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BOOKS RECEIVED

Not All Black and White: Affirmative Action and American Values. By Christopher Edley, Jr. New York, NY: Hill and Wang. 1996. Pp. 294. Hardcover. \$25.00.

“Mend it, don’t end it.” Most Americans are by now familiar with President Clinton’s well-publicized position on affirmative action. The phrase was only a small part of an entire speech devoted to race relations delivered by the President at the National Archives in July of 1995. But the slogan and its implications evoked intense debate among Americans. In 1996, the introduction, passage and ensuing injunction of California’s Proposition 209, ending state-based racial preferences, raised the national debate over affirmative action to a level not seen since the 1960’s.

What most Americans are unaware of is that the “mend it, don’t end it” slogan itself is essentially a summary of the conclusions reached by a policy group commissioned by the President to intensively study the affirmative action issue over the six-month period preceding his National Archives speech. One member of this policy group was Christopher Edley, Jr., a Harvard Law School professor and former Associate Director of the White House Office of Management and Budget. *Not All Black and White: Affirmative Action and American Values* is Edley’s effort to present his analysis of many of the issues surrounding affirmative action the policy group confronted during its six-month sojourn.

Although the processes and personalities of the policy group itself receive some attention (the group was organized by George Stephanopoulos and was comprised mainly of lawyers affiliated with the Executive branch), the bulk of *Not All Black and White* is devoted to Edley’s personal observations and analysis of the broad range of issues evoked by the phrase, “affirmative action”. Edley’s approach is as diversified as the issue itself, addressing various arguments for and against affirmative action programs as well as the underlying historical, social and legal issues framing the debate.

Edley believes that while affirmative action is not without its dangers, the benefits of most constitutionally-valid programs broadly categorized as “affirmative action” out-

weigh the costs, so long as careful precepts are followed. Edley's struggle to support this view through his own multifaceted observations and cogent analysis is this book's greatest attribute. While Edley's observations and conclusions are often nebulous, this only reinforces his primary point: The issues surrounding affirmative action *do not* lend themselves to one-dimensional analysis and *cannot* be effectively resolved through the simple prescriptions typically advocated by parties on both sides of the issue.

Indeed, in his concluding chapter, Edley posits that America is not even prepared for a national debate on solutions to the problems of race in this country, "because we haven't talked enough to share a sense of problems, let alone the answers." *Not All Black and White* provides as good of a start as any to beginning that process.

The causes and solutions for the economic disparity between blacks and whites in this country are debatable, but Edley identifies several absolute facts regarding race in America that are not easily refuted. For instance, the black unemployment rate continues to hover at twice the rate of whites, and is the first to rise and last to fall during recessions. In the 1981-82 recession, nearly one of every ten employed blacks lost their jobs, more than five times the rate of white layoffs. The median annual income for full-time employed black males is 30 percent less than that of white males. One of every two black children under the age of six lives below the poverty-line, compared with one in seven white children. The average net worth (all assets, minus debts) of black families in the United States is \$23,818, whereas white families possess an average net worth of \$96,667—over 75 percent greater than that of blacks.

Edley points out that the economic disparity between blacks and whites in America illustrated by such statistics is even more daunting considering that while fewer than 3 percent of all college graduates are unemployed, whites are nearly twice as likely as blacks to have college degrees. Furthermore, the opportunity for blacks to develop the mentors and role-models often necessary for success in corporate America is severely curtailed when only 0.6 percent of senior management positions in Fortune 1000 industrial companies and Fortune 500 service companies are held by blacks.

Not All Black and White presents such facts in plain form and supplements them with pertinent observations informing their meaning. For instance, before one concludes that the disparity between blacks and whites in America is due primarily to income differentials or education (facts which are susceptible to causal arguments other than race-bias), consider the results of various "audits." Audits are really experiments, where two individuals (known as "testers") are matched in all relevant characteristics, differing only in their race, gender or ethnicity. The testers are then sent to interview for the same job, apartment, or similar opportunity.

Edley reports the results of several such audits, and the implications are difficult to contest. The results indicate that black testers were treated worse than equally qualified whites over 20 percent of the time. In one example, a black tester applied for an advertised receptionist position. He interviewed and heard nothing further. His equally qualified white counter-part was interviewed, offered a better position at a higher salary, and provided tuition assistance. Although the white applicant rejected the offer, the firm did not respond to the black applicant's follow-up calls.

In another example, a black female applied for work at a major hotel chain and was told she would be called if they wished to pursue her application. The employer never called. Meanwhile, an equally qualified white tester who appeared immediately after the black woman left was interviewed and quickly awarded a job as a front-desk clerk. The accounts of other, similar tests indicate that such results are more than mere aberrations.

Edley notes that the first-rung of the ladder is often the most important, and the fact that these incidents occur in blue-collar jobs is therefore all the more disturbing evidence of the devastating way in which racial bias manifests itself. Whether the clear biases exhibited in such audits are animus-based or the product of benign ignorance or racial stereotyping is of little relevance in determining whether or not race matters in areas of economic and social opportunity. The fact remains that people of color are denied opportunities where similarly situated whites are not, at least some of the time. Having established these facts, Edley turns to various proposals to remedy such problems, debating the arguments pro and con regarding each position.

One area receiving a large amount of Edley's attention is what he calls "the color-blind vision." California's Proposition 209 ("The California Civil Rights Initiative") was passed by California voters after the publication of *Not All Black and White* and is not specifically addressed within its pages. Nevertheless, Edley devotes a large portion of the book to a discussion of the "color-blind" rationale relied upon by supporters of Proposition 209. Initiatives such as Proposition 209 replace traditional affirmative action schemes with a requirement that state agencies utilize a "color-blind" merit-based selection criterion instead. Edley begins by identifying the attractiveness of such a vision while proceeding to demonstrate why he feels it is not ultimately effective.

