain the sovereignty of their country.

Many Americans supported the Ethiopian Emperor Haile Selassie. However, the government was reluctant to provide him any support. President Franklin D. Roosevelt wanted to keep the risk of international confrontation to a minimum. Ethiopia received little support from other countries besides mild economic sanctions against Italy. African Americans, however, banded together to protect Ethiopia. The country was a symbol of black pride and power. It was one of the only countries in Africa that never fell to colonial rule. Many African American churches also backed the Ethiopian cause. Many people of African descent believed that Ethiopia, according to biblical prophecy, was predestined to redeem the black race from white rule. Even though a large number of African Americans were in

support of Ethiopia, they could make few contributions. They often had limited financial ability and lacked a significant political influence.

The black press played an important role in keeping African Americans informed about the conflict. Organizations such as the Union League and the National Association for the Advancement of Colored People (NAACP) published pro-Ethiopian editorials and articles. The press urged international organizations, such as the League of Nations, to support Ethiopia. They criticized American neutrality and believed the conflict was racially inspired. The press pushed the black population in America to support their kinfolk in Ethiopia in any way possible. Africans throughout the United States, even in communities in the Jim Crow Deep South, supported the cause. The focal point of the pro-Ethiopia movement was located in the black urban north. There African Americans enjoyed modest political power. African American community leaders told African Americans that they were morally obligated to provide as much assistance as they could to help their ancestors in Ethiopia.

Communities in Harlem, New York City and at Howard University in Washington D.C. organized to help garner support for Ethiopia. In February 1935, the Provisional Committee for the Defense of Ethiopia formed in New York City. It consisted of twenty Harlem organizations that united against Fascism. The Committee for Ethiopia, and other smaller organizations, sought to raise money and acquire medical supplies to help strengthen the Ethiopian troops. The organization requested the intervention of the Church. It also denounced the American government for its weak stance against Italian aggression. In another effort to gain more support from the League of Nations, the Committee for Ethiopia sent Willis Huggins to Geneva, Switzerland. Huggins was an African American history scholar. He became acquainted with Ethiopian officials because he once held an educational post in Ethiopia. Huggins asked the League of Nations to restrain Italian aggression. He believed that if Ethiopia suffered defeat against Italy, it would be an enormous setback for African Americans who were bound by a racial kinship to the people of Ethiopia. He also believed that the crimes committed by the Italians would disrupt world peace and encourage the spread of Fascism. However, high tensions existed in the international community before World War II. Therefore, Huggins failed to gain any more support than the already imposed economic sanctions.

African American leaders encouraged Emperor Haile Selassie to send a representative to the United States. They believed that this would help them influence American policy toward the war. They also believed it would help them focus on fundraising activities. They also felt the meeting would influence the State Department to permit an imperial visit. The State Department, however, feared a visit from the Emperor would alienate the Italian American community. In September 1936, the Emperor sent Malaku Bayen to represent him. Bayen was a Howard University educated physician. His goal was to create a pan-African movement in support of Ethiopia. Bayen settled in Harlem and quickly became an important figure in the community. He began organizing fund raisers in African American communities for Ethiopia's fight to maintain independence. Bayen was instrumental in uniting various pro-Ethiopian organizations. However, fund raising activities continually fell short of their goals. It was difficult to raise money among an impoverished minority who were barely managing to survive during the Great Depression.

Aside from fundraising to help Ethiopia defeat Italy, organizations discussed sending African American volunteers to fight for the Ethiopian army. African Americans in major cities made extensive efforts to find recruits. Samuel Daniels founded a Black Nationalist organization in Harlem called the Pan-African Reconstruction Association (PARA). The organization began recruiting African Americans to fight for Ethiopia on July 14, 1935. One week later, the black press reported that PARA successfully recruited nearly 1,000 volunteers from New York City alone. Nationally the organization recruited thousands of African Americans who were willing to put their lives and bodies on the line in order to ensure the sovereignty of their ancestral home.

Despite extensive support for his cause, Daniels' plan never materialized. The Ethiopian government stated they would willingly accept the volunteers. However, the United States government threatened to revoke the citizenship of any American who enlisted in either the Ethiopian or Italian army. The United States government stated that if African Americans enlisted in either army they would be in violation of an 1818 federal statute. The statute stated, "United States citizens cannot accept and exercise a commission to serve a foreign nation in war against a nation with whom the United States are [sic] at peace." PARA did not lose hope. They believed that strong antifascist attitudes would be in their favor. However, the government remained steadfast on the issue.

Although Americans could not participate in the Second Italo-Ethiopian war, a few African Americans arrived in Ethiopia before the outbreak of war. One of these men was John C. Robinson, or the Brown Condor of Ethiopia. Robinson was born in the United States. He graduated from the famed Tuskegee Institute. He is known as the Father of the Tuskegee Airmen of World War II. He planted the idea to integrate an aviation school into the Tuskegee Institute. After his graduation, Robinson moved north to Chicago in order to flee the discrimination of the Jim Crow South. He also wanted to enroll in aeronautical school. In Chicago, Robinson became a talented and respected pilot. Upon learning Ethiopian conflict, and for his own personal gratification, Robinson made the transatlantic flight to Ethiopia before the outbreak of war. He was the only African American to serve for the entirety of the war. He was also the only African American exposed to the dangers of the war front. He served as commander of the small and newly formed Ethiopian Imperial Air Force, which only consisted of twelve airplanes during the war. Due to the drastic difference in size of the Italian and Ethiopian Air Forces, Robinson mostly served as a currier to the Emperor. Nonetheless, he experienced dangers on the front line and was recognized for his bravery. He became an important symbol for African Americans because of his fight against racism and fascism at home and abroad.

Hubert Julian, or the Black Eagle, was another African American pilot who traveled to Ethiopia before the war. Julian was born in Trinidad. In 1921, he immigrated to Harlem from Canada. In 1930, the newly elected Emperor Selassie requested Julian come to Ethiopia. He wanted Julian to participate in an air show at the Emperor's coronation ceremony. The Emperor wanted a talented pilot to participate in his ceremony to display the country's turn towards modernity. The Emperor, impressed by Julian's skills, offered him Ethiopian citizenship and made him a colonel. He took charge of the Ethiopian Air Force that consisted of only three planes at the time. His glory, however, did not last. He crashed the Emperor's personal plane while trying to land, angering Selassie. Emperor Selassie ordered Julian to leave the country not long after. He left Ethiopia, but returned at the outbreak of the Second Italo-Ethiopian War in response to requests for aid. However, his past held him back. Julian was welcomed back to Ethiopia by the Emperor but was not allowed to fly any airplanes and never saw battle. Only twelve planes existed in the entire country during the war. If the planes engaged in battle, they faced certain defeat by the Italian Air Force. Still, both Americans, Julian and Robinson, wanted control of the small Air Force. A competitive rivalry between them interrupted their conflict against the Italians. When the two men met in the capital, a fight broke out, which sources claim Julian started. Upon hearing the news of the fight, Emperor Selassie gave Julian forty-eight hours to leave the country.

Despite the support efforts of the African Diaspora, Ethiopia fell to Italian rule. The emerging nation was no match for Italy's modern weaponry. On May 5, 1936 Italian troops took over the capital of Addis Ababa. This forced Emperor Selassie to flee to safety in Great Britain. Upon hearing news of the Ethiopia defeat, race riots erupted throughout the United States. In New York City, Italians in Little Italy celebrated Italy's victory and redemption for their loss in the First Italo-Ethiopian War. In Harlem, Africans Americans engaged in physical violence with Italians and encouraged the boycott of Italian owned stores. Guerrilla fighters in Ethiopia continued to challenge the Italians throughout occupation. However in 1937, the rebels attempted to assassinate the colonial viceroy. The Italians responded by killing thousands of Ethiopians in mass executions. When news of the executions reached New York City, African Americans attacked Italian owned businesses. Police, expecting an outrage from the African American community at any defeat of Ethiopia, quickly diffused the incident. They ordered extra squads of policemen to keep protests to a minimum when Rome formally annexed Ethiopia. Although African Americans continued to be loyal to the Ethiopian cause during the five year Italian occupation, leaders of the movement failed to sustain a united mood and spirit. The movement eventually fell apart. In 1941, British and Ethiopian troops liberated Ethiopia from Italian rule. They reestablished Haile Selassie as Emperor. Ethiopia declared war on Italy, Germany, and Japan the following year and entered World War II on the side of the Allied Powers. At the conclusion of the war in 1945, an independent Ethiopia became a founding member of the United Nations.

The Role of Native American's During World War II

Dec 17, 2013 | World War II

For the most part, the role of Native American's during World War II is greatly overlooked. In fact, Native American's made a greater per capita contribution to the war than any other group.

Childers (left), with General Jacob L. Devers after receiving

It is estimated that approximately one million Native Americans lived in what is now known as the United States when Christopher Columbus arrived. Less than 400 years later, the population had dwindled down to around 250,000 Indians. By 1940, that number had risen to around 350,000. Of that 350,000, 44,000 of them saw military service during WWII. The Native Americans were involved in all conflicts and received numerous medals, awards and citations. Three even received the Congressional Medal of Honor – Lt. Ernest Childers from the Creek tribe, Lt. jack Montgomery, a Cherokee Indian and Lt. Van Barfoot a Choctaw.

The United States Enters the War and So Do the Native Americans

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After the Japanese attacked Pearl Harbor, many Native Americans either enlisted in the armed forces, or went to work in the war plants. According to one survey, by 1942 the majority of the Native Americans in the service had enlisted voluntarily.

Back in 1917, the Iroquois Confederacy had declared war on Germany. At the start of WWII, they still had not made peace and were more than ready to fight. Other tribes were also ready as well. Some were willing to wait for hours in bad weather in order to sign their draft cards. Others showed up with their rifles, ready to fight. It is estimated that about a quarter of the Mescalero Apaches enlisted voluntarily. This was the same for many of the remaining tribes throughout the United States. These Native Americans were prepared to overlook their past disappointments and resentments. They understood the importance of defending one's own land.

By mid-1942, the annual enlistment for Native Americans was approximately 7,500. By the beginning of 1945, the yearly average had jumped to 22,000. Selective Service reported in 1942 that 99% of all Native Americans who were eligible for the draft (healthy males between the ages of 21 and 44) had registered for the draft. On the day Pearl Harbor was attacked, approximately 5,000 Indians were in the service. That number escalated to over 44,000 (both reservation and off reservation) by the time the war ended. This accounted for more than ten percent of the Indian population during the war time-frame.

Beatrice (Coffey) Thayer

In addition to the Indian males who served during the war, the women of some of the tribes also contributed serving in the WACS, WAVES and Army Nurse Corps.

Language Barriers

During WWI, the Choctaw language baffled German code-breakers. With World War II looming in the not too distant future, Germans feared Indian language would once again be used against them. Throughout the 1930s, German Nazis, infiltrated the reservations disguised as anthropologists and writers in an attempt to learn the language while others attempted to dissuade the Indians from registering for the draft. Some German Nazis believed the Indians would chose to revolt rather than fight against Germany since the Swastika was quite similar to a symbol used by the Indians (though once they learned of the Nazi Swastika, the Navajo discontinued using the symbol). Not only did the Germans fail to convert the Indians, some speculate it was the fuel that encouraged them to register in such staggering numbers. In all, an average of 80,000 men and women (roughly 20% of the Indian population) fought in the armed forces both at home and abroad.

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Some of the tribes had to memorize key English phrases and learn how to write their name. Others, such as the Navajo were so determined, they began remedial English training classes on the reservations in order to qualify for the military.

The way the draft was structured meant Indians and whites would need to operate together while defending the United States. As a result their lives, as well as their land-based culture would be forever changed.

On the Home Front

As war was declared on the Axis by President Roosevelt, it felt as if he were speaking to each and every citizen individually. The Indian tribes interpreted this as meaning all would be permitted to participate. As a result, an estimated 40,000 Indians (men and women ranging in age from 18 to 50) left their reservations for the very first time and sought jobs in the defense industry. As a result, they acquired vocational skills, increased their cultural sophistication and elevated their awareness when dealing with non-Indians.

Additional support from the Tribes came from their large purchases of Treasury Stamps and Bonds and in way of donations to the Red Cross. In 1944, it is estimated that Indians purchased close to $50 million in bonds.

Also at home, an estimated 2,500 Navajos participated in the construction of the Ft. Wingate Ordnance Depot in New Mexico. The Pueblo tribe assisted with the building of the Naval Supply Depot in Utah, while the Alaskan Indians were engaged in territory defense.

Back on the reservations, the women assumed the traditional duties of the men. In addition to sewing uniforms, tending livestock and canning food, they also manned the fire lookout stations and learned to be mechanics, lumberjacks and farmers. Despite their reluctance in leaving the reservation, many of the women worked in aircraft plants as welders. Others donated time to the Red Cross, the Civil Defense and the American Women's Volunteer Service.

Native Americans in the USMC

After the successful use of the Choctaw language (to befuddle the Germans) in World War I in sending messages to field phones, the USMC began recruiting Navajo Indians for the same purpose. They would become known as the Navajo Code Talkers. Their code allowed for faster transmitting and deciphering and it was a code the Japanese were never able to

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break.

The Marine Corps welcomed the Indians. They respected their warrior reputation; a reputation they felt matched their own 'elite' fighters. When the Marine Navajos ended their ceremonial chants, they would do so by singing the USMC Hymn in their native tongue. They started a signal unit comprised of all Navajos in order to encode messages in their native tongue. They formed their own words for various military and naval terms so they could transmit orders and/or instructions. The Code Talkers were first used in 1942 on Guadalcanal, but eventually, they were each assigned to one of the USMCs six Pacific divisions. By the end of the war, more than 400 Navajos had served as Code Talkers, a service which is credited with saving countless lives.

Other Areas of Service

Native Americans excelled at basic training, were proficient in marksmanship and bayonet fighting and were capable of enduring thirst and food deprivation better than the average soldier. The Native American soldier had an acute sent of perception, excellent endurance and exceptional physical coordination.

Along with the Pacific Theater, the Indians also saw action in Bataan and Corregidor, Italy and Central Europe.

Post World War II

After the war was over, many of the Native Americans remained in the mainstream (as opposed to returning to the reservation). Leaving their traditional culture was not rejection of their heritage. Instead, they began to identify and cope with various differences they saw between themselves and the white man. Others, despite learning to make the necessary adjustments to live in white America, still chose to return to their reservations. Despite a better standard of living and job and education opportunities, these Indians were not willing to give up the security offered by the reservation.

The Native Americans, no doubt, played an outstanding role in America's WWII victory despite the challenges they faced both as individuals and as a group. They left the comforts of the only land they ever knew and travelled to far away strange places where people did not understand their traditions. They gave up their dances and rituals and had to learn how to adapt to working under a 'white man'. Despite all this, the Native Americans did learn to adapt to their various World War II roles and in the process, they went from being American Indians to Indian-Americans.

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WELCOME TO THE NEW JERSEY
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Paul Robeson and the House Un-American Activities Committee

1898 - 1976

Paul Robeson was a forerunner in the Civil Rights Movement in America. He spoke out bravely against racism at a time when no one else did so publicly. He gained international acclaim for his achievements as a concert singer and as an actor in movies about African-American life. As such, he was also a predecessor who made possible the careers of Sidney Poitier, Denzel Washington, and others.

Born in Princeton, New Jersey, Robeson excelled at athletics as a student at Rutgers University. He was an All-American in football and went on to play professionally in a league that was a forerunner to the National Football League.

His singing talents led to a career on stage. Robeson was the first professional singer to bring old spirituals to Broadway and elsewhere. He appeared in many productions such as Eugene O'Neill's *Emperor Jones* and in *All God's Chillun Got Wings* in which Robeson played a black man married to a white woman. He also appeared many times in the celebrated Broadway show *Showboat*.

In addition to his theater and film careers, Robeson was a lifelong activist against racism and injustice to people whom he believed were downtrodden by the economic system. In 1928, in the midst of a British concert tour, he met with Welsh coal miners to express solidarity in their struggle with mine owners. He came to see injustice to workers as the real problem in the world, not antagonism between the races. He made several visits to Welsh coal-mining regions to perform in Cardith, neath, and elsewhere. He is a revered figure in Wales today. An exhibit, Let Paul Robeson Sing, was unveiled in 2001 in Cardiff.

In the 1930s, Robeson became interested in the history and culture of Africa. He believed African-American people must regain their conscious link to their heritage as Africans, which he saw as fundamentally more spiritual than their American heritage. At this time, Robeson was performing in Europe and the United States. After traveling to Moscow, Robeson was impressed by some aspects of the Soviet system, especially its lack of racial prejudice. He began to see the struggles of blacks in America as part of the global struggle of workers everywhere for justice and human rights. He spoke out against the Nazis; sang for Loyalist troops during the Spanish Civil War; and became chairman of the Council on African Affairs (CAA), the first important American organization whose focus was on Africa and providing information about Africa to African Americans.

The CAA became controversial because it opposed the United States position on colonial independence for Africa. The United States government harassed the leaders of the group, including Robeson and W.E.B. Du Bois. Liberals, including the leadership of the National Association for the Advancement of Colored People and Roy Wilkins, publicly

opposed the CAA.

Robeson's support for and defense of Soviet policies and Stalinism were a continuing cause for concern in the United States. He defended the Moscow show trials and the suppression of the Hungarian revolution in 1956. He also approved publicly of the Soviets establishing "independent nations" in various parts of the world. These views seem naïve today in view of revelations regarding Soviet policies, especially under Stalin. New information from the Verona transcripts and from formerly secret files of the Committee for States Security (KGB) provides proof of the repressiveness of Soviet policies at home and abroad.

During World War II, Paul Robeson often entertained American troops. He continued to campaign for the rights of blacks and against racial discrimination. Many in the United States government were uncomfortable with his advocacy of causes that were perceived as leftish. As a result, he was barred from many American concert and meeting halls and denied a passport.

In the decade after the war, as relations with the Soviet Union cooled, there was another "Red Scare" similar to that after World War I. In this case, there was widespread fear of the spread of Communism in the world and in the United States. The House Un-American Activities Committee (HUAC) became a standing (permanent) committee in 1945. This committee of nine representatives investigated suspected threats of subversion or propaganda that attacked "the form of government guaranteed by our Constitution." Under this mandate, the committee focused its investigations on real and suspected communists in positions of actual or supposed influence in American. In the 1950s, the most effective sanction was terror. Almost any publicity from HUAC meant the accused was "blacklisted." Without a chance to clear his name, a witness would suddenly find himself without friends and a job.

Paul Robeson appeared before the HUAC on June 12, 1955. The committee was investigating passport issues. Robeson was trying to secure the reissue of his passport. The testimony shows the committee members trying to goad Robeson into admitting that he was a member of the Communist Party. The committee believed he was a communist because in 1953 Josef Stalin awarded him the Stalin Peace Prize. They also believed he was a communist because he publically stated, in the United States and in Paris, that millions of blacks who were under a racist regime would not go to war against the Soviets whom he believed were not racist and treated all people as equals. The following is an excerpt from the transcript of his appearance before the committee.

> *Mr. ARENS: Now, during the course of this process in which you were applying for this passport, in July of 1954, were you requested to submit a non-Communist affidavit?*

Mr. ROBESON: ....I was very precise not only in the application but with the State Department ... that under no conditions would I think of signing any such affidavit, that it is a complete contradiction of the rights of American citizens.

Mr. ARENS: Are you now a member of the Communist Party?

Mr. ROBESON: What is the Communist Party? What do you mean by that?

Mr. SCHERER: Please answer, will you, Mr. Robeson.

Mr. ROBESON: What do you mean by the Communist Party? As far as I know it is a legal party like the Republican and Democratic parties. Do you mean a party of people who have sacrificed for my people, and for all Americans and workers, that they can live in dignity?

Mr. ARENS: Are you now member of the Communist Party?

Mr. ROBESON: Would you like to come to the ballot box when I vote and take out the ballot and see?

The committee continues to question Robeson about the Communist Party issue and he continues to invoke his Fifth Amendment right to refuse to answer. Chairman Arens continues to ask questions about some of Robeson's public statements in Paris and elsewhere. Robeson answers as follows:

Mr. ROBESON: In Russia I felt for the first time like a full human being. No color prejudice like in Mississippi, no color prejudice like in Washington ... where I did not feel the pressure of color as I feel it in this committee today.

The chairman repeatedly asks Robeson if he had ever publicly praised Stalin. He says he does not remember. However, he concludes by saying that he will not discuss this with the "representative of the people who, in building America, wasted sixty to one hundred million black people dying in the slave ships and on the plantations.

At this point, Robeson says "... you gentlemen belong with the Alien and Sedition Acts (1798) and you are the nonpatriots, and you are the un-Americans, and you ought to be ashamed of yourselves."

At this point the chairman adjourned the meeting, and Robeson's testimony was concluded.

Paul Robeson suffered an emotional breakdown in March 1956. In 1958, after Robeson and others filed lawsuits, the United States Supreme Court ruled that it was unconstitutional to require a loyalty oath to possess the right to travel freely. Despite the Supreme Court's decision, the damage to Robeson was done. After a whirlwind return to the international stage, Robeson suffered another breakdown a year later in Moscow. Depression was to plague him the rest of his life. He kept apart from the public arena, even the rising Civil Rights Movement. He died on January 23, 1976. Some people remember Paul Robeson as a great artist, an activist for the oppressed, or as a communist.

In his final years, Robeson performed in union halls and churches. He received numerous awards during his lifetime and remains one of the most gifted, admired black men in America and in the world.

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WELCOME TO THE NEW JERSEY
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Hernandez v. Texas

1951 - 1954

In the first half of the twentieth century, many minority groups in the United States faced systematic racial discrimination. When people typically reflect on this period of history they often think of the plight of African Americans. Although African Americans endured the most visible and widespread forms of systematic and institutionalized racism and discrimination, other minorities also faced these same challenges. Mexican Americans, for example, faced many of the same types of discrimination and segregation in the Southwest. In Texas, Mexican Americans formed organizations, such as the League of United Latin American Citizens (LULAC), in order to band together and increase their ability to fight discrimination in the courts and make progress in government. LULAC was instrumental in the fight against discrimination because a prominent team of Mexican American lawyers represented its members and other Mexican Americans. Lawyers from LULAC played an important role in the case Hernandez v. Texas as they battled to include Mexican Americans on juries. This case remains the only Mexican American civil rights case to be heard and decided by the Supreme Court in the post World War II period.

On August 4, 1951, authorities arrested a migrant cotton picker, Peter Hernandez, for shooting and killing Joe Espinosa in Edna, Jackson County, Texas. Gustavo Garcia, an experienced Mexican American civil rights lawyer, agreed to represent Hernandez free of charge. To assist him, Garcia brought on Carlos Cadena and John Herrera, both members of LULAC, as well as Herrera's associate and recent law school graduate, James de Anda. An all white jury found Hernandez guilty and sentenced him to life in prison. Hernandez believed that he was indicted unjustly because not a single Mexican American heard his case. Thus he appealed the rulings. De Adna collected data that revealed people of Mexican origin were absent on grand and trial juries in Jackson County for over twenty-five years. The lawyers believed this information would help make their case. They also used another case, Norris v. State of Alabama, which ruled that it was unconstitutional to systematically exclude African Americans from juries, to make their case for Mexican Americans. However, Hernandez's trial court denied defense motions based on this theory twice.

In the Texas Court of Criminal Appeals, the jury reasoned that people of Mexican nationality were members of the Caucasian race. The court argued that Hernandez was the same race as the all white jury that indicted and found him guilty. Therefore, they claimed, he

was not a victim of discrimination. At this time in Texas some Mexican Americans favored being considered as being a part of the white race. They used this to their advantage because they feared if they were categorized as non-white they would be placed in the same low social status given to African Americans in segregated communities. The court believed that Mexican Americans benefitted from their inclusion in the white race and therefore refused to extend the ruling established in the Norris case to encompass discrimination based on national origin. Members of the court stated that Herrera's claim of discrimination was an attempt to divide the white race into classes and establish special privileges based on national origin. They believed this to be harmful because it would not benefit the other members of the white race. However, the lawyers continued to fight the case because they believed the court's ruling was an example of the systematic discrimination Mexican Americans endured.

It was not surprising to Hernandez's lawyers when the Texas Court of Criminal Appeals upheld the decision of the previous court. However, Garcia did not see this as a defeat but an opportunity to challenge the systematic discrimination of Mexican Americans in higher courts. Garcia and the other men involved in the case compiled evidence that displayed Mexican Americans were excluded from all types of jury duty in at least seventy counties in Texas.

Over two years later, *Hernandez v. State of Texas* finally made its way to the United States Supreme Court. The court heard the case of Garcia, Herrera, De Adna, Cadena, and Chris Alderete of the American G.I. forum on January 11, 1954. Garcia again argued that the Fourteenth Amendment protected Mexican Americans from discrimination not only on the basis of race but also on the basis of their class within the white race. He believed that the people who selected juries in Jackson County discriminated against Mexican Americans based on the physical characteristics and stereotypes of their national origin, separating them from other "white" Americans. The state of Texas again challenged Garcia and argued the Fourteenth Amendment only identified two races, white and black. Under this guise they again claimed Mexican Americans fell under white Americans and therefore could not be victims of racial discrimination against a jury of the same race. This time, however, the state of Texas did admit that no person with a Spanish surname served on a jury of any type in Jackson County in over twenty-five years. However, they argued this was only a coincidence, not a pattern of discrimination. Hernandez's attorneys conversely presented comprehensive evidence that revealed discrimination and segregation against Mexican American as common practice in Jackson County. Thus they argued Mexican Americans be treated as a separate class of the Caucasian race in order to provide them equal protection under the law.

The state of Texas would not budge on their categorization of Mexican Americans as white. Therefore, Garcia and his associates had to come up with new evidence to make their case. Garcia claimed that fourteen percent of the population in Jackson County had Latin surnames and that eleven percent of the male population over age twenty-one had such surnames. He argued that the state of Texas must have systematically excluded Mexican Americans from juries because Mexican Americans eligible for jury duty made up a considerable part of the population yet lacked representation in juries. Representatives of

Texas also admitted that a number of Mexican Americans, eligible to serve on juries by virtue of being a United States citizen with the legal prerequisites for jury service, lived in Jackson Country. Aside from the exclusion of Mexican Americans from juries in Jackson County, the court also discovered that the Jackson Country Courthouse itself made a distinction between white and Mexican Americans. The court pointed out that the Courthouse had two separate men's bathrooms: one unmarked and the other marked as "Colored Men" and "Hombres Aqui" or "Men Here." These new discoveries began to reveal to the Supreme Court that Mexican Americans faced systematic discrimination in Texas.

Chief Justice Earl Warren of the United States Supreme Court delivered the unanimous decision of the court in favor of Hernandez and ordered the reversal of the charges against him on May 3, 1954. The Supreme Court accepted the distinction between "white" and Hispanic and ruled that Mexican Americans faced discrimination as a separate class of the Caucasian race. The court found that the state of Texas violated the constitutional guarantee of equal protection under the Fourteenth Amendment because Texas courts denied Mexican Americans admittance to juries based on the fact that they had different characteristics than other white Americans due to their national origin. The court held that Hernandez had the right to face trial under juries that did not systematically exclude people of a certain national origin.

The decision was a major triumph in establishing the concept of "other white." Garcia and his associates successfully presented evidence of the discrimination and segregation of Mexican Americans in Jackson County, causing the court to determine that "persons of Mexican descent constitute a separate class in Jackson County, distinct from 'whites.'" The Supreme Court rejected the notion that the Texas court based discrimination on the Fourteenth Amendment "two-class theory." The case therefore extended the protection of the Fourteenth Amendment to people of various national origins and their descendents.

Although *Hernandez v. Texas* was instrumental in providing Mexican Americans with civil rights, it was overshadowed by the decision of the landmark United States Supreme Court case Brown v. Board of Education of Topeka, Kansas. The *Brown v. Board of Education* decision came just two weeks after the *Hernandez* ruling on May 17, 1954. *Brown v. Board* overturned the Supreme Court case *Plessy v. Ferguson* and ruled that the segregation of children in "separate but equal" public schools, and segregation in public facilities, based on race was unconstitutional. The court held that segregation violated the Equal Protection Clause of the Fourteenth Amendment and guaranteed the equality of all Americans regardless of their physical characteristics. Both *Hernandez v. Texas* and *Brown v. Board of Education* represented a shift in the history of the United States that provided hope for people who were previously denied equal rights under the law.

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La Raza Unida Party

1970 - Present

At the conclusion of World War II, civil rights movements began to gain momentum in the United States. They sought to improve the lives of minorities throughout the country. Different minority groups experienced successes in their civil rights movements at different periods of time. Latino American civil rights groups, for example, experienced success in the 1970s, after the successes of the African American civil rights movement of the 1950s and 1960s. This movement, known as the Chicano movement, drew attention to the plight of Hispanic Americans. It paved the way for Latinos to enter government to bring a voice to the Latino American population in the United States. In January 1970, La Raza Unida Party, a Hispanic American political party, formed in Crystal City, Texas. The founders wanted to provide an alternative to the two party system that failed to include the interests of Latino Americans in Texas. La Raza Unida Party focused on improving the social, economic, and political self determination of Latino Americans. It became an important political force for Latino Americans in the southwest. It encouraged members to participate in local efforts to bring attention to the inequalities Hispanic Americans faced.

During the 1960s, there was an upsurge of civil rights battles throughout the country. The battles, mostly in response to segregation, police abuse, education inequality, and decent jobs and housing of African Americans, fueled the desire of Latin Americans, and other minorities, to fight for their own rights. These minorities faced the same struggles and all wanted change. Although they faced many of the same problems as African Americans, Hispanic Americans lacked a supportive political voice. Many of the political leaders of the 1960s failed to address the struggles of Latin Americans in the shadow of the much larger, and therefore more visible, African American population and the Vietnam War. By the end of the decade, Hispanic Americans began to confront these same deep rooted problems in their communities. Faced with the high mortality rates of Hispanic Americans in the Vietnam War and a strong desire to improve their communities, this new generation of Hispanic Americans that came of age at the end of the 1960s and early 1970s began to stir Hispanic Americans into political action. In the late 1960s new organizations, more militant in their desire for fundamental change, began to challenge old Chicano civil rights groups and the unresponsive political system. Latin Americans were inspired to seek radical change to break away from the conservative two-party system that excluded minorities and placed them in a second class citizenship.

La Raza Unida Party (RUP) formed in Crystal City, Texas on January 17, 1970 as an alternative to the two party system that often excluded minorities. Two of the principal organizers of RUP, José Ángel Gutiérrez and Mario Compean, had helped form the Mexican American Youth Organization (MAYO), a Mexican American youth political party, in 1967.

Their efforts with that group helped them become experienced leaders. Gutiérrez proposed endorsing the formation of a third political party in the interest of Hispanic Americans when he founded MAYO. In 1969, at MAYO's only national meeting, activists supported his proposal. The activists then formed RUP. They sought to provide all Hispanic Americans with the political self determination to improve their communities, places where they often had little or no power despite being in the majority.

When the party first formed, it focused on county, local, and school district elections to bring direct change to Hispanic communities. In April of 1970, representatives of RUP won a total of fifteen seats in Crystal City, Cotulla, and Carizzo Springs, Texas. These seats included two city council majorities and two school board majorities. Founder José Angel Gutiérrez and two other RUP candidates won school board positions in Crystal City, Texas. With a successful first year, RUP party leaders now needed to discuss their next move.

On October 30, 1971 RUP leaders held a state convention in San Antonio. After RUP's local success, party leaders called for a convention to discuss the success and future of the party. Gutiérrez wanted the party to focus on its standing in rural areas rather than to enter state politics. Compean, on the other hand, supported a state organization. Compean wanted to boost the Chicano movement that was gaining momentum in Texas at this time. He believed if the party entered state politics they would see the same electoral success they had in Crystal City, and other counties throughout Texas, the previous year. At the objection of Gutiérrez, the party decided to enter state politics. At the convention, leaders decided to place RUP on the 1972 general election ballot as an independent party.

RUP then began to prepare for the election. Party members held voter registration drives and campaigned for candidates. They also searched for a RUP candidate to enter the 1972 state gubernatorial election. They called upon several well-known Hispanic Democrats already in politics and other Chicano organizational leaders. However, they all refused to run for the position. Eventually, Ramsey Muñiz, a lawyer and administrator with the Waco Model Cities Program, part of President Lyndon Johnson's Great Society program, agreed to serve on the ticket. Alma Canales, a farm worker and student of journalism at Pan American University, also entered the election on the RUP ticket for lieutenant governor. However, at twenty-four years old she was too young to constitutionally hold office. Nevertheless, her presence on the RUP ticket showed the important role that women played within RUP. RUP candidates also ran for several other offices, including member of the Railroad Commission, state treasurer, member of the State Board of Education, and other local posts.

The RUP candidates for the 1972 Texas gubernatorial election resembled party membership. Membership to RUP was open to anyone who desired to commit to RUP's goals. Most members were young and university educated. They became politically motivated and inspired by the success of African Americans in the 1960s to bring civil rights to their people. Like many of the members of RUP, Muñiz and Canales had previously been members of MAYO. Female members of RUP played an important role within the Party, unlike other civil rights movements at the time. Each faction of RUP was required to have at least one female leader. RUP's membership reflected its goals of diversity and equality in the party itself as well as in national politics.

RUP experienced much success in 1972. The party received certification to be on the general election ballot and now organized in more than forty counties. The party even spread to several other states. In order to channel the success and expansion on the organization, RUP held a national conference in El Paso on September 1 – 4, 1972. Around 1,500 RUP members participated in the meeting, half of which were women. The delegates created the Congreso de Aztlán to oversee the operation of the national party. They also elected Gutiérrez as national chairman. However, Muñiz, the party's chief political candidate, received little recognition. As a result, he left the meeting early to campaign in the race for state governor.

Although Muñiz was a promising political candidate, he did not have the full support of RUP. He believed that the political platform of RUP should be community control, bilingual education, women's rights, and workers rights. Members of RUP believed this platform was too similar to the platform of the liberal faction of the state Democratic Party. Despite this similarity, Muñiz did not receive much support from liberals. Many liberal Democratic Party members supported Frances Farenthold. However, Farenthold, due to a lack of support across her party, lost the nomination. Her party endorsed Dolph Briscoe. Muñiz, an independent candidate, won six percent of the vote in the November election. This considerably reduced Briscoe's margin of victory. Briscoe won the election but failed to gain the majority of the vote. He became the first Governor in the twentieth century elected with less than a majority. Despite his defeat, Muñiz experienced extensive support in rural South Texas. He also had a decent turnout of voters support him in major cities.

Throughout the next two years, RUP focused on solidifying its support base in South Texas. The party also looked to gain more nonpartisan support. However, the party's urban support remained small aside from young Hispanic American activists. The lack of urban support eventually became a large issue among party members. Hispanic Americans made up a large portion of the urban population. RUP members believed the lack of urban support hindered the party's ability to make a large political impact. They needed to discover a way to make the party more visible and appealing to the larger Hispanic American population rather than being an organization of young radicals.

Despite their loss in the 1972 governor's race, RUP again nominated Muñiz to run for governor of Texas in 1974. The party also supported a group of fourteen men and women for state representatives. RUP again emphasized the party's Hispanic American foundation to gain supporters. This time, however, the party also campaigned to "ensure democracy for [the] many, not the few" and to preserve "human and natural resources." The party also sought to prosecute industrial polluters that destroyed the lands many Hispanic American farmers depended on. Muñiz announced his nomination for state governor on January 16, 1974. He stated that RUP sought to expand their appeal to a broader spectrum of voters. He stressed RUP's new ideas for transportation, funding public education, providing better medical care, and finding solutions to problems in cities. However, the party did not encounter much success in the 1974 election. Muñiz only received 190,000 votes and posed no real threat to the reelection of Briscoe. None of the RUP candidates for the state House of Representatives won any positions. Gutiérrez experienced the only party victory. He won the

election as a judge in Zavala County. The party did, however, experience success in local offices, especially in South Texas.

Even though RUP did not experience much electoral success in 1974, it did establish itself as a liberal minority party. RUP became influential in some communities as the party made itself a significant political force in state and local elections. The party made several attempts to challenge local laws to help bring minorities into the political arena. They challenged a local law that required a party to win twenty percent of the overall vote instead of the state required two percent to stay on the election ballot. They were successful in bringing this to the attention to the United States Department of Justice, which overturned the law in 1976. In the same ruling, the Department of Justice also allowed RUP to hold primary elections without requiring them to pay filing fees.

By 1978, RUP began to fall into the political background. The 1976 arrest of Ramsey Muñiz on drug charges in July and November was a major blow to the party. Muñiz pled guilty on one count and received a fifteen year prison sentence. The party, considerably weakened, nominated Mario Compean for governor as well as other candidates in local elections. However, they received little support. Compean only received 15,000 votes. Membership began to decline and some of the original leaders of RUP began to focus on new political organizations, such as the Mexican American Democrats. Activism began to slow and the party experienced financial difficulties. RUP eventually lost its state funds for its primary elections and ceased to exist as a political party.

Although RUP experienced a short political life, historians argue that the party formed at the perfect time in American History. African Americans had paved the way for civil rights movements and inspired other minorities to fight for their rights. Historians argue if the party had formed before the 1970s, it most likely would not have experienced much success. Hispanic Americans, before the 1970s, often faced overt racism and violence in local and national politics. The civil rights movements of the 1960s taught the majority of the United States population the injustices many minority groups suffered that would have otherwise been invisible to most Americans. By the 1970s, the country experienced a higher moral understanding of the plight of minorities and became more accepting of their efforts of self determination. Although La Raza Unida Party is no longer an active political force, the organization now focuses on community activities and organizing.

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Harvey Milk

Harvey Milk was a politician from New York who became the first openly gay elected official in the United States. Inspired by the Gay Liberation Movement of the late 1960s and early 1970s, Milk won a seat on the San Francisco Board of Supervisors in 1977. He felt it was important to all homosexual men and women to have a gay man hold an elected position. He wanted to make his adversaries aware that he was a gay man who could do just as well, if not better, than any heterosexual politician. He believed it was important to fight for a group of Americans that were often without a voice in the government of the United States. Tragically, his life was cut short due to his beliefs. However, he is still remembered today as a symbol of activism as well as a determined supporter of human and civil rights.

Harvey Milk was born on May 22, 1930 in Woodmere, New York. During his early life, Milk worked in his family's department store, "Milks," in New York. His conservative family were well known in their community for their civic engagement. By the time Milk entered Bayshore High School, he knew he was gay. He was a popular student with interests ranging from opera to playing football. After high school, Milk attended the New York State College for Teachers, now the State University of New York, in Albany. Milk spent his time there studying math and history. He also wrote a weekly column in the student newspaper on issues of diversity and lessons learned from the then recently ended World War II.

Milk graduated from the New York State College for Teachers in 1951 then joined the Navy. He served as a chief petty officer during the Korean War on a submarine rescue ship. He eventually reached the rank of junior lieutenant before he was honorably discharged in 1955. After his time in the Navy, Milk became a public school teacher in Long Island. Then, in 1963, Milk became a stock analyst at the Wall Street Investment firm Bache and Company. At first, his political views tended to be conservative. However, as the 1960s and 1970s progressed, Milk began to focus more on liberal politics and participated in demonstrations against the Vietnam War. During this time, Milk kept his homosexuality a secret. With the help of his new lover, Jack Galen McKinley, Milk came to be involved in the theater scene in New York City. He also came to embrace and feel comfortable with his homosexuality.

Milk, unsure of what he wanted to do with his life, briefly moved to California. His political perspectives during this time underwent a dramatic change and he became more liberal. He also began to adopt the longhair and hippie lifestyle prevalent in San Francisco during this time. Milk worked in finance until 1970. At that time, he was fired for burning his BankAmericard during a protest of the United States invasion of Cambodia. Unsure of where to go in his personal and professional life, Milk moved back to New York.

In 1972, Milk moved back to California with his new partner Scott Smith. They opened a camera store on Castro Street in the heart of San Francisco's growing gay community. Their store quickly became a neighborhood center and Milk became a popular figure throughout the community. A little more than a year after his arrival, Milk declared his candidacy for the San Francisco Board of Supervisors. He desired to win the vote of members of the local gay community as well as create alliances with other minorities. Milk lost the race but emerged as a reckonable force in local politics. Due to his popularity among locals and his devotion to community issues, Milk earned the unofficial title of Mayor of Castro Street. His local popularity inspired Milk to run for the San Francisco Board of Supervisors again in 1974. Again, he lost the election. However, he had more support for his candidacy than his previous campaign.

In 1974, Milk and a few other local business owners founded the Castro Village Association. The Castro Village Association aimed to protect Lesbian, Gay, Bi-sexual, and Transgendered (LGBT) businesses. Milk served as its president. With the help of the Castro Village Association, Milk organized the Castro Street Fair in 1974. He wanted to help attract more customers to the local gay businesses. The success of their fair made the Castro Village Association a powerful force in the local business community. It also created blueprint for future LGBT communities. During this time, Milk also held a voter registration drive. He successfully registered nearly 2,000 new voters. He also began writing a column for the local newspaper, the *Bay Area Reporter*.

In 1975, Milk once again ran for the San Francisco Board of Supervisors. He ran against the Democratic Party on the campaign theme, "Harvey Milk verses the Machine." Even though he lost yet again, Milk successfully gained the support of several labor unions, and his popularity continued to increase. Due to Milk's rising political standing in the community, newly elected San Francisco Mayor George Moscone appointed him to the Board of Permit Appeals. Milk celebrated his new position, which made him the first openly gay city commissioner in the United States. However, just a few weeks after his appointment, Milk announced his intention to run for State Assembly. While this announcement led to his removal from the Board of Permit Appeals, Milk focused on his campaign to represent the Sixteenth Assembly District of San Francisco. Once again, however, he lost the election.

After yet another defeat, Milk realized that he would have a greater chance of political success if he relied on the support of local voters in the Castro District. He began working with his campaign manager, Anne Kronenberg, and Mayor Moscone on the passage of an amendment to replace at-large Board of Supervisors elections with local district elections. The amendment passed, and in 1977 Milk again ran for the San Francisco Board of Supervisors and easily won the election. On January 9, 1978, Milk was inaugurated as a San Francisco City-County Supervisor. His success was not only a personal triumph but also a

symbolic victory for the LGBT rights movement. His victory made national and international headlines.

Milk's commitment to helping all of the people in his local community made him a popular and effective supervisor. During his time in office, Milk fought to protect gay rights as well as the rights of other minorities. He sponsored an anti-discrimination bill, established day care centers for working mothers, converted vacant military facilities into low-income housing, and reformed the city's tax code to attract more business, among other things. He advocated to improve services in the Castro district, such as the construction of new libraries, and promoted safe neighborhoods by establishing community policing. During his first year in office, he also frequently spoke about state and national issues concerning LGBT rights as well as issue concerning women and racial and ethnic minorities.

Milk's most notable victory on the Board of Supervisors was the defeat of Proposition 6. Led by State Senator John Briggs, Proposition 6 banned openly gay men and women from teaching in public schools. After this victory, Milk encouraged LGBT individuals and supporters to speak out about their homosexuality. He believed an active and visible LGBT community would help bring social and civil equality to its members. Milk encouraged gay people across the United States to break their silence and "come out." He desired to help fight the lies and myths about homosexuality.

Due to his success within the gay community, Milk received daily death threats. Increasingly fearful of assassination, he recorded several versions of his will. On one of his tapes, Milk stated, "If a bullet should enter my brain, let that bullet destroy every closet door." Dan White, a fellow San Francisco Supervisor had a clashing political agenda with Milk. After the defeat of Proposition 6, White resigned from his position on the Board of Supervisors. On November 27, 1978, White snuck into City Hall through a basement window in an effort to avoid metal detectors. He walked up to the offices of Mayor Moscone, where he shot and killed him. White then walked down the hall to Milk's office where he also shot and killed him.

When the case came to trial, everyone knew that White was guilty of killing Moscone and Milk. His defense attorney, Douglas Schmidt, instead tried to convince the jury that White's diminished capacity impaired his judgment. Schmidt's diminished capacity argument claimed that White suffered from bouts of depression. His recent overconsumption of junk food was both indicative of his depression and made it worse. Because of his state of mind, White was unable to fully differentiate between right and wrong. Despite ridicule in the press as the "Twinkie defense," Schmidt's argument convinced the jurors. The jury acquitted White of murder, finding him guilty of the lesser charges of voluntary manslaughter. On May 21, 1979, the day before what would have been Milk's 49th birthday, White was sentenced to less than eight years in prison. The mild sentence ignited riots across San Francisco. The riots became known as the White Night Riots. Residents of San Francisco stormed City Hall, set rows of police cars on fire, and caused $250,000 worth of property damage. Police officers retaliated by raiding the Castro district. They vandalized gay businesses, and began beating people on the streets. White served five years in prison before being paroled. He committed suicide on October 21, 1985.

Harvey Milk is still an important symbol of activism as well as for gay and human rights. After his death, his supporters held candlelight vigils and countless individuals came out in

his honor. Milk believed that the more people that came out and revealed their homosexuality, the more their friends and family would support gay rights. Harvey Milk has been honored in several ways since his death. His nephew, Stuart Milk, and campaign manager Anne Kronenberg established the Harvey Milk Foundation to fight for equality of all people in all places. Milk is the subject of an opera, multiple books and documentaries, and the 2008 film *Milk* which received eight Academy Award nominations. He also has several schools, government buildings, statues, and streets named in his honor. Time Magazine honored Milk as one of the most influential people of the 20th century. On August 12, 2009, President Barack Obama posthumously awarded Milk the Medal of Freedom and praised him for his courage and conviction. Also in 2009, California Governor Arnold Schwarzenegger signed into law that May 22, Milk's birthday, be celebrated as "Harvey Milk Day." It The day is now celebrated with events throughout the world. Although Milk's life ended tragically, he remains an icon throughout the LGBT community and is remembered for his tenacious dedication to fighting for equal rights for all people.

Stanford News (http://news.stanford.edu/)

MARCH 8, 2017

Stanford scholar tells history of Cold War from African American perspective

Stanford literary scholar Vaughn Rasberry illuminates a body of work by black writers who spotlighted cultural contradictions during the Cold War.

BY RAYMOND L. RIGOGLIOSO

In the American imagination, Soviet totalitarianism conjures thoughts of repression, violence and deprivation.

During the Cold War, black writers and activists took a different view, challenging the United States to reconcile its message of liberty abroad while upholding Jim Crow laws at home.

This provocation lies at the heart of research by **Vaughn Rasberry (https://english.stanford.edu/people/vaughn-rasberry)**, assistant professor of English at Stanford, that tells the story of how African Americans challenged policy in the United States during the Cold War – with race at its core.

(http://news-media.stanford.edu/wp-content/uploads/2017/03/07112153/coldwarrace_news.j

W.E.B. Du Bois is among African American writers whose Cold War views are explored in a new book by Stanford Assistant Professor Vaughn Rasberry. *(Image credit: Cornelius Marion Battey / Library of Congress / Wikimedia Commons)*

An intersection of two phenomena

Rasberry's research focuses on the rise and fall of two 20th-century phenomena: the color line – domestically in the form of segregation and globally in the form of colonialism – and totalitarianism, including fascism, Japanese imperialism and communism.

Sifting through novels, essays, films, newspaper articles, propaganda and government documents, Rasberry examines how African Americans navigated the political waters of the mid-20th century living under segregation.

These findings appear in his book, ***Race and the Totalitarian Century: Geopolitics in the Black Literary Imagination* (http://www.hup.harvard.edu/catalog.php?isbn=9780674971080)**, which highlights the cosmopolitan spirit African Americans had at the time and the commonality between struggles at home and those abroad.

Rasberry cites the Suez Canal crisis as a case in point. In 1956, Egyptian president Gamal Abdel Nasser nationalized the Suez Canal Zone, wresting control from the British and French. This act of defiance against colonial powers became a flashpoint for African Americans, who saw their own struggle mirrored in Egypt's resistance to colonialism.

"When you think about the sheer remoteness of this event, which had very little direct impact on African Americans, it says something that black America rallied behind Nasser," Rasberry said. "There was a sense among people who were persecuted on the same basis that their fates were linked: a victory for Nasser was a victory for people of color worldwide."

Racial progress of communism

During the McCarthy era, few Americans dared voice support for communism. W.E.B. Du Bois, one of the most prominent black intellectuals at the time, was a notable exception, siding with the Soviet Union in the Cold War. Shining a light on his later career, which most scholars have studiously avoided, Rasberry reveals uncomfortable truths about DuBois and the United States.

"Du Bois wrote a eulogy to [Soviet leader Joseph] Stalin in an unpublished manuscript, *Russia and America*, which valorized Soviet achievements. Why would he praise Stalin even after he was aware of the totality of Soviet violence and repression?" Rasberry asked. "My aim is not to uphold him, but to examine this period and see why he would hold these views at great personal risk."

The key to understanding Du Bois' puzzling support for Stalin may lie in the influence of his wife, Shirley Graham, who was staunchly pro-communist and well-connected with the political elite in Egypt, Ghana, China, the Soviet Union and Europe.

Du Bois also viewed the Soviet Union – despite the atrocities carried out against its own people under Stalin – as making considerable progress toward creating a society free of racial hierarchy, whereas the United States lagged. This progress resonated strongly with African Americans and people of color living in newly independent, formerly colonized countries.

"The writers in my book were able to see the value of the Soviet Union's assault on racism," Rasberry said. These writers leveled accusations of hypocrisy against the United States for presenting itself as a beacon of liberty while systematically oppressing African Americans.

A racially egalitarian world

Rasberry's research harkens to his days as a graduate student when he became personally invested in the subject.

"I have had a longstanding interest in understanding how African American writers sought to create a more racially egalitarian world," he said.

Stanford also played a role in shaping Rasberry's argument. Over the five years it took to write the book, Rasberry taught undergraduate and graduate students on these subjects. "This teaching allowed me to test out these ideas to smart, skeptical students – 0to see what resonated and what needed to be refined," he said.

The interdisciplinary nature of **Stanford's Center for Comparative Studies in Race and Ethnicity (https://ccsre.stanford.edu/)**, where Rasberry is a faculty affiliate, provided an intellectual forum that enriched his thinking.

"These writers taught us that you cannot isolate the race problem in the United States from other struggles," Rasberry said. "They also gave us another perspective on totalitarianism, which can help us to re-conceptualize this concept in more useful and politically salient terms."

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Published on *History Today* (https://www.historytoday.com)

Native Americans and the Federal Government

Andrew Boxer traces the origins of a historical issue still as controversial and relevant today as in past centuries.

At the start of the twentieth century there were approximately 250,000 Native Americans in the USA – just 0.3 per cent of the population – most living on reservations where they exercised a limited degree of self-government. During the course of the nineteenth century they had been deprived of much of their land by forced removal westwards, by a succession of treaties (which were often not honoured by the white authorities) and by military defeat by the USA as it expanded its control over the American West.

In 1831 the Chief Justice of the Supreme Court, John Marshall, had attempted to define their status. He declared that Indian tribes were 'domestic dependent nations' whose 'relation to the United States resembles that of a ward to his guardian'. Marshall was, in effect, recognising that America's Indians are unique in that, unlike any other minority, they are both separate nations and part of the United States. This helps to explain why relations between the federal government and the Native Americans have been so troubled. A guardian prepares his ward for adult independence, and so Marshall's judgement implies that US policy should aim to assimilate Native Americans into mainstream US culture. But a guardian also protects and nurtures a ward until adulthood is achieved, and therefore Marshall also suggests that the federal government has a special obligation to care for its Native American population. As a result, federal policy towards Native Americans has lurched back and forth, sometimes aiming for assimilation and, at other times, recognising its responsibility for assisting Indian development.

What complicates the story further is that (again, unlike other minorities seeking recognition of their civil rights) Indians have possessed some valuable reservation land and resources over which white Americans have cast envious eyes. Much of this was subsequently lost and, as a result, the history of Native Americans is often presented as a morality tale. White Americans, headed by the federal government, were the 'bad guys', cheating Indians out of their land and resources. Native Americans were the 'good guys', attempting to maintain a traditional way of life much more in harmony with nature and the environment than the rampant capitalism of white America, but powerless to defend their interests. Only twice, according to this narrative, did the federal government redeem itself: firstly during the Indian New Deal from 1933 to 1945, and secondly in the final decades of the century when Congress belatedly attempted to redress some Native American grievances.

There is a lot of truth in this summary, but it is also simplistic. There is no doubt that Native Americans suffered enormously at the hands of white Americans, but federal Indian policy was shaped as much by paternalism, however misguided, as by white greed. Nor were Indians simply passive victims of white Americans' actions. Their responses to federal policies, white Americans' actions and the fundamental economic, social and political changes of the twentieth century were varied and divisive. These tensions and cross-currents are clearly evident in the history of the Indian New Deal and the policy of termination that replaced it in the late 1940s and 1950s. Native American history in the mid-twentieth century was much more than a simple story of good and evil, and it raises important questions (still unanswered today) about the status of Native Americans in modern US society.

The Dawes Act

Between 1887 and 1933, US government policy aimed to assimilate Indians into mainstream American society. Although to modern observers this policy looks both patronising and racist, the white elite that dominated US society saw it as a civilising mission, comparable to the work of European missionaries in Africa. As one US philanthropist put it in 1886, the Indians were to be 'safely guided from the night of barbarism into the fair dawn of Christian civilisation'. In practice, this meant requiring them to become as much like white Americans as possible: converting to Christianity, speaking English, wearing western clothes and hair styles, and living as selfsufficient, independent Americans.

Federal policy was enshrined in the General Allotment (Dawes) Act of 1887 which decreed that Indian Reservation land was to be divided into plots and allocated to individual Native Americans. These plots could not be sold for 25 years, but reservation land left over after the distribution of allotments could be sold to outsiders. This meant that the Act became, in practice, an opportunity for land-hungry white Americans to acquire Indian land, a process accelerated by the 1903 Supreme Court decision in *Lone Wolf v. Hitchcock* that Congress could dispose of Indian land without gaining the consent of the Indians involved. Not surprisingly, the amount of Indian land shrank from 154 million acres in 1887 to a mere 48 million half a century later.

The Dawes Act also promised US citizenship to Native Americans who took advantage of the allotment policy and 'adopted the habits of civilized life'. This meant that the education of Native American children – many in boarding schools away from the influence of their parents – was considered an essential part of the civilising process. The principal of the best-known school for Indian children at Carlisle in Pennsylvania boasted that his aim for each child was to 'kill the Indian in him and save the man'.

John Collier and the Indian New Deal

The 1924 Citizenship Act granted US citizenship to all Native Americans who had not already acquired it. In theory, this recognised the success of the assimilation policy, but the reality was different. Indians were denied the vote in many Western states by much the same methods as African-Americans were disenfranchised in the South. The Meriam Report, published in 1928, showed that most Indians lived in extreme poverty, suffering from a poor diet, inadequate housing and limited health care. Schools were overcrowded and badly resourced. The Meriam Report, while accepting that government policy should continue to enable Indians to 'merge into the social and economic life of the prevailing civilization as adopted by the whites', rejected 'the disastrous attempt to force individual Indians or groups of Indians to be what they do not want to be, to break their pride in themselves and their Indian race, or to deprive them of their Indian culture'.

This new approach to Native Americans was enthusiastically endorsed by John Collier, who became Commissioner for Indian Affairs in 1933. Collier, a white American, believed that Native American community life and respect for the environment had much to teach American materialism, and he became passionately determined to preserve as much of the traditional Indian way of life as possible. In particular, he wanted Native American reservations to be permanent, sovereign homelands. The centrepiece of his new policy was the 1934 Indian Reorganisation Act (IRA) which ended the policy of allotment, banned the further sale of Indian land and decreed that any unallotted land not yet sold should be returned to tribal control. It also granted Indian communities a measure of governmental and judicial autonomy.

The IRA was vitally important in arresting the loss of Indian resources, and Collier, by directing New Deal funds towards the regeneration of Indian reservations, successfully encouraged a renewed respect for Native American culture and traditions. Not surprisingly, some historians sympathetic to Native Americans have placed him and the IRA on a pedestal. Vine Deloria Jnr described the IRA

as 'perhaps the only bright spot in all of Indian-Congressional relations' and Angie Debo praised Collier as 'aggressive, fearless, dedicated ... an almost fanatical admirer of the Indian spirit'.

Other historians, however, have argued that the IRA was highly controversial and, in many respects, unsuccessful. The Act assumed that most Native Americans wanted to remain on their reservations, and so it was vigorously opposed by those Indians who wanted to assimilate into white society and who resented the paternalism of the Bureau of Indian Affairs (BIA). These Indians criticised the IRA as a regressive 'backto- the-blanket' policy that aimed to turn them into living museum exhibits. Although the IRA was accepted by 174 out of a total of 252 Indian tribes, a number of the larger tribes were among those who rejected it. Historian Lawrence Kelly tells us that 'of approximately 97,000 Indians who were declared eligible to vote, only 38,000 actually voted in favour of the Act. Those who voted against it totalled almost 24,000.' Nor did the electoral rules add to its credibility. Peter Iverson has pointed out that 'the practice of counting no vote at all as a vote in favour of the measure helped swing close elections, especially on smaller reservations. The Santa Ysabel reservation in California was counted as giving the Act a 71- 43 margin of approval, but only nine persons there actually voted for [the IRA].'

Moreover, Collier's policies, through no fault of his own, failed in the most crucial areas of all. The erosion of Indian land as a result of allotment had created a class of 100,000 landless Indians, adding to the problems of the reservations whose best land had been sold off since 1887. Few could become selfsustaining economically and Collier succeeded in adding only four million acres to their land base. Furthermore, the annual budget of the BIA was not large enough to cope with the demands of economic development for the reservations, let alone provide adequate educational and health facilities.

The Impact of the Second World War

The Second World War further damaged the Indian New Deal. The BIA office was moved from Washington to Chicago in 1942 and its budget was cut as federal resources were devoted to more urgent war-related activities. The reservations lost a further million acres of land, including 400,000 acres for a gunnery range and some for the housing of Japanese-American internees.

The experience of war also transformed the lives and attitudes of many Native Americans. There were approximately 350,000 Native Americans in the USA in 1941, of whom 25,000 served in the armed forces. This was a higher proportion than from any other ethnic minority. Recent films have celebrated some of their best-known contributions. Clint Eastwood's 2006 film *Flags of our Fathers* explored the tragic life of Ira Hayes, one of the men featured in the famous photograph of six Marines raising the US flag over Mount Suribachi on Iwo Jima. The 2002 film *Windtalkers* dealt with a group of Navajo whose language provided the US military with an indecipherable code.

A further 40,000 Native Americans worked in war-related industries. For many, this involved a permanent relocation to the cities and a willingness to assimilate into mainstream white culture. Collier himself recognised that the federal government would need to change its Native American policy fundamentally as a result of the war. In 1941 he pointed out that, 'with resources inadequate to meet the needs of those already [on the reservations], the problem of providing employment opportunities and a means of livelihood for each of the returning soldiers and workers will prove a staggering task'. The following year he even hinted at a return to the policy of assimilation. 'Should economic conditions after the war continue to offer employment opportunities in industry, many Indians will undoubtedly choose to continue to work away from the reservations. Never before have they been so well prepared to take their places among the general citizenry and to become assimilated into the white population.'

The Genesis of the Policy of Termination

The Second World War profoundly changed the ideological climate in the United States. The nation had just fought a major war to destroy one collectivist ideology – Nazism – and the onset of the Cold War in the late 1940s made most Americans worried about the power and ambitions of another – Communism. Americans began stridently trumpeting the virtues of individual freedom against the collective ideology of the USSR. Collier's policies were regarded with intense suspicion, and the IRA came to be seen as a domestic version of socialism, or even communism. Many conservative Congressmen had never liked it because they believed that the autonomy it granted to Native American communities gave them special privileges. Furthermore, Collier's policies seemed to perpetuate the status of Native Americans as wards of the federal government who would require continued supervision and economic support from the BIA, which, to conservative Congressmen, was an expensive and unnecessary bureaucracy funded by white taxpayers. The IRA was also criticised by the National Council of Churches for the support it gave to Native American religions. In January 1945 Collier, worn down by the growing hostility to his policies, resigned as Commissioner.

The notion that it was time to terminate the wardship status of Native Americans and wind up federal responsibility for their welfare became increasingly popular in Washington in the postwar years. This would mean that BIA could be abolished, the reservations broken up, Indian resources sold off and the profits divided among tribal members. Indians would become just like any other Americans – responsible as individuals for their own destiny.

