3 Affirmative Actions

3.1 Origins of Affirmative Action

- The affirmative action policy developed during the 1960s and 1970s in two phases that embodied conflicting traditions of government regulations:

- The first phase, culminating in the Civil Rights Act of 1964 and the Voting Rights Act of 1956, was shaped by the presidency and Congress and emphasized nondiscrimination under a "race-blind Constitution".

- The second phase, shaped primarily by federal agencies and courts, witnessed a shift toward minority preferences during the Nixon administration.

- The development of two new agencies created to enforce the Civil Rights Act, the Equal Employment Opportunity Commission under Title VII and the Office of Federal Contract Compliance under Title VI, demonstrates the tensions between the two regulatory traditions and the evolution of federal policy from non-discrimination to minority preferences under the rubric of affirmative action.

- CIVIL RIGHTS ACT OF 1964: The main intensions of Civil Rights Act of 1964 were "the destruction of legal segregation in the South and a sharp acceleration in the drive for equal rights for women".

  - Title VII [known as the Fair Employment Commission Title or FEPC title] of the Act would create the Equal Employment Opportunity Commission (EEOC) to police job discrimination in commerce and industry with the intension to destroy the segregated political economy of the South and enforce nondiscrimination throughout the nation.

– Title VI of the Act [known as the Contract Compliance Title] "prohibit discrimination in programs receiving funds from federal grants, loans or contracts." It clearly bans discrimination: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." Contract compliance was backed by the authority to cancel the contracts of failed performers and ban the contractors from future contract work.

– The Civil Rights Act of 1964 was signed by President Lyndon Johnson into law on 2 July.

AFFIRMATIVE ACTION:

- It turns out that Title VI of the Civil Rights Act of 1964 was the sleeper than leads to the affirmative action.

- In September 1965, President Johnson issued Executive Order 11246. This order intended to create new enforcement agencies to implement Title VI in the Civil Rights Act, and it repeated nondiscrimination.

- The Office of Contract Compliance (OFCC) established by the Labor Department to implement Executive Order 11246.

- It designed a model of contract compliance based on a metropolitan Philadelphia plan, which requires that building contractors submit "pre-award"

hiring schedules listing the number of minorities to be hired, with the ultimate goal to make the proportion of blacks in each trade equal to their proportion of metropolitan Philadelphia's workforce (30%).

- This Philadelphia plan was ruled in November 1968 to violate federal contract law. But in 1971 under the Nixon administration, the Supreme Court affirmed that the minority preferences of the Philadelphia did not violate the Civil Rights Act.

- The EEOC who is in charge of the implementation of Title VII, followed a similar strategy, it issued guidelines to employers to use statistical proportionality in employee testing.

- Contrary to its original content, Johnson's Executive Order 11246 became known as the beginning of affirmative action.

- The original rationale for affirmative action was to right the historical wrong of institutional racism and stressed its temporary nature.

- In 1978, in Regents of the University of California v. Bakke, Supreme Court Justice Harry Blackmun was apologetic about supporting a government policy of racial exclusion: "I yield to no one in my earnest hope that the time will come when an affirmative action program is unnecessary and is, in truth, only a relic of the past." He expressed the hope that it is a stage of transitional inequality and "within a decade at most, American society must and will reach a stage of maturity where acting along this line is no longer necessary".

3.2 Theoretical Studies of the Effect of Affirmative Action

3.2.1 Coate and Loury's Patronizing Equilibrium

- Coate and Loury model affirmative action an employment quota, requiring that the proportion of blacks on the complex task (which pays a higher wage in their model) be equal to the proportion of blacks in the population. As before, suppose λ is the size of white population. Suppose that the proportion of skilled workers are respectively π_B and π_W among blacks and whites.

- Facing the employment quota, the firms' task assignment problem becomes

$$\max_{\{\tilde{\theta}_W, \tilde{\theta}_B\}} \lambda \left\{ \begin{array}{c} \pi_W \left[1 - F_q\left(\tilde{\theta}_W\right)\right] x_q \\ -(1-\pi_W)\left[1 - F_u\left(\tilde{\theta}_W\right)\right] x_u \end{array} \right\} + (1-\lambda) \left\{ \begin{array}{c} \pi_B \left[1 - F_q\left(\tilde{\theta}_B\right)\right] x_q \\ -(1-\pi_B)\left[1 - F_u\left(\tilde{\theta}_B\right)\right] x_u \end{array} \right\}$$

$$\text{s.t.} \quad \begin{array}{c} \pi_W \left[1 - F_q\left(\tilde{\theta}_W\right)\right] \\ +(1-\pi_W)\left[1 - F_u\left(\tilde{\theta}_W\right)\right] \end{array}$$

$$= \quad \begin{array}{c} \pi_B \left[1 - F_q\left(\tilde{\theta}_B\right)\right] \\ +(1-\pi_B)\left[1 - F_u\left(\tilde{\theta}_B\right)\right] \end{array}$$

- An equilibrium under affirmative action is a pair of beliefs $\left(\pi_B^*, \pi_W^*\right)$ and cutoffs $\left(\tilde{\theta}_B^*, \tilde{\theta}_W^*\right)$ such that:
  - $\left(\tilde{\theta}_B^*, \tilde{\theta}_W^*\right)$ solves firm's assignment problem given $\left(\pi_B^*, \pi_W^*\right)$;
  - $\pi_j^* = G\left(B\left(\tilde{\theta}_j^*\right)\right)$ for $j = B, W$.

