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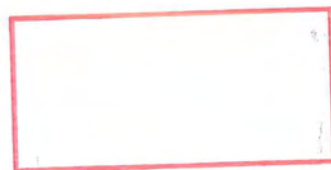


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The Epoch Journal

THE ISSUE

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EDITOR'S NOTE

LETTERS FROM departing editors tend to look back and look forward, and my letter will be no different. Looking back, I am incredibly proud of *The Epoch* and how it has evolved over the past six years. Looking forward, I am hopeful that the publication will continue to provide students with the opportunity to connect our education to the world beyond 60 College Ave.

Looking forward, I think it is important to say something about *The Epoch's* audience: the polity. Seniors tend to dominate most polity organizations simply by the fact that they have been here the longest; nevertheless, no senior can miss the gradual and notable changes that happen on campus. The character of the polity changes with each new class, which can be disconcerting to a senior with one foot out the door. That said, I think current seniors should be reassured when they see the changes taking place. Even though the vast majority of the campus responded critically to the hate speech law, no one can argue that the debate that ensued was not important and healthy for this campus. I have heard grumblings about the Pink Triangle's Sexual Awareness week advertisements, but these grumblings generally lead to a conversation about the very issues Pink Triangle wants the polity to address. There has been more discussion about campus issues in the last semester than my whole four years at St. John's, which testifies to the admirable efforts of students to expand and to enrich the conversations we have. I hope that these conversations eventually become written works for any of the campus publications.

One final look back: I am not exaggerating when I say that the magazine has never looked better, which is entirely due to the creative efforts of J. Keenan Trotter. The success of this year's magazine would have been impossible without him. I would also like to pick out Shikshya Adhikari and Andrew Donders, who have both worked to ensure that *The Epoch* can afford to publish. Finally, I would like to thank some non-seniors who have been writers, editors, designers, or all three: Ian Tuttle, Maca Pallares, Evgenia Olimpiewa, and Sasha Welm.

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MAILING ADDRESS *The Epoch Journal*
60 College Avenue
Annapolis, Maryland 21401

WEBSITE **EPOCHJOURNAL.ORG**

SANTORUM

On April 11, Rick Santorum, former Pennsylvania senator and chief contender to Mitt Romney for the Republican presidential nomination, suspended his campaign. Santorum, though second in the race for delegates prior to the summer's Republican National Convention, had fallen well behind Romney, whose political infrastructure and campaign war chest had enabled him to outspend Santorum in every primary contest. In his withdrawal speech Santorum observed, "This race was as improbable as any you will ever see for president."

Indeed. Santorum's remarkable ascent to prominence and his gracious withdrawal, clearing the way for Romney's nomination and the official start of the general election, assures him a future in Republican politics. Santorum's campaign also succeeded in rallying the conservative base around the social issues—traditional morality, religious freedom, the sanctity of life and marriage—that the Romney campaign has downplayed to emphasize the economy.

Romney cannot assume that he will automatically pick up Santorum voters. His general election campaign will require him to reassure conservative voters concerned about social issues that he will be their staunch defender in the White House. But, despite the long, difficult primary race, Santorum's participation may, in the end, help Romney greatly: it showed him what much of the country is seeking in their presidential candidate and that Santorum's candid approach to their issues remains a viable path in American politics.

IN THE NEWS

BY IAN TUTTLE

RON PAUL

As this goes to print, one Romney opponent remains in the GOP primary race: Texas Congressman Ron Paul.

Paul, who enjoys the faithful backing of a good number of uniquely young supporters, bears the standard of a libertarianism at odds with much of the Republican Party. However, if he is able to secure enough delegates before the convention, he can assure himself a prime speaking spot and, perhaps, a voice in shaping the platform.

Yet Paul's presidential chances are assuredly over—if they ever began in earnest—as are his days in Washington. The longtime congressman is not seeking reelection to his House seat.

BORDER WAR

The Supreme Court recently heard arguments about the controversial Arizona immigration law, signed nearly two years ago by Governor Jan Brewer, that would allow police officers to check a person's immigration status if they believe the person is in the country illegally. Lower courts blocked key provisions of the law, forcing the case to the Supreme Court. Several other states have passed similar laws that will depend on the Court's decision, which will be released this summer.

GRATITUDE

Aid politics in Nepal

By Shikshya Adhikari

THE RESIDENTS of Kathmandu, Nepal (of which I am one) regularly express concern over the economic and political degeneration of our country while watching news on our flat screen televisions or talking on cell phones as we drive to work. The number of vehicles on the streets or the haphazard increase of public transportation has become a measure of over-population. We are aware that the amenities we enjoy are by no means the industrial products of our country. (Nepal was formally categorized as a developing country, but recently as underdeveloped). Facilities—ranging from good roads, bridges, and traffic signs to automobiles, cell phones, and televisions—have been provided for us by the developed nations of the world. Thus, the average Nepali citizen is constantly aware of their dependency on foreign aid through these imported amenities, which directly influence their daily lives.

The government of Nepal does not have anything less to be grateful for. It has been receiving a good amount of aid in spite of being unable to rid itself

of a huge deficit. Whether in the form of loans or occasionally in the form of grants or gifts, the government receives money for new “development” projects quite regularly. The projects extend for a long period of time and we encounter failed projects more often than not. Nevertheless, foreign aid in the form of money keeps flowing into the country.