In this context, Collier's critics could blame his policies, rather than inadequate federal funding, for the economic backwardness of the reservations. The IRA, by returning the land to communal ownership and making it inalienable, had limited the property rights of individual Indians. In the words of historian Kenneth Philp, 'this well-intentioned [IRA] policy threatened perpetual government supervision over many competent individuals, made it difficult to secure loans from private sources, and discouraged Indians from developing their land resources'. Furthermore, the wartime migration of many Indians to the cities appeared to suggest that what many Native Americans themselves wanted was participation in America's booming postwar industrial economy rather than a life of rural squalor on the economically deprived reservations.

Relocation, 1948-61

In 1948 William Brophy, Collier's successor as Commissioner, began a policy of relocating Indians – initially from two tribes – to the cities where the job opportunities were better than on the reservations. This programme was gradually expanded and by 1960 nearly 30 per cent of Native Americans lived in cities, as opposed to just 8 per cent in 1940. Although the BIA provided some financial support and advice for relocating Indians, it reported as early as 1953 that many Native Americans had 'found the adjustment to new working and living conditions more difficult than anticipated'. Securing housing, coping with prejudice and even understanding the everyday features of urban life such as traffic lights, lifts, telephones and clocks made the experience traumatic for many Indians. Not surprisingly, many suffered unemployment, slum living and alcoholism. Federal funding for the relocation project was never sufficient to assist Native Americans to cope with these problems, and many drifted back to the reservations.

The Indian Claims Commission

The first step towards terminating the reservations came in 1946 when Congress, in part to reward Native Americans for their contribution to the war effort, set up the Indian Claims Commission to hear Indian claims for any lands stolen from them since the creation of the USA in 1776. The Commission was initially supported by the National Congress of American Indians (NCAI), a pressure group formed in 1944, because they welcomed a federal initiative to deal with long-standing grievances. However, it was clear that the Commission would provide only financial compensation and not return any land. The federal government regarded the Commission as the first step to 'getting out of the Indian business'. This was clearly how President Truman saw it: 'With

the final settlement of all outstanding claims which this measure ensures, Indians can take their place without special handicaps or special advantages in the economic life of our nation and share fully in its progress.' The original intention was for the Commission to sit for five years, but there were so many claims that it remained in existence until 1978.

The Termination of the Reservations

In August 1953, Congress endorsed House Concurrent Resolution 108 which is widely regarded as the principal statement of the termination policy:

> It is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all the rights and prerogatives pertaining to American citizenship.

In the same month Congress passed Public Law 280 which, in California, Minnesota, Nebraska, Oregon and Wisconsin, transferred criminal jurisdiction from the Indians to the state authorities, except on certain specified reservations. Congress also repealed the laws banning the sale of alcohol and guns to Indians. These measures could be justified as merely bringing Indians into line with other US citizens but, as one historian has observed, 'the states were not as eager to control the reservations as the advocates of termination had expected'. In some Indian areas law and order disappeared altogether.

Many Native Americans were alarmed about the termination policy. One Blackfoot tribal chairman pointed out that, 'in our language the only trans-lation for termination is to "wipe out" or "kill off"'. But in Washington, it was seen in terms of freedom and opportunity. Senator Arthur Watkins of Utah, the principal Congressional advocate of termination, claimed in a 1957 article that it could be compared to the abolition of slavery: 'Following in the footsteps of the Emancipation Proclamation of 94 years ago, I see the following words emblazoned in letters of fire above the heads of the Indians – THESE PEOPLE SHALL BE FREE!'

These remarks were, of course, selfinterested. Termination would open up yet more valuable Indian land and resources to white purchasers. This explains why, in the Congressional committee hearings on termination, there was considerable controversy over the future of the first reservations selected, especially those of the Menominee of Wisconsin and the Klamath of Oregon who had large land holdings and valuable forestry and timber resources.

Termination proved very hard to resist. Opponents who stressed the backwardness of the reservations and the inability of individual Indians to cope without continued federal support only confirmed the Congressmen in their conviction that the IRA had failed and that a new policy was necessary. Even the lack of adequate facilities for Native Americans could be used as evidence that termination was necessary. When a Congressman from Texas tried to argue against the termination of the small reservation in his district, he had to admit that the federally-maintained Indian school attended by the Native American children was over 500 miles from their homes, and that it made more sense for them to be educated locally alongside white children.

The NCAI was also in difficulties because many Native Americans favoured termination. These were mostly the half-blood Indians who had moved to the cities and, in many cases, adopted the values and lifestyles of the white majority. They stood to gain financially if the valuable land on their reservations was sold and the money divided among tribal members. As Helen Peterson, a member of the Oglala Sioux and a former director of the NCAI, later recalled:

In the NCAI office we did all we could to support, encourage, and back up those people who dared to question termination, but it was pretty much a losing battle. The NCAI was in a tough spot. We were deeply committed to respecting the sovereignty of a tribe. Did the NCAI want to oppose termination even when the people involved wanted it? We never really came to a final answer on that question.

The NCAI was able to prevent the termination of some tribes, including the Turtle Mountain Chippewa, but not the resource-rich Menominee and Klamath. However, the pace of termination slowed in the mid-1950s as it became clear that many Indians had not been properly consulted and few fully understood its implications. In 1958 the Secretary of the Interior, Fred Seaton, declared that 'it is absolutely unthinkable ... that consideration would be given to forcing upon an Indian tribe a so-called termination plan which did not have the understanding and acceptance of a clear majority of the members affected'. In the 1960s the policy was abandoned.

Conclusion: the Impact of Termination

Judged by numbers alone, the impact of termination was small. It affected just over 13,000 out of a total Indian population of 400,000. Only about 3 per cent of reservation land was lost. But it caused huge anxiety amongst Native Americans and had the ironic result of stimulating the formation of the 'Red Power' protest movement of the 1960s. It remains an emotive issue among historians sympathetic to Native Americans. Angie Debo called it 'the most concerted drive against Indian property and Indian survival' since the 1830s. Jake Page concluded that it had been 'an utter betrayal of trust responsibilities by the federal government', and Edward Valandra has claimed that 'termination increasingly resembled extermination'. However, it is difficult to see what policy, in the context of the early Cold War, could have replaced it. Even today, neither the Native American tribes themselves, nor the federal government, have successfully resolved exactly what the status and identity of the original inhabitants of the north American continent should be.

Issues to Debate

- How successful was the Indian New Deal?
- How important was the Second World War in transforming the lives and status of Native Americans?
- Was the Termination policy merely an excuse to plunder Native American land and resources?
- How similar was the Native American struggle for their rights to the African American civil rights campaign?

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Andrew Boxer was for many years Director of Studies and Head of History at Eastbourne College. He is an A-level examiner for OCR and the author of a number of textbooks on aspects of modern British and European history.

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WELCOME TO THE NEW JERSEY
AMISTAD COMMISSION
INTERACTIVE CURRICULUM

The National Black Feminist Organization

1973 - 1980

The National Black Feminist Organization (NBFO) formed in New York City in 1973. The progressive organization formed for two purposes: to combat the racism present in the Women's Liberation Movement and address the sexism rooted in the Black Liberation Movement. At the time of its formation most people associated "black" issues with black men and "women's" issues with white women. Therefore, black women formed their own organization to address their needs and desires specifically. Members of NBFO desired to develop a theory addressing the way race and gender, as well as class, interconnected in order to take action against the racist and sexist discrimination black women faced. They needed to create their own progressive movement to address the issues that directly affected them based on this dual discrimination.

Black women lacked a voice in both the Black Liberation Movement and the Women's Liberation Movement. The Black Liberation Movement was for black men. This movement served as the redemption of black masculinity after the humiliation of slavery and segregation. Racism resulted in the loss of manhood. This created the impression that racism was more harmful to black men than to black women. Women therefore did not play a major role in the Black Liberation Movement. They did not have a say in the direction of the movement, and the men in the movement expected the women to adhere to strict gender roles and perform "womanly" duties. At the same time, black women were often also encouraged to not participate in the Women's Liberation Movement. Many expected them to dedicate themselves to the "larger struggle" of their race as a whole. Black women were often excluded from participating in the politics of the Women's Liberation Movement. They rarely received invitations to conference panels to discuss the goals and strategies of the movement. Black women became frustrated within the Women's Liberation Movement because many white women did not recognize their racism. Many of the white women in the movement believed they could not be racist and oppress black women because they were oppressed themselves. In response to the exclusion they faced from both organizations, black women formed the National Black

Feminist Movement to address issues specific to the needs of black and Third World women. They confronted racism and sexism at the same time by trying to educate their non-black and non-female counterparts.

Black women faced a struggle that was different from that of black men and white women. Black women often had to economically and emotionally support their families while confronting the perpetual difficulties of both racism and sexism. In order to confront this, black women had to develop their own feminist consciousness and discourse to address their issues specifically. They needed to broaden support for both black and Third World women. They also had to educate the public about their movement. They needed to garner support and make their movement accessible to women who may not have the means to be a part of the movement. They needed mentors to guide them in developing their movement and connecting it to the larger feminist and black liberation movements to achieve change. They also however had to hold each movement accountable for their discrimination.

In New York City in 1973, Margaret Sloan, editor of *Ms.* Magazine, was elected to be the first chairperson of the National Black Feminist Organization. The organization consisted of mostly black, middle class, professional women. It sought to establish an independent identity for black women while still remaining in tune with the larger feminist and black liberation movements. Some African Americans viewed the black women who joined NBFO as selling out and dividing their race. However, members argued that they had struggled to develop a positive self-image, and therefore desired to define their own self-image as black women. They believe the presence of their organization would help to strengthen both the Women's and Black Liberation Movements by providing black women with leadership positions and honor. This would allow them to supplement these movements in order to bring about greater change.

The formation of the National Black Feminist Organization was formally announced on August 15, 1973. By August 16, the organization had over 400 requests for membership. The NBFO held its first conference in December of 1973. By February 1974 the liberal organization boasted over 2,000 members and ten chapters across the country. NBFO focused on the issues of reproductive rights, sterilization abuse, equal access to abortion, health care, child care, disability rights, violence against women, rape, battering, sexual harassment, welfare rights, lesbian and gay rights, police brutality, labor organizing, aging, anti-imperialism, anti-racism, nuclear disarmament, and preserving the environment. Members also dedicated themselves to providing protection and access to resources in order to improve the lives of black and Third World women.

Despite its initial success, NBFO experienced troubled times soon after its formation. Some chapters, such as the Chicago branch, were successful in creating unity among chapter members. Many of the chapters however could not agree on how to run the organization as a whole. Members of the New York City branch, for example, were constantly at odds as to how to deal with specific issues. This was something founding member Michele Wallace expected would happen. She believed the organization was doomed from its origin because membership was too diverse. Members included Socialist Workers Party members, radical lesbians, National Organization of Women members, and many other women from various walks of life. This made it difficult to come to agreements on key issues. Many of the leaders

of the organization were also members of other groups, and black women's issues often took a back seat. Meetings often resulted in unproductive debates and accomplished little.

By 1976, the national organization had disbanded, though a few individual chapters remained in operation until about 1980. Disputes between members and the division of members between black liberation and feminist liberation split the organization apart. Although the organization was short lived, it provided an important discourse on the issues of African American women. It confronted the double discrimination black women faced and displayed to society that they were determined to overcome this oppression and foster a society that is more understanding of the struggles of black and Third World women.

WELCOME TO THE NEW JERSEY
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Mario Molina

1943 - Present

Mario Molina is a Nobel Prize winning Chemist. He became interested in science at an early age, dedicating himself to his research and studies. He is most famous for his research on the man-made compounds responsible for the depletion of the ozone layer. In 1995, he received the Nobel Prize in Chemistry for his research and discoveries. He is currently one of the most knowledgeable experts on the effects of chemical pollution on the environment.

Mario Molina was born on March 19, 1943 in Mexico City. He grew up in a wealthy family that placed an emphasis on education. Molina attended elementary and middle school in Mexico City. As a child, he possessed a passion for science. He converted a spare bathroom in his family's home into his personal laboratory. There he spent his spare time playing with chemistry sets. His aunt, Esther Molina, was a chemist and assisted Molina with more challenging experiments. When he was eleven, keeping with his family's tradition of sending their children to receive an education abroad, Molina attended a boarding school in Switzerland. After spending three years in Europe, Molina returned to Mexico. Then he began his undergraduate studies in Chemistry.

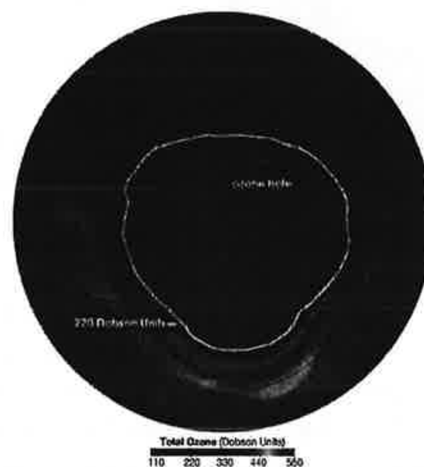
Molina then decided that he wanted to obtain his Ph.D. in physical Chemistry. He traveled to Germany and enrolled at the University of Freiburg. There he improved his skills in mathematics and physics. Then, he contemplated enrolling in a university in the United States. He wanted to broaden his background and discover new areas of research. Before traveling to the United States, he spent several months in Paris. While in Paris, he studied mathematics on his own. Then, he returned to Mexico. He became an Assistant Professor in the first graduate program in chemical engineering at the National Autonomous University of Mexico (UNAM). Finally, in 1968, Molina enrolled in a graduate program at the University of California at Berkley to study physical chemistry.

In 1972, Molina received his Ph.D. He remained at Berkley to continue his research for several months. In 1973, Molina moved to Irvine, California. There he began working with Professor F. Sherwood Rowland. Molina and Rowland began a project testing industrial chemicals called chlorofluorocarbons (CFCs). Molina believed CFCs accumulated in the atmosphere, producing harmful effects. At that time, most people believed these chemicals had no effect on the environment because they posed no harm to people in their original form. However, Molina believed these chemicals changed when they entered the atmosphere. He discovered that when CFCs accumulated in the upper levels of the

atmosphere they broke apart into chlorine atoms. After several tests, Molina learned that these chlorine atoms destroyed the ozone layer of the atmosphere.

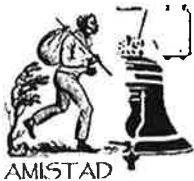
Molina and Rowland published their discoveries in the June 28, 1974 issue of the paper *Nature*. Other scientists became interested in their findings. Therefore Molina and Rowland decided to present their results to policy makers and the media. They wanted to convince the public to demand a solution to the problem.

In 1975, Molina became a full-time faculty member of the University of California, Irvine. He continued to work with professor Rowland. He also began his own program studying various unstable chemicals and their importance in the atmosphere. Molina valued his time as an Assistant then Associate Professor at Irvine. However, he did not like that his responsibilities of teaching, supervising graduate students, staff meetings, etc took him away from performing his own experiments. Therefore, in 1982, he decided to leave academic life. He then acquired a position at the Molecular Physics and Chemistry Section at the Jet Propulsion Laboratory (JPL).



In 1985, scientist Joseph Farman published a report of a massive and growing hole in the ozone layer over Antarctica. After learning this, Molina's research group at the JPL began several years of research. They focused on the effects of CFCs in clouds in the stratosphere. Some of these clouds consisted of ice crystals. Molina created an environment in his laboratory in southern California that simulated the chemical effects of Antarctic clouds. His results showed that CFCs very efficiently break into ozone-destroying chlorine atoms in the presence of ice in the polar stratosphere. This research helped convince other scientists and policy makers that chemicals such as CFCs produced damaging effects on the Earth's atmosphere.

In 1989, Molina returned to academic life and joined the faculty at the Massachusetts Institute of Technology (MIT). At MIT, Molina continued to research on his own and with his students. In 2004, he decided to leave MIT to teach at the University of California, San Diego. He continues to teach and research there today. Molina received many honors for his studies on the effects of atmospheric pollution. He also served on the board of several committees to investigate air pollution. In 1995, he earned the prestigious honor of receiving the Nobel Prize in Chemistry for his research on the effect of CFCs in the upper atmosphere.



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Susana Martinez (Governor of New Mexico)

Susana Martinez is the 31st Governor of New Mexico. Originally, she was a Democrat. However, she switched to the Republican Party in 1995. Watching politicians argue over political issues intrigued Martinez at an early age. This inspired her to excel through school and earn a law degree. For several years she served in the District Attorney's office in Las Cruces, New Mexico. In November 2010, Martinez became the Governor of New Mexico. She became very popular as Governor. Many people believed Mitt Romney would choose her to be his Vice Presidential candidate in the 2012 presidential election. However, Martinez said that she was unwilling to leave her family and would not have accepted the position.

Susana Martinez was born on July 14, 1959 in El Paso, Texas. Her parents worked hard through her childhood to provide a comfortable life for their family. They started their own private security company that the entire family, including Susana, worked for in order to make money for their family. When Martinez did not help with the family business, she helped take care of her special needs sister. Her parents sent Martinez to a Catholic elementary school for the first six years of her education. Then, she attended public school where she excelled academically. As a young child, she became fascinated with the work of politicians. She soon realized that most politicians were lawyers. Therefore, she made it her goal to become a lawyer in order to participate in national politics.

Martinez allowed this passion for politics to spill over into her schoolwork. As a senior at Riverside High School, a group of seniors encouraged Martinez to run for student council. They advised her to run for the unopposed position of council secretary. Martinez studied the duties of council secretary as well as the other positions. Eventually, she decided that student body president was a better position for her. She defeated the other candidates and served as student body president until her graduation in 1977. Martinez then went on to the University of Texas at El Paso where she earned her bachelor's degree in 1981. Then, in 1986, she received her J.D. from the University Of Oklahoma College Of Law.

After her graduation, Martinez moved to Las Cruces, New Mexico. There, she wished to become a family practice lawyer or a prosecutor. She began her first job as a lawyer at the Las Cruces District Attorney's Office. She was the only female Hispanic lawyer. She served as Assistant District Attorney for the third Judicial District in Doña Ana County, New Mexico, from 1986 to 1992. In 1992, Martinez, then a deputy district attorney, helped District Attorney Douglass R. Driggers run for a third term in office. However, he lost in the democratic primary to defense attorney Greg Valdez. Valdez went on to become the new District

Attorney. He clashed with Martinez at the start of his administration. Soon after Valdez took office, Martinez informed him that a former employee of his asked her to testify against his wrongful termination by Valdez. Valdez fired Martinez the same day she informed him of the pending case. Although Martinez did not intend to harm Valdez's credibility, her wrongful termination prompted Martinez to file a civil rights lawsuit against Valdez. They settled out of court for $120,000. Martinez remained in Las Cruces and became an attorney for the state Children, Youth and Families Department.

In 1995, Martinez decided to change her political affiliation. She realized that her concerns allied more with the Republican Party. In 1996, she challenged Valdez, now as a Republican. She defeated him and became District Attorney. She won re-election three times and held the position for fourteen years. As District Attorney, Martinez oversaw several cases of child abuse and child homicide. She became an important voice in establishing Katie's Law. Katie Sepich was a twenty-two year old college student who was brutally murdered. Martinez prosecuted and convicted her killer. She helped fight to pass a law in her name requiring anyone arrested for a violent felony in New Mexico to provide a DNA sample.

Martinez decided to run for Governor of New Mexico in the 2012 election. On June 1, 2010, she won the Republican nomination. She also won the endorsement of former Alaska Governor Sarah Palin. On November 2, 2010, she defeated her opponent, Diane Denish. She was sworn in to office on January 1, 2011. She is the first female Governor of New Mexico. She is also the first female Hispanic Governor in the country. As Governor, Martinez seeks to cut wasteful spending, lower taxes, create jobs, end corruption in government, fight for education reform, secure the United States-Mexican border from illegal immigration, expand her pro-life agenda, and oppose the legalization of same-sex marriages in New Mexico. She also sought to expand Katie's Law. She wanted the law to require a DNA sample from all people arrested for any felony charge. Congress signed the addition into law with extensive bi-partisan support in April 2011. In September 2011, Martinez fell under scrutiny when she admitted that she did not know whether her paternal grandparents had immigrated to the United States illegally. But the issue was resolved when further research revealed that they had followed the rules of entry at that time they emigrated from Mexico.,

During the 2012 presidential race, many people believed Mitt Romney would choose Martinez to be his Vice Presidential running mate. Martinez, however, stated several times that she would not accept the position. In April 2012, Martinez stated in the *Albuquerque Journal* that she would not accept a nomination due to her commitment of taking her of her family and special needs sister. She argued that she could not perform both tasks at the same time to the best of her ability. She believed that her family needed her to stay in New Mexico. In August 2012, Mitt Romney chose Paul Ryan as his Vice Presidential candidate.

Susana Martinez's dedication and impressive career won her several awards. *Heart Magazine* named her "Woman of the Year" in 2008. In April 2011, *Hispanic Business Magazine* also named her "Woman of the Year." She won the honor for her efforts to lower taxes, create a friendlier business environment, and provide more jobs in New Mexico. Martinez also received the honor of being New Mexico's "Prosecutor of the Year." She won this title on two separate occasions. Susana Martinez continues to serve as Governor of New Mexico as she attempts to improve the lives of its residents.

Unit 2

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The Employment and Economic Advancement of African-Americans in the Twentieth Century

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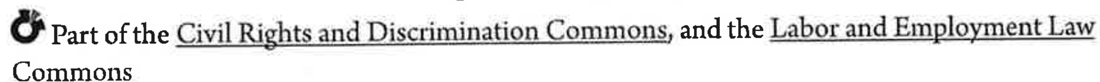

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THE EMPLOYMENT AND ECONOMIC ADVANCEMENT OF AFRICAN–AMERICANS IN THE TWENTIETH CENTURY

Kenneth Glenn Dau-Schmidt and Ryland Sherman*

In this article we examine the progress of African–Americans in the American labour market over the course of the twentieth century. We trace their progress as African-Americans moved from low-skill low-wage jobs in southern agriculture to a panoply of jobs including high-skill, high-wage jobs in industries and occupations across the country. We also document the migrations and improvements in educational achievement that have made this progress possible. We examine the progress yet to be made and especially the problems of lack of education and incarceration suffered by African–American males. Finally, we examine the importance of anti-discrimination laws and affirmative action in promoting African–American economic progress.

Keywords: Labour Market, African-American, Anti-Discrimination Laws, Affirmative Actions

INTRODUCTION

The African–American experience in the American economy in the twentieth century has been a story of many successes, and more than a few unfulfilled promises. Brought in chains to the poorest region of the United States (US) to do the least desirable work, and purposely denied education in order to preserve their subjugation, African–Americans began the twentieth century on the lowest rung of the American economic ladder, doing predominantly low-skilled, low-wage agricultural labour in the poorest region of the country. However, over the course of the century, African–Americans were able to overcome express and implicit discrimination to climb the economic ladder and achieve success in new regions and new occupations and professions.

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African–Americans still suffer from many disadvantages that diminish their economic success, particularly males and particularly in the sphere of education, but certainly in comparison with the previous three centuries, the twentieth century marked important advancements in terms of economic opportunity and success for African–Americans.

In this essay, we examine how African–Americans achieved economic progress during the twentieth century. We do this by examining their progress along four vectors of economic opportunity—geographical distribution, labour force participation, occupational distribution, and educational attainment—and then examine the resulting improvement in relative economic rewards. We also examine the impact that the Civil Rights Movement, the Civil Rights Act, and affirmative action policies have had on this progress. We see that from an economic perspective, the story of African–American success during the twentieth century is one of overcoming discrimination by moving from a situation of relatively constrained economic opportunities, to gain access to, and acquire success in terms of, an ever larger and more rewarding set of opportunities across the country. It is hoped that the recounting of the success of African–Americans in achieving greater economic success by using the law and their own initiative to gain access to new geographical, occupational, and educational opportunities would serve as an inspirational and educational lesson for India's Dalits in their own struggle for equal opportunities.

GEOGRAPHICAL OPPORTUNITIES

Since the country's inception, the ability of workers to move from one region of the country to another to seek out better economic opportunities has been a hallmark of the US labour market. Since the days of the pioneers, if economic opportunities are better in another area of the country, Americans have shown a great willingness to relocate to take advantage of these opportunities. Even today in the US, workers migrate within the country for new economic opportunities at more than twice the rate of their European counterparts (Gáková and Dijkstra 2008). The ability and willingness of a people to move to new areas of the US for work is an important driver of economic opportunity. Moreover, the spatial segregation of disadvantaged minorities can lead to a concentration of poverty and magnify its effect (Massey and Denton 1993). As a consequence, it has been important for African–Americans to be able and willing to relocate for greater economic opportunities in order to attain economic success.

In 1900, African–Americans lived predominantly in the rural South—historically a very low-wage region of the country. As shown in Tables

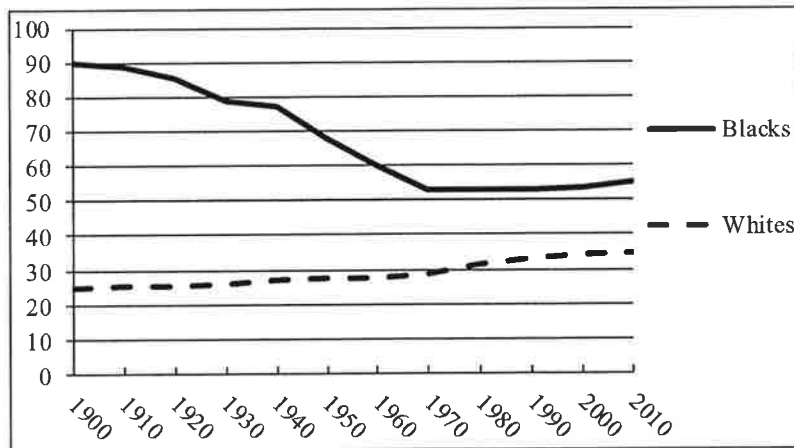
1 and 2, in 1900, approximately 87 per cent of African–Americans lived in the South while 84 per cent of them lived outside metropolitan areas. In comparison with White Americans, African–Americans were about three times as likely to live in the South and twice as likely to live in a non-metropolitan area. During the twentieth century, in what is referred to as 'the Great Migration', about 6.6 million African–Americans left the South to look for new opportunities in the industrialised North-east, Midwest and the West. This migration occurred in two waves, the first from 1910 to 1930 by 1.6 million people, and the second between 1940 and 1970 by about 5 million people (Wilkerson 2010; Frey 2005). As a result of this migration and the general move towards urbanisation, by the 1970s, only a little over half of the African–American population lived in the South while more than 80 per cent of them lived in metropolitan areas. Although African–Americans are still about 50 per cent more likely to live in the South than White Americans, they are now more likely to live in metropolitan areas than Whites, thereby raising concerns about them becoming 'marooned' on 'islands' of urban poverty (Massey and Denton 1993).

Table 1
Percentage of African–American and White Populations Living in the South, 1900–2010

Year	% Black	% White	B/W
1900	89.7	24.7	3.63
1910	89.0	25.1	3.54
1920	85.2	25.5	3.35
1930	78.7	25.7	3.06
1940	77.0	26.8	2.87
1950	68.0	27.3	2.49
1960	59.9	27.4	2.19
1970	53.0	28.4	1.87
1980	53.0	31.3	1.69
1990	52.8	32.8	1.61
2000	53.6	33.9	1.58
2010	55.0	34.9	1.58

Sources: US Census Bureau, Historical Census Statistics on Population Totals By Race, 1790 to 1990, Available at: http://www.census.gov/population/www/documentation/twps0056/twps0056.html; US Census Bureau, The Black Population 2010, Available at: http://www.census.gov/prod/cen2010/briefs/c2010br-06.pdf; US Census Bureau, The White Population 2010, Available at: http://www.census.gov/prod/cen2010/briefs/c2010br-05.pdf. All websites mentioned here accessed on 15 February 2013.

Figure 1: Percentage of African–American and White Populations Living in the South, 1900–2010



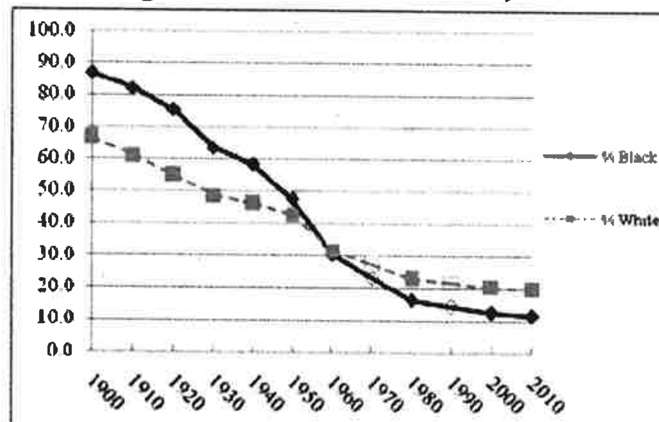
Sources: US Census Bureau, Historical Census Statistics on Population Totals By Race, 1790 to 1990, Available at: http://www.census.gov/population/www/documentation/twps0056/twps0056.html; US Census Bureau, The Black Population 2010, Available at: http://www.census.gov/prod/cen2010/briefs/c2010br-06.pdf; US Census Bureau, The White Population 2010, Available at: http://www.census.gov/prod/cen2010/briefs/c2010br-05.pdf. All websites mentioned here accessed on 15 February 2013.

Table 2
Metropolitan Status of African–American and White Populations, 1900–2010, as a Percentage of the Respective Populations

Year	% Black		% White		Ratio of Black/ White % in Non-metro
	Non-metro	Metro	*Non-metro*	Metro	
1900	86.9	13.1	66.6	33.4	130.4
1910	82.1	17.9	60.9	39.1	134.7
1920	75.3	24.7	54.9	45.1	137.1
1930	63.4	36.6	48.5	51.5	130.6
1940	58.4	41.6	46.2	53.8	126.2
1950	47.4	52.6	42.7	57.3	111.1
1960	30.3	69.7	31.6	68.4	95.9
1970	N/A	N/A	N/A	N/A	N/A
1980	16.2	83.8	23.1	76.9	70.1
1990	N/A	N/A	N/A	N/A	N/A
2000	12.4	87.6	20.2	79.8	61.6
2010	11.5	88.5	19.5	80.5	58.9

Source: US Census Data, Integrated Public Use Microdata Series, Available at: http://usa. ipums.org/usa/, Accessed on 15 February 2013.

Figure 2: Percentage of African–American and White Populations Living in the Non-urban Areas, 1900–2010



Source: US Census Data, Integrated Public Use Microdata Series, Available at: http://usa.ipums.org/usa/, Accessed on 15 February 2013.

LABOUR FORCE PARTICIPATION

Participation in the paid labour force is, of course, a pre-requisite for economic success. Historically, both African–American and White men have enjoyed a similarly high participation rate in the labour force, but recently both have suffered declines in participation, with African–American men suffering an earlier and larger detachment from the labour force. These patterns in male labour force participation are represented in Table 3 and Figure 3 for prime-age males, that is those in the age group of 31–40 years. Both African–American and White men began the first three decades of the twentieth century with almost identical participation rates of about 97 per cent, but African–American men suffered a decline, dropping to about 90 per cent during the period 1940–70 and then an even more pronounced decline to 72 per cent over the period 1970–2000. White men suffered a slower and milder decline, which only became pronounced after 1980. In 2010, African–American men enjoyed a labour force participation rate of 77 per cent, while White men enjoyed a participation rate of 91 per cent. The reasons for these declines in male participation include the decline in the male-dominated manufacturing sector, increases in male detachment from families with the rise of the single parent family, and increases in female labour force participation. An additional reason for this decline since 1980, particularly for African–American males, has been the increase in imprisonment accompanying the 'War of Drugs' (Katz *et al.* 2005). As shown in Figure 4, African–American males have suffered much higher imprisonment rates than White males or females since 1980. Imprisonment not only prevents current labour force participation, but also makes future participation more difficult (Western and Pettit 2005).

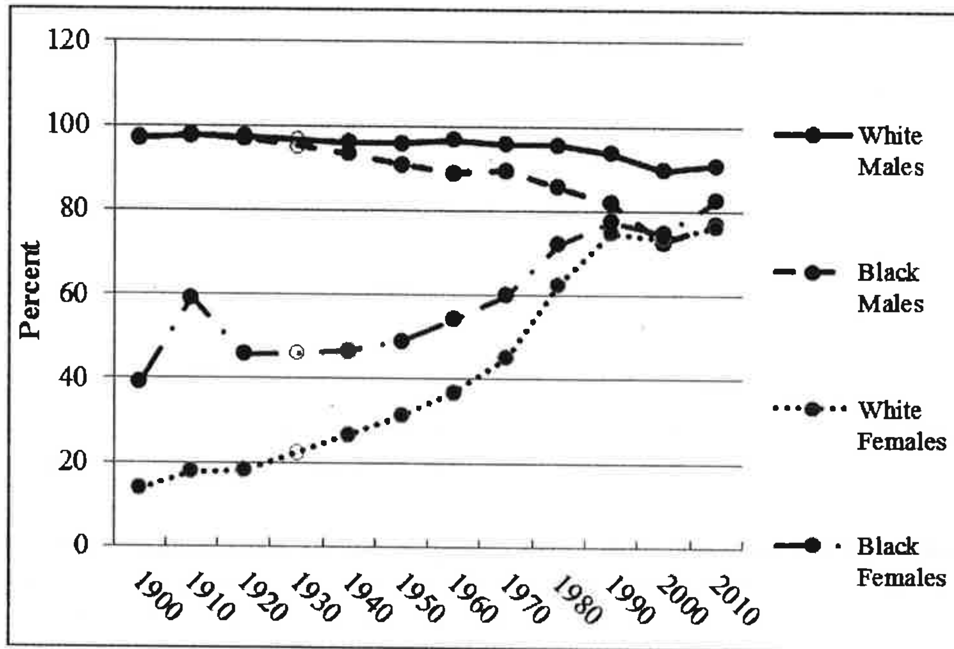
The labour force participation of American women increased dramatically over the course of the twentieth century. Historically, African–American women had to work outside the home in much larger numbers than White women, but as opportunities for women's paid work have improved, both African–American and White women have increased their labour force participation rates, rivalling African–American men in the process. As shown in Table 3 and Figure 3, African–American women began the twentieth century with a labour force participation rate of 39 per cent, while only about 14 per cent of White women participated in the labour force during the corresponding period. The participation rates of both categories of women grew steadily over the century, accelerating in the 1970s when modern family planning methods made it easier for women to plan for and participate in careers outside the home. In 2010, the labour force participation rates for African–American and White women were 83 per cent and 76 per cent, respectively, both in excess or essentially equal to the Black male participation rate of 77 per cent. African–Americans constitute the only racial or ethnic group in the US among which women comprise a larger share of the employed members of that group (54 per cent) than men (46 per cent) (United States Department of Labor 2012).

Table 3
Labour Force Participation of African–Americans and Whites Aged 31–40 Years by Gender
(Participation Rate =100-Per cent Not in Labour Force)

	Males			Females		
	% Black	*% White*	*Black/ White*	*% Black*	*% White*	Black/ White
1900	96.8	97.1	1.00	39.0	13.6	2.86
1910	97.7	97.8	1.00	59.2	17.8	3.33
1920	97.0	97.5	1.00	45.8	18.1	2.53
1930	N/A	N/A	N/A	N/A	N/A	N/A
1940	93.4	96.1	0.97	46.5	26.7	1.74
1950	90.8	95.9	0.95	49.0	31.2	1.57
1960	88.8	96.7	0.92	54.2	36.8	1.47
1970	89.5	95.7	0.94	59.9	45.1	1.33
1980	85.6	95.6	0.90	72.1	62.4	1.15
1990	82.0	93.7	0.87	77.5	74.8	1.04
2000	72.5	89.6	0.81	74.9	73.5	1.02
2010	77.0	90.9	0.85	82.5	76.3	1.08

Source: US Census Data, Integrated Public Use Microdata Series, Available at: http://usa.ipums.org/usa/, Accessed on 15 February 2013.

Figure 3: Labour Force Participation of African-Americans and Whites Aged 31-40 years by Gender, 1900-2010



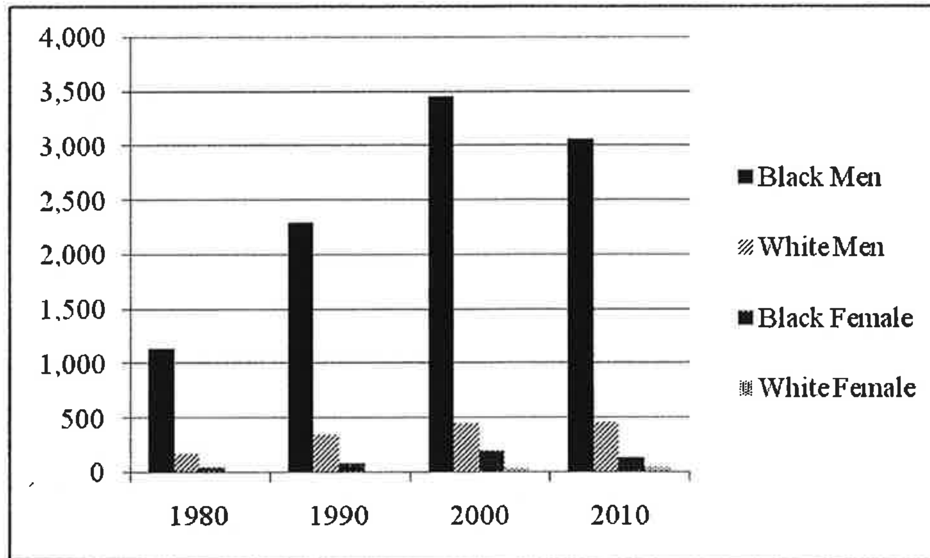
Sources: US Census; Katz, et al (2005); Integrated Public Use Microdata Series, Available at: http://usa.ipums.org/usa/, Accessed on 15 February 2013.

Table 4
Estimated Number of African–Americans and Whites in Prison per 100,000, by Race and Gender, 1950–2010

	Male			Female		
	Black	***White***	***Black/ White***	***Black***	***White***	***Black/ White***
1980	1,148	178	6.45	47	6	7.83
1990	2,296	356	6.45	84	18	4.67
2000	3,457	449	7.70	205	34	6.03
2010	3,074	459	6.70	133	47	2.83

Sources: US Department of Justice, Bureau of Justice Statistics, Prisoners in 2010, Table 14; US Department of Justice, Bureau of Justice Statistics, Prisoners in State and Federal Institutions on 31 December 1980, Table 9; US Department of Justice, Bureau of Justice Statistics, Correctional Populations in the United States, 1990, Tables 5.7–5.9.

Figure 4: Number of People Incarcerated in Federal or State Prison, per 100,000, by Race and Gender, 1980–2010



Sources: US Department of Justice, Bureau of Justice Statistics, Prisoners in 2010, Table 14; US Department of Justice, Bureau of Justice Statistics, Prisoners in State and Federal Institutions on 31 December 1980, Table 9; US Department of Justice, Bureau of Justice Statistics, Correctional Populations in the United States, 1990, Tables 5.7–5.9.

During the twentieth century, African–Americans achieved important advances in movement from working predominantly in a few low-wage industries and occupations, to working in a much broader array of industries and occupations. However, African–Americans, and in particular African–American males, still lag behind Whites in terms of achieving entry into high-paid occupations such as managerial positions and the professions.

Both African–American men and women began the twentieth century with more than half of their numbers employed in the agricultural sector. By the 1940s, a majority of African–American men were employed in manufacturing, transportation and maintenance, and by the 1970s, they had moved on to other industries, especially the public sector (Katz *et al.* 2005, pp. 85–87). African–American women moved out of agriculture at an even faster pace than the men, but moved more into household service by the 1940s and then into other industries, including public sector employment by the 1970s (Ibid.). Because of their disproportionate representation in manufacturing jobs, African–American men suffered disproportionately from the decline of American manufacturing after 1980. Both African–American men and women benefited from

the growth of the public sector during the period 1950–70, with this expansion in jobs coinciding with increased educational and employment opportunities for African–Americans during and after the Civil Rights Movement of the 1960's (Ibid.). By 2010, almost 20 per cent of African–Americans were working in the public sector. African–American women, in particular, benefited from public sector employment because they had greater access to educational opportunities during this time. According to one estimate, as many as 43 per cent of African–American women work either directly for the government or for government contractors (Ibid., pp. 87–88)!

As African–Americans moved from agriculture to other industries, they also broadened their participation in higher-paid occupations. During the twentieth century, African–American men moved into higher-paying occupations at a much faster rate than their White counterparts. As shown in Table 5A, the percentage ratio of African–American men to White men in the highest-paying occupation, managerial and professional jobs,[1] increased from 0.22 to 0.60, over the period 1950–2010, while the percentage ratio of African–American men to White men in the lowest-paying occupation, farming, forestry and fishing, decreased from 1.67 to 0.67 over the same period. As shown in Figure 5A, the sum of the absolute values of the differences between the participation rates for African–American and White participation rates across all seven categories declined for men from 70.6 to 35.9 over the period studied. African–American women have moved into white collar jobs at a much faster rate than African–American men, and faster than either White men or White women. Again from Table 5A, we see that the percentage ratio of African–American women to White women in managerial and professional jobs increased from 0.39 to 0.74, over the period 1950–2010, while the percentage ratio of African–American women to White women in farming, forestry and fishing decreased from 2.95 to 0.30 over the same period. Again using the sum of the absolute values of the differences in African–American and White participation rates across all seven categories as a measure of the overall parity in occupational achievement, we see in Figure 5A that African–American women have taken even greater strides than African–American men since 1950, thereby reducing the overall difference in their occupational participation from 97.1 to 23.2. A striking feature of the achievement of African–American women is that since 1960, their participation levels in service work and technical, sales and administrative work have fully swapped positions so that they now participate much more closely to White women in their choice of occupations (see Figure 5B). In 2010, almost a quarter of all

employed African–American women were employed in managerial jobs or the professions.

The differences in the occupational advancement of African–American men and women are so striking that the following question needs to be asked: Why are the men lagging so far behind the women in entering higher-paid occupations? Although this is a suitable topic for its own study, the likely answer is that men, particularly African–American men, gain access to fewer opportunities for higher education than women and are subject to much higher incarceration rates. There is also an argument emerging in the literature that employers prefer certain 'soft skills' for some jobs, which women tend to have (Moss and Tilly 1996). However, the 'soft skill' argument seems likely to be just a politically acceptable way of saying that men now suffer discrimination in certain occupations (Warhurst *et al.* 2004; Lloyd and Payne 2009).

Table 5A
Percentage of African–American and White Males Engaged in Each Occupation, 1950–2010

Year	Managerial and Profes-sional		Technical, Sales and Adminis-tration		Service		Farming, Forestry, Fishing		Preci-sion Produc-tion, Craft, and Repairs	Operatives and Labourers		Mili-tary	Sum ABS Differ B-W across All Categories		
	Black		*Black*	*White*	*Black*		*Black*		*Black*	*White*		*White*	*Black*		
1950	3.9	17.5	4.4	14.6	13.9	5.4	24.6	14.8	7.9	19.2	43.2	26.2	2.1	2.3	70.6
1960	4.1	18.7	6.8	16.4	16.0	5.9	15.6	9.4	9.7	19.7	45.2	26.4	2.7	3.5	70.1
1970	6.5	21.1	10.3	17.0	16.6	8.1	7.8	6.2	12.9	19.2	42.1	25.0	3.7	3.4	55.1
1980	9.8	21.9	13.7	18.3	17.5	9.0	4.0	4.9	14.4	20.9	36.3	22.9	4.2	2.1	48.1
1990	11.9	24.5	17.4	21.2	19.6	9.5	3.3	4.2	14.0	19.1	30.5	19.8	3.4	1.8	44.8
2000	14.0	26.3	20.0	21.7	19.0	10.0	2.8	3.8	14.6	18.8	27.8	18.1	1.9	1.1	38.7
2010	16.5	27.4	21.0	21.4	21.2	11.8	2.8	4.2	11.5	16.7	25.8	17.5	1.3	1.0	35.9

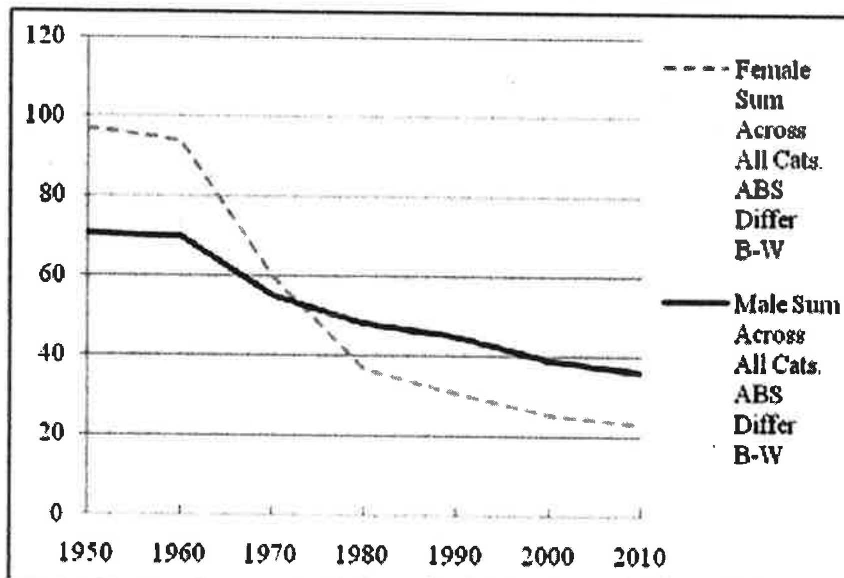
Sources: Integrated Public use Microdata Series, Available at: http://usa.ipums.org/usa/, Accessed on 15 February 2013.

Table 5B
Percentage of African–American and White Females Engaged in Each Occupation, 1950–2010

Year	Managerial and Professional		Technical, Sales and Administration		Service		Farming, Forestry, Fishing		Precision Production, Craft and Repairs		Operatives and Labourers		Military		Sum ABS Differ B-W Across All Categories
				White			*Black*		*Black*	*White*	*Black*	*White*		*White*	
1950	6.5	16.5	6.4	41.6	56.6	15.5	11.2	3.8	1.1	2.4	18.1	20.1	0.2	0.1	97.1
1960	6.4	14.5	10.0	46.6	56.1	17.5	10.4	2.2	2.0	4.3	15.1	14.9	0.1	0.1	94.0
1970	9.7	16.7	23.6	46.4	42.8	18.4	3.5	1.2	1.6	1.7	18.6	15.4	0.1	0.1	59.8
1980	14.1	19.9	33.6	45.9	31.5	18.2	1.1	1.4	2.1	2.1	17.1	12.2	0.6	0.3	36.9
1990	18.1	26.4	38.6	45.3	26.9	16.4	0.6	1.1	2.0	2.0	13.1	8.7	0.7	0.2	30.9
2000	21.6	30.6	39.0	42.1	26.2	17.5	0.4	1.0	2.2	2.2	10.1	6.5	0.5	0.2	25.3
2010	24.8	33.7	36.6	38.5	29.2	20.0	0.3	1.0	1.8	1.9	7.0	4.7	0.3	0.2	23.2

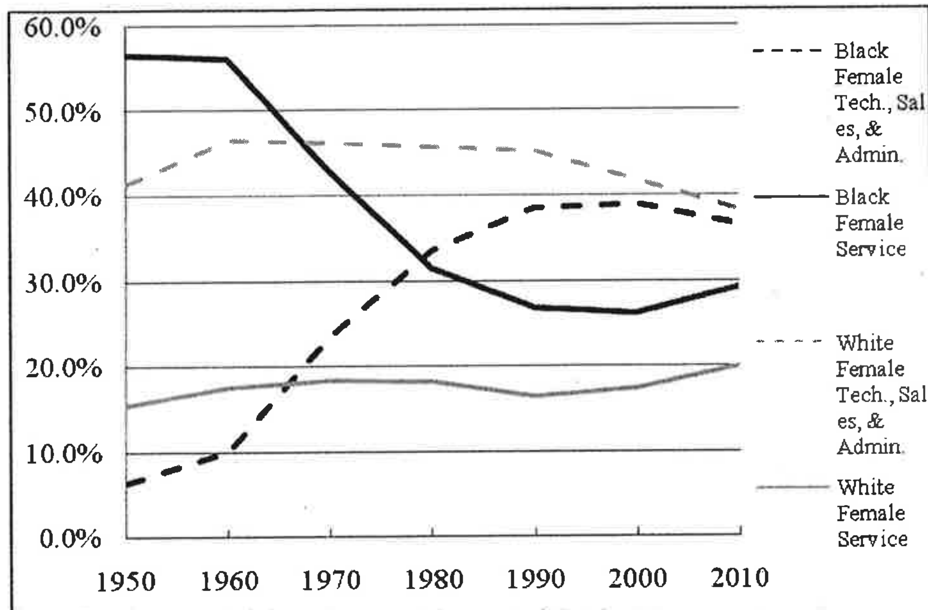
Source: Integrated Public Use Microdata Series, Available at: http://usa.ipums.org/usa/, Accessed on 15 February 2013.

Figure 5A: Sum across all Seven Occupational Categories of Absolute Value of Difference of the Percentage of African–Americans in Each Category Minus the Percentage of Whites in Each Category



Sources: Same as for Tables 5A.

Figure 5B: Comparison of Proportions of Occupation of Black Females and White Females, 1950–2010



Sources: Same as for Tables 5A and 5B.

EDUCATIONAL ACHIEVEMENT

During the last half of the twentieth century, African–Americans made significant advances in educational achievement. Since 1940, both African–Americans and Whites have significantly increased their high school graduation rates, but African–Americans increased their graduation rates at much faster rates, narrowing the gap with White students. As shown in Table 6 and Figure 6A, over the period 1940–2010, African–American men increased their high school graduation rate by 937 per cent while White men increased their high school graduation rate by 143 per cent. Over the same period, African–American women increased their high school graduation rate by 622 per cent while White women increased their high school graduation rate by 118 per cent. By 2010, the high school graduation rate for African-American males was 85 per cent, while the corresponding figure for White males was 89 per cent. Similarly, the high school graduation rate for African-American females was 90 per cent, while the corresponding figure for White females was 92 per cent.

Although the college graduation rates for African–Americans also grew at a much faster rate than that for their White counterparts over the same period, because African–Americans started at such a low level of college

graduation, they have not yet made as much progress in closing the college graduation rate gap, as they have done so with respect to the high school graduation gap. As shown in Table 6 and Figure 6B, over the period 1940–2010, African–American men increased their college graduation rate by 1,236 per cent while White men increased their college graduation rate by 263%. Over the same period, African–American women increased their college graduation rate by 1,387 per cent while White women increased their high school graduation rate by 609 per cent. By 2010, the college graduation rates for African–American and White males were 15 per cent and 29 per cent, respectively, while the college graduation rates for African–American and White females were 22 per cent and 38 per cent, respectively.

Once again, further study is needed to determine why African–American men, and men in general, are not gaining access to the same opportunities in higher education as women. The reasons for this could be: social pressure on men to enter the labour force sooner than women, the decline of male presence in the family, increased female dominance in the areas of teaching and administration in primary and secondary education, the application of female standards for intelligence and success in education, the rise of 'zero tolerance' rules in school administration, the increase in male incarceration, and intentional discrimination against men (Dee 2005; 2006; Buchmann and DiPrete 2006).

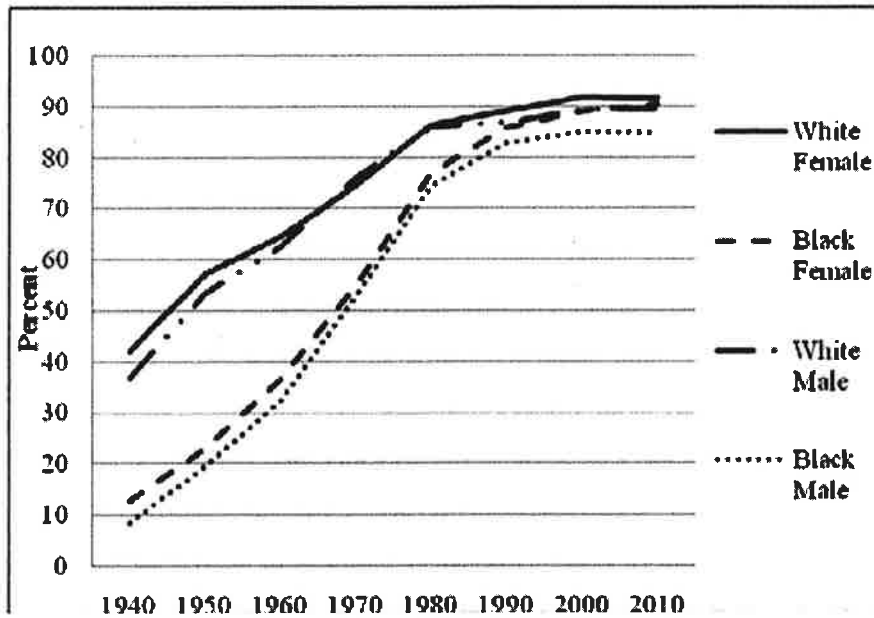
Table 6
High School (including GED) and College Graduation Rates, Percentage of African–Americans and Whites, Aged 26–30 Years, 1940–2010

	Male					Female				
Year	% Black		% White		Black/White	% Black		% White		
	HS	Col.	HS	Col.	Col.	HS.	Col.	HS	Col.	Col.
1940	8.2	1.1	36.8	7.9	0.14	12.5	1.5	42.1	5.3	0.28
1950	19.2	2.1	53.3	10.3	0.20	22.8	2.9	57.2	6.1	0.48
1960	32.2	3.0	62.3	16.5	0.18	36.3	4.4	64.5	8.3	0.53
1970	52.8	5.0	75.9	20.8	0.24	54.9	6.2	74.5	12.9	0.48
1980	74.4	10.9	86.1	26.5	0.41	76.8	12.3	86.4	22.2	0.55
1990	82.9	11.0	86.7	23.4	0.47	85.8	12.8	89.2	23.5	0.54
2000	85.2	12.3	89.2	28.8	0.43	89.0	17.4	92.0	33.0	0.53
2010	85.0	14.7	89.3	28.7	0.51	90.3	22.3	91.8	37.6	0.59

Sources: US Census; Katz, *et al.* (2005); Integrated Public Use Microdata Series, Available at: http://usa.ipums.org/usa/, Accessed on 15 February 2013.

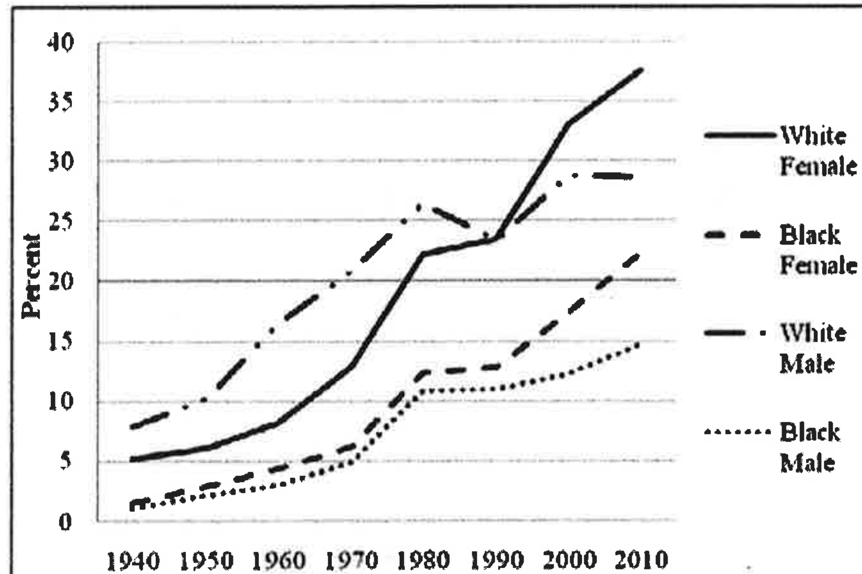
Note: HS—High School; Col.—College

Figure 6A: High School Graduation Rates, African–Americans and Whites, Aged 26–30 Years, by Race and Gender, 1940–2010



Sources: US Census; Katz, *et al.* (2005); Integrated Public Use Microdata Series, Available at: http://usa.ipums.org/usa/, Accessed on 15 February 2013.

Figure 6B: College Graduation Rates, African–Americans and Whites, Aged 26–30 Years, by Race and Gender, 1940–2010



Sources: US Census; Katz, *et al.* (2005); Integrated Public Use Microdata Series, Available at: http://usa.ipums.org/usa/, Accessed on 15 February 2013.

ECONOMIC REWARDS

Because of their success in increasing their geographic, industrial, and occupational diversity, and achieving greater parity with White workers in labour force participation and education, African–Americans have gained access to greater economic opportunities and achieved some success in narrowing their income disadvantage relative to White workers. As sh own in Tables 7A and 7B, and Figures7A and 7B, African–American men of all age groups have shown at least modest improvement in their labour income as a percentage of the White male income since 1950, though there have been both advances and retreats in that improvement. For both African–American men and women, the greatest improvement in labour income relative to their White counterparts occurred in the 1960s and 1970s (Donohue 2007, pp. 1424–25). In the 1960s, African-American men and women of all age groups enjoyed positive growth relative to their White counterparts, with the men enjoying growth rates ranging from 6.5 per cent to 21.8 per cent, and the women enjoying growth rates ranging from 23.5 per cent to 38.7 per cent. In the 1970s, the results were more mixed, but men in the prime age group of 30 to 49 years enjoyed growth rates in their relative income ranging from 16.8 per cent to 21.1 per cent, while all the women enjoyed positive growth rates in relative income ranging from 1.3 per cent to 26.7 per cent. All the other decades showed much more mixed results, except that African–American women also seemed to do very well in the 1950s. Across the period 1950–2010, African–American men and women of all age groups achieved positive growth rates in their labour income relative to their White counterparts. For the men, these growth rates varied from 4.1 per cent for men aged 50–59 years to 11.1 per cent for men aged 40–49 years, while for the women, these growth rates varied from 7.2 per cent for women aged 30–39 years to 39.5 per cent for women aged 40–49 years.

Table 7A
African–American Labour Income as a Percentage of White Labour Income for Selected Age Groups, by Gender, 1950–2010

Year	Male Age (Years)				Female Age (Years)			
	20–29	*30–39*	*40–49*	*50–59*	*20–29*	*30–39*	*40–49*	*50–59*
1950	65.1	53.8	50.7	56.9	51.6	69.5	45.9	41.2
1960	62.9	54.2	47.3	47.7	68.5	67.7	56.7	47.6
1970	76.3	57.7	52.3	58.1	84.6	92.3	77.5	66.0
1980	71.3	69.9	61.1	55.5	85.7	103.0	98.2	80.6
1990	70.1	64.4	60.3	55.4	78.8	85.6	94.2	86.3
2000	77.4	65.4	59.4	58.4	87.6	86.8	84.5	83.5
2010	73.7	59.6	61.8	61.0	83.3	76.7	85.4	78.6

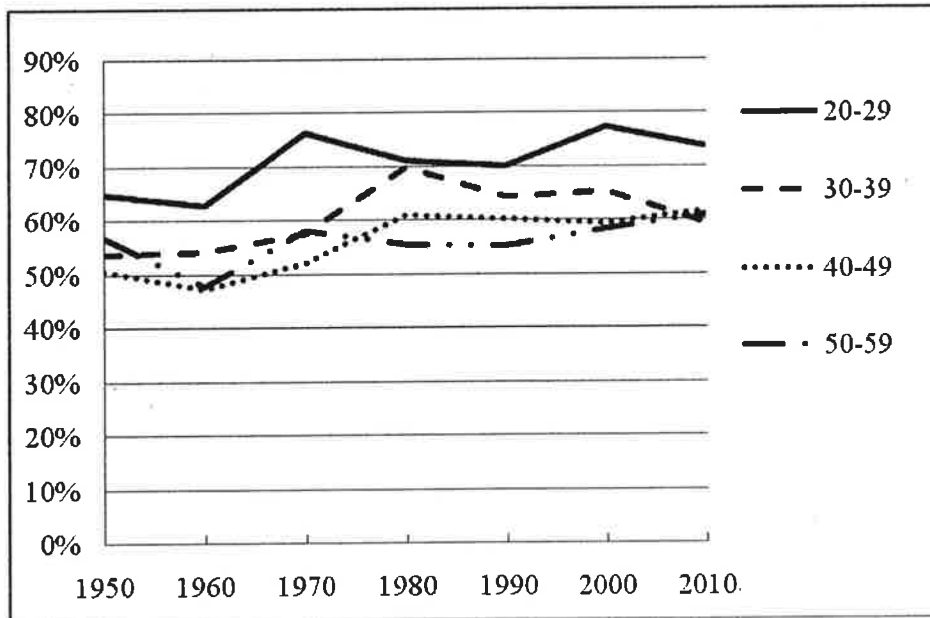
Source: Integrated Public Use Microdata Series, Available at: (http://usa.ipums.org/usa/), data set, Accessed on 15 February 2013.

