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PROPOSAL 2

Unjust for Michigan

We support judiciously administered affirmative action programs as tools to overcome discrimination and its continuing effects.

—United States Conference of Catholic Bishops
Faithful Citizenship: A Catholic Call to Political Responsibility

On Tuesday, November 7 democracy will take center stage as Michigan residents head to the ballot box to vote on several important ballot proposals and statewide offices. Among these issues is Proposal 2, a proposed constitutional amendment to ban affirmative action programs that take race or gender into consideration for public employment, education or contracting purposes. While the intent of this proposal may seem attractive on the surface, the Catholic bishops of Michigan have taken a strong stand against Proposal 2 due to the detrimental effects it will have upon programs and policies that benefit women and minorities in the state.

Few will disagree with the fact that America has a long history of public policies that were implemented specifically to marginalize minority populations from elections, educational institutions and everyday social and cultural life. The nation's collective memory recalls Dred Scott, Jim Crow, the inhumane treatment of immigrant

populations, Plessy vs. Ferguson and a prohibition on women's right to vote. Despite remnants of these unjust ideologies undoubtedly lingering in various forms of sexism and racism, the nation's social conscience awoke long ago to eradicate their discriminatory roots.

Unfortunately, the same out-of-state interests that spearheaded anti-affirmative action campaigns in California and Washington State are now working to eliminate similar programs here in Michigan. As this FOCUS essay will further detail, affirmative action programs do not exist solely to encourage minority enrollment at institutions of higher education; they also help to level the playing field for women and minorities in many aspects of everyday life. Michigan Catholic Conference aims to help educate Catholic voters on the history and purpose of affirmative action programs, the positive effects such programs have in today's society, and why Proposal 2 is bad public policy for the State of Michigan.

Affirmative Action: An Historical Profile

“You do not take a person, who for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say ‘you are free to compete with all the others,’ and still believe that you have been completely fair.”

When President Lyndon Johnson uttered these words in 1965 the country had for four years been working to implement Executive Order 10925, issued by President John F. Kennedy, which instructed federal contractors to “take affirmative action to ensure that applicants are treated equally without regard to race, color, religion, sex, or national origin.” With the enactment of the Civil Rights Act still three years to come, President Kennedy had taken the first steps on behalf of the federal government to ensure women and minorities were proportionally represented in federal employment. The “affirmative action” policy was to resonate with future American presidents, as well as the United States Supreme Court, as numerous policies were implemented to guarantee the promotion of a diverse workforce and educational setting throughout the nation.

Following the lead of the Kennedy administration, nearly every U.S. president has supported affirmative action within his domestic policy agenda. In 1965, President Johnson issued Executive Order 11246, requiring all government contractors and subcontractors to take affirmative action to expand job opportunities for minorities. Two years later the order was amended to

include affirmative action for women. Presidents Nixon, Ford, Carter, Reagan and Clinton also addressed the issue of affirmative action as policies such as the national Minority Business Enterprise program and the National Women’s Business Enterprise Policy were created to help solidify a symmetrical number of women and minorities in the daily fabric of American society.

The U.S. Supreme Court has also played a major role in deciding the relevance of affirmative action policies across the country. The first major affirmative action opinion handed down by the Supreme Court was in 1978, when the Court in Regents of the University of California v. Bakke, 438 U.S. 912 (1978) upheld the use of race as one factor in choosing among qualified applicants for admission. The Court again addressed affirmative action in 2003 in the Grutter v. Bollinger case, where the University of Michigan’s use of race among other factors in its law school admissions program was ruled constitutional because the program furthered a compelling interest in obtaining “an educational benefit that flows from student body diversity.”¹

Despite the executive and judicial branches of government recognizing the need for affirmative action to help alleviate remnants of past discriminatory policies, the citizens of California and Washington State voted to amend their constitutions in 1996 and 1998, respectively, to eliminate affirmative action in public employment, education and contracting. The effects of such amendments have been devastating as programs that assist women and minorities in public fields have either been eradicated or severely crippled. Minority enrollment in California’s institutions of higher education has plummeted², contracts among African-American firms in Seattle dropped to 1.1 percent of all contracts³, and programs such as the Registered Nurse Education Program, the Minority and Women Business Enterprise Program, the American Indian Early Childhood Education Program, and the Student Opportunity and Access Program have been interpreted as unconstitutional due their focus on gender and/or race.⁴