No wonder we have been witnessing debates in the international economic arena regarding the benefits of foreign aid. Despite the luxurious benefits enjoyed by the majority of upper- and middle- class families, in addition to the amount of money received by the government, Nepal's growth is stagnant; the rural communities are still struggling with a lack of infrastructure, infant and maternal mortality rates, low literacy levels and other such problems that directly hinder the progress of the country. Nepal imports the majority of the industrial goods from developed nations all over the world; however, the United States is one of its major money donors. The US has been providing a huge amount in foreign aid to third world countries all over

the world. Debates exist concerning the role of the United States in providing various countries with a significant sum of foreign aid, as well as the balance between the money supplied and benefits attained. The role of United States has especially been discussed because it is one of the largest aid donor to third world countries. “Since 1946, the United States has given over \$146 billion in humanitarian assistance to foreign countries. In 1985, the United States provided over \$10 billion in non-military aid abroad, ranging from free food to balance-of-payments support to project assistance and population planning programs. AID (International Aid) employs over 4500 employees to administer these programs...” [Cato Policy Analysis No. 65; Policy Analysis, The Continuing Failure of Foreign Aid by James Bovard].

Heaps of money with very little positive impact—this has been the major complaint of economic and political analysts. The altruistic intentions of the United States have been marred by some detrimental instances in developing and underdeveloped countries. James Bovard's article cited above mentions the confiscation of subsistence farmers' meager plots by the government of Indonesia for AID financed irrigation canals. Similarly, farmers in Mali were forced to sell their crops at giveaway prices for a joint project between AID and the Mali government. Free food provided by the US to countries like Egypt and Haiti resulted in a significant drop in prices of the crops sold by farmers of those countries.

ONE MIGHT raise the question—How can aid be provided, if not through the government? There are a variety of means, and foreign aid often takes the form of neither money nor trade, but help—the kind of help that makes the citizens of third world countries capable of investing in their own development and growth. I intend to bring our attention to the field of international development that has taken a major hold of the world, especially of

the relationship between developed and developing/underdeveloped nations. In Nepal itself, there are many international organizations, predominantly US organizations, taking steps towards improving Nepal's rural and urban communities. More organizations have been gearing their effort towards not just establishing and running development projects but interacting with communities to help them with their growth and sustainability. Countries like Nepal need more of these organizations, which help people attain social, cultural and environmental sustainability along with economic development. When the government is in turmoil, I, as a citizen of an un-

derdeveloped country, am extremely thankful for the effort of these organizations.

People have argued in favor of separating politics from development. Can it really be done? Some of the organizations have given people of rural areas training on ways to deal with the local governmental authorities. This kind of training indicates that no matter how much one wishes to separate these two aspects, they are not that separable. Every developmental act, be it the construction of a road or trade between one region of the country to another, requires proper knowledge of the government rules and regulations on a local and national level. How can

local government function for the benefits of a small community when the national government itself is incapable of moving along the path of stability and incorruptibility? I wonder whether international organizations can establish institutions that can work with the government of countries like Nepal until it stabilizes itself and becomes capable of running the new system on its own. What I am asking for is not continuous vigilance on and violation of a country's autonomy. We should work to establish an institution which will work closely with government officials for a short term to help a newly budding democracy support its citizens.

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The drug war's racial dimension

By Erin Shadowens

"A BIT OF common sense is overdue in public discussion about racial bias in the criminal justice system. The great debate over whether black men have been targeted by the criminal justice system or unfairly treated in the War on Drugs often overlooks the obvious. What is painfully obvious when one steps back from individual cases and specific policies is that the system of mass incarceration operates with stunning efficiency to sweep people of color off the streets, lock them in cages, and then release them into an inferior second-class status. Nowhere is this more true than in the War on Drugs" (100).

Michelle Alexander's book, "The New Jim Crow," does not waver from a firm resolve that the U.S. justice system is racist and works to reinforce an American caste system in the same way that Jim Crow laws sought to in post-reconstruction America. In her introduction, Alexander explains that the current debates about race often miss the way our institutions perpetuate racial divisions:

"What is completely missed in the

rare public debates today about the plight of African Americans is that a huge percentage of them are not free to move up at all. It is not just that they lack opportunity, attend poor schools, or are plagued by poverty. They are barred by law from doing so. And the major institutions with which they come into contact are designed to prevent their mobility" (13).

ALEXANDER begins with a historical overview from Jim Crow to the "War on Drugs." While the historical background is helpful to understand the parallelism between what Alexander calls past and present "caste" systems, the centerpiece of her argument is the War on Drugs. Alexander looks at how the War on Drugs transformed how police investigate drug cases. The birth of SWAT teams points to the militarization of the police, which often use paramilitary equipment acquired through the federal government (76). In addition to research that shows that "at least 780 cases of flawed paramilitary raids...reached the appellate level"

between 1989 and 2001 (raids that before the late 1980s were nonexistent), Alexander provides anecdotes that portray the human cost.

"On May 16, 2003, a dozen New York City police officers stormed [Alberta Spruill's] apartment building on a no-knock warrant, acting on a tip from a confidential informant who told them a convicted felon was selling drugs on the sixth floor. The informant had actually been in jail at the time he said he'd bought drugs in the apartment, and the target of the raid had been arrested four days before, but the officers didn't check and didn't even interview the building superintendent. The only resident in the building was Alberta, described by friends as a 'devout churchgoer.' Before entering, police deployed a flash-bang grenade, resulting in a blinding, deafening explosion. Alberta went into cardiac arrest and died two hours later. The death was ruled a homicide but no one was indicted" (74).

After Spruill's death, NYC hearings on SWAT practices found dozens of

FRANCE...