Table 7B
Percentage Growth in African–American Labour Income Relative to White Labour Income for Selected Age Groups, by Gender, 1950–2010

Year	Male Age (Years)				Female Age (Years)			
	20–29	*30–39*	*40–49*	*50–59*	*20–29*	*30–39*	*40–49*	*50–59*
1950–60	-3.4	0.7	-6.7	-16.2	32.8	-2.6	23.5	15.5
1960–70	21.3	6.5	10.6	21.8	23.5	36.3	36.7	38.7
1970–80	-6.6	21.1	16.8	-4.5	1.3	11.6	26.7	22.1
1980–90	-1.7	-7.9	-1.3	-0.2	-8.1	-16.9	-4.1	7.1
1990–2000	10.4	1.6	-1.5	5.4	11.2	1.4	-10.3	-3.2
2000–2010	-4.8	-8.9	4.0	4.5	-4.9	-11.6	1.1	-5.9
1950–2010	8.6	5.8	11.1	4.1	31.7	7.2	39.5	37.4

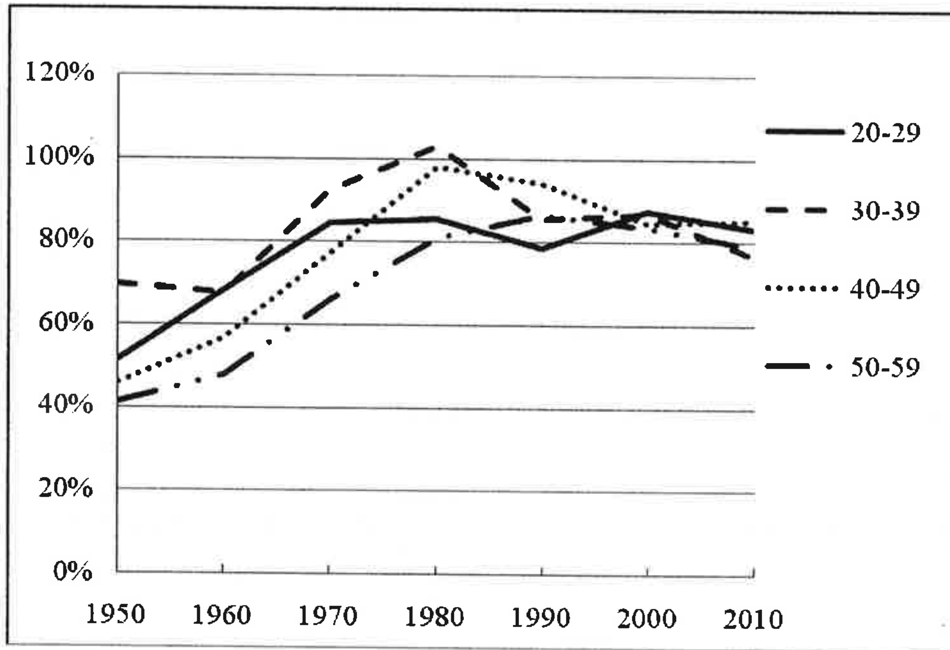
Source: Integrated Public Use Microdata Series, Available at: (http://usa.ipums.org/usa/) data set, Accessed on 15 February 2013.

Figure 7A: African–American Men's Labour Income as a Percentage of White Men's Labour Income for Selected Age Groups, 1950–2010



Source: Integrated Public Use Microdata Series, Available at: http://usa.ipums.org/usa/) data set, Accessed on 15 February 2013.

Figure 7B: African–American Women's Labour Income as a Percentage of White Women's Labour Income for Selected Age Groups, 1950–2010



Source: Integrated Public Use Microdata Series (http://usa.ipums.org/usa/) data set, Accessed on 15 February 2013.

Historically, African–Americans have suffered more frequent and longer periods of unemployment than their White counterparts when the economy goes into recession, and the Great Recession has been no exception. In 2011, the unemployment rate among African–Americans was 15.8 per cent, and their median duration of unemployment was 27 weeks, while the unemployment rate among Whites was 7.9 per cent, and their median duration of unemployment was 19.7 weeks. The reasons for this difference in the labour market experiences of African–Americans and Whites are as follows: the lower level of education enjoyed by African–Americans; the fact that African–Americans are more likely to live in urban areas of high unemployment; the fact that African–Americans have fewer resources and connections for finding jobs than their White counterparts, and the discrimination suffered by African–Americans. Both African–American and White men have suffered higher unemployment rates than their female counterparts during the recent 'man-cession', with the male unemployment rate exceeding the female rate by about two percentage points. Men suffered more than women because of their poorer access to educational opportunities and the fact that the male-dominated manufacturing and construction industries were the hardest hit by the recession.

THE IMPACT OF LAW ON THE AFRICAN–AMERICAN EXPERIENCE IN THE LABOUR MARKET

It is interesting, especially in the context of current Indian debates over the reservation system, to examine the impact of American anti-discrimination laws and affirmative action policies on the success of African– Americans in the labour market. The United States has enacted dozens of laws at the federal and state levels promoting equal opportunity (see Appendix). Among these statutes and policies, perhaps the most relevant, and the most studied, are the Civil Rights Act of 1964, and Executive Order 11246 (1965) on Affirmative Action. Title VII of the Civil Rights Act prohibits discrimination in employment on the basis of race, ethnicity, religion, national origin or gender. The law prohibits both disparate treatment (intentional discrimination) and disparate impact (discriminatory business practices without business necessity) on the basis of race. Title VII applies to most employers in the United States, excluding the government, employers with less than fifteen employees, foreign governments, and religious organisations. Although it was enacted in 1964, it is argued that Title VII did not have any real teeth for enforcement until the adoption of the Equal Employment Opportunity Act of 1972. Title VII allows for government and private suits to enforce its requirements of non-discrimination and provides for injunctive relief, make-whole remedies such as re-instatement and back-pay, and even punitive damages in the case of intentional discrimination.

It is widely accepted that the Civil Rights Act, and in particular, Title VII, helped improve access to employment opportunities of African–Americans in the 1960s and '70's. Several well-designed studies of the time have found significant improvements in African–American income, relative to White income, which were associated with the enactment of the Civil Rights Act and the Equal Employment Opportunity Act (Freeman *et al.* 1973; Donohue and Heckman 1991; Conroy 1994). The primary explanation for this result is that the Civil Rights Act disrupted existing discriminatory patterns of hiring, particularly in the 'Jim Crow' south (Donohue and Heckman 1991, p. 1440), though our analysis in this paper might also suggest that the Civil Rights Act broke down stereotypes in education and employment, precisely at the time when the public sector was expanding, providing African–Americans with opportunities to use their new skills. Perhaps the best study was undertaken by Ken Chay, who used Current Population Survey data from 1968 to 1980 to examine the impact of expanding the coverage of Title VII to small employers with only 15–24 employees in 1972 (Chay 1998). Chay's results indicate that the relative employment of African–Americans increased more

after March 1973 in industries and regions with a greater proportion of small firms that were newly covered by the mandate (Ibid.). As a result, Chay concludes that the evidence suggests that the Equal Employment Opportunity Act increased the demand for African–American workers among small employers who were not previously covered by the laws (Ibid.).

Executive Order 11246 (1965), and later executive orders, require federal contractors to take affirmative action to ensure that all individuals have an equal opportunity for employment, without regard to race, colour, religion, sex, or national origin. The Order requires contractors to engage in self-analysis to discover any barriers to equal employment opportunities, set goals and time tables for integration, and make good faith efforts to achieve those goals and time tables. The federal government conducts compliance reviews of the contractors' affirmative action programmes, and a contractor who is found in non-compliance may have her contracts cancelled, terminated, or suspended, and may be debarred from seeking future government contracts. In 1995, the Executive Order covered approximately 26 million employees or nearly 22 per cent of the total civilian workforce.[2] As of 1990, approximately sixty contractors have been debarred for non-compliance (Leonard 1990).

The growth of African–American employment, particularly for women, in the public sector and among public contractors after the promulgation of Executive Order 11246 seems much too strong to be merely coincidental. Jonathan Leonard examined employment data for firms that were not government contractors, and were thus exempted from the executive order, and government contractors covered by the executive order, over the period 1974–1980 (Leonard 1990). During this period, he found that: African–American male employment grew at a 37 per cent faster rate in the contractor sector; White male employment declined at a 12 per cent faster rate in the contractor sector; African American female employment grew at a 98 per cent faster rate in the contractor sector; and White female employment (also covered by the affirmative action programme) grew at a 190 per cent faster rate in the contractor sector (Ibid. p. 51). His results suggest that African–Americans benefited from affirmative action under Executive Order 11246, though White women benefited much more. Leonard finds that the strong impact of these affirmative action policies declined significantly with the election of Ronald Reagan as the US President in 1980, so it seems that the effectiveness of these policies depends on who is administrating them (Ibid.).

CONCLUSION

African–Americans have made enormous strides in the labour market during the last century. They began the twentieth century working disproportionately in the South, in low-skilled, low-wage, agricultural jobs, but have steadily moved on to new geographic areas, improving their participation rates and educational achievement, and moving into high-skilled, high-pay occupations, over the course of the century. As a result, African–Americans made important progress during the twentieth century in narrowing the labour income earnings gap that they suffer relative to White Americans. The Civil Rights Movement, the Civil Rights Act of 1964, and affirmative action policies have all played important roles in fostering the economic success of African–Americans. However, important progress is yet to be made. African–Americans still face intentional and tacit discrimination,[3] and continue to suffer from significant disadvantages in educational achievement and earnings, especially African–American men. One could also ask whether White Americans constitute the appropriate comparison group because Asian–Americans enjoy better educational opportunities and higher incomes than Whites (Sydney and Pivack 2005). However, African–Americans can rightly be proud of the important progress that they have made in terms of participation in the labour market.

Notes

[1] Using a sub-sample of the US Census Data for 2000, we find that the median income for men in 2010 in each occupational group is as follows: Managerial and Professional Specialty ($67,681); Technical, Sales and Administrative ($40,663); Service ($21,712); Farming, Forestry, and Fishing ($17,378); Precision, Production, Craft, and Repair ($40,911); Operators, Fabricators, and Labourers ($29,112); Armed Forces ($40,908); Total ($40,424).

[2] United States Department of Labor, Office of Federal Contract Compliance Programs (OFCCP) Facts on Executive Order 11246—Affirmative Action (Revised 4 January 2002), Available at: http://www.dol.gov/ofccp/regs/compliance/aa.htm, Accessed on 8 May 2013.

[3] See, for example, the 'audit-pair' studies, which show that African–American job applicants still suffer from disadvantages in gaining job interviews. See Darity and Mason 1998.

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Appendix

Table 8A
Real Average Annual Income for African–American and White Men, by Age (2010-adjusted Dollars)

Age (Years)								
	20–29		***30–39***		***40–49***		***50–59***	
Race	**Black**	**White**	**Black**	**White**	**Black**	**White**	**Black**	**White**
1950	13,817	21,209	15,877	29,502	15,937	31,382	16,649	29,234
1960	17,521	27,824	23,768	43,830	21,989	46,478	20,254	42,390
1970	25,509	33,403	32,465	56,258	32,006	61,113	32,543	56,007
1980	21,492	30,125	35,538	50,775	35,403	57,857	31,046	55,881
1990	20,435	29,131	33,329	51,738	39,717	65,781	36,834	66,483
2000	23,829	30,782	36,247	55,394	40,927	68,884	42,240	72,227
2010	18,523	25,117	31,603	53,023	41,438	66,985	39,251	64,271

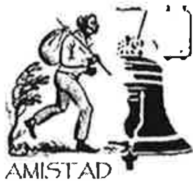
Source: Integrated Public Use Microdata Series, Available at: http://usa.ipums.orgusa/ data set, Accessed on 15 February 2013.

Table 8B
Real Average Annual Income for African–American and White Women, by Age (2010-adjusted Dollars)

Age (Years)								
	20–29		***30–39***		***40–49***		***50–59***	
Race	***Black***	***White***	***Black***	***White***	***Black***	***White***	***Black***	***White***
1950	6,770	13,114	9,824	14,117	7,006	15,252	5,811	14,105
1960	10,119	14,760	11,565	17,067	10,580	18,649	9,585	20,109
1970	15,567	18,399	19,116	20,704	17,937	23,144	16,061	24,323
1980	15,328	17,874	23,223	22,541	22,566	22,978	18,646	23,124
1990	16,100	20,432	24,099	28,148	29,069	30,835	24,449	28,307
2000	19,727	22,512	29,202	33,630	32,634	38,593	31,007	37,122
2010	17,400	20,871	27,747	36,142	33,445	39,164	31,407	39,941

Source: Integrated Public Use Microdata Series, Available at: http://usa.ipums.org/usa/ data set, Accessed on 15 February 2013.

Unit 3



WELCOME TO THE NEW JERSEY
AMISTAD COMMISSION
INTERACTIVE CURRICULUM

University of California v. Allan Bakke

June 28, 1978

No. 76-811.
Supreme Court of the United States
Argued Oct. 12, 1977.
Decided June 28, 1978.

White male whose application to state medical school was rejected brought action challenging legality of the school's special admissions program under which 16 of the 100 positions in the class were reserved for "disadvantaged" minority students. School cross-claimed for declaratory judgment that its program was legal. The trial court declared the program illegal but refused to order the school to admit the applicant. The California Supreme Court, 18 Cal.3d 34, 132 Cal.Rptr. 680, 553 P.2d 1152, affirmed the finding that the program was illegal and ordered the student admitted and the school sought certiorari. The Supreme Court, Mr. Justice Powell, held that: (1) the special admissions program was illegal, but (2) race may be one of a number of factors considered by school in passing on applications, and (3) since the school could not show that the white applicant would not have been admitted even in the absence of the special admissions program, the applicant was entitled to be admitted.

Affirmed in part and reversed in part.

Mr. Justice Brennan, Mr. Justice White, Mr. Justice Marshall and Mr. Justice Blackmun filed an opinion concurring in the judgment in part and dissenting.

Mr. Justice White filed a separate opinion.

Mr. Justice Marshall filed a separate opinion.

Mr. Justice Blackmun filed a separate opinion.

Mr. Justice Stevens concurred in the judgment in part and dissented in part and filed an opinion in which Mr. Chief Justice Burger, Mr. Justice Stewart and Mr. Justice Rehnquist joined.

U.S.Cal.,1978.

**2735 *265 Syllabus [FN*]

FN* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See United States v. Detroit Timber & Lumber Co., 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499.

The Medical School of the University of California at Davis (hereinafter Davis) had two admissions programs for the entering **2736 class of 100 students--the regular admissions

program and the special admissions program. Under the regular procedure, candidates whose overall undergraduate grade point averages fell below 2.5 on a scale of 4.0 were summarily rejected. About one out of six applicants was then given an interview, following which he was rated on a scale of 1 to 100 by each of the committee members (five in 1973 and six in 1974), his rating being based on the interviewers' summaries, his overall grade point average, his science courses grade point average, his Medical College Admissions Test (MCAT) scores, letters of recommendation, extracurricular activities, and other biographical data, all of which resulted in a total "benchmark score." The full admissions committee then made offers of admission on the basis of their review of the applicant's file and his score, considering and acting upon applications as they were received. The committee chairman was responsible for placing names on the waiting list and had discretion to include persons with "special skills." A separate committee, a majority of whom were members of minority groups, operated the special admissions program. The 1973 and 1974 application forms, respectively, asked candidates whether they wished to be considered as "economically and/or educationally disadvantaged" applicants and members of a "minority group" (blacks, Chicanos, Asians, American Indians). If an applicant of a minority group was found to be "disadvantaged," he would be rated in a manner similar to the one employed by the general admissions committee. Special candidates, however, did not have to meet the 2.5 grade point cutoff and were not ranked against candidates in the general admissions process. About one-fifth of the special applicants were invited for interviews in 1973 and 1974, following which they were given benchmark scores, and the top choices were then given to the general admissions committee, which could reject special candidates for failure to meet course requirements or other specific deficiencies. The special committee continued to recommend candidates until 16 special admission selections had been made. During a four-year period 63 minority *266 students were admitted to Davis under the special program and 44 under the general program. No disadvantaged whites were admitted under the special program, though many applied. Respondent, a white male, applied to Davis in 1973 and 1974, in both years being considered only under the general admissions program. Though he had a 468 out of 500 score in 1973, he was rejected since no general applicants with scores less than 470 were being accepted after respondent's application, which was filed late in the year, had been processed and completed. At that time four special admission slots were still unfilled. In 1974 respondent applied early, and though he had a total score of 549 out of 600, he was again rejected. In neither year was his name placed on the discretionary waiting list. In both years special applicants were admitted with significantly lower scores than respondent's. After his second rejection, respondent filed this action in state court for mandatory, injunctive, and declaratory relief to compel his admission to Davis, alleging that the special admissions program operated to exclude him on the basis of his race in violation of the Equal Protection Clause of the Fourteenth Amendment, a provision of the California Constitution, and § 601 of Title VI of the Civil Rights Act of 1964, which provides, inter alia, that no person shall on the ground of race or color be excluded from participating in any program receiving federal financial assistance. Petitioner cross-claimed for a declaration that its special admissions program was lawful. The trial court found that the special program operated as a racial quota, because minority applicants in that program were rated only against one another, and 16 places in the class of 100 were reserved for

them. Declaring that petitioner could not take race into account in making admissions decisions, the program was held to violate the Federal and State Constitutions and Title VI. Respondent's admission was not ordered, however, for lack of proof that he would have **2737 been admitted but for the special program. The California Supreme Court, applying a strict- scrutiny standard, concluded that the special admissions program was not the least intrusive means of achieving the goals of the admittedly compelling state interests of integrating the medical profession and increasing the number of doctors willing to serve minority patients. Without passing on the state constitutional or federal statutory grounds the court held that petitioner's special admissions program violated the Equal Protection Clause. Since petitioner could not satisfy its burden of demonstrating that respondent, absent the special program, would not have been admitted, the court ordered his admission to Davis.

Held: The judgment below is affirmed insofar as it orders respondent's admission to Davis and invalidates petitioner's special admissions program, *267 but is reversed insofar as it prohibits petitioner from taking race into account as a factor in its future admissions decisions.

18 Cal.3d 34, 132 Cal.Rptr. 680, 553 P.2d 1152, affirmed in part and reversed in part.

Mr. Justice POWELL concluded:

1. Title VI proscribes only those racial classifications that would violate the Equal Protection Clause if employed by a State or its agencies. Pp. 2744- 2747.

2. Racial and ethnic classifications of any sort are inherently suspect and call for the most exacting judicial scrutiny. While the goal of achieving a diverse student body is sufficiently compelling to justify consideration of race in admissions decisions under some circumstances, petitioner's special admissions program, which forecloses consideration to persons like respondent, is unnecessary to the achievement of this compelling goal and therefore invalid under the Equal Protection Clause. Pp. 2747-2764.

3. Since petitioner could not satisfy its burden of proving that respondent would not have been admitted even if there had been no special admissions program, he must be admitted. P. 2764.

Mr. Justice BRENNAN, Mr. Justice WHITE, Mr. Justice MARSHALL, and Mr. Justice BLACKMUN concluded:

1. Title VI proscribes only those racial classifications that would violate the Equal Protection Clause if employed by a State or its agencies. Pp. 2768- 2781.

2. Racial classifications call for strict judicial scrutiny. Nonetheless, the purpose of overcoming substantial, chronic minority underrepresentation in the medical profession is sufficiently important to justify petitioner's remedial use of race. Thus, the judgment below must be reversed in that it prohibits race from being used as a factor in university admissions. Pp. 2782- 2794.

Mr. Justice STEVENS, joined by THE CHIEF JUSTICE, Mr. Justice STEWART, and Mr. Justice REHNQUIST, being of the view that whether race can ever be a factor in an admissions policy is not an issue here; that Title VI applies; and that respondent was excluded from Davis in violation of Title VI, concurs in the Court's judgment insofar as it

affirms the judgment of the court below ordering respondent admitted to Davis. Pp. 2809-2815.

*268 Archibald Cox, Cambridge, Mass., for petitioner.

Sol. Gen. Wade H. McCree, Jr., Washington, D. C., for United States, as amicus curiae, by special leave of Court.

Reynold H. Colvin, San Francisco, Cal., for respondent.

*269 Mr. Justice POWELL announced the judgment of the Court.

[1] This case presents a challenge to the special admissions program of the petitioner, the Medical School of the University of California at Davis, which is designed to assure the admission *270 of a specified number of students from certain minority groups. The Superior Court of California sustained respondent's challenge, holding that petitioner's program violated the California Constitution, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., and the Equal Protection Clause of the Fourteenth **2738 Amendment. The court enjoined petitioner from considering respondent's race or the race of any other applicant in making admissions decisions. It refused, however, to order respondent's admission to the Medical School, holding that he had not carried his burden of proving that he would have been admitted but for the constitutional and statutory violations. The Supreme Court of California affirmed those portions of the trial court's judgment declaring the special admissions program unlawful and enjoining petitioner from considering the race of any applicant. [FN**]*271 It modified that portion of the judgment denying respondent's requested injunction and directed the trial court to order his admission.

FN** Mr. Justice STEVENS views the judgment of the California court as limited to prohibiting the consideration of race only in passing upon Bakke's application. Post, at 2809-2810. It must be remembered, however, that petitioner here cross-complained in the trial court for a declaratory judgment that its special program was constitutional and it lost. The trial court's judgment that the special program was unlawful was affirmed by the California Supreme Court in an opinion which left no doubt that the reason for its holding was petitioner's use of race in consideration of any candidate's application. Moreover, in explaining the scope of its holding, the court quite clearly stated that petitioner was prohibited from taking race into account in any way in making admissions decisions:

"In addition, the University may properly as it in fact does, consider other factors in evaluating an applicant, such as the personal interview, recommendations, character, and matters relating to the needs of the profession and society, such as an applicant's professional goals. In short, the standards for admission employed by the University are not constitutionally infirm except to the extent that they are utilized in a racially discriminatory manner. Disadvantaged applicants of all races must be eligible for sympathetic consideration, and no applicant may be rejected because of his race, in favor of another who is less qualified, as measured by standards applied without regard to race. We reiterate, in view of the dissent's misinterpretation, that we do not compel the University to utilize only 'the highest objective academic credentials' as the criterion for admission." 18 Cal.3d 34, 54-55, 132 Cal.Rptr. 680, 693-694, 553 P.2d 1152, 1166 (1976) (footnote omitted).

This explicit statement makes it unreasonable to assume that the reach of the California court's judgment can be limited in the manner suggested by Mr. Justice STEVENS.

For the reasons stated in the following opinion, I believe that so much of the judgment of the California court as holds petitioner's special admissions program unlawful and directs that respondent be admitted to the Medical School must be affirmed. For the reasons expressed in a separate opinion, my Brothers THE CHIEF JUSTICE, Mr. Justice STEWART, Mr. Justice REHNQUIST and Mr. Justice STEVENS concur in this judgment.

*272 I also conclude for the reasons stated in the following opinion that the portion of the court's judgment enjoining petitioner from according any consideration to race in its admissions process must be reversed. For reasons expressed in separate opinions, my Brothers Mr. Justice BRENNAN, Mr. Justice WHITE, Mr. Justice MARSHALL, and Mr. Justice BLACKMUN concur in this judgment.

Affirmed in part and reversed in part.

I [FN*]

FN* Mr. Justice BRENNAN, Mr. Justice WHITE, Mr. Justice MARSHALL, and Mr. Justice BLACKMUN join Parts I and V-C of this opinion. Mr. Justice WHITE also joins Part III-A of this opinion.

The Medical School of the University of California at Davis opened in 1968 with an entering class of 50 students. In 1971, the size of the entering class was increased to 100 students, a level at which it remains. No admissions program for disadvantaged or minority students existed when the school opened, and the first class contained three Asians but no blacks, no Mexican-Americans, and no American Indians. Over the next two years, the faculty devised a special admissions program to increase the representation of "disadvantaged" students in each Medical School class. [FN1] The special **2739 program consisted of *273 a separate admissions system operating in coordination with the regular admissions process.

FN1. Material distributed to applicants for the class entering in 1973 described the special admissions program as follows: "A special subcommittee of the Admissions Committee, made up of faculty and medical students from minority groups, evaluates applications from economically and/or educationally disadvantaged backgrounds. The applicant may designate on the application form that he or she requests such an evaluation. Ethnic minorities are not categorically considered under the Task Force Program unless they are from disadvantaged backgrounds. Our goals are: 1) A short range goal in the identification and recruitment of potential candidates for admission to medical school in the near future, and 2) Our long-range goal is to stimulate career interest in health professions among junior high and high school students.

"After receiving all pertinent information selected applicants will receive a letter inviting them to our School of Medicine in Davis for an interview. The interviews are conducted by at least one faculty member and one student member of the Task Force Committee. Recommendations are then made to the Admissions Committee of the medical school. Some of the Task Force Faculty are also members of the Admissions Committee.

"Long-range goals will be approached by meeting with counselors and students of schools with large minority populations, as well as with local youth and adult community groups.

"Applications for financial aid are available only after the applicant has been accepted and can only be awarded after registration. Financial aid is available to students in the form of scholarships and loans. In addition to the Regents' Scholarships and President's Scholarship programs, the medical school participates in the Health Professions Scholarship Program, which makes funds available to students who otherwise might not be able to pursue a medical education. Other scholarships and awards are available to students who meet special eligibility qualifications. Medical students are also eligible to participate in the Federally Insured Student Loan Program and the American Medical Association Education and Research Foundation Loan Program.

"Applications for Admissions are available from:

"Admissions Office

School of Medicine

University of California

Davis, California 95616"

Record 195. The letter distributed the following year was virtually identical, except that the third paragraph was omitted.

Under the regular admissions procedure, a candidate could submit his application to the Medical School beginning in July of the year preceding the academic year for which admission was sought. Record 149. Because of the large number of applications, [FN2] the admissions committee screened each one to select candidates for further consideration. Candidates whose overall undergraduate grade point averages fell below 2.5 on a scale of 4.0 were summarily rejected. Id., at 63. About *274 one out of six applicants was invited for a personal interview. Ibid. Following the interviews, each candidate was rated on a scale of 1 to 100 by his interviewers and four other members of the admissions committee. The rating embraced the interviewers' summaries, the candidate's overall grade point average, grade point average in science courses, scores on the Medical College Admissions Test (MCAT), letters of recommendation, extracurricular activities, and other biographical data. Id., at 62. The ratings were added together to arrive at each candidate's "benchmark" score. Since five committee members rated each candidate in 1973, a perfect score was 500; in 1974, six members rated each candidate, so that a perfect score was 600. The full committee then reviewed the file and scores of each applicant and made offers of admission on a "rolling" basis. [FN3] The chairman was responsible for placing names on the waiting list. They were not placed in strict numerical order; instead, the chairman had discretion to include persons with "special skills." Id., at 63-64.

FN2. For the 1973 entering class of 100 seats, the Davis Medical School received 2,464 applications. Id., at 117. For the 1974 entering class, 3,737 applications were submitted. Id., at 289.

FN3. That is, applications were considered and acted upon as they were received, so that the process of filling the class took place over a period of months, with later applications

being considered against those still on file from earlier in the year. Id., at 64.

The special admissions program operated with a separate committee, a majority of whom were members of minority groups. Id., at 163. On the 1973 application form, **2740 candidates were asked to indicate whether they wished to be considered as "economically and/or educationally disadvantaged" applicants; on the 1974 form the question was whether they wished to be considered as members of a "minority group," which the Medical School apparently viewed as "Blacks," "Chicanos," "Asians," and "American Indians." Id., at 65-66, 146, 197, 203-205, 216-218. If these questions were answered affirmatively, the application was forwarded to the special admissions committee. No formal definition of "disadvantaged" *275 was ever produced, id., at 163-164, but the chairman of the special committee screened each application to see whether it reflected economic or educational deprivation. [FN4] Having passed this initial hurdle, the applications then were rated by the special committee in a fashion similar to that used by the general admissions committee, except that special candidates did not have to meet the 2.5 grade point average cutoff applied to regular applicants. About one-fifth of the total number of special applicants were invited for interviews in 1973 and 1974. [FN5] Following each interview, the special committee assigned each special applicant a benchmark score. The special committee then presented its top choices to the general admissions committee. The latter did not rate or compare the special candidates against the general applicants, id., at 388, but could reject recommended special candidates for failure to meet course requirements or other specific deficiencies. Id., at 171-172. The special committee continued to recommend special applicants until a number prescribed by faculty vote were admitted. While the overall class size was still 50, the prescribed number was 8; in 1973 and 1974, when the class size had doubled to 100, the prescribed number of special admissions also doubled, to 16. Id., at 164, 166.

FN4. The chairman normally checked to see if, among other things, the applicant had been granted a waiver of the school's application fee, which required a means test; whether the applicant had worked during college or interrupted his education to support himself or his family; and whether the applicant was a member of a minority group. Id., at 65-66.

FN5. For the class entering in 1973, the total number of special applicants was 297, of whom 73 were white. In 1974, 628 persons applied to the special committee, of whom 172 were white. Id., at 133-134.

From the year of the increase in class size--1971--through 1974, the special program resulted in the admission of 21 black students, 30 Mexican-Americans, and 12 Asians, for a total of 63 minority students. Over the same period, the regular admissions program produced 1 black, 6 Mexican-Americans, *276 and 37 Asians, for a total of 44 minority students. [FN6] Although disadvantaged whites applied to the special program in large numbers, see n. 5, supra, none received an offer of admission through that process. Indeed, in 1974, at least, the special committee explicitly considered only "disadvantaged" special applicants who were members of one of the designated minority groups. Record 171.

FN6. The following table provides a year-by-year comparison of minority admissions at the Davis Medical School:

Special Admissions Program General Admissions Total

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Blacks Chicanos Asians Total Blacks Chicanos Asians Total

1970	5	3	0	8	0	0	4	4	12
1971	4	9	2	15	1	0	8	9	24
1972	5	6	5	16	0	0	11	11	27
1973	6	8	2	16	0	2	13	15	31
1974	6	7	3	16	0	4	5	9	25

Id., at 216-218. Sixteen persons were admitted under the special program in 1974, ibid., but one Asian withdrew before the start of classes, and the vacancy was filled by a candidate from the general admissions waiting list. Brief for Petitioner 4 n. 5.

**2741 Allan Bakke is a white male who applied to the Davis Medical School in both 1973 and 1974. In both years Bakke's application was considered under the general admissions program, and he received an interview. His 1973 interview was with Dr. Theodore C. West, who considered Bakke "a very desirable applicant to [the] medical school." Id., at 225. Despite a strong benchmark score of 468 out of 500, Bakke was rejected. His application had come late in the year, and no applicants in the general admissions process with scores below 470 were accepted after Bakke's application was completed. Id., at 69. There were four special admissions slots unfilled at that time however, for which Bakke was not considered. Id., at 70. After his 1973 rejection, Bakke wrote to Dr. George H. Lowrey, Associate Dean and Chairman of the Admissions Committee, protesting that the special admissions program operated as a racial and ethnic quota. id., AT 259.

*277 Bakke's 1974 application was completed early in the year. Id., at 70. His student interviewer gave him an overall rating of 94, finding him "friendly, well tempered, conscientious and delightful to speak with." Id., at 229. His faculty interviewer was, by coincidence, the same Dr. Lowrey to whom he had written in protest of the special admissions program. Dr. Lowrey found Bakke "rather limited in his approach" to the problems of the medical profession and found disturbing Bakke's "very definite opinions which were based more on his personal viewpoints than upon a study of the total problem." Id., at 226. Dr. Lowrey gave Bakke the lowest of his six ratings, an 86; his total was 549 out of 600. Id., at 230. Again, Bakke's application was rejected. In neither year did the chairman of the admissions committee, Dr. Lowrey, exercise his discretion to place Bakke on the waiting list. Id., at 64. In both years, applicants were admitted under the special program with grade point averages, MCAT scores, and benchmark scores significantly lower than Bakke's. [FN7]

FN7. The following table compares Bakke's science grade point average, overall grade point average, and MCAT scores with the average scores of regular admittees and of special admittees in both 1973 and 1974. Record 210, 223, 231, 234:

Class Entering in 1973

			MCAT (percentiles)			
	SGPA	OGPA	Verbal	Quantitative	Science	Gen. Infor.
Bakke	3.44	3.46	96	94	97	72

Average of regular admittees	3.51	3.49	81	76	83	69
Average of special admittees	2.62	2.88	46	24	35	33

Class Entering in 1974

MCAT (Percentiles)

	SGPA	OGPA	Verbal	Quantitative	Science	Gen. Infor.
Bakke	3.44	3.46	96	94	97	72
Average of regular admittees	3.36	3.29	69	67	82	72
Average of special admittees	2.42	2.62	34	30	37	18

Applicants admitted under the special program also had benchmark scores significantly lower than many students, including Bakke, rejected under the general admissions program, even though the special rating system apparently gave credit for overcoming "disadvantage." Id., at 181, 388.

After the second rejection, Bakke filed the instant suit in the Superior Court of California. [FN8] He sought mandatory, injunctive, **2742 and declaratory relief compelling his admission to the Medical School. He alleged that the Medical School's special admissions program operated to exclude him from the *278 school on the basis of his race, in violation of his rights under the Equal Protection Clause of the Fourteenth Amendment, [FN9] Art. I, § 21, of the California Constitution, [FN10] and § 601 of Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. § 2000d. [FN11] The University cross-complained for a declaration that its special admissions program was lawful. The trial *279 court found that the special program operated as a racial quota, because minority applicants in the special program were rated only against one another. Record 388 and 16 places in the class of 100 were reserved for them. Id., at 295-296. Declaring that the University could not take race into account in making admissions decisions, the trial court held the challenged program violative of the Federal Constitution, the State Constitution, and Title VI. The court refused to order Bakke's admission, however, holding that he had failed to carry his burden of proving that he would have been admitted but for the existence of the special program.

FN8. Prior to the actual filing of the suit, Bakke discussed his intentions with Peter C. Storandt, Assistant to the Dean of Admissions at the Davis Medical School. Id., at 259-269. Storandt expressed sympathy for Bakke's position and offered advice on litigation strategy. Several amici imply that these discussions render Bakke's suit "collusive." There is no indication, however, that Storandt's views were those of the Medical School or that anyone else at the school even was aware of Storandt's correspondence and conversations with Bakke. Storandt is no longer with the University.

FN9. "[N]or shall any State . . . deny to any person within its jurisdiction the equal protection of the laws."

FN10. "No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the Legislature; nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens."

This section was recently repealed and its provisions added to Art. I, § 7, of the State Constitution.

FN11. Section 601 of Title VI, 78 Stat. 252, provides as follows:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Bakke appealed from the portion of the trial court judgment denying him admission, and the University appealed from the decision that its special admissions program was unlawful and the order enjoining it from considering race in the processing of applications. The Supreme Court of California transferred the case directly from the trial court, "because of the importance of the issues involved." 18 Cal.3d 34, 39, 132 Cal.Rptr. 680, 684, 553 P.2d 1152, 1156 (1976). The California court accepted the findings of the trial court with respect to the University's program. [FN12] Because the special admissions program involved a racial classification, the Supreme Court held itself bound to apply strict scrutiny. Id., at 49, 132 Cal.Rptr., at 690, 553 P.2d, at 1162-1163. It then turned to the goals the University presented as justifying the special program. Although the court agreed that the goals of integrating the medical profession and increasing the number of physicians willing to serve members of minority groups were compelling state interests, id., at 53, 132 Cal.Rptr., at 693, 553 P.2d, at 1165, it concluded that the special admissions program was not the least intrusive means of achieving those goals. Without passing on the state constitutional or the federal statutory grounds cited in the trial court's judgment, the California court held *280 that the Equal Protection Clause of the Fourteenth Amendment required that "no applicant may be rejected because of his race, in favor of another who is less qualified, as measured by standards applied without regard to race." Id., at 55, 132 Cal.Rptr., at 694, 553 P.2d, at 1166.

FN12. Indeed, the University did not challenge the finding that applicants who were not members of a minority group were excluded from consideration in the special admissions process. 18 Cal.3d, at 44, 132 Cal.Rptr., at 687, 553 P.2d, at 1159.

**2743 [2][3][4][5][6] Turning to Bakke's appeal, the court ruled that since Bakke had established that the University had discriminated against him on the basis of his race, the burden of proof shifted to the University to demonstrate that he would not have been

admitted even in the absence of the special admissions program. [FN13] Id., at 63-64, 132 Cal.Rptr., at 699- 700, 553 P.2d, at 1172. The court analogized Bakke's situation to that of a plaintiff under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-17 (1970 ed., Supp. V), see, e. g., Franks v. Bowman Transportation Co., 424 U.S. 747, 772, 96 S.Ct. 1251, 1267, 47 L.Ed.2d 444 (1976). 18 Cal.3d, at 63-64, 132 Cal.Rptr., at 700, 553 P.2d, at 1172. On this basis, the court initially ordered a remand for the purpose of determining whether, under the newly allocated burden of proof, Bakke would have been admitted to either the 1973 or the 1974 entering class in the absence of the special admissions program. App. A to Application for Stay 48. In its petition for rehearing below, however, the University conceded its inability to carry that burden. App. B to Application for Stay A19-A20. [FN14] The *281 California court thereupon amended its opinion to direct that the trial court enter judgment ordering Bakke's admission to the Medical School. 18 Cal.3d, at 64, 132 Cal.Rptr., at 700, 553 P.2d, at 1172. That order was stayed pending review in this Court. 429 U.S. 953, 97 S.Ct. 573, 50 L.Ed.2d 321 (1976). We granted certiorari to consider the important constitutional issue. 429 U.S. 1090, 97 S.Ct. 1098, 51 L.Ed.2d 535 (1977).

FN13. Petitioner has not challenged this aspect of the decision. The issue of the proper placement of the burden of proof, then, is not before us.

FN14. Several amici suggest that Bakke lacks standing, arguing that he never showed that his injury--exclusion from the Medical School--will be redressed by a favorable decision, and that the petitioner "fabricated" jurisdiction by conceding its inability to meet its burden of proof. Petitioner does not object to Bakke's standing, but inasmuch as this charge concerns our jurisdiction under Art. III, it must be considered and rejected. First, there appears to be no reason to question the petitioner's concession. It was not an attempt to stipulate to a conclusion of law or to disguise actual facts of record. Cf. Swift & Co. v. Hocking Valley R. Co., 243 U.S. 281, 37 S.Ct. 287, 61 L.Ed. 722 (1917).

Second, even if Bakke had been unable to prove that he would have been admitted in the absence of the special program, it would not follow that he lacked standing. The constitutional element of standing is plaintiff's demonstration of any injury to himself that is likely to be redressed by favorable decision of his claim. Warth v. Seldin, 422 U.S. 490, 498, 95 S.Ct. 2197, 2204, 45 L.Ed.2d 243 (1975). The trial court found such an injury, apart from failure to be admitted, in the University's decision not to permit Bakke to compete for all 100 places in the class, simply because of his race. Record 323. Hence the constitutional requirements of Art. III were met. The question of Bakke's admission vel non is merely one of relief.

Nor is it fatal to Bakke's standing that he was not a "disadvantaged" applicant. Despite the program's purported emphasis on disadvantage, it was a minority enrollment program with a secondary disadvantage element. White disadvantaged students were never considered under the special program, and the University acknowledges that its goal in devising the program was to increase minority enrollment.

II

In this Court the parties neither briefed nor argued the applicability of Title VI of the Civil Rights Act of 1964. Rather, as had the California court, they focused exclusively upon the

validity of the special admissions program under the Equal Protection Clause. Because it was possible, however, that a decision on Title VI might obviate resort to constitutional interpretation, see Ashwander v. TVA, 297 U.S. 288, 346-348, 56 S.Ct. 466, 80 L.Ed. 688 (1936) (concurring opinion), we requested supplementary briefing on the statutory issue. 434 U.S. 900, 98 S.Ct. 293, 54 L.Ed.2d 186 (1977).

A

At the outset we face the question whether a right of action for private parties exists under Title VI. Respondent argues that there is a private right of action, invoking **2744 the test set forth in Cort v. Ash, 422 U.S. 66, 78, 95 S.Ct. 2080, 45 L.Ed.2d 26 (1975). He contends *282 that the statute creates a federal right in his favor, that legislative history reveals an intent to permit private actions, [FN15] that such actions would further the remedial purposes of the statute, and that enforcement of federal rights under the Civil Rights Act generally is not relegated to the States. In addition, he cites several lower court decisions which have recognized or assumed the existence of a private right of action. [FN16] Petitioner denies the existence of a private right of action, arguing that the sole function of § 601, see n. 11, supra, was to establish a predicate for administrative action under § 602, 78 Stat. 252, 42 U.S.C. § 2000d-1. [FN17] In its view, administrative curtailment of federal funds under that section was the only sanction to be imposed upon recipients that *283 violated § 601. Petitioner also points out that Title VI contains no explicit grant of a private right of action, in contrast to Titles II, III, IV, and VII, of the same statute, 42 U.S.C. §§ 2000a-3(a), 2000b-2, 2000c-8, and 2000e- 5(f) (1970 ed. and Supp. V). [FN18]

FN15. See, e. g., 110 Cong.Rec. 5255 (1964) (remarks of Sen. Case).

FN16. E. g., Bossier Parish School Board v. Lemon, 370 F.2d 847, 851- 852 (CA5), cert. denied, 388 U.S. 911, 87 S.Ct. 2116, 18 L.Ed.2d 1350 (1967); Natonabah v. Board of Education, 355 F.Supp. 716, 724 (NM 1973); cf. Lloyd v. Regional Transportation Authority, 548 F.2d 1277, 1284-1287 (C.A.7 1977) (Title V of Rehabilitation Act of 1973, 29 U.S.C. § 790 et seq. (1976 ed.)); Piascik v. Cleveland Museum of Art, 426 F.Supp. 779, 780 n. 1 (N.D.Ohio 1976) (Title IX of Education Amendments of 1972, 20 U.S.C. § 1681 et seq. (1976 ed.)).

FN17. Section 602, as set forth in 42 U.S.C. § 2000d-1, reads as follows:

"Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other

recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: Provided, however, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report."

FN18. Several comments in the debates cast doubt on the existence of any intent to create a private right of action. For example, Representative Gill stated that no private right of action was contemplated:

"Nowhere in this section do you find a comparable right of legal action for a person who feels he has been denied his rights to participate in the benefits of Federal funds. Nowhere. Only those who have been cut off can go to court and present their claim." 110 Cong.Rec. 2467 (1964).

Accord, id., at 7065 (remarks of Sen. Keating); 6562 (remarks of Sen. Kuchel).

We find it unnecessary to resolve this question in the instant case. The question of respondent's right to bring an action under Title VI was neither argued nor decided in either of the courts below, and this Court has been hesitant to review questions not addressed below. McGoldrick v. Compagnie Generale Transatlantique, 309 U.S. 430, 434-435, 60 S.Ct. 670, 672-673, 84 L.Ed. 849 (1940). See also Massachusetts v. Westcott, **2745 431 U.S. 322, 97 S.Ct. 1755, 52 L.Ed.2d 349 (1977); Cardinale v. Louisiana, 394 U.S. 437, 439, 89 S.Ct. 1161, 1163, 22 L.Ed.2d 398 (1969). Cf. Singleton v. Wulff, 428 U.S. 106, 121, 96 S.Ct. 2868, 2877, 49 L.Ed.2d 826 (1976). We therefore do not address this difficult issue. Similarly, we need not pass *284 upon petitioner's claim that private plaintiffs under Title VI must exhaust administrative remedies. We assume, only for the purposes of this case, that respondent has a right of action under Title VI. See Lau v. Nichols, 414 U.S. 563, 571 n. 2, 94 S.Ct. 786, 790, 39 L.Ed.2d 1 (1974) (STEWART, J., concurring in result).

B

[7] The language of § 601, 78 Stat. 252, like that of the Equal Protection Clause, is majestic in its sweep:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

The concept of "discrimination," like the phrase "equal protection of the laws," is susceptible of varying interpretations, for as Mr. Justice Holmes declared, "[a] word is not a crystal, transparent and unchanged, it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used." Towne v.

Eisner, 245 U.S. 418, 425, 38 S.Ct. 158, 159, 62 L.Ed. 372 (1918). We must, therefore, seek whatever aid is available in determining the precise meaning of the statute before us. Train v. Colorado Public Interest Research Group, 426 U.S. 1, 10, 96 S.Ct. 1938, 1942, 48 L.Ed.2d 434 (1976), quoting United States v. American Trucking Assns., 310 U.S. 534, 543-544, 60 S.Ct. 1059, 1063-1064, 84 L.Ed. 1345 (1940). Examination of the voluminous legislative history of Title VI reveals a congressional intent to halt federal funding of entities that violate a prohibition of racial discrimination similar to that of the Constitution. Although isolated statements of various legislators taken out of context, can be marshaled in support of the proposition that § 601 enacted a purely color-blind scheme, [FN19] without regard to the reach of the Equal Protection *285 Clause, these comments must be read against the background of both the problem that Congress was addressing and the broader view of the statute that emerges from a full examination of the legislative debates.

FN19. For example, Senator Humphrey stated as follows:

"Racial discrimination or segregation in the administration of disaster relief is particularly shocking; and offensive to our sense of justice and fair play. Human suffering draws no color lines, and the administration of help to the sufferers should not." Id., at 6547.

See also id., at 12675 (remarks of Sen. Allott); 6561 (remarks of Sen. Kuchel); 2494, 6047 (remarks of Sen. Pastore). But see id., at 15893 (remarks of Rep. MacGregor); 13821 (remarks of Sen. Saltonstall); 10920 (remarks of Sen. Javits); 5266, 5807 (remarks of Sen. Keating).

The problem confronting Congress was discrimination against Negro citizens at the hands of recipients of federal moneys. Indeed, the color blindness pronouncements cited in the margin at n. 19, generally occur in the midst of extended remarks dealing with the evils of segregation in federally funded programs. Over and over again, proponents of the bill detailed the plight of Negroes seeking equal treatment in such programs. [FN20] There simply was no reason for Congress to consider the validity of hypothetical preferences that might be accorded minority citizens; the legislators were dealing with the real and pressing problem of how to guarantee those citizens equal treatment.

FN20. See, e. g., id., at 7064-7065 (remarks of Sen. Ribicoff); 7054- 7055 (remarks of Sen. Pastore); 6543-6544 (remarks of Sen. Humphrey); 2595 (remarks of Rep. Donohue); 2467-2468 (remarks of Rep. Celler); 1643, 2481-2482 (remarks of Rep. Ryan); H.Rep.No.914, 88th Cong., 1st Sess., pt. 2, pp. 24-25 (1963), U.S.Code Cong. & Admin.News 1964, p. 2355.

In addressing that problem, supporters of Title VI repeatedly declared that the bill enacted constitutional principles. For example,**2746 Representative Celler, the Chairman of the House Judiciary Committee and floor manager of the legislation in the House, emphasized this in introducing the bill:

"The bill would offer assurance that hospitals financed by Federal money would not deny adequate care to Negroes. It would prevent abuse of food distribution programs whereby Negroes have been known to be denied food *286 surplus supplies when white persons were given such food. It would assure Negroes the benefits now accorded only white students in programs of high[er] education financed by Federal funds. It would, in short, assure the existing right to equal treatment in the enjoyment of Federal funds. It would not

destroy any rights of private property or freedom of association." 110 Cong.Rec. 1519 (1964) (emphasis added).

Other sponsors shared Representative Celler's view that Title VI embodied constitutional principles. [FN21]

FN21. See, e. g., 110 Cong.Rec. 2467 (1964) (remarks of Rep. Lindsay). See also id., at 2766 (remarks of Rep. Matsunaga); 2731-2732 (remarks of Rep. Dawson); 2595 (remarks of Rep. Donohue); 1527-1528 (remarks of Rep. Celler).

In the Senate, Senator Humphrey declared that the purpose of Title VI was "to insure that Federal funds are spent in accordance with the Constitution and the moral sense of the Nation." Id., at 6544. Senator Ribicoff agreed that Title VI embraced the constitutional standard: "Basically, there is a constitutional restriction against discrimination in the use of federal funds; and title VI simply spells out the procedure to be used in enforcing that restriction." Id., at 13333. Other Senators expressed similar views. [FN22]

FN22. See, e. g., id., at 12675, 12677 (remarks of Sen. Allott); 7064 (remarks of Sen. Pell); 7057, 7062-7064 (remarks of Sen. Pastore); 5243 (remarks of Sen. Clark).

Further evidence of the incorporation of a constitutional standard into Title VI appears in the repeated refusals of the legislation's supporters precisely to define the term "discrimination." Opponents sharply criticized this failure, [FN23] but proponents of the bill merely replied that the meaning of *287 "discrimination" would be made clear by reference to the Constitution or other existing law. For example, Senator Humphrey noted the relevance of the Constitution:

FN23. See, e. g., id., at 6052 (remarks of Sen. Johnston); 5863 (remarks of Sen. Eastland); 5612 (remarks of Sen. Ervin); 5251 (remarks of Sen. Talmadge); 1632 (remarks of Rep. Dowdy); 1619 (remarks of Rep. Abernethy).

"As I have said, the bill has a simple purpose. That purpose is to give fellow citizens--Negroes--the same rights and opportunities that white people take for granted. This is no more than what was preached by the prophets, and by Christ Himself. It is no more than what our Constitution guarantees." Id., at 6553. [FN24]

FN24. See also id., at 7057, 13333 (remarks of Sen. Ribicoff); 7057 (remarks of Sen. Pastore); 5606-5607 (remarks of Sen. Javits); 5253, 5863-5864, 13442 (remarks of Sen. Humphrey).

[8] In view of the clear legislative intent, Title VI must be held to proscribe only those racial classifications that would violate the Equal Protection Clause or the Fifth Amendment.

III

A

Petitioner does not deny that decisions based on race or ethnic origin by faculties and administrations of state universities are reviewable under the Fourteenth Amendment. See, e. g., Missouri ex rel. Gaines v. Canada, 305 U.S. 337, 59 S.Ct. 232, 83 L.Ed. 208 (1938); Sipuel v. Board of Regents, 332 U.S. 631, 68 S.Ct. 299, 92 L.Ed. 247 (1948); Sweatt v. Painter, 339 U.S. 629, 70 S.Ct. 848, 94 L.Ed. 1114 (1950); McLaurin v. Oklahoma State Regents, 339 U.S. 637, 70 S.Ct. 851, 94 L.Ed. 1149 (1950). For his part, respondent does

not argue that all racial or ethnic classifications are per se invalid. See, e. g., Hirabayashi v. United States, 320 U.S. 81, 63 S.Ct. 1375, 87 L.Ed. 1774 (1943); Korematsu v. United States, 323 U.S. 214, 65 S.Ct. 193, 89 L.Ed. 194 (1944); Lee v. Washington, 390 U.S. 333, **2747 334, 88 S.Ct. 994, 995, 19 L.Ed.2d 1212 (1968) (Black, Harlan, and Stewart, JJ., concurring); United Jewish Organizations v. Carey, 430 U.S. 144, 97 S.Ct. 996, 51 L.Ed.2d 229 (1977). The parties do disagree as to the level of judicial scrutiny to be applied to the special admissions program. Petitioner argues that the court below erred in applying strict scrutiny, as this inexact term has been *288 applied in our cases. That level of review, petitioner asserts, should be reserved for classifications that disadvantage "discrete and insular minorities." SeeUnited States v. Carolene Products Co., 304 U.S. 144, 152 n. 4, 58 S.Ct. 778, 783, 82 L.Ed. 1234 (1938). Respondent, on the other hand, contends that the California court correctly rejected the notion that the degree of judicial scrutiny accorded a particular racial or ethnic classification hinges upon membership in a discrete and insular minority and duly recognized that the "rights established [by the Fourteenth Amendment] are personal rights." Shelley v. Kraemer, 334 U.S. 1, 22, 68 S.Ct. 836, 846, 92 L.Ed. 1161 (1948).

En route to this crucial battle over the scope of judicial review, [FN25] the parties fight a sharp preliminary action over the proper characterization of the special admissions program. Petitioner prefers to view it as establishing a "goal" of minority representation in the Medical School. Respondent, echoing the courts below, labels it a racial quota. [FN26]

FN25. That issue has generated a considerable amount of scholarly controversy. See, e. g., Ely, The Constitutionality of Reverse Racial Discrimination, 41 U.Chi.L.Rev. 723 (1974); Greenawalt, Judicial Scrutiny of "Benign" Racial Preference in Law School Admissions, 75 Colum.L.Rev. 559 (1975); Kaplan, Equal Justice in an Unequal World: Equality for the Negro, 61 Nw.U.L.Rev. 363 (1966); Karst & Horowitz, Affirmative Action and Equal Protection, 60 Va.L.Rev. 955 (1974); O'Neil, Racial Preference and Higher Education: The Larger Context, 60 Va.L.Rev. 925 (1974); Posner, The DeFunis Case and the Constitutionality of Preferential Treatment of Racial Minorities, 1974 Sup.Ct.Rev. 1; Redish, Preferential Law School Admissions and the Equal Protection Clause: An Analysis of the Competing Arguments, 22 UCLA L.Rev. 343 (1974); Sandalow, Racial Preferences in Higher Education: Political Responsibility and the Judicial Role, 42 U.Chi.L.Rev. 653 (1975); Sedler, Racial Preference, Reality and the Constitution: Bakke v. Regents of the University of California, 17 Santa Clara L.Rev. 329 (1977); Seeburger, A Heuristic Argument Against Preferential Admissions, 39 U.Pitt.L.Rev. 285 (1977).

FN26. Petitioner defines "quota" as a requirement which must be met but can never be exceeded, regardless of the quality of the minority applicants. Petitioner declares that there is no "floor" under the total number of minority students admitted; completely unqualified students will not be admitted simply to meet a "quota." Neither is there a "ceiling," since an unlimited number could be admitted through the general admissions process. On this basis the special admissions program does not meet petitioner's definition of a quota.

The court below found--and petitioner does not deny--that white applicants could not compete for the 16 places reserved solely for the special admissions program. 18 Cal.3d, at

44, 132 Cal.Rptr., at 687, 553 P.2d, at 1159. Both courtsbelow characterized this as a "quota" system.

*289 This semantic distinction is beside the point: The special admissions program is undeniably a classification based on race and ethnic background. To the extent that there existed a pool of at least minimally qualified minority applicants to fill the 16 special admissions seats, white applicants could compete only for 84 seats in the entering class, rather than the 100 open to minority applicants. Whether this limitation is described as a quota or a goal, it is a line drawn on the basis of race and ethnic status. [FN27]

FN27. Moreover, the University's special admissions program involves a purposeful, acknowledged use of racial criteria. This is not a situation in which the classification on its face is racially neutral, but has a disproportionate racial impact. In that situation, plaintiff must establish an intent to discriminate. Arlington Heights v. Metropolitan Housing Dev. Corp., 429 U.S. 252, 264-265, 97 S.Ct. 555, 562-563, 50 L.Ed.2d 450 (1977); Washington v. Davis, 426 U.S. 229, 242, 96 S.Ct. 2040, 2048, 48 L.Ed.2d 597 (1976); see Yick Wo v. Hopkins, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220 (1886).

[9] The guarantees of the Fourteenth Amendment extend to all persons. Its language **2748 is explicit: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." It is settled beyond question that the "rights created by the first section of the Fourteenth Amendment are, by its terms, guaranteed to the individual. The rights established are personal rights." Shelley v. Kraemer, supra, at 22, 68 S.Ct., at 846. Accord,Missouri ex rel. Gaines v. Canada, supra, 305 U.S., at 351, 57 S.Ct., at 237; McCabe v. Atchison, T. & S.F.R. Co., 235 U.S. 151, 161-162, 35 S.Ct. 69, 71, 59 L.Ed. 169 (1914). The guarantee of equal protection cannot mean one thing when applied to one individual and something else when *290 applied to a person of another color. If both are not accorded the same protection, then it is not equal.

[10] Nevertheless, petitioner argues that the court below erred in applying strict scrutiny to the special admissions program because white males, such as respondent, are not a "discrete and insular minority" requiring extraordinary protection from the majoritarian political process. Carolene Products Co., supra, 304 U.S., at 152-153 n. 4, 58 S.Ct., at 783-784. This rationale, however, has never been invoked in our decisions as a prerequisite to subjecting racial or ethnic distinctions to strict scrutiny. Nor has this Court held that discreteness and insularity constitute necessary preconditions to a holding that a particular classification is invidious. [FN28] See, e. g., Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535, 541, 62 S.Ct. 1110, 1113, 86 L.Ed. 1655 (1942); Carrington v. Rash, 380 U.S. 89, 94-97, 85 S.Ct. 775, 779-780, 13 L.Ed.2d 675 (1965). These characteristics may be relevant in deciding whether or not to add new types of classifications to the list of "suspect" categories or whether a particular classification survives close examination. See, e. g., Massachusetts Board of Retirement v. Murgia, 427 U.S. 307, 313, 96 S.Ct. 2562, 2566, 49 L.Ed.2d 520 (1976) (age); San Antonio Independent School Dist. v. Rodriquez, 411 U.S. 1, 28, 93 S.Ct. 1278, 1293, 36 L.Ed.2d 16 (1973) (wealth); Graham v. Richardson, 403 U.S. 365, 372, 91 S.Ct. 1848, 1852, 29 L.Ed.2d 534 (1971) (aliens). Racial and ethnic classifications, however, are subject to stringent examination without regard to these

additional characteristics. We declared as much in the first cases explicitly to recognize racial distinctions as suspect:

FN28. After Carolene Products, the first specific reference in our decisions to the elements of "discreteness and insularity" appears in Minersville School District v. Gobitis, 310 U.S. 586, 606, 60 S.Ct. 1010, 1018, 84 L.Ed. 1375 (1940) (Stone, J., dissenting). The next does not appear until 1970. Oregon v. Mitchell, 400 U.S. 112, 295 n. 14, 91 S.Ct. 260, 349, 27 L.Ed.2d 91 (STEWART, J., concurring in part and dissenting in part). These elements have been relied upon in recognizing a suspect class in only one group of cases, those involving aliens. E. g., Graham v. Richardson, 403 U.S. 365, 372, 91 S.Ct. 1848, 1852, 29 L.Ed.2d 534 (1971).

"Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people *291 whose institutions are founded upon the doctrine of equality." Hirabayashi, 320 U.S., at 100, 63 S.Ct., at 1385.

"[A]ll legal restrictions which curtail the civil rights of a single racial group are immediately suspect. That is not to say that all such restrictions are unconstitutional. It is to say that courts must subject them to the most rigid scrutiny." Korematsu, 323 U.S., at 216, 65 S.Ct., at 194.

The Court has never questioned the validity of those pronouncements. Racial and ethnic distinctions of any sort are inherently suspect and thus call for the most exacting judicial examination.

