

On the Provenance of Diversity

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Peter Schuck's remarkably comprehensive and vigorously argued work is a major contribution to our ongoing national discourse on diversity. Its strength lies in the author's unusual command of the literature on the subject, one coming from a wide range of disciplines. To this he has brought the distinctive perspective of a legal scholar, that enlightening blend of formal logic, empiricism, and normative analysis that is sometimes the envy of those in the social sciences.

I find many of Schuck's arguments extremely agreeable, which rather complicates my task, since it is so much easier to write at length about a work with which one strongly disagrees. I especially like his engagement with the moral and normative issues raised by diversity, since it is precisely this domain of the problem that is most important, yet the one that tends to be slighted by social scientists yet to be disabused of their value-free pretensions. I am glad to have been assigned the task of commenting on the final chapter, since Schuck succinctly brings together his entire argument here and addresses broader issues that could easily have gotten lost in the detailed earlier chapters.

Diversity, Schuck rightly notes, is protean.¹ It refers to a range of issues and means somewhat different things to different people. And it has changed significantly since the 1960s, mainly, he argues, because of changes in immigration policies, the role and reach of the state, the emergence of identity movements, and the growth of tolerance in America. Schuck might have added the civil rights movement which, in my view, is the single most important factor accounting for the growing celebration of diversity.

His final chapter draws on earlier ones in his attempt to answer the most pressing question posed by diversity: How exactly do we manage it? The chapter reaffirms Schuck's basic position: He is generally in favor of ethnicity as a natural feature of American life, though skeptical of specific interpretations and practices.² However, he is highly critical of government's role in managing it. On the whole, he thinks this has been a failure and has created more problems than it has solved. Diversity should remain a cherished ideal and

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1. See PETER H. SCHUCK, *DIVERSITY IN AMERICA: KEEPING GOVERNMENT AT A SAFE DISTANCE* 309 (2003).

2. *Id.* at 310-19.

practice, he insists, but its promotion and management should be left entirely to the private sector, to the natural play of civil society.³

The lessons of the work are explored under three heads: the factual premises that ought to sustain any management of diversity; the normative principles that ought to guide any attempt to manage diversity; and what he calls private “punctilios”⁴ that we should take account of as we negotiate our way through the complexities of life in a very diverse society.

I am largely in agreement with Schuck’s punctilios—that ultimately the task of making real diversity work lies with private citizens rather than government, and that candor and thicker skins are badly needed in this effort.⁵ So I will concentrate on his discussion of basic premises and the principles that should guide policy.

To begin with our agreement, Schuck cogently argues that there is often a tradeoff in the pursuit of the diversity ideal, the most serious of which is the moral requirement to defend unpleasant minorities.⁶ At the extreme, this may entail the acceptance of groups that are themselves exclusive. Actually, I think Schuck could have made more of this problem. A fundamental weakness with the diversity ideology is the assumption that all groups are prepared to do unto others as they would wish done to them. The trouble, as I will argue at greater length below, is that most groups are into the business of celebrating themselves and are turned inward. Whatever ideologists defending the doctrine may say, it is usually the case that ethnic groups at best tolerate each other, at worst often harbor nasty stereotypes and prejudices about the others. This is true even of groups that ally with each other for political purposes, but are otherwise quite indifferent to each other. Beyond the political arena there is no love lost between blacks and Latinos.

Schuck argues that diversity in America is of enormous importance, and is increasing. However, he claims that although America is, and has been for some time, one of the most diverse societies in the world, the celebration of diversity “as an end in itself with independent social value” is new.⁷ Further, how we valorize diversity depends on the prevailing political theory. There are competing ideals in society that create problems in our indiscriminate celebration of diversity. Law, in particular, favors homogeneity over diversity and must sometimes promote diversity in some areas, and on some levels of social aggregation, in a manner that undermines diversity in others.

These are sensible arguments. However, several of Schuck’s claims are here open to question. The distinction between diversity as fact and as ideal,

3. *Id.* at 320-31.

4. *Id.* at 331-37.

5. *Id.*

6. *Id.* at 312-13.

