EXPANDING
EQUAL OPPORTUNITY and RACIAL JUSTICE

Recent Affirmative Action Battles and the Implications for America’s Promise

2010

HIGHLIGHTS FROM INTERVIEWS WITH LEADERS AROUND THE COUNTRY
I. A RIPPLE OF MOMENTUM

Affirmative action is the most widely recognized “racial justice policy” in this country. While affirmative action encompasses both race and gender, views on race lie at the core of opposition to it. Like it or not, the struggle over affirmative action offers insight into how people in this country think and talk about racism.

Winning some defensive battles in 2008 has taught us a few lessons in how to engage when the deck is stacked against us. More importantly, reflecting on recent affirmative action struggles can help us think about what policies for achieving racial equity in this country should be, not just what they are. We also have the opportunity to think about who needs to be shaping and advancing those policies. Finally, recent affirmative action struggles suggest how we might begin to shift the way racism is thought about and talked about in the U.S. Because transforming U.S. attitudes on race is a crucial step in ending all discrimination based on race, gender and sexuality, it is a central task for those supporting affirmative action policy as a tool for social equity.

Recent work on affirmative action has been, by definition, defensive. This work has taken place at a time when simply asserting the existence of racial discrimination is considered controversial, much less proposing government solutions to address it. Against this challenging backdrop, the latest wave of attacks on state affirmative action laws was halted. For the first time in many years, a ripple of momentum began around the possibility of not only protecting affirmative action, but also of expanding public support and policies that address race and gender inequities.
WHAT HAPPENED IN 2008?

A summary from the Kirwan Institute for the Study of Race and Ethnicity

“...One of the major, nationwide campaigns to end equal opportunity programs is led by Ward Connerly and his conservative backers. Connerly has introduced ballot initiatives in several states that aim to amend the state constitution to eliminate affirmative action. Connerly began in California, where the initiative passed in 1996, and went on to promote initiatives in Washington and Michigan that were also approved by voters.

In 2008, Connerly and his supporters targeted five states: Arizona, Colorado, Missouri, Nebraska, and Oklahoma. Many national advocacy organizations, including the Kirwan Institute, provided support to state organizations that headed campaigns to oppose these initiatives. In Missouri, Connerly’s supporters failed to collect the required number of signatures to place the initiative on the ballot, and in Oklahoma Connerly’s group withdrew their initiative after the ACLU and NAACP filed a legal challenge to their signature count. In Arizona, the Secretary of State disqualified the initiative in late August 2008. Thus, in three of the five states targeted, the initiative failed to even make it onto the ballot. In Colorado and Nebraska, the initiative did make it to Election Day. In Colorado the initiative was defeated for the first time, in a meaningful victory for affirmative action advocates, but in Nebraska the initiative was approved.”

Movement Strategy Center offers this report at this key moment, in response to a core question posed to us: “How can protection of affirmative action contribute to greater public understanding of and commitment for equal opportunity and racial justice?” Drawing from interviews with more than 20 individuals around the country involved with recent affirmative action work, as well as existing written documents, MSC has explored this question in three dimensions:

1. **Where Affirmative Action Work Is:** What are the lessons learned from 2008 about how affirmative action can be protected and how that can contribute to greater public understanding of and commitment for equal opportunity and racial justice? What does the equal opportunity infrastructure look like now?

2. **Where the Work Can Go:** Given the lessons and the infrastructure where should it grow to be most effective?

3. **How the Work Can Get There:** How can this community move to its next stage of growth and development and who are the organizations that can help it do that?

Reflecting what we have heard and read from those directly involved in affirmative action, MSC believes that organizations and individuals involved in affirmative action have an opportunity to begin developing strategy for expanding equal opportunity and racial justice. Approaching the protection of affirmative action in this larger strategic context can help lead this work into the future.

Ultimately, the attack on affirmative action has sought to reverse the hard fought gains of the movements for civil right, human rights, and gender equality. The time has come to build the kinds of social movements that can once again swing the pendulum back in the direction of justice and equality.

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1 From the Kirwan Institute website (http://kirwaninstitute.org/research/projects/affirmative-action/connerly-initiatives/index.php)

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2 A list of people interviewed appears in the appendix. The interview guide sought to gather information on two core themes: What do we want to think about to deepen and expand our thinking about future strategy and tactics? How can we use a proactive model to guide future thinking and lead back to answers to the original questions?
II. WHO WORKED ON AFFIRMATIVE ACTION IN 2008?

Recent work on affirmative action represents an intersection

Recent state work on affirmative action represents an intersection, a coming together of different sectors. This intersection of organizations and leaders wants to see concrete outcomes defined for creating opportunity for all groups regardless of race or gender, policies and programs based on achieving those outcomes, and tools for monitoring and ensuring progress toward those outcomes.

