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Rights Community
Silent?**

By Rep. Dana Rohrabacher



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College Admission Quotas Against Asian-Americans: Why Is the Civil Rights Community Silent?

by Representative Dana Rohrabacher

Over the past few years, charges have been made that some of our nation's foremost colleges and universities are using quota systems to limit admissions of Asian-Americans.

When I was first alerted to the problem by leaders of the Asian-American community, I had my staff look into the allegations. The more they investigated the problem, the more information they uncovered that seems to suggest that there is a conscious effort by some of our finest institutions of higher learning to limit the number of their Asian students.

At the University of California at Los Angeles, an internal memo from the Director of Admissions said the campus "will endeavor to curb the decline of Caucasian students." The memo went on to predict that Asian-Americans would begin to express concern as their numbers declined.

At Harvard University, 12 percent of Asian-American applicants are admitted contrasted with an overall admissions rate of 15.2 percent, despite the fact that Asian-Americans average higher grades and SAT scores than other students — 112 points higher in 1982.

Admitting Discrimination. Amid complaints from Asian-Americans, the University of California at Berkeley initiated an internal study to determine whether bias against Asian applicants existed. Chancellor Heyman later admitted the school's policies caused a decline in Asian-American undergraduate enrollment stating, "It is clear that decisions made in the admissions process indisputably had a disproportionate impact on Asians." That is academic gobbledeygook for: "We discriminated."

Brown and Stanford Universities have conducted internal studies showing the percentages of Asian-American students accepted have remained roughly the same, even though the number of highly qualified from Asian-American applicants has risen dramatically.

Soon after gathering this information, I introduced with several colleagues H.Con.Res. 147, a bill that puts Congress on record as opposing discriminatory quotas. My resolution says: 1) institutions of higher education should review their admission policies and, if necessary, revise them to ensure that applicants are not being illegally excluded; 2) the Attorney General should investigate allegations of illegal racial discrimination and pursue legal action when justified; and 3) the Secretary of Education should conclude, as soon as possible, the compliance reviews on admissions policies that were started over a year ago.

Victimized by Quotas. Earlier in this century, the Jews in this country were victimized by restrictive quotas in university admissions. It was a tragic situation. Hard working students were being judged not by their work and abilities, but by their religion. Considering the

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He spoke at The Heritage Foundation on September 19, 1989, as part of a lecture series featuring freshman members of Congress.

ISSN 0272-1155. ©1989 by The Heritage Foundation.

similarities, I have been dumbfounded by the reaction of some members of the civil rights community, the Department of Justice, and some members of Congress.

The initial response to the introduction of my resolution was positive. The B'nai B'rith, a leader in the fight against discrimination since 1913 sent a letter of endorsement. The Organization for Chinese Americans did as well. However, since that time their endorsements seem to have turned lukewarm. In fact, Senator Simon's chief staff member on the Judiciary Committee attacked my resolution at the OCA's annual convention. Of course, he did not bother to propose any legislative alternative, let alone a better resolution.

The Jewish American Committee also told a member of my staff that they would be sending a letter of endorsement. A few days later they called back and explained that some of their membership was concerned about the effects my resolution would have on affirmative action — despite the fact the H.Con.Res. 147 does not mention the topic. The Japanese-American Citizens League also refused to endorse for apparently similar reasons. It makes me wonder: if affirmative action had been in place in the 1930s, would we still have quotas for Jewish students today?

I intend to keep pushing the bureaucracy and speaking out on this insidious form of discrimination even if the civil rights establishment will not.

Halo Effect. The publicity on this issue seems to have created a halo effect. When they know they are being watched, organizations polish their halos and make sure they are on straight. For example, since the beginning of major publicity on this issue in November 1988, Harvard has announced that its next freshman class, the one entering this month, will be 15 percent Asian — the highest rate in Harvard's history. Stanford announced that their September 1989 entering class was over 18 percent Asian — their highest ever. UCLA announced that an Asian-American professor who had published data critical of universities' Asian admission policies, and who had to fight for three years, has finally received tenure. And UC Berkeley has apologized to the Asian community for their past admissions practices and has proposed a change in admission policies under which 50 percent of their student body — not 40 percent — will be admitted on academic merit. However, this policy has not been officially adopted by the university.

Many in the Asian community do not believe the proposed plan at Berkeley solves the problem. Others say that on a first reading the new plan may not meet *Bakke* standards for non-discrimination and Title VI of the Civil Rights Act of 1964.

I plan to pursue this issue. I have been discovering that unless you are willing to make some noise, nobody will listen to you. This issue deserves some of our attention — there is a legitimate reason for concern.

Discrimination's Two Forms. Discrimination against Asian-American college applicants seems to take two forms: one is an upper limit quota — even though as a group they score higher than average, Asian Americans are not admitted at the same rate as all other applicants.

The second form of discrimination appears to be a series of race-specific tracks for admission. It looks as though all applicants at some schools are screened. If they are black, Hispanic, Native American and possibly other racial categories, they are put on a special admit track. Some football players and cello players might have a separate track as well. Everybody else is put on a different track. Therefore, Asian American students who have higher than average scores and grades are restricted to competing for less than 100 percent

of the admission places — due solely to a race conscious track system. Some schools may be using both forms of discrimination.

Outrageous Document. At some schools this racial tracking system is blatantly racist and no secret. One outrageous racist document was published on February 26, 1989, in the *Los Angeles Times*. It was a rejection/waiting list letter to an applicant to Boalt Hall, the University of California at Berkeley's Law School. Yes, a law school.