7. *Id.* at 310.

while initially reasonable, actually obscures a more complex historical process. The truth of the matter is that any highly heterogeneous society with a free press and sophisticated tradition of public discourse will immediately generate questions about the value of diversity and what it should be. This has been the case in America, where moral issues were raised from the early nineteenth century about the wisdom and value of immigration and its consequences—at that time, the diversity of Europeans and Christian denominations.⁸ Three ideologies emerged in response to this reality: the idea that America is essentially an Anglo-Protestant civilization to which all newcomers should conform,⁹ the melting pot notion,¹⁰ and the ideology of ethnic pluralism.¹¹

The ideology of the melting pot, which is often held up as the antithesis of the social philosophy of diversity, turns out to be rather more complex in origin and meaning when more closely examined. The term was made popular by Israel Zangwill's extremely successful 1908 play of this title¹²—it had the enthusiastic personal endorsement of President Theodore Roosevelt¹³—but he was by no means the first to promote the idea, or even the term itself. Zangwill in all likelihood did not mean by this term what it came to stand for in the 1960s. He was himself a very activist Zionist Jew from Britain¹⁴ whose many humorous and engagingly ironic novels celebrated Jewish life in the ghettos.¹⁵ Zangwill seems to have had in mind something more like what we mean by diversity today and this would seem to be supported by a careful reading of the play.

The hero, David, a Russian Jewish immigrant, does end up marrying a gentile woman, Vera, but it is significant that she is neither a white Anglo-Saxon Protestant nor a native-born American. Vera, rather, is the daughter of an anti-Semitic Russian nobleman and military officer with the blood of Old World pogroms in his past. What is being suggested is that while America was “the [c]rucible that will melt you and your breed like wax in a blowpipe,”¹⁶ and while what was melted was the old hatreds and inequalities of Europe, sodden with blood,¹⁷ what emerges was left open—it could be the intermarriage of a

8. See MATTHEW FRYE JACOBSON, *WHITENESS OF A DIFFERENT COLOR* (1998).

9. See *id.* at 40-43.

10. See MICHAEL NOVAK, *THE RISE OF THE UNMELTABLE ETHNICS* (1995).

11. See WILL KYMLICKA, *MULTICULTURAL CITIZENSHIP* (1971).

12. See ISRAEL ZANGWILL, *THE MELTING-POT* (Macmillan new and rev. ed. 1921) (1909).

13. See MAURICE WOHLGELERNTER, *ISRAEL ZANGWILL 177* (1964).

14. See Hani A. Faris, *Israel Zangwill's Challenge to Zionism*, *J. PALESTINE STUD.*, Spring 1975, at 74.

15. See ISRAEL ZANGWILL, *CHILDREN OF THE GHETTO* (photo. reprint 1977) (London, William Heinemann 3d ed. 1893) [hereinafter ZANGWILL, *CHILDREN*]; ISRAEL ZANGWILL, *DREAMERS OF THE GHETTO* (London, William Heinemann 1898) [hereinafter ZANGWILL, *DREAMERS*]; ISRAEL ZANGWILL, *GHETTO COMEDIES* (1907) [hereinafter ZANGWILL, *COMEDIES*]; ISRAEL ZANGWILL, *GHETTO TRAGEDIES* (1908) [hereinafter ZANGWILL, *TRAGEDIES*].

16. ZANGWILL, *supra* note 12, at 88.

17. ZANGWILL, *CHILDREN*, *supra* note 15, at 180.

David and a Vera, but it could just as easily be the lively and humorously misinformed ethnic identities of the other characters: Kathleen, the very Irish maid, or Mendel Quixanos, David's thoroughly Jewish uncle. When, in one of the play's funniest passages, Kathleen complains that her employers are so fussy about their food that they would only eat bacon "killed *kosher*,"¹⁸ we find an early twentieth century echo of the ethnocentrism persisting in the midst of overt diversity.