Socialist Francois Hollande won the French Presidential election and came in just ahead of incumbent Nicolas Sarkozy on May 6. Sarkozy's second-place finish marked the first time in half a century that an outgoing president has failed to win a first-round vote, making it very difficult for Sarkozy to pick up momentum before the second-round election. The surprise of the night, however, was the unexpected third-place finish of the Front National's Le Pen, a lawyer and twice-divorced mother who has become the face of France's far-right.

...TURNS LEFT

France's likely leftward shift will have important consequences for Europe's continuing financial crisis. German Chancellor Angela Merkel has encouraged austerity measures to sustain Europe's collapsing economy, but other European Union members have responded negatively, fearing the effects of drastically reduced spending. Sarkozy was an occasional, if reluctant, ally in Merkel's mission. Hollande will not be. He has proposed a European fiscal pact to promote continent-wide economic growth and a 75 percent tax on incomes over 1m.

BUFFET RULE

Speaking in Florida, President Obama, accompanied by billionaire investor Warren Buffett, proposed a new tax plan requiring individuals earning more than \$1 million a year to pay a higher tax rate. However, commentators have argued what the president has proposed as an alternative minimum tax is actually a disguised capital gains tax, which taxes wealth earned through investment. President Obama claimed that his proposed tax plan will reduce the deficit, while the nonpartisan Congressional Budget Office reports that the "Buffett Rule" will raise only \$3.2 billion a year—the amount the federal government borrows every 17 hours.

JOBS

CareerCast.com recently released its list of the "Best Jobs of 2012." The site ranked 200 jobs from best to worst based on physical demands, work environment, income, stress, and hiring outlook. At the top: Software engineer, actuary, human resources manager, dental hygienist, and financial planner. The worst job of the year? Lumberjack.

working-class victims who “had received no follow-up from the NYPD, even to fix busted doors or other physical damage” (75), though that does not account for the frequent reports of verbal and physical abused suffered during the raids.

FOR ALEXANDER, it is crucial that SWAT raids are not ostensibly linked to actual drug crime. The Military Cooperation with Law Enforcement Act, which encouraged the military to provide domestic police agencies with military intelligence and technology, created incentives for state and local police to prioritize drug law enforcement. Local law enforcement demonstrated its commitment to drug enforcement through drug arrests, namely by using SWAT teams to search public housing projects and instituting aggressive stop-and-frisk tactics. These methods were primarily directed towards low-income communities years before the “crack epidemic” was used as justification. Alexander cites a 2001 article from Wisconsin’s Capital Times, which reported that every arrest “would net a given city or county about \$153 in state and federal funding. Non-drug-related policing brought no federal dollars, even for violent crime. As a result, when Jackson County, Wisconsin, quadrupled its drug arrests between 1999 and 2000, the county’s federal subsidy quadrupled too” (77). Financial incentives were driving drug arrests, not drug crime.

ALEXANDER DOES not accuse policymakers alone for the explosion of drug arrests; in fact, the most troubling part of Alexander’s book is when she argues that fourth amendment protections and the adversarial process have broken down in the face

of the War on Drugs. Decisions such as Terry v. Ohio and Florida v. Bostick are emblematic of how federal courts have become more deferential to law enforcement prerogatives. Terry allows officers with “reasonable suspicion” to “stop and frisk” anyone on the street. Bostick goes even further by endorsing the warrantless searches of buses and mobile homes. As Alexander herself points out, effective drug enforcement requires such tactics, but “it is impossible for law enforcement to identify and arrest every drug criminal. Strategic choices must be made about whom to target and what tactics to employ” (101-102). Drug enforcement tactics provide a license for racial bias. Alexander points to a media that is saturated with images of black criminals, which she links with the aggressive media campaign in the 80s to highlight the crack-cocaine epidemic in black communities. A 1995 study by the Journal of Alcohol and Drug Education found that ninety-five percent of respondents described a typical drug user (and drug dealer) as black even though in 1995 only fifteen percent of drug users were black (and the number has not changed much in the last fifteen years). Alexander doubts that the results would have been different if the respondents were all police officers and prosecutors. Furthermore, most cases rarely go to trial; they can take more than a year and often the charges are trumped up to force the accused to plea bargain. If the accused cannot afford bail, they can be forced to sit in jail until their trial; a record does not necessarily indicate guilt, especially if there is never a trial to test the accusation. The state has the power of bail and a congested legal system as a bargaining chip, and it can be an incredibly powerful one against members of

low-income communities.

ALTHOUGH ALEXANDER is scathing when she considers the more peripheral matters of her book, such as education and urban planning, her tone assumes a religious fervor when she deals with the failings of the criminal justice system. While the tone is fitting, since Alexander hopes to convert some of her readers to activism in this field, it risks alienating readers who are sympathetic to her cause. Alexander occasionally dabbles in conspiracy theory, particularly when she speculates about the relationship between the Reagan administration and Nicaraguan drug cartels. While the speculation might not be unjustified, it certainly detracts from the strength of her arguments, which otherwise utilize extensive research. It is clear that Alexander’s primary aim is to argue that African Americans are the victims of the current system; she seeks to sterilize the arguments that try to blame the African American community for the War on Drugs and that try to justify the drug laws passed under Reagan and subsequent presidents. On these counts, it is clear that “The New Jim Crow” is a significant work; nevertheless, the moments where Alexander shifts towards speculation threaten to leave the book vulnerable to attacks that will obscure her central arguments. Alexander is most effective when she deals with facts, especially since her presentation is tightly tethered with well documented research. Even if one is not inclined to accept Alexander’s assertion that the American justice system, as a purportedly colorblind institution, is broken, anyone who is concerned about the explosion of mass incarceration will benefit from this book.

