

## **Collision Course**

The Strange Convergence of Affirmative Action and Immigration Policy in America

By Hugh Davis Graham  
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When Congress adopted the Civil Rights Act of 1964, supporters insisted it would never lead to preferences or quotas; Sen. Hubert Humphrey offered to eat the pages of the bill if that happened. And when Congress adopted the Immigration and Naturalization Act of 1965, supporters insisted it would have little impact on the number of immigrants coming in or on America's ethnic mix. The American people, after all, supported both bills but wanted neither outcome.

As it turns out, the progenitors of these landmark bills were mistaken beyond their wildest imaginings, and the unintended consequences of their short-sightedness include the arrival of 35 million immigrants, 75 percent of whom were immediately eligible for affirmative action preferences in hiring, university admissions and government benefits—all of which were intended to remedy past discrimination that they couldn't possibly have experienced.

How could a democratic country arrange to give preferences to newcomers—even illegal ones—over its own native-born citizens? And what are the consequences for immigration and affirmative action in the future? Those are the fascinating questions tackled by Graham in his brief and brilliant account of how two initiatives linked by the laudable impulse to take race out of American life instead had the opposite effect.

A Vanderbilt University historian and political scientist until his death last year, Graham clearly believed—and goes a long way toward demonstrating—that America's policies on affirmative action and immigration are a tangled shambles of good intentions, contradictory impulses and sometimes ludicrous outcomes. The Small Business Administration, for instance, was besieged during the 1980s by requests to declare various ethnic groups eligible for minority set-asides in government contracting. It rejected Iranians for being "too narrow" a group and failing to demonstrate long-term discrimination here, yet approved immigrants from Bhutan, Burma, and even Tonga. The agency evidently wanted to draw the line at the Khyber Pass lest it have to make Middle Eastern immigrants eligible too. But Indonesians were admitted, despite greater affluence and education than the average American.

One of Graham's most important ideas is that social legislation is especially likely to have unintended consequences. He traces government-mandated affirmative

action in private-sector hiring to a Nixon Administration initiative (aimed at a pocket of discriminating trade unions in Philadelphia) that was designed to undercut the power of organized labor, drive a wedge between unions and civil rights leaders, ease inflation by reducing construction costs, and allay social unrest by opening more jobs to blacks.

Graham contends that the system of divided government (the White House falling to one party and the Congress to another) which has come to typify the American system has helped produce a government by, for and about special interest pressure groups, whose influence can result in policies nobody would dream of putting up for a vote. Thus, the moribund Philadelphia Plan which Nixon inherited from Lyndon Johnson rapidly evolved into a system of numerical requirements for workplace “diversity” that were difficult to distinguish from quotas. These new requirements were quickly and vigorously defended by lobbyists for the beneficiaries. Similarly, immigration reform has been thwarted again and again by an odd coalition of liberal activists, employers wanting cheap labor and ethnic politicians who wanted more constituents.

But the law of unintended consequences doesn’t mandate that the consequences will always be bad. Graham notes that affirmative action has helped produce a vast black middle class even as immigrants and women have come to overwhelm blacks as beneficiaries, and that mass immigration has spared America the demographic crisis facing Europe and Japan , with their low birth rates and relatively low immigration.

“From the beginning,” Graham observes, American policy on immigration “has oscillated between flood and drought models, and the country has paid a heavy price in the excesses associated with each extreme.” The proximity of Mexico and sheer momentum suggest heavy immigration is here to stay, even if our way of choosing immigrants—by family ties—is uniquely haphazard. But Graham notes that ongoing terrorism or a depressed economy could force the pendulum in the opposite direction.

The author is more doubtful about the durability of affirmative action, which lacks popular support and suffers from shifting rationales. It depends, moreover, on ethnic categories that are rapidly being blurred by intermarriage in a population made ever more diverse by immigration.

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