Seven years after the successful run of Zangwill's play, a fully developed ideology and celebration of ethnic diversity was published by the Jewish American social philosopher Horace Kallen.¹⁹ The essay was to have a major impact on important Jewish leaders and intellectuals, including Louis Brandeis, and its influence was soon to spread to leading gentile scholars, including John Dewey. Kallen's views—strongly influenced by European romantic philosophy—are still the best intellectual support of ethnic diversity available, and one is hardly surprised to learn that they were revived and extended during the 1970s with the revival and open celebration of ethnicity in America.²⁰

That revival, itself a reaction to the turn in the civil rights movement toward ethnic identity politics, was the beginning of the contemporary movement that Schuck has analyzed. Thus it is not quite correct to claim that the ideal of diversity (or pluralism, to use the earlier term) as an end in itself is new. However, there are two new aspects of this century-old social ideal. One—and here we agree with Schuck—is the role of the state in its promotion. However enthusiastic Theodore Roosevelt may have been about Zangwill's play and its message—and it is certain that Roosevelt, no more than Zangwill, had ethno-somatic amalgamation in mind when he embraced the notion of the melting pot—it would never have occurred to him to get his government involved with its promotion.

The second new aspect of this old ideal deserves greater attention than that given by Schuck. It is the fact that the dominant Caucasian Protestant groups have, at last, come to accept it, by and large, however grudgingly in some quarters. America is no longer viewed as essentially a white Protestant society, a point emphasized rather than contradicted by Samuel Huntington's recent, sadly misinformed *cri de coeur* about the Hispanic threat to it.²¹ Almost all surveys and analyses of Americans and American culture confirm this. In its politics, its popular and elite cultures, its sporting life, and its workplaces, the taken-for-granted normalcy is of a varied population. Indeed, many areas of our

18. *Id.* at 6.

19. Horace Kallen, *Democracy Versus the Melting-Pot*, THE NATION, Feb. 18 & 25, 1915, reprinted in HORACE KALLEN, *CULTURE AND DEMOCRACY IN THE UNITED STATES* 67 (1924).

20. See ORLANDO PATTERSON, *ETHNIC CHAUVINISM: THE REACTIONARY IMPULSE* 147-85 (1977).

21. See SAMUEL P. HUNTINGTON, *WHO WE ARE: THE CHALLENGES TO AMERICA'S NATIONAL IDENTITY* (2004).

enormously important popular culture are dominated by minorities. The Breck girl is no longer the normal female face of America; most male actors would prefer not to look like the typical 1950s matinee idol; a black woman—Oprah Winfrey—is arguably the most powerful cultural icon in the nation; a black soldier, Colin Powell, was, until recent missteps, one of the nation's most respected leaders; an Afro-American creation, jazz, is now the nation's quintessential musical voice, not to mention the pervasive influence of blacks and Latinos on the nation's globally influential popular music.

This has been an astounding achievement, and to find a counterpart that anywhere approaches it one has to go back two-thousand years to the multicultural hotbed of Rome during the period of the late Republic and early Principate.²² A comparison with Brazil is instructive. This is a society with the largest population of people of African ancestry outside of Africa (assessed either in terms of the American or the Brazilian conception of "race").²³ While blacks have played a significant role in some areas of Brazilian popular culture and athletics—as they do here in the United States—they are shockingly absent from its political or corporate leadership and excluded from nearly all areas of elite life and culture.²⁴

How did America do it? It simply defies common sense and the plain facts of the last fifty years of our history to claim that government did not play a major role in this transformation. The primary force engendering this change was the civil rights movement and, at the risk of repeating the screamingly obvious, it must be remembered that this was a political movement aimed at gaining access to the levers of power in society. The political success of the civil rights movement made possible the many governmental initiatives that both created new policies of integration and, of equal importance, set the tone and supported the impulse toward a conception of America as a normally diverse society.

My strongest disagreement with Schuck concerns his most basic distinction: that between the private and public or governmental. It is an old distinction in American thought, one that has played an important, and not entirely enlightening role both in social analysis and political rhetoric. It first rose explicitly to prominence in the early nineteenth-century debate over the exclusion of women from the nation's political and public life: The

22. See Rob Atkinson, *Reviving the Roman Republic: Remembering the Good Old Cause*, 71 *FORDHAM L. REV.* 1187, 1204 (2003) (noting that ancient Rome "was not only a multi-national, but also a multicultural empire, willing, even eager, to extend its citizenship to loyal non-Latin elites under its dominion").