Benefits of Diversity

The passage of both the Civil Rights Act of 1964 and Title IX in 1972, which barred sex discrimination in education, have accelerated the representation of women and minorities in the American workplace and institutions of higher education. Affirmative action programs have complemented both pieces of landmark legislation as many gains have been made in the last forty years. Such programs not only ensure that women and girls have equal access to quality education, but also encourage females to enter traditionally male-dominated fields where it is well documented that salaries are often higher.⁵ Affirmative action programs have also opened job opportunities for qualified women to achieve higher

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wages, advance in the workplace, and seek careers that enable financial needs of the family to be met. At a time when Michigan women are paid 67 cents for every dollar paid to men, the state can hardly afford to support a constitutional amendment that would thwart the goal of full equality in public fields.

Michigan, perhaps more than any other state, is facing significant international competition while undergoing an economic transition. Educational institutions unable to devise their own admissions policies due to Proposal 2's limitations will be challenged to provide Michigan with the highly educated, diverse workforce that is needed to compete in the global economy. These demands are currently being addressed with the help of several outreach, recruitment, retention and support programs that are active across the state,

including the College Day Program, which invites 6th–11th graders from schools with the greatest numbers of African-American, Native American, and Latino populations to visit college and university campuses; the Morris Hood Jr. Educator Development Program, which offers grants to universities that are focused on increasing the number of minority students in K–12 teaching programs; the Michigan College/University Partnership Program, which attempts to smooth the transition of minority students from community colleges to baccalaureate programs; and the Future Faculty Fellowship Program, which is aimed at increasing the number of minority teachers, and particularly targets those who will become instructors at a post-secondary education level.

Consequences of Proposal 2

Proposal 2's language is nearly identical to those proposals that passed in California and Washington, which allows for the consequences of this out-of-state campaign to be forecast. Along with an inordinate amount of wording that would be added to the state's guiding document, any program in Michigan that aims to create access for women and minorities, including those mentioned above, would either be dramatically scaled back or terminated altogether. This includes recently enacted legislation that allows for same-sex schools in the state, which have proven to be of tremendous value to the educational rearing of both the male and female genders. Proposal 2 would also become a major impediment should any institution of higher education seek to establish programs that would, for example, target more women to become dentists, or more men to work in elementary education.

Proposal 2 represents an ominous policy shift for Michigan while compromising the integrity of the state constitution. It is a setback for women and minorities and ties the hands of the state's universities and colleges. Proposal 2 is bad public policy for the state and turns back decades of progress that has been made in bringing full equality to education, employment and contracting in Michigan.

The ballot wording for Proposal 2 reads:

A PROPOSAL TO AMEND THE STATE CONSTITUTION TO BAN AFFIRMATIVE ACTION PROGRAMS THAT GIVE PREFERENTIAL TREATMENT TO GROUPS OR INDIVIDUALS BASED ON THEIR RACE, GENDER, COLOR, ETHNICITY OR NATIONAL ORIGIN FOR PUBLIC EMPLOYMENT, EDUCATION OR CONTRACTING PURPOSES

The proposed constitutional amendment would:

- Ban public institutions from using affirmative action programs that give preferential treatment to groups or individuals based on their race, gender, color, ethnicity or national origin for public employment, education or contracting purposes. Public institutions affected by the proposal include state government, local governments, public colleges and universities, community colleges and school districts.
- Prohibit public institutions from discriminating against groups or individuals due to their gender, ethnicity, race, color or national origin. (A separate provision of the state constitution already prohibits discrimination based on the basis of race, color or national origin.)

Should this proposal be adopted?

Yes No

A majority “yes” vote will amend Michigan’s constitution.

A majority “NO” vote will defeat this proposal.

VOTE NO ON PROPOSAL 2!

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¹ Grutter v. Bollinger, 539 U.S. (2003)

² “Initiative 200: Wrong Direction for this State,” Seattle Times editorial, 5 April 1998.

³ Fryer, Alex, “Private Jobs Elude Black Contractors.” Seattle Times, 13 August 2002.

⁴ No! 200 Legislative Committee, “Legal Analysis of Initiative 200,” 10 February 1998.

⁵ U.S. Department of Education, National Center for Education Statistics: 2004–2005.