B

This perception of racial and ethnic distinctions is rooted in our Nation's constitutional and demographic history. The Court's initial view of the Fourteenth Amendment was that its "one pervading purpose" was "the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly-made freeman and citizen from the **2749 oppressions of those who had formerly exercised dominion over him." Slaughter-House Cases, 16 Wall. 36, 71, 21 L.Ed. 394 (1873). The Equal Protection Clause, however, was "[v]irtually strangled in infancy by post-civil-war judicial reactionism." [FN29] It was relegated to decades of relative desuetude while the Due Process Clause of the Fourteenth Amendment, after a short germinal period, flourished as a cornerstone in the Court's defense of property and liberty of contract. See, e. g., Mugler v. Kansas, 123 U.S. 623, 661, 8 S.Ct. 273, 297, 31 L.Ed. 205 (1887); Allgeyer v. Louisiana, 165 U.S. 578, 17 S.Ct. 427, 41 L.Ed. 832 (1897); Lochner v. New York, 198 U.S. 45, 25 S.Ct. 539, 49 L.Ed. 937 (1905). In that cause, the Fourteenth Amendment's "one pervading purpose" was displaced. See, e. g., Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256 (1896). It was only as the era of substantive due process came to a close, see, e. g., Nebbia v. New *292 York, 291 U.S. 502, 54 S.Ct. 505, 78 L.Ed. 940 (1934); West Coast Hotel Co. v. Parrish, 300 U.S. 379, 57 S.Ct. 578, 81 L.Ed. 703 (1937), that the Equal Protection Clause began to attain a genuine measure of vitality, see, e. g., United States v. Carolene Products, 304 U.S. 144, 58 S.Ct. 778, 82 L.Ed. 1234 (1938); Skinner v. Oklahoma ex rel. Williamson, supra.

FN29. Tussman & tenBroek, The Equal Protection of the Laws, 37 Calif.L.Rev. 341, 381 (1949).

By that time it was no longer possible to peg the guarantees of the Fourteenth Amendment to the struggle for equality of one racial minority. During the dormancy of the Equal Protection Clause, the United States had become a Nation of minorities. [FN30] Each had to struggle [FN31]--and to some extent struggles still [FN32]--to overcome the prejudices not of a monolithic majority, but of a "majority" composed of various minority groups of whom it was said--perhaps unfairly in many cases--that a shared characteristic was a willingness to disadvantage other groups. [FN33] As the Nation filled with the stock of many lands, the reach of the Clause was gradually extended to all ethnic groups seeking protection from official discrimination. See Strauder v. West Virginia, 100 U.S. 303, 308, 25 L.Ed. 664 (1880) (Celtic Irishmen) (dictum); Yick Wo v. Hopkins, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220 (1886) (Chinese); Truax v. Raich, 239 U.S. 33, 41, 36 S.Ct. 7, 10, 60 L.Ed. 131 (1915) (Austrian resident aliens); Korematsu, supra (Japanese); Hernandez v. Texas, 347 U.S. 475, 74 S.Ct. 667, 98 L.Ed. 866 (1954) (Mexican-Americans). The guarantees of equal protection, said the Court in *293 Yick Wo, "are universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality; and the equal protection of the laws is a pledge of the protection of equal laws." 118 U.S., at 369, 6 S.Ct., at 1070.

FN30. M. Jones, American Immigration 177-246 (1960).

FN31. J. Higham, Strangers in the Land (1955); G. Abbott, The Immigrant and the Community (1917); P. Roberts, The New Immigration 66-73, 86-91, 248-261 (1912). See also E. Fenton, Immigrants and Unions: A Case Study 561-562 (1975).

FN32. "Members of various religious and ethnic groups, primarily but not exclusively of Eastern, Middle, and Southern European ancestry, such as Jews, Catholics, Italians, Greeks, and Slavic groups, continue to be excluded from executive, middle-management, and other job levels because of discrimination based upon their religion and/or national origin." 41 CFR § 60-50.1(b) (1977).

FN33. E. g., Roberts, supra n. 31, at 75; Abbott, supra n. 31, at 270-271. See generally n. 31, supra.

Although many of the Framers of the Fourteenth Amendment conceived of its primary function as bridging the vast distance between members of the Negro race and the white "majority," Slaughter-House Cases, supra, the Amendment itself was framed in universal terms, without reference to color, ethnic origin, or condition of prior servitude. As this Court recently remarked in interpreting the 1866 Civil Rights Act to extend to claims of racial discrimination against white persons, "the 39th Congress was intent upon establishing **2750 in the federal law a broader principle than would have been necessary simply to meet the particular and immediate plight of the newly freed Negro slaves." McDonald v. Santa Fe Trail Transportation Co., 427 U.S. 273, 296, 96 S.Ct. 2574, 2586, 49 L.Ed.2d 493 (1976). And that legislation was specifically broadened in 1870 to ensure that "all persons," not merely "citizens," would enjoy equal rights under the law. See Runyon v. McCrary, 427 U.S. 160, 192-202, 96 S.Ct. 2586, 2605-2609, 49 L.Ed.2d 415 (1976) (WHITE, J., dissenting). Indeed, it is not unlikely that among the Framers were many who would have applauded a reading of the Equal Protection Clause that states a principle of universal application and is responsive to the racial, ethnic, and cultural diversity of the Nation. See, e. g., Cong.Globe, 39th Cong., 1st Sess., 1056 (1866) (remarks of Rep. Niblack); id., at 2891-2892 (remarks of Sen. Conness); id., 40th Cong., 2d Sess., 883 (1868) (remarks of Sen. Howe) (Fourteenth

Amendment "protect[s] classes from class legislation"). See also Bickel, The Original Understanding and the Segregation Decision, 69 Harv.L.Rev. 1, 60-63 (1955).

Over the past 30 years, this Court has embarked upon the crucial mission of interpreting the Equal Protection Clause with the view of assuring to all persons "the protection of *294 equal laws," Yick Wo, supra, 118 U.S., at 369, 6 S.Ct., at 1070, in a Nation confronting a legacy of slavery and racial discrimination. See, e. g., Shelley v. Kraemer, 334 U.S. 1, 68 S.Ct. 836, 92 L.Ed. 1161 (1948); Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954); Hills v. Gautreaux, 425 U.S. 284, 96 S.Ct. 1538, 47 L.Ed.2d 792 (1976). Because the landmark decisions in this area arose in response to the continued exclusion of Negroes from the mainstream of American society, they could be characterized as involving discrimination by the "majority" white race against the Negro minority. But they need not be read as depending upon that characterization for their results. It suffices to say that "[o]ver the years, this Court has consistently repudiated '[d]istinctions between citizens solely because of their ancestry' as being 'odious to a free people whose institutions are founded upon the doctrine of equality.' " Loving v. Virginia, 388 U.S. 1, 11, 87 S.Ct. 1817, 1823, 18 L.Ed.2d 1010 (1967), quoting Hirabayashi, 320 U.S., at 100, 63 S.Ct., at 1385.

Petitioner urges us to adopt for the first time a more restrictive view of the Equal Protection Clause and hold that discrimination against members of the white "majority" cannot be suspect if its purpose can be characterized as "benign." [FN34] *295 The clock of our liberties, however, cannot be turned back to 1868. Brown v. Board of Education, supra, 347 U.S., at 492, 74 S.Ct., at 690; accord, Loving v. Virginia, supra, 388 U.S., at 9, 87 S.Ct., at 1822. It is far too late to argue that the guarantee of equal protection **2751 to all persons permits the recognition of special wards entitled to a degree of protection greater than that accorded others. [FN35] "The Fourteenth Amendment is not directed solely against discrimination due to a 'two-class theory'--that is, based upon differences between 'white' and Negro." Hernandez, 347 U.S., at 478, 74 S.Ct., at 670.

FN34. In the view of Mr. Justice BRENNAN, Mr. Justice WHITE, Mr. Justice MARSHALL, and Mr. Justice BLACKMUN, the pliable notion of "stigma" is the crucial element in analyzing racial classifications. See, e. g., post, at 2785. The Equal Protection Clause is not framed in terms of "stigma." Certainly the word has no clearly defined constitutional meaning. It reflects a subjective judgment that is standardless. All state-imposed classifications that rearrange burdens and benefits on the basis of race are likely to be viewed with deep resentment by the individuals burdened. The denial to innocent persons of equal rights and opportunities may outrage those so deprived and therefore may be perceived as invidious. These individuals are likely to find little comfort in the notion that the deprivation they are asked to endure is merely the price of membership in the dominant majority and that its imposition is inspired by the supposedly benign purpose of aiding others. One should not lightly dismiss the inherent unfairness of, and the perception of mistreatment that accompanies, a system of allocating benefits and privileges on the basis of skin color and ethnic origin. Moreover, Mr. Justice BRENNAN, Mr. Justice WHITE, Mr. Justice MARSHALL, and Mr. Justice BLACKMUN offer no principle for deciding whether preferential classifications reflect a benign remedial purpose or a malevolent stigmatic classification, since they are willing in this case to accept mere post hoc declarations by an isolated state entity--a medical school faculty--unadorned by particularized findings of past discrimination, to establish such a remedial purpose.

FN35. Professor Bickel noted the self-contradiction of that view:

"The lesson of the great decisions of the Supreme Court and the lesson of contemporary history have been the same for at least a generation: discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society. Now this is to be unlearned and we are told that this is not a matter of fundamental principle but only a matter of whose ox is gored. Those for whom racial equality was demanded are to be more equal than others. Having found support in the Constitution for equality, they now claim support for inequality under the same Constitution." A. Bickel, The Morality of Consent 133 (1975).

Once the artificial line of a "two-class theory" of the Fourteenth Amendment is put aside, the difficulties entailed in varying the level of judicial review according to a perceived "preferred" status of a particular racial or ethnic minority are intractable. The concepts of "majority" and "minority" necessarily reflect temporary arrangements and political judgments. As observed above, the white "majority" itself is composed of various minority groups, most of which can lay claim to a history of prior discrimination at the hands of the State and private individuals. Not all of these groups can receive preferential treatment and corresponding judicial tolerance *296 of distinctions drawn in terms of race and nationality, for then the only "majority" left would be a new minority of white Anglo-Saxon Protestants. There is no principled basis for deciding which groups would merit "heightened judicial solicitude" and which would not. [FN36] Courts would be asked to evaluate the extent of the prejudice and consequent *297 harm suffered by various minority groups. Those whose societal injury is thought to exceed some arbitrary level of tolerability then would be entitled to preferential classifications at the expense of individuals belonging to other groups. Those classifications would be free from exacting judicial scrutiny. As these preferences began to have their desired effect, and the consequences of past discrimination were undone, new judicial rankings would be necessary. The kind of variable sociological and political **2752 analysis necessary to produce such rankings simply does not lie within the judicial competence--even if they otherwise were politically feasible and socially desirable. [FN37]

FN36. As I am in agreement with the view that race may be taken into account as a factor in an admissions program, I agree with my Brothers BRENNAN, WHITE, MARSHALL, and BLACKMUN that the portion of the judgment that would proscribe all consideration of race must be reversed. See Part V, infra. But I disagree with much that is said in their opinion.

They would require as a justification for a program such as petitioner's, only two findings: (i) that there has been some form of discrimination against the preferred minority groups by "society at large," post, at 2789 (it being conceded that petitioner had no history of discrimination), and (ii) that "there is reason to believe" that the disparate impact sought to be rectified by the program is the "product" of such discrimination:

"If it was reasonable to conclude--as we hold that it was--that the failure of minorities to qualify for admission at Davis under regular procedures was due principally to the effects of past discrimination, then there is a reasonable likelihood that, but for pervasive racial discrimination, respondent would have failed to qualify for admission even in the absence of Davis' special admissions program." Post, at 2787.

The breadth of this hypothesis is unprecedented in our constitutional system. The first step is easily taken. No one denies the regrettable fact that there has been societal discrimination in this country against various racial and ethnic groups. The second step, however, involves a speculative leap: but for this discrimination by society at large, Bakke "would have failed to qualify for admission" because Negro applicants-- nothing is said about Asians, cf., e. g., post, at 2791 n. 57--would have made better scores. Not one word in the record supports this conclusion, and the authors of the opinion offer no standard for courts to use in applying such a presumption of causation to other racial or ethnic classifications. This failure is a grave one, since if it may be concluded on this record that each of the minority groups preferred by the petitioner's special program is entitled to the benefit of the presumption, it would seem difficult to determine that any of the dozens of minority groups that have suffered "societal discrimination" cannot also claim it, in any area of social intercourse. See Part IV-B, infra.

FN37. Mr. Justice Douglas has noted the problems associated with such inquiries:

"The reservation of a proportion of the law school class for members of selected minority groups is fraught with . . . dangers, for one must immediately determine which groups are to receive such favored treatment and which are to be excluded, the proportions of the class that are to be allocated to each, and even the criteria by which to determine whether an individual is a member of a favored group. [Cf. Plessy v. Ferguson, 163 U.S. 537, 549, 552, 16 S.Ct. 1138, 1142, 1143, 41 L.Ed. 256 (1896).] There is no assurance that a common agreement can be reached, and first the schools, and then the courts, will be buffeted with the competing claims. The University of Washington included Filipinos, but excluded Chinese and Japanese; another school may limit its program to blacks, or to blacks and Chicanos. Once the Court sanctioned racial preferences such as these, it could not then wash its hands of the matter, leaving it entirely in the discretion of the school, for then we would have effectively overruled Sweatt v. Painter, 339 U.S. 629, 70 S.Ct. 848, 94 L.Ed. 620, and allowed imposition of a 'zero' allocation. But what standard is the Court to apply when a rejected applicant of Japanese ancestry brings suit to require the University of Washington to extend the same privileges to his group? The Committee might conclude that the population of Washington is now 2% Japanese, and that Japanese also constitute 2% of the Bar, but that had they not been handicapped by a history of discrimination, Japanese would now constitute 5% of the Bar, or 20%. Or, alternatively, the Court could attempt to assess how grievously each group has suffered from discrimination, and allocate proportions accordingly; if that were the standard the current University of Washington policy would almost surely fall, for there is no Western State which can claim that it has always treated Japanese and Chinese in a fair and evenhanded manner. See, e. g., Yick Wo v. Hopkins, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220; Terrace v. Thompson, 263 U.S. 197, 44 S.Ct. 15, 68 L.Ed. 255; Oyama v. California, 332 U.S. 633, 68 S.Ct. 269, 92 L.Ed. 249. This Court has not sustained a racial classification since the wartime cases of Korematsu v. United States, 323 U.S. 214, 65 S.Ct. 193, 89 L.Ed. 194, and Hirabayashi v. United States, 320 U.S. 81, 63 S.Ct. 1375, 87 L.Ed. 1774, involving curfews and relocations imposed upon Japanese-Americans.

"Nor obviously will the problem be solved if next year the Law School included only Japanese and Chinese, for then Norwegians and Swedes, Poles and Italians, Puerto Ricans

and Hungarians, and all other groups which form this diverse Nation would have just complaints." DeFunis v. Odegaard, 416 U.S. 312, 337-340, 94 S.Ct. 1704, 1716, 1717, 40 L.Ed.2d 164 (1974) (dissenting opinion) (footnotes omitted).

*298 Moreover, there are serious problems of justice connected with the idea of preference itself. First, it may not always be clear that a so-called preference is in fact benign. Courts may be asked to validate burdens imposed upon individual members of a particular group in order to advance the group's general interest. See United Jewish Organizations v. Carey, 430 U.S., at 172-173, 97 S.Ct., at 1013. (BRENNAN, J., concurring in part). Nothing in the Constitution supports the notion that individuals may be asked to suffer otherwise impermissible burdens in order to enhance the societal standing of their ethnic groups. Second, preferential programs may only reinforce common stereotypes holding that certain groups are unable to achieve success without special protection based on a factor having no relationship to individual worth. See DeFunis v. Odegaard, 416 U.S. 312, 343, 94 S.Ct. 1704, 1719, 40 L.Ed.2d 164 (1974) (Douglas, J., dissenting). Third, there is a measure of inequity in forcing innocent persons in respondent's position to bear the burdens of redressing grievances not of their making.

By hitching the meaning of the Equal Protection Clause to these transitory considerations, we would be holding, as a constitutional principle, that judicial scrutiny of classifications touching on racial and ethnic background may vary with the ebb and flow of political forces. Disparate constitutional tolerance of such classifications well may serve to exacerbate *299 racial and ethnic antagonisms rather than alleviate them. United Jewish Organizations, supra, 430 U.S., at 173-174, 97 S.Ct., at 1013-1014 (BRENNAN, J., concurring in part). Also, the mutability of a constitutional principle, based upon shifting political and social judgments, undermines the chances for consistent application of the Constitution from **2753 one generation to the next, a critical feature of its coherent interpretation. Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 650-651, 15 S.Ct. 673, 716, 39 L.Ed. 759 (1895) (White, J., dissenting). In expounding the Constitution, the Court's role is to discern "principles sufficiently absolute to give them roots throughout the community and continuity over significant periods of time, and to lift them above the level of the pragmatic political judgments of a particular time and place." A. Cox, The Role of the Supreme Court in American Government 114 (1976).

If it is the individual who is entitled to judicial protection against classifications based upon his racial or ethnic background because such distinctions impinge upon personal rights, rather than the individual only because of his membership in a particular group, then constitutional standards may be applied consistently. Political judgments regarding the necessity for the particular classification may be weighed in the constitutional balance, Korematsu v. United States, 323 U.S. 214, 65 S.Ct. 193, 89 L.Ed. 194 (1944), but the standard of justification will remain constant. This is as it should be, since those political judgments are the product of rough compromise struck by contending groups within the democratic process. [FN38] When they touch upon an individual's race or ethnic background, he is entitled to a judicial determination that the burden he is asked to bear on that basis is precisely tailored to serve a compelling governmental interest. The Constitution guarantees that right to every person regardless of his background. Shelley v. Kraemer, 334

U.S., at 22, 68 S.Ct., at 846; Missouri ex rel. Gaines v. Canada, 305 U.S., at 351, 59 S.Ct., at 237.

FN38. R. Dahl, A Preface to Democratic Theory (1956); Posner, supra n. 25, at 27.

*300 C

Petitioner contends that on several occasions this Court has approved preferential classifications without applying the most exacting scrutiny. Most of the cases upon which petitioner relies are drawn from three areas: school desegregation, employment discrimination, and sex discrimination. Each of the cases cited presented a situation materially different from the facts of this case.

The school desegregation cases are inapposite. Each involved remedies for clearly determined constitutional violations. E. g., Swann v. Charlotte- Mecklenburg Board of Education, 402 U.S. 1, 91 S.Ct. 1267, 28 L.Ed.2d 554 (1971); McDaniel v. Barresi, 402 U.S. 39, 91 S.Ct. 1287, 28 L.Ed.2d 582 (1971); Green v. County School Board, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716 (1968). Racial classifications thus were designed as remedies for the vindication of constitutional entitlement. [FN39] Moreover, the scope of the remedies was not permitted to exceed the extent of the *301 violations. E. g., Dayton Board of Education v. Brinkman, 433 U.S. 406, 97 S.Ct. 2766, 53 L.Ed.2d 851 **2754 (1977); Milliken v. Bradley, 418 U.S. 717, 94 S.Ct. 3112, 41 L.Ed.2d 1069 (1974); see Pasadena City Board of Education v. Spangler, 427 U.S. 424, 96 S.Ct. 2697, 49 L.Ed.2d 599 (1976). See also Austin Independent School Dist. v. United States, 429 U.S. 990, 991-995, 97 S.Ct. 517-519, 50 L.Ed.2d 603 (1976) (POWELL, J., concurring). Here, there was no judicial determination of constitutional violation as a predicate for the formulation of a remedial classification.

FN39. Petitioner cites three lower court decisions allegedly deviating from this general rule in school desegregation cases: Offermann v. Nitkowski, 378 F.2d 22 (C.A.2 1967); Wanner v. County School Board, 357 F.2d 452 (C.A.4 1966); Springfield School Committee v. Barksdale, 348 F.2d 261 (C.A.1 1965). Of these, Wanner involved a school system held to have been de jure segregated and enjoined from maintaining segregation; racial districting was deemed necessary. 357 F.2d, at 454. Cf. United Jewish Organizations v. Carey, 430 U.S. 144, 97 S.Ct. 996, 51 L.Ed.2d 229 (1977). In Barksdale and Offermann, courts did approve voluntary districting designed to eliminate discriminatory attendance patterns. In neither, however, was there any showing that the school board planned extensive pupil transportation that might threaten liberty or privacy interests. See Keyes v. School District No. 1, 413 U.S. 189, 240-250, 93 S.Ct. 2686, 2713, 2718, 37 L.Ed.2d 548 (1973) (POWELL, J., concurring in part and dissenting in part). Nor were white students deprived of an equal opportunity for education.

Respondent's position is wholly dissimilar to that of a pupil bused from his neighborhood school to a comparable school in another neighborhood in compliance with a desegregation decree. Petitioner did not arrange for respondent to attend a different medical school in order to desegregate Davis Medical School; instead, it denied him admission and may have deprived him altogether of a medical education.

The employment discrimination cases also do not advance petitioner's cause. For example, in Franks v. Bowman Transportation Co., 424 U.S. 747, 96 S.Ct. 1251, 47 L.Ed.2d

444 (1976), we approved a retroactive award of seniority to a class of Negro truckdrivers who had been the victims of discrimination--not just by society at large, but by the respondent in that case. While this relief imposed some burdens on other employees, it was held necessary " 'to make [the victims] whole for injuries suffered on account of unlawful employment discrimination.' " Id., at 763, 96 S.Ct., at 1264, quoting Albemarle Paper Co. v. Moody, 422 U.S. 405, 418, 95 S.Ct. 2362, 2372, 45 L.Ed.2d 280 (1975). The Courts of Appeals have fashioned various types of racial preferences as remedies for constitutional or statutory violations resulting in identified, race-based injuries to individuals held entitled to the preference. E. g., Bridgeport Guardians, Inc. v. Bridgeport Civil Service Commission, 482 F.2d 1333 (CA2 1973); Carter v. Gallagher, 452 F.2d 315 (CA8 1972), modified on rehearing en banc, id., at 327. Such preferences also have been upheld where a legislative or administrative body charged with the responsibility made determinations of past discrimination by the industries affected, and fashioned remedies deemed appropriate to rectify the discrimination. E. g., Contractors Association of Eastern Pennsylvania v. Secretary of Labor, 442 F.2d 159 (C.A.3), cert. denied, 404 U.S. 854, 92 S.Ct. 98, 30 L.Ed.2d 95 (1971); [FN40] Associated General *302 iContractors of Massachusetts, Inc. v. Altshuler, 490 F.2d 9 (C.A.1 1973), cert. denied, 416 U.S. 957, 94 S.Ct. 1971, 40 L.Ed.2d 307 (1974); cf. Katzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1717, 16 L.Ed.2d 828 (1966). But we have never approved preferential classifications in the absence of proved constitutional or statutory violations. [FN41]

FN40. Every decision upholding the requirement of preferential hiring under the authority of Exec. Order No. 11246, 3 CFR 339 (1964-1965 Comp.), has emphasized the existence of previous discrimination as a predicate for the imposition of a preferential remedy. Contractors Association of Eastern Pennsylvania; Southern Illinois Builders Assn. v. Ogilvie, 471 F.2d 680 (C.A.7 1972); Joyce v. McCrane, 320 F.Supp. 1284 (NJ 1970); Weiner v. Cuyahoga Community College District, 19 Ohio St.2d 35, 249 N.E.2d 907, cert. denied, 396 U.S. 1004, 90 S.Ct. 554, 24 L.Ed.2d 495 (1970). See also Rosetti Contracting Co. v. Brennan, 508 F.2d 1039, 1041 (C.A.7 1975); Associated General Contractors of Massachusetts, Inc. v. Altshuler, 490 F.2d 9 (C.A.1 1973), cert. denied, 416 U.S. 957, 94 S.Ct. 1971, 40 L.Ed.2d 307 (1974); Northeast Constr. Co. v. Romney, 157 U.S.App.D.C. 381, 383, 390, 485 F.2d 752, 754, 761 (1973).

FN41. This case does not call into question congressionally authorized administrative actions, such as consent decrees under Title VII or approval of reapportionment plans under § 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c (1970 ed., Supp. V). In such cases, there has been detailed legislative consideration of the various indicia of previous constitutional or statutory violations, e. g., South Carolina v. Katzenbach, 383 U.S. 301, 308-310, 86 S.Ct. 803, 808-809, 15 L.Ed.2d 769 (1966) (§ 5), and particular administrative bodies have been charged with monitoring various activities in order to detect such violations and formulate appropriate remedies. See Hampton v. Mow Sun Wong, 426 U.S. 88, 103, 96 S.Ct. 1895, 1905, 48 L.Ed.2d 495 (1976). Furthermore, we are not here presented with an occasion to review legislation by Congress pursuant to its powers under § 2 of the Thirteenth Amendment and § 5 of the Fourteenth Amendment to remedy the effects of prior discrimination. Katzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1717, 16 L.Ed.2d 828 (1966); Jones v. Alfred H. Mayer Co., 392 U.S. 409, 88 S.Ct. 2186, 20 L.Ed.2d 1189 (1968). We

have previously recognized the special competence of Congress to make findings with respect to the effects of identified past discrimination and its discretionary authority to take appropriate remedial measures.

Nor is petitioner's view as to the applicable standard supported by the fact that **2755 gender-based classifications are not subjected to this level of scrutiny. E.G., Califano v. Webster, 430 U.S. 313, 316-317, 97 S.Ct. 1192, 1194-1195, 51 L.Ed.2d 360 (1977); Craig v. Boren, 429 U.S. 190, 211, 97 S.Ct. 451, 464, 50 L.Ed.2d 397 (1976) (POWELL, J., concurring). Gender- based distinctions are less likely to create the analytical and practical *303 problems present in preferential programs premised on racial or ethnic criteria. With respect to gender there are only two possible classifications. The incidence of the burdens imposed by preferential classifications is clear. There are no rival groups which can claim that they, too, are entitled to preferential treatment. Classwide questions as to the group suffering previous injury and groups which fairly can be burdened are relatively manageable for reviewing courts. See, e. g., Califano v. Goldfarb, 430 U.S. 199, 212-217, 97 S.Ct. 1021, 1029-1032, 51 L.Ed.2d 270 (1977); Weinberger v. Wiesenfeld, 420 U.S. 636, 645, 95 S.Ct. 1225, 1231, 43 L.Ed.2d 514 (1975). The resolution of these same questions in the context of racial and ethnic preferences presents far more complex and intractable problems than gender-based classifications. More importantly, the perception of racial classifications as inherently odious stems from a lengthy and tragic history that gender-based classifications do not share. In sum, the Court has never viewed such classification as inherently suspect or as comparable to racial or ethnic classifications for the purpose of equal protection analysis.

Petitioner also cites Lau v. Nichols, 414 U.S. 563, 94 S.Ct. 786, 39 L.Ed.2d 1 (1974), in support of the proposition that discrimination favoring racial or ethnic minorities has received judicial approval without the exacting inquiry ordinarily accorded "suspect" classifications. In Lau, we held that the failure of the San Francisco school system to provide remedial English instruction for some 1,800 students of oriental ancestry who spoke no English amounted to a violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and the regulations promulgated thereunder. Those regulations required remedial instruction where inability to understand English excluded children of foreign ancestry from participation in educational programs. 414 U.S., at 568, 94 S.Ct., at 789. Because we found that the students in Lau were denied "a meaningful opportunity to participate in the educational program," ibid., we remanded for the fashioning of a remedial order.

*304 Lau provides little support for petitioner's argument. The decision rested solely on the statute, which had been construed by the responsible administrative agency to reach educational practices "which have the effect of subjecting individuals to discrimination," ibid. We stated: "Under these state-imposed standards there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education." Id., at 566, 94 S.Ct., at 788. Moreover, the "preference" approved did not result in the denial of the relevant benefit--"meaningful opportunity to participate in the educational program"--to anyone else. No other student was deprived by that preference of the ability to participate in San Francisco's school system, and the applicable regulations required similar assistance

for all students who suffered similar linguistic deficiencies. Id., at 570-571, 94 S.Ct., at 790 (STEWART, J., concurring in result).

In a similar vein, [FN42] petitioner contends that our recent decision in United Jewish **2756 Organizations v. Carey, 430 U.S. 144, 97 S.Ct. 996, 51 L.Ed.2d 229 (1977), indicates a willingness to approve racial classifications designed to benefit certain minorities, without denominating the classifications as "suspect." The State of New York had redrawn its reapportionment plan to meet objections of the Department of Justice under § 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c (1970 ed., Supp. V). Specifically, voting districts were redrawn to enhance the electoral power *305 of certain "nonwhite" voters found to have been the victims of unlawful "dilution" under the original reapportionment plan. United Jewish Organizations, like Lau, properly is viewed as a case in which the remedy for an administrative finding of discrimination encompassed measures to improve the previously disadvantaged group's ability to participate, without excluding individuals belonging to any other group from enjoyment of the relevant opportunity--meaningful participation in the electoral process.

FN42. Petitioner also cites our decision in Morton v. Mancari, 417 U.S. 535, 94 S.Ct. 2474, 41 L.Ed.2d 290 (1974), for the proposition that the State may prefer members of traditionally disadvantaged groups. In Mancari, we approved a hiring preference for qualified Indians in the Bureau of Indian Affairs of the Department of the Interior (BIA). We observed in that case, however, that the legal status of the BIA is sui generis. Id., at 554, 94 S.Ct., at 2484. Indeed, we found that the preference was not racial at all, but "an employment criterion reasonably designed to further the cause of Indian self-government and to make the BIA more responsive to the needs of its constituent . . . groups . . . whose lives and activities are governed by the BIA in a unique fashion." Ibid.

In this case, unlike Lau and United Jewish Organizations, there has been no determination by the legislature or a responsible administrative agency that the University engaged in a discriminatory practice requiring remedial efforts. Moreover, the operation of petitioner's special admissions program is quite different from the remedial measures approved in those cases. It prefers the designated minority groups at the expense of other individuals who are totally foreclosed from competition for the 16 special admissions seats in every Medical School class. Because of that foreclosure, some individuals are excluded from enjoyment of a state-provided benefit--admission to the Medical School--they otherwise would receive. When a classification denies an individual opportunities or benefits enjoyed by others solely because of his race or ethnic background, it must be regarded as suspect. E. g., McLaurin v. Oklahoma State Regents, 339 U.S., at 641-642, 70 S.Ct., at 853-854.

IV

We have held that in "order to justify the use of a suspect classification, a State must show that its purpose or interest is both constitutionally permissible and substantial, and that its use of the classification is 'necessary . . . to the accomplishment' of its purpose or the safeguarding of its interest." In re Griffiths, 413 U.S. 717, 721-722, 93 S.Ct. 2851, 2855, 37 L.Ed.2d 910 (1973) (footnotes omitted); Loving v. Virginia, 388 U.S., at 11, 87 S.Ct., at 1823; McLaughlin v. Florida, 379 U.S. 184, 196, 85 S.Ct. 283, 290, 13 L.Ed.2d 222 (1964). The special admissions *306 program purports to serve the purposes of: (i) "reducing the historic

deficit of traditionally disfavored minorities in medical schools and in the medical profession," Brief for Petitioner 32; (ii) countering the effects of societal discrimination; [FN43] (iii) increasing **2757 the number of physicians who will practice in communities currently underserved; and (iv) obtaining the educational benefits that flow from an ethnically diverse student body. It is necessary to decide which, if any, of these purposes is substantial enough to support the use of a suspect classification.

FN43. A number of distinct subgoals have been advanced as falling under the rubric of "compensation for past discrimination." For example, it is said that preferences for Negro applicants may compensate for harm done them personally, or serve to place them at economic levels they might have attained but for discrimination against their forebears. Greenawalt, supra n. 25, at 581-586. Another view of the "compensation" goal is that it serves as a form of reparation by the "majority" to a victimized group as a whole. B. Bittker, The Case for Black Reparations (1973). That justification for racial or ethnic preference has been subjected to much criticism. E. g., Greenawalt, supra n. 25, at 581; Posner, supra, n. 25 at 16-17, and n. 33. Finally, it has been argued that ethnic preferences "compensate" the group by providing examples of success whom other members of the group will emulate, thereby advancing the group's interest and society's interest in encouraging new generations to overcome the barriers and frustrations of the past. Redish, supra n. 25, at 391. For purposes of analysis these subgoals need not be considered separately.

Racial classifications in admissions conceivably could serve a fifth purpose, one which petitioner does not articulate: fair appraisal of each individual's academic promise in the light of some cultural bias in grading or testing procedures. To the extent that race and ethnic background were considered only to the extent of curing established inaccuracies in predicting academic performance, it might be argued that there is no "preference" at all. Nothing in this record, however, suggests either that any of the quantitative factors considered by the Medical School were culturally biased or that petitioner's special admissions program was formulated to correct for any such biases. Furthermore, if race or ethnic background were used solely to arrive at an unbiased prediction of academic success, the reservation of fixed numbers of seats would be inexplicable.

*307 A

[11] If petitioner's purpose is to assure within its student body some specified percentage of a particular group merely because of its race or ethnic origin, such a preferential purpose must be rejected not as insubstantial but as facially invalid. Preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake. This the Constitution forbids. E. g., Loving v. Virginia,supra, 388 U.S., at 11, 87 S.Ct., at 1823; McLaughlin v. Florida, supra, 379 U.S., at 196, 85 S.Ct., at 290; Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954).

B

The State certainly has a legitimate and substantial interest in ameliorating, or eliminating where feasible, the disabling effects of identified discrimination. The line of school desegregation cases, commencing with Brown, attests to the importance of this state goal and the commitment of the judiciary to affirm all lawful means toward its attainment. In the

school cases, the States were required by court order to redress the wrongs worked by specific instances of racial discrimination. That goal was far more focused than the remedying of the effects of "societal discrimination," an amorphous concept of injury that may be ageless in its reach into the past.

[12] We have never approved a classification that aids persons perceived as members of relatively victimized groups at the expense of other innocent individuals in the absence of judicial, legislative, or administrative findings of constitutional or statutory violations. See, e. g., Teamsters v. United States, 431 U.S. 324, 367-376, 97 S.Ct. 1843, 1870-1875, 52 L.Ed.2d 396 (1977); United Jewish Organizations, 430 U.S., at 155-156, 97 S.Ct., at 1004-1005; South Carolina v. Katzenbach, 383 U.S. 301, 308, 86 S.Ct. 803, 808, 15 L.Ed.2d 769 (1966). After such findings have been made, the governmental interest in preferring members of the injured groups at the expense of others is substantial, since the legal rights of the victims must be vindicated. In such a case, the *308 extent of the injury and the consequent remedy will have been judicially, legislatively, or administratively defined. Also, the remedial action usually remains subject to continuing oversight to assure that it will work the least harm possible to other innocent persons competing for the benefit. Without such findings of constitutional or statutory violations, [FN44] it cannot be *309 said that **2758 the government has any greater interest in helping one individual than in refraining from harming another. Thus, the government has no compelling justification for inflicting such harm.

FN44. Mr. Justice BRENNAN, Mr. Justice WHITE, Mr. Justice MARSHALL, and Mr. Justice BLACKMUN misconceive the scope of this Court's holdings under Title VII when they suggest that "disparate impact" alone is sufficient to establish a violation of that statute and, by analogy, other civil rights measures. See post, at 2786-2787, and n. 42. That this was not the meaning of Title VII was made quite clear in the seminal decision in this area, Griggs v. Duke Power Co., 401 U.S. 424, 91 S.Ct. 849, 28 L.Ed.2d 158 (1971):

"Discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed. What is required by Congress is the removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification." Id., at 431, 91 S.Ct., at 853 (emphasis added).

Thus, disparate impact is a basis for relief under Title VII only if the practice in question is not founded on "business necessity," ibid., or lacks "a manifest relationship to the employment in question," id., at 432, 91 S.Ct., at 854. See also McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802-803, 805-806, 93 S.Ct. 1817, 1824, 1825, 1826, 36 L.Ed.2d 668 (1973). Nothing in this record --as opposed to some of the general literature cited by Mr. Justice BRENNAN, Mr. Justice WHITE, Mr. Justice MARSHALL, and Mr. Justice BLACKMUN--even remotely suggests that the disparate impact of the general admissions program at Davis Medical School, resulting primarily from the sort of disparate test scores and grades set forth in n. 7, supra, is without educational justification.

Moreover, the presumption in Griggs --that disparate impact without any showing of business justification established the existence of discrimination in violation of the statute--was based on legislative determinations, wholly absent here, that past discrimination had handicapped

various minority groups to such an extent that disparate impact could be traced to identifiable instances of past discrimination:

"[Congress sought] to achieve equality of employment opportunities and remove barriers that have operated in the past to favor an identifiable group of white employees over other employees. Under the Act, practices, procedures, or tests neutral on their face, and even neutral in terms of intent, cannot be maintained if they operate to 'freeze' the status quo of prior discriminatory employment practices." Griggs, supra, 401 U.S., at 429-430, 91 S.Ct., at 853.

See, e. g., H.R.Rep. No. 914, 88th Cong., 1st Sess., pt. 2, p. 26 (1963) ("Testimony supporting the fact of discrimination in employment is overwhelming"). See generally Vaas, Title VII: The Legislative History, 7 B.C.Ind. & Com.L.Rev. 431 (1966). The Court emphasized that "the Act does not command that any person be hired simply because he was formerly the subject of discrimination, or because he is a member of a minority group." 401 U.S., at 430-431, 91 S.Ct., at 853. Indeed, § 703(j) of the Act makes it clear that preferential treatment for an individual or minority group to correct an existing "imbalance" may not be required under Title VII. 42 U.S.C. § 2000e-2(j). Thus, Title VII principles support the proposition that findings of identified discrimination must precede the fashioning of remedial measures embodying racial classifications.

Petitioner does not purport to have made, and is in no position to make, such findings. Its broad mission is education, not the formulation of any legislative policy or the adjudication of particular claims of illegality. For reasons similar to those stated in Part III of this opinion, isolated segments of our vast governmental structures are not competent to make those decisions, at least in the absence of legislative mandates and legislatively determined criteria. [FN45] Cf. Hampton v. Mow Sun Wong, 426 U.S. 88, 96 S.Ct. 1895, 48 L.Ed.2d 495 (1976); n. 41, supra. Before relying upon these sorts of findings in establishing a racial classification, a governmental body must have the authority and capability to establish, in the record, that the classification is responsive to identified discrimination. See, e. g., Califano v. Webster, 430 U.S., at 316-321, 97 S.Ct., at 1194-1197; Califano *310 v. Goldfarb, 430 U.S., at 212-217, 97 S.Ct., at 1029- 1032. Lacking this capability, petitioner has not carried its burden of justification on this issue.

FN45. For example, the University is unable to explain its selection of only the four favored groups--Negroes, Mexican-Americans, American-Indians, and Asians--for preferential treatment. The inclusion of the last group is especially curious in light of the substantial numbers of Asians admitted through the regular admissions process. See also n. 37, supra.

[13] Hence, the purpose of helping certain groups whom the faculty of the Davis Medical School perceived as victims of "societal discrimination" does not justify a classification that imposes disadvantages upon persons like respondent, who bear no responsibility for whatever harm the beneficiaries of the special admissions program are thought to have suffered. To hold otherwise would be to convert a remedy heretofore reserved for violations of legal rights into a privilege that all institutions throughout the Nation could grant at their pleasure to whatever groups are perceived as victims of societal discrimination. That is a step we have never approved. Cf. Pasadena City Board of Education v. Spangler, 427 U.S. 424, 96 S.Ct. 2697, 49 L.Ed.2d 599 (1976).

C

Petitioner identifies, as another purpose of its program, improving the delivery of **2759 health-care services to communities currently underserved. It may be assumed that in some situations a State's interest in facilitating the health care of its citizens is sufficiently compelling to support the use of a suspect classification. But there is virtually no evidence in the record indicating that petitioner's special admissions program is either needed or geared to promote that goal. [FN46] The court below addressed this failure of proof:

FN46. The only evidence in the record with respect to such underservice is a newspaper article. Record 473.

"The University concedes it cannot assure that minority doctors who entered under the program, all of whom expressed an 'interest' in practicing in a disadvantaged community, will actually do so. It may be correct to assume that some of them will carry out this intention, and that it is more likely they will practice in minority *311 communities than the average white doctor. (See Sandalow, Racial Preferences in Higher Education: Political Responsibility and the Judicial Role (1975) 42 U.Chi.L.Rev. 653, 688). Nevertheless, there are more precise and reliable ways to identify applicants who are genuinely interested in the medical problems of minorities than by race. An applicant of whatever race who has demonstrated his concern for disadvantaged minorities in the past and who declares that practice in such a community is his primary professional goal would be more likely to contribute to alleviation of the medical shortage than one who is chosen entirely on the basis of race and disadvantage. In short, there is no empirical data to demonstrate that any one race is more selflessly socially oriented or by contrast that another is more selfishly acquisitive." 18 Cal.3d, at 56, 132 Cal.Rptr., at 695, 553 P.2d, at 1167.

Petitioner simply has not carried its burden of demonstrating that it must prefer members of particular ethnic groups over all other individuals in order to promote better health-care delivery to deprived citizens. Indeed, petitioner has not shown that its preferential classification is likely to have any significant effect on the problem. [FN47]

FN47. It is not clear that petitioner's two-track system, even if adopted throughout the country, would substantially increase representation of blacks in the medical profession. That is the finding of a recent study by Sleeth & Mishell, Black Under-Representation in United States Medical Schools, 297 New England J. of Med. 1146 (1977). Those authors maintain that the cause of black underrepresentation lies in the small size of the national pool of qualified black applicants. In their view, this problem is traceable to the poor premedical experiences of black undergraduates, and can be remedied effectively only by developing remedial programs for black students before they enter college.

D

[14] The fourth goal asserted by petitioner is the attainment of a diverse student body. This clearly is a constitutionally permissible *312 goal for an institution of higher education. Academic freedom, though not a specifically enumerated constitutional right, long has been viewed as a special concern of the First Amendment. The freedom of a university to make its own judgments as to education includes the selection of its student body. Mr. Justice Frankfurter summarized the "four essential freedoms" that constitute academic freedom:

" 'It is the business of a university to provide that atmosphere which is most conducive to speculation, experiment and creation. It is an atmosphere in which there prevail "the four essential freedoms" of a university--to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.' " Sweezy v. New Hampshire, 354 U.S. 234, 263, 77 S.Ct. 1203, 1218, 1 L.Ed.2d 1311 (1957) (concurring in result).

Our national commitment to the safeguarding of these freedoms within university communities was emphasized in Keyishian v. Board of Regents, 385 U.S. 589, 603, 87 S.Ct. 675, 683, 17 L.Ed.2d 629 (1967):

**2760 "Our Nation is deeply committed to safeguarding academic freedom which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment . . . . The Nation's future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth 'out of a multitude of tongues, [rather] than through any kind of authoritative selection.' United States v. Associated Press, D.C., 52 F.Supp. 362, 372."

The atmosphere of "speculation, experiment and creation"--so essential to the quality of higher education--is widely believed to be promoted by a diverse student body. [FN48] As the Court *313 noted in Keyishian, it is not too much to say that the "nation's future depends upon leaders trained through wide exposure" to the ideas and mores of students as diverse as this Nation of many peoples.

FN48. The president of Princeton University has described some of the benefits derived from a diverse student body:

"[A] great deal of learning occurs informally. It occurs through interactions among students of both sexes; of different races, religions, and backgrounds; who come from cities and rural areas, from various states and countries; who have a wide variety of interests, talents, and perspectives; and who are able, directly or indirectly, to learn from their differences and to stimulate one another to reexamine even their most deeply held assumptions about themselves and their world. As a wise graduate of ours observed in commenting on this aspect of the educational process, 'People do not learn very much when they are surrounded only by the likes of themselves.'

* * *

"In the nature of things, it is hard to know how, and when, and even if, this informal 'learning through diversity' actually occurs. It does not occur for everyone. For many, however, the unplanned, casual encounters with roommates, fellow sufferers in an organic chemistry class, student workers in the library, teammates on a basketball squad, or other participants in class affairs or student government can be subtle and yet powerful sources of improved understanding and personal growth." Bowen, Admissions and the Relevance of Race, Princeton Alumni Weekly 7, 9 (Sept. 26, 1977).

Thus, in arguing that its universities must be accorded the right to select those students who will contribute the most to the "robust exchange of ideas," petitioner invokes a countervailing constitutional interest, that of the First Amendment. In this light, petitioner must be viewed as seeking to achieve a goal that is of paramount importance in the fulfillment of its mission.

It may be argued that there is greater force to these views at the undergraduate level than in a medical school where the training is centered primarily on professional competency. But even at the graduate level, our tradition and experience lend support to the view that the contribution of diversity is substantial. In Sweatt v. Painter, 339 U.S., at 634, 70 S.Ct., at 850, the *314 Court made a similar point with specific reference to legal education:

"The law school, the proving ground for legal learning and practice, cannot be effective in isolation from the individuals and institutions with which the law interacts. Few students and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views with which the law is concerned."

Physicians serve a heterogeneous population. An otherwise qualified medical student with a particular background--whether it be ethnic, geographic, culturally advantaged or disadvantaged--may bring to a professional school of medicine experiences, outlooks, and ideas that enrich the training of its student body and better equip its graduates to render with understanding their vital service to humanity. [FN49]

FN49. Graduate admissions decisions, like those at the undergraduate level, are concerned with "assessing the potential contributions to the society of each individual candidate following his or her graduation-- contributions defined in the broadest way to include the doctor and the poet, the most active participant in business or government affairs and the keenest critic of all things organized, the solitary scholar and the concerned parent." Id., at 10.

Ethnic diversity, however, is only one element in a range of factors a university **2761 properly may consider in attaining the goal of a heterogeneous student body. Although a university must have wide discretion in making the sensitive judgments as to who should be admitted, constitutional limitations protecting individual rights may not be disregarded. Respondent urges--and the courts below have held--that petitioner's dual admissions program is a racial classification that impermissibly infringes his rights under the Fourteenth Amendment. As the interest of diversity is compelling in the context of a university's admissions program, the question remains whether the *315 program's racial classification is necessary to promote this interest. In Re Griffiths, 413 u.s., at 721-722, 93 s.ct., at 2854-2855.

V

A

It may be assumed that the reservation of a specified number of seats in each class for individuals from the preferred ethnic groups would contribute to the attainment of considerable ethnic diversity in the student body. But petitioner's argument that this is the only effective means of serving the interest of diversity is seriously flawed. In a most fundamental sense the argument misconceives the nature of the state interest that would justify consideration of race or ethnic background. It is not an interest in simple ethnic diversity, in which a specified percentage of the student body is in effect guaranteed to be members of selected ethnic groups, with the remaining percentage an undifferentiated aggregation of students. The diversity that furthers a compelling state interest encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is but a

single though important element. Petitioner's special admissions program, focused solely on ethnic diversity, would hinder rather than further attainment of genuine diversity. [FN50]

FN50. See Manning, The Pursuit of Fairness in Admissions to Higher Education, in Carnegie Council on Policy Studies in Higher Education, Selective Admissions in Higher Education 19, 57-59 (1977).

Nor would the state interest in genuine diversity be served by expanding petitioner's two-track system into a multitrack program with a prescribed number of seats set aside for each identifiable category of applicants. Indeed, it is inconceivable that a university would thus pursue the logic of petitioner's two-track program to the illogical end of insulating each category of applicants with certain desired qualifications from competition with all other applicants.

*316 [15] The experience of other university admissions programs, which take race into account in achieving the educational diversity valued by the First Amendment, demonstrates that the assignment of a fixed number of places to a minority group is not a necessary means toward that end. An illuminating example is found in the Harvard College program:

"In recent years Harvard College has expanded the concept of diversity to include students from disadvantaged economic, racial and ethnic groups. Harvard College now recruits not only Californians or Louisianans but also blacks and Chicanos and other minority students. . . .

"In practice, this new definition of diversity has meant that race has been a factor in some admission decisions. When the Committee on Admissions reviews the large middle group of applicants who are 'admissible' and deemed capable of doing good work in their courses, the race of an applicant may tip the balance in his favor just as geographic origin or a life spent on a farm may tip the balance in other candidates' cases. A farm boy from Idaho can bring something to Harvard College that a Bostonian cannot offer. Similarly, a black student can usually bring something that a white person cannot offer. [See Appendix hereto.] . . .

"In Harvard College admissions the Committee has not set target-quotas for **2762 the number of blacks, or of musicians, football players, physicists or Californians to be admitted in a given year. . . . But that awareness [of the necessity of including more than a token number of black students] does not mean that the Committee sets a minimum number of blacks or of people from west of the Mississippi who are to be admitted. It means only that in choosing among thousands of applicants who are not only 'admissible' academically but have other strong qualities, the Committee, with a number of criteria in mind, pays some attention to distribution among many *317 types and categories of students." App. to Brief for Columbia University, Harvard University, Stanford University, and the University of Pennsylvania, as Amici Curiae 2-3.

In such an admissions program, [FN51] race or ethnic background may be deemed a "plus" in a particular applicant's file, yet it does not insulate the individual from comparison with all other candidates for the available seats. The file of a particular black applicant may be examined for his potential contribution to diversity without the factor of race being decisive when compared, for example, with thatof an applicant identified as an Italian-American if the latter is thought to exhibit qualities more likely to promote beneficial

educational pluralism. Such qualities could include exceptional personal talents, unique work or service experience, leadership potential, maturity, demonstrated compassion, a history of overcoming disadvantage, ability to communicate with the poor, or other qualifications deemed important. In short, an admissions program operated in this way is flexible enough to consider all pertinent elements of diversity in light of the particular qualifications of each applicant, and to place them on the same footing for consideration, although not necessarily according them the same weight. Indeed, the weight attributed to a *318 particular quality may vary from year to year depending upon the "mix" both of the student body and the applicants for the incoming class.

FN51. The admissions program at Princeton has been described in similar terms:

"While race is not in and of itself a consideration in determining basic qualifications, and while there are obviously significant differences in background and experience among applicants of every race, in some situations race can be helpful information in enabling the admission officer to understand more fully what a particular candidate has accomplished--and against what odds. Similarly, such factors as family circumstances and previous educational opportunities may be relevant, either in conjunction with race or ethnic background (with which they may be associated) or on their own." Bowen, supra n. 48, at 8-9.

For an illuminating discussion of such flexible admissions systems, see Manning, supra n. 50, at 57-59.

[16] This kind of program treats each applicant as an individual in the admissions process. The applicant who loses out on the last available seat to another candidate receiving a "plus" on the basis of ethnic background will not have been foreclosed from all consideration for that seat simply because he was not the right color or had the wrong surname. It would mean only that his combined qualifications, which may have included similar nonobjective factors, did not outweigh those of the other applicant. His qualifications would have been weighed fairly and competitively, and he would have no basis to complain of unequal treatment under the Fourteenth Amendment. [FN52]

FN52. The denial to respondent of this right to individualized consideration without regard to his race is the principal evil of petitioner's special admissions program. Nowhere in the opinion of Mr. Justice BRENNAN, Mr. Justice WHITE, Mr. Justice MARSHALL, and Mr. Justice BLACKMUN is this denial even addressed.

It has been suggested that an admissions program which considers race only as one factor is simply a subtle and more sophisticated--but no less effective-- means of according racial preference than the Davis program. A facial intent to discriminate, however, is evident in petitioner's preference program and not denied in this case. No such facial infirmity exists in an admissions**2763 program where race or ethnic background is simply one element--to be weighed fairly against other elements--in the selection process. "A boundary line," as Mr. Justice Frankfurter remarked in another connection, "is none the worse for being narrow." McLeod v. Dilworth, 322 U.S. 327, 329, 64 S.Ct. 1023, 1025, 88 L.Ed. 1304 (1944). And a court would not assume that a university, professing to employ a facially nondiscriminatory admissions policy, would operate it as a cover for the functional equivalent of a quota

system. In short, good faith *319 would be presumed in the absence of a showing to the contrary in the manner permitted by our cases. See e. g., Arlington Heights v. Metropolitan Housing Dev. Corp., 429 U.S. 252, 97 S.Ct. 555, 50 L.Ed.2d 450 (1977); Washington v. Davis, 426 U.S. 229, 96 S.Ct. 2040, 48 L.Ed.2d 597 (1976); Swain v. Alabama, 380 U.S. 202, 85 S.Ct. 824, 13 L.Ed.2d 759 (1965). [FN53]

FN53. Universities, like the prosecutor in Swain, may make individualized decisions, in which ethnic background plays a part, under a presumption of legality and legitimate educational purpose. So long as the university proceeds on an individualized, case-by-case basis, there is no warrant for judicial interference in the academic process. If an applicant can establish that the institution does not adhere to a policy of individual comparisons, or can show that a systematic exclusion of certain groups results, the presumption of legality might be overcome, creating the necessity of proving legitimate educational purpose.

There also are strong policy reasons that correspond to the constitutional distinction between petitioner's preference program and one that assures a measure of competition among all applicants. Petitioner's program will be viewed as inherently unfair by the public generally as well as by applicants for admission to state universities. Fairness in individual competition for opportunities, especially those provided by the State, is a widely cherished American ethic. Indeed, in a broader sense, an underlying assumption of the rule of law is the worthiness of a system of justice based on fairness to the individual. As Mr. Justice Frankfurter declared in another connection, "[j]ustice must satisfy the appearance of justice." Offutt v. United States, 348 U.S. 11, 14, 75 S.Ct. 11, 13, 99 L.Ed. 11 (1954).

B

In summary, it is evident that the Davis special admissions program involves the use of an explicit racial classification never before countenanced by this Court. It tells applicants who are not Negro, Asian, or Chicano that they are totally excluded from a specific percentage of the seats in an entering class. No matter how strong their qualifications, quantitative and extracurricular, including their own potential for contribution to educational diversity, they are never afforded the chance to compete with applicants from the preferred groups for the special admissions seats. At the same time, the preferred *320 applicants have the opportunity to compete for every seat in the class.

The fatal flaw in petitioner's preferential program is its disregard of individual rights as guaranteed by the Fourteenth Amendment. Shelley v. Kraemer, 334 U.S., at 22, 68 S.Ct., at 846. Such rights are not absolute. But when a State's distribution of benefits or imposition of burdens hinges on ancestry or the color of a person's skin, that individual is entitled to a demonstration that the challenged classification is necessary to promote a substantial state interest. Petitioner has failed to carry this burden. For this reason, that portion of the California court's judgment holding petitioner's special admissions program invalid under the Fourteenth Amendment must be affirmed.

C

[17] In enjoining petitioner from ever considering the race of any applicant, however, the courts below failed to recognize that the State has a substantial interest that legitimately may be served by a properly devised admissions program involving the competitive consideration

of race and ethnic origin. For this reason, so much of the California court's judgment as enjoins petitioner from any consideration of the race of any applicant must be reversed.

VI

[18][19] With respect to respondent's entitlement to an injunction directing his admission **2764 to the Medical School, petitioner has conceded that it could not carry its burden of proving that, but for the existence of its unlawful special admissions program, respondent still would not have been admitted. Hence, respondent is entitled to the injunction, and that portion of the judgment must be affirmed. [FN54]

FN54. There is no occasion for remanding the case to permit petitioner to reconstruct what might have happened if it had been operating the type of program described as legitimate in Part V, supra. Cf. Mt. Healthy City Board of Ed. v. Doyle, 429 U.S. 274, 284-287, 97 S.Ct. 568, 575-576, 50 L.Ed.2d 471 (1977). In Mt. Healthy, there was considerable doubt whether protected First Amendment activity had been the "but for" cause of Doyle's protested discharge. Here, in contrast, there is no question as to the sole reason for respondent's rejection--purposeful racial discrimination in the form of the special admissions program. Having injured respondent solely on the basis of an unlawful classification, petitioner cannot now hypothesize that it might have employed lawful means of achieving the same result. See Arlington Heights v. Metropolitan Housing Dev. Corp., 429 U.S., at 265-266, 97 S.Ct., at 563-564. No one can say how--or even if--petitioner would have operated its admissions process if it had known that legitimate alternatives were available. Nor is there a record revealing that legitimate alternative grounds for the decision existed, as there was in Mt. Healthy. In sum, a remand would result in fictitious recasting of past conduct.

*321 APPENDIX TO OPINION OF POWELL, J.

Harvard College Admissions Program [FN55]

FN55. This statement appears in the Appendix to the Brief for Columbia University, Harvard University, Stanford University, and the University of Pennsylvania, as Amici Curiae.

For the past 30 years Harvard College has received each year applications for admission that greatly exceed the number of places in the freshman class. The number of applicants who are deemed to be not "qualified" is comparatively small. The vast majority of applicants demonstrate through test scores, high school records and teachers' recommendations that they have the academic ability to do adequate work at Harvard, and perhaps to do it with distinction. Faced with the dilemma of choosing among a large number of "qualified" candidates, the Committee on Admissions could use the single criterion of scholarly excellence and attempt to determine who among the candidates were likely to perform best academically. But for the past 30 years the Committee on Admissions has never adopted this approach. The belief has been that if scholarly excellence were the sole or even predominant criterion, Harvard College would lose a great deal of its vitality and intellectual excellence and that the quality of the educational *322 experience offered to all students would suffer. Final Report of W. J. Bender, Chairman of the Admission and Scholarship Committee and Dean of Admissions and Financial Aid, pp. 20 et seq. (Cambridge, 1960). Consequently, after selecting those students whose intellectual potential

will seem extraordinary to the faculty--perhaps 150 or so out of an entering class of over 1,100--the Committee seeks--

variety in making its choices. This has seemed important . . . in part because it adds a critical ingredient to the effectiveness of the educational experience [in Harvard College]. . . . The effectiveness of our students' educational experience has seemed to the Committee to be affected as importantly by a wide variety of interests, talents, backgrounds and career goals as it is by a fine faculty and our libraries, laboratories and housing arrangements. (Dean of Admissions Fred L. Glimp, Final Report to the Faculty of Arts and Sciences, 65 Official Register of Harvard University No. 25, 93, 104-105 (1968) (emphasis supplied).

The belief that diversity adds an essential ingredient to the educational process has long been a tenet of Harvard College admissions. Fifteen or twenty years ago, however, diversity meant students from California, New York, and Massachusetts; city dwellers and farm boys; violinists, painters and football players; biologists, historians and classicists; potential stockbrokers, academics and politicians. The result **2765 was that very few ethnic or racial minorities attended Harvard College. In recent years Harvard College has expanded the concept of diversity to include students from disadvantaged economic, racial and ethnic groups. Harvard College now recruits not only Californians or Louisianans but also blacks and Chicanos and other minority students. Contemporary conditions in the United States mean that if Harvard College is to continue to offer a first-rate education to its students, *323 minority representation in the undergraduate body cannot be ignored by the Committee on Admissions.

In practice, this new definition of diversity has meant that race has been a factor in some admission decisions. When the Committee on Admissions reviews the large middle group of applicants who are "admissible" and deemed capable of doing good work in their courses, the race of an applicant may tip the balance in his favor just as geographic origin or a life spent on a farm may tip the balance in other candidates' cases. A farm boy from Idaho can bring something to Harvard College that a Bostonian cannot offer. Similarly, a black student can usually bring something that a white person cannot offer. The quality of the educational experience of all the students in Harvard College depends in part on these differences in the background and outlook that students bring with them.

In Harvard College admissions the Committee has not set target-quotas for the number of blacks, or of musicians, football players, physicists or Californians to be admitted in a given year. At the same time the Committee is aware that if Harvard College is to provide a truly heterogen[e]ous environment that reflects the rich diversity of the United States, it cannot be provided without some attention to numbers. It would not make sense, for example, to have 10 or 20 students out of 1,100 whose homes are west of the Mississippi. Comparably, 10 or 20 black students could not begin to bring to their classmates and to each other the variety of points of view, backgrounds and experiences of blacks in the United States. Their small numbers might also create a sense of isolation among the black students themselves and thus make it more difficult for them to develop and achieve their potential. Consequently, when making its decisions, the Committee on Admissions is aware that there is some relationship between numbers and achieving the benefits to be derived from a diverse student body, and between numbers and providing a reasonable environment for

those students admitted. But *324 that awareness does not mean that the Committee sets a minimum number of blacks or of people from west of the Mississippi who are to be admitted. It means only that in choosing among thousands of applicants who are not only "admissible" academically but have other strong qualities, the Committee, with a number of criteria in mind, pays some attention to distribution among many types and categories of students.

The further refinements sometimes required help to illustrate the kind of significance attached to race. The Admissions Committee, with only a few places left to fill, might find itself forced to choose between A, the child of a successful black physician in an academic community with promise of superior academic performance, and B, a black who grew up in an inner-city ghetto of semi-literate parents whose academic achievement was lower but who had demonstrated energy and leadership as well as an apparently abiding interest in black power. If a good number of black students much like A but few like B had already been admitted, the Committee might prefer B; and vice versa. If C, a white student with extraordinary artistic talent, were also seeking one of the remaining places, his unique quality might give him an edge over both A and B. Thus, the critical criteria are often individual qualities or experience not dependent upon race but sometimes associated with it.

