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Affirmative Action Under Trump—Where Can it Go?

By Robert Weiner and Paula Hong
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Few remember but in December 2015, presidential candidate Donald Trump called Supreme Court Justice Antonin Scalia out during his campaign, saying he, "did not like" Scalia's belief that minorities, specifically African Americans, would be better off attending "slower-track schools" – disregarding affirmative action's purpose to provide minorities with opportunities.

The hope for minorities that President Trump would remain "fine with affirmative action" was short-lived with Trump's appointment of Betsy DeVos on February 7, 2017, who denied 77 universities funding requests on Thursday, May 25, 2017, for inadequate "formatting rules" that she blamed Obama for creating.

The contradictory decisions left minorities despondent about the increasingly right-wing-influenced Court and White House on issues such as education, health care, small-business support, food aid, and police reforms.

The New York Times on May 28, 2017, and *The Washington Post* on May 29, 2017, had lead stories titled "Minority Advocates Say Trump's Budget Will Hurt Their Causes" and "Trump administration plans to minimize civil rights efforts in agencies" following the crisis of President Trump's proposed budget, which would reduce agencies' civil-rights advocacy.

Minority protections could still garner strength through victories elsewhere, however, such as the Court's recent decision to turn down a North Carolina case on May 15, 2017, that targeted "African-Americans with almost surgical precision" during voter registration according to Circuit Judge Diana Gribbon Motz.

Michigan has had an intricate history of approved then overturned then re-approved bans on the issue of affirmative action in college admission. The decision by the Supreme Court on April 22, 2014, to overturn the Michigan Civil Rights Amendment case (*Hudson vs Michigan* in November of 2006) was a reversal for minorities who hoped to bring back affirmative action. Rep. John Conyers (D-Detroit), Dean of the Congressional Black Caucus and the House of Representatives, called the decision "counter to constitutional equal protection."

Under the administration-supported, House-passed repeal-and-replace health plan, three million African Americans and four million Hispanics will lose coverage (currently) provided by the Affordable Care Act.

What Trump boasts as being a "great plan" will cause upwards of "an estimated 51 million people under age 65 to be uninsured over the next decade, compared with 28 million who would lack insurance under current law, according to the Congressional Budget Office.

The 2014 Census Bureau found that "the number of Michigan residents with health insurance grew by a quarter million during the first year of Obamacare."

Not only has the new administration left minorities worrying about their future health, but their safety. The Trump administration argued against Federal Judge James Breder's decision on April 7, 2017, on police reforms.

Breder disregarded General Jeff Session's "review of more than a dozen federal agreements with police forces that [would] address problems of racial profiling, discrimination and use of excessive force," and instead approved the Baltimore police's plea to justify what the Obama Justice Department found as unconstitutional and discriminatory practices.

Many considered the conservative Roberts Court's refusal to take the case as a victory, a step in the right direction for minorities' voter rights. The refusal to overturn limited Republicans from "restricting access to the ballot", according to Democratic National Committee chair Tom Perez. The Court's decision provides hope that sometimes, but not always, the current Court could protect minority rights.

President Trump appointed Kansas Secretary of State Kris Kobach a leader of his Advisory Commission on Election Integrity committee but critics charge that the group is stacked in favor of obstacles to voting. Kobach "has built a political career on xenophobia," according to ACLU Voting Rights Project Director Dale Ho.

Affirmative action does not stop at college admissions, health care, and voter registration. It increases all aspects of life for minorities including education, nutrition, employment, transportation, business opportunity, economic security, and housing.

The Trump administration's budget proposals include cuts from many Section 8 programs -- the Department of Labor (\$2.5B), Department of Housing and Urban-Development (\$6.2B), and the Community Development Block Grant Program (\$3B) -- where African American "workers make up 18 percent of the nation's 2 million federal workers -- more than any other minority group."

Tanya Ward Jordan, president of Coalition for Change, says, "The Trump freeze... will undoubtedly hit the black community hard."

Among 28 states that have passed their own laws regarding affirmative action is Michigan, which, in 2006, added to its Constitution Section I Article 26, "prohibiting preferential treatment and discrimination in state employment and contracting." Economists expect to see more years of growth for the state since the decision. However, Director of University of Michigan's Research Seminar George Fulton says, "It's just not clear to us what the policy initiatives moving forward are going to be with this [Trump] administration."

Affirmative action means reaching out to those disproportionately harmed and providing minorities with means to protect their legal rights and to secure their futures. Minorities can only begin to know whether they should increase their hopes once what President Trump says and does become in sync. In the courts, congress, and state and local actions, the battle will be fierce, but hopeful.

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