

LAWRENCE SUMMERS AT THE NBER CONFERENCE: THE *REAL* DEAL

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Over the last three decades of the twentieth century, American women made tremendous advances economically and socially as a result of affirmative action and diversity¹ measures adopted by educational institutions and employers. Yet gender bias still exists often in insidious forms.² Nevertheless, many people were shocked when Harvard University President Lawrence H. Summers told attendees at the National Bureau of Economic Research's Conference on Diversifying the Science & Engineering Workforce that the under-representation of women in science and engineering may be due in part to biological differences in abilities between women and men.³ His remarks, admittedly designed to "provoke," sparked wide-spread condemnation and this special collection of essays.

But when read closely, President Summers' remarks really constitute a brief against affirmative action for women stated so broadly that it easily encompasses objections to affirmative action for blacks and other non-white Americans. Given that his past controversies with non-white faculty resulted in the departures of such notable academics as Anthony Appiah and Cornell West,⁴ President Summers dared not openly include non-whites in his analysis. So women, presumptively white women, became the surrogate.

Shrewdly, President Summers relied on alleged gender differences to launch his attack—in the process dredging up almost every well-stated objection to affirmative action. Then he advanced these objections as either plausible

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¹ I use the phrase "affirmative action" to refer to remedial policies aimed at compensating for intentional exclusions or restrictions based on gender or race. In contrast, I use the term "diversity" to refer to policies aimed at producing a more heterogeneous mixture of people.

² Women are still paid less across job categories than men and occupy less than 10% of top managerial jobs in Fortune 500 companies. Betsy Morris et al., *How Corporate America Is Betraying Women*, FORTUNE MAG., Jan. 10, 2005, at 64. In the academic world "more than 70 percent of professors teaching at ... top research institutions in the 2001-2002 academic year were male." Robin Wilson, *Where the Elite Teach, It's Still a Man's World*, CHRON. HIGHER ED., Dec. 3, 2004 at A8.

³ Lawrence H. Summers, *Remarks at NBER Conference on Diversifying the Science & Engineering Workforce*, January 14, 2005, available at <http://www.president.harvard.edu/speeches/2005/nber.html> (last visited Apr. 26, 2005).

⁴ "[A]fter leaving his post as President Bill Clinton's Treasury Secretary and returning to the Cambridge campus where he earned his Ph.D. and taught economics in the 1980s, Summers questioned African-American studies professor Cornel West's scholarship and teaching, causing West to leave for Princeton and upsetting many in Harvard's African-American community." Rebecca Winters, *Harvard's Crimson Face*, TIME MAG., JAN. 31, 2005, at 52. *But cf.*, Bill Beuttler, *Black, White, and Crimson*, BOSTON MAG., Mar. 2002 (available on LEXIS).

explanations or justifications for continued gender disparities in math and the sciences, or as urgent research issues that should be undertaken. For example, he called attention to a very small number of social scientists who argue that biology explains gender differences in mathematical abilities.⁵ Biological theories also surface periodically to justify performance differences between whites and blacks only to be quickly discounted.

President Summers' argument inverts merit and academic standards. He starts with the assumption that white males at elite educational institutions like Harvard represent the norm. White women, and by implication non-white women and non-white men, do not. Specifically, he argues for "hard data" looking at "the quality of *marginal hires* . . . when major diversity efforts are mounted" to determine who "turned out to be much *better than* the institutional norm . . . [and] wouldn't have been found without a *greater search*" and whose presence "represent *clear abandonment of quality standards*."⁶ Not only does he use speculation to advance his attack, he also deploys biases in discussing institutional norms and areas necessitating further investigation.

The clear implication is that a presumption of marginality only attaches when the hire is female (or non-white). President Summers does not suggest applying this standard to all hires, nor does he even question the validity of his institution's "norm." Instead, the expectation is that in exchange for entry into the elite halls of education and business women and non-white males must perform *better than* the average white male. Performing on par with the average is not sufficient to merit admission or employment over a white male absent some affirmative action or *diversity* rationale.