Organizations and people came to this intersection from a range of histories and perspectives (civil rights, racial justice, higher education, local / state / regional social justice, small business advocates, etc.), all of which have contributed to our present understanding of affirmative action.
Were you misled?

I was lied to. My signature.

I want my signature back.
III. WHAT CONTRIBUTED TO SUCCESS IN 2008?

The collective experiences in 2008 show that three factors contributed both to short-term success and to longer-term proactive strategy development.

A National Groundswell For Change

Obama’s candidacy mobilized people – indirectly and directly -- who are supportive of affirmative action. This was true in Colorado, where the ballot initiative did not pass, as well as Arizona, where grassroots work challenging the signatures prevented affirmative action from appearing on the ballot.

Grassroots Infrastructure

Existing state coalitions with grassroots bases contributed to success. Again, this was important in Colorado and in Arizona, where an identifiable social justice “hub” had been established through prior work across issues.

“We won because we focused on the grassroots and because we got lucky. We were lucky to have Obama voters. We were lucky to have the actual Obama grassroots campaign. We were lucky to have an existing progressive coalition that could do a multi-issue grassroots campaign.”

“In Arizona the initiative was stopped by a huge grassroots outpouring because of a state legislator who had real relationships with unions, local Latino organizations, local civil rights groups, and others. They saw the attack on affirmative action as part of a much larger agenda.”

“In Colorado we didn’t have money to do big media so we went for Spanish speaking radio ... I think it helped that our media was very grassroots and spoke to people in their language.”
In Nebraska the focus was on disqualifying ballot initiatives in court. They lost and resources ran out. There was no money left for the grassroots work needed.”

“Affirmative action fell under our coalition’s on-going “Ending Discrimination” work. Building on our existing alliances we did grassroots organizing in non-metro areas, we expanded our base; we did trainings for ally organizations. This has resulted in a stronger coalition and expansion into new policy issues.”

Values-Based Communications

Most people interviewed felt that progress had been made in proactively talking about values and equal opportunity programs, making the issue of affirmative action more accessible and positive in public debate.

“...We avoided the use of the word affirmative action. We used ‘equal opportunity.’ Equal opportunity was part of what was successful. We saw an amazing shift.”

“The grassroots campaign was at odds with the consultants’ campaign that used messages around scare tactics and stereotypes suggesting that all black college students were athletes.”

“When we started I was dismayed by how hidden everyone thought race should be. Everyone said the way to win the campaign was to focus on ‘white girls in science.’”
IV. WHAT IS THE LEGACY OF 2008?

The 2008 success in defending affirmative action has created momentum and interest in proactive thinking.

“Recent affirmative action battles show us that maybe we can step back and think we can handle more. We need a psychological shift among advocates to believe ‘it’s possible.’”

“This is not a choice between what we do now versus what we do later. If we can open up a dialogue now we can spend 2010 making proactive, strategic plans.”

“Reframing around equal opportunity is only the first step in developing proactive strategy. The most important thing is how we’re connecting to other hot button issues in underrepresented communities.”

“We need someone to say, ‘Here’s what a national racial justice strategy could look like.’”

“We need to ask, ‘How do we want the world to change? What is it we want to change ultimately?’”
Recent work surfaced questions about the present affirmative action agenda and strategy.

“What is our goal? Is it individual people getting into college? No. **Opportunity** is more than just a spot in college.”

“After we lost (a state fight) there was really only one program dismantled... I can’t really see what the impact is. It feels like a symbolic fight. It feels like protecting a tool that’s not being used.”

“In Colorado the proposition was defeated but universities feel they need to be as conservative as possible. We won but there is still a chilling impact.”

“Affirmative action as an end goal is not good enough. Preservation of the status quo is necessary but not enough.”

“For 13 years the dominant thinking on affirmative action has been you can’t talk about race and you can’t talk about structural racism. In the state battles we went to the lowest common denominator. Everything’s been driven by how to get through an election. Polling, pollsters, and “what people want to hear” has been driving the debate and undermining any movement building.”

Recent work on affirmative action reflects the absence of a vibrant, cohesive movement or agenda for addressing race and gender inequity.

“We need a larger progressive movement. We need to not just ask for something but also be visionary.”

“The ballgame of state battles has monopolized our attention. We’ve missed the more quiet damage that’s been done by executive orders by governors. Governors had already declared affirmative action gone in Texas, Florida, and Louisiana. The executive orders were dismantling affirmative action without the hoopla of a public ballot.”

“We can’t just repeat what we’re doing now.”
Recent work on affirmative action illustrates the evolving relationship between traditional Civil Rights work and more recent racial justice work.