Opinion of Mr. Justice BRENNAN, Mr. Justice WHITE, Mr. Justice MARSHALL, and Mr. Justice BLACKMUN, concurring in the judgment in part and dissenting in part.

[12] The Court today, in reversing in part the judgment of the Supreme Court of **2766 California, affirms the constitutional power of Federal and State Governments to act affirmatively to achieve equal opportunity for all. The difficulty of the issue presented--whether government may use race- conscious programs to redress the continuing effects of past discrimination--*325 and the mature consideration which each of our Brethren has brought to it have resulted in many opinions, no single one speaking for the Court. But this should not and must not mask the central meaning of today's opinions: Government may take race into account when it acts not to demean or insult any racial group, but to remedy disadvantages cast on minorities by past racial prejudice, at least when appropriate findings have been made by judicial, legislative, or administrative bodies with competence to act in this area.

THE CHIEF JUSTICE and our Brothers STEWART, REHNQUIST, and STEVENS, have concluded that Title VI of the Civil Rights Act of 1964, 78 Stat. 252, as amended, 42 U.S.C. § 2000d et seq., prohibits programs such as that at the Davis Medical School. On this statutory theory alone, they would hold that respondent Allan Bakke's rights have been violated and that he must, therefore, be admitted to the Medical School. Our Brother POWELL, reaching the Constitution, concludes that, although race may be taken into account in university admissions, the particular special admissions program used by petitioner, which resulted in the exclusion of respondent Bakke, was not shown to be necessary to achieve petitioner's stated goals. Accordingly, these Members of the Court form a majority of five affirming the judgment of the Supreme Court of California insofar as it holds that respondent Bakke "is entitled to an order that he be admitted to the University." 18 Cal.3d 34, 64, 132 Cal.Rptr. 680, 700, 553 P.2d 1152, 1172 (1976).

[8][1][15] We agree with Mr. Justice POWELL that, as applied to the case before us, Title VI goes no further in prohibiting the use of race than the Equal Protection Clause of the

Fourteenth Amendment itself. We also agree that the effect of the California Supreme Court's affirmance of the judgment of the Superior Court of California would be to prohibit the University from establishing in the future affirmative-action programs that take race into account. See ante, at 2738 n. **. Since we conclude that the affirmative admissions program at the Davis *326 Medical School is constitutional, we would reverse the judgment below in all respects. Mr. Justice POWELL agrees that some uses of race in university admissions are permissible and, therefore, he joins with us to make five votes reversing the judgment below insofar as it prohibits the University from establishing race-conscious programs in the future. [FN1]

FN1. We also agree with Mr. Justice POWELL that a plan like the "Harvard" plan, see ante, at 2762-2763, is constitutional under our approach, at least so long as the use of race to achieve an integrated student body is necessitated by the lingering effects of past discrimination.

I

Our Nation was founded on the principle that "all Men are created equal." Yet candor requires acknowledgment that the Framers of our Constitution, to forge the 13 Colonies into one Nation, openly compromised this principle of equality with its antithesis: slavery. The consequences of this compromise are well known and have aptly been called our "American Dilemma." Still, it is well to recount how recent the time has been, if it has yet come, when the promise of our principles has flowered into the actuality of equal opportunity for all regardless of race or color.

The Fourteenth Amendment, the embodiment in the Constitution of our abiding belief in human equality, has been the law of our land for only slightly more than half its 200 years. And for half of that half, the Equal Protection Clause of the Amendment was largely moribund so that, as late as **2767 1927, Mr. Justice Holmes could sum up the importance of that Clause by remarking that it was the "last resort of constitutional arguments." Buck v. Bell, 274 U.S. 200, 208, 47 S.Ct. 584, 585, 71 L.Ed. 1000 (1927). Worse than desuetude, the Clause was early turned against those whom it was intended to set free, condemning them to a "separate but equal" [FN2] status before the law, a status *327 always separate but seldom equal. Not until 1954--only 24 years ago-- was this odious doctrine interred by our decision in Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (Brown I), and its progeny, [FN3] which proclaimed that separate schools and public facilities of all sorts were inherently unequal and forbidden under our Constitution. Even then inequality was not eliminated with "all deliberate speed." Brown v. Board of Education, 349 U.S. 294, 301, 75 S.Ct. 753, 756, 99 L.Ed. 1083 (1955). In 1968 [FN4] and again in 1971, [FN5] for example, we were forced to remind school boards of their obligation to eliminate racial discrimination root and branch. And a glance at our docket [FN6] and at dockets of lower courts will show that even today officially sanctioned discrimination is not a thing of the past.

FN2. See Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256 (1896).

FN3. New Orleans City Park Improvement Assn. v. Detiege, 358 U.S. 54, 79 S.Ct. 99, 3 L.Ed.2d 46 (1958); Muir v. Louisville Park Theatrical Assn., 347 U.S. 971, 74 S.Ct. 783, 98

L.Ed. 1112 (1954); Mayor of Baltimore v. Dawson, 350 U.S. 877, 76 S.Ct. 133, 100 L.Ed. 774 (1955); Holmes v. Atlanta, 350 U.S. 879, 76 S.Ct. 141, 100 L.Ed. 776 (1955); Gayle v. Browder, 352 U.S. 903, 77 S.Ct. 145, 1 L.Ed.2d 114 (1956).

FN4. See Green v. County School Board, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716 (1968).

FN5. See Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1, 91 S.Ct. 1267, 28 L.Ed.2d 554 (1971); Davis v. School Comm'rs of Mobile County, 402 U.S. 33, 91 S.Ct. 1289, 28 L.Ed.2d 577 (1971); North Carolina Board of Education v. Swann, 402 U.S. 43, 91 S.Ct. 1284, 28 L.Ed.2d 586 (1971).

FN6. See, e. g., cases collected in Monell v. New York City Dept. of Social Services, 436 U.S. 658, 663 n. 5, 98 S.Ct. 2018, 2022, 56 L.Ed.2d 611 (1978).

Against this background, claims that law must be "color-blind" or that the datum of race is no longer relevant to public policy must be seen as aspiration rather than as description of reality. This is not to denigrate aspiration; for reality rebukes us that race has too often been used by those who would stigmatize and oppress minorities. Yet we cannot--and, as we shall demonstrate, need not under our Constitution or Title VI, which merely extends the constraints of the Fourteenth Amendment to private parties who receive federal funds--let color blindness become myopia which masks the reality that many "created equal" have been treated within our lifetimes as inferior both by the law and by their fellow citizens.

*328 II

The threshold question we must decide is whether Title VI of the Civil Rights Act of 1964 bars recipients of federal funds from giving preferential consideration to disadvantaged members of racial minorities as part of a program designed to enable such individuals to surmount the obstacles imposed by racial discrimination. [FN7] We join Parts I and V-C of our Brother POWELL's opinion and three of us agree with his conclusion in Part II that this case does not require us to resolve the question whether there is a private right of action under Title VI. [FN8]

FN7. Section 601 of Title VI provides:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d.

FN8. Mr. Justice WHITE believes we should address the private-right-of- action issue. Accordingly, he has filed a separate opinion stating his view that there is no private right of action under Title VI. See post, p. 2794.

In our view, Title VI prohibits only those uses of racial criteria that would violate the Fourteenth Amendment if employed by a **2768 State or its agencies; it does not bar the preferential treatment of racial minorities as a means of remedying past societal discrimination to the extent that such action is consistent with the Fourteenth Amendment. The legislative history of Title VI, administrative regulations interpreting the statute, subsequent congressional and executive action, and the prior decisions of this Court compel this conclusion. None of these sources lends support to the proposition that Congress

intended to bar all race-conscious efforts to extend the benefits of federally financed programs to minorities who have been historically excluded from the full benefits of American life.

A

[7] The history of Title VI--from President Kennedy's request that Congress grant executive departments and agencies authority *329 to cut off federal funds to programs that discriminate against Negroes through final enactment of legislation incorporating his proposals--reveals one fixed purpose: to give the Executive Branch of Government clear authority to terminate federal funding of private programs that use race as a means of disadvantaging minorities in a manner that would be prohibited by the Constitution if engaged in by government.

This purpose was first expressed in President Kennedy's June 19, 1963, message to Congress proposing the legislation that subsequently became the Civil Rights Act of 1964. [FN9] *330 Representative Celler, the Chairman of the House Judiciary Committee, and the floor manager of the legislation in the House, introduced Title VI in words unequivocally expressing the intent to provide the Federal Government with the means of assuring that its funds were not used to subsidize racial discrimination inconsistent with the standards imposed by the Fourteenth and Fifth Amendments upon state and federal action.

FN9. "Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial discrimination. Direct discrimination by Federal, State or local governments is prohibited by the Constitution. But indirect discrimination, through the use of Federal funds, is just as invidious; and it should not be necessary to resort to the courts to prevent each individual violation. Congress and the Executive have their responsibilities to uphold the Constitution also . . ..

"Many statutes providing Federal financial assistance, however, define with such precision both the Administrator's role and the conditions upon which specified amounts shall be given to designated recipients that the amount of administrative discretion remaining--which might be used to withhold funds if discrimination were not ended--is at best questionable. No administrator has the unlimited authority to invoke the Constitution in opposition to the mandate of the Congress. Nor would it always be helpful to require unconditionally--as is often proposed--the withdrawal of all Federal funds from programs urgently needed by Negroes as well as whites; for this may only penalize those who least deserve it without ending discrimination.

"Instead of permitting this issue to become a political device often exploited by those opposed to social or economic progress, it would be better at this time to pass a single comprehensive provision making it clear that the Federal Government is not required, under any statute, to furnish any kind of financial assistance--by way of grant, loan, contract, guaranty, insurance, or otherwise--to any program or activity in which racial discrimination occurs. This would not permit the Federal Government to cut off all Federal aid of all kinds as a means of punishing an area for the discrimination occurring therein--but it would clarify

the authority of any administrator with respect to Federal funds or financial assistance and discriminatory practices." 109 Cong.Rec. 11161 (1963).

"The bill would offer assurance that hospitals financed by Federal money would not deny adequate care to Negroes. It would prevent abuse of food distribution programs whereby Negroes have been known to be denied food surplus supplies when white persons were given such food. It would assure Negroes the benefits now accorded only white students in programs of high[er] education financed by Federal funds. It would, in short, assure the existing right to equal treatment in the enjoyment of Federal funds. It would not destroy any rights of private property or freedom of association." 110 Cong.Rec. 1519 (1964).

**2769 It was clear to Representative Celler that Title VI, apart from the fact that it reached all federally funded activities even in the absence of sufficient state or federal control to invoke the Fourteenth or Fifth Amendments, was not placing new substantive limitations upon the use of racial criteria, but rather was designed to extend to such activities "the existing right to equal treatment" enjoyed by Negroes under those Amendments, and he later specifically defined the purpose of Title VI in this way:

"In general, it seems rather anomalous that the Federal Government should aid and abet discrimination on the basis of race, color, or national origin by granting money *331 and other kinds of financial aid. It seems rather shocking, moreover, that while we have on the one hand the 14th amendment, which is supposed to do away with discrimination since it provides for equal protection of the laws, on the other hand, we have the Federal Government aiding and abetting those who persist in practicing racial discrimination.

"It is for these reasons that we bring forth title VI. The enactment of title VI will serve to override specific provisions of law which contemplate Federal assistance to racially segregated institutions." Id., at 2467.

Representative Celler also filed a memorandum setting forth the legal basis for the enactment of Title VI which reiterated the theme of his oral remarks: "In exercising its authority to fix the terms on which Federal funds will be disbursed . . ., Congress clearly has power to legislate so as to insure that the Federal Government does not become involved in a violation of the Constitution." Id., at 1528.

Other sponsors of the legislation agreed with Representative Celler that the function of Title VI was to end the Federal Government's complicity in conduct, particularly the segregation or exclusion of Negroes, inconsistent with the standards to be found in the antidiscrimination provisions of the Constitution. Representative Lindsay, also a member of the Judiciary Committee, candidly acknowledged, in the course of explaining why Title VI was necessary, that it did not create any new standard of equal treatment beyond that contained in the Constitution:

"Both the Federal Government and the States are under constitutional mandates not to discriminate. Many have raised the question as to whether legislation is required at all. Does not the Executive already have the power in the distribution of Federal funds to apply those conditions which will enable the Federal Government itself to live up to the mandate of the Constitution and to require *332 States and local government entities to live up to the Constitution, most especially the 5th and 14th amendments?" Id., at 2467.

He then explained that legislation was needed to authorize the termination of funding by the Executive Branch because existing legislation seemed to contemplate the expenditure of funds to support racially segregated institutions. Ibid. The views of Representatives Celler and Lindsay concerning the purpose and function of Title VI were shared by other sponsors and proponents of the legislation in the House. [FN10] Nowhere is there any suggestion that Title VI was intended to terminate federal funding for any reason other than consideration of race or national origin by the recipient institution in a manner inconsistent with the standards incorporated in the Constitution.

FN10. See, e. g., 110 Cong.Rec. 2732 (1964) (Rep. Dawson); id., at 2481-2482 (Rep. Ryan); id., at 2766 (Rep. Matsunaga); id., at 2595 (Rep. Donahue).

The Senate's consideration of Title VI reveals an identical understanding concerning the purpose and scope of the legislation. Senator Humphrey, the Senate floor manager, opened the Senate debate with a section-by-section analysis of the Civil Rights Act in which he succinctly stated the purpose of Title VI:

"The purpose of title VI is to make sure that funds of the United States are **2770 not used to support racial discrimination. In many instances the practices of segregation or discrimination, which title VI seeks to end, are unconstitutional. This is clearly so wherever Federal funds go to a State agency which engages in racial discrimination. It may also be so where Federal funds go to support private, segregated institutions, under the decision in Simkins v. Moses H. Cone Memorial Hospital, 323 F.2d 959 (C.A.4, 1963), [cert. denied, 376 U.S. 938, 84 S.Ct. 793, 11 L.Ed.2d 659 (1964)]. In all cases, such discrimination is contrary to national policy, and to the moral sense of the Nation. Thus, title VI is simply *333 designed to insure that Federal funds are spent in accordance with the Constitution and the moral sense of the Nation." Id., at 6544.

Senator Humphrey, in words echoing statements in the House, explained that legislation was needed to accomplish this objective because it was necessary to eliminate uncertainty concerning the power of federal agencies to terminate financial assistance to programs engaging in racial discrimination in the face of various federal statutes which appeared to authorize grants to racially segregated institutions. Ibid. Although Senator Humphrey realized that Title VI reached conduct which, because of insufficient governmental action, might be beyond the reach of the Constitution, it was clear to him that the substantive standard imposed by the statute was that of the Fifth and Fourteenth Amendments.

Senate supporters of Title VI repeatedly expressed agreement with Senator Humphrey's description of the legislation as providing the explicit authority and obligation to apply the standards of the Constitution to all recipients of federal funds. Senator Ribicoff described the limited function of Title VI:

"Basically, there is a constitutional restriction against discrimination in the use of Federal funds; and title VI simply spells out the procedure to be used in enforcing that restriction." Id., at 13333.

Other strong proponents of the legislation in the Senate repeatedly expressed their intent to assure that federal funds would only be spent in accordance with constitutional

standards. See remarks of Senator Pastore, id., at 7057, 7062; Senator Clark, id., at 5243; Senator Allott, id., at 12675, 12677. [FN11]

FN11. There is also language in 42 U.S.C. § 2000d-5, enacted in 1966, which supports the conclusion that Title VI's standard is that of the Constitution. Section 2000d-5 provides that "for the purpose of determining whether a local educational agency is in compliance with [Title VI], compliance by such agency with a final order or judgment of a Federal court for the desegregation of the school or school system operated by such agency shall be deemed to be compliance with [Title VI], insofar as the matters covered in the order or judgment are concerned." This provision was clearly intended to avoid subjecting local educational agencies simultaneously to the jurisdiction of the federal courts and the federal administrative agencies in connection with the imposition of remedial measures designed to end school segregation. Its inclusion reflects the congressional judgment that the requirements imposed by Title VI are identical to those imposed by the Constitution as interpreted by the federal courts.

*334 Respondent's contention that Congress intended Title VI to bar affirmative-action programs designed to enable minorities disadvantaged by the effects of discrimination to participate in federally financed programs is also refuted by an examination of the type of conduct which Congress thought it was prohibiting by means of Title VI. The debates reveal that the legislation was motivated primarily by a desire to eradicate a very specific evil: federal financial support of programs which disadvantaged Negroes by excluding them from participation or providing them with separate facilities. Again and again supporters of Title VI emphasized that the purpose of the statute was to end segregation in federally funded activities and to end other discriminatory uses of race disadvantaging Negroes. Senator Humphrey set the theme in his speech presenting Title VI to the Senate:

"Large sums of money are contributed by the United States each year for the construction, operation, and maintenance of segregated schools.

* * *

**2771 "Similarly, under the Hill-Burton Act, Federal grants are made to hospitals which admit whites only or Negroes only. . . .

"In higher education also, a substantial part of the Federal grants to colleges, medical schools and so forth, in the South is still going to segregated institutions.

*335 "Nor is this all. In several States, agricultural extension services, supported by Federal funds, maintain racially segregated offices for Negroes and whites. . . .

". . . Vocational training courses, supported with Federal funds, are given in segregated schools and institutions and often limit Negroes to training in less skilled occupations. In particular localities it is reported that Negroes have been cut off from relief rolls, or denied surplus agricultural commodities, or otherwise deprived of the benefit of federally assisted programs, in retaliation for their participation in voter registration drives, sit-in demonstrations and the like." Id., at 6543-6544.

See also the remarks of Senator Pastore (id., at 7054-7055); Senator Ribicoff (id., at 7064-7065); Senator Clark (id., at 5243, 9086); Senator Javits (id., at 6050, 7102). [FN12]

FN12. As has already been seen, the proponents of Title VI in the House were motivated by the identical concern. See remarks of Representative Celler (110 Cong. Rec. at 2467 (1964)); Representative Ryan (id., at 1643, 2481-2482); H.R.Rep. No. 914, 88th Cong., 1st Sess., pt. 2, Additional Views of Seven Representatives 24-25 (1963).

The conclusion to be drawn from the foregoing is clear. Congress recognized that Negroes, in some cases with congressional acquiescence, were being discriminated against in the administration of programs and denied thefull benefits of activities receiving federal financial support. It was aware that there were many federally funded programs and institutions which discriminated against minorities in a manner inconsistent with the standards of the Fifth and Fourteenth Amendments but whose activities might not involve sufficient state or federal action so as to be in violation of these Amendments. Moreover, Congress believed that it was questionable whether the Executive Branch possessed legal authority to terminate the funding of activities on the ground that they discriminated racially against Negroes in a manner violative of the standards contained in the Fourteenth and Fifth *336 Amendments. Congress' solution was to end the Government's complicity in constitutionally forbidden racial discrimination by providing the Executive Branch with the authority and the obligation to terminate its financial support of any activity which employed racial criteria in a manner condemned by the Constitution.

Of course, it might be argued that the Congress which enacted Title VI understood the Constitution to require strict racial neutrality or color blindness, and then enshrined that concept as a rule of statutory law. Later interpretation and clarification of the Constitution to permit remedial use of race would then not dislodge Title VI's prohibition of race-conscious action. But there are three compelling reasons to reject such a hypothesis.

First, no decision of this Court has ever adopted the proposition that the Constitution must be colorblind. See infra, at 2781-2782.

Second, even if it could be argued in 1964 that the Constitution might conceivably require color blindness, Congress surely would not have chosen to codify such a view unless the Constitution clearly required it. The legislative history of Title VI, as well as the statute itself, reveals a desire to induce voluntary compliance with the requirement of nondiscriminatory treatment. [FN13] See § 602 of the Act, 42 U.S.C. § 2000d-1 (no funds shall be terminated unless and until it has been "determined that compliance cannot be secured by voluntary means"); H.R.Rep. No. 914, 88th Cong., 1st Sess., pt. 1, p. **2772 25 (1963), U.S.Code Cong. & Admin.News 1964, p. 2355; 110 Cong.Rec. 13700 (1964) (Sen. Pastore); id., at 6546 (Sen. Humphrey). It is inconceivable that Congress intended to encourage voluntary efforts to eliminate the evil of racial discrimination while at the same time forbidding the voluntary use of race-conscious remedies to cure acknowledged or obvious statutory violations. Yet a reading of Title VI as prohibiting all action predicated upon race which adversely *337 affects any individual would require recipients guilty of discrimination to await the imposition of such remedies by the Executive Branch. Indeed, such an interpretation of Title VI would prevent recipients of federal funds from taking race into account even when necessary to bring their programs into compliance with federal constitutional requirements. This would be a remarkable reading of a statute designed to eliminate constitutional violations, especially in light of judicial decisions holding that under

certain circumstances the remedial use of racial criteria is not only permissible but is constitutionally required to eradicate constitutional violations. For example, in Board of Education v. Swann, 402 U.S. 43, 91 S.Ct. 1284, 28 L.Ed.2d 586 (1971), the Court held that a statute forbidding the assignment of students on the basis of race was unconstitutional because it would hinder the implementation of remedies necessary to accomplish the desegregation of a school system: "Just as the race of students must be considered in determining whether a constitutional violation has occurred, so also must race be considered in formulating a remedy." Id., at 46, 91 S.Ct., at 1286. Surely Congress did not intend to prohibit the use of racial criteria when constitutionally required or to terminate the funding of any entity which implemented such a remedy. It clearly desired to encourage all remedies, including the use of race, necessary to eliminate racial discrimination in violation of the Constitution rather than requiring the recipient to await a judicial adjudication of unconstitutionality and the judicial imposition of a racially oriented remedy.

FN13. See separate opinion of Mr. Justice WHITE, post, at 2795-2796, n. 2.

Third, the legislative history shows that Congress specifically eschewed any static definition of discrimination in favor of broad language that could be shaped by experience, administrative necessity, and evolving judicial doctrine. Although it is clear from the debates that the supporters of Title VI intended to ban uses of race prohibited by the Constitution and, more specifically, the maintenance of segregated *338 facilities, they never precisely defined the term "discrimination," or what constituted an exclusion from participation or a denial of benefits on the ground of race. This failure was not lost upon its opponents. Senator Ervin complained:

"The word 'discrimination,' as used in this reference, has no contextual explanation whatever, other than the provision that the discrimination 'is to be against' individuals participating in or benefiting from federally assisted programs and activities on the ground specified. With this context, the discrimination condemned by this reference occurs only when an individual is treated unequally or unfairly because of his race, color, religion, or national origin. What constitutes unequal or unfair treatment? Section 601 and section 602 of title VI do not say. They leave the determination of that question to the executive department or agencies administering each program, without any guideline whatever to point out what is the congressional intent." 110 Cong.Rec. 5612 (1964).

See also remarks of Representative Abernethy (id., at 1619); Representative Dowdy (id., at 1632); Senator Talmadge (id., at 5251); Senator Sparkman (id., at 6052). Despite these criticisms, the legislation's supporters refused to include in the statute or even provide in debate a more explicit definition of what Title VI prohibited.

The explanation for this failure is clear. Specific definitions were undesirable, in the views of the legislation's principal backers, because Title VI's standard was that of the Constitution and one that could and should be administratively and judicially applied. **2773 See remarks of Senator Humphrey (id., at 5253, 6553); Senator Ribicoff (id., at 7057, 13333); Senator Pastore (id., at 7057); Senator Javits (id., at 5606- 5607, 6050). [FN14] Indeed, there was a strong emphasis throughout *339 Congress' consideration of Title VI on providing the Executive Branch with considerable flexibility in interpreting and applying the prohibition against racial discrimination. Attorney General Robert Kennedy testified that

regulations had not been written into the legislation itself because the rules and regulations defining discrimination might differ from one program to another so that the term would assume different meanings in different contexts. [FN15] This determination to preserve flexibility in the administration of Title VI was shared by the legislation's supporters. When Senator Johnston offered an amendment that would have expressly authorized federal grantees to take race into account in placing children in adoptive and foster homes, Senator Pastore opposed the amendment, which was ultimately defeated by a 56-29 vote, on the ground that federal administrators could be trusted to act reasonably and that there was no danger that they would prohibit the use of racial criteria under such circumstances. Id., at 13695.

FN14. These remarks also reflect the expectations of Title VI's proponents that the application of the Constitution to the conduct at the core of their concern--the segregation of Negroes in federally funded programs and their exclusion from the full benefits of such programs--was clear. See supra, at 2770-2772; infra, at 2774-2775, n. 17.

FN15. Testimony of Attorney General Kennedy in Hearings before the Senate Committee on the Judiciary on S. 1731 and S. 1750, 88th Cong., 1st Sess., 398-399 (1963).

Congress' resolve not to incorporate a static definition of discrimination into Title VI is not surprising. In 1963 and 1964, when Title VI was drafted and debated, the courts had only recently applied the Equal Protection Clause to strike down public racial discrimination in America, and the scope of that Clause's nondiscrimination principle was in a state of flux and rapid evolution. Many questions, such as whether the Fourteenth Amendment barred only de jure discrimination or in at least some circumstances reached de facto discrimination, had not yet received an authoritative judicial resolution. The congressional debate reflects an awareness of the evolutionary *340 change that constitutional law in the area of racial discrimination was undergoing in 1964. [FN16]

FN16. See, e. g., 110 Cong.Rec. 6544, 13820 (1964) (Sen. Humphrey); id., at 6050 (Sen. Javits); id., at 12677 (Sen. Allott).

In sum, Congress' equating of Title VI's prohibition with the commands of the Fifth and Fourteenth Amendments, its refusal precisely to define that racial discrimination which it intended to prohibit, and its expectation that the statute would be administered in a flexible manner, compel the conclusion that Congress intended the meaning of the statute's prohibition to evolve with the interpretation of the commands of the Constitution. Thus, any claim that the use of racial criteria is barred by the plain language of the statute must fail in light of the remedial purpose of Title VI and its legislative history. The cryptic nature of the language employed in Title VI merely reflects Congress' concern with the then-prevalent use of racial standards as a means of excluding or disadvantaging Negroes and its determination to prohibit absolutely such discrimination. We have recently held that " '[w]hen aid to construction of the meaning of words, as used in the statute, is available, there certainly can be no "rule of law" which forbids its use, however clear the words may appear on "superficial examination." ' " Train v. Colorado Public Interest Research Group, 426 U.S. 1, 10, 96 S.Ct. 1938, 1942, 48 L.Ed.2d 434 (1976), quoting United States v. American Trucking Assns., 310 U.S. 534, 543-544, 60 S.Ct. 1059, 1063-1064, 84 L.Ed. 1345 (1940). This is especially so when, as is the case here, the literal application of what is believed to be the **2774 plain

language of the statute, assuming that it is so plain, would lead to results in direct conflict with Congress' unequivocally expressed legislative purpose. [FN17]

FN17. Our Brother STEVENS finds support for a colorblind theory of Title VI in its legislative history, but his interpretation gives undue weight to a few isolated passages from among the thousands of pages of the legislative history of Title VI. See id., at 6547 (Sen. Humphrey); id., at 6047, 7055 (Sen. Pastore); id., at 12675 (Sen. Allott); id., at 6561 (Sen. Kuchel). These fragmentary comments fall far short of supporting a congressional intent to prohibit a racially conscious admissions program designed to assist those who are likely to have suffered injuries from the effects of past discrimination. In the first place, these statements must be read in the context in which they were made. The concern of the speakers was far removed from the incidental injuries which may be inflicted upon nonminorities by the use of racial preferences. It was rather with the evil of the segregation of Negroes in federally financed programs and, in some cases, their arbitrary exclusion on account of race from the benefits of such programs. Indeed, in this context there can be no doubt that the Fourteenth Amendment does command color blindness and forbids the use of racial criteria. No consideration was given by these legislators, however, to the permissibility of racial preference designed to redress the effects of injuries suffered as a result of one's color. Significantly one of the legislators, Senator Pastore, and perhaps also Senator Kuchel, who described Title VI as proscribing decisionmaking based upon skin color, also made it clear that Title VI does not outlaw the use of racial criteria in all circumstances. See supra, at 2773-2774; 110 Cong.Rec. 6562 (1964). See also id., at 2494 (Rep. Celler). Moreover, there are many statements in the legislative history explicitly indicating that Congress intended neither to require nor to prohibit the remedial use of racial preferences where not otherwise required or prohibited by the Constitution. Representative MacGregor addressed directly the problem of preferential treatment:

"Your mail and mine, your contacts and mine with our constituents, indicates a great degree of misunderstanding about this bill. People complain about racial 'balancing' in the public schools, about open occupancy in housing, about preferential treatment or quotas in employment. There is a mistaken belief that Congress is legislating in these areas in this bill. When we drafted this bill we excluded these issues largely because the problems raised by these controversial questions are more properly handled at a governmental level close to the American people and by communities and individuals themselves. The Senate has spelled out our intentions more specifically." Id., at 15893.

Other legislators explained that the achievement of racial balance in elementary and secondary schools where there had been no segregation by law was not compelled by Title VI but was rather left to the judgment of state and local communities. See, e. g., id., at 10920 (Sen. Javits); id., at 5807, 5266 (Sen. Keating); id., at 13821 (Sens. Humphrey and Saltonstall). See also, id., at 6562 (Sen. Kuchel); id., at 13695 (Sen. Pastore).

Much the same can be said of the scattered remarks to be found in the legislative history of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (1970 ed. and Supp. V), which prohibits employment discrimination on the basis of race in terms somewhat similar to those contained in Title VI, see 42 U.S.C. § 2000e-2(a)(1) (unlawful "to fail or refuse to hire" any applicant "because of such individual's race, color, religion, sex, or national origin . . . ."),

to the effect that any deliberate attempt by an employer to maintain a racial balance is not required by the statute and might in fact violate it. See, e. g., 110 Cong.Rec. 7214 (1964) (Sens. Clark and Case); id., at 6549 (Sen. Humphrey); id., at 2560 (Rep. Goodell). Once again, there is no indication that Congress intended to bar the voluntary use of racial preferences to assist minorities to surmount the obstacles imposed by the remnants of past discrimination. Even assuming that Title VII prohibits employers from deliberately maintaining a particular racial composition in their work force as an end in itself, this does not imply, in the absence of any consideration of the question, that Congress intended to bar the use of racial preferences as a tool for achieving the objective of remedying past discrimination or other compelling ends. The former may well be contrary to the requirements of the Fourteenth Amendment (where state action is involved), while the latter presents very different constitutional considerations. Indeed, as discussed infra, at 2780-2781, this Court has construed Title VII as requiring the use of racial preferences for the purpose of hiring and advancing those who have been adversely affected by past discriminatory employment practices, even at the expense of other employees innocent of discrimination. Franks v. Bowman Transportation Co., 424 U.S. 747, 767-768, 96 S.Ct. 1251, 1265-1266, 47 L.Ed.2d 444 (1976). Although Title VII clearly does not require employers to take action to remedy the disadvantages imposed upon racial minorities by hands other than their own, such an objective is perfectly consistent with the remedial goals of the statute. See id., at 762-770, 96 S.Ct., at 1263-1267; Albemarle Paper Co. v. Moody, 422 U.S. 405, 418, 95 S.Ct. 2362, 2372, 45 L.Ed.2d 280 (1975). There is no more indication in the legislative history of Title VII than in that of Title VI that Congress desired to prohibit such affirmative action to the extent that it is permitted by the Constitution, yet judicial decisions as well as subsequent executive and congressional action clearly establish that Title VII does not forbid race-conscious remedial action. See infra, at 2780-2782, and n. 28.

*341 **2775 B

Section 602 of Title VI, 42 U.S.C. § 2000d-1, instructs federal agencies to promulgate regulations interpreting Title *342 VI. These regulations, which, under the terms of the statute, require Presidential approval, are entitled to considerable deference in construing Title VI. See, e. g., Lau v. Nichols, *343 414 U.S. 563, 94 S.Ct. 786, 39 L.Ed.2d 1 (1974); Mourning v. Family Publications Service, Inc., 411 U.S. 356, 369, 93 S.Ct. 1652, 1660, 36 L.Ed.2d 318 (1973); Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 381, 89 S.Ct. 1794, 1801, 23 L.Ed.2d 371 (1969). Consequently, it is most significant that the Department of Health, Education, and Welfare (HEW), which provides much of the federal assistance to institutions of higher education, has adopted regulations requiring affirmative measures designed to enable racial minorities which have been previously discriminated against by a federally funded institution or program to overcome the effects of such actions and authorizing the voluntary undertaking of affirmative-action programs by federally funded institutions that have not been guilty of prior discrimination in order to overcome the effects of conditions which have adversely affected the degree of participation by persons of a particular race.

Title 45 CFR § 80.3(b)(6)(i) (1977) provides:

"In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, or national origin, the recipient must take affirmative action to overcome the effects of prior discrimination."

Title 45 CFR § 80.5(i) (1977) elaborates upon this requirement:

"In some situations, even though past discriminatory practices attributable to a recipient or applicant have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts required of the applicant or recipient under § 80.6(d), to provide information as to the availability of the program or activity and the rights of beneficiaries under this regulation, have failed to overcome these consequences, it will become necessary under the requirement stated in (i) of § 80.3(b)(6) for such applicant or recipient to take additional steps to make the benefits *344 fully available to racial and nationality groups previously subject to discrimination. This action might take the form, for example, of special arrangements for obtaining referrals or making selections which will insure that groups previously subjected to discrimination are adequately served."

These regulations clearly establish that where there is a need to overcome the effects of past racially discriminatory or exclusionary practices engaged in by a federally funded institution, race-conscious action is not only permitted but required to accomplish the remedial objectives of Title VI. [FN18] Of course, there is no evidence that the Medical School has been guilty of past discrimination and consequently these regulations would not compel it to employ a program of preferential admissions in behalf of racial minorities. It would be difficult to explain from the language of Title VI, however, much less from its legislative history, why the statute compels race-conscious remedies where a recipient institution has engaged in past discrimination but prohibits such remedial action where racial minorities, as a result of the effects of past discrimination imposed by entities other than the recipient, are excluded from the benefits of federally funded programs. HEW was fully aware of the incongruous nature of such an interpretation of Title VI.

FN18. HEW has stated that the purpose of these regulations is "to specify that affirmative steps to make services more equitably available are not prohibited and that such steps are required when necessary to overcome the consequences of prior discrimination." 36 Fed.Reg. 23494 (1971). Other federal agencies which provide financial assistance pursuant to Title VI have adopted similar regulations. See Supplemental Brief for United States as Amicus Curiae 16 n. 14.

**2776 Title 45 CFR § 80.3(b)(6)(ii) (1977) provides:

"Even in the absence of such prior discrimination, a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted *345 in limiting participation by persons of a particular race, color, or national origin."

An explanatory regulation explicitly states that theaffirmative action which § 80.3(b)(6)(ii) contemplates includes the use of racial preferences:

"Even though an applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances, an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its

program more widely available to such groups, not then being adequately served. For example, where a university is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service." 45 CFR § 80.5(j) (1977).

This interpretation of Title VI is fully consistent with the statute's emphasis upon voluntary remedial action and reflects the views of an agency [FN19] responsible for achieving its objectives. [FN20]

FN19. Moreover, the President has delegated to the Attorney General reponsibility for coordinating the enforcement of Title VI by federal departments and agencies and has directed him to 'assist the departments and agencies in accomplishing effective implementation.' Exec. Order No. 11764, 3 CFR 849 (1971-1975 Comp.). Accordingly, the views of the Solicitor General, as well as those of HEW, that the use of racial preferences for remedial purposes is consistent with Title VI are entitled to considerable respect.

FN20. HEW administers at least two explicitly race-conscious programs. Details concerning them may be found in the Office of Management and Budget, 1977 Catalogue of Federal Domestic Assistance 205-206, 401-402. The first program, No. 13.375, 'Minority Biomedical Support.' has as its objectives:

"To increase the number of ethnic minority faculty, students, and investigators engaged in biomedical research. To broaden the opportunities for participation in biomedical research of ethnic minority faculty, students, and investigators by providing support for biomedical research programs at eligible institutions."

Eligibility for grants under this program is limited to (1) four-year colleges, universities, and health professional schools with over 50% minority enrollments; (2) four-year institutions with significant but not necessarily over 50% minority enrollment provided they have a history of encouragement and assistance to minorities; (3) two-year colleges with 50% minority enrollment; and (4) American Indian Tribal Councils. Grants made pursuant to this program are estimated to total $9,711,000 for 1977.

The second program, No. 13.880, entitled "Minority Access To Research Careers," has as its objective to "assist minority institutions to train greater numbers of scientists and teachers in health related fields." Grants under this program are made directly to individuals and to institutions for the purpose of enabling them to make grants to individuals.

*346 The Court has recognized that the construction of a statute by those charged with its execution is particularly deserving of respect where Congress has directed its attention to the administrative construction and left it unaltered. Cf. Red Lion Broadcasting Co. v. FCC, 395 U.S., at 381, 89 S.Ct., at 1801; Zemel v. Rusk, 381 U.S. 1, 11-12, 85 S.Ct. 1271, 1278-1279, 14 L.Ed.2d 179 (1965). Congress recently took just this kind of action when it considered an amendment to the Departments of Labor and Health, Education, and Welfare appropriation bill for 1978, which would have restricted significantly the remedial use of race in programs funded by the appropriation. The amendment, as originally submitted by Representative Ashbrook, provided that "[n]one of the funds appropriated in this Act may be used to initiate, carry out or enforce any program of affirmative action or any other system of

quotas or goals in regard to admission policies or employment practices which encourage or require any discrimination on the basis of race, creed, religion, sex or age." 123 *347 Rec. 19715 (1977). In support of the measure, Representative Ashbrook argued that the 1964 Civil Rights Act never authorized the imposition of affirmative action and that this was a creation of the bureaucracy. Id., at 19722. He explicitly stated, however, that **2777 he favored permitting universities to adopt affirmative action programs giving consideration to racial identity but opposed the imposition of such programs by the Government. Id., at 19715. His amendment was itself amended to reflect this position by only barring the imposition of race- conscious remedies by HEW:

"None of the funds appropriated in this Act may be obligated or expended in connection with the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order issued by the Secretary of Health, Education, and Welfare which for purposes of compliance with any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex requires any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or (2) the admissions policies or practices of such individual or entity." Id., at 19722.

This amendment was adopted by the House. Ibid. The Senate bill, however, contained no such restriction upon HEW's authority to impose race-conscious remedies and the Conference Committee, upon the urging of the Secretary of HEW, deleted the House provision from the bill. [FN21] More significant for present purposes, however, is the fact that even the proponents of imposing limitations upon HEW's implementation of Title VI did not challenge the right of federally funded educational institutions voluntarily to extend preferences to racial minorities.

FN21. H.R.Conf.Rep. No. 95-538, p. 22 (1977); 123 Cong.Rec. 26188 (1977). See H.J.Res. 662, 95th Cong., 1st Sess. (1977); Pub.L. 95-205, 91 Stat. 1460.

*348 Finally, congressional action subsequent to the passage of Title VI eliminates any possible doubt about Congress' views concerning the permissibility of racial preferences for the purpose of assisting disadvantaged racial minorities. It confirms that Congress did not intend to prohibit and does not now believe that Title VI prohibits the consideration of race as part of a remedy for societal discrimination even where there is no showing that the institution extending the preference has been guilty of past discrimination nor any judicial finding that the particular beneficiaries of the racial preference have been adversely affected by societal discrimination.

Just last year Congress enacted legislation [FN22] explicitly requiring that no grants shall be made "for any local public works project unless the applicant gives satisfactory assurance to the Secretary [of Commerce] that at least 10 per centum of the amount of each grant shall be expended for minority business enterprises." The statute defines the term "minority business enterprise" as "a business, at least 50 per centum of which is owned by minority group members or, in case of a publicly owned business, at least 51 per centum of the stock of which is owned by minority group members." The term "minority group members" is defined in explicitly racial terms: "citizens of the United States who are Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts." Although the statute contains an exemption from this requirement "to the extent that the Secretary determines

otherwise," this escape clause was provided only to deal with the possibility that certain areas of the country might not contain sufficient qualified "minority business enterprises" to permit compliance with the quota provisions of the legislation. [FN23]

FN22. 91 Stat. 117, 42 U.S.C. § 6705 (f)(2) (1976 ed.).

FN23. 123 Cong.Rec. 7156 (1977); id., at 5327-5330 (1977).

The legislative history of this race-conscious legislation reveals that it represents a deliberate attempt to deal with *349 the excessive rate of unemployment among minority citizens and to encourage the development of viable minority controlled enterprises. [FN24] **2778 It was believed that such a "set-aside" was required in order to enable minorities, still "new on the scene" and "relatively small," to compete with larger and more established companies which would always be successful in underbidding minority enterprises. 123 Cong.Rec. 5327 (1977) (Rep. Mitchell). What is most significant about the congressional consideration of the measure is that although the use of a racial quota or "set-aside" by a recipient of federal funds would constitute a direct violation of Title VI if that statute were read to prohibit race-conscious action, no mention was made during the debates in either the House or the Senate of even the possibility that the quota provisions for minority contractors might in any way conflict with or modify Title VI. It is inconceivable that such a purported conflict would have escaped congressional attention through an inadvertent failure to recognize the relevance of Title VI. Indeed, the Act of which this affirmative-action provision is a part also contains a provision barring discrimination on the basis of sex which states that this prohibition "will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination under Title VI of the Civil Rights Act of 1964." 42 U.S.C. § 6709 (1976 ed.). Thus Congress was fully aware of the applicability of Title VI to the funding of public works projects. Under these circumstances, the enactment of the 10% "set-aside" for minority enterprises reflects a congressional judgment that the remedial use of race is permissible under Title VI. We have repeatedly recognized that subsequent legislation reflecting an interpretation of an earlier Act is entitled to great weight in determining the meaning of the earlier statute. Red Lion Broadcasting Co. v. FCC, 395 U.S., at 380-*350 381, Y 89 S.Ct., at 1801- 1802; Erlenbaugh v. United States, 409 U.S. 239, 243-244, 93 S.Ct. 477, 480-481, 34 L.Ed.2d 446 (1972). See also United States v. Stewart, 311 U.S. 60, 64-65, 61 S.Ct. 102, 105-106 85 L.Ed. 40 (1940). [FN25]

FN24. See id., at 7156 (1977) (Sen. Brooke).

FN25. In addition to the enactment of the 10% quota provision discussed supra, Congress has also passed other Acts mandating race-conscious measures to overcome disadvantages experienced by racial minorities. Although these statutes have less direct bearing upon the meaning of Title VI, they do demonstrate that Congress believes race-conscious remedial measures to be both permissible and desirable under at least some circumstances. This in turn undercuts the likelihood that Congress intended to limit voluntary efforts to implement similar measures. For example, § 7(a) of the National Science Foundation Authorization Act, 1977, provides:

"The Director of the National Science Foundation shall initiate an intensive search for qualified women, members of minority groups, and handicapped individuals to fill executive

level positions in the National Science Foundation. In carrying out the requirement of this subsection, the Director shall work closely with organizations which have been active in seeking greater recognition and utilization of the scientific and technical capabilities of minorities, women, and handicapped individuals. The Director shall improve the representation of minorities, women, and handicapped individuals on advisory committees, review panels, and all other mechanisms by which the scientific community provides assistance to the Foundation." 90 Stat. 2056, note following 42 U.S.C. § 1873 (1976 ed.).

Perhaps more importantly, the Act also authorizes the funding of Minority Centers for Graduate Education. Section 7(c)(2) of the Act, 90 Stat. 2056, requires that these Centers:

"(A) have substantial minority student enrollment;

"(B) are geographically located near minority population centers;

"(C) demonstrate a commitment to encouraging and assisting minority students, researchers, and faculty;

* * *

"(F) will serve as a regional resource in science and engineering for the minority community which the Center is designed to serve; and

"(G) will develop joint educational programs with nearby undergraduate institutions of higher education which have a substantial minority student enrollment."

Once again, there is no indication in the legislative history of this Act or elsewhere that Congress saw any inconsistency between the race-conscious nature of such legislation and the meaning of Title VI. And, once again, it is unlikely in the extreme that a Congress which believed that it had commanded recipients of federal funds to be absolutely color-blind would itself expend federal funds in such a race-conscious manner. See also the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. § 801 et seq. (1976 ed.), 49 U.S.C. § 1657a et seq. (1976 ed.); the Emergency School Aid Act, 20 U.S.C. § 1601 et seq. (1976 ed.).

**2779 C

Prior decisions of this Court also strongly suggest that Title VI does not prohibit the remedial use of race where such action is constitutionally permissible. In Lau v. Nichols, 414 U.S. 563, 94 S.Ct. 786, 39 L.Ed.2d 1 (1974), the Court held that the failure of the San *351 Francisco school system to provide English-language instruction to students of Chinese ancestry who do not speak English, or to provide them with instruction in Chinese, constituted a violation of Title VI. The Court relied upon an HEW regulation which stipulates that a recipient of federal funds "may not . . . utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination" or have "the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin." 45 CFR § 80.3(b)(2) (1977). It interpreted this regulation as requiring San Francisco to extend the same educational benefits to Chinese-speaking students as to English-speaking students, even though there was no finding or allegation that the city's failure to do so was a result of a purposeful design to discriminate on the basis of race.

Lau is significant in two related respects. First, it indicates that in at least some circumstances agencies responsible for the administration of Title VI may require recipients who have not been guilty of any constitutional violations to depart from a policy of color blindness and to be cognizant of the impact of their actions upon racial minorities. Secondly, Lau clearly requires that institutions receiving federal funds be accorded considerable latitude in voluntarily undertaking race-conscious action designed to remedy the exclusion of significant numbers *352 of minorities from the benefits of federally funded programs. Although this Court has not yet considered the question, presumably, by analogy to our decisions construing Title VII, a medical school would not be in violation of Title VI under Lau because of the serious underrepresentation of racial minorities in its student body as long as it could demonstrate that its entrance requirements correlated sufficiently with the performance of minority students in medical school and the medical profession. [FN26] It would be inconsistent with Lau and the emphasis of Title VI and the HEW regulations on voluntary action, however, to require that an institution wait to be adjudicated to be in violation of the law before being permitted to voluntarily undertake corrective action based upon a good-faith and reasonable belief that the failure of certain racial minorities to satisfy entrance requirements is not a measure of their ultimate performance as doctors but a result of the lingering effects of past societal discrimination.

FN26. Cf. Griggs v. Duke Power Co., 401 U.S. 424, 91 S.Ct. 849, 28 L.Ed.2d 158 (1971).

We recognize that Lau, especially when read in light of our subsequent decision in Washington v. Davis, 426 U.S. 229, 96 S.Ct. 2040, 48 L.Ed.2d 597 (1976), which rejected the general proposition that governmental action is unconstitutional solely because it has a racially disproportionate impact, may be read as being predicated upon the view that, at least under some circumstances, Title VI proscribes conduct which might not be prohibited by the Constitution. Since we are now of the opinion, for the reasons set forth above, that Title VI's standard, applicable alike to public and private recipients of federal funds, is no broader than the Constitution's, we have serious doubts concerning the correctness of what appears to be the premise of that decision. However, even accepting Lau's implication that impact alone is in some contexts sufficient to establish a prima facie violation of Title VI, contrary to our review that Title VI's definition of racial discrimination is absolutely coextensive with the Constitution's, this would not assist the respondent *353 in the least. First, for the reasons discussed supra, at 2772-2779, regardless of whether Title VI's prohibitions extend beyond the **2780 Constitution's, the evidence fails to establish, and, indeed, compels the rejection of, the proposition that Congress intended to prohibit recipients of federal funds from voluntarily employing race-conscious measures to eliminate the effects of past societal discrimination against racial minorities such as Negroes. Secondly, Lau itself, for the reasons set forth in the immediately preceding paragraph, strongly supports the view that voluntary race-conscious remedial action is permissible under Title VI. If discriminatory racial impact alone is enough to demonstrate at least a prima facie Title VI violation, it is difficult to believe that the Title would forbid the Medical School from attempting to correct the racially exclusionary effects of its initial admissions policy during the first two years of the School's operation.

The Court has also declined to adopt a "color-blind" interpretation of other statutes containing nondiscrimination provisions similar to that contained in Title VI. We have held under Title VII that where employment requirements have a disproportionate impact upon racial minorities they constitute a statutory violation, even in the absence of discriminatory intent, unless the employer is able to demonstrate that the requirements are sufficiently related to the needs of the job. [FN27] More significantly, the Court has required that preferences be given by employers to members of racial minorities as a remedy for past violations of Title VII, even where there has been no finding that the employer has acted with a discriminatory intent. [FN28] Finally, we have construed the Voting *354 Rights Act of 1965, **2781 42 U.S.C. § 1973 et seq. (1970 ed. and Supp. V), which contains a provision barring any voting procedure or qualification that denies or abridges "the right of *355 any citizen of the United States to vote on account of race or color," as permitting States to voluntarily take race into account in a way that fairly represents the voting strengths of different racial groups in order to comply with the commands of the statute, even where the result is a gain for one racial group at the expense of others. [FN29]

FN27. Ibid.; Albemarle Paper Co. v. Moody, 422 U.S. 405, 95 S.Ct. 2362, 45 L.Ed.2d 280 (1975).

FN28. Franks v. Bowman Transportation Co., 424 U.S. 747, 96 S.Ct. 1251, 47 L.Ed.2d 444 (1976); Teamsters v. United States, 431 U.S. 324, 97 S.Ct. 1843, 52 L.Ed.2d 396 (1977). Executive, judicial, and congressional action subsequent to the passage of Title VII conclusively established that the Title did not bar the remedial use of race. Prior to the 1972 amendments to Title VII (Equal Employment Opportunity Act of 1972, 86 Stat. 103) a number of Courts of Appeals approved race-conscious action to remedy the effects of employment discrimination. See, e. g., Heat & Frost Insulators & Asbestos Workers v. Vogler, 407 F.2d 1047 (C.A.5 1969); United States v. Electrical Workers, 428 F.2d 144, 149-150 (C.A.6), cert. denied, 400 U.S. 943, 91 S.Ct. 245, 27 L.Ed.2d 248 (1970); United States v. Sheet Metal Workers, 416 F.2d 123 (C.A.8 1969). In 1965, the President issued Exec. Order No. 11246, 3 CFR 339 (1964-1965 Comp.), which as amended by Exec. Order No. 11375, 3 CFR 684 (1966-1970 Comp.), required federal contractors to take affirmative action to remedy the disproportionately low employment of racial minorities in the construction industry. The Attorney General issued an opinion concluding that the race consciousness required by Exec. Order No. 11246 did not conflict with Title VII:

"It is not correct to say that Title VII prohibits employers from making race or national origin a factor for consideration at any stage in the process of obtaining employees. The legal definition of discrimination is an evolving one, but it is now well recognized in judicial opinions that the obligation of nondiscrimination, whether imposed by statute or by the Constitution, does not require and, in some circumstances, may not permit obliviousness or indifference to the racial consequences of alternative courses of action which involve the application of outwardly neutral criteria." 42 Op. Atty. Gen. 405, 411 (1969).

The federal courts agreed. See, e. g., Contractors Assn. of Eastern Pa. v. Secretary of Labor, 442 F.2d 159 (C.A.3), cert. denied, 404 U.S. 854, 92 S.Ct. 98, 30 L.Ed.2d 95 (1971) (which also held, 442 F.2d, at 173, that race-conscious affirmative action was permissible under Title VI); Southern Illinois Builders Assn. v. Ogilvie, 471 F.2d 680 (C.A.7 1972).

Moreover, Congress, in enacting the 1972 amendments to Title VII, explicitly considered and rejected proposals to alter Exec. Order No. 11246 and the prevailing judicial interpretations of Title VII as permitting, and in some circumstances requiring, race-conscious action. See Comment, The Philadelphia Plan: A Study in the Dynamics of Executive Power, 39 U.Chi.L.Rev. 723, 747-757 (1972). The section-by-section analysis of the 1972 amendments to Title VII undertaken by the Conference Committee Report on H.R. 1746 reveals a resolve to accept the then (as now) prevailing judicial interpretations of the scope of Title VII:

"In any area where the new law does not address itself, or in any areas where a specific contrary intent is not indicated, it was assumed that the present case law as developed by the courts would continue to govern the applicability and construction of Title VII." Legislative History of the Equal Employment Opportunity Act of 1972, p. 1844 (Comm.Print. 1972).

FN29. United Jewish Organizations v. Carey, 430 U.S. 144, 97 S.Ct. 996, 51 L.Ed.2d 229 (1977). See also id., at 167-168, 97 S.Ct., at 1010- 1011 (opinion of WHITE, J.).

These prior decisions are indicative of the Court's unwillingness to construe remedial statutes designed to eliminate discrimination against racial minorities in a manner which would impede efforts to attain this objective. There is no justification for departing from this course in the case of Title VI and frustrating the clear judgment of Congress that race-conscious remedial action is permissible.

We turn, therefore, to our analysis of the Equal Protection Clause of the Fourteenth Amendment.

III

A

The assertion of human equality is closely associated with the proposition that differences in color or creed, birth or status, are neither significant nor relevant to the way in which persons should be treated. Nonetheless, the position that such factors must be "constitutionally an irrelevance," Edwards v. California, 314 U.S. 160, 185, 62 S.Ct. 164, 172, 86 L.Ed. 119 (1941) (Jackson, J., concurring), summed up by the shorthand phrase "[o]ur Constitution is color-blind," Plessy v. Ferguson, 163 U.S. 537, 559, 16 S.Ct. 1138, 1146, 41 L.Ed. 256 (1896) (Harlan, J., dissenting), has never been adopted by this Court as the proper meaning of the Equal Protection Clause. In *356 deed, we have expressly rejected this proposition on a number of occasions.

Our cases have always implied that an "overriding statutory purpose," McLaughlin v. Florida, 379 U.S. 184, 192, 85 S.Ct. 283, 288, 13 L.Ed.2d 222 (1964), could be found that would justify racial classifications. See, e. g., ibid.; Loving v. Virginia, 388 U.S. 1, 11, 87 S.Ct. 1817, 1823, 18 L.Ed.2d 1010 (1967); Korematsu v. United States, 323 U.S. 214, 216, 65 S.Ct. 193, 194, 89 L.Ed. 194 (1944); Hirabayashi v. United States, 320 U.S. 81, 100-101, 63 S.Ct. 1375, 1385-1386, 87 L.Ed. 1774 (1943). More recently, in McDaniel v. Barresi, 402 U.S. 39, 91 S.Ct. 1287, 28 L.Ed.2d 582 (1971), this Court unanimously reversed the Georgia Supreme Court which had held that a desegregation plan voluntarily adopted by a local school board, which assigned students on the basis of race, was per se invalid because it was not color- blind. And in North Carolina Board of Education v. Swann we held, again unanimously, that a statute mandating color-blind school-assignment plans could not stand

"against the background of segregation," since such a limit on remedies would "render illusory the promise of Brown [I]." 402 U.S., at 45-46, 91 S.Ct., at 1286.

We conclude, therefore, that racial classifications are not per se invalid under the Fourteenth Amendment. Accordingly, we turn to the problem of articulating what our role should be in reviewing state action that expressly classifies by race.

B

Respondent argues that racial classifications are always suspect and, consequently, that this Court should weigh the importance of the objectives served by Davis' special admissions program to see if they are compelling. In addition, he asserts that this Court must inquire whether, in its judgment, there are alternatives to racial classifications which would suit Davis' purposes. Petitioner, on the other hand, states that our proper role is simply to accept petitioner's determination that the racial **2782 classifications used by its program are reasonably related to what it tells us are its benign *357 purposes. We reject petitioner's view, but, because our prior cases are in many respects inapposite to that before us now, we find it necessary to define with precision the meaning of that inexact term, "strict scrutiny."

[10] Unquestionably we have held that a government practice or statute which restricts "fundamental rights" or which contains "suspect classifications" is to be subjected to "strict scrutiny" and can be justified only if it furthers a compelling government purpose and, even then, only if no less restrictive alternative is available. [FN30] See, e. g., San Antonio Independent School District v. Rodriguez, 411 U.S. 1, 16-17, 93 S.Ct. 1278, 1287-1288, 36 L.Ed.2d 16 (1973); Dunn v. Blumstein, 405 U.S. 330, 92 S.Ct. 995, 31 L.Ed.2d 274 (1972). But no fundamental right is involved here. See San Antonio, supra, 411 U.S., at 29-36, 93 S.Ct., at 1294-1298. Nor do whites as a class have any of the "traditional indicia of suspectness: the class is not saddled with such disabilities, or subjected to such a history of purposeful unequal treatment, or relegated to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process." Id., at 28, 93 S.Ct., at 1294; see United States v. Carolene Products Co., 304 U.S. 144, 152 n. 4, 58 S.Ct. 778, 783, 82 L.Ed. 1234 (1938). [FN31]

FN30. We do not pause to debate whether our cases establish a "two-tier" analysis, a "sliding scale" analysis, or something else altogether. It is enough for present purposes that strict scrutiny is applied at least in some cases.

FN31. Of course, the fact that whites constitute a political majority in our Nation does not necessarily mean that active judicial scrutiny of racial classifications that disadvantage whites is inappropriate. Cf. Castaneda v. Partida, 430 U.S. 482, 499-500, 97 S.Ct. 1272, 1282-1283, 51 L.Ed.2d 498 (1977); id., at 501, 97 S.Ct., at 1283 (MARSHALL, J., concurring).

Moreover, if the University's representations are credited, this is not a case where racial classifications are "irrelevant and therefore prohibited." Hirabayashi, supra, 320 U.S., at 100, 63 S.Ct., at 1385. Nor has anyone suggested that the University's purposes contravene the cardinal principle that racial classifications that stigmatize--because they are drawn on the presumption that one race is inferior to another or because they put the weight of government *358 behind racial hatred and separatism--are invalid without more. See Yick

Wo v. Hopkins, 118 U.S. 356, 374, 6 S.Ct. 1064, 1073, 30 L.Ed. 220 (1886); [FN32] accord, Strauder v. West Virginia, 100 U.S. 303, 308, 25 L.Ed. 664 (1880); Korematsu v. United States, supra, 323 U.S., at 223, 65 S.Ct., at 197; Oyama v. California, 332 U.S. 633, 663, 68 S.Ct. 269, 283, 92 L.Ed. 249 (1948) (Murphy, J., concurring); Brown I, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954); McLaughlin v. Florida, supra, 379 U.S., at 191-192, 85 S.Ct., at 287-289; Loving v. Virginia, supra, 388 U.S., at 11-12, 87 S.Ct., at 1823-1824; Reitman v. Mulkey, 387 U.S. 369, 375-376, 87 S.Ct. 1627, 1631-1632, 18 L.Ed.2d 830 (1967); United Jewish Organizations v. Carey, 430 U.S. 144, 165, 97 S.Ct. 996, 1009, 51 L.Ed.2d 229 (1977) (UJO) (opinion of WHITE, J., joined by REHNQUIST and STEVENS, JJ.); id., at 169, 97 S.Ct., at 1011 (opinion concurring in part). [FN33]

FN32. "[T]he conclusion cannot be resisted, that no reason for [the refusal to issue permits to Chinese] exists except hostility to the race and nationality to which the petitioners belong . . .. The discrimination is, therefore, illegal . . .."

FN33. Indeed, even in Plessy v. Ferguson the Court recognized that a classification by race that presumed one race to be inferior to another would have to be condemned. See 163 U.S., at 544-551, 16 S.Ct., at 1140-1143.