BUZZKILL

The declining welfare of bees

By Julia Berggren

THE CALL to “save the bees” is not a new call – we have heard it before. In 2006 the term “Colony Collapse Disorder” (CCD) was coined to describe the increasing disappearance of the honey bee. Even before 2006, however, beginning in the the early 70’s, much of Europe and the United States had been reporting significant losses in feral and beekeeper-maintained honey bee colonies. Many possible causes have been posited, from verroa mites (family Verroidea) and nosema, a fungal disease of the honey bee, to malnutrition and pesticides. Some researchers suggest that CCD may in fact be a conglomeration of many problems that have long been known to singly affect the honey bee.

There is one enemy that looms larger than others in recent studies. The lab of Dr. Vera Krischik at the University of Minnesota’s Department of Entomology is just one of the places where research is underway to discover the affects of a particular class of pesticides known as neonicotinoids. Since their introduction in 1990’s, neonicotinoids, a class of nicotine-based

systemic insecticides, have become some of most widely used pesticides. Although developed to be less harmful to humans and other mammals than other pesticides, it appears that in high doses these systemic insecticides are extremely lethal to insects.

In Dr. Krischik’s lab, where I spent the past summer as a Hodson intern, we designed and conducted research for the beginning of a two-year grant project on the effects of three of the primary neonicotinoids—imidacloprid, clothianidin, and thiamethoxan. The primary questions to be addressed over the course of the study continue to be: what are the effects of neonicotinoids on the learning ability, behavior, health, and memory of honey bees and bumble bees. The desired outcomes of this research are to gain a greater understanding of honey bees and bumble bees and their reactions to imidacloprid, clothianidin, and thiamethoxan, to provide information to beekeepers and growers concerning these effects, to develop lists of specific native nectar plants for natural resources management and, ultimately, to use the results

of the research, if applicable, to help change EPA labels and add cautionary information about pollinator risk.

Although Dr. Krischik and many others have not yet completed their current studies of the family of neonicotinoids and their effects on Colony Collapse Disorder, it is already very apparent that the pesticides have a decidedly negative effect on both honey bees, bumble bees, and many other insects. Many crops depend on bee pollination for a significant percentage of their harvest, with almonds and cauliflower, and most fruits and berries relying on bees for 90% or more of their annual production. With the decrease in bee populations over the past decade, agriculture around the United States and other places in the world has taken a severe hit. According to an annual survey taken by the USDA and AIA, beekeepers lost an average of 30% of their hives during 2010/2011, from all causes, including CCD. This number is similar to the 34% loss in 2009/2010, the 29% loss in 2008/2009 and the 36% loss in 2007/2008. With such significant losses in these precious pollinators, it is likely that the agricultural economy will suffer losses between eight to twelve billion dollars. Some even go so far as to predict that there may come a time when certain daily staples will be unavailable entirely, although it has not come to that yet. Needless to say, the fate of the bee is in danger, and with it the agricultural economy and so many of the products we enjoy each day. It is hoped that the results of studies such as those conducted by Dr. Krischik and others, will lead to a better awareness of the negative effect of neonicotinoids, and perhaps a response from crop owners, if not the EPA. Meanwhile, there are other researchers at work seeking to develop a more genetically resilient bee, who may be able to withstand the pesticides, if the pesticides continue to be so widely used.

OPPORTUNITY COST

A man against affirmative action

By J. Keenan Trotter

LAST SEPTEMBER, at a scholarly debate hosted by the University of Wisconsin in Madison, a videographer captured a curious exchange, between a middle-aged white man and a young black woman, who were heatedly debating the future of affirmative action.

As a lead-in to the video, which was soon posted on YouTube, the videographer included a question, posed by an off-screen male, to Roger Clegg, the President and General Counsel of the Center for Equal Opportunity, a conservative think tank headquartered in Falls Church, Virginia.

"How can you escape the notion that getting rid of affirmative action is anything other than white supremacy?" the male asked, occasioning a number of encouraging snaps and hollers.

Clegg, who is one of the nation's most vocal opponents of affirmative action, can be seen looking down at his lectern, as if defeated. The video then fades to his response: "I'm the person up here who is opposed to racial discrimination." At which a loud female can be heard laughing, as though Clegg had delivered a punchline.

The video then cuts to a black woman,

seen in profile, speaking into a microphone. "Earlier, you disrespected me by saying that you expect less of me," she begins. "I have been dealing with that all my life"—at which point Clegg begins to speak, in protest, over the woman.

At this moment the woman's voice, which is clear and measured, rises, almost breaks, as she extends an arm toward Clegg, her palm raised. Sensing the rising motion of the exchange, the crowd grows louder. A female voice says, "Let her speak! Let her speak!"

"I did not say that, I said—" starts Clegg, whom the crowd's noise immediately drowns out. Soon after, the woman, now visibly incensed, lifts her arm again, interrupts: "Listen to me. Listen to me. Respect me." Someone behind her places an arm on her shoulder.

"Well, your first—" Clegg begins again, but again he's interrupted; "This is my ten minutes," the woman says, her voice echoing throughout the meeting room. "Did I not just tell you to hush up?" Nervous laughter, contained by what seems to be the crowd's wariness to be seen as unreasonable, fills the room.

She continues: "Now, like I said, I've been dealing with his all of my life. I'm

the only black girl who graduated with honors at my high school. So I need you—you can expect less of me all that you like, but I'll let you know right now: me and all these other women and men in here of different diversities, we will do more.