23. Cf. Elza Berquó, *Demography of Inequality—Some Considerations on Black People in Brazil*, 1 *BRAZILIAN J. POPULATION STUD.* 165 (1997-1998).

24. See Edward E. Telles, *Ethnic Boundaries and Political Mobilization Among African Brazilians: Comparisons with the U.S. Case*, in *RACIAL POLITICS IN CONTEMPORARY BRAZIL* 82-97 (Michael Hanchard ed., 1999).

public/governmental sphere was the domain of men; the private that of women.²⁵ The ideal to which women should strive was “Republican Motherhood,”²⁶ in which women played the important role of breeding and rearing the men who performed in the public realm, in the process becoming guardians of the nation’s morals. It was always clear to most progressive women that the distinction was a patriarchal trap even though it was to take a century and a half before they had the power to reject it outright with the simple political and analytic dictum that the private was the public.²⁷

The distinction operated in even more devastating ways with African Americans. Slavery, to Southerners sincerely fighting for their way of life, including their conception of freedom, belonged to the most intimate part of the private sphere—a man’s household and means of livelihood, the very foundation of his liberty (an outrageous idea today, but one that had the weight of Western history behind it, going all the way back to the ancient Greek slaveholder elite’s view of freedom).²⁸ The struggle that led up to the Civil War and the Thirteenth, Fourteenth, and Fifteenth Amendments of the Constitution may be rephrased as a struggle between a Northern abolitionist view of the inherently public nature of enslavement and the Southern view that it was a private matter protected from the intrusions of both the local and federal levels of government.²⁹

I would not go so far as to discard this distinction entirely, as some feminist theorists have suggested,³⁰ but it would have benefited Schuck’s analysis considerably if he had been more alert to the fact that what constitutes the public and the private is itself a political matter of vast importance for all

25. See LINDA K. KERBER, *WOMEN OF THE REPUBLIC: INTELLECT AND IDEOLOGY IN REVOLUTIONARY AMERICA* 229 (1980).

26. See NANCY F. COTT, *THE BONDS OF WOMANHOOD* (2d ed. 1997).

27. As Carole Pateman has noted, “The dichotomy between the private and the public is central to almost two centuries of feminist writing and political struggle; it is, ultimately, what the feminist movement is about.” Carole Pateman, *Feminist Critiques of the Public/Private Dichotomy*, in *PUBLIC AND PRIVATE IN SOCIAL LIFE* 281, 281 (S.I. Benn & G.F. Gaus eds., 1983). Early second-wave feminists (as well as other contemporaneous radical political movements) became increasingly explicit about the collapsing of this distinction. See Margaret A. Baldwin, *Public Women and the Feminist State*, 20 *HARV. WOMEN’S L.J.* 47, 63 & n.49 (1997) (“The foundational axiom ‘The personal is the political,’ originated among women active in the 1960s civil rights and anti-war movements or enmeshed in countercultural communities of the same period.”).

28. See Kurt A. Raaflaub, *Democracy, Oligarchy, and the Concept of the “Free Citizen” in Late Fifth-Century Athens*, 11 *POL. THEORY* 517, 531-34 (1983).

29. Akhil Reed Amar & Daniel Widawsky, *Child Abuse as Slavery: A Thirteenth Amendment Response to Deshaney*, 105 *HARV. L. REV.* 1359, 1368 (1992) (“To end slavery was thus to radically restructure this ‘private’ sphere, and to reorder not simply the political and economic system by the social fabric as well.”). Amar and Widawsky further note that the Thirteenth Amendment purposefully intruded into the private sphere by failing to articulate a state action requirement. *Id.*

30. See, e.g., CATHARINE A. MACKINNON, *Privacy v. Equality: Beyond Roe v. Wade*, in *FEMINISM UNMODIFIED* 93, 100 (1987) (noting that “[t]he private is the public for those for whom the personal is the political”).