On the other hand, the fact that this case does not fit neatly into our prior analytic framework for race cases does not mean that it should be analyzed by applying the very loose rational-basis standard of review that is the very least that is always applied in equal protection cases. [FN34] " '[T]he mere **2783 recitation of a benign, compensatory purpose is not an automatic shield*359 hich protects against any inquiry into the actual purposes underlying a statutory scheme.' " Califano v. Webster, 430 U.S. 313, 317, 97 S.Ct. 1192, 1194, 51 L.Ed.2d 360 (1977), quoting Weinberger v. Wiesenfeld, 420 U.S. 636, 648, 95 S.Ct. 1225, 1233, 43 L.Ed.2d 514 (1975). Instead, a number of considerations--developed in gender-discrimination cases but which carry even more force when applied to racial classifications--lead us to conclude that racial classifications designed to further remedial purposes " 'must serve important governmental objectives and must be substantially related to achievement of those objectives.' " Califano v. Webster, supra, 430 U.S., at 317, 97 S.Ct., at 1194, quoting Craig v. Boren, 429 U.S. 190, 197, 97 S.Ct. 451, 457, 50 L.Ed.2d 397 (1976). [FN35]

FN34. Paradoxically, petitioner's argument is supported by the cases generally thought to establish the "strict scrutiny" standard in race cases, Hirabayashi v. United States, 320 U.S. 81, 63 S.Ct. 1375, 87 L.Ed. 1774 (1943), and Korematsu v. United States, 323 U.S. 214, 65 S.Ct. 193, 89 L.Ed. 194 (1944). In Hirabayashi, for example, the Court, responding to a claim that a racial classification was rational, sustained a racial classification solely on the basis of a conclusion in the double negative that it could not say that facts which might have been available "could afford no ground for differentiating citizens of Japanese ancestry from other groups in the United States." Hirabayashi, 320 U.S., at 101, 63 S.Ct., at 1386. A similar mode of analysis was followed in Korematsu, see 323 U.S., at 224, 65 S.Ct., at 197, even though the Court stated there that racial classifications were "immediately suspect" and should be subject to "the most rigid scrutiny." Id., at 216, 65 S.Ct., at 194.

FN35. We disagree with our Brother POWELL's suggestion, ante, at 2755, that the presence of "rival groups which can claim that they, too, are entitled to preferential treatment"

distinguishes the gender cases or is relevant to the question of scope of judicial review of race classifications. We are not asked to determine whether groups other than those favored by the Davis program should similarly be favored. All we are asked to do is to pronounce the constitutionality of what Davis has done.

But, were we asked to decide whether any given rival group--German- Americans for example--must constitutionally be accorded preferential treatment, we do have a "principled basis," ante, at 2751, for deciding this question, one that is well established in our cases: The Davis program expressly sets out four classes which receive preferred status. Ante, at 2740. The program clearly distinguishes whites, but one cannot reason from this a conclusion that German-Americans, as a national group, are singled out for invidious treatment. And even if the Davis program had a differential impact on German-Americans, they would have no constitutional claim unless they could prove that Davis intended invidiously to discriminate against German-Americans. See Arlington Heights v. Metropolitan Housing Dev. Corp., 429 U.S. 252, 264-265, 97 S.Ct. 555, 562-563, 50 L.Ed.2d 450 (1977); Washington v. Davis, 426 U.S. 229, 238-241, 96 S.Ct. 2040, 2046, 2048, 48 L.Ed.2d 597 (1976). If this could not be shown, then "the principle that calls for the closest scrutiny of distinctions in laws denying fundamental rights . . . is inapplicable," Katzenbach v. Morgan, 384 U.S. 641, 657, 86 S.Ct. 1717, 1727, 16 L.Ed.2d 828 (1966), and the only question is whether it was rational for Davis to conclude that the groups it preferred had a greater claim to compensation than the groups it excluded. See ibid.; San Antonio Independent School District v. Rodriquez, 411 U.S. 1, 38-39, 93 S.Ct. 1278, 1299-1300, 36 L.Ed.2d 16 (1973) (applying Katzenbach test to state action intended to remove discrimination in educational opportunity). Thus, claims of rival groups, although they may create thorny political problems, create relatively simple problems for the courts.

*360 First, race, like, "gender-based classifications too often [has] been inexcusably utilized to stereotype and stigmatize politically powerless segments of society." Kahn v. Shevin, 416 U.S. 351, 357, 94 S.Ct. 1734, 1738, 40 L.Ed.2d 189 (1974) (dissenting opinion). While a carefully tailored statute designed to remedy past discrimination could avoid these vices, see Califano v. Webster, supra; Schlesinger v. Ballard, 419 U.S. 498, 95 S.Ct. 572, 42 L.Ed.2d 610 (1975); Kahn v. Shevin, supra, we nonetheless have recognized that the line between honest and thoughtful appraisal of the effects of past discrimination and paternalistic stereotyping is not so clear and that a statute based on the latter is patently capable of stigmatizing all women with a badge of inferiority. Cf. Schlesinger v. Ballard, supra, 419 U.S., at 508, 95 S.Ct., at 577; UJO, supra, 430 U.S., at 174, and n. 3, 97 S.Ct., at 1014 (opinion concurring in part); Califano v. **2784 Goldfarb, 430 U.S. 199, 223, 97 S.Ct. 1021, 1035, 51 L.Ed.2d 270 (1977) (STEVENS, J., concurring in judgment). See also Stanton v. Stanton, 421 U.S. 7, 14-15, 95 S.Ct. 1373, 1377-1378, 43 L.Ed.2d 688 (1975). State programs designed ostensibly to ameliorate the effects of past racial discrimination obviously create the same hazard of stigma, since they may promote racial separatism and reinforce the views of those who believe that members of racial minorities are inherently incapable of succeeding on their own. See UJO, supra, 430 U.S., at 172, 97 S.Ct., at 1013 (opinion concurring in part); ante, at 2753 (opinion of POWELL, J.).

Second, race, like gender and illegitimacy, see Weber v. Aetna Casualty & Surety Co., 406 U.S. 164, 92 S.Ct. 1400, 31 L.Ed.2d 768 (1972), is an immutable characteristic which its possessors are powerless to escape or set aside. While a classification is not per se invalid because it divides classes on the basis of an immutable characteristic, see supra, at 2781-2782, it is nevertheless true that such divisions are contrary to our deep belief that "legal burdens should bear some relationship to individual responsibility or *361 wrongdoing," Weber, supra, 406 U.S., at 175, 92 S.Ct., at 1407; Frontiero v. Richardson, 411 U.S. 677, 686, 93 S.Ct. 1764, 1770, 36 L.Ed.2d 583 (1973) (opinion of BRENNAN, WHITE, and MARSHALL, JJ.), and that advancement sanctioned, sponsored, or approved by the State should ideally be based on individual merit or achievement, or at the least on factors within the control of an individual. See UJO, 430 U.S., at 173, 97 S.Ct., at 1013 (opinion concurring in part); Kotch v. Board of River Port Pilot Comm'rs, 330 U.S. 552, 566, 67 S.Ct. 910, 917, 91 L.Ed. 1093 (1947) (Rutledge, J., dissenting).

Because this principle is so deeply rooted it might be supposed that it would be considered in the legislative process and weighed against the benefits of programs preferring individuals because of their race. But this is not necessarily so: The "natural consequence of our governing process [may well be] that the most 'discrete and insular' of whites . . . will be called upon to bear the immediate, direct costs of benign discrimination." UJO, supra, 430 U.S., at 174, 97 S.Ct., at 1014 (opinion concurring in part). Moreover, it is clear from our cases that there are limits beyond which majorities may not go when they classify on the basis of immutable characteristics. See, e. g., Weber, supra. Thus, even if the concern for individualism is weighed by the political process, that weighing cannot waive the personal rights of individuals under the Fourteenth Amendment. See Lucas v. Colorado General Assembly, 377 U.S. 713, 736, 84 S.Ct. 1459, 1473, 12 L.Ed.2d 632 (1964).

In sum, because of the significant risk that racial classifications established for ostensibly benign purposes can be misused, causing effects not unlike those created by invidious classifications, it is inappropriate to inquire only whether there is any conceivable basis that might sustain such a classification. Instead, to justify such a classification an important and articulated purpose for its use must be shown. In addition, any statute must be stricken that stigmatizes any group or that singles out those least well represented in the political process to bear the brunt of a benign program. Thus, our review under the Fourteenth Amendment should be *362 strict--not " 'strict' in theory and fatal in fact," [FN36] because it is stigma that causes fatality--but strict and searching nonetheless.

FN36. Gunther, The Supreme Court, 1971 Term--Foreword: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection, 86 Harv.L.Rev. 1, 8 (1972).

IV

Davis' articulated purpose of remedying the effects of past societal discrimination is, under our cases, sufficiently important to justify the use of race-conscious admissions programs where there is a sound basis for concluding that minority underrepresentation is substantial and chronic, and that the handicap of past discrimination is impeding access of minorities to the Medical School.

**2785 A

At least since Green v. County School Board, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716 (1968), it has been clear that a public body which has itself been adjudged to have engaged in racial discrimination cannot bring itself into compliance with the Equal Protection Clause simply by ending its unlawful acts and adopting a neutral stance. Three years later, Swann v. Charlotte- Mecklenburg Board of Education, 402 U.S. 1, 91 S.Ct. 1267, 28 L.Ed.2d 554 (1971), and its companion cases, Davis v. School Comm'rs of Mobile County, 402 U.S. 33, 91 S.Ct. 1289, 28 L.Ed.2d 577 (1971); McDaniel v. Barresi, 402 U.S. 39, 91 S.Ct. 1287, 28 L.Ed.2d 582 (1971), and North Carolina Board of Education v. Swann, 402 U.S. 43, 91 S.Ct. 1284, 28 L.Ed.2d 586 (1971), reiterated that racially neutral remedies for past discrimination were inadequate where consequences of past discriminatory acts influence or control present decisions. See, e. g., Charlotte-Mecklenburg, supra, 402 U.S., at 28, 91 S.Ct., at 1282. And the Court further held both that courts could enter desegregation orders which assigned students and faculty by reference to race, Charlotte-Mecklenburg, supra; Davis, supra; United States v. Montgomery County Board of Ed., 395 U.S. 225, 89 S.Ct. 1670, 23 L.Ed.2d 263 (1969), and that local school boards could voluntarily adopt desegregation *363 plans which made express reference to race if this was necessary to remedy the effects of past discrimination. McDaniel v. Barresi, supra. Moreover, we stated that school boards, even in the absence of a judicial finding of past discrimination, could voluntarily adopt plans which assigned students with the end of creating racial pluralism by establishing fixed ratios of black and white students in each school. Charlotte-Mecklenburg, supra, 402 U.S., at 16, 91 S.Ct., at 1276. In each instance, the creation of unitary school systems, in which the effects of past discrimination had been "eliminated root and branch," Green, supra, 391 U.S., at 438, 88 S.Ct., at 1694, was recognized as a compelling social goal justifying the overt use of race.

Finally, the conclusion that state educational institutions may constitutionally adopt admissions programs designed to avoid exclusion of historically disadvantaged minorities, even when such programs explicitly take race into account, finds direct support in our cases construing congressional legislation designed to overcome the present effects of past discrimination. Congress can and has outlawed actions which have a disproportionately adverse and unjustified impact upon members of racial minorities and has required or authorized race-conscious action to put individuals disadvantaged by such impact in the position they otherwise might have enjoyed. See Franks v. Bowman Transportation Co., 424 U.S. 747, 96 S.Ct. 1251, 47 L.Ed.2d 444 (1976); Teamsters v. United States, 431 U.S. 324, 97 S.Ct. 1843, 52 L.Ed.2d 396 (1977). Such relief does not require as a predicate proof that recipients of preferential advancement have been individually discriminated against; it is enough that each recipient is within a general class of persons likely to have been the victims of discrimination. See id., at 357-362, 97 S.Ct., at 1865-1868. Nor is it an objection to such relief that preference for minorities will upset the settled expectations of nonminorities. See Franks, supra. In addition, we have held that Congress, to remove barriers to equal opportunity, can and has required employers to use test criteria that fairly reflect the qualifications of minority applicants *364 vis-a-vis nonminority applicants, even if this means interpreting the qualifications of an applicant in light of his race. See Albemarle Paper Co. v. Moody, 422 U.S. 405, 435, 95 S.Ct. 2362, 2380, 45 L.Ed.2d 280 (1975). [FN37]

FN37. In Albemarle, we approved "differential validation" of employment tests. See 422 U.S., at 435, 95 S.Ct., at 2380. That procedure requires that an employer must ensure that a test score of, for example, 50 for a minority job applicant means the same thing as a score of 50 for a nonminority applicant. By implication, were it determined that a test score of 50 for a minority corresponded in "potential for employment" to a 60 for whites, the test could not be used consistently with Title VII unless the employer hired minorities with scores of 50 even though he might not hire nonminority applicants with scores above 50 but below 60. Thus, it is clear that employers, to ensure equal opportunity, may have to adopt race-conscious hiring practices.

These cases cannot be distinguished simply by the presence of judicial findings of **2786 discrimination, for race-conscious remedies have been approved where such findings have not been made. McDaniel v. Barresi, supra; UJO; seeCalifano V. Webster, 430 U.S. 313, 97 S.Ct. 1192, 51 L.Ed.2d 360 (1977); Schlesinger v. Ballard, 419 U.S. 498, 95 S.Ct. 572, 42 L.Ed.2d 610 (1975); Kahn v. Shevin, 416 U.S. 351, 94 S.Ct. 1734, 40 L.Ed.2d 189 (1974). See alsoKatzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1717, 16 L.Ed.2d 828 (1966). Indeed, the requirement of a judicial determination of a constitutional or statutory violation as a predicate for race-conscious remedial actions would be self-defeating. Such a requirement would severely undermine efforts to achieve voluntary compliance with the requirements of law. And our society and jurisprudence have always stressed the value of voluntary efforts to further the objectives of the law. Judicial intervention is a last resort to achieve cessation of illegal conduct or the remedying of its effects rather than a prerequisite to action. [FN38]

FN38. Indeed, Titles VI and VII of the Civil Rights Act of 1964 put great emphasis on voluntarism in remedial action. See supra, at 2772- 2773. And, significantly, the Equal Employment Opportunity Commission has recently proposed guidelines authorizing employers to adopt racial preferences as a remedial measure where they have a reasonable basis for believing that they might otherwise be held in violation of Title VII. See 42 Fed.Reg. 64826 (1977).

*365 Nor can our cases be distinguished on the ground that the entity using explicit racial classifications itself had violated § 1 of the Fourteenth Amendment or an antidiscrimination regulation, for again race- conscious remedies have been approved where this is not the case. See UJO, 430 U.S., at 157, 97 S.Ct., at 1005 (opinion of WHITE, J., joined by BRENNAN, BLACKMUN, and STEVENS, JJ.); [FN39] id., at 167, 97 S.Ct., at 1010 (opinion of WHITE, J., joined by REHNQUIST and STEVENS, JJ.); [FN40] cf. Califano v. Webster, supra, 430 U.S., at 317, 97 S.Ct., at 1194; Kahn v. Shevin, supra. Moreover, the presence or absence of past discrimination by universities or employers is largely irrelevant to resolving respondent's constitutional claims. The claims of those burdened by the race-conscious actions of a university or employer who has never been adjudged in violation of an antidiscrimination law are not any more or less entitled to deference than the claims of the burdened nonminority workers in Franks v. Bowman Transportation Co., supra, in which the employer had violated Title VII, for in each case the employees are innocent of past discrimination. And, although it might be argued that, where an employer has violated an antidiscrimination law, the expectations of nonminority workers are themselves products of

discrimination and hence "tainted," see Franks, supra, at 776, 96 S.Ct., at 1270, and therefore more easily upset, the same argument can be made with respect to respondent. If it was reasonable to conclude--as we hold that it was--that the failure of minorities to qualify for admission at Davis under regular procedures was due principally to the effects of past discrimination, then there is a reasonable likelihood that, but for pervasive racial discrimination, *366 respondent would have failed to qualify for admission even in the absence of Davis' special admissions program. [FN41]

FN39. "[T]he [Voting Rights] Act's prohibition . . . is not dependent upon proving past unconstitutional apportionments . . . ."

FN40. "[T]he State is [not] powerless to minimize the consequences of racial discrimination by voters when it is regularly practiced at the polls."

FN41. Our cases cannot be distinguished by suggesting, as our Brother POWELL does, that in none of them was anyone deprived of "the relevant benefit." Ante, at 2756. Our school cases have deprived whites of the neighborhood school of their choice; our Title VII cases have deprived nondiscriminating employees of their settled seniority expectations; and UJO deprived the Hassidim of bloc voting strength. Each of these injuries was constitutionally cognizable as is respondent's here.

Thus, our cases under Title VII of the Civil Rights Act have held that, in order to **2787 achieve minority participation in previously segregated areas of public life, Congress may require or authorize preferential treatment for those likely disadvantaged by societal racial discrimination. Such legislation has been sustained even without a requirement of findings of intentional racial discrimination by those required or authorized to accord preferential treatment, or a case-by-case determination that those to be benefited suffered from racial discrimination. These decisions compel the conclusion that States also may adopt race-conscious programs designed to overcome substantial, chronic minority underrepresentation where there is reason to believe that the evil addressed is a product of past racial discrimination. [FN42]

FN42. We do not understand Mr. Justice POWELL to disagree that providing a remedy for past racial prejudice can constitute a compelling purpose sufficient to meet strict scrutiny. See ante, at 2756. Yet, because petitioner is a corporation administering a university, he would not allow it to exercise such power in the absence of "judicial, legislative, or administrative findings of constitutional or statutory violations." Ante, at 2758. While we agree that reversal in this case would follow a fortiori had Davis been guilty of invidious racial discrimination or if a federal statute mandated that universities refrain from applying any admissions policy that had a disparate and unjustified racial impact, see, e. g., McDaniel v. Barresi, 402 U.S. 39, 91 S.Ct. 1287, 28 L.Ed.2d 582 (1971); Franks v. Bowman Transportation Co., 424 U.S. 747, 96 S.Ct. 1251, 47 L.Ed.2d 444 (1976), we do not think it of constitutional significance that Davis has not been so adjudged.

Generally, the manner in which a State chooses to delegate governmental functions is for it to decide. Cf. Sweezy v. New Hampshire, 354 U.S. 234, 256, 77 S.Ct. 1203, 1 L.Ed.2d 1311 (1957) (Frankfurter, J., concurring in result). California, by constitutional provision, has chosen to place authority over the operation of the University of California in the Board of

Regents. See Cal.Const., Art. 9, § 9(a). Control over the University is to be found not in the legislature, but rather in the Regents who had been vested with full legislative (including policymaking), administrative, and adjudicative powers by the citizens of California. See ibid.; Ishimatsu v. Regents, 266 Cal.App.2d 854, 863-864, 72 Cal.Rptr. 756, 762-763 (1968); Goldberg v. Regents, 248 Cal.App.2d 867, 874, 57 Cal.Rptr. 463, 468 (1967); 30 Op.Cal.Atty.Gen. 162, 166 (1957) ("The Regents, not the legislature, have the general rule-making or policy- making power in regard to the University"). This is certainly a permissible choice, see Sweezy, supra, and we, unlike our Brother POWELL, find nothing in the Equal Protection Clause that requires us to depart from established principle by limiting the scope of power the Regents may exercise more narrowly than the powers that may constitutionally be wielded by the Assembly.

Because the Regents can exercise plenary legislative and administrative power, it elevates form over substance to insist that Davis could not use race-conscious remedial programs until it had been adjudged in violation of the Constitution or an antidiscrimination statute. For, if the Equal Protection Clause required such a violation as a predicate, the Regents could simply have promulgated a regulation prohibiting disparate treatment not justified by the need to admit only qualified students, and could have declared Davis to have been in violation of such a regulation on the basis of the exclusionary effect of the admissions policy applied during the first two years of its operation. See infra, at 2789-2790.

*367 Title VII was enacted pursuant to Congress' power under the Commerce Clause and § 5 of the Fourteenth Amendment. To the extent that Congress acted under the Commerce Clause power, it was restricted in the use of race in governmental decisionmaking by the equal protection component of the Due Process Clause of the Fifth Amendment precisely to the same extent as are the States by § 1 of the Fourteenth Amendment. [FN43] Therefore, to the extent that Title VII rests on the Commerce Clause power, our decisions such as Franks and *368 Teamsters v. United States, 431 U.S. 324, 97 S.Ct. 1843, 52 L.Ed.2d 396 (1977), implicitly recognize that the affirmative use of race is consistent with the equal protection component of the Fifth Amendment **2788 and therefore with the Fourteenth Amendment. To the extent that Congress acted pursuant to § 5 of the Fourteenth Amendment, those cases impliedly recognize that Congress was empowered under that provision to accord preferential treatment to victims of past discrimination in order to overcome the effects of segregation, and we see no reason to conclude that the States cannot voluntarily accomplish under § 1 of the Fourteenth Amendment what Congress under § 5 of the Fourteenth Amendment validly may authorize or compel either the States or private persons to do. A contrary position would conflict with the traditional understanding recognizing the competence of the States to initiate measures consistent with federal policy in the absence of congressional pre-emption of the subject matter. Nothing whatever in the legislative history of either the Fourteenth Amendment or the Civil Rights Acts even remotely suggests that the States are foreclosed from furthering the fundamental purpose of equal opportunity to which the Amendment and those Acts are addressed. Indeed, voluntary initiatives by the States to achieve the national goal of equal opportunity have been recognized to be essential to its attainment. "To use the Fourteenth Amendment as a sword against such State power would stultify that Amendment." Railway Mail Assn. v. Corsi, 326 U.S. 88, 98, 65 S.Ct. 1483, 1489, 89 L.Ed. 2072 (1945) (Frankfurter, J., concurring). [FN44] We therefore

*369 conclude that Davis' goal of admitting minority students disadvantaged by the effects of past discrimination is sufficiently important to justify use of race-conscious admissions criteria.

FN43. "Equal protection analysis in the Fifth Amendment area is the same as that under the Fourteenth Amendment." Buckley v. Valeo, 424 U.S. 1, 93, 96 S.Ct. 612, 670, 46 L.Ed.2d 659 (1976) (per curiam), citing Weinberger v. Wiesenfeld, 420 U.S. 636, 638 n. 2, 95 S.Ct. 1225, 1228, 43 L.Ed.2d 514 (1975).

FN44. Railway Mail Assn. held that a state statute forbidding racial discrimination by certain labor organizations did not abridge the Association's due process rights secured by the Fourteenth Amendment because that result "would be a distortion of the policy manifested in that amendment, which was adopted to prevent state legislation designed to perpetuate discrimination on the basis of race or color." 326 U.S., at 94, 65 S.Ct., at 1487. That case thus established the principle that a State voluntarily could go beyond what the Fourteenth Amendment required in eliminating private racial discrimination.

B

Properly construed, therefore, our prior cases unequivocally show that a state government may adopt race-conscious programs if the purpose of such programs is to remove the disparate racial impact its actions might otherwise have and if there is reason to believe that the disparate impact is itself the product of past discrimination, whether its own or that of society at large. There is no question that Davis' program is valid under this test.

Certainly, on the basis of the undisputed factual submissions before this Court, Davis had a sound basis for believing that the problem of underrepresentation of minorities was substantial and chronic and that the problem was attributable to handicaps imposed on minority applicants by past and present racial discrimination. Until at least 1973, the practice of medicine in this country was, in fact, if not in law, largely the prerogative of whites. [FN45] In 1950, for example, while Negroes *370 constituted 10% of the **2789 total population, Negro physicians constituted only 2.2% of the total number of physicians. [FN46] The overwhelming majority of these, moreover, were educated in two predominantly Negro medical schools, Howard and Meharry. [FN47] By 1970, the gap between the proportion of Negroes in medicine and their proportion in the population had widened: The number of Negroes employed in medicine remained frozen at 2.2% [FN48] while the Negro population had increased to 11.1%. [FN49] The number of Negro admittees to predominantly white medical schools, moreover, had declined in absolute numbers during the years 1955 to 1964. Odegaard 19.

FN45. According to 89 schools responding to a questionnaire sent to 112 medical schools (all of the then-accredited medical schools in the United States except Howard and Meharry), substantial efforts to admit minority students did not begin until 1968. That year was the earliest year of involvement for 34% of the schools; an additional 66% became involved during the years 1969 to 1973. See C. Odegaard, Minorities in Medicine: From Receptive Passivity to Positive Action, 1966-1976, p. 19 (1977) (hereinafter Odegaard). These efforts were reflected in a significant increase in the percentage of minority M.D. graduates. The number of American Negro graduates increased from 2.2% in 1970 to 3.3%

in 1973 and 5.0% in 1975. Significant percentage increases in the number of Mexican American, American-Indian, and mainland Puerto Rican graduates were also recorded during those years. Id., at 40.

The statistical information cited in this and the following notes was compiled by Government officials or medical educators, and has been brought to our attention in many of the briefs. Neither the parties nor the amici challenge the validity of the statistics alluded to in our discussion.

FN46. D. Reitzes, Negroes and Medicine, pp. xxvii, 3 (1958).

FN47. Between 1955 and 1964, for example, the percentage of Negro physicians graduated in the United States who were trained at these schools ranged from 69.0% to 75.8%. See Odegaard 19.

FN48. U.S. Dept. of Health, Education, and Welfare, Minorities and Women in the Health Fields 7 (Pub. No. (HRA) 75-22, May 1974).

FN49. U.S. Dept. of Commerce, Bureau of the Census, 1970 Census, vol. 1, pt. 1, Table 60 (1973).

Moreover, Davis had very good reason to believe that the national pattern of underrepresentation of minorities in medicine would be perpetuated if it retained a single admissions standard. For example, the entering classes in 1968 and 1969, the years in which such a standard was used, included only 1 Chicano and 2 Negroes out of the 50 admittees for each year. Nor is there any relief from this pattern of underrepresentation in the statistics for the regular admissions program in later years. [FN50]

FN50. See ante, at 2741 n. 6 (opinion of POWELL, J.).

Davis clearly could conclude that the serious and persistent underrepresentation of minorities in medicine depicted by these statistics is the result of handicaps under which minority applicants labor as a consequence of a background of deliberate, purposeful discrimination against minorities in education *371 and in society generally, as well as in the medical profession. From the inception of our national life, Negroes have been subjected to unique legal disabilities impairing access to equal educational opportunity. Under slavery, penal sanctions were imposed upon anyone attempting to educate Negroes. [FN51] After enactment of the Fourteenth Amendment the States continued to deny Negroes equal educational opportunity, enforcing a strict policy of segregation that itself stamped Negroes as inferior, Brown I, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954), that relegated minorities to inferior educational institutions, [FN52] and that denied them intercourse in the mainstream of professional life necessary to advancement. See Sweatt v. Painter, 339 U.S. 629, 70 S.Ct. 848, 94 L.Ed. 1114 (1950). Segregation was not limited to public facilities, moreover, but was enforced by criminal penalties against private action as well. Thus, as late as 1908, this Court enforced a state criminal conviction against a private college for teaching Negroes together with whites. Berea College v. Kentucky, 211 U.S. 45, 29 S.Ct. 33, 53 L.Ed. 81. See also Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256 (1896).

FN51. See, e. g., R. Wade, Slavery in the Cities: The South 1820-1860, pp. 90-91 (1964).

FN52. For an example of unequal facilities in California schools, see Soria v. Oxnard School Dist. Board, 386 F.Supp. 539, 542 (CD Cal.1974). See also R. Kluger, Simple Justice (1976).

Green v. County School Board, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716 (1968), gave explicit recognition to the fact that the habit of discrimination and the cultural tradition of race prejudice cultivated by centuries of legal slavery and segregation were not immediately dissipated when Brown I, supra, announced the constitutional principle that equal educational opportunity and participation in all aspects of American life could not be denied on the basis of race. Rather, massive official and private resistance prevented, and to a lesser extent still prevents, attainment of equal opportunity in education at all levels and in **2790 the professions. The generation of minority students applying to Davis Medical School since it opened in 1968--most of whom *372 were born before or about the time Brown I was decided--clearly have been victims of this discrimination. Judicial decrees recognizing discrimination in public education in California testify to the fact of widespread discrimination suffered by California-born minority applicants; [FN53] many minority group members living in California, moreover, were born and reared in school districts in Southern States segregated by law. [FN54] Since separation of school-children by race "generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone," Brown I, supra, 347 U.S., at 494, 74 S.Ct., at 691, the conclusion is inescapable that applicants to medical school must be few indeed who endured the effects of de jure segregation, the resistance to Brown I, or the equally debilitating pervasive private discrimination fostered by our long history of official discrimination, cf. Reitman v. Mulkey, 387 U.S. 369, 87 S.Ct. 1627, 18 L.Ed.2d 830 (1967), and yet come to the starting line with an education equal to whites. [FN55]

FN53. See, e. g., Crawford v. Board of Education, 17 Cal.3d 280, 130 Cal.Rptr. 724, 551 P.2d 28 (1976); Soria v. Oxnard School Dist. Board, supra; Spangler v. Pasadena City Board of Education, 311 F.Supp. 501 (C.D.Cal.1970); C. Wollenberg, All Deliberate Speed: Segregation and Exclusion in California Schools, 1855-1975, pp. 136-177 (1976).

FN54. For example, over 40% of American-born Negro males aged 20 to 24 residing in California in 1970 were born in the South, and the statistic for females was over 48%. These statistics were computed from data contained in Census, supra n. 49, pt. 6, California, Tables 139, 140.

FN55. See, e. g., O'Neil, Preferential Admissions: Equalizing the Access of Minority Groups to Higher Education, 80 Yale L.J. 699, 729- 731 (1971).

Moreover, we need not rest solely on our own conclusion that Davis had sound reason to believe that the effects of past discrimination were handicapping minority applicants to the Medical School, because the Department of Health, Education, and Welfare, the expert agency charged by Congress with promulgating regulations enforcing Title VI of the Civil Rights Act of 1964, see supra, at 2775-2776, has also reached the conclusion that race may be taken into account in situations *373 where a failure to do so would limit participation by minorities in federally funded programs, and regulations promulgated by the Department expressly contemplate that appropriate race- conscious programs may be adopted by universities to remedy unequal access to university programs caused by their own or by past

societal discrimination. See supra, at 2776, discussing 45 CFR §§ 80.3(b)(6)(ii) and 80.5(j) (1971). It cannot be questioned that, in the absence of the special admissions program, access of minority students to the Medical School would be severely limited and, accordingly, race-conscious admissions would be deemed an appropriate response under these federal regulations. Moreover, the Department's regulatory policy is not one that has gone unnoticed by Congress. See supra, at 2777-2778. Indeed, although an amendment to an appropriations bill was introduced just last year that would have prevented the Secretary of Health, Education, and Welfare from mandating race-conscious programs in university admissions, proponents of this measure, significantly, did not question the validity of voluntary implementation of race-conscious admissions criteria. See ibid. In these circumstances, the conclusion implicit in the regulations--that the lingering effects of past discrimination continue to make race-conscious remedial programs appropriate means for ensuring equal educational opportunity in universities--deserves considerable judicial deference. See, e. g., Katzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1717, 16 L.Ed.2d 828 (1966); UJO, 430 U.S., at 175-178, 97 S.Ct., at 1014-1016 (opinion concurring in part). [FN56]

FN56. Congress and the Executive have also adopted a series of race- conscious programs, each predicated on an understanding that equal opportunity cannot be achieved by neutrality because of the effects of past and present discrimination. See supra, at 2778-2779.

**2791 C

The second prong of our test--whether the Davis program stigmatizes any discrete group or individual and whether race *374 is reasonably used in light of the program's objectives--is clearly satisfied by the Davis program.

It is not even claimed that Davis' program in any way operates to stigmatize or single out any discrete and insular, or even any identifiable, nonminority group. Nor will harm comparable to that imposed upon racial minorities by exclusion or separation on grounds of race be the likely result of the program. It does not, for example, establish an exclusive preserve for minority students apart from and exclusive of whites. Rather, its purpose is to overcome the effects of segregation by bringing the races together. True, whites are excluded from participation in the special admissions program, but this fact only operates to reduce the number of whites to be admitted in the regular admissions program in order to permit admission of a reasonable percentage--less than their proportion of the California population [FN57]--of otherwise underrepresented qualified minority applicants. [FN58]

FN57. Negroes and Chicanos alone constitute approximately 22% of California's population. This percentage was computed from data contained in Census, supra, n. 49, pt. 6, California, sec. 1, 6-4, and Table 139.

FN58. The constitutionality of the special admissions program is buttressed by its restriction to only 16% of the positions in the Medical School, a percentage less than that of the minority population in California, see ibid., and to those minority applicants deemed qualified for admission and deemed likely to contribute to the Medical School and the medical profession. Record 67. This is consistent with the goal of putting minority applicants in the position they would have been in if not for the evil of racial discrimination. Accordingly, this case does not raise the question whether even a remedial use of race would be unconstitutional if it admitted unqualified minority applicants in preference to qualified

applicants or admitted, as a result of preferential consideration, racial minorities in numbers significantly in excess of their proportional representation in the relevant population. Such programs might well be inadequately justified by the legitimate remedial objectives. Our allusion to the proportional percentage of minorities in the population of the State administering the program is not intended to establish either that figure or that population universe as a constitutional benchmark. In this case, even respondent, as we understand him, does not argue that, if the special admissions program is otherwise constitutional, the allotment of 16 places in each entering class for special admittees is unconstitutionally high.

*375 Nor was Bakke in any sense stamped as inferior by the Medical School's rejection of him. Indeed, it is conceded by all that he satisfied those criteria regarded by the school as generally relevant to academic performance better than most of the minority members who were admitted. Moreover, there is absolutely no basis for concluding that Bakke's rejection as a result of Davis' use of racial preference will affect him throughout his life in the same way as the segregation of the Negro schoolchildren in Brown I would have affected them. Unlike discrimination against racial minorities, the use of racial preferences for remedial purposes does not inflict a pervasive injury upon individual whites in the sense that wherever they go or whatever they do there is a significant likelihood that they will be treated as second- class citizens because of their color. This distinction does not mean that the exclusion of a white resulting from the preferential use of race is not sufficiently serious to require justification; but it does mean that the injury inflicted by such a policy is not distinguishable from disadvantages caused by a wide range of government actions, none of which has ever been thought impermissible for that reason alone.

In addition, there is simply no evidence that the Davis program discriminates intentionally or unintentionally against any minority group which it purports to benefit. The program does not establish a quota in the invidious sense of a ceiling on the number of minority applicants to be admitted. **2792 Nor can the program reasonably be regarded as stigmatizing the program's beneficiaries or their race as inferior. The Davis program does not simply advance less qualified applicants; rather, it compensates applicants, who it is uncontested are fully qualified to study medicine, for educational disadvantages which it was reasonable to conclude were a product of *376 state-fostered discrimination. Once admitted, these students must satisfy the same degree requirements as regularly admitted students; they are taught by the same faculty in the same classes; and their performance is evaluated by the same standards by which regularly admitted students are judged. Under these circumstances, their performance and degrees must be regarded equally with the regularly admitted students with whom they compete for standing. Since minority graduates cannot justifiably be regarded as less well qualified than nonminority graduates by virtue of the special admissions program, there is no reasonable basis to conclude that minority graduates at schools using such programs would be stigmatized as inferior by the existence of such programs.

D

We disagree with the lower courts' conclusion that the Davis program's use of race was unreasonable in light of its objectives. First, as petitioner argues, there are no practical means by which it could achieve its ends in the foreseeable future without the use of race-

conscious measures. With respect to any factor (such as poverty or family educational background) that may be used as a substitute for race as an indicator of past discrimination, whites greatly outnumber racial minorities simply because whites make up a far larger percentage of the total population and therefore far outnumber minorities in absolute terms at every socioeconomic level. [FN59] For example, of a class of recent medical school applicants from families with less than $10,000 income, at least 71% were white. [FN60] Of all 1970 families headed by a *377 person not a high school graduate which included related children under 18, 80% were white and 20% were racial minorities. [FN61] Moreover, while race is positively correlated with differences in GPA and MCAT scores, economic disadvantage is not. Thus, it appears that economically disadvantaged whites do not score less well than economically advantaged whites, while economically advantaged blacks score less well than do disadvantaged whites. [FN62] These statistics graphically illustrate that the University's purpose to integrate its classes by compensating for past discrimination could not be achieved by a general preference for the economically disadvantaged or the children of parents of limited education unless such groups were to make up the entire class.

FN59. See Census, supra, n. 49, Sources and Structure of Family Income, pp. 1-12.

FN60. This percentage was computed from data presented in B. Waldman, Economic and Racial Disadvantage as Reflected in Traditional Medical School Selection Factors: A Study of 1976 Applicants to U. S. Medical Schools 34 (Table A-15), 42 (Table A-23) (Association of American Medical Colleges 1977.)

FN61. This figure was computed from data contained in Census, supra n. 49, pt. 1, United States Summary, Table 209.

FN62. See Waldman, supra n. 60, at 10-14 (Figures 1-5).

Second, the Davis admissions program does not simply equate minority status with disadvantage. Rather, Davis considers on an individual basis each applicant's personal history to determine whether he or she has likely been disadvantaged by racial discrimination. The record makes clear that only minority applicants likely to have been isolated from the mainstream of American life are considered in the special program; other minority applicants are eligible only through the regular admissions program. True, the procedure by which disadvantage is detected is informal, but we have never insisted that educators conduct their affairs through adjudicatory proceedings, and such **2793 insistence here is misplaced. A case-by-case inquiry into the extent to which each individual applicant has been affected, either directly or indirectly, by racial discrimination, would seem to be, as a practical matter, virtually impossible, despite the fact that there are excellent reasons for concluding that such effects generally exist. When individual measurement is impossible or extremely impractical, there is nothing to prevent a State *378 from using categorical means to achieve its ends, at least where the category is closely related to the goal. Cf. Gaston County v. United States, 395 U.S. 285, 295-296, 89 S.Ct. 1720, 1725-1726, 23 L.Ed.2d 309 (1969); Katzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1731, 16 L.Ed.2d 828(1986). And it is clear from our cases that specific proof that a person has been victimized by discrimination is not a necessary predicate to offering him relief where the probability of victimization is great. See Teamsters v. United States, 431 U.S. 324, 97 S.Ct. 1843, 52 L.Ed.2d 396 (1977).

E

Finally, Davis' special admissions program cannot be said to violate the Constitution simply because it has set aside a predetermined number of places for qualified minority applicants rather than using minority status as a positive factor to be considered in evaluating the applications of disadvantaged minority applicants. For purposes of constitutional adjudication, there is no difference between the two approaches. In any admissions program which accords special consideration to disadvantaged racial minorities, a determination of the degree of preference to be given is unavoidable, and any given preference that results in the exclusion of a white candidate is no more or less constitutionally acceptable than a program such as that at Davis. Furthermore, the extent of the preference inevitably depends on how many minority applicants the particular school is seeking to admit in any particular year so long as the number of qualified minority applicants exceeds that number. There is no sensible, and certainly no constitutional, distinction between, for example, adding a set number of points to the admissions rating of disadvantaged minority applicants as an expression of the preference with the expectation that this will result in the admission of an approximately determined number of qualified minority applicants and setting a fixed number of places for such applicants as was done here. [FN63]

FN63. The excluded white applicant, despite Mr. Justice POWELL's contention to the contrary, ante, at 2763 n. 52, receives no more or less "individualized consideration" under our approach than under his.

*379 The "Harvard" program, see ante, at 2762-2763, as those employing it readily concede, openly and successfully employs a racial criterion for the purpose of ensuring that some of the scarce places in institutions of higher education are allocated to disadvantaged minority students. That the Harvard approach does not also make public the extent of the preference and the precise workings of the system while the Davis program employs a specific, openly stated number, does not condemn the latter plan for purposes of Fourteenth Amendment adjudication. It may be that the Harvard plan is more acceptable to the public than is the Davis "quota." If it is, any State, including California, is free to adopt it in preference to a less acceptable alternative, just as it is generally free, as far as the Constitution is concerned, to abjure granting any racial preferences in its admissions program. But there is no basis for preferring a particular preference program simply because in achieving the same goals that the Davis Medical School is pursuing, it proceeds in a manner that is not immediately apparent to the public.

V

Accordingly, we would reverse the judgment of the Supreme Court of California holding the Medical School's special admissions program unconstitutional and directing respondent's admission, as well as that **2794 portion of the judgment enjoining the Medical School from according any consideration to race in the admissions process.

Mr. Justice WHITE.

I write separately concerning the question of whether Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., provides for a private cause of action. Four Justices are

apparently of the view that such a private cause of action *380 exists, and four Justices assume it for purposes of this case. I am unwilling merely to assume an affirmative answer. If in fact no private cause of action exists, this Court and the lower courts as well are without jurisdiction to consider respondent's Title VI claim. As I see it, if we are not obliged to do so, it is at least advisable to address this threshold jurisdictional issue. See United States v. Griffin, 303 U.S. 226, 229, 58 S.Ct. 601, 602, 82 L.Ed. 764 (1938). [FN1] Furthermore, just as it is inappropriate to address constitutional issues without determining whether statutory grounds urged before us are dispositive, it is at least questionable practice to adjudicate a novel and difficult statutory issue without first considering whether we have jurisdiction to decide it. Consequently, I address the question of whether respondent may bring suit under Title VI.

FN1. It is also clear from Griffin that "lack of jurisdiction . . . touching the subject matter of the litigation cannot be waived by the parties . . . ." 303 U.S., at 229, 58 S.Ct., at 602. See also Mount Healthy City Bd. of Ed. v. Doyle, 429 U.S. 274, 278, 97 S.Ct. 568, 571, 50 L.Ed.2d 471 (1977); Louisville & Nashville R. Co. v. Mottley, 211 U.S. 149, 152, 29 S.Ct. 42, 43, 53 L.Ed. 126 (1908); Mansfield, C. & L. M. R. Co. v. Swan, 111 U.S. 379, 382, 4 S.Ct. 510, 511, 28 L.Ed. 462 (1884).

In Lau v. Nichols, 414 U.S. 563, 94 S.Ct. 786, 39 L.Ed.2d 1 (1974), we did adjudicate a Title VI claim brought by a class of individuals. But the existence of a private cause of action was not at issue. In addition, the understanding of Mr. Justice STEWART's concurring opinion, which observed that standing was not being contested, was that the standing alleged by petitioners was as third-party beneficiaries of the funding contract between the Department of Health, Education, and Welfare and the San Francisco United School District, a theory not alleged by the present respondent. Id., at 571 n. 2, 94 S.Ct., at 790. Furthermore, the plaintiffs in Lau alleged jurisdiction under 42 U.S.C. § 1983 rather than directly under the provisions of Title VI, as does the plaintiff in this case. Although the Court undoubtedly had an obligation to consider the jurisdictional question, this is surely not the first instance in which the Court has bypassed a jurisdictional problem not presented by the parties. Certainly the Court's silence on the jurisdictional question, when considered in the context of the indifference of the litigants to it and the fact that jurisdiction was alleged under § 1983, does not foreclose a reasoned conclusion that Title VI affords no private cause of action.

A private cause of action under Title VI, in terms both of *381 the Civil Rights Act as a whole and that Title, would not be "consistent with the underlying purposes of the legislative scheme" and would be contrary to the legislative intent. Cort v. Ash, 422 U.S. 66, 78, 95 S.Ct. 2080, 2088, 45 L.Ed.2d 26 (1975). Title II, 42 U.S.C. § 2000a et seq., dealing with public accommodations, and Title VII, 42 U.S.C. § 2000e et seq. (1970 ed. and Supp. V), dealing with employment, proscribe private discriminatory conduct that as of 1964 neither the Constitution nor other federal statutes had been construed to forbid. Both Titles carefully provided for private actions as well as for official participation in enforcement. Title III, 42 U.S.C. § 2000b et seq., and Title IV, 42 U.S.C. § 2000c et seq. (1970 ed. and Supp. V), dealing with public facilities and public education, respectively, authorize suits by the Attorney General to eliminate racial discrimination in these areas. Because suits to end discrimination in public facilities and public education were already available under 42 U.S.C. § 1983, it was, of course, unnecessary to provide for private actions under Titles III and IV.

But each Title carefully provided that its provisions for public actions would not adversely affect pre-existing private remedies. §§ 2000b-2 and 2000c-8.

The role of Title VI was to terminate federal financial support for public and private institutions or programs that discriminated on the basis of race. Section 601, 42 **2795 U.S.C. § 2000d, imposed the proscription that no person, on the grounds of race, color, or national origin, was to be excluded from or discriminated against under any program or activity receiving federal financial assistance. But there is no express provision for private actions to enforce Title VI, and it would be quite incredible if Congress, after so carefully attending to the matter of private actions in other Titles of the Act, intended silently to create a private cause of action to enforce Title VI.

It is also evident from the face of § 602, 42 U.S.C. § 2000d-1, that Congress intended the departments and agencies *382 to define and to refine, by rule or regulation, the general proscription of § 601, subject only to judicial review of agency action in accordance with established procedures. Section 602 provides for enforcement: Every federal department or agency furnishing financial support is to implement the proscription by appropriate rule or regulation, each of which requires approval by the President. Termination of funding as a sanction for noncompliance is authorized, but only after a hearing and after the failure of voluntary means to secure compliance. Moreover, termination may not take place until the department or agency involved files with the appropriate committees of the House and Senate a full written report of the circumstances and the grounds for such action and 30 days have elapsed thereafter. Judicial review was provided, at least for actions terminating financial assistance.

Termination of funding was regarded by Congress as a serious enforcement step, and the legislative history is replete with assurances that it would not occur until every possibility for conciliation had been exhausted. [FN2] To allow a private *383 individual to sue to cut off funds under Title VI would compromise these assurances and short circuit the procedural preconditions provided in Title VI. If the Federal Government may not cut off funds except pursuant to an agency rule, approved by the President, and presented to the appropriate committee of Congress for a layover period, and after voluntary means to achieve compliance have failed, it is inconceivable that Congress intended to permit individuals to circumvent these administrative prerequisites themselves.

FN2. "Yet, before that principle [that 'Federal funds are not to be used to support racial discrimination'] is implemented to the detriment of any person, agency, or State, regulations giving notice of what conduct is required must be drawn up by the agency administering the program. . . . Before such regulations become effective, they must be submitted to and approved by the President.

"Once having become effective, there is still a long road to travel before any sanction whatsoever is imposed. Formal action to compel compliance can only take place after the following has occurred: first, there must be an unsuccessful attempt to obtain voluntary compliance; second, there must be an administrative hearing; third, a written report of the circumstances and the grounds for such action must be filed with the appropriate committees of the House and Senate; and fourth, 30 days must have elapsed between such filing and the action denying benefits under a Federal program. Finally, even that action is by no

means final because it is subject to judicial review and can be further postponed by judicial action granting temporary relief pending review in order to avoid irreparable injury. It would be difficult indeed to concoct any additional safeguards to incorporate in such a procedure." 110 Cong.Rec. 6749 (1964) (Sen. Moss).

"[T]he authority to cut off funds is hedged about with a number of procedural restrictions. . . . [There follow details of the preliminary steps.]

"In short, title VI is a reasonable, moderate, cautious, carefully worked out solution to a situation that clearly calls for legislative action." Id., at 6544 (Sen. Humphrey). "Actually, no action whatsoever can be taken against anyone until the Federal agency involved has advised the appropriate person of his failure to comply with nondiscrimination requirements and until voluntary efforts to secure compliance have failed." Id., at 1519 (Rep. Celler) (emphasis added). See also remarks of Sen. Ribicoff (id., at 7066-7067); Sen. Proxmire (id., at 8345); Sen. Kuchel (id., at 6562). These safeguards were incorporated into 42 U.S.C. § 2000d-1.

Furthermore, although Congress intended Title VI to end federal financial support for racially discriminatory policies of not only public but also private institutions and programs, it is extremely unlikely that Congress, **2796 without a word indicating that it intended to do so, contemplated creating an independent, private statutory cause of action against all private as well as public agencies that might be in violation of the section. There is no doubt that Congress regarded private litigation as an important tool to attack discriminatory practices. It does not at all follow, however, that Congress anticipated new private actions under Title VI itself. Wherever a discriminatory program was a public undertaking, such as a public school, private remedies were already available under other statutes, and a private remedy under Title VI was *384 unnecessary. Congress was well aware of this fact. Significantly, there was frequent reference to Simkins v. Moses H. Cone Memorial Hospital, 323 F.2d 959 (C.A.4 1963), cert. denied, 376 U.S. 938, 84 S.Ct. 793, 11 L.Ed.2d 659 (1964), throughout the congressional deliberations. See, e. g., 110 Cong.Rec. 6544 (1964) (Sen. Humphrey). Simkins held that under appropriate circumstances, the operation of a private hospital with "massive use of public funds and extensive state- federal sharing in the common plan" constituted "state action" for the purposes of the Fourteenth Amendment. 323 F.2d, at 967. It was unnecessary, of course, to create a Title VI private action against private discriminators where they were already within the reach of existing private remedies. But when they were not--and Simkins carefully disclaimed holding that "every subvention by the federal or state government automatically involves the beneficiary in 'state action,' " ibid. [FN3]--it is difficult *385 to believe that Congress silently created a private remedy to terminate conduct that previously had been entirely beyond the reach of federal law.

FN3. This Court has never held that the mere receipt of federal or state funds is sufficient to make the recipient a federal or state actor. In Norwood v. Harrison, 413 U.S. 455, 93 S.Ct. 2804, 37 L.Ed.2d 723 (1973), private schools that received state aid were held subject to the Fourteenth Amendment's ban on discrimination, but the Court's test required "tangible financial aid" with a "significant tendency to facilitate, reinforce, and support private discrimination." Id., at 466, 93 S.Ct., at 2811. The mandate of Burton v. Wilmington Parking Authority, 365 U.S. 715, 722, 81 S.Ct. 856, 860, 6 L.Ed.2d 45 (1961), to sift facts and weigh

circumstances of governmental support in each case to determine whether private or state action was involved, has not been abandoned for an automatic rule based on receipt of funds.

Contemporaneous with the congressional debates on the Civil Rights Act was this Court's decision in Griffin v. School Board, 377 U.S. 218, 84 S.Ct. 1226, 12 L.Ed.2d 265 (1964). Tuition grants and tax concessions were provided for parents of students in private schools, which discriminated racially. The Court found sufficient state action, but carefully limited its holding to the circumstances presented: "[C]losing the Prince Edward schools and meanwhile contributing to the support of the private segregated white schools that took their place denied petitioners the equal protection of the laws." Id., at 232, 84 S.Ct., at 1234.

Hence, neither at the time of the enactment of Title VI, nor at the present time to the extent this Court has spoken, has mere receipt of state funds created state action. Moreover, Simkins has not met with universal approval among the United States Courts of Appeals. See cases cited in Greco v. Orange Memorial Hospital Corp., 423 U.S. 1000, 1004, 96 S.Ct. 433, 435, 46 L.Ed.2d 376 (1975) (WHITE, J., dissenting from denial of certiorari).

For those who believe, contrary to my views, that Title VI was intended to create a stricter standard of color blindness than the Constitution itself requires, the result of no private cause of action follows even more readily. In that case Congress must be seen to have banned degrees of discrimination, as well as types of discriminators, not previously reached by law. A Congress careful enough to provide that existing private causes of action would be preserved (in Titles III and IV) would not leave for inference a vast new extension of private enforcement power. And a Congress so exceptionally concerned with the satisfaction of procedural preliminaries before confronting fund recipients with the choice of a cutoff or of stopping discriminating would not permit private parties to pose precisely that same dilemma in a greatly widened category of cases with no procedural requirements whatsoever.

Significantly, in at least three instances legislators who played a major role in the **2797 passage of Title VI explicitly stated that a private right of action under Title VI does not exist. [FN4] *386 As an "indication of legislative intent, explicit or implicit, either to create such a remedy or to deny one," Cort v. Ash, 422 U.S., at 78, 95 S.Ct., at 2088, clearer statements cannot be imagined, and under Cort, "an explicit purpose to deny such cause of action [is] controlling." Id., at 82, 95 S.Ct., at 2090. Senator Keating, for example, proposed a private "right to sue" for the "person suffering from discrimination"; but the Department of Justice refused to include it, and the Senator acquiesced. [FN5] These are not neutral, ambiguous statements. They indicate the absence of a legislative intent to create a private remedy. Nor do any of these statements make nice distinctions between a private cause of action to enjoin discrimination and one to cut off funds, as Mr. Justice STEVENS and the three Justices who join his opinion apparently would. See post, at 2814-2815, n. 26. Indeed, it would be odd if they did, since the practical effect of either type of private cause of action would be identical. If private suits to enjoin conduct allegedly violative of § 601 were permitted, recipients of federal funds would be presented with the choice of either ending what the court, rather than the agency, determined to be a discriminatory practice within the meaning of Title VI or refusing federal funds and thereby escaping from the statute's

jurisdictional predicate. [FN6] This is precisely the same choice as would confront recipients if suit were brought to cut off funds. Both types of actions would equally jeopardize the administrative processes so carefully structured into the law.

FN4. "Nowhere in this section do you find a comparable right of legal action for a person who feels he has been denied his rights to participate in the benefitsof Federal funds. Nowhere. Only those who have been cut off can go to court and present their claim." 110 Cong.Rec. 2467 (1964) (Rep. Gill).

"[A] good case could be made that a remedy is provided for the State or local official who is practicing discrimination, but none is provided for the victim of the discrimination." Id., at 6562 (Sen. Kuchel).

"Parenthetically, while we favored the inclusion of the right to sue on the part of the agency, the State, or the facility which was deprived of Federal funds, we also favored the inclusion of a provision granting the right to sue to the person suffering from discrimination. This was not included in the bill. However, both the Senator from Connecticut and I are grateful that our other suggestions were adopted by the Justice Department." Id., at 7065 (Sen. Keating).

FN5. Ibid.

FN6. As Senator Ribicoff stated: "Sometimes those eligible for Federal assistance may elect to reject such aid, unwilling to agree to a nondiscrimination requirement. If they choose that course, the responsibility is theirs." Id., at 7067.

*387 This Court has always required "that the inference of such a private cause of action not otherwise authorized by the statute must be consistent with the evident legislative intent and, of course, with the effectuation of the purposes intended to be served by the Act." National Railroad Passenger Corp. v. National Association of Railroad Passengers, 414 U.S. 453, 458, 94 S.Ct. 690, 693, 38 L.Ed.2d 646 (1974). See also Securities Investor Protection Corp. v. Barbour, 421 U.S. 412, 418-420, 95 S.Ct. 1733, 1737-1738, 44 L.Ed.2d 263 (1975). A private cause of action under Title VI is unable to satisfy either prong of this test.

Because each of my colleagues either has a different view or assumes a private cause of action, however, the merits of the Title VI issue must be addressed. My views in that regard, as well as my views with respect to the equal protection issue, are included in the joint opinion that my Brothers BRENNAN, MARSHALL, and BLACKMUN and I have filed. [FN7]

FN7. I also join Parts I, III-A, and V-C of Mr. Justice POWELL's opinion.

Mr. Justice MARSHALL.

I agree with the judgment of the Court only insofar as it permits a university to consider the race of an applicant in making admissions decisions. I do not agree that petitioner's admissions program violates the **2798 Constitution. For it must be remembered that, during most of the past 200 years, the Constitution as interpreted by this Court did not prohibit the most ingenious and pervasive forms of discrimination against the Negro. Now, when a State acts to remedy the effects of that legacy of discrimination, I cannot believe that this same Constitution stands as a barrier.

I

A

Three hundred and fifty years ago, the Negro was dragged to this country in chains to be sold into slavery. Uprooted from his homeland and thrust into bondage for forced labor, *388 the slave was deprived of all legal rights. It was unlawful to teach him to read; he could be sold away from his family and friends at the whim of his master; and killing or maiming him was not a crime. The system of slavery brutalized and dehumanized both master and slave. [FN1]

FN1. The history recounted here is perhaps too well known to require documentation. But I mustacknowledge the authorities on which I rely in retelling it. J. Franklin, From Slavery to Freedom (4th ed. 1974) (hereinafter Franklin); R. Kluger, Simple Justice (1975) (hereinafter Kluger); C. Woodward, The Strange Career of Jim Crow (3d ed. 1974) (hereinafter Woodward).

The denial of human rights was etched into the American Colonies' first attempts at establishing self-government. When the colonists determined to seek their independence from England, they drafted a unique document cataloguing their grievances against the King and proclaiming as "self-evident" that "all men are created equal" and are endowed "with certain unalienable Rights," including those to "Life, Liberty and the pursuit of Happiness." The self-evident truths and the unalienable rights were intended, however, to apply only to white men. An earlier draft of the Declaration of Independence, submitted by Thomas Jefferson to the Continental Congress, had included among the charges against the King that

"[h]e has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither." Franklin 88.

The Southern delegation insisted that the charge be deleted; the colonists themselves were implicated in the slave trade, and inclusion of this claim might have made it more difficult to justify the continuation of slavery once the ties to England were severed. Thus, even as the colonists embarked on a *389 course to secure their own freedom and equality, they ensured perpetuation of the system that deprived a whole race of those rights.

The implicit protection of slavery embodied in the Declaration of Independence was made explicit in the Constitution, which treated a slave as being equivalent to three-fifths of a person for purposes of apportioning representatives and taxes among the States. Art. I, § 2. The Constitution also contained a clause ensuring that the "Migration or Importation" of slaves into the existing States would be legal until at least 1808, Art. I, § 9, and a fugitive slave clause requiring that when a slave escaped to another State, he must be returned on the claim of the master, Art. IV, § 2. In their declaration of the principles that were to provide the cornerstone of the new Nation, therefore, the Framers made it plain that "we the people," for whose protection the Constitution was designed, did not include those whose skins were the wrong color. As Professor John Hope Franklin has observed Americans "proudly accepted the challenge and responsibility of their new political freedom by establishing the machinery and safeguards that insured the continued enslavement of blacks." Franklin 100.

The individual States likewise established the machinery to protect the system of slavery through the promulgation of the Slave **2799 Codes, which were designed primarily to defend the property interest of the owner in his slave. The position of the Negro slave as mere property was confirmed by this Court in Dred Scott v. Sandford, 19 How. 393, 15 L.Ed. 691 (1857), Holding that the Missouri Compromise--which prohibited slavery in the portion of the Louisiana Purchase Territory north of Missouri--was unconstitutional because it deprived slave owners of their property without due process. The Court declared that under the Constitution a slave was property, and "[t]he right to traffic in it, like an ordinary article of merchandise and property, was guarantied to the citizens of the United *390 States . . . ." Id., at 451. The Court further concluded that Negroes were not intended to be included as citizens under the Constitution but were "regarded as beings of an inferior order . . . altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect . . . ." Id., at 407.

B

The status of the Negro as property was officially erased by his emancipation at the end of the Civil War. But the long-awaited emancipation, while freeing the Negro from slavery, did not bring him citizenship or equality in any meaningful way. Slavery was replaced by a system of "laws which imposed upon the colored race onerous disabilities and burdens, and curtailed their rights in the pursuit of life, liberty, and property to such an extent that their freedom was of little value." Slaughter-House Cases, 16 Wall. 36, 70, 21 L.Ed. 394 (1873). Despite the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments, the Negro was systematically denied the rights those Amendments were supposed to secure. The combined actions and inactions of the State and Federal Governments maintained Negroes in a position of legal inferiority for another century after the Civil War.

The Southern States took the first steps to re-enslave the Negroes. Immediately following the end of the Civil War, many of the provisional legislatures passed Black Codes, similar to the Slave Codes, which, among other things, limited the rights of Negroes to own or rent property and permitted imprisonment for breach of employment contracts. Over the next several decades, the South managed to disenfranchise the Negroes in spite of the Fifteenth Amendment by various techniques, including poll taxes, deliberately complicated balloting processes, property and literacy qualifications, and finally the white primary.

Congress responded to the legal disabilities being imposed *391 in the Southern States by passing the Reconstruction Acts and the Civil Rights Acts. Congress also responded to the needs of the Negroes at the end of the Civil War by establishing the Bureau of Refugees, Freedmen, and Abandoned Lands, better known as the Freedmen's Bureau, to supply food, hospitals, land, and education to the newly freed slaves. Thus, for a time it seemed as if the Negro might be protected from the continued denial of his civil rights and might be relieved of the disabilities that prevented him from taking his place as a free and equal citizen.

That time, however, was short-lived. Reconstruction came to a close, and, with the assistance of this Court, the Negro was rapidly stripped of his new civil rights. In the words of C. Vann Woodward: "By narrow and ingenious interpretation [the Supreme Court's] decisions

over a period of years had whittled away a great part of the authority presumably given the government for protection of civil rights." Woodward 139.