"Now, my question is: as you said earlier, you, Clegg, and Professor Church, said that [...] diversity is going to increase, and European Americans are going to become the minority. That population's going to decrease. Don't you think that you're going to need affirmative action at some point in time, that you're going to be the minority soon?"

The room roars with approval, and the woman shrugs and walks away.

Hours before the exchange, which took place after a debate between Clegg and Larry Church, a law professor at the University of Wisconsin, hundreds of college students had marched up Monroe Street, in downtown Madison, toward Union South, the university building where the debate had been relocated, with short notice, from a small room at Madison's law school, after school officials learned that students



Roger Clegg

DRAWING BY SASHA WELM

were planning to protest the event.

"First of all," Clegg began his rebuttal, "let me correct you on the premise of your opening statement."

"Think about your children!" a student shouts.

"I did not say that I expected less of you."

"Yes you did! Yes you did!" a handful of students mutedly shout. "No, I did not," Clegg says, his tone somewhat frustrated.

"What I said was that a university that has double standards is implicitly saying that *it* expects less of you. OK?"

Later, he continued: "I would hope that when the day comes that I am in a racial minority, I would hope and expect that I would not ask for preferential treatment."

"I would ask to be judged according to my abilities and the content of my character."

Clegg's paraphrase of Martin Luther King's 1963 speech, delivered before the Lincoln Memorial at the March on Washington, draws something of a stunned reaction from the crowd. This includes the videographer, who in post-production superimposed, in white lettering, "*What???*" over Clegg's right shoulder. And then the video ends.

Despite the near-constant debate over affirmative action—which encompasses the various programs, particularly those in college admissions and employment, whereby racial minorities are given preference—Clegg's exchange with the young woman is remarkable for its rarity. How often do the heads of think tanks interact with those they completely disagree with? And how often are those individuals as young as the woman who confronted Clegg?

Yet for all of the dialogue's passion, shared, in different ways, by the woman, the crowd that cheered her on, and Clegg himself, the content was eerily similar to the bombs thrown between far larger movements. Though Clegg and the woman experienced an unusual friction, not least because the woman called upon her personal experience, the two individuals, like most of the nation, were speaking right past each other.

TO UNDERSTAND the conservative movement against affirmative action, you have to study Roger Clegg. A graduate of Rice University, in Houston, and Yale Law School, Clegg began his career under President Ronald Reagan, during whose administration Clegg served in the Department of Justice's civil-rights division. (He later moved, under George H.W. Bush, to the environment and natural resources division.)

In a few years, Clegg joined the Center for Equal Opportunity, which was founded, in 1995, by Linda Chavez, who now serves as the think tank's CEO. Chavez, who is also a commentator for FOX News, held several offices in Reagan's administration (including White House Director of Public Liaison) before her appointment to the United Nations Human Rights Commission, which she eventually withdrew from, in 1997.

The heart of the Center's prerogative can be found in a rhetorical question included in its mission statement:

When you think about it, what—besides protection from foreign enemies—is more important to our country's long-term health than making sure Americans are not divided into racial or ethnic enclaves, but instead share fundamental common values and see each other and themselves as, first and foremost, Americans?

The Center opposes "admission, hiring, and contracting policies that discriminate, sort, or prefer on the basis of race or ethnicity," "racial gerrymandering," and bilingual education, which, the statement argues,

segregates students by national origin, encourages identity politics, and fails to teach children English—the single most important skill they can learn and the most important social glue holding our country together

Though Clegg and the rest of CEO's staff give their energy and rebuke to gerrymandering politicians and Spanish-

speaking teachers, they reserve most of their might for affirmative action—in particular, those programs which influence which students are admitted to American colleges and universities. Given his experience under Reagan, and the recent attempts to dismantle affirmative action at a federal level, Clegg has become the conservative movement's leading voice of dissent in racial politics.

Clegg seems like an unlikely individual for conservatives to embrace as their voice against racial preferences. He is the graduate of two prestigious universities; he is also a white male who was born in pre-civil rights Texas, where, Clegg wrote for the *National Review* in 2001, he "grew up believing—and still believe—that Robert E. Lee was one of the finest men ever to draw breath, and whenever as a boy I fell asleep half-dreaming about the Civil War, always wore a gray uniform." As the fracas in Madison demonstrated, his ethnicity and upbringing, along with his education, seem to suggest that his arguments contain, perhaps hiddenly, the impure motives of an earlier era.

A closer inspection, however, yields almost the opposite impression. Though he frequently publishes in conservative manuals like *The National Review* (from whose contributor list the magazine's editor, Rich Lowry, recently fired two racists) Clegg's laser-like focus on race provides his writings a nuance that his conservative peers either lack completely or choose not to employ.

For example, in the same column he admitted to believing that the Confederate commander "was one of the finest men ever to draw breath," Clegg argued, over a referendum to remove the Confederate battle flag from Mississippi's state flag, that "flying the Confederate flag is like hitting your silly martinet of a grade-school teacher in the back of her head with a spitball. It is teasing someone when you know that the response will be wildly disproportionate—which is, of course, a big part of the fun."

Clegg's mix of empathy and honesty, leavened by his insight into the Southern subconscious, feels fresh for the bipartisan notes he strikes:

OBAMACARE

The Supreme Court heard five-and-a-half hours of argument over ObamaCare (officially, "The Patient Protection and Affordable Care Act") in late March in one of the most important cases to reach the high court in recent years. Jeffrey Toobin, CNN's legal expert, called the arguments a "train wreck" for U.S. Solicitor General David Verrilli, tasked with defending the law before the nine justices. Because of the leanings of the Court, the decision likely resides with Justice Anthony Kennedy, who has earned a reputation as the crucial swing vote in several 5-4 decisions.