groups in private life, but especially the most vulnerable.³¹ All modern governments since the nineteenth century—not simply since the 1960s, as Schuck suggests—have intruded in what was once defined as the private sphere: in schooling; in the provision of health care; in caring for the retired; in guaranteeing private savings against bank fraud and financial crashes; in defining what constitutes illegal and criminal behavior; in deciding who qualifies for vital home loans and, as such, who lives where; in subsidizing family farms and preserving a whole way of life which, if left to the private sphere and markets would have long disappeared; in dictating who can love and marry whom;³² in deciding whether cocaine is a suitable additive for soft drinks and whether the smoking of opium is an acceptable pastime for bourgeois women or whether both acts should be punished with long years of imprisonment.

Other than the proverbial nightwatchman state of nineteenth-century liberal mythology, all governments, by their actions, powerfully influence the norms, values, direction, and behavior of the private sector and civil society. The history of the diversity ideal in America has been no exception. Had Teddy Roosevelt followed up his private show of support for diversity expressed in his enthusiastic response to *The Melting Pot* and his private dinner with Booker T. Washington, had the “progressivism” of Woodrow Wilson tempered his racism,³³ there might have been no immigration law of 1923 which, by excluding Jews and southern Europeans, fundamentally altered the ethnic composition, and civil society, of America for the next sixty-two years. And, I might add, there might have been no proto-Nazi slaughter of thousands of blacks in the private sphere of many states dominated by the KKK.³⁴ Simply passing antidiscrimination laws is not enough. It should not be forgotten that what the Supreme Court handed the South in one of its most infamous decisions was not simply the right to have separate schools for whites and blacks, but separate and *equal* schools.³⁵ In every state of the union there were laws against lynching. The Fifteenth Amendment, ratified in 1868, also gave blacks the right to vote; they were only able to do so in most of the South a century later. Laws are not worth the paper they are printed on if the government does not affirmatively enforce them, and such enforcement only comes about when those who are affected use the political process to spur the government to action.

31. *See id.*

32. See the most aptly named Supreme Court decision of 1967, *Loving v. Virginia*, 388 U.S. 1 (1967).

33. See Henry Blumenthal, *Woodrow Wilson and the Race Question*, 48 J. NEGRO HIST. 1 (1963).

34. See ORLANDO PATTERSON, *RITUALS OF BLOOD: CONSEQUENCES OF SLAVERY IN TWO AMERICAN* 169-232 (1998).

35. *See Plessy v. Ferguson*, 163 U.S. 537, 544-45 (1896).

More in this vein, Schuck gives special weight to his claim that our valorization of diversity depends on its provenance, by which he means whether it emerges naturally or is promoted by the courts or government.³⁶ He seems to believe that people reject the latter, especially when it goes against their class identities and interests. Now, I have no doubt that a good deal of the rancor directed at court-ordered or administratively promoted diversity is due to perceived threats to class positions.³⁷ However, while I have my own problems with blind promotion of diversity,³⁸ this is not one of them. There are occasions when the promotion of diversity is required of the government, especially where diversity's absence is indicative of fundamental inequities. No one now denies that this was true of southern school segregation. What is not sufficiently understood by many, including Schuck, is that this type of situation persists today, especially in the egregious segregation of the nation's poor in ghettos.³⁹ The problem is that many poor and isolated groups live in social and informational network traps in which class and ethnicity reinforce each other. If one is born and bred in the ghetto, one's network of social ties are confined to the ghetto, as is one's information about the world.⁴⁰ This explains why many poor blacks use their housing vouchers to rent housing within their own depressed ghettos, even when they could get much better housing for the same money in white neighborhoods. Ironically, the problem here is that the disadvantaged groups are not even aware of the fact that their isolation is their problem and are rarely the ones calling for integration.⁴¹ Nor are their leaders, who find their concentration politically expedient, calling for integration.⁴² Left to the private sphere entirely, the ghettos could continue forever, since they are self-reinforcing sinks of socioeconomic impoverishment, gerrymandered political impotence, and educational failure. If the government is serious about its housing and poverty-reduction policies, it makes sense that it should actively engage in the task of getting people out of this trap. The fact that the government was implicated in the formation of these ghettos of entrapment in the first place and in the deliberate exclusion of blacks from the suburbs during their formative post-war development,⁴³ mean that the government is now

36. SCHUCK, *supra* note 1, at 318-20.

37. See Jack M. Balkin, *The Constitution of Status*, 106 YALE L.J. 2313, 2351-53 (1997) (discussing the centrality of status hierarchy to the discourse and debate surrounding affirmative action).