The Court began by interpreting the Civil War Amendments in a manner that sharply curtailed their substantive protections. See, e. g., Slaughter- House Cases, supra; United States v. Reese, 92 U.S. 214, 23 L.Ed. 563 (1876); United States v. Cruikshank, 92 U.S. 542, 23 L.Ed. 588 (1876). Then in the notorious Civil Rights Cases, 109 U.S. 3, 3 S.Ct. 18, 27 L.Ed. 835 (1883), **2800 the Court strangled Congress' efforts to use its power to promote racial equality. In those cases the Court invalidated sections of the Civil Rights Act of 1875 that made it a crime to deny equal access to "inns, public conveyances, theatres and other places of public amusement." Id., at 10, 3 S.Ct., at 20. According to the Court, the Fourteenth Amendment gave Congress the power to proscribe only discriminatory action by the State. The Court ruled that the Negroes who were excluded from public places suffered only an invasion of their social rights at the hands of private individuals, and Congress had no power to remedy that. Id., at 24-25, 3 S.Ct., at 31. "When a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that *392 state," the Court concluded, "there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws . . . ." Id., at 25, 3 S.Ct., at 31. As Mr. Justice Harlan noted in dissent, however, the Civil War Amendments and Civil Rights Acts did not make the Negroes the "special favorite" of the laws but instead "sought to accomplish in reference to that race . . .--what had already been done in every State of the Union for the white race--to secure and protect rights belonging to them as freemen and citizens; nothing more." Id., at 61, 3 S.Ct., at 57.

The Court's ultimate blow to the Civil War Amendments and to the equality of Negroes came in Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256 (1896). In upholding a Louisiana law that required railway companies to provide "equal but separate" accommodations for whites and Negroes, the Court held that the Fourteenth Amendment was not intended "to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races upon terms unsatisfactory to either." Id., at 544, 16 S.Ct., at 1140. Ignoring totally the realities of the positions of the two races, the Court remarked:

"We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it." Id., at 551, 16 S.Ct., at 1143.

Mr. Justice Harlan's dissenting opinion recognized the bankruptcy of the Court's reasoning. He noted that the "real meaning" of the legislation was "that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens." Id., at 560, 16 S.Ct., at 1147. He expressed his fear that if like laws were enacted in other *393 States, "the effect would be in the highest degree mischievous." Id., at 563, 16 S.Ct., at 1148. Although slavery would have disappeared, the States would retain the power "to interfere with the full enjoyment of the blessings of freedom; to regulate civil rights, common to all citizens, upon the basis of race; and to place in a condition of legal inferiority a large body of American citizens . . . ." Ibid.

The fears of Mr. Justice Harlan were soon to be realized. In the wake of Plessy, many States expanded their Jim Crow laws, which had up until that time been limited primarily to passenger trains and schools. The segregation of the races was extended to residential areas, parks, hospitals, theaters, waiting rooms, and bathrooms. There were even statutes and ordinances which authorized separate phone booths for Negroes and whites, which required that textbooks used by children of one race be kept separate from those used by the other, and which required that Negro and white prostitutes be kept in separate districts. In 1898, after Plessy, the Charlestown News and Courier printed a parody of Jim Crow laws:

" 'If there must be Jim Crow cars on the railroads, there should be Jim Crow cars on the street railways. Also on all passenger boats. . . . If there are to be **2801 Jim Crow cars, moreover, there should be Jim Crow waiting saloons at all stations, and Jim Crow eating houses. . . . There should be Jim Crow sections of the jury box, and a separate Jim Crow dock and witness stand in every court--and a Jim Crow Bible for colored witnesses to kiss.' " Woodward 68.

The irony is that before many years had passed, with the exception of the Jim Crow witness stand, "all the improbable applications of the principle suggested by the editor in derision had been put into practice--down to and including the Jim Crow Bible." Id., at 69.

Nor were the laws restricting the rights of Negroes limited *394 solely to the Southern States. In many of the Northern States, the Negro was denied the right to vote, prevented from serving on juries, and excluded from theaters, restaurants, hotels, and inns. Under President Wilson, the Federal Government began to require segregation in Government buildings; desks of Negro employees were curtained off; separate bathrooms and separate tables in the cafeterias were provided; and even the galleries of the Congress were segregated. When his segregationist policies were attacked, President Wilson responded that segregation was " 'not humiliating but a benefit' " and that he was " 'rendering [the Negroes] more safe in their possession of office and less likely to be discriminated against.' " Kluger 91.

The enforced segregation of the races continued into the middle of the 20th century. In both World Wars, Negroes were for the most part confined to separate military units; it was not until 1948 that an end to segregation in the military was ordered by President Truman. And the history of the exclusion of Negro children from white public schools is too well known and recent to require repeating here. That Negroes were deliberately excluded from public graduate and professional schools--and thereby denied the opportunity to become doctors, lawyers, engineers, and the like--is also well established. It is of course true that some of the Jim Crow laws (which the decisions of this Court had helped to foster) were struck down by this Court in a series of decisions leading up to Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954). See, e. g., Morgan v. Virginia, 328 U.S. 373, 66 S.Ct. 1050, 90 L.Ed. 1317 (1946); Sweatt v. Painter, 339 U.S. 629, 70 S.Ct. 848, 94 L.Ed. 1114 (1950); McLaurin v. Oklahoma State Regents, 339 U.S. 637, 70 S.Ct. 851, 94 L.Ed. 1149 (1950). Those decisions, however, did not automatically end segregation, nor did they move Negroes from a position of legal inferiority to one of equality. The legacy of years of slavery and of years of second-class citizenship in the wake of emancipation could not be so easily eliminated.

*395 II

The position of the Negro today in America is the tragic but inevitable consequence of centuries of unequal treatment. Measured by any benchmark of comfort or achievement, meaningful equality remains a distant dream for the Negro.

A Negro child today has a life expectancy which is shorter by more than five years than that of a white child. [FN2] The Negro child's mother is over three times more likely to die of complications in childbirth, [FN3] and the infant mortality rate for Negroes is nearly twice that for whites. [FN4] The median income of the Negro family is only 60% that of the median of a white family, [FN5] and the percentage of Negroes who live in families with incomes below the poverty line is nearly four times greater than that of whites. [FN6]

FN2. U. S. Dept. of Commerce, Bureau of the Census, Statistical Abstract of the United States 65 (1977) (Table 94).

FN3. Id., at 70 (Table 102).

FN4. Ibid.

FN5. U. S. Dept. of Commerce, Bureau of the Census, Current Population Reports, Series P-60, No. 107, p. 7 (1977) (Table 1).

FN6. Id., at 20 (Table 14).

**2802 When the Negro child reaches working age, he finds that America offers him significantly less than it offers his white counterpart. For Negro adults, the unemployment rate is twice that of whites, [FN7] and the unemployment rate for Negro teenagers is nearly three times that of white teenagers. [FN8] A Negro male who completes four years of college can expect a median annual income of merely $110 more than a white male who has only a high school diploma. [FN9] Although Negroes *396 represent 11.5% of the population, [FN10] they are only 1.2% of the lawyers, and judges, 2% of the physicians, 2.3% of the dentists, 1.1% of the engineers and 2.6% of the college and university professors. [FN11]

FN7. U. S. Dept. of Labor, Bureau of Labor Statistics, Employment and Earnings, January 1978, p. 170 (Table 44).

FN8. Ibid.

FN9. U. S. Dept. of Commerce, Bureau of the Census, Current Population Reports, Series P-60, No. 105, p. 198 (1977) (Table 47).

FN10. U. S. Dept. of Commerce, Bureau of the Census, Statistical Abstract, supra, at 25 (Table 24).

FN11. Id., at 407-408 (Table 662) (based on 1970 census).

The relationship between those figures and the history of unequal treatment afforded to the Negro cannot be denied. At every point from birth to death the impact of the past is reflected in the still disfavored position of the Negro.

In light of the sorry history of discrimination and its devastating impact on the lives of Negroes, bringing the Negro into the mainstream of American life should be a state interest

of the highest order. To fail to do so is to ensure that America will forever remain a divided society.

III

I do not believe that the Fourteenth Amendment requires us to accept that fate. Neither its history nor our past cases lend any support to the conclusion that a university may not remedy the cumulative effects of society's discrimination by giving consideration to race in an effort to increase the number and percentage of Negro doctors.

A

This Court long ago remarked that

"in any fair and just construction of any section or phrase of these [Civil War] amendments, it is necessary to look to the purpose which we have said was the pervading spirit of them all, the evil which they were designed to remedy . . .." Slaughter-House Cases, 16 Wall., at 72.

It is plain that the Fourteenth Amendment was not intended to prohibit measures designed to remedy the effects of the *397 Nation's past treatment of Negroes. The Congress that passed the Fourteenth Amendment is the same Congress that passed the 1866 Freedmen's BureauAct, an Act that provided many of its benefits only to Negroes. Act of July 16, 1866, ch. 200, 14 Stat. 173; see supra, at 2800. Although the Freedmen's Bureau legislation provided aid for refugees, thereby including white persons within some of the relief measures, 14 Stat. 174; see also Act of Mar. 3, 1865, ch. 90, 13 Stat. 507, the bill was regarded, to the dismay of many Congressmen, as "solely and entirely for the freedmen, and to the exclusion of all other persons . . .." Cong.Globe, 39th Cong., 1st Sess., 544 (1866) (remarks of Rep. Taylor). See also id., at 634-635 (remarks of Rep. Ritter); id., at App. 78, 80-81 (remarks of Rep. Chanler). Indeed, the bill was bitterly opposed on the ground that it "undertakes to make the negro in some respects . . . superior . . . and gives them favors that the poor white boy in the North cannot get." Id., at 401 (remarks of Sen. McDougall). See also id., at 319 (remarks of Sen. Hendricks); id., at 362 (remarks of Sen. Saulsbury); id., at 397 (remarks of Sen. Willey); id., at 544 (remarks of Rep. Taylor). The bill's supporters defended it--not by rebutting the claim of special treatment--but by pointing to the need for such treatment:

**2803 "The very discrimination it makes between 'destitute and suffering' negroes, and destitute and suffering white paupers, proceeds upon the distinction that, in the omitted case, civil rights and immunities are already sufficiently protected by the possession of political power, the absence of which in the case provided for necessitates governmental protection." Id., at App. 75 (remarks of Rep. Phelps).

Despite the objection to the special treatment the bill would provide for Negroes, it was passed by Congress. Id., at 421, 688. President Johnson vetoed this bill and also a subsequent bill that contained some modifications; one of his principal *398 objections to both bills was that they gave special benefits to Negroes. 8 Messages and Papers of the Presidents 3596, 3599, 3620, 3623 (1897). Rejecting the concerns of the President and the bill's opponents, Congress overrode the President's second veto. Cong.Globe, 39th Cong., 1st Sess., 3842, 3850 (1866).

Since the Congress that considered and rejected the objections to the 1866 Freedmen's Bureau Act concerning special relief to Negroes also proposed the Fourteenth Amendment, it is inconceivable that the Fourteenth Amendment was intended to prohibit all race-conscious relief measures. It "would be a distortion of the policy manifested in that amendment, which was adopted to prevent state legislation designed to perpetuate discrimination on the basis of race or color." Railway Mail Assn. v. Corsi, 326 U.S. 88, 94, 65 S.Ct. 1483, 1487, 89 L.Ed. 2072 (1945), to hold that it barred state action to remedy the effects of that discrimination. Such a result would pervert the intent of the Framers by substituting abstract equality for the genuine equality the Amendment was intended to achieve.

B

As has been demonstrated in our joint opinion, this Court's past cases establish the constitutionality of race-conscious remedial measures. Beginning with the school desegregation cases, we recognized that even absent a judicial or legislative finding of constitutional violation, a school board constitutionally could consider the race of students in making school- assignment decisions. See Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1, 16, 91 S.Ct. 1267, 1276, 28 L.Ed.2d 554 (1971); McDaniel v. Barresi, 402 U.S. 39, 41, 91 S.Ct. 1287, 1288, 28 L.Ed.2d 582 (1971). We noted, moreover, that a

"flat prohibition against assignment of students for the purpose of creating a racial balance must inevitably conflict with the duty of school authorities to disestablish dual school systems. As we have held in Swann, the Constitution does not compel any particular degree of *399 racial balance or mixing, but when past and continuing constitutional violations are found, some ratios are likely to be useful as starting points in shaping a remedy. An absolute prohibition against use of such a device--even as a starting point-- contravenes the implicit command of Green v. County School Board, 391 U.S. 430 [88 S.Ct. 1689, 20 L.Ed.2d 716] (1968), that all reasonable methods be available to formulate an effective remedy." Board of Education v. Swann, 402 U.S. 43, 46, 91 S.Ct. 1284, 1286, 28 L.Ed.2d 586 (1971).

As we have observed, "[a]ny other approach would freeze the status quo that is the very target of all desegregation processes." McDaniel v. Barresi, supra, 402 U.S. at 41, 91 S.Ct. at 1289.

Only last Term, in United Jewish Organizations v. Carey, 430 U.S. 144, 97 S.Ct. 996, 51 L.Ed. 229 (1977), we upheld a New York reapportionment plan that was deliberately drawn on the basis of race to enhance the electoral power of Negroes and Puerto Ricans; the plan had the effect of diluting the electoral strength of the Hasidic Jewish community. We were willing in UJO to sanction the remedial use of a racial classification even though it disadvantaged otherwise "innocent" individuals. In another case last Term, Califano v. Webster, 430 **2804 U.S. 313, 97 S.Ct. 1192, 51 L.Ed.2d 360 (1977), the Court upheld a provision in the Social Security laws that discriminated against men because its purpose was " 'the permissible one of redressing our society's longstanding disparate treatment of women.' " Id., at 317, 97 S.Ct. at 1195, quotingCalifano v. Goldfarb, 430 U.S. 199, 209 n. 8, 97 S.Ct. 1021, 1028, 51 L.Ed.2d 270 (1977) (plurality opinion). We thus recognized the permissibility of remedying past societal discrimination through the use of otherwise disfavored classifications.

Nothing in those cases suggests that a university cannot similarly act to remedy past discrimination. [FN12] It is true that *400 in both UJO and Webster the use of the disfavored classification was predicated on legislative or administrative action, but in neither case had those bodies made findings that there had been constitutional violations or that the specific individuals to be benefited had actually been the victims of discrimination. Rather, the classification in each of those cases was based on a determination that the group was in need of the remedy because of some type of past discrimination. There is thus ample support for the conclusion that a university can employ race-conscious measures to remedy past societal discrimination, without the need for a finding that those benefited were actually victims of that discrimination.

FN12. Indeed, the action of the University finds support in the regulations promulgated under Title VI by the Department of Health, Education, and Welfare and approved by the President, which authorize a federally funded institution to take affirmative steps to overcome past discrimination against groups even where the institution was not guilty of prior discrimination. 45 CFR § 80.3(b)(6)(ii) (1977).

IV

While I applaud the judgment of the Court that a university may consider race in its admissions process, it is more than a little ironic that, after several hundred years of class-based discrimination against Negroes, the Court is unwilling to hold that a class-based remedy for that discrimination is permissible. In declining to so hold, today's judgment ignores the fact that for several hundred years Negroes have been discriminated against, not as individuals, but rather solely because of the color of their skins. It is unnecessary in 20th-century America to have individual Negroes demonstrate that they have been victims of racial discrimination; the racism of our society has been so pervasive that none, regardless of wealth or position, has managed to escape its impact. The experience of Negroes in America has been different in kind, not just in degree, from that of other ethnic groups. It is not merely the history of slavery alone but also that a whole people were marked as inferior by the law. And that mark has endured. The dream of America as the great melting pot has *401 not been realized for the Negro; because of his skin color he never even made it into the pot.

These differences in the experience of the Negro make it difficult for me to accept that Negroes cannot be afforded greater protection under the Fourteenth Amendment where it is necessary to remedy the effects of past discrimination. In the Civil Rights Cases, supra, the Court wrote that the Negro emerging from slavery must cease "to be the special favorite of the laws." 109 U.S., at 25, 3 S.Ct., at 31, see supra, at 2800. We cannot in light of the history of the last century yield to that view. Had the Court in that decision and others been willing to "do for human liberty and the fundamental rights of American citizenship, what it did . . . for the protection of slavery and the rights of the masters of fugitive slaves," 109 U.S., at 53, 3 S.Ct., at 51 (Harlan, J., dissenting), we would not need now to permit the recognition of any "special wards."

Most importantly, had the Court been willing in 1896, in Plessy v. Ferguson, to hold that the Equal Protection Clause forbids differences in treatment based on race, we would not be faced with this dilemma in 1978. We must remember, however, that **2805 the principle that the "Constitution is color-blind" appeared only in the opinion of the lone dissenter. 163 U.S.,

at 559, 16 S.Ct., at 1146. The majority of the Court rejected the principle of color-blindness, and for the next 58 years, from Plessy to Brown v. Board of Education, ours was a Nation where, by law, an individual could be given "special" treatment based on the color of his skin.

It is because of a legacy of unequal treatment that we now must permit the institutions of this society to give consideration to race in making decisions about who will hold the positions of influence, affluence, and prestige in America. For far too long, the doors to those positions have been shut to Negroes. If we are ever to become a fully integrated society, one in which the color of a person's skin will not determine the opportunities available to him or her, we must be willing *402 to take steps to open those doors. I do not believe that anyone can truly look into America's past and still find that a remedy for the effects of that past is impermissible.

It has been said that this case involves only the individual, Bakke, and this University. I doubt, however, that there is a computer capable of determining the number of persons and institutions that may be affected by the decision in this case. For example, we are told by the Attorney General of the United States that at least 27 federal agencies have adopted regulations requiring recipients of federal funds to take " 'affirmative action to overcome the effects of conditions which resulted in limiting participation . . . by persons of a particular race, color, or national origin.' " Supplemental Brief for United States as Amicus Curiae 16 (emphasis added). I cannot even guess the number of state and local governments that have set up affirmative-action programs, which may be affected by today's decision.

I fear that we have come full circle. After the Civil War our Government started several "affirmative action" programs. This Court in the Civil Rights Cases and Plessy v. Ferguson destroyed the movement toward complete equality. For almost a century no action was taken, and this nonaction was with the tacit approval of the courts. Then we had Brown v. Board of Education and the Civil Rights Acts of Congress, followed by numerous affirmative-action programs. Now, we have this Court again stepping in, this time to stop affirmative-action programs of the type used by the University of California.

Mr. Justice BLACKMUN.

I participate fully, of course, in the opinion, ante, p. 2766, that bears the names of my Brothers BRENNAN, WHITE, MARSHALL, and myself. I add only some general observations that hold particular significance for me, and then a few comments on equal protection.

*403 I

At least until the early 1970's, apparently only a very small number, less than 2%, of the physicians, attorneys, and medical and law students in the United States were members of what we now refer to as minority groups. In addition, approximately three-fourths of our Negro physicians were trained at only two medical schools. If ways are not found to remedy that situation, the country can never achieve its professed goal of a society that is not race conscious.

I yield to no one in my earnest hope that the time will come when an "affirmative action" program is unnecessary and is, in truth, only a relic of the past. I would hope that we could reach this stage within a decade at the most. But the story of Brown v. Board of Education,

347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954), decided almost a quarter of a century ago, suggests that that hope is a slim one. At some time, however, beyond any period of what some would claim is only transitional inequality, the United States must and will reach a stage of maturity where action along this line is no longer necessary. Then persons will be regarded as persons, and discrimination **2806 of the type we address today will be an ugly feature of history that is instructive but that is behind us.

The number of qualified, indeed highly qualified, applicants for admission to existing medical schools in the United States far exceeds the number of places available. Wholly apart from racial and ethnic considerations, therefore, the selection process inevitably results in the denial of admission to many qualified persons, indeed, to far more than the number of those who are granted admission. Obviously, it is a denial to the deserving. This inescapable fact is brought into sharp focus here because Allan Bakke is not himself charged with discrimination and yet is the one who is disadvantaged, and because the Medical School of the University of California at Davis itself is not charged with historical discrimination.

One theoretical solution to the need for more minority *404 members in higher education would be to enlarge our graduate schools. Then all who desired and were qualified could enter, and talk of discrimination would vanish. Unfortunately, this is neither feasible nor realistic. The vast resources that apparently would be required simply are not available. And the need for more professional graduates, in the strict numerical sense, perhaps has not been demonstrated at all.

There is no particular or real significance in the 84-16 division at Davis. The same theoretical, philosophical, social, legal, and constitutional considerations would necessarily apply to the case if Davis' special admissions program had focused on any lesser number, that is, on 12 or 8 or 4 places or, indeed, on only 1.

It is somewhat ironic to have us so deeply disturbed over a program where race is an element of consciousness, and yet to be aware of the fact, as we are, that institutions of higher learning, albeit more on the undergraduate than the graduate level, have given conceded preferences up to a point to those possessed of athletic skills, to the children of alumni, to the affluent who may bestow their largess on the institutions, and to those having connections with celebrities, the famous, and the powerful.

Programs of admission to institutions of higher learning are basically a responsibility for academicians and for administrators and the specialists they employ. The judiciary, in contrast, is ill-equipped and poorly trained for this. The administration and management of educational institutions are beyond the competence of judges and are within the special competence of educators, provided always that the educators perform within legal and constitutional bounds. For me, therefore, interference by the judiciary must be the rare exception and not the rule.

II

I, of course, accept the propositions that (a) Fourteenth Amendment rights are personal; (b) racial and ethnic distinctions *405 where they are stereotypes are inherently suspect and call for exacting judicial scrutiny; (c) academic freedom is a special concern of the First Amendment; and (d) the Fourteenth Amendment has expanded beyond its original 1868

concept and now is recognized to have reached a point where, as Mr. Justice POWELL states, ante, at 2750, quoting from the Court's opinion in McDonald v. Santa Fe Trail Transp. Co., 427 U.S. 273, 296, 96 S.Ct. 2574, 2586, 49 L.Ed.2d 493 (1976), it embraces a "broader principle."

This enlargement does not mean for me, however, that the Fourteenth Amendment has broken away from its moorings and its original intended purposes. Those original aims persist. And that, in a distinct sense, is what "affirmative action," in the face of proper facts, is all about. If this conflicts with idealistic equality, that tension is original Fourteenth Amendment tension, constitutionally conceived and constitutionally imposed, and it is part of the Amendment's very nature until complete equality is achieved in the area. In this sense, constitutional equal protection is a shield.

I emphasize in particular that the decided cases are not easily to be brushed aside. **2807 Many, of course, are not precisely on point, but neither are they off point. Racial factors have been given consideration in the school desegregation cases, in the employment cases, in Lau v. Nichols, 414 U.S. 563, 94 S.Ct. 786, 39 L.Ed.2d 1 (1974), and in United Jewish Organizations v. Carey, 430 U.S. 144, 97 S.Ct. 996, 51 L.Ed.2d 229 (1977). To be sure, some of these may be "distinguished" on the ground that victimization was directly present. But who is to say that victimization is not present for some members of today's minority groups, although it is of a lesser and perhaps different degree. The petitioners in United Jewish Organizations certainly complained bitterly of their reapportionment treatment, and I rather doubt that they regard the "remedy" there imposed as one that was "to improve" the group's ability to participate, as Mr. Justice POWELL describes it, ante, at 2756. And surely in Lau v. Nichols we looked to ethnicity.

*406 I am not convinced, as Mr. Justice POWELL seems to be, that the difference between the Davis program and the one employed by Harvard is very profound or constitutionally significant. The line between the two is a thin and indistinct one. In each, subjective application is at work. Because of my conviction that admission programs are primarily for the educators, I am willing to accept the representation that the Harvard program is one where good faith in its administration is practiced as well as professed. I agree that such a program, where race or ethnic background is only one of many factors, is a program better formulated than Davis' two-track system. The cynical, of course, may say that under a program such as Harvard's one may accomplish covertly what Davis concedes it does openly. I need not go that far, for despite its two-track aspect, the Davis program, for me, is within constitutional bounds, though perhaps barely so. It is surely free of stigma, and, as in United Jewish Organizations, I am not willing to infer a constitutional violation.

It is worth noting, perhaps, that governmental preference has not been a stranger to our legal life. We see it in veterans' preferences. We see it in the aid-to-the-handicapped programs. We see it in the progressive income tax. We see it in the Indian programs. We may excuse some of these on the ground that they have specific constitutional protection or, as with Indians, that those benefited are wards of the Government. Nevertheless, these preferences exist and may not be ignored. And in the admissions field, as I have indicated, educational institutions have always used geography, athletic ability, anticipated financial largess, alumni pressure, and other factors of that kind.

I add these only as additional components on the edges of the central question as to which I join my Brothers BRENNAN, WHITE, and MARSHALL in our more general approach. It is gratifying to know that the Court at least finds it constitutional for an academic institution to take race and ethnic background into consideration as one factor, among many, in *407 the administration of its admissions program. I presume that that factor always has been there, though perhaps not conceded or even admitted. It is a fact of life, however, and a part of the real world of which we are all a part. The sooner we get down the road toward accepting and being a part of the real world, and not shutting it out and away from us, the sooner will these difficulties vanish from the scene.

I suspect that it would be impossible to arrange an affirmative-action program in a racially neutral way and have it successful. To ask that this be so is to demand the impossible. In order to get beyond racism, we must first take account of race. There is no other way. And in order to treat some persons equally, we must treat them differently. We cannot--we dare not--let the Equal Protection Clause perpetuate racial supremacy.

So the ultimate question, as it was at the beginning of this litigation, is: Among the qualified, how does one choose?

**2808 A long time ago, as time is measured for this Nation, a Chief Justice, both wise and farsighted, said:

"In considering this question, then, we must never forget, that it is a constitution we are expounding." McCulloch v. Maryland, 4 Wheat. 316, 407, 4 L.Ed. 579 (1819) (emphasis in original).

In the same opinion, the Great Chief Justice further observed:

"Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional." Id., at 421.

More recently, one destined to become a Justice of this Court observed:

"The great generalities of the constitution have a content and a significance that vary from age to age." B. Cardozo, The Nature of the Judicial Process 17 (1921).

*408 And an educator who became a President of the United States said:

"But the Constitution of the United States is not a mere lawyers' document: it is a vehicle of life, and its spirit is always the spirit of the age." W. Wilson, Constitutional Government in the United States 69 (1911).

These precepts of breadth and flexibility and ever-present modernity are basic to our constitutional law. Today, again, we are expounding a Constitution. The same principles that governed McCulloch's case in 1819 govern Bakke's case in 1978. There can be no other answer.

Mr. Justice STEVENS, with whom THE CHIEF JUSTICE, Mr. Justice STEWART, and Mr. Justice REHNQUIST join, concurring in the judgment in part and dissenting in part.

It is always important at the outset to focus precisely on the controversy before the Court. [FN1] It is particularly important to do so in this case because correct identification of

the issues will determine whether it is necessary or appropriate to express any opinion about the legal status of any admissions program other than petitioner's.

FN1. Four Members of the Court have undertaken to announce the legal and constitutional effect of this Court's judgment. See opinion of Justices BRENNAN, WHITE, MARSHALL, and BLACKMUN, ante, at 2766. It is hardly necessary to state that only a majority can speak for the Court or determine what is the "central meaning" of any judgment of the Court.

I

This is not a class action. The controversy is between two specific litigants. Allan Bakke challenged petitioner's special admissions program, claiming that it denied him a place in medical school because of his race in violation of the Federal and California Constitutions and of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. The California Supreme Court upheld his challenge and ordered him admitted. If the *409 state court was correct in its view that the University's special program was illegal, and that Bakke was therefore unlawfully excluded from the Medical School because of his race, we should affirm its judgment, regardless of our views about the legality of admissions programs that are not now before the Court.

The judgment as originally entered by the trial court contained four separate paragraphs, two of which are of critical importance. [FN2] Paragraph 3 declared that the University's **2809 special admissions program violated the Fourteenth Amendment, the State Constitution, and Title VI. The trial court did not order the University to admit Bakke because it concluded that Bakke had not shown that he would have been admitted if there had been no special program. Instead, in paragraph 2 of its judgment it ordered the University to consider Bakke's application for admission without regard to his race or the race of any other applicant. The order did not include any broad *410 prohibition against any use of race in the admissions process; its terms were clearly limited to the University's consideration of Bakke's application. [FN3] Because the University has since been ordered to admit Bakke paragraph 2 of the trial court's order no longer has any significance.

FN2. The judgment first entered by the trial court read, in its entirety, as follows:

"IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

"1. Defendant, the Regents of the University of California, have judgment against plaintiff, Allan Bakke, denying the mandatory injunction requested by plaintiff ordering his admission to the University of California at Davis Medical School;

"2. That plaintiff is entitled to have his application for admission to the medical school considered without regard to his race or the race of any other applicant, and defendants are hereby restrained and enjoined from considering plaintiff's race or the race of any other applicant in passing upon his application for admission;

"3. Cross-defendant Allan Bakke have judgment against cross-complainant, the Regents of the University of California, declaring that the special admissions program at the University of California at Davis Medical School violates the Fourteenth Amendment to the United States Constitution, Article 1, Section 21 of the California Constitution, and the Federal Civil Rights Act [42 U.S.C. § 2000d];

"4. That plaintiff have and recover his court costs incurred herein in the sum of $217.35." App. to Pet. for Cert. 120a.

FN3. In paragraph 2 the trial court ordered that "plaintiff [Bakke] is entitled to have his application for admission to the medical school considered without regard to his race or the race of any other applicant, and defendants are hereby restrained and enjoined from considering plaintiff's race or the race of any other applicant in passing upon his application for admission." See n. 2, supra (emphasis added). The only way in which this order can be broadly read as prohibiting any use of race in the admissions process, apart from Bakke's application, is if the final "his" refers to "any other applicant." But the consistent use of the pronoun throughout the paragraph to refer to Bakke makes such a reading entirely unpersuasive, as does the failure of the trial court to suggest that it was issuing relief to applicants who were not parties to the suit.

The California Supreme Court, in a holding that is not challenged, ruled that the trial court incorrectly placed the burden on Bakke of showing that he would have been admitted in the absence of discrimination. The University then conceded "that it [could] not meet the burden of proving that the special admissions program did not result in Mr. Bakke's failure to be admitted." [FN4] Accordingly, the California Supreme Court directed the trial court to enter judgment ordering Bakke's admission. [FN5] Since that order superseded paragraph *411 2 of the trial court's judgment, there is no outstanding injunction forbidding any consideration of racial criteria in processing applications.

FN4. Appendix B to Application for Stay A19-A20.

FN5. 18 Cal.3d 34, 64, 132 Cal.Rptr. 680, 700, 553 P.2d 1152, 1172 (1976). The judgment of the Supreme Court of the State of California affirms only paragraph 3 of the trial court's judgment. The Supreme Court's judgment reads as follows:

"IT IS ORDERED, ADJUDGED, AND DECREED by the Court that the judgment of the Superior Court[,] County of Yolo[,] in the above-entitled cause, is hereby affirmed insofar as it determines that the special admission program is invalid; the judgment is reversed insofar as it denies Bakke an injunction ordering that he be admitted to the University, and the trial court is directed to enter judgment ordering Bakke to be admitted.

"Bakke shall recover his costs on these appeals."

It is therefore perfectly clear that the question whether race can ever be used as a factor in an admissions decision is not an issue in this case, and that discussion of that issue is inappropriate. [FN6]

FN6. "This Court . . . reviews judgments, not statements in opinions." Black v. Cutter Laboratories, 351 U.S. 292, 297, 76 S.Ct. 824, 827, 100 L.Ed. 1188.

II

Both petitioner and respondent have asked us to determine the legality of the University's special admissions program by reference to the Constitution. Our settled practice, however, is to avoid the decision of a constitutional issue if a case can be fairly decided on a statutory ground. "If there is one doctrine more deeply rooted than any other in the process of constitutional adjudication, **2810 it is that we ought not to pass on questions of constitutionality . . . unless such adjudication is unavoidable." Spector Motor Co. v.

McLaughlin, 323 U.S. 101, 105, 65 S.Ct. 152, 154, 89 L.Ed. 101. [FN7] The more important the issue, the more force *412 there is to this doctrine. [FN8] In this case, we are presented with a constitutional question of undoubted and unusual importance. Since, however, a dispositive statutory claim was raised at the very inception of this case, and squarely decided in the portion of the trial court judgment affirmed by the California Supreme Court, it is our plain duty to confront it. Only if petitioner should prevail on the statutory issue would it be necessary to decide whether the University's admissions program violated the Equal Protection Clause of the Fourteenth Amendment.

FN7. "From Hayburn's Case, 2 Dall. 409, to Alma Motor Co. v. Timken- Detroit Axle Co.[, 329 U.S. 129, 67 S.Ct. 231, 91 L.Ed. 128,] and the Hatch Act case [United Public Workers v. Mitchell, 330 U.S. 75, 67 S.Ct. 556, 91 L.Ed. 754] decided this term, this Court has followed a policy of strict necessity in disposing of constitutional issues. The earliest exemplifications, too well known for repeating the history here, arose in the Court's refusal to render advisory opinions and in applications of the related jurisdictional policy drawn from the case and controversy limitation. U.S.Const., Art. III. . . .

"The policy, however, has not been limited to jurisdictional determinations. For, in addition, 'the Court [has] developed, for its own governance in the cases confessedly within its jurisdiction, a series of rules under which it has avoided passing upon a large part of all the constitutional questions pressed upon it for decision.' Thus, as those rules were listed in support of the statement quoted, constitutional issues affecting legislation will not be determined in friendly, nonadversary proceedings; in advance of the necessity of deciding them; in broader terms than are required by the precise facts to which the ruling is to be applied; if the record presents some other ground upon which the case may be disposed of; at the instance of one who fails to show that he is injured by the statute's operation, or who has availed himself of its benefits; or if a construction of the statute is fairly possible by which the question may be avoided." Rescue Army v. Municipal Court, 331 U.S. 549, 568-569, 67 S.Ct. 1409, 1419, 91 L.Ed. 1666 (footnotes omitted). See also Ashwander v. TVA, 297 U.S. 288, 346-348, 56 S.Ct. 466, 482-483, 80 L.Ed. 688 (Brandeis, J., concurring).

FN8. The doctrine reflects both our respect for the Constitution as an enduring set of principles and the deference we owe to the Legislative and Executive Branches of Government in developing solutions to complex social problems. See A. Bickel, The Least Dangerous Branch 131 (1962).

III

Section 601 of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. § 2000d, provides:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

The University, through its special admissions policy, excluded Bakke from participation in its program of medical education because of his race. The University also acknowledges that it was, and still is, receiving federal financial assistance. [FN9] The plain language of the statute therefore requires affirmance of the judgment below. A different result *413 cannot be

justified unless that language misstates the actual intent of the Congress that enacted the statute or the statute is not enforceable in a private action. Neither conclusion is warranted.

FN9. Record 29.

Title VI is an integral part of the far-reaching Civil Rights Act of 1964. No doubt, when this legislation was being debated, Congress was not directly concerned with the legality of "reverse discrimination" or "affirmative action" programs. Its attention was focused on the problem at hand, the "glaring . . . discrimination against Negroes which exists throughout our Nation," [FN10] and, with respect to Title **2811 VI, the federal funding of segregated facilities. [FN11] The genesis of the legislation, however, did not limit the breadth of the solution adopted. Just as Congress responded to the problem of employment discrimination by enacting a provision that protects all races, see McDonald v. Santa Fe Trail Transp. Co., 427 U.S. 273, 279, 96 S.Ct. 2574, 2578, 49 L.Ed. 493, [FN12] so, too, its answer to the problem of federal funding of segregated facilities stands as a broad prohibition against the exclusion of any individual from a federally funded program "on the ground of race." In the words of the House Report, Title VI stands for "the general principle that no person . . . be excluded from participation . . . on the ground of race, color, or national origin under any program or activity receiving Federal financial assistance." H.R.Rep.No.914, 88th *414 Cong., 1st Sess., pt. 1, p. 25 (1963), U.S.Code Cong. & Admin.News 1964, p. 2401 (emphasis added). This same broad view of Title VI and § 601 was echoed throughout the congressional debate and was stressed by every one of the major spokesmen for the Act. [FN13]

FN10. H.R.Rep.No.914, 88th Cong., 1st Sess., pt. 1, p. 18 (1963), U.S.Code Cong. & Admin.News 1964, p. 2393.

FN11. It is apparent from the legislative historythat the immediate object of Title VI was to prevent federal funding of segregated facilities. See, e. g., 110 Cong.Rec. 1521 (1964) (remarks of Rep. Celler); id., at 6544 (remarks of Sen. Humphrey).

FN12. In McDonald v. Santa Fe Trail Transp. Co., the Court held that "Title VII prohibits racial discrimination against . . . white petitioners . . . upon the same standards as would be applicable were they Negroes . . . ." 427 U.S., at 280, 96 S.Ct., at 2579. Quoting from our earlier decision in Griggs v. Duke Power Co., 401 U.S. 424, 431, 91 S.Ct. 849, 853, 28 L.Ed.2d 158, the Court reaffirmed the principle that the statute "prohibit[s] '[d]iscriminatory preference for any [racial] group, minority or majority.' " 427 U.S., at 279, 96 S.Ct., at 2578 (emphasis in original).

FN13. See, e. g., 110 Cong.Rec. 1520 (1964) (remarks of Rep. Celler); id., at 5864 (remarks of Sen. Humphrey); id., at 6561 (remarks of Sen. Kuchel); id., at 7055 (remarks of Sen. Pastore). (Representative Celler and Senators Humphrey and Kuchel were the House and Senate floor managers for the entire Civil Rights Act, and Senator Pastore was the majority Senate floor manager for Title VI.)

Petitioner contends, however, that exclusion of applicants on the basis of race does not violate Title VI if the exclusion carries with it no racial stigma. No such qualification or limitation of § 601's categorical prohibition of "exclusion" is justified by the statute or its history. The language of the entire section is perfectly clear; the words that follow "excluded from" do not modify or qualify the explicit outlawing of any exclusion on the stated grounds.

The legislative history reinforces this reading. The only suggestion that § 601 would allow exclusion of nonminority applicants came from opponents of the legislation and then only by way of a discussion of the meaning of the word "discrimination." [FN14] The opponents feared that the term "discrimination" *415 would be read as mandating racial quotas and "racially balanced" colleges and universities, and they pressed for a specific definition of the term in order to avoid this possibility. [FN15] In response, the proponents of the legislation gave repeated assurances that the Act **2812 would be "colorblind" in its application. [FN16] Senator Humphrey, the Senate floor manager for the Act, expressed this position as follows:

FN14. Representative Abernathy's comments were typical:

"Title VI has been aptly described as the most harsh and unprecedented proposal contained in the bill . . . .

"It is aimed toward eliminating discrimination in federally assisted programs. It contains no guideposts and no yardsticks as to what might constitute discrimination in carrying out federally aided programs and projects. . . .

* * *

"Presumably the college would have to have a 'racially balanced' staff from the dean's office to the cafeteria . . . .

"The effect of this title, if enacted into law, will interject race as a factor in every decision involving the selection of an individual . . . . The concept of 'racial imbalance' would hover like a black cloud over every transaction . . . ." Id., at 1619. See also, e. g., id., at 5611- 5613 (remarks of Sen. Ervin); id., at 9083 (remarks of Sen. Gore).

FN15. E.g., id., at 5863, 5874 (remarks of Sen. Eastland).

FN16. See, e. g., id., at 8346 (remarks of Sen. Proxmire) ("Taxes are collected from whites and Negroes, and they should be expended without discrimination"); id., at 7055 (remarks of Sen. Pastore) ("[Title VI] will guarantee that the money collected by colorblind tax collectors will be distributed by Federal and State administrators who are equally colorblind"); and id., at 6543 (remarks of Sen. Humphrey) (" 'Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination' ") (quoting from President Kennedy's Message to Congress, June 19, 1963).

"[T]he word 'discrimination' has been used in many a court case. What it really means in the bill is a distinction in treatment . . . given to different individuals because of their different race, religion or national origin. . . .

"The answer to this question [what was meant by 'discrimination'] is that if race is not a factor, we do not have to worry about discrimination because of race. . . . The Internal Revenue Code does not provide that colored people do not have to pay taxes, or that they can pay their taxes 6 months later than everyone else." 110 Cong.Rec. 5864 (1964).

"[I]f we started to treat Americans as Americans, not as fat ones, thin ones, short ones, tall ones, brown ones, green ones, yellow ones, or white ones, but as Americans. If we did that we would not need to worry about discrimination." Id., at 5866.

*416 In giving answers such as these, it seems clear that the proponents of Title VI assumed that the Constitution itself required a colorblind standard on the part of government, [FN17] but that does not mean that the legislation only codifies an existing constitutional prohibition. The statutory prohibition against discrimination in federally funded projects contained in § 601 is more than a simple paraphrasing of what the Fifth or Fourteenth Amendment would require. The Act's proponents plainly considered Title VI consistent with their view of the Constitution and they sought to provide an effective weapon to implement that view. [FN18] As a distillation of what the supporters of the Act believed the Constitution demanded of State and Federal Governments, § 601 has independent force, with language and emphasis in addition to that found in the Constitution. [FN19]

FN17. See, e. g., 110 Cong.Rec. 5253 (1964) (remarks of Sen. Humphrey); and id., at 7102 (remarks of Sen. Javits). The parallel between the prohibitions of Title VI and those of the Constitution was clearest with respect to the immediate goal of the Act--an end to federal funding of "separate but equal" facilities.

FN18. "As in Monroe [v. Pape, 365 U.S. 167, 81 S.Ct. 473, 5 L.Ed.2d 492], we have no occasion here to 'reach the constitutional question whether Congress has the power to make municipalities liable for acts of its officers that violate the civil rights of individuals.' 365 U.S. [167], at 191 [81 S.Ct. 473, 5 L.Ed.2d 492]. For in interpreting the statute it is not our task to consider whether Congress was mistaken in 1871 in its view of the limits of its power over municipalities; rather, we must construe the statute in light of the impressions under which Congress did in fact act, see Ries v. Lynskey, 452 F.2d, 172, at 175." Moor v. County of Alameda, 411 U.S. 693, 709, 93 S.Ct. 1785, 1795, 36 L.Ed.2d 596.

FN19. Both Title VI and Title VII express Congress' belief that, in the long struggle to eliminate social prejudice and the effects of prejudice, the principle of individual equality, without regard to race or religion, was one on which there could be a "meeting of the minds" among all races and a common national purpose. See Los Angeles Dept. of Water and Power v. Manhart, 435 U.S. 702, 709, 98 S.Ct. 1370, 1376, 55 L.Ed.2d 657 ("[T]he basic policy of the statute [Title VII] requires that we focus on fairness to individuals rather than fairness to classes"). This same principle of individual fairness is embodied in Title VI.

"The basic fairness of title VI is so clear that I find it difficult to understand why it should create any opposition. . . .

* * *

"Private prejudices, to be sure, cannot be eliminated overnight. However, there is one area where no room at all exists for private prejudices. That is the area of governmental conduct. As the first Mr. Justice Harlan said in his prophetic dissenting opinion in Plessy v. Ferguson, 163 U.S. 537, 559, 16 S.Ct. 1138, 1146, 41 L.Ed. 256.

" 'Our Constitution is colorblind.'

"So--I say to Senators--must be our Government. . . .

"Title VI closes the gap between our purposes as a democracy and our prejudices as individuals. The cuts of prejudice need healing. The costs of prejudice need understanding.

We cannot have hostility between two great parts of our people without tragic loss in our human values . . . .

"Title VI offers a place for the meeting of our minds as to Federal money." 110 Cong.Rec. 7063-7064 (1964) (remarks of Sen. Pastore).

Of course, one of the reasons marshaled in support of the conclusion that Title VI was "noncontroversial" was that its prohibition was already reflected in the law. See ibid. (remarks of Sen. Pell and Sen. Pastore).

*417 **2813 As with other provisions of the Civil Rights Act, Congress' expression of its policy to end racial discrimination may independently proscribe conduct that the Constitution does not. [FN20] However, we need not decide the congruence--or lack of congruence--of the controlling statute and the Constitution *418 since the meaning of the Title VI ban on exclusion is crystal clear: Race cannot be the basis of excluding anyone from participation in a federally funded program.

FN20. For example, private employers now under duties imposed by Title VII were wholly free from the restraints imposed by the Fifth and Fourteenth Amendments which are directed only to governmental action.

In Lau v. Nichols, 414 U.S. 563, 94 S.Ct. 786, 39 L.Ed.2d 1, the Government's brief stressed that "the applicability of Title VI . . . does not depend upon the outcome of the equal protection analysis. . . . [T]he statute independently proscribes the conduct challenged by petitioners and provides a discrete basis for injunctive relief." Brief for United States as Amicus Curiae, O.T. 1973, No. 72-6520, p. 15. The Court, in turn, rested its decision on Title VI. Mr. Justice POWELL takes pains to distinguish Lau from the case at hand because the Lau decision "rested solely on the statute." Ante, at 2756. See also Washington v. Davis, 426 U.S. 229, 238-239, 96 S.Ct. 2040, 2046-2047, 48 L.Ed.2d 597; Allen v. State Board of Elections, 393 U.S. 544, 588, 89 S.Ct. 817, 843, 22 L.Ed.2d 1 (Harlan, J., concurring anddissenting).

In short, nothing in the legislative history justifies the conclusion that the broad language of § 601 should not be given its natural meaning. We are dealing with a distinct statutory prohibition, enacted at a particular time with particular concerns in mind; neither its language nor any prior interpretation suggests that its place in the Civil Rights Act, won after long debate, is simply that of a constitutional appendage. [FN21] In unmistakable terms the Act prohibits the exclusion of individuals from federally funded programs because of their race. [FN22] As succinctly phrased during the Senate debate, under Title VI it is not "permissible to say 'yes' to one person; but to say 'no' to another person, only because of the color of his skin." [FN23]

FN21. As explained by Senator Humphrey, § 601 expresses a principle imbedded in the constitutional and moral understanding of the times.

"The purpose of title VI is to make sure that funds of the United States are not used to support racial discrimination. In many instances the practices of segregation or discrimination, which title VI seeks to end, are unconstitutional. . . . In all cases, such discrimination is contrary to national policy, and to the moral sense of the Nation. Thus, title VI is simply designed to insure that Federal funds are spent in accordance with the

Constitution and the moral sense of the Nation." 110 Cong.Rec. 6544 (1964) (emphasis added).

FN22. Petitioner's attempt to rely on regulations issued by HEW for a contrary reading of the statute is unpersuasive. Where no discriminatory policy was in effect, HEW's example of permissible "affirmative action" refers to "special recruitment policies." 45 CFR § 80.5(j) (1977). This regulation, which was adopted in 1973, sheds no light on the legality of the admissions program that excluded Bakke in this case.

FN23. 110 Cong.Rec. 6047 (1964) (remarks of Sen Pastore).

Belatedly, however, petitioner argues that Title VI cannot be enforced by a private litigant. The claim is unpersuasive in the context of this case. Bakke requested injunctive and declaratory relief under Title VI; petitioner itself then joined *419 issue on the question of the legality of its program under Title VI by asking for a declaratory judgment that it was in compliance with the statute. [FN24] Its view during state-court litigation was that a private cause of action does exist under Title VI. Because petitioner **2814 questions the availability of a private cause of action for the first time in this Court, the question is not properly before us. See McGoldrick v. Compagnie Generale Transatlantique, 309 U.S. 430, 434, 60 S.Ct. 670, 672, 84 L.Ed. 849. Even if it were, petitioner's original assumption is in accord with the federal courts' consistent interpretation of the Act. To date, the courts, including this Court, have unanimously concluded or assumed that a private action may be maintained under Title VI. [FN25] The United States has taken the same position; in its amicus curiae brief directed to this specific issue, it concluded that such a remedy is clearly available, [FN26] *420 and Congress has repeatedly enacted legislation predicated on the assumption that Title VI may be enforced in a private action. [FN27] The conclusion that an individual may maintain a private cause of action is amply supported in the legislative history of Title VI itself. [FN28] In **2815 short, a fair consideration of *421 petitioner's tardy attack on the propriety of Bakke's suit under Title VI requires that it be rejected.

FN24. Record 30-31.

FN25. See, e. g., Lau v. Nichols, supra; Bossier Parish School Board v. Lemon, 370 F.2d 847 (C.A.5 1967), cert. denied, 388 U.S. 911, 87 S.Ct. 2116, 18 L.Ed.2d 1350; Uzzell v. Friday, 547 F.2d 801 (C.A.4 1977), opinion on rehearing en banc, 558 F.2d 727, cert. pending, No. 77-635; Serna v. Portales, 499 F.2d 1147 (C.A.10 1974); cf. Chambers v. Omaha Public School District, 536 F.2d 222, 225 n. 2 (C.A.8 1976) (indicating doubt over whether a money judgment can be obtained under Title VI). Indeed, the Government's brief in Lau v. Nichols, supra, succinctly expressed this common assumption: "It is settled that petitioners . . . have standing to enforce Section 601 . . . ." Brief for United States as Amicus Curiae in Lau v. Nichols, O.T.1973, No. 72-6520, p. 13 n. 5.

FN26. Supplemental Brief for United States as Amicus Curiae 24-34. The Government's supplemental brief also suggests that there may be a difference between a private cause of action brought to end a particular discriminatory practice and such an action brought to cut off federal funds. Id., at 28-30. Section 601 is specifically addressed to personal rights, while § 602--the fund cutoff provision--establishes "an elaborate mechanism for governmental enforcement by federal agencies." Supplemental Brief, supra, at 28 (emphasis added).

Arguably, private enforcement of this "elaborate mechanism" would not fit within the congressional scheme, see separate opinion of Mr. Justice WHITE, ante, at 2794. But Bakke did not seek to cut off the University's federal funding; he sought admission to medical school. The difference between these two courses of action is clear and significant. As the Government itself states:

"[T]he grant of an injunction or a declaratory judgment in a private action would not be inconsistent with the administrative program established by Section 602 . . . . A declaratory judgment or injunction against future discrimination would not raise the possibility that funds would be terminated, and it would not involve bringing the forces of the Executive Branch to bear on state programs; it therefore would not implicate the concern that led to the limitations contained in Section 602." Supplemental Brief, supra, at 30 n. 25.

The notion that a private action seeking injunctive or declaratory judgment relief is inconsistent with a federal statute that authorizes termination of funds has clearly been rejected by this Court in prior cases. See Rosado v. Wyman, 397 U.S. 397, 420, 90 S.Ct. 1207, 1221, 25 L.Ed.2d 442.

FN27. See 29 U.S.C. § 794 (1976 ed.) (the Rehabilitation Act of 1973) (in particular, the legislative history discussed in Lloyd v. Regional Transportation Authority, 548 F.2d 1277, 1285-1286 (C.A.7 1977)); 20 U.S.C. § 1617 (1976 ed.) (attorney fees under the Emergency School Aid Act); and 31 U.S.C. § 1244 (1976 ed.) (private action under the Financial Assistance Act). Of course, none of these subsequent legislative enactments is necessarily reliable evidence of Congress' intent in 1964 inenacting Title VI, and the legislation was not intended to change the existing status of Title VI.

FN28. Framing the analysis in terms of the four-part Cort v. Ash test, see 422 U.S. 66, 78, 95 S.Ct. 2080, 2087, 45 L.Ed.2d 26, it is clear that all four parts of the test are satisfied. (1) Bakke's status as a potential beneficiary of a federally funded program definitely brings him within the " 'class for whose especial benefit the statute was enacted,' " Ibid. (emphasis in original). (2) A cause of action based on race discrimination has not been "traditionally relegated to state law." Ibid. (3) While a few excerpts from the voluminous legislative history suggest that Congress did not intend to create a private cause of action, see opinion of Mr. Justice POWELL, ante, at 2745 n. 18, an examination of the entire legislative history makes it clear that Congress had no intention to foreclose a private right of action. (4) There is ample evidence that Congress considered private causes of action to be consistent with, if not essential to, the legislative scheme. See, e. g., remarks of Senator Ribicoff:

"We come then to the crux of the dispute--how this right [to participate in federally funded programs without discrimination] should be protected. And even this issue becomes clear upon the most elementary analysis. If Federal funds are to be dispensed on a nondiscriminatory basis, the only possible remedies must fall into one of two categories: First, action to end discrimination; or second, action to end the payment of funds. Obviously action to end discrimination is preferable since that reaches the objective of extending the funds on a nondiscriminatory basis. But if the discrimination persists and cannot be effectively terminated, how else can the principle of nondiscrimination be vindicated except by nonpayment of funds?" 110 Cong.Rec. 7065 (1964). See also id., at 5090, 6543, 6544

(remarks of Sen. Humphrey); id., at 7103, 12719 (remarks of Sen. Javits); id., at 7062, 7063 (remarks of Sen. Pastore).

The congressional debates thus show a clear understanding that the principle embodied in § 601 involves personal federal rights that administrative procedures would not, for the most part, be able to protect. The analogy to the Voting Rights Act of 1965, 42 U.S.C. § 1973 et seq. (1970 ed. and Supp. V), is clear. Both that Act and Title VI are broadly phrased in terms of personal rights ("no person shall be denied . . ."); both Acts were drafted with broad remedial purposes in mind; and the effectiveness of both Acts would be "severely hampered" without the existence of a private remedy to supplement administrative procedures. See Allen v. State Bd. of Elections, 393 U.S. 544, 556, 89 S.Ct. 817, 826, 22 L.Ed.2d 1. In Allen, of course, this Court found a private right of action under the Voting Rights Act.

The University's special admissions program violated Title VI of the Civil Rights Act of 1964 by excluding Bakke from the Medical School because of his race. It is therefore our duty to affirm the judgment ordering Bakke admitted to the University.

Accordingly, I concur in the Court's judgment insofar as it affirms the judgment of the Supreme Court of California. To the extent that it purports to do anything else, I respectfully dissent.

98 S.Ct. 2733, 438 U.S. 265, 57 L.Ed.2d 750, 17 Fair Empl.Prac.Cas. (BNA) 1000, 17 Empl. Prac. Dec. P 840

WELCOME TO THE NEW JERSEY
AMISTAD COMMISSION
INTERACTIVE CURRICULUM

Economic Opportunity Act

United States Congress (1964)

AN ACT

To mobilize the human and financial resources of the Nation to combat poverty in the United States. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Economic Opportunity Act of 1964."

FINDINGS AND DECLARATION OF PURPOSE SEC. 2. Although the economic well-being and prosperity of the United States have progressed to a level surpassing any achieved in world history, and although these benefits are widely shared throughout the Nation, poverty continues to be the lot of a substantial number of our people. The United States can achieve its full economic and social potential as a nation only if every individual has the opportunity to contribute to the full extent of his capabilities and to participate in the workings of our society. It is, therefore, the policy of the United States to eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity for education and training, the opportunity to work, and the opportunity to live in decency and dignity. It is the purpose of this Act to strengthen, supplement, and coordinate efforts in furtherance of that policy.

TITLE I--YOUTH PROGRAMS

PART A--JOB CORPS

STATEMENT OF PURPOSE

SEC. 101. The purpose of this part is to prepare for the responsibilities of citizenship and to increase the employability of young men and young women aged sixteen through twenty-one by providing them in rural and urban residential centers with education, vocational training, useful work experience, including work directed toward the conservation of natural resources, and other appropriate activities.

ESTABLISHMENT OF JOB CORPS

SEC. 102. In order to carry out the purposes of this part, there is hereby established within the Office of Economic Opportunity (hereinafter referred to as the "Office"), established by title VI, a Job Corps (hereinafter referred to as the "Corps").

JOB CORPS PROGRAM

SEC. 103. The Director of the Office (hereinafter referred to as the "Director") is authorized to--

(a) enter into agreements with any Federal, State, or local agency or private organization for the establishment and operation, in rural and urban areas, of conservation camps and

training centers and for the provision of such facilities and services as in his judgment are needed to carry out the purposes of this part,. . . .

PART B--WORK-TRAINING PROGRAMS

STATEMENT OF PURPOSE

SEC. 111. The purpose of this part is to provide useful work experience opportunities for unemployed young men and young women, through participation in State and community work-training programs, so that their employability may be increased or their education resumed or continued and so that public agencies and private nonprofit organizations (other than political parties) will be enabled to carry out programs which will permit or contribute to an undertaking or service in the public interest that would not otherwise be provided, or will contribute to the conservation and development of natural resources and recreational areas.

. . .

PART C--WORK-STUDY PROGRAMS

STATEMENT OF PURPOSE

The purpose of this part is to stimulate and promote the part-time employment of students in institutions of higher education who are from low-income families and are in need of the earnings from such employment to pursue courses of study at such institutions. . . .

TITLE II--URBAN AND RURAL COMMUNITY ACTION PROGRAMS

PART A--GENERAL COMMUNITY ACTION PROGRAMS

STATEMENT OF PURPOSE

SEC. 201. The purpose of this part is to provide stimulation and incentive for urban and rural communities to mobilize their resources to combat poverty through community action programs.

COMMUNITY ACTION PROGRAMS

SEC. 202. (a) The term "community action program" means a program-- . . . .

(2) which provides services, assistance, and other activities of sufficient scope and size to give promise of progress toward elimination of poverty or a cause or causes of poverty through developing employment opportunities, improving human performance, motivation, and productivity, or bettering the conditions under which people live, learn, and work;

(3) which is developed, conducted, and administered with the maximum feasible participation of residents of the areas and members of the groups served; and

(4) which is conducted, administered, or coordinated by a public or private nonprofit agency (other than a political party), or a combination thereof.

WELCOME TO THE NEW JERSEY
AMISTAD COMMISSION
INTERACTIVE CURRICULUM

Address to the U.N. Security Council

Colin Powell (2003)

Thank you, Mr. President.

Mr President, Mr Secretary General, distinguished colleagues, I would like to begin by expressing my thanks for the special effort that each of you made to be here today.

This is important day for us all as we review the situation with respect to Iraq and its disarmament obligations under UN security council resolution 1441.

Last November 8, this council passed resolution 1441 by a unanimous vote. The purpose of that resolution was to disarm Iraq of its weapons of mass destruction. Iraq had already been found guilty of material breach of its obligations, stretching back over 16 previous resolutions and 12 years.

Resolution 1441 was not dealing with an innocent party, but a regime this council has repeatedly convicted over the years. Resolution 1441 gave Iraq one last chance, one last chance to come into compliance or to face serious consequences. No council member present in voting on that day had any allusions about the nature and intent of the resolution or what serious consequences meant if Iraq did not comply.

And to assist in its disarmament, we called on Iraq to cooperate with returning inspectors from Unmovic and IAEA.

We laid down tough standards for Iraq to meet to allow the inspectors to do their job.

This council placed the burden on Iraq to comply and disarm and not on the inspectors to find that which Iraq has gone out of its way to conceal for so long. Inspectors are inspectors; they are not detectives.

I asked for this session today for two purposes: First, to support the core assessments made by Dr Blix and Dr El-Baradei. As Dr Blix reported to this council on January 27: "Iraq appears not to have come to a genuine acceptance, not even today, of the disarmament which was demanded of it."

And as Dr El-Baradei reported, Iraq's declaration of December 7: "Did not provide any new information relevant to certain questions that have been outstanding since 1998."

My second purpose today is to provide you with additional information, to share with you what the United States knows about Iraq's weapons of mass destruction as well as Iraq's involvement in terrorism, which is also the subject of resolution 1441 and other earlier resolutions.

I might add at this point that we are providing all relevant information we can to the inspection teams for them to do their work.

The material I will present to you comes from a variety of sources. Some are U.S. sources. And some are those of other countries.

Some of the sources are technical, such as intercepted telephone conversations and photos taken by satellites. Other sources are people who have risked their lives to let the world know what Saddam Hussein is really up to.

I cannot tell you everything that we know. But what I can share with you, when combined with what all of us have learned over the years, is deeply troubling.

What you will see is an accumulation of facts and disturbing patterns of behavior. The facts on Iraqis' behavior - Iraq's behavior demonstrate that Saddam Hussein and his regime have made no effort - no effort - to disarm as required by the international community. Indeed, the facts and Iraq's behavior show that Saddam Hussein and his regime are concealing their efforts to produce more weapons of mass destruction.

Let me begin by playing a tape for you. What you're about to hear is a conversation that my government monitored. It takes place on November 26 of last year, on the day before United Nations teams resumed inspections in Iraq.

The conversation involves two senior officers, a colonel and a brigadier general, from Iraq's elite military unit, the Republican Guard.

(BEGIN AUDIO TAPE) Speaking in Arabic.

(END AUDIO TAPE) POWELL: Let me pause and review some of the key elements of this conversation that you just heard between these two officers.

First, they acknowledge that our colleague, Mohamed El-Baradei, is coming, and they know what he's coming for, and they know he's coming the next day. He's coming to look for things that are prohibited. He is expecting these gentlemen to cooperate with him and not hide things.

But they're worried. "We have this modified vehicle. What do we say if one of them sees it?" What is their concern? Their concern is that it's something they should not have, something that should not be seen.