- CL showed that there are circumstances under which affirmative action removes all discriminatory equilibria. But their conditions are rather difficult to interpret.

- The most important of their analysis is to show that so-called *patronizing equilibrium* may arise as a result of affirmative action.

- The idea is very simple: to comply with the affirmative action policy (assuming $\pi_B < \pi_W$ is unchanged by the policy for a little while), the standards for blacks must be lowered and the standards for whites must be raised to comply with the employment quota. Thus, it is now easier for blacks to be assigned to the good job (harder for whites) irrespective of whether a particular worker invested or not. Since the incentives to invest depend on the expected wage difference if one is skilled versus if one is unskilled, whether the above change will increase or decrease blacks' incentive to invest in skills depends on the particularities of the distributions f_q and f_u.

AN EXAMPLE OF PATRONIZING EQUILIBRIUM:

- Suppose that the skill investment cost c is uniform on $[0,1]$;

- The test technology is

$$f_q(\theta) = \begin{cases} \frac{1}{1-\theta_q} \text{ if } \theta \in [\theta_q, 1] \\ 0 \text{ otherwise,} \end{cases}$$

$$f_u(\theta) = \begin{cases} \frac{1}{\theta_u} \text{ if } \theta \in [0, \theta_u] \\ 0 \text{ otherwise,} \end{cases}$$

where $\theta_u > \theta_q$. [See Figure 4]

If $\theta > \theta_u$, we say that it is a "pass" score; if $\theta < \theta_q$, we say that it is a "fail" score; otherwise, we say that the score is "unclear".

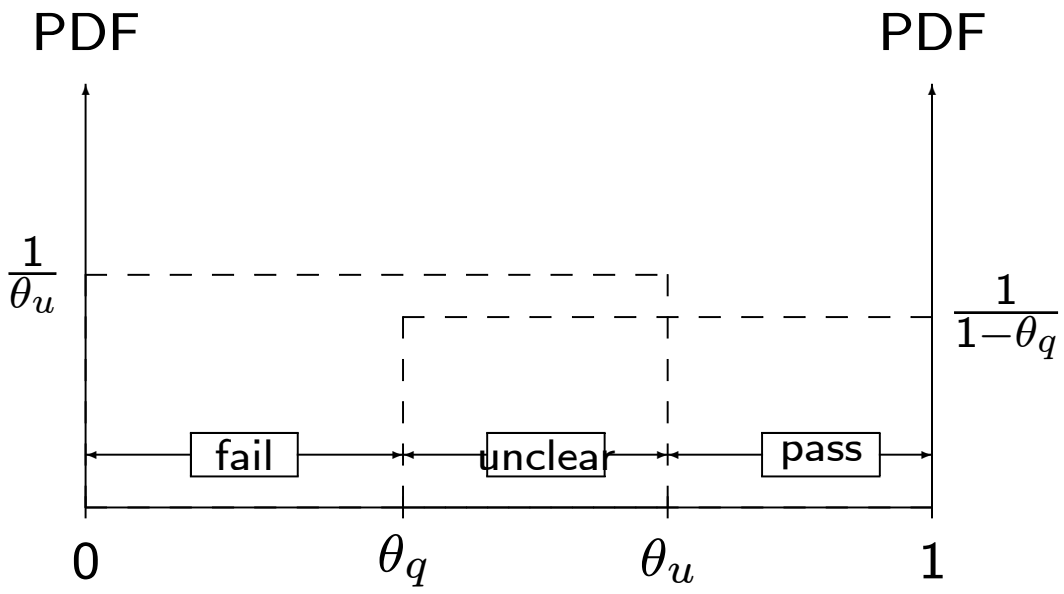

Figure 4: Signal Distributions in the Example of Patronizing Equilibrium

Discriminatory Equilibrium with No Affirmative Action.

- Clearly the firm with assign workers with "pass" score to the complex task and those with "fail" score to the simple task. The decision to make is regarding those workers with "unclear" scores.