38. For an early critique, see PATTERSON, *supra* note 20, at 147-85.

39. See, e.g., GARY ORFIELD & CHUNGMEI LEE, *BROWN AT 50: KING'S DREAM OR PLESSY'S NIGHTMARE?* (2004), at <http://www.civilrightsproject.harvard.edu/research/reseg04/brown50.pdf> (last visited Nov. 15, 2004); DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID* (1993).

40. See MASSEY & DENTON, *supra* note 39, at 139-40 ("[C]oncentrated poverty, in removing poor blacks from job networks and limiting their exposure to people with stable histories of work and family formation, isolates them from the mainstream of American society.").

41. See *id.* at 153-60.

42. See *id.*

43. See *id.* at 17-59.

under a moral obligation to get people out of the trap by alerting them to the dangers of isolation and actively integrating them into neighborhoods with better housing and employment opportunities.

One may wonder why the government should attack poverty as a way of getting at the problem of isolation. Why not just clear the slums and pass laws that ensure that the working poor earn incomes that are not below their reservation wage? Answering this question brings me to another problem in the politics of diversity—and I am surprised that Schuck did not make more of it. It is the fact that not only are ethnicity and class inextricably tied, but that a situation has emerged where it is easier for the government and social reformers to use diversity as a justification for social action aimed at reducing economic inequality.⁴⁴ The reason is actually mentioned by Schuck but he does not follow through on it. He states, correctly, that although few Americans endorse racism, almost all of us endorse classism—the notion that one may properly choose to live with others of one's wealth or income level but has no moral claim to live in a community one cannot afford.⁴⁵ What is implied here is that there is moral leverage available in overtly striving to reduce ethnic/racial prejudice, but none in overtly trying to reduce inequality. This being the case, the goal of diversity is often a camouflage for tackling the nation's serious problems of inequality. Poor blacks and their advocates are fully aware of this: There is moral capital in being a victim of ethnic exclusion and in waving the banner of discrimination and diversity; there is none in being utterly impoverished and calling for economic justice. So blacks and Latinos make use of what moral capital they have; dirt-poor white Appalachians, having none, are simply left to rot. This is a truly pathetic situation for a great country to find itself in, but it is where our ferocious individualism and endemic classism—or its obverse, our rejection of all appeals for the reduction of our obscene levels of inequality as “class warfare”—have led us.

While I clearly disagree with Schuck on some of his more important criticisms of diversity, my most important criticism of the work comprises the problems of diversity, as currently practiced, that he has not addressed. Schuck focuses on diversity and diversity policies as a problem for America, especially the state's involvement in those policies. My main concern is with its consequences for disadvantaged minorities, especially African Americans.

First, I think African-American leaders made a fundamental strategic error in shifting the justification of affirmative action from the redressing of past wrongs against the group, and the institutionalized consequences of those

44. See Peter H. Schuck, *Affirmative Action Is Poor Public Policy*, CHRON. HIGHER EDUC., May 2, 2003, at B10 (“In truth, plans like Michigan’s are not really about diversity, but are instead crude efforts to remedy the continuing social disadvantages suffered by black people, with certain other favored groups thrown in.”).