The basic moral tenet of the color-blind vision is that race-based decision making, regardless of its purpose, is inherently unfair. Proponents emphasize that even if preferences could be fairly implemented, affirmative action programs only reinforce racial divisions and tensions. Accordingly, it is argued that strong enforcement of anti-discrimination laws coupled with race-neutral social investment in areas such as education and job-training are more appropriate methods of ensuring fairness. Edley acknowledges that if we were starting today in a world where equality reigned, the color-blind vision would indeed be proper. But a quotation from Martin Luther King, Jr. (whose aspirational words are so often used as justification for the color-blind vision) summarizes Edley's critique of the color-blind vision well: "[I]t is obvious that if a man is entered at the starting line in a race three hundred years after another man, the first would have to perform some impossible feat in order to catch up with his fellow runner."

In short, because yesterday was non-neutral, Edley believes tomorrow must be non-neutral as well "in order to right the balance." As for the argument that affirmative action stigmatizes all members of the benefited group, Edley has a simple response: "[Affirmative action has a cost [and] part of the cost is the risk of stigma . . . the stigma I may suffer is a small price compared to the price I would pay if I faced closed doors"

In addition to discussing the ultimate inadequacy of color-blind criteria as a solution to racial inequities, Edley devotes several chapters to discussing alternative affirmative

action goals. Deeming affirmative action programs geared solely towards "morally equal opportunity" as too narrow, Edley feels any affirmative action plan must do more than simply "level the playing field" created by past inequities, and must also seek the inclusion of diverse groups for the independent value diversity imparts to institutions and society as a whole.

Designing such programs without imposing unfair costs on any one group is a more difficult task than defining a preferred solution, a point Edley readily concedes. Noting that Supreme Court decisions require that both public and private sector affirmative action plans be carefully justified and narrowly-tailored, Edley sets forth several basic themes to assist in thinking about how to structure plans that achieve the appropriate balance.

The first theme, "purpose vs. scope," places the most compelling justifications for affirmative action (ranging from remediation to diversity) on one scale and ranks these justifications against the possible extent of remedial measures (from particular individuals to all-inclusive groups) on another scale. Using this theme, Edley illustrates that the proper balance between justification and tailoring is dependent upon one's own sense of what is appropriate. For instance, while believing any of his proffered measures would be appropriate, Edley admits it is much easier to justify narrow *remediation* programs geared towards specifically identified victims than it is to justify programs designed to increase *diversity* by targeting an entire group for special treatment.

The second proposed theme measures "opportunity vs. results," where the opportunity component comprises the least intrusive means of affirmative action (e.g. outreach programs) and the results measure is more direct (e.g. hiring quotas). In this area Edley identifies education based opportunity programs as the most acceptable programs and result-based mandatory government contract awards as the most controversial. Again, the correct balance likely lies somewhere in between.

Edley's third and final theme presents "process and preciseness" as a way to view the interaction between justification and narrow-tailoring. In this schematic, Edley notes that the greater empirical scrutiny we lend to the task of identifying specific goals, the better we will be able to design

programs to achieve those goals. In this regard, the importance of qualified and representative decision makers, detailed cost-benefit analysis, and careful consideration of alternatives are emphasized as crucial steps in designing and implementing appropriate programs. While all of his themes provide a framework through which to think about the issues, Edley emphasizes that the overall goal must be justice, "not perfection."

Ultimately, Edley concludes that the best way to begin achieving results may not rest with government programs at all. Race issues are not politically expedient, and as the savings and loan debacle illustrates, government is generally not willing to effectively deal with truly difficult and divisive issues until it is nearly too late. Thus, Edley promotes individual and community-based action as the primary starting points for any true reform. The individual acting within his community is the narrowest expression of the "all politics is local" mantra and this is where true change must begin.

Churches reaching out to diverse groups of parishioners, crime-watch groups, and local educational reform are set forth as examples of community-based actions that can make a difference. The recent development and ensuing debate surrounding "Ebonics" (the use of "black-English" to assist in teaching standard English) in local inner-city classrooms, the resurgence of citizen crime patrols, and the support diverse religious groups have lent to arson-damaged black churches, indicate that Edley's aspirations are moving towards reality. Even those community actions, facing disapproval by some individuals, open the doors to discussion and shared experiences; a necessary step towards any meaningful solution.

The primary lesson imparted by *Not All Black and White* is contained in its title. Namely, the problems of race in America, while perhaps not intractable, do not yield themselves to discrete answers or analysis. Readers are challenged to take a second look at their own tightly held beliefs and continuously refine their positions through thoughtful consideration of different perspectives.

Although Edley's book does not provide much in the way of answers, it is abundant in thought and ideas, and therein lies its value. While the reader may not agree with many of Edley's expressed views, *Not All Black and White* dares the reader to formulate a better, more reasoned answer. Edley

emphasizes that the journey to a reasoned solution cannot rest with the government alone or even primarily; it starts with the individual, within his or her own community.

Perhaps the conjunction of Edley's dedication and conclusion states it best. The dedication begins, "for Christopher F. Edley III and Christopher F. Edley, Sr., from father to son . . .," and the final chapter concludes, "each generation must decide whether to dig defensive trenches or build bridges, and each of us must choose whether to participate in that decision or just let others decide for us and our children. I have a child. And I know what kind of America I want for him. I cannot imagine choosing to be a bystander."

Andrew R. Hull