Legal analysts say Kennedy seemed unconvinced by Verrilli's argument, aggressively questioning whether there would be any restraint on the federal government's power to issue consumer mandates should the individual mandate requiring all Americans to purchase health insurance—the chief controversy in the ObamaCare debate—be upheld. Moreover, Kennedy and Justice Antonin Scalia both expressed deep misgivings over the law's severability, by which parts of the law could be upheld and others struck down. Because the ObamaCare bill was not passed by typical congressional procedure, no severability clause was added. The Supreme Court's decision will be released this summer.

Shortly after the Supreme Court hearings, President Obama warned that the Supreme Court would be engaging in an "unprecedented" act were it to strike down the law, prompting a three-judge panel on the Fifth Circuit Court of Appeals to require Attorney General Eric Holder to explain whether the Obama Administration actually believes the Supreme Court to have the power of judicial review.

COLSON

Charles "Chuck" Colson died on April 21. Colson was a close advisor to President Richard Nixon—commonly considered Nixon's "hatchet man"—White House special counsel, and a notorious figure in the Watergate scandal. Shortly after his departure from the White House, as news of Watergate broke, Colson began to attend a Bible study. Recognizing that his legal defense was inconsistent with his new Christian beliefs, he pled guilty in 1974 to obstruction of justice and served seven months in prison. When he emerged he became one of America's foremost voices for the forgotten, beginning Prison Fellowship, a nationwide Bible study for prisoners; the Angel Tree program; and an acclaimed weekly radio broadcast. His efforts transformed the United States, bringing attention and the hope of redemption to the condemned.

GEORGE W.

In a contest run by the United Kingdom's National Army Museum, George Washington was selected the most outstanding military opponent ever to face our transatlantic cousins. Stephen Brumwell, a British author and specialist on 18th-century North America, noted that it was not just Washington's military and administrative genius that defined him, but, "as British officers conceded, he was a worthy opponent." Behind Washington: Irish leader Michael Collins, French emperor Napoleon Bonaparte, Nazi commander Erwin Rommel, and Mustafa Kemal Atatürk.

Perhaps the South was right in its argument about states' rights, perhaps the Yankees were money-grubbing and brutal, and surely one can be proud of the gallantry with which Southerners fought. But we have to move on, there's no point in dwelling on past grievances, and certainly one should be an American first and a Son or Daughter of the Confederacy only second.

The crux of Clegg's argument, here and elsewhere, is the claim that past injustices are unhealthy, even dangerous, to dwell on. "Yes," Clegg has said, "slavery was wrong, but that is history now, and we must move forward as one nation, not try to go our separate, balkanized, grievance-group ways."

At the heart of the debate over affirmative action is the question of whether Clegg is right: whether attempting to alleviate the contemporary consequences of past wrongs—especially slavery—pulls us backward, rather than pushing us forward.

WHAT IS affirmative action for? To ask this is to enter a long-running disagreement over the legal and moral aspects of racial preference. There is, thankfully, a fairly calm historical agreement on what, exactly, AA policies are, or *were*, intended to accomplish. Affirmative action's original author was Lyndon B. Johnson, who in 1965 gave the commencement address at the historically black Howard University, in Washington, D.C., during which he laid out what he saw as the new struggle of the civil rights movement:

This is the next and the more profound stage of the battle for civil rights. We seek not just freedom but opportunity. We seek not just legal equity but human ability, not just equality as a right and a theory but equality as a fact and equality as a result.

For the task is to give 20 million Negroes the same chance as every other American to learn and grow,

to work and share in society, to develop their abilities—physical, mental and spiritual, and to pursue their individual happiness.

To this end equal opportunity is essential, but not enough, not enough. Men and women of all races are born with the same range of abilities. But ability is not just the product of birth. Ability is stretched or stunted by the family that you live with, and the neighborhood you live in—by the school you go to and the poverty or the richness of your surroundings. It is the product of a hundred unseen forces playing upon the little infant, the child, and finally the man.

In his assessment of America's lack of opportunity for black Americans, Johnson was indisputably correct. What Johnson omits—*why* black Americans lacked opportunity—was, in 1965, rather obvious, in part because the reason was so unique. The systemic disadvantage of blacks in almost every sector of American life, then and now, possesses a history and is of a scale without peer. The enslavement of Africans, who were auctioned off to immigrants of Western Europe in order to service America's booming agricultural economy, is where this history begins. While amassing fortunes in tandem with the new nation's rapid, slave-driven development, slave-owners issued theories of white supremacy, under which they forced their human property into a permanent underclass. Following slavery's abolition, black Americans underwent nearly a century of segregation, during which time the country's ruling class regarded them, in policy and culture, as a lesser form of human being.

The racial policies of the Jim Crow era, so named after a famous minstrel show which featured a whiteman wearing blackface, ranged from humiliating to devastating. These procedures were often so subtly implemented that their worst effects—near-total impoverishment being the most visible—seemed to come from nowhere. The Columbia professor Ira Katznelson, in his 2005 book *When Affirmative Action Was White*,

provides ample evidence that, under Jim Crow, nearly every significant piece of progressive legislation was written in such a way that it excluded black Americans from benefitting, without exactly saying so. The reason that the Fair Labor Standards Act of 1938 excluded farm workers, Katznelson argues, is that farm workers were overwhelming black.