45. SCHUCK, *supra* note 1, at 206-07, 213-14.

wrongs (such as massive ghettoization) to the promotion of diversity. This rationale is now part and parcel of the law of the land since it was the main argument of Sandra Day O'Connor in her recent support for affirmative action.⁴⁶ Since the dye has now been cast, arguing against the shift to the diversity rationale might be a waste of time. However, it has consequences outside of O'Connor's opinion for the Court, for the diversity rationale is a weak argument that creates problems for blacks who wish to offer moral justification for their position or ward off inevitable future legal assaults on it. The simple, stark truth of the matter is that three and a half centuries of enslavement and life under the proto-Nazi terror of the Jim Crow South was an unmitigated social, economic, educational, and psychological disaster for African Americans, both in terms of what it deprived them of materially and culturally and in terms of persisting internal and external consequences. Affirmative action and other programs specially aimed at redressing this monumental burden needed no further justification. Changing the justification to the promotion of diversity may have gained a few allies, but at great costs—white women, who all gained but mainly oppose affirmative action, and Latinos who by demographically overwhelming the potential pool of beneficiaries have made the program politically and morally unacceptable to non-Hispanic whites.

One gets a better idea of the potential losses to blacks when one examines what has happened to diversity in the private sector. The great majority of America's large firms have now embraced diversity as an ideal and company policy.⁴⁷ However, as my colleague Frank Dobbin as well as other social analysts have shown, there are many different versions of the diversity doctrine.⁴⁸ What Dobbin calls the "cornucopia of programs,"⁴⁹ now viewed under the heading of diversity in the private sector, is typically of three types: government oversight programs that are aimed at reducing discrimination and encouraging promotions to the managerial level; diversity training and evaluations aimed at reducing bias within firms and enhancing the work opportunities of minorities and women; and formal programs set up by the firms themselves aimed at improving managerial diversity independent of government with the rationale that such programs are good for business. What Dobbin and his colleagues found was that government oversight programs were

46. See *Grutter v. Bollinger*, 539 U.S. 306, 325, 327-33 (2003).

47. Elsewhere, I have argued that a time limit must be placed on affirmative action which eventually should be phased into a class-based program. In this way America might be gently persuaded into public policies that take class seriously. See ORLANDO PATTERSON, *THE ORDEAL OF INTEGRATION: PROGRESS AND RESENTMENT IN AMERICA'S "RACIAL" CRISIS* 147-170 (1998).

48. See Alexandra Kalev, Frank Dobbin, & Erin Kelly, *Two to Tango: Affirmative Action, Diversity Programs and Women and African-Americans in Management* (2004) (unpublished manuscript, on file with Yale Law & Policy Review).

49. *Id.* at 5.

the most effective in the promotion of black men to management positions, while diversity training and evaluations were generally a waste of time.⁵⁰ Formalized internal diversity programs are sometimes effective, although mainly when operating in conjunction with government oversight. Significantly, it is women who benefit most from these business programs; indeed the formalization of such programs within firms often leads to decreased managerial diversity, especially for black men. What's more, the argument that such programs are good for business often undermines government oversight which is felt to be no longer needed.

What is true of the private sector has been true of society and the economy at large. The focus has shifted from addressing the very special problems of African Americans to the promotion of a feel-good, but largely empty, goal of ethnic diversity. Other groups have cashed in on the moral capital of black Americans, many of whose persistent problems, especially ghettoization and urban poverty, have gone largely unattended.

The focus on diversity has had an even more devastating consequence for black Americans. Whatever defenders of diversity may say, as I mentioned earlier, in practice it really amounts to the celebration of ethnic identities and the promotion of ethnic pride. There was a period of time—somewhere between the sixties and late seventies—when such celebration was necessary for black Americans, one important way of healing the centuries of external exclusion and hatred and internal self-doubt and even self-contempt. It was also an important means of political mobilization. There was great success here. A large body of evidence from social psychologists indicates that African Americans now have a strong sense of their own worth as a people: Indeed, they are more ethnically self-assured than most other groups.⁵¹ The enormous success of blacks in the popular culture industry—both as creative artists and as entrepreneurs—can also be attributed in large part to this great self-healing.

However, this process was a double-edged sword, and the great danger facing African Americans today is the reinforcement of cultural predispositions and behavioral patterns that undermine success in society at large. The logic of diversity rhetoric dictates that the previous sentence condemns me as a reactionary beyond the pale. For what it is worth, my politics are, and always have been, very radical, including my insistence that government has a major role to play in redressing the problems of black Americans that have accumulated over the centuries. My defense of affirmative action, briefly discussed earlier, indicates what forces outside the African-American community must do to help.