The general is incredulous: "You didn't get a modified. You don't have one of those, do you?" "I have one." "Which, from where?" "From the workshop, from the al-Kindi company?" "What?" "From al-Kindi." "I'll come to see you in the morning. I'm worried. You all have something left." "We evacuated everything. We don't have anything left." Note what he says: "We evacuated everything." We didn't destroy it. We didn't line it up for inspection. We didn't turn it into the inspectors. We evacuated it to make sure it was not around when the inspectors showed up.

"I will come to you tomorrow." The al-Kindi company: This is a company that is well known to have been involved in prohibited weapons systems activity.

Let me play another tape for you. As you will recall, the inspectors found 12 empty chemical warheads on January 16. On January 20, four days later, Iraq promised the inspectors it

would search for more. You will now hear an officer from Republican Guard headquarters issuing an instruction to an officer in the field. Their conversation took place just last week on January 30.

(BEGIN AUDIO TAPE) Speaking in Arabic.

(END AUDIO TAPE) POWELL: Let me pause again and review the elements of this message.

"They're inspecting the ammunition you have, yes." "Yes." "For the possibility there are forbidden ammo." "For the possibility there is by chance forbidden ammo?" "Yes." "And we sent you a message yesterday to clean out all of the areas, the scrap areas, the abandoned areas. Make sure there is nothing there." Remember the first message, evacuated.

This is all part of a system of hiding things and moving things out of the way and making sure they have left nothing behind.

If you go a little further into this message, and you see the specific instructions from headquarters: "After you have carried out what is contained in this message, destroy the message because I don't want anyone to see this message." "OK, OK." Why? Why?

This message would have verified to the inspectors that they have been trying to turn over things. They were looking for things. But they don't want that message seen, because they were trying to clean up the area to leave no evidence behind of the presence of weapons of mass destruction. And they can claim that nothing was there. And the inspectors can look all they want, and they will find nothing.

This effort to hide things from the inspectors is not one or two isolated events, quite the contrary. This is part and parcel of a policy of evasion and deception that goes back 12 years, a policy set at the highest levels of the Iraqi regime.

We know that Saddam Hussein has what is called quote, "a higher committee for monitoring the inspections teams," unquote. Think about that. Iraq has a high-level committee to monitor the inspectors who were sent in to monitor Iraq's disarmament.

Not to cooperate with them, not to assist them, but to spy on them and keep them from doing their jobs.

The committee reports directly to Saddam Hussein. It is headed by Iraq's vice president, Taha Yassin Ramadan. Its members include Saddam Hussein's son Qusay.

This committee also includes Lieutenant General Amir al-Saadi, an adviser to Saddam. In case that name isn't immediately familiar to you, General Saadi has been the Iraqi regime's primary point of contact for Dr. Blix and Dr. El-Baradei. It was General Saadi who last fall publicly pledged that Iraq was prepared to cooperate unconditionally with inspectors. Quite the contrary, Saadi's job is not to cooperate, it is to deceive; not to disarm, but to undermine the inspectors; not to support them, but to frustrate them and to make sure they learn nothing.

We have learned a lot about the work of this special committee. We learned that just prior to the return of inspectors last November the regime had decided to resume what we heard called, quote, "the old game of cat and mouse," unquote.

For example, let me focus on the now famous declaration that Iraq submitted to this council on December 7. Iraq never had any intention of complying with this council's mandate.

Instead, Iraq planned to use the declaration, overwhelm us and to overwhelm the inspectors with useless information about Iraq's permitted weapons so that we would not have time to pursue Iraq's prohibited weapons. Iraq's goal was to give us, in this room, to give those us on this council the false impression that the inspection process was working.

You saw the result. Dr. Blix pronounced the 12,200-page declaration, rich in volume, but poor in information and practically devoid of new evidence.

Could any member of this council honestly rise in defense of this false declaration? Everything we have seen and heard indicates that, instead of cooperating actively with the inspectors to ensure the success of their mission, Saddam Hussein and his regime are busy doing all they possibly can to ensure that inspectors succeed in finding absolutely nothing.

My colleagues, every statement I make today is backed up by sources, solid sources. These are not assertions. What we're giving you are facts and conclusions based on solid intelligence. I will cite some examples, and these are from human sources.

Orders were issued to Iraq's security organizations, as well as to Saddam Hussein's own office, to hide all correspondence with the Organization of Military Industrialization.

This is the organization that oversees Iraq's weapons of mass destruction activities. Make sure there are no documents left which could connect you to the OMI.

We know that Saddam's son, Qusay, ordered the removal of all prohibited weapons from Saddam's numerous palace complexes. We know that Iraqi government officials, members of the ruling Baath Party and scientists have hidden prohibited items in their homes. Other key files from military and scientific establishments have been placed in cars that are being driven around the countryside by Iraqi intelligence agents to avoid detection.

Thanks to intelligence they were provided, the inspectors recently found dramatic confirmation of these reports. When they searched the home of an Iraqi nuclear scientist, they uncovered roughly 2,000 pages of documents. You see them here being brought out of the home and placed in U.N. hands. Some of the material is classified and related to Iraq's nuclear program.

Tell me, answer me, are the inspectors to search the house of every government official, every Baath Party member and every scientist in the country to find the truth, to get the information they need, to satisfy the demands of our council? Our sources tell us that, in some cases, the hard drives of computers at Iraqi weapons facilities were replaced. Who took the hard drives? Where did they go? What's being hidden? Why? There's only one answer to the why: to deceive, to hide, to keep from the inspectors.

Numerous human sources tell us that the Iraqis are moving, not just documents and hard drives, but weapons of mass destruction to keep them from being found by inspectors.

While we were here in this council chamber debating Resolution 1441 last fall, we know, we know from sources that a missile brigade outside Baghdad was disbursing rocket launchers and warheads containing biological warfare agents to various locations, distributing them to various locations in western Iraq. Most of the launchers and warheads have been hidden in

large groves of palm trees and were to be moved every one to four weeks to escape detection.

We also have satellite photos that indicate that banned materials have recently been moved from a number of Iraqi weapons of mass destruction facilities.

Let me say a word about satellite images before I show a couple. The photos that I am about to show you are sometimes hard for the average person to interpret, hard for me. The painstaking work of photo analysis takes experts with years and years of experience, pouring for hours and hours over light tables. But as I show you these images, I will try to capture and explain what they mean, what they indicate to our imagery specialists.

Let's look at one. This one is about a weapons munition facility, a facility that holds ammunition at a place called Taji (ph). This is one of about 65 such facilities in Iraq. We know that this one has housed chemical munitions. In fact, this is where the Iraqis recently came up with the additional four chemical weapon shells.

Here, you see 15 munitions bunkers in yellow and red outlines. The four that are in red squares represent active chemical munitions bunkers.

How do I know that? How can I say that? Let me give you a closer look. Look at the image on the left. On the left is a close-up of one of the four chemical bunkers. The two arrows indicate the presence of sure signs that the bunkers are storing chemical munitions. The arrow at the top that says security points to a facility that is the signature item for this kind of bunker. Inside that facility are special guards and special equipment to monitor any leakage that might come out of the bunker.

The truck you also see is a signature item. It's a decontamination vehicle in case something goes wrong.

This is characteristic of those four bunkers. The special security facility and the decontamination vehicle will be in the area, if not at any one of them or one of the other, it is moving around those four, and it moves as it needed to move, as people are working in the different bunkers.

Now look at the picture on the right. You are now looking at two of those sanitized bunkers. The signature vehicles are gone, the tents are gone, it's been cleaned up, and it was done on the 22nd of December, as the U.N. inspection team is arriving, and you can see the inspection vehicles arriving in the lower portion of the picture on the right.

The bunkers are clean when the inspectors get there. They found nothing.

This sequence of events raises the worrisome suspicion that Iraq had been tipped off to the forthcoming inspections at Taji (ph). As it did throughout the 1990s, we know that Iraq today is actively using its considerable intelligence capabilities to hide its illicit activities. From our sources, we know that inspectors are under constant surveillance by an army of Iraqi intelligence operatives. Iraq is relentlessly attempting to tap all of their communications, both voice and electronics.

I would call my colleagues attention to the fine paper that United Kingdom distributed yesterday, which describes in exquisite detail Iraqi deception activities.

In this next example, you will see the type of concealment activity Iraq has undertaken in response to the resumption of inspections. Indeed, in November 2002, just when the inspections were about to resume this type of activity spiked. Here are three examples.

At this ballistic missile site, on November 10, we saw a cargo truck preparing to move ballistic missile components. At this biological weapons related facility, on November 25, just two days before inspections resumed, this truck caravan appeared, something we almost never see at this facility, and we monitor it carefully and regularly.

At this ballistic missile facility, again, two days before inspections began, five large cargo trucks appeared along with the truck-mounted crane to move missiles. We saw this kind of house cleaning at close to 30 sites.

Days after this activity, the vehicles and the equipment that I've just highlighted disappear and the site returns to patterns of normalcy. We don't know precisely what Iraq was moving, but the inspectors already knew about these sites, so Iraq knew that they would be coming.

We must ask ourselves: Why would Iraq suddenly move equipment of this nature before inspections if they were anxious to demonstrate what they had or did not have? Remember the first intercept in which two Iraqis talked about the need to hide a modified vehicle from the inspectors. Where did Iraq take all of this equipment? Why wasn't it presented to the inspectors? Iraq also has refused to permit any U-2 reconnaissance flights that would give the inspectors a better sense of what's being moved before, during and after inspectors.

This refusal to allow this kind of reconnaissance is in direct, specific violation of operative paragraph seven of our Resolution 1441.

Saddam Hussein and his regime are not just trying to conceal weapons, they're also trying to hide people. You know the basic facts. Iraq has not complied with its obligation to allow immediate, unimpeded, unrestricted and private access to all officials and other persons as required by Resolution 1441.

The regime only allows interviews with inspectors in the presence of an Iraqi official, a minder. The official Iraqi organization charged with facilitating inspections announced, announced publicly and announced ominously that, quote, "Nobody is ready to leave Iraq to be interviewed." Iraqi Vice President Ramadan accused the inspectors of conducting espionage, a veiled threat that anyone cooperating with U.N. inspectors was committing treason.

Iraq did not meet its obligations under 1441 to provide a comprehensive list of scientists associated with its weapons of mass destruction programs. Iraq's list was out of date and contained only about 500 names, despite the fact that UNSCOM had earlier put together a list of about 3,500 names.

Let me just tell you what a number of human sources have told us.

Saddam Hussein has directly participated in the effort to prevent interviews. In early December, Saddam Hussein had all Iraqi scientists warned of the serious consequences that they and their families would face if they revealed any sensitive information to the inspectors. They were forced to sign documents acknowledging that divulging information is punishable by death.

Saddam Hussein also said that scientists should be told not to agree to leave Iraq; anyone who agreed to be interviewed outside Iraq would be treated as a spy. This violates 1441.

In mid-November, just before the inspectors returned, Iraqi experts were ordered to report to the headquarters of the special security organization to receive counterintelligence training. The training focused on evasion methods, interrogation resistance techniques, and how to mislead inspectors.

Ladies and gentlemen, these are not assertions. These are facts, corroborated by many sources, some of them sources of the intelligence services of other countries.

For example, in mid-December weapons experts at one facility were replaced by Iraqi intelligence agents who were to deceive inspectors about the work that was being done there.

On orders from Saddam Hussein, Iraqi officials issued a false death certificate for one scientist, and he was sent into hiding.

In the middle of January, experts at one facility that was related to weapons of mass destruction, those experts had been ordered to stay home from work to avoid the inspectors. Workers from other Iraqi military facilities not engaged in elicit weapons projects were to replace the workers who'd been sent home. A dozen experts have been placed under house arrest, not in their own houses, but as a group at one of Saddam Hussein's guest houses. It goes on and on and on.

As the examples I have just presented show, the information and intelligence we have gathered point to an active and systematic effort on the part of the Iraqi regime to keep key materials and people from the inspectors in direct violation of Resolution 1441. The pattern is not just one of reluctant cooperation, nor is it merely a lack of cooperation. What we see is a deliberate campaign to prevent any meaningful inspection work.

My colleagues, operative paragraph four of U.N. Resolution 1441, which we lingered over so long last fall, clearly states that false statements and omissions in the declaration and a failure by Iraq at any time to comply with and cooperate fully in the implementation of this resolution shall constitute - the facts speak for themselves - shall constitute a further material breach of its obligation.

We wrote it this way to give Iraq an early test - to give Iraq an early test. Would they give an honest declaration and would they early on indicate a willingness to cooperate with the inspectors? It was designed to be an early test.

They failed that test. By this standard, the standard of this operative paragraph, I believe that Iraq is now in further material breach of its obligations. I believe this conclusion is irrefutable and undeniable.

Iraq has now placed itself in danger of the serious consequences called for in U.N. Resolution 1441. And this body places itself in danger of irrelevance if it allows Iraq to continue to defy its will without responding effectively and immediately.

The issue before us is not how much time we are willing to give the inspectors to be frustrated by Iraqi obstruction. But how much longer are we willing to put up with Iraq's noncompliance before we, as a council, we, as the United Nations, say: "Enough. Enough."

The gravity of this moment is matched by the gravity of the threat that Iraq's weapons of mass destruction pose to the world. Let me now turn to those deadly weapons programs and describe why they are real and present dangers to the region and to the world.

First, biological weapons. We have talked frequently here about biological weapons. By way of introduction and history, I think there are just three quick points I need to make.

First, you will recall that it took UNSCOM four long and frustrating years to pry - to pry - an admission out of Iraq that it had biological weapons.

Second, when Iraq finally admitted having these weapons in 1995, the quantities were vast. Less than a teaspoon of dry anthrax, a little bit about this amount - this is just about the amount of a teaspoon - less than a teaspoon full of dry anthrax in an envelope shutdown the United States Senate in the fall of 2001. This forced several hundred people to undergo emergency medical treatment and killed two postal workers just from an amount just about this quantity that was inside of an envelope.

Iraq declared 8,500 liters of anthrax, but UNSCOM estimates that Saddam Hussein could have produced 25,000 liters. If concentrated into this dry form, this amount would be enough to fill tens upon tens upon tens of thousands of teaspoons. And Saddam Hussein has not verifiably accounted for even one teaspoon-full of this deadly material.

And that is my third point. And it is key. The Iraqis have never accounted for all of the biological weapons they admitted they had and we know they had. They have never accounted for all the organic material used to make them. And they have not accounted for many of the weapons filled with these agents such as there are 400 bombs. This is evidence, not conjecture. This is true. This is all well-documented.

Dr. Blix told this council that Iraq has provided little evidence to verify anthrax production and no convincing evidence of its destruction. It should come as no shock then, that since Saddam Hussein forced out the last inspectors in 1998, we have amassed much intelligence indicating that Iraq is continuing to make these weapons.

One of the most worrisome things that emerges from the thick intelligence file we have on Iraq's biological weapons is the existence of mobile production facilities used to make biological agents.

Let me take you inside that intelligence file and share with you what we know from eyewitness accounts. We have firsthand descriptions of biological weapons factories on wheels and on rails.

The trucks and train cars are easily moved and are designed to evade detection by inspectors. In a matter of months, they can produce a quantity of biological poison equal to the entire amount that Iraq claimed to have produced in the years prior to the Gulf War.

Although Iraq's mobile production program began in the mid-1990s, U.N. inspectors at the time only had vague hints of such programs. Confirmation came later, in the year 2000.

The source was an eyewitness, an Iraqi chemical engineer who supervised one of these facilities. He actually was present during biological agent production runs. He was also at the site when an accident occurred in 1998. Twelve technicians died from exposure to biological agents.

He reported that when UNSCOM was in country and inspecting, the biological weapons agent production always began on Thursdays at midnight because Iraq thought UNSCOM would not inspect on the Muslim Holy Day, Thursday night through Friday. He added that this was important because the units could not be broken down in the middle of a production run, which had to be completed by Friday evening before the inspectors might arrive again.

This defector is currently hiding in another country with the certain knowledge that Saddam Hussein will kill him if he finds him. His eyewitness account of these mobile production facilities has been corroborated by other sources.

A second source, an Iraqi civil engineer in a position to know the details of the program, confirmed the existence of transportable facilities moving on trailers.

A third source, also in a position to know, reported in summer 2002 that Iraq had manufactured mobile production systems mounted on road trailer units and on rail cars.

Finally, a fourth source, an Iraqi major, who defected, confirmed that Iraq has mobile biological research laboratories, in addition to the production facilities I mentioned earlier.

We have diagrammed what our sources reported about these mobile facilities. Here you see both truck and rail car-mounted mobile factories. The description our sources gave us of the technical features required by such facilities are highly detailed and extremely accurate. As these drawings based on their description show, we know what the fermenters look like, we know what the tanks, pumps, compressors and other parts look like. We know how they fit together. We know how they work. And we know a great deal about the platforms on which they are mounted.

As shown in this diagram, these factories can be concealed easily, either by moving ordinary-looking trucks and rail cars along Iraq's thousands of miles of highway or track, or by parking them in a garage or warehouse or somewhere in Iraq's extensive system of underground tunnels and bunkers.

We know that Iraq has at lest seven of these mobile biological agent factories. The truck-mounted ones have at least two or three trucks each. That means that the mobile production facilities are very few, perhaps 18 trucks that we know of-there may be more-but perhaps 18 that we know of. Just imagine trying to find 18 trucks among the thousands and thousands of trucks that travel the roads of Iraq every single day.

It took the inspectors four years to find out that Iraq was making biological agents. How long do you think it will take the inspectors to find even one of these 18 trucks without Iraq coming forward, as they are supposed to, with the information about these kinds of capabilities? Ladies and gentlemen, these are sophisticated facilities. For example, they can produce anthrax and botulinum toxin. In fact, they can produce enough dry biological agent in a single month to kill thousands upon thousands of people. And dry agent of this type is the most lethal form for human beings.

By 1998, UN experts agreed that the Iraqis had perfected drying techniques for their biological weapons programmes. Now, Iraq has incorporated this drying expertise into these mobile production facilities.

We know from Iraq's past admissions that it has successfully weaponised not only anthrax, but also other biological agents, including botulinum toxin, aflatoxin and ricin.

But Iraq's research efforts did not stop there. Saddam Hussein has investigated dozens of biological agents causing diseases such as gas gangrene, plague, typhus, tetanus, cholera, camelpox and hemorrhagic fever, and he also has the wherewithal to develop smallpox.

The Iraqi regime has also developed ways to disburse lethal biological agents, widely and discriminately into the water supply, into the air. For example, Iraq had a programme to modify aerial fuel tanks for Mirage jets. This video of an Iraqi test flight obtained by Unscom some years ago shows an Iraqi F-1 Mirage jet aircraft. Note the spray coming from beneath the Mirage; that is 2,000 litres of simulated anthrax that a jet is spraying.

In 1995, an Iraqi military officer, Mujahid Sali Abdul Latif (ph), told inspectors that Iraq intended the spray tanks to be mounted onto a MiG-21 that had been converted into an unmanned aerial vehicle, or a UAV. UAVs outfitted with spray tanks constitute an ideal method for launching a terrorist attack using biological weapons.

Iraq admitted to producing four spray tanks. But to this day, it has provided no credible evidence that they were destroyed, evidence that was required by the international community.

There can be no doubt that Saddam Hussein has biological weapons and the capability to rapidly produce more, many more. And he has the ability to dispense these lethal poisons and diseases in ways that can cause massive death and destruction. If biological weapons seem too terrible to contemplate, chemical weapons are equally chilling.

Unmovic already laid out much of this, and it is documented for all of us to read in Unscom's 1999 report on the subject.

Let me set the stage with three key points that all of us need to keep in mind: First, Saddam Hussein has used these horrific weapons on another country and on his own people. In fact, in the history of chemical warfare, no country has had more battlefield experience with chemical weapons since World War I than Saddam Hussein's Iraq.

Second, as with biological weapons, Saddam Hussein has never accounted for vast amounts of chemical weaponry: 550 artillery shells with mustard, 30,000 empty munitions and enough precursors to increase his stockpile to as much as 500 tons of chemical agents. If we consider just one category of missing weaponry - 6,500 bombs from the Iran-Iraq war - Unmovic says the amount of chemical agent in them would be in the order of 1,000 tons. These quantities of chemical weapons are now unaccounted for.

Dr. Blix has quipped that, quote, "Mustard gas is not (inaudible). You are supposed to know what you did with it."

We believe Saddam Hussein knows what he did with it, and he has not come clean with the international community. We have evidence these weapons existed. What we don't have is evidence from Iraq that they have been destroyed or where they are. That is what we are still waiting for.

Third point, Iraq's record on chemical weapons is replete with lies. It took years for Iraq to finally admit that it had produced four tons of the deadly nerve agent, VX. A single drop of

VX on the skin will kill in minutes. Four tons.

The admission only came out after inspectors collected documentation as a result of the defection of Hussein Kamal, Saddam Hussein's late son-in-law. Unscom also gained forensic evidence that Iraq had produced VX and put it into weapons for delivery.

Yet, to this day, Iraq denies it had ever weaponised VX. And on January 27, Unmovic told this council that it has information that conflicts with the Iraqi account of its VX programme.

We know that Iraq has embedded key portions of its illicit chemical weapons infrastructure within its legitimate civilian industry. To all outward appearances, even to experts, the infrastructure looks like an ordinary civilian operation. Illicit and legitimate production can go on simultaneously; or, on a dime, this dual-use infrastructure can turn from clandestine to commercial and then back again.

These inspections would be unlikely, any inspections of such facilities would be unlikely to turn up anything prohibited, especially if there is any warning that the inspections are coming. Call it ingenuous or evil genius, but the Iraqis deliberately designed their chemical weapons programmes to be inspected. It is infrastructure with a built-in ally.

Under the guise of dual-use infrastructure, Iraq has undertaken an effort to reconstitute facilities that were closely associated with its past programme to develop and produce chemical weapons.

For example, Iraq has rebuilt key portions of the Tariq (ph) state establishment. Tariq includes facilities designed specifically for Iraq's chemical weapons programme and employs key figures from past programmes.

That's the production end of Saddam's chemical weapons business. What about the delivery end? I'm going to show you a small part of a chemical complex called al-Moussaid (ph), a site that Iraq has used for at least three years to transship chemical weapons from production facilities out to the field.

In May 2002, our satellites photographed the unusual activity in this picture. Here we see cargo vehicles are again at this transshipment point, and we can see that they are accompanied by a decontamination vehicle associated with biological or chemical weapons activity.

What makes this picture significant is that we have a human source who has corroborated that movement of chemical weapons occurred at this site at that time. So it's not just the photo, and it's not an individual seeing the photo. It's the photo and then the knowledge of an individual being brought together to make the case.

This photograph of the site taken two months later in July shows not only the previous site, which is the figure in the middle at the top with the bulldozer sign near it, it shows that this previous site, as well as all of the other sites around the site, have been fully bulldozed and graded. The topsoil has been removed. The Iraqis literally removed the crust of the earth from large portions of this site in order to conceal chemical weapons evidence that would be there from years of chemical weapons activity.

To support its deadly biological and chemical weapons programmes, Iraq procures needed items from around the world using an extensive clandestine network. What we know comes

largely from intercepted communications and human sources who are in a position to know the facts.

Iraq's procurement efforts include equipment that can filter and separate micro-organisms and toxins involved in biological weapons, equipment that can be used to concentrate the agent, growth media that can be used to continue producing anthrax and botulinum toxin, sterilization equipment for laboratories, glass-lined reactors and specialty pumps that can handle corrosive chemical weapons agents and precursors, large amounts of vinyl chloride, a precursor for nerve and blister agents, and other chemicals such as sodium sulfide, an important mustard agent precursor.

Now, of course, Iraq will argue that these items can also be used for legitimate purposes. But if that is true, why do we have to learn about them by intercepting communications and risking the lives of human agents? With Iraq's well documented history on biological and chemical weapons, why should any of us give Iraq the benefit of the doubt? I don't, and I don't think you will either after you hear this next intercept.

Just a few weeks ago, we intercepted communications between two commanders in Iraq's Second Republican Guard Corps. One commander is going to be giving an instruction to the other. You will hear as this unfolds that what he wants to communicate to the other guy, he wants to make sure the other guy hears clearly, to the point of repeating it so that it gets written down and completely understood. Listen.

(BEGIN AUDIO TAPE) Speaking in foreign language.

(END AUDIO TAPE) POWELL: Let's review a few selected items of this conversation. Two officers talking to each other on the radio want to make sure that nothing is misunderstood:

"Remove. Remove."

The expression, the expression, "I got it."

"Nerve agents. Nerve agents. Wherever it comes up."

"Got it."

"Wherever it comes up."

"In the wireless instructions, in the instructions."

"Correction. No. In the wireless instructions."

"Wireless. I got it."

Why does he repeat it that way? Why is he so forceful in making sure this is understood? And why did he focus on wireless instructions? Because the senior officer is concerned that somebody might be listening.

Well, somebody was.

"Nerve agents. Stop talking about it. They are listening to us. Don't give any evidence that we have these horrible agents." Well, we know that they do. And this kind of conversation confirms it.

Our conservative estimate is that Iraq today has a stockpile of between 100 and 500 tons of chemical weapons agent. That is enough agent to fill 16,000 battlefield rockets.

Even the low end of 100 tons of agent would enable Saddam Hussein to cause mass casualties across more than 100 square miles of territory, an area nearly five times the size of Manhattan.

Let me remind you that, of the 122 millimetre chemical warheads, that the UN inspectors found recently, this discovery could very well be, as has been noted, the tip of the submerged iceberg. The question before us, all my friends, is when will we see the rest of the submerged iceberg?

Saddam Hussein has chemical weapons. Saddam Hussein has used such weapons. And Saddam Hussein has no compunction about using them again, against his neighbours and against his own people.

And we have sources who tell us that he recently has authorised his field commanders to use them. He wouldn't be passing out the orders if he didn't have the weapons or the intent to use them.

We also have sources who tell us that, since the 1980s, Saddam's regime has been experimenting on human beings to perfect its biological or chemical weapons.

A source said that 1,600 death row prisoners were transferred in 1995 to a special unit for such experiments. An eyewitness saw prisoners tied down to beds, experiments conducted on them, blood oozing around the victim's mouths and autopsies performed to confirm the effects on the prisoners. Saddam Hussein's humanity - inhumanity has no limits.

Let me turn now to nuclear weapons. We have no indication that Saddam Hussein has ever abandoned his nuclear weapons programme.

On the contrary, we have more than a decade of proof that he remains determined to acquire nuclear weapons.

To fully appreciate the challenge that we face today, remember that, in 1991, the inspectors searched Iraq's primary nuclear weapons facilities for the first time. And they found nothing to conclude that Iraq had a nuclear weapons programme.

But based on defector information in May of 1991, Saddam Hussein's lie was exposed. In truth, Saddam Hussein had a massive clandestine nuclear weapons programme that covered several different techniques to enrich uranium, including electromagnetic isotope separation, gas centrifuge, and gas diffusion. We estimate that this illicit programme cost the Iraqis several billion dollars.

Nonetheless, Iraq continued to tell the IAEA that it had no nuclear weapons programme. If Saddam had not been stopped, Iraq could have produced a nuclear bomb by 1993, years earlier than most worse-case assessments that had been made before the war.

In 1995, as a result of another defector, we find out that, after his invasion of Kuwait, Saddam Hussein had initiated a crash programme to build a crude nuclear weapon in violation of Iraq's UN obligations.

Saddam Hussein already possesses two out of the three key components needed to build a nuclear bomb. He has a cadre of nuclear scientists with the expertise, and he has a bomb design.

Since 1998, his efforts to reconstitute his nuclear programme have been focused on acquiring the third and last component, sufficient fissile material to produce a nuclear explosion. To make the fissile material, he needs to develop an ability to enrich uranium.

Saddam Hussein is determined to get his hands on a nuclear bomb. He is so determined that he has made repeated covert attempts to acquire high-specification aluminum tubes from 11 different countries, even after inspections resumed.

These tubes are controlled by the Nuclear Suppliers Group precisely because they can be used as centrifuges for enriching uranium. By now, just about everyone has heard of these tubes, and we all know that there are differences of opinion. There is controversy about what these tubes are for.

Most US experts think they are intended to serve as rotors in centrifuges used to enrich uranium. Other experts, and the Iraqis themselves, argue that they are really to produce the rocket bodies for a conventional weapon, a multiple rocket launcher.

Let me tell you what is not controversial about these tubes. First, all the experts who have analyzed the tubes in our possession agree that they can be adapted for centrifuge use. Second, Iraq had no business buying them for any purpose. They are banned for Iraq.

I am no expert on centrifuge tubes, but just as an old Army trooper, I can tell you a couple of things: First, it strikes me as quite odd that these tubes are manufactured to a tolerance that far exceeds US requirements for comparable rockets.

Maybe Iraqis just manufacture their conventional weapons to a higher standard than we do, but I don't think so.

Second, we actually have examined tubes from several different batches that were seized clandestinely before they reached Baghdad. What we notice in these different batches is a progression to higher and higher levels of specification, including, in the latest batch, an anodised coating on extremely smooth inner and outer surfaces. Why would they continue refining the specifications, go to all that trouble for something that, if it was a rocket, would soon be blown into shrapnel when it went off? The high tolerance aluminum tubes are only part of the story. We also have intelligence from multiple sources that Iraq is attempting to acquire magnets and high-speed balancing machines; both items can be used in a gas centrifuge programme to enrich uranium.

In 1999 and 2000, Iraqi officials negotiated with firms in Romania, India, Russia and Slovenia for the purchase of a magnet production plant. Iraq wanted the plant to produce magnets weighing 20 to 30 grams. That's the same weight as the magnets used in Iraq's gas centrifuge programme before the Gulf War. This incident linked with the tubes is another indicator of Iraq's attempt to reconstitute its nuclear weapons programme.

Intercepted communications from mid-2000 through last summer show that Iraq front companies sought to buy machines that can be used to balance gas centrifuge rotors. One of these companies also had been involved in a failed effort in 2001 to smuggle aluminum tubes into Iraq.

People will continue to debate this issue, but there is no doubt in my mind, these elicit procurement efforts show that Saddam Hussein is very much focused on putting in place the

key missing piece from his nuclear weapons programme, the ability to produce fissile material. He also has been busy trying to maintain the other key parts of his nuclear programme, particularly his cadre of key nuclear scientists.

It is noteworthy that, over the last 18 months, Saddam Hussein has paid increasing personal attention to Iraqi's top nuclear scientists, a group that the governmental-controlled press calls openly, his nuclear mujahedeen. He regularly exhorts them and praises their progress. Progress toward what end? Long ago, the Security Council, this council, required Iraq to halt all nuclear activities of any kind.

Let me talk now about the systems Iraq is developing to deliver weapons of mass destruction, in particular Iraq's ballistic missiles and unmanned aerial vehicles, UAVs.

First, missiles. We all remember that before the Gulf War Saddam Hussein's goal was missiles that flew not just hundreds, but thousands of kilometers. He wanted to strike not only his neighbours, but also nations far beyond his borders.

While inspectors destroyed most of the prohibited ballistic missiles, numerous intelligence reports over the past decade, from sources inside Iraq, indicate that Saddam Hussein retains a covert force of up to a few dozen Scud variant ballistic missiles. These are missiles with a range of 650 to 900 kilometres.

We know from intelligence and Iraq's own admissions that Iraq's alleged permitted ballistic missiles, the al-Samud II (ph) and the al-Fatah (ph), violate the 150-kilometer limit established by this council in Resolution 687. These are prohibited systems.

Unmovic has also reported that Iraq has illegally important 380 SA-2 (ph) rocket engines. These are likely for use in the al-Samud II (ph). Their import was illegal on three counts. Resolution 687 prohibited all military shipments into Iraq. Unscom specifically prohibited use of these engines in surface-to-surface missiles. And finally, as we have just noted, they are for a system that exceeds the 150-kilometer range limit.

Worst of all, some of these engines were acquired as late as December - after this council passed Resolution 1441.

What I want you to know today is that Iraq has programmes that are intended to produce ballistic missiles that fly 1,000 kilometers. One programme is pursuing a liquid fuel missile that would be able to fly more than 1,200 kilometers. And you can see from this map, as well as I can, who will be in danger of these missiles.

As part of this effort, another little piece of evidence, Iraq has built an engine test stand that is larger than anything it has ever had. Notice the dramatic difference in size between the test stand on the left, the old one, and the new one on the right. Note the large exhaust vent. This is where the flame from the engine comes out. The exhaust on the right test stand is five times longer than the one on the left. The one on the left was used for short-range missile. The one on the right is clearly intended for long-range missiles that can fly 1,200 kilometers.

This photograph was taken in April of 2002. Since then, the test stand has been finished and a roof has been put over it so it will be harder for satellites to see what's going on underneath the test stand.

Saddam Hussein's intentions have never changed. He is not developing the missiles for self-defense. These are missiles that Iraq wants in order to project power, to threaten, and to deliver chemical, biological and, if we let him, nuclear warheads.

Now, unmanned aerial vehicles, UAVs.

Iraq has been working on a variety of UAVs for more than a decade. This is just illustrative of what a UAV would look like. This effort has included attempts to modify for unmanned flight the MiG-21 and with greater success an aircraft called the L-29. However, Iraq is now concentrating not on these airplanes, but on developing and testing smaller UAVs, such as this.

UAVs are well suited for dispensing chemical and biological weapons.

There is ample evidence that Iraq has dedicated much effort to developing and testing spray devices that could be adapted for UAVs. And of the little that Saddam Hussein told us about UAVs, he has not told the truth. One of these lies is graphically and indisputably demonstrated by intelligence we collected on June 27, last year.

According to Iraq's December 7 declaration, its UAVs have a range of only 80 kilometers. But we detected one of Iraq's newest UAVs in a test flight that went 500 kilometers nonstop on autopilot in the race track pattern depicted here.

Not only is this test well in excess of the 150 kilometers that the United Nations permits, the test was left out of Iraq's December 7th declaration. The UAV was flown around and around and around in a circle. And so, that its 80 kilometer limit really was 500 kilometers unrefueled and on autopilot, violative of all of its obligations under 1441.

The linkages over the past 10 years between Iraq's UAV programme and biological and chemical warfare agents are of deep concern to us. Iraq could use these small UAVs which have a wingspan of only a few meters to deliver biological agents to its neighbours or if transported, to other countries, including the United States.

My friends, the information I have presented to you about these terrible weapons and about Iraq's continued flaunting of its obligations under Security Council Resolution 1441 links to a subject I now want to spend a little bit of time on. And that has to do with terrorism.

Our concern is not just about these elicit weapons. It's the way that these elicit weapons can be connected to terrorists and terrorist organizations that have no compunction about using such devices against innocent people around the world.

Iraq and terrorism go back decades. Baghdad trains Palestine Liberation Front members in small arms and explosives. Saddam uses the Arab Liberation Front to funnel money to the families of Palestinian suicide bombers in order to prolong the intifada. And it's no secret that Saddam's own intelligence service was involved in dozens of attacks or attempted assassinations in the 1990s.

But what I want to bring to your attention today is the potentially much more sinister nexus between Iraq and the al-Qaida terrorist network, a nexus that combines classic terrorist organisations and modern methods of murder. Iraq today harbours a deadly terrorist network headed by Abu Musab Al-Zarqawi, an associated collaborator of Osama bin Laden and his al-Qaida lieutenants.

Zarqawi, a Palestinian born in Jordan, fought in the Afghan war more than a decade ago. Returning to Afghanistan in 2000, he oversaw a terrorist training camp. One of his specialities and one of the specialities of this camp is poisons. When our coalition ousted the Taliban, the Zarqawi network helped establish another poison and explosive training centre camp. And this camp is located in north-eastern Iraq.

You see a picture of this camp.

The network is teaching its operatives how to produce ricin and other poisons. Let me remind you how ricin works. Less than a pinch - image a pinch of salt - less than a pinch of ricin, eating just this amount in your food, would cause shock followed by circulatory failure. Death comes within 72 hours and there is no antidote, there is no cure. It is fatal.

Those helping to run this camp are Zarqawi lieutenants operating in northern Kurdish areas outside Saddam Hussein's controlled Iraq. But Baghdad has an agent in the most senior levels of the radical organisation, Ansar al-Islam, that controls this corner of Iraq. In 2000 this agent offered al-Qaida safe haven in the region. After we swept al-Qaida from Afghanistan, some of its members accepted this safe haven. They remain there today.

Zarqawi's activities are not confined to this small corner of north-east Iraq. He travelled to Baghdad in May 2002 for medical treatment, staying in the capital of Iraq for two months while he recuperated to fight another day.

During this stay, nearly two dozen extremists converged on Baghdad and established a base of operations there. These al-Qaida affiliates, based in Baghdad, now coordinate the movement of people, money and supplies into and throughout Iraq for his network, and they've now been operating freely in the capital for more than eight months.

Iraqi officials deny accusations of ties with al-Qaida. These denials are simply not credible. Last year an al-Qaida associate bragged that the situation in Iraq was, quote, "good," that Baghdad could be transited quickly.

We know these affiliates are connected to Zarqawi because they remain even today in regular contact with his direct subordinates, including the poison cell plotters, and they are involved in moving more than money and material.

Last year, two suspected al-Qaida operatives were arrested crossing from Iraq into Saudi Arabia. They were linked to associates of the Baghdad cell, and one of them received training in Afghanistan on how to use cyanide. From his terrorist network in Iraq, Zarqawi can direct his network in the Middle East and beyond.

We, in the United States, all of us at the State Department, and the Agency for International Development - we all lost a dear friend with the cold-blooded murder of Mr. Lawrence Foley in Amman, Jordan last October, a despicable act was committed that day. The assassination of an individual whose sole mission was to assist the people of Jordan. The captured assassin says his cell received money and weapons from Zarqawi for that murder.

After the attack, an associate of the assassin left Jordan to go to Iraq to obtain weapons and explosives for further operations. Iraqi officials protest that they are not aware of the whereabouts of Zarqawi or of any of his associates. Again, these protests are not credible. We know of Zarqawi's activities in Baghdad. I described them earlier.

And now let me add one other fact. We asked a friendly security service to approach Baghdad about extraditing Zarqawi and providing information about him and his close associates. This service contacted Iraqi officials twice, and we passed details that should have made it easy to find Zarqawi. The network remains in Baghdad. Zarqawi still remains at large to come and go.

As my colleagues around this table and as the citizens they represent in Europe know, Zarqawi's terrorism is not confined to the Middle East. Zarqawi and his network have plotted terrorist actions against countries, including France, Britain, Spain, Italy, Germany and Russia.

According to detainee Abuwatia (ph), who graduated from Zarqawi's terrorist camp in Afghanistan, tasks at least nine North African extremists from 2001 to travel to Europe to conduct poison and explosive attacks.

Since last year, members of this network have been apprehended in France, Britain, Spain and Italy. By our last count, 116 operatives connected to this global web have been arrested.

The chart you are seeing shows the network in Europe. We know about this European network, and we know about its links to Zarqawi, because the detainee who provided the information about the targets also provided the names of members of the network.

Three of those he identified by name were arrested in France last December. In the apartments of the terrorists, authorities found circuits for explosive devices and a list of ingredients to make toxins.

The detainee who helped piece this together says the plot also targeted Britain. Later evidence, again, proved him right. When the British unearthed a cell there just last month, one British police officer was murdered during the disruption of the cell.

We also know that Zarqawi's colleagues have been active in the Pankisi Gorge, Georgia and in Chechnya, Russia. The plotting to which they are linked is not mere chatter. Members of Zarqawi's network say their goal was to kill Russians with toxins.

We are not surprised that Iraq is harbouring Zarqawi and his subordinates. This understanding builds on decades long experience with respect to ties between Iraq and al-Qaida.

Going back to the early and mid-1990s, when bin Laden was based in Sudan, an al-Qaida source tells us that Saddam and bin Laden reached an understanding that al-Qaida would no longer support activities against Baghdad. Early al-Qaida ties were forged by secret, high-level intelligence service contacts with al-Qaida, secret Iraqi intelligence high-level contacts with al-Qaida.

We know members of both organisations met repeatedly and have met at least eight times at very senior levels since the early 1990s. In 1996, a foreign security service tells us, that bin Laden met with a senior Iraqi intelligence official in Khartoum, and later met the director of the Iraqi intelligence service.

Saddam became more interested as he saw al-Qaida's appalling attacks. A detained al-Qaida member tells us that Saddam was more willing to assist al-Qaida after the 1998

bombings of our embassies in Kenya and Tanzania. Saddam was also impressed by al-Qaida's attacks on the USS Cole in Yemen in October 2000.

Iraqis continued to visit bin Laden in his new home in Afghanistan. A senior defector, one of Saddam's former intelligence chiefs in Europe, says Saddam sent his agents to Afghanistan sometime in the mid-1990s to provide training to al-Qaida members on document forgery.

From the late 1990s until 2001, the Iraqi Embassy in Pakistan played the role of liaison to the al-Qaida organisation.

Some believe, some claim these contacts do not amount to much. They say Saddam Hussein's secular tyranny and al-Qaida's religious tyranny do not mix. I am not comforted by this thought. Ambition and hatred are enough to bring Iraq and al-Qaida together, enough so al-Qaida could learn how to build more sophisticated bombs and learn how to forge documents, and enough so that al-Qaida could turn to Iraq for help in acquiring expertise on weapons of mass destruction.

And the record of Saddam Hussein's cooperation with other Islamist terrorist organisations is clear. Hamas, for example, opened an office in Baghdad in 1999, and Iraq has hosted conferences attended by Palestine Islamic Jihad. These groups are at the forefront of sponsoring suicide attacks against Israel.

Al-Qaida continues to have a deep interest in acquiring weapons of mass destruction. As with the story of Zarqawi and his network, I can trace the story of a senior terrorist operative telling how Iraq provided training in these weapons to al-Qaida.

Fortunately, this operative is now detained, and he has told his story. I will relate it to you now as he, himself, described it.

This senior al-Qaida terrorist was responsible for one of al-Qaida's training camps in Afghanistan.

His information comes first-hand from his personal involvement at senior levels of al-Qaida. He says bin Laden and his top deputy in Afghanistan, deceased al-Qaida leader Muhammad Atif (ph), did not believe that al-Qaida labs in Afghanistan were capable enough to manufacture these chemical or biological agents. They needed to go somewhere else. They had to look outside of Afghanistan for help. Where did they go? Where did they look? They went to Iraq.

The support that (inaudible) describes included Iraq offering chemical or biological weapons training for two al-Qaida associates beginning in December 2000. He says that a militant known as Abu Abdula Al-Iraqi (ph) had been sent to Iraq several times between 1997 and 2000 for help in acquiring poisons and gases. Abdula Al-Iraqi (ph) characterised the relationship he forged with Iraqi officials as successful.

As I said at the outset, none of this should come as a surprise to any of us. Terrorism has been a tool used by Saddam for decades. Saddam was a supporter of terrorism long before these terrorist networks had a name. And this support continues. The nexus of poisons and terror is new. The nexus of Iraq and terror is old. The combination is lethal.

With this track record, Iraqi denials of supporting terrorism take the place alongside the other Iraqi denials of weapons of mass destruction. It is all a web of lies.

When we confront a regime that harbours ambitions for regional domination, hides weapons of mass destruction and provides haven and active support for terrorists, we are not confronting the past, we are confronting the present. And unless we act, we are confronting an even more frightening future.

My friends, this has been a long and a detailed presentation. And I thank you for your patience. But there is one more subject that I would like to touch on briefly. And it should be a subject of deep and continuing concern to this council, Saddam Hussein's violations of human rights.

Underlying all that I have said, underlying all the facts and the patterns of behaviour that I have identified as Saddam Hussein's contempt for the will of this council, his contempt for the truth and most damning of all, his utter contempt for human life. Saddam Hussein's use of mustard and nerve gas against the Kurds in 1988 was one of the 20th century's most horrible atrocities; 5,000 men, women and children died.

His campaign against the Kurds from 1987 to '89 included mass summary executions, disappearances, arbitrary jailing, ethnic cleansing and the destruction of some 2,000 villages. He has also conducted ethnic cleansing against the shia Iraqis and the Marsh Arabs whose culture has flourished for more than a millennium. Saddam Hussein's police state ruthlessly eliminates anyone who dares to dissent. Iraq has more forced disappearance cases than any other country, tens of thousands of people reported missing in the past decade.

Nothing points more clearly to Saddam Hussein's dangerous intentions and the threat he poses to all of us than his calculated cruelty to his own citizens and to his neighbours. Clearly, Saddam Hussein and his regime will stop at nothing until something stops him.

For more than 20 years, by word and by deed Saddam Hussein has pursued his ambition to dominate Iraq and the broader Middle East using the only means he knows, intimidation, coercion and annihilation of all those who might stand in his way. For Saddam Hussein, possession of the world's most deadly weapons is the ultimate trump card, the one he must hold to fulfill his ambition.

We know that Saddam Hussein is determined to keep his weapons of mass destruction; he's determined to make more. Given Saddam Hussein's history of aggression, given what we know of his grandiose plans, given what we know of his terrorist associations and given his determination to exact revenge on those who oppose him, should we take the risk that he will not some day use these weapons at a time and the place and in the manner of his choosing at a time when the world is in a much weaker position to respond?

The United States will not and cannot run that risk to the American people. Leaving Saddam Hussein in possession of weapons of mass destruction for a few more months or years is not an option, not in a post-September 11th world.

My colleagues, over three months ago this council recognised that Iraq continued to pose a threat to international peace and security, and that Iraq had been and remained in material breach of its disarmament obligations. Today Iraq still poses a threat and Iraq still remains in material breach.

Indeed, by its failure to seize on its one last opportunity to come clean and disarm, Iraq has put itself in deeper material breach and closer to the day when it will face serious consequences for its continued defiance of this council.

My colleagues, we have an obligation to our citizens, we have an obligation to this body to see that our resolutions are complied with. We wrote 1441 not in order to go to war, we wrote 1441 to try to preserve the peace. We wrote 1441 to give Iraq one last chance. Iraq is not so far taking that one last chance.

We must not shrink from whatever is ahead of us. We must not fail in our duty and our responsibility to the citizens of the countries that are represented by this body.
Thank you, Mr President

African American Trailblazers in Diplomacy

On February 28, the United States Diplomacy Center, hosted a panel discussion about five trailblazing African American diplomats: Ebenezer Bassett, Ralph Bunche, Edward Dudley, Patricia Roberts Harris, and Mabel Murphy Smythe. Hosted in conjunction with the Thursday Luncheon Group, the Carl T. Rowen Chapter of Blacks in Government, Appalachian State University, and Mr. James T. L. Dandridge II of the Diplomacy Center Foundation; the panel delved beyond the "firsts" these diplomats represented and explored their lasting contributions to the Department of State and the practice of diplomacy. Dr. Michael Krenn, a professor of history at Appalachian State University, moderated the panel.

U.S. Diplomacy Center Director Mary Kane opened the event, thanking the participants and highlighting the importance of sharing stories from a diverse range of U.S. diplomats in order to convey a more inclusive and nuanced story of American diplomacy. State Department Bureau of Public Affairs Assistant Secretary Michelle Guida drew attention to the many modern-day trailblazers pioneers sitting in the room, including panel presenter Ambassador Ruth A. Davis, who served as the first African American Director of the Foreign Service Institute, the first female African American Director General of the Foreign Service, and the first and only African American female to be named Career Ambassador.

Foreign Service Officer Christopher Teal articulated his personal mission to share the story of Ebenezer Bassett, America's first presidentially appointed African American diplomat. After being posted to the Dominican Republic, Teal was surprised to discover that very little was known about Bassett. Teal also noted that April 2019 will mark the 150th anniversary of Bassett's appointment to Haiti. Teal has written a book about Ebenezer Bassett, Hero of Hispañola, and is also directing a documentary film on Bassett called A Diplomat of Consequence. Teal shared the story of Bassett, discussing his leadership, courage, and moral responsibility demonstrated managing a refugee crisis in Haiti, adding that these attributes can provide insight into how crises are managed today.

James T.L. Dandridge II, a Diplomacy Center Foundation board member, presented on Ralph Bunche's illustrious diplomatic career, identifying himself as a "Bunch junkie." Dandridge reminded the audience of Bunche's work with Eleanor Roosevelt in establishing the United Nations' Universal Declaration of Human Rights and of his work negotiating an end to the 1948-1949 Arab-Israeli War. For his efforts as chief mediator, Bunche became the first African American awarded the Nobel Peace Prize in 1950. Dandridge, having personally know Bunche, spoke of Bunch's youth and his grandmother who provided color and texture to Bunch's character, connecting it to what made him so deft at pushing for peace in the Middle East. While active internationally, Dandridge noted that Bunche was also very active and respected within the Civil Rights Movement in the United States.

Professor Michael Krenn shared the story of Ambassador Edward Dudley, the first African American Ambassador, appointed in 1949. Dudley served in Liberia from 1949-1953. Krenn talked about what Dudley identified as the "Negro Circuit" for African American diplomats, where African Americans were only sent to serve in Liberia, the Azores, Madagascar, Haiti, and/or the Canary Islands. While at the State Department, Dudley highlighted this trend and worked to successfully dismantle the circuit, creating expanded opportunities for African American diplomats. Dudley's time at the State Department was short lived. After serving as Ambassador, he went back to local New York politics and working with the NAACP.

Ambassador Ruth Davis covered the careers of Patricia Roberts Harris and Mabel Murphy Smythe, two trailblazing African American women diplomats. Davis noted how difficult it was to find information about their careers. Benefiting from Ambassador Dudley's dismantling of the "Negro Circuit," Harris was appointed Ambassador to Luxembourg by President Johnson from 1965-1969. During this time, Harris noted in a speech her thoughts about the importance for Americans to be involved in foreign policy. She talked about America being a unique people and nation, more tied to all nations than any other in the world. This is why, she indicated, Americans are more concerned about what happens in the world than any other nation. Like Dudley, Harris did not stay at the State Department long, leaving and going back to local Washington, D.C. politics and serving as Dean of the Howard University Law School. Smythe, on the other hand, as a Career Foreign Service Officer worked her way up to the Senior Foreign Service, serving as Ambassador to Cameroon, Equatorial Guinea, and then as Assistant Secretary to the African Affairs Bureau. Davis noted Smythe's interest in exchange programs. Smythe found exchange programs and building people-to-people relationships as one of the most important aspect of diplomacy, which pave the way for policy making to happen.

Upon conclusion of the panel, the audience enjoyed a reception to celebrate the work of all trailblazers past and present.

African American Trailblazers in Diplomacy

In recognition of African American History Month, the United States Diplomacy Center and the Thursday Luncheon Group hosted a special

African-American Ambassadors

As challenging as it is for anyone to become and serve as Ambassador for the United States, the hurdles are even greater for black Americans who must overcome domestic and international discrimination to achieve high-ranking positions. These Americans have served as representatives of the United States in over 40 Countries during the past 60 years. Despite their systemic disadvantage, many of these ambassadors have amassed some of the most impressive achievements in diplomatic history: Terence Todman served as ambassador to 6 different countries, making him one of the most decorated career ambassadors in U.S. history; Arlene Render was a pioneering voice during the Rwandan Genocide, advocating American aid to the war torn nation; and Edward Dudley, the first African-American U.S. ambassador, served in Liberia more than a decade before the passing of the Civil Rights Act. Read short summaries of African-American ambassadors below, and read their oral histories for in-depth documentation of their lives and careers.

Samuel Clifford Adams, Jr. served as ambassador to Niger from 1968-1969 and received the Distinguished Honor Award in 1972. Read his complete Oral history **HERE.**

Rudolph Aggrey Served as ambassador to Senegal and The Gambia in 1973-1977, and the ambassador to Romania in 1977-1981. Read his full oral history **HERE.**

Leslie M. Alexander served as ambassador to Mauritius from 1993-1996 and ambassador to Ecuador from 1996-1999. He then served as ambassador to Haiti from 1999-2000 before his retirement in 2000. Read his full oral history **HERE.**

Shirley Elisabeth Barnes served as ambassador to Madagascar from 1998-2001. Read her full oral history **HERE.**

Aurelia E. Brazeal was the first African-American woman to be appointed ambassador by three different presidential administrations. She served as ambassador to Micronesia from 1989-1992, ambassador to Kenya from 1993-1996 and ambassador to Ethiopia from 2002-2005. Read her full oral history **HERE.**

Theodore R. Britton, Jr. served as ambassador to Barbados and Grenada from 1974-1977. Read both of his oral histories HERE and HERE.

John A. Burroughs served as ambassador to Malawi from 1981-1984 and ambassador to Uganda from 1988-1991. Read his oral history HERE.

Walter Carrington served as ambassador to Senegal from 1980-1981. Read his full oral history HERE.

William Beverly Carter served as ambassador to Tanzania from 1972-1975 and ambassador to Liberia from 1976-1979. He then became the first African-American to be appointed a U.S. Ambassador-at-Large, a position he served in from 1979-1981. Read his full oral history HERE.

Will Mercer Cook served as ambassador to Niger from 1961-1964, and as ambassador to Senegal and the Gambia from 1965-1966. Cook was the first American Ambassador to Gambia. Read his full oral history HERE.

Horace G. Dawson served as ambassador to Botswana from 1979-1982. Read his full oral history HERE.

Edward R. Dudley, Jr. was the first African-American to serve as ambassador for the United States. First a civil rights activist, he served as ambassador to Liberia from 1949-1952. Read both of Dudley's oral histories HERE and HERE.

Harriet L. Elam-Thomas served as ambassador to Senegal from 2000-2002. Read her full oral history HERE.

Richard K. Fox served as ambassador to Trinidad and tobago form 1977-1979. Read his full oral history HERE.

Ulric Haynes, Jr. served as ambassador to Algeria from 1977-1981. Read his full oral history HERE.

Jerome K. Holloway served in Shanghai, China, from 1950-1957.

John M Jones served as ambassador to Guyana from 2008-2009. Read his full oral history HERE.

William B Jones served as ambassador to Haiti from 1977-1980. Read his oral history HERE **and** HERE.

Mosina H Jordan Served as ambassador to the Central African Republic from 1995 until the embassy's closure in 1977. She continues to serve with USAID. Read her full oral history **HERE.**

Kenton W Keith served as ambassador to Qatar from 1992-1995 and has been awarded two presidential service awards. Read his oral history **HERE.**

Wilbert J LeMelle served as ambassador to Kenya from 1977-1980. Read his full oral history **HERE.**

Arthur W Lewis served in war torn Ethiopia in the 1970s before being appointed ambassador to Sierra Leone in 1983. He served until 1986. Read his full oral history **HERE.**

Donald F McHenry served as U.S. ambassador to the United Nations from 1979-1981. Read his full oral history **HERE.**

Charles J Nelson served in Botswana as ambassador to Botswana, Lesotho and Swaziland from 1971-1974. Read the full oral history **HERE and HERE.**

Ronald D Palmer served as ambassador to Togo from 1976-1978, ambassador to Malaysia from 1981-1983, and ambassador to Mauritius from 1986-1989. Read his full oral history **HERE.**

Cynthia S Perry served as ambassador to Sierra Leone from 1986-1989 and ambassador to Burundi from 1989-1993. Read her full oral history **HERE.**

Charles A Ray served as ambassador to Cambodia from 2002-2005 and as diplomat in residence in Houston, Texas from 2005-2006. Read his full oral history **HERE.**

Arlene Render served as ambassador to the Gambia, Zambia and the Ivory Coast from 1990-1993. She was director of the Office of Central African Affairs during the Rwandan Genocide in 1994 and became a key player in encouraging American aid efforts. Read her full oral history **HERE.**

Joseph Segars served as ambassador to Cape Verde from 1993-1996. Read his full oral history **HERE.**

Mattie R Sharpless served as ambassador to the Central African Republic from 2001-2003. Read her full oral history **HERE.**

Elliot Percival Skinner served as ambassador to the republic of Upper Volta from 1966-1969. Read his full oral history HERE.

Mabel Murphy Smythe, at one point a wife to the ambassador to Syria Hugh Smythe, later became ambassador to Cameroon from 1977-1980 and ambassador to Equatorial Guinea from 1979-1980. Read both of her Oral histories HERE and HERE.

Leonard Spearman served as ambassador to Rwanda from 1988-1990 and ambassador to Lesotho from 1991-1993. Read his full oral history HERE.

George M Staples served as ambassador to Rwanda from 1998-2001 and as ambassador to Cameroon and Equatorial Guinea from 2001-2004. Read his full oral history HERE.

Terence A Todman served as ambassador to 6 different nations, making him one of the U.S.'s most prestigious career ambassadors. He served in Chad from 1969-1972, in Guinea from 1972-1974, in Costa rica from 1974-1977, in Spain from 1978-1983, in Denmark from 1983-1989, and in Argentina from 1989-1993. Read his full oral history HERE.

Howard K Walker served as ambassador to Togo from 1982-1984 and ambassador to Madagascar from 1989-1992. Read his full oral history HERE.

Johnny Young served as ambassador to Sierra Leone from 1989-1992, ambassador to Togo from 1994-1997, ambassador to Bahrain from 1997-2001, and ambassador to Slovenia from 2001-2004. Read his full oral history HERE.

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Does the Department of State reflect America's diversity?

The make-up of the 21st Century State Department mirrors the face of a changing America.

Asian-American and Pacific Islander Heritage

"In order to represent the United States to the world, the Department of State [https://diplomacy.state.gov/glossary/department-of-state-2] must have a

workforce that reflects the rich composition of its citizenry. The skills, knowledge, perspectives, ideas, and experiences of all of its employees contribute to the vitality and success of the global mission [https://diplomacy.state.gov/glossary/mission-2]" – Former Secretary of State John Kerry

As the demographic composition of the United States has changed over the last 50 years, the State Department has worked hard to keep pace. Former Secretaries of State Colin Powell and Condoleeza Rice, both of whom are African-American, and former Secretary of State Hillary Clinton, all made it a top priority that the State Department should reflect the diversity of the American people.

Embracing the diversity of the United States is far more than a matter of social justice; it allows for a wide range of ideas and perspectives to find creative solutions. The new, more diverse generation of American diplomats is culturally aware, adaptable, well-rounded, and agile. They are problem-solvers who can effectively reach out to people of other nations in pursuit of American interests.

So today, the image of U.S. diplomat [https://diplomacy.state.gov/glossary/diplomat-2] is no longer a white man in a pin-striped suit. America's diplomats are now as likely to be female as male and reflect the broad range of immigration that has created modern America. While most Foreign Service officers grew up

speaking English as they assimilated into schools and society, their parents may well have spoken Mandarin, Punjabi, Russian or something else. The diversity they represent in our embassies reflects their heritage and their American stories as well as the dynamic diversity of the United States and the Department of State [https://diplomacy.state.gov/glossary/department-of-state-2] .

The Department of State [https://diplomacy.state.gov/glossary/department-of-state-2] 's employees more closely reflect the ethnic mosaic of the United States than ever before and that will continue to change with the country. More than 25% of the Department's civil servants are African American, as are 5.4% of Foreign Service Generalists and 9 percent of Specialists. Asians now make up 6.3%of the Civil Service, 6.7% of Foreign Service Generalists and 6.4% of Specialists. Hispanics comprise more than 7% of Foreign Service Specialists and 5% of Foreign Service Generalists and civil servants.

Rakesh Kochhar, Ruth Gaviria, and Lucia Ballas-Traynor briefing at the New York Foreign Press Center on "The Growing U.S. Hispanic

To recruit the best and brightest from all backgrounds, geographic regions, academic

Population: Impact on the U.S. Economy and Business." (State Department Photo)

majors, and ethnic groups, the State Department participates in diversity fairs; it offers a graduate foreign affairs [https://diplomacy.state.gov/glossary/foreign-affairs-2] fellowship program aimed at women and minority students; and it partners with employee organizations such as the Asian Pacific American Foreign Affairs [https://diplomacy.state.gov/glossary/foreign-affairs-2] Council, Blacks In Government; Disability in Foreign Affairs [https://diplomacy.state.gov/glossary/foreign-affairs-2] Agencies, to name a few.

> " Our commitment to inclusion must be evident in the face we present to the world and in the decision-making processes that represent our diplomatic goals.
>
> — Secretary John Kerry

Additional Links

Asian-American and Pacific Islander Heritage Month 2015

Hispanic Heritage Month 2014

History, Heritage, and Pride Months

Women's History Month 2015

Black History Month 2015

Native American Heritage Month 2014

Lesbian, Gay, Bisexual, and Transgender Pride Month 2014

Secretary Kerry's Statement on Diversity