The letter said to an Asian American applicant: "However, we can tell you that you are in the bottom half of the [blank] waiting list." In the blank was typed the word "Asian."

If this is not a race-only policy decision, something totally in violation of the constitutional rights of Asian Americans, I do not know what is. Apparently Boalt Hall keeps waiting lists by racial categories not only specific to Asians but for other races as well. Otherwise, why would they have a "fill in the blank" fill in the race form letter?

In the name of justice and equality, how can a law school even conceive of something so openly racist?

The reaction of some members of Congress also leaves me wondering about the level of commitment in Washington to civil rights for all Americans. I have written three times to Chairman Don Edwards of the House Subcommittee on Civil and Constitutional Rights requesting a hearing on my resolution concerning Asian quotas and the lack of action on specific complaints. Thus far, I have had little satisfaction from this champion of civil rights. The fact that my resolution has almost 60 co-sponsors from both political parties does not seem to impress him.

The executive branch enforcement agencies have not taken reports on specific complaints of this type seriously either. Close to two years ago, an Asian student from San Jose, California, filed a complaint with the Department of Justice because he was denied admission to UC Berkeley. He graduated first in his class of 432. He took home prizes from nationwide science fairs. He lettered in cross country and track and was a justice on his school's supreme court. Thus far, his complaint has not been acted on by the Justice Department or formally referred to the Department of Education.

Unwilling to Complain. What sort of message does this send to other students who may be the victims of discrimination? I am convinced that this type of discrimination is occurring more often than anyone knows, because many of the Asian students, by heritage and culture, are unwilling to make formal or public complaints.

Can you imagine the outcry from civil rights groups if nothing had been done on a similar complaint of a student of another minority?

As I said before, the University of California at Berkeley Law School has waiting lists for students based solely on their race. I have spoken to officials in the Justice Department and it appears that preliminary investigations into this report have yet to begin, even though it has been in the newspapers. The Justice Department, however, is pursuing a sex discrimination civil rights complaint against the all-male Virginia Military Institute — reportedly on the basis of one complaint.

Furthermore, the Education Department compliance reviews at UCLA and Harvard have dragged on for twenty months and fifteen months with no results. Other reviews have not even been started.

Why has the Justice Department not filed suit against these universities?

Why is the Subcommittee on Constitutional and Civil Rights not up in arms at the lack of attention given to a legitimate civil rights complaint.

Why has the civil rights community not been heard from in this matter?

Some members of Congress have been sympathetic. The Labor-HHS Subcommittees of both the House and the Senate, at my request, wrote language into the 1990 appropriation bill report that calls upon the Department of Education to quickly finish the ongoing compliance reviews on the subject of Asian-American admissions quotas.

Congressional Hearings Needed. However, we will not put an end to this situation unless the proper committees hold hearings.

I am renewing my call for congressional hearings on this subject. However, if Chairman Edwards still refuses, I will hold my own hearings to investigate. At my request, the Republican Research Committee will hold hearings to investigate Asian quotas and discrimination before the year is out. Perhaps I could ask you for help getting to the bottom of this perplexing situation. Your aid in gathering witnesses, experts, and publicity would be appreciated.

Finally, I am concerned about what will happen if the Department of Education compliance reviews result in a "violation" letter of findings.

If a violation letter of findings is issued, it will be interesting to see whether the Justice Department takes any action and whether civil rights groups renew their support for H.Con.Res. 147, and whether the Congress holds hearings on the topic of Asian student quotas.

As a matter of fact, based upon the less-than-swift action the Justice Department has taken in pursuing the San Jose student's complaint, I am concerned that any finding of violation by the Department of Education in the area of Asian American discrimination will not be pursued with vigor in the courts by the Justice Department.

Using Education Department Authority. Therefore, I call for Education Secretary Cavazos and Acting Assistant Secretary for Civil Rights William Smith not to refer to the Justice Department any finding of violation found in this area. Rather they should take immediate administrative enforcement action to cut off eligibility for all Education Department funds from any university found in violation of Title VI. This is fully within the Department's authority under Title VI of the Civil Rights Act.

In the *Bakke* decision, the Supreme Court struck down a racial classification admissions policy where, in the absence of a finding of previous discrimination, race was the sole determinant for admission. Speaking for the Court, Justice Powell said if the "purpose is to assure within its student body some specific percentage of a particular group merely because of its race or ethnic origin, such a preferential purpose must be rejected not as insubstantial but as facially invalid. Preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake. This the Constitution forbids."

On the subject of setting up racially exclusive pools of applicants, Justice Powell wrote: "To the extent that there existed a pool of at least minimally qualified minority applicants to fill the 16 special admissions seats, white applicants could compete for 84 seats in the entering class, rather than the 100 open to minority applicants. Whether the limitation is described as quotas or a goal, it is a line drawn on the basis of race and ethnic status."

After stating that equal protection guarantees were personal rights, he concluded, "The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal."

Quotas and other racial discrimination have no place in our nation's schools, or for that matter, anywhere else. Please join me in fighting this discrimination. It is unfair for Asian-Americans and unfair for America.

Enforcing the Law. My resolution says that universities should follow the law of the land and that federal civil rights enforcement agencies should vigorously enforce the law.

Why are civil rights and other ethnic culture groups scared of that?

What has this country come to when enthusiastic support for this basic principle is not forthcoming?

If America is to succeed and become competitive once again, we must allow all Americans to maximize their potential for their benefit and America's.