ONE ANALOGY both affirmative action proponents (like the American Civil Liberties Union, the civil-rights exponent) and Clegg himself have drawn from is that of sport, where issues of fairness are most legible. Here is how Clegg phrases it:

Suppose that there were a game between two football teams, and during the first half one of the teams enjoyed all kinds of unfair advantages—its players were allowed to cheat in various ways, the referees made all kinds of unfair calls, and so forth. As a result, the first team ran up a big lead. Then, after half-time, it was announced that from now on there would be no more cheating and bias—but the score was left unchanged and the opposing team was given no offsetting advantages.

Clegg calls such a thought experiment, in which systemic unfairness results from a certain group's propensity to cheat, as flawed. This thinking, Clegg wrote for the National Association of Scholars, a conservative outfit, "reflects the Left's insistence that economics and race relations are zero-sum games. But whites and blacks are not in competition with one another, and the glory of capitalism is that everyone can grow richer."

Is this true? For centuries, it seems clear, precisely the opposite was the case. Indeed, in the years between the country's birth pangs in Jamestown and the momentous achievements of the civil-rights movement, whites leveraged their own capital to enslave and disenfranchise blacks. This is, more or less, how capitalism functions; if wealth is merely another form of power—in

Clegg's example, self-determination—then consolidating wealth into a specific race or class grants that race or class the ability to control others.

But the aforementioned idea, that capitalism somehow enables racial progress, is not a new one. Speaking at the Atlanta Cotton States and International Exposition, in 1895, Booker T. Washington implored freed slaves to "cast down your bucket where you are"—by which he meant, his autobiography explained, "that political agitation alone would not save the Negro, that back of politics he must have industry, thrift, intelligence and property." Washington's speech prefigured what was soon called the Atlanta compromise, an informal agreement between white politicians and black leaders, whereby blacks agreed to second-class status, in politics and society, in exchange for vocational education paid for by whites.

Washington's endeavor is especially relevant because of its most prominent critic, the activist W.E.B. DuBois, who was vocal, even vociferous, in his disagreement.

DuBois is a conflicted character not only in modern politics, but in the contemporary academy, for he counterpoises Washington's desire for economic enfranchisement with what is, in essence, culture assimilation. DuBois inveighed against Washington's belief that blacks ought to surrender their ambition to study the liberal arts (in order to focus on practicable skills, like woodworking and carpentry), arguing instead that intellectual development, not economic gain, would accelerate the betterment of blacks.

The prolonged furor over affirmative action demonstrates the degree to which this debate, and the question of DuBois's legacy within it, remains tensely unresolved. Writing for the *Georgetown Journal of Law and Public Policy*, in 2004, Clegg suggests that DuBois would have criticized affirmative action, "because [DuBois] yearned for 'a morning when men ask of the workman, not 'Is he white?' but 'Can he work?' When men ask artists, not 'Are they black?' but 'Do they know?'"

"DuBois," Clegg writes, "identified

[that] prejudice limits what blacks can achieve, but black underachievement also reinforces white prejudice."

He gives DuBois what appears to be the final argument on racial preference:

Let us give the last word to Du Bois: "I insist that the question of the future is how best to keep these millions [of African Americans] from brooding over the wrongs of the past and the difficulties of the present, so that all their energies may be bent toward a cheerful striving and co-operation with their white neighbors toward a larger, juster, and fuller future."

DuBois is model, yes, of Clegg's desire to see all races forgive each other for past wrongdoing. But DuBois asks how *best* to achieve such interracial amity. And in his disagreement with Washington he cannot be more clear. In his book *The Souls of Black Folk*, DuBois derides the whole of Washington's proposition, the content of which, as explained by the former, is strikingly familiar. Washington based his compromise on the notion that the South's treatment of blacks is somehow valid; the argument that "Negro failure" arises from a lack of vocational instruction; and, in DuBois's words, the argument "that [a black man's] future rise depends primarily on his own efforts."

These represent the essence of Washington's *apologia* quite fairly. The last, in particular, hews closely to Clegg's assertion that races do not compete with each other, and that capitalism enables each individual, of every race, to flourish. "Each of these propositions," DuBois writes, "is a dangerous half-truth":

While it is a great truth that the Negro must strive and strive mightily to help himself, it is equally true that unless his striving be not simply seconded, but rather aroused and encouraged, by the initiative or the richer and wiser environment group, he cannot hope for great success.

The Washington doctrine, DuBois ex-

plains, allows whites, Northern and Southern, to "shift the burden of the Negro problem to the Negro's shoulders and stand aside as critical and rather pessimistic spectators." He continues: "The hands of none of us are clean if we bend not our energies to righting these great wrongs."

WERE THOSE in favor of affirmative action—liberal Democrats, with few exceptions—to agree on a party line for racial preference, DuBois would easily provide a rhetorical muscle. But would he furnish a legal defense? Proponents of affirmative action, like the Madison student who sparred with Clegg, tend to speak with unselfconscious passion, which can, with an uncomfortable ease, shade into demagoguery. As Clegg has attested, there exists a remarkable unwillingness, on both sides of the debate, to talk about the legal dimensions of affirmative action. In an article published a few weeks after his appearance in Madison—the same article in which he discusses the football analogy—Clegg casts a harsh light on two curious contradictions that occupy the liberal case for affirmative action. "I have to point out," he wrote,

...no one really takes seriously the claim that, for example, the "educational benefits" of "diversity" justify racial discrimination in college admissions; and [that] the Supreme Court has rejected ... America's general history of past discrimination ... for [justification of] racial preferences. So, whatever its undoubted visceral appeal, the analogy is a nonstarter, legally.