As the head of an institution with a low number of tenure-track women faculty President Summers is understandably defensive.⁷ So he offered biological and/or social explanations—for example, women's desire to have families, to explain the under-representation of women in tenured positions at the most selective educational institutions. President Summers consistently gives short shrift to actual discrimination and fails to refer to the long history of discrimination against women or the studies and cases that document this discrimination. Nor

⁵ See, e.g., Doreen Kimura, *Sex Difference in the Brain*, 12:1 SCI. AMER. 32 (Aug 2002) (stating girls and boys may have "differently wired brains"); Camilla Persson Benbow et al., *Sex Differences in Mathematical Reasoning Ability at Age 13: Their Status 20 Years Later*, 11:6 PSYCHOL. SCI. 474 (2000) (explaining biology is a significant determinant of mathematical ability). *But cf.*, YU XIE AND KIMBERLEE A. SHAUMAN, *WOMEN IN SCIENCE: CAREER PROCESSES AND OUTCOMES* (2003) (showing no evidence that the performance difference of girls and boys on mathematics achievement tests is due to biological differences). See generally *THE PSYCHOLOGY OF WOMEN: ONGOING DEBATES* (Mary Roth Walsh ed., 1987).

⁶ Summers, *supra* note 3 (emphasis added).

⁷ "Since Summers, 50, arrived, in 2001, the percentage of tenure offers at Harvard in the arts and sciences that go to women has fallen from 37% to 11%." Winters, *supra* note 4, at 52. "Of the 36 tenure offers made to faculty members last year, the letter says, only four went to women. And only one of those four women accepted." Robin Wilson & Piper Fogg, *Female Professors Say Harvard Is Not Granting Tenure to Enough Women*, CHRON.HIGHER ED., Oct. 1, 2004 at A14. A statement released by the University stated that 40% of junior hires last year were women. *Id.*

does he describe the resistance of universities and colleges to employing women as professors pre-affirmative action. Instead, he states: "When there were no girls majoring in biology it was much easier to blame parental socialization."⁸

These words sound surprisingly similar to words written more than a century earlier by United States Supreme Court Justice Joseph Bradley, who wrote in *Bradwell v. Illinois*: "The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother."⁹ More importantly, President Summers' remarks serve as a reminder that despite changes in the law, notions about the inferiority of women (and certain non-white groups) remain deeply embedded in this country's psyche.

The statements also raise several larger issues. First, whether the negative reactions to his statements accurately gauge attitudes after thirty years of affirmative action and diversity initiatives. Second, whether President Summers' statements reflect elite white men's continued resistance to the presence of women and non-white men at the most select institutions. One of the main arguments for diversification is that the presence of women and non-white males in critical numbers will counter negative and often debilitating stereotypes advanced by white men to prevent the establishment of more inclusive institutions. Ultimately, one wonders what President Summers' comments suggest regarding the success of diversity efforts and whether his comments simply reflect his ambivalence about the place of women in these institutions.

Two examples of his past conduct suggest this ambivalence. Richard Bradley, writing in the March 2005 issue of *BOSTON MAGAZINE* describes Summers, while Secretary of the Treasury, as a man whose "closest staff members were female. . . . [yet] virtually all the colleagues [he] considered intellectually challenging were male."¹⁰ Moreover, during his presidency Summers had a lengthy romantic involvement with a female faculty member—conduct considered inappropriate by contemporary academic standards.¹¹ In the end President Summers may merely be the poster child for too many of today's contemporary high-achieving white males.

Finally, I wonder whether some women's surprise at President Summers' statements reflects their failure to connect gender bias with racial privilege. Several years ago, when a published study suggested that women score slightly lower on the LSAT than men,¹² I asked my constitutional law class whether a law school like Harvard might use this information to slightly shift its admissions criteria to lower the number of women admitted. The class responded uniformly:

⁸ Summers, *supra* note 3.

⁹ *Bradwell v. Illinois*, 83 U.S. 130, 141 (1872) (Bradley, J., concurring). The Court ruled that a state could constitutionally prohibit women from practicing law.

¹⁰ Richard Bradley, *Lawrence of Absurdia*, *BOSTON MAG.*, Mar. 2005 (available on LEXIS).

¹¹ *Id.* They recently married.

¹² James F. Guyot, *The Defining Moment for Gender Equity*, *CHRON. HIGHER ED.*, April 20, 2001, at 15.

“That would never happen!” President Summers’ remarks suggest that my students were very naïve about the depth of bias against women in the twenty-first century.

These same students saw no unfairness in the University of Texas giving alumni preferences to applicants whose relatives attended that university when it denied blacks admission. Their refusal to acknowledge the edge that white privilege might give applicants in such a situation seems analogous to white males’—e.g., President Summers’—resistance to changing environments. The inability or unwillingness to make the connection between gender bias and racial privilege helps to maintain a status quo dominated by affluent white males—a situation that disadvantages us all.