- The probability that a qualified worker gets an "unclear" score is

$$p_q = \frac{\theta_u - \theta_q}{1 - \theta_q}$$

and that for an unqualified worker is

$$p_u = \frac{\theta_u - \theta_q}{\theta_u}$$

- Suppose that the prior that a worker is qualified is π. Then the posterior probability that a worker with an unclear score is qualified is

$$\xi = \frac{\pi p_q}{\pi p_q + (1-\pi)\, p_u}.$$

Hence the employer will assign a worker with unclear scores to the complex task if and only if

$$\xi x_q - (1-\xi)\, x_u \geq 0 \Leftrightarrow \pi \geq \hat{\pi} = \frac{p_u/p_q}{x_q/x_u + p_u/p_q}.$$

- We will say that a firm follows a *liberal* policy for group i if it assigns all group i workers with unclear test score to the complex task, i.e. if $\tilde{\theta} = \theta_q$; we say that a firm follows a *conservative* policy for group i if it assigns all group i workers with unclear test to the simple task, i.e. if $\tilde{\theta} = \theta_u$.

- When can a liberal policy be an equilibrium? Under a liberal policy, the benefit from skill investment is given by

$$B(\theta_q) = \omega(1 - p_u)$$

because if he is skilled, he will be assigned with probability one to the complex task and if he is unskilled, the probability is p_u. Hence the proportion of skilled workers in response to a liberal policy is

$$\pi_l = B(\theta_q) = \omega(1 - p_u).$$

- Under a conservative policy, the benefit of skill investment is

$$B(\theta_u) = \omega(1 - p_q).$$

Hence the proportion of skilled workers in response to a conservative policy is

$$\pi_c = B(\theta_u) = \omega(1 - p_q).$$

- Hence the liberal policy is an equilibrium if $\pi_l \geq \hat{\pi}$ and the conservative policy is an equilibrium if $\pi_c < \hat{\pi}$.

- Hence in the absence of AA, if $\pi_c < \hat{\pi} < \pi_l$, then $(\pi_B, \pi_W) = (\pi_c, \pi_l)$ is an equilibrium outcome. In this equilibrium, firms hold a negative stereotype toward blacks.

Affirmative Action:

- Suppose that we are in such an equilibrium and affirmative action policy in the form of employment quota is imposed. What happens?

- Compliance with the AA employment quota requires either more B's or less W's be assigned to the complex task. Given $(\pi_B, \pi_W) = (\pi_c, \pi_l)$, if the firm assigns a failing B to complex task, it loses x_u unit of profits; if the firm assigns an unclear W to the simple task, it loses

$$\underbrace{\frac{\pi_l p_q}{\pi_l p_q + (1-\pi_l)\, p_u}}_{\equiv \xi_l} x_q - \frac{(1-\pi_l)\, p_u}{\pi_l p_q + (1-\pi_l)\, p_u} x_u.$$

If $\lambda \left[\xi_l x_q - (1-\xi_l)\, x_u\right] > (1-\lambda)\, x_u$, then the firm would rather put failing B's into the complex task than putting unclear W's to the simple task to satisfy the employment quota.

- Suppose that the firms still follow the following assignment policies:
  - for the whites, the original liberal policy, i.e. assign all pass or unclear W workers to the complex task. Under this policy, we still have $\pi_W = \pi_l$;
  - for the blacks the firms follow the following policy: assign all pass or unclear B workers to the complex task, and with probability $\alpha(\pi_B)$ assign failing B workers to the complex task, where $\alpha(\pi_B)$ is chosen to satisfy the employment quota requirement:

$$\begin{aligned} & \pi_l + (1 - \pi_l) p_u \\ = \quad & \pi_B + (1 - \pi_B) [p_u + (1 - p_u) \alpha(\pi_B)] \\ \Leftrightarrow \quad & \alpha(\pi_B) = \frac{\pi_l - \pi_B}{1 - \pi_B}. \end{aligned}$$

- We say that the firms are "patronizing" the worker if he assigns a failing worker to the complex task. Hence the firms are patronizing the blacks.

- Now consider B's best response to the firms' assignment policy described above. Anticipating being patronized with probability α, the return from investing in skills for a B worker is given by

$$\begin{aligned} \omega - [p_u + (1 - p_u)\,\alpha] &= \omega\,(1 - \alpha)\,(1 - p_u) \\ &= (1 - \alpha)\,\pi_l \end{aligned}$$

  Hence (π_B, π_l) (assuming $\pi_l > 1/2$) can be sustained as an equilibrium under AA if and only if $\pi_B \leq \pi_l$ and π_B satisfies

$$\pi_B = [1 - \alpha\,(\pi_B)]\,\pi_l = \frac{(1 - \pi_l)\,\pi_l}{1 - \pi_B}.$$

  This equation has two solutions: $\pi_B = \pi_l$ or $\pi_B = 1 - \pi_l$. In the first solution, color-blind equilibrium (the employer is liberal toward both groups); in the second solution, the firms continue to see B's as less productive and patronize the B's to fulfil the AA mandates.