50. See *id.* at 27.

51. See Judith R. Porter & Robert E. Washington, *Black Identity and Self-Esteem: A Review of Studies of Black Self-Concept, 1968-1978*, 5 ANN. REV. SOC. 53, 62, 68-70 (1979).

However, only African Americans can solve the internal problems that developed in their attempts to adapt over the centuries to the cruel environments of the past. Among these internal problems are dysfunctional families, extremely problematic gender relations, patterns of childrearing, and norms of behavior that, in conjunction with their impoverished environments, lead to unusual levels of violence among the lower classes when compared with other poor groups. In addition, the very forces that have led to the unusual flourishing of African-American popular culture and its outsized influence on American culture at large also undermine the acquisition of educational skills and attitudes that are essential for success in the broader society. Black identity, especially the identify formation of young black men, is now powerfully influenced by a commercially successful hedonistic popular culture that young white consumers can enjoy but walk away from when its time to get serious about their future but in which young black men are hopelessly ensnared.

My main problem with the politics and practice of diversity today is that they strongly reinforce every problematic aspect of this tragic paradox of black ethnic culture. Recently one of my African-American students decided to find the answer to a problem that had bothered her ever since she came to Harvard: Why was it that nearly all the black girls in her high school had gone on to college, including places such as Harvard and Yale, while nearly all the black boys had either dropped out of high school or failed to enter college? She wrote her honors thesis on the subject, returning to her high school where she interviewed the students, their teachers, and their parents. What she found was utterly distressing. No, it is not true that young black men think that doing well amounts to acting white: Girls who did well were not ostracized; indeed, they were admired. No, it was not true that these young people were unaware of the consequences of their educational failures: All of them were able to spell out in great detail what it means in modern America to drop out of high school or not to go on to college.⁵²

So why did they? The young men had a simple and utterly depressing answer. They all found the pull of popular black culture too compelling to give up or to curtail to the degree necessary to improve their studies. It was not just its allure to others—although they took great pride in that—but what it did for them: the enormous enhancement of their masculine self-esteem that came from their ethnic identification with the great athletic figures of the moment, the irresistible pull of rap and hip-hop, the fraternal pleasures of long afternoons and evenings rapping away with others in the hood, the material delights of shopping and wearing the proper brand of clothes, and the ever-present dream of one day making it big as an entertainer or athlete. For these

52. Erika Jungblut, *Competing Notions of Success: Exploring the Gender Gap in Black Academic Achievement* (2002) (unpublished A.B. thesis, Harvard University) (on file with author).

young men, these are real satisfactions and positive goods—endless gratifications of their adolescent male egos. It made no emotional sense to give it up for an investment in their studies which offered no comparable satisfaction, the high probability of failure, and an uncertain and very long-term economic return.⁵³

The rhetoric and practice of diversity strongly promotes this Dionysian tragedy at the heart of modern black society, especially in its effects on young black men. What's more, it prohibits any criticism of it. The people who celebrate it are the few from the masses who have beaten the extreme odds and earned the winner-take-all jackpot of high income and celebrity, as well as the middle-class beneficiaries of the changes brought about by the civil rights revolution. These academic race-men and race-women earn their living promoting and defending the undeniably great positive achievements of black popular culture while turning a blind eye to its internally problematic consequences.

In the final analysis, my argument with the practice of diversity in America, while overlapping in important respects with that of Schuck's, departs from it less in the criticisms I have offered and more in my emphasis on, and deep reservations about, the failure of diversity to realize what it parades as its main virtue—the mutual learning and sharing of each others subcultures—the hypocrisy of advocates in pretending otherwise. I am appalled, too, at the intolerance of advocates at the appraisal of its consequences, the confusion of group and individual diversity and fails to recognize how one is often achieved at the expense of the other. Diversity has come to be used as a substitute for the real task of reducing economic inequality. Above all else, the ways in which, the forces that have generated a great popular culture and enormous wealth and celebrity for a few, among African Americans, are the very ones that undermine educational performance and all chances of success in the brutally competitive, Apollonian domain of post-industrial America.

53. *See id.*