This is an astute observation, and is easily exemplified. In their current position paper, first published in 2000, the American Civil Liberties Union—a non-partisan though energetic champion of racial preference—calls affirmative action "one of the most effective tools for redressing the injustices caused by our nation's historic discrimination against people of color and women, and for leveling what has long been an uneven playing field."

Arguments on behalf of diversity, or cultural inclusiveness, meanwhile, are absent from the paper. The tension Clegg emphasizes here, between the rhetoric with which racial preferences and justified and the legal mechanisms that enable them, arose from *Grutter vs. Bollinger*, a 2003 Supreme Court case over the race-conscious admissions policies at the University of Michigan Law School. In a 5-4 decision, the Court upheld the permissibility of racial preferences. The decision's swing vote clearly belonged Justice Sandra Day O'Connor, who wrote the court's majority opinion, which concluded, "We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today."

That interest was not the redress of past discrimination, however. Rather, as O'Connor wrote, "the [Court holds] that the Law School has a compelling interest in attaining a diverse student body."

Here is where the contradiction comes to the fore. Compared to righting past injustices, a school's desire for a diverse student body is a profoundly different, and much weaker, defense. Only the latter, according to the Court's opinion, can justify racial preferences. But the practice of affirmative action, affirmed by the court's ruling, remained exactly the same.

"I am glad she is no longer on the Supreme Court," Clegg told *The Chronicle of Higher Education*, when O'Connor, in an essay she wrote after retiring from the Court, that "25 years" did not constitute an actual deadline.

Hence the issue's strange conversation, in which the ACLU exalts an unlawful justification for racial preference (while ignoring the lawful one) and Roger Clegg spends energy castigating a form of affirmative which no longer exists.

IS THERE a way forward? Are we looking, several decades down the line, at the end of affirmative action, as O'Connor suggested, or something else?

It's not so clear. "The argument," the ACLU paper states, "that affirmative action is 'unfair' suggests that without such programs, everyone, including

women and people of color, would be treated equally." But:

Not even the most optimistic – or misguided—observer of our nation's history or contemporary society could make that claim in good faith.

This seems right. It's difficult to believe that, behind Justice John Roberts' quotable assertion that "the way to stop discrimination on the basis of race is to stop discriminating on the basis of race," there stands a noble conservative desire to lock hands with the victims of historical discrimination.

In the same breath that conservatives mock liberal sensitivity to race, they ignore the reasons to be, indeed, sensitive to race. Here again DuBois (who, Clegg laments, "succumbed" to Marxism in his elderly years) is illuminating for his skepticism of Washington's plan to compromise. That compromise was, in essence, a promise to relinquish state recognition of black personhood in order to enter, and profit from, America's flourishing economy. But this country's economy, as Ira Katznelson points out, has been rigged against blacks, often in secret, for centuries.

This remains, in part, a feature of capitalism, which allows individuals, under the auspice of freedom, to transmit their wealth (with much of its attendant status and opportunity) to their descendants. If, as Clegg and other strenuously argue, the descendants of slave-owners are not responsible for the condition of the descendants of slaves, then they cannot *also* be entitled to the ancestral wealth accumulated either with the labor of slaves, or in an economy which privileged the white, the wealthy, and the free—an economy, it seems obvious, still in place today. If wealth and status transmit, so do a *lack* of wealth and status. No one would call this unconstitutional, perhaps. Who, however, would call it fair?

The unanswerable question remains this: does an equality of opportunity, does economic enfranchisement, precede, or succeed, progressive racial policy? No one today, after all, would have called LBJ's executive order "regressive."

Indeed, even Clegg, in a *Washington Times* essay, admitted that he "respected" the idea that an inequality as radical as America's required a policy as radical as affirmative action. But, Clegg wrote, "I respectfully suggest that times have changed."

Times have, indeed, changed. Affirmative action is widely credited with creating the black middle class. It occasioned, by his own admission, the admirable rise of Barack Obama, the nation's first President of color. It ushered minorities into industries previously dominated by wealthy white men. Is the question about when, exactly, we will be satisfied by racial progress? Are we hoping for some ultimate statistic in addition to Obama and other symbols of achievement? Perhaps. And, maybe, we will never get as far as we'd like, at least in our lifetimes, in our effort to undo the devastation wrought by America's most famous industry.

THE KNOTTIEST question, however, belongs to the prosecution. Their two most effective arguments—that the progress achieved by racial preferences is sufficient, and that racial preferences are ineffective—are quite visibly, and intuitively, opposed to one another. Nearly any statistic about the welfare of minorities in America can be interpreted as a sign of affirmative action's expiration, or its impotence. The prosecution's concern is thus the same as the defense's: how to realize a nation's belief in equality, which is not only our nation's most central value, but its first. Roger Clegg and his cohort have taken an honorable mantle—ending racial discrimination—for which they should be encouraged and recognized. It will be their task, in the court of law and elsewhere, to demonstrate that saying we are equal, both in our most precious documents and in our daily life, really does mean that we are.

*An expanded version of this article
will be published online, at
www.epochjournal.org*

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An aerial photograph of a city, likely New York City, showing a dense grid of streets and buildings. The image is heavily stylized with a dark blue and purple color palette. A large, bold, black word is superimposed across the center, with the letters 'R', 'A', 'C', and 'E' visible. The word is partially cut off on the left side. The background image is a high-contrast, low-key aerial view of a city, with the grid pattern of the streets being a prominent feature. The overall aesthetic is modern and graphic.

RACE