The affirmative action intersection reveals the connections – and distinctions – between the civil rights infrastructure and the racial justice infrastructure.

Traditional civil rights organizations have viewed affirmative action as a bedrock issue, while newer racial justice organizations give it lower priority. In general, organizations established before or during the post World War II Civil Rights movement have focused on anti-discrimination legal rights of individuals. Moreover, due to the full-scale assault on civil rights by a succession of presidents, much of the civil rights infrastructure has been focused on defensive battles to preserve past definitions and programs that were won by that social movement. Lawyers play a leadership role in the civil rights infrastructure. By contrast, the racial justice movement-building infrastructure has evolved from organizing in communities of color seeking collective structural change. Racial justice movement building may include legal strategies and lawyers, but in supportive roles to constituent-led efforts.

As the story of affirmative action continues to unfold, the possibility for greater alignment between civil rights and racial justice exists, based on development of a larger proactive strategy which both serve.
HOW TO RECONCILE SHORT-TERM & LONG-TERM VISION

NAME TIME TO CREATE LONG-TERM VISION

YOU DOES SHORT-TERM ACT TERM?

EFFECTIVE COMMUNICATION MESSANGER

ITS OUR ROLE

HOW TO TARGET TO THE NON-CHOIR

- Research, data, focus groups to help
- From other org’s, too.
- Being willing to question/challenge one another on messages

NEED TO BALANCE PREP WITH TAKING ADVANTAGE OF OPPORTUNITIES

BE WILDE TRY

FOCUS ON AUDIENCE

COMMUNICATIONS CAPACITY
V. WHERE CAN AFFIRMATIVE ACTION GO NOW?

Those interviewed for this report expressed interest in exploring several new directions, both in terms of what and how.

**WHAT:** Expanding affirmative action values into other issues and arenas.

“We need to think about how we could improve on race and gender specific policies. What would a fresh look at these reveal?”

“Education is a good place to start, a growth area. Affirmative action access can’t be about elites. We need a broader conversation about access, including issues like financing.”

“We need to make interconnections with other issues. Not just public employment, contracting, education … we need to look at the role of race in a range of issues.”

**WHAT:** Incorporating socioeconomic status into affirmative action programs.

“We should develop a real class component. It would not replace race and gender but supplement them by factoring in multiple systems of exclusions and building larger alliances.”

“We would be interested to push out a piece of policy on affirmative action that would include class, gender, and race. “We’d need to be careful that it’s not understood as everything being class based. We’d need to be clear on how to use race and class together.”
**HOW:** Communicating more explicitly about racism.

“"The equal opportunity frame has to be a bridge into talking about race and gender – especially because opponents will bring those things up!"

“"People need to look at the testing results that show it’s possible to talk about race. Research is showing that we can do something differently by focusing on implicit attitudes that current polling ignores.”

**HOW:** Developing new allies and growing a winning majority for the policy arena.

“"We need to bring in groups who are working on equal opportunity but not affirmative action, on other areas of equal opportunity like school retention and access, employment discrimination, and others.”

“"We need to think about the younger generation, not just the ‘bosses’ in civil rights.”

“"The “persuadables” strategy has limited us. We need to focus on people who can connect to the experience of racism. The strength of your social movement is not with people who aren’t sure there’s a problem.”

“"We need to start looking for every opportunity to raise and link issues together. If we keep viewing affirmative action too narrowly then the victories are too narrow and we have no allies.”

**HOW:** Increasing focus on local and grassroots work.

“"We need investment in on the ground organizing and local policy. That works shifts the discourse for federal work. We have a unique political moment that will be missed without local investment.”

“"We need to start the racial justice conversation at a very basic level. There’s lots of interest in racial justice conversations bubbling up. Community conversations are more accessible than affirmative action.”
**HOW:** Developing a proactive electoral strategy.

“We can do a serious job of asking ‘If we put an initiative on the ballot what would it be?’ What would a multi-year multi-layered strategy be to make it happen? We could start in certain sites or even a city and move out from there.”

“We could do a race plus class ballot initiative around programs for people who haven’t gotten a fair chance. A **proactive strategy** would try to shift the frame, even if the context is still defensive.”
MSC recommends that those working at the affirmative action intersection consider developing a strategy to truly expand equal opportunity and racial justice. Below is an outline of what such a strategy would look like, and what its pros and cons would be.

**VI. RECOMMENDATIONS**

**Shape the Policy Debate:** Develop innovative policy that expands equal opportunity and racial justice (could be new form of affirmative action or equity principles within particular issue areas)

**Build Cross-Sector Alliance:** Through policy and strategy development, engage best thinking across sectors

**Demonstrate Power:** Move policy by harnessing power of engaged sectors

**PROS**
- Builds on best proactive thinking in field
- Builds on momentum for more proactive approach
- Engages new sectors
- Could broaden funder interest

**CONS**
- Uncharted territory
- Requires a high level of funding

**KEY FEATURES & NEXT STEPS**
- Convene series of cross-sectoral (labor, civil rights, education, etc.) strategy discussions on proactive policy / strategy ideas (e.g., inclusion of class, race equity in education / health / housing, proactive ballot initiative, ballot repeal in CA)
- Compile / examine / conduct cognitive research (not polling) on what moves people re: race / gender
- Develop short-term approach to upcoming battles that complements larger strategy
- Focus funding on cross-sectoral strategy
- Identify facilitation for cross-sectoral work
- Anchor leadership from organizations actively developing policy ideas reflecting constituencies

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New policies that reflect values of affirmative action and achieve race / gender equity outcomes
Of course, there are many other paths. The first, most obvious, would be to continue defending affirmative action in state struggles, building on the innovations and relationships of 2008. Another would be to focus on “changing hearts and minds” by focusing on communications that can change the public ideas and emotions on race that undermine support for affirmative action. While each of these paths is incorporated into the “expansion” strategy above, either or both could be pursued separately.

These two pathways are described as follows:

**STRATEGY**
- Early intervention (title and signature challenges)
- Combine defensive and proactive communications (“This is a trick” + “equal opportunity”)
- Build on existing multi-issue, multi-sector coalitions

**PROS**
- Expertise / tools exist from 2008
- Funders interested in state affirmative action battles could recognize and support this

**CONS**
- Uncertain success without key conditions (Obama candidacy, existing coalitions, etc.)
- Unlikely to contribute to public understanding / commitment for equal opportunity & racial justice

**KEY FEATURES & NEXT STEPS**
- Identify upcoming state challenges
- Focus funding in state work
- Develop state infrastructure in pending states
- Establish national coordination role and activities
- Anchor / coordination by national group with 2008 experience
MSC recommends that those engaged in affirmative action work consider these possible pathways and determine a direction for the future by taking three questions into consideration:

1. **Values**: Which path best advances the values of the organizations and people who support affirmative action?

2. **Infrastructure**: Given that organizations and people at this intersection feel a limited sense of collective unity, which path will do the most to create a coherent body of organizations and people who can move equal opportunity and racial justice values and policies forward?

3. **Resources**: Given the small amount of funding available on affirmative action, which path can lead to the greatest impact with available resources? Which pathway is most likely to generate new resources?

Leaders and organizations that have a strong interest in pursuing one of the pathways should be supported to come together to develop a strategy and plan of action to move it forward. This strategy and plan could then be brought to the funding community for input and support.

Funding partners have an opportunity to support these organizations and leaders to build off the momentum and lessons generated by the 2008 successes. Funders are needed who share a bold commitment to the values that underlie affirmative action and equal opportunity and have a willingness to support these organizations and leaders in developing the long-term proactive strategy and resources that opponents of affirmative action have enjoyed.
The following people were interviewed for this report. They were identified by the staff of the Fulfilling the Dream Fund as representative of organizations/leader involved in affirmative action.

Alan Jenkins  Opportunity Agenda
Maya Wiley  Center for Social Inclusion
Kimberle Crenshaw  African American Policy Forum
Melissa Hart  NO on 46 Campaign / Coloradans for Equal Opportunity
Linda Meric  Colorado Unity / 9 to 5, National Association of Working Women
Becky Gould  Nebraska Appleseed
Rebecca Gonzalez  Nebraska Appleseed
Nick Swiercek  Nebraska Appleseed
Darcy Tromanhauser  Nebraska Appleseed
john powell  Kirwan Institute
Andrew Grant Davis  Kirwan Institute
Rinku Sen  Applied Research Center
Ellen Buchman  LCCREF
Nakea West  LCCREF
Kristina Wilfore  Ballot Initiative Strategies Center (BISC)
Aimee Balduino  Asian American Justice Center
Aarathi Haig  Asian American Justice Center
Greg Cendana  US Student Association
Anurima Bhargava  NAACP LDF
Fatima Goss Graves  National Women’s Law Center
Reginald Shuford  ACLU National
Dennis Parker  ACLU National
Sara Jackson  Equal Justice Society
Eva Paterson  Equal Justice Society
Monique Morris  NAACP
Hazel Weiser  SAALT
Deboarah Post  SAALT
About Movement Strategy Center
Movement Strategy Center strengthens the movement for social and racial justice by increasing the capacity of individuals, organizations, alliances, and sectors to be more strategic, collaborative, and sustainable.

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