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Affirmative action: meaning, intentions, and impacts in the big picture

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Abstract: This paper provides a broad overview of the meaning of affirmative action and its intended and unintended impacts. The paper is a literature review and does not make any arguments specifically for or against affirmative action but describes the broad arguments and findings in the existing literature. Central to the definition of affirmative action is its proactive nature in rectifying horizontal inequalities and historical wrongdoing. Motivations can be ethical, economic, or political. The designation criteria and the scope of affirmative action also vary across countries, which affects how its effectiveness and value are measured. Affirmative action can have positive intended impacts as well as adverse unintended impacts, and the jury is still out on its overall effectiveness. Affirmative action has also been implemented on the grounds of conflict management, but the results have been mixed, and the evidence of affirmative action as a conflict management tool is limited.

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1   Introduction

This paper provides a broad overview of the meaning of affirmative action and its intended and unintended impacts. The paper does not make any arguments specifically for or against affirmative action but describes the broad arguments and findings in the existing literature. Section 2 begins with the definitions and meaning of affirmative action, paying special attention to its typology and how different related terms come under the umbrella of affirmative action. It notes that central to the definition of affirmative action is its proactive nature in rectifying inequalities and historical wrongdoing. Section 3 explores the various motivations behind affirmative action and its different applications. Motivations can be ethical or 'intrinsic', economic, or political. The designation criteria and the scope of affirmative action also vary across countries, which affects how its effectiveness and value are measured. Section 2 then briefly summarizes the intended and unintended impacts of affirmative action. It does not pit the intended and unintended impacts against each other but highlights that affirmative action can have positive intended impacts as well as adverse unintended impacts, and the jury is still out on its overall effectiveness. Section 4 briefly discusses the relationship between affirmative action and conflict. Affirmative action has been implemented on the grounds of conflict management but the results have been mixed, and the evidence of affirmative action as a conflict management tool is limited. Section 5 concludes. Hereafter affirmative action will be referred to as 'AA' and affirmative action programmes and policies as 'AAPs'.

2   Definitions and typology of affirmative action

While the rise of AA is often attributed to the policies developed in the USA in the 1960s and 1970s, the first AAPs were officially introduced in India in the late 1940s. However, the term 'affirmative action' came to public attention in the USA after an executive order by President John F. Kennedy, who called for 'affirmative action to ensure that the applicants are employed, and that employees are treated during employment without regard to race, colour, creed, or national origin'.[1] This was followed by President Richard Nixon's 1971 executive order which specified that 'goals and timetables' were meant to 'increase materially the utilization of minorities and women' and referred to 'having fewer minorities or women in a particular job classification than would reasonably be expected by their availability' (Sowell 2004: 4–5).

The United States Commission on Civil Rights has defined AA as 'any measure, beyond simple termination of a discriminatory practice, adopted to correct or compensate for past or present discrimination or to prevent discrimination from recurring in the future' (in Murrell and Jones 1996: 78). However, there is no consensus among scholars and legislators about the meaning and definition of AA.

The definitions commonly refer to remedial policies intended to make up for historical discrimination and division. Chowdhury et al. (2020) define AA as 'a set of ethically driven policies aimed at providing special opportunities to a historically disadvantaged group in order to make the members of this group capable of competing with their privileged counterparts in the society'

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[1] It should be noted that the word 'race' and the concept of distinct human races have little scientific standing and, in this paper, it is used, as described in the Merriam-Webster (n.d.) dictionary, as 'primarily a sociological designation, identifying a group sharing some outward physical characteristics and some commonalities of culture and history'.

(Chowdhury et al. 2020: 2). Similarly, according to Gomez and Premdas (2013) 'by implementing affirmative action to rectify old wrongs, eradicate injustices, extend benefits, and provide special preferences, governments aspired to establish a new, just, and equal society' (Gomez and Premdas 2013: 1). They add that 'in most cases, a defining moment or an event has acted as a catalyst for affirmative action' (Gomez and Premdas 2013: 1). AA recognises differences in a multi-ethnic society, bestowing dignity and space for a separate identity and thus 'affirmative action promotes equal citizenship in a divided state' (Gomez and Premdas 2013: 7).

Secondly, references to the proactive nature are central to definitions. Holzer and Neumark (2000) propose that AA can be distinguished from other anti-discrimination measures by:

> …requiring pro-active steps (hence the phrase 'affirmative')to erase differences between women and men, minorities and non-minorities, etc., in contrast to laws that only prevent employers from taking steps that disadvantage minorities in the labour market, such as refusing to hire them. (Holzer and Neumark 2000: 484)

Similarly, Crosby et al. (2006) point out that affirmative action and equal opportunity share the same goal but affirmative action is, by nature, proactive. They specify that 'affirmative action occurs whenever an organization devotes resources to making sure that people are not discriminated against on the basis of their gender or their ethnic group' (Crosby et al. 2006: 587).

Affirmative action is also essentially linked to horizontal inequalities and economic structures and the goal of AA is inherently to produce inter-group, not intra-group, equality (Crichlow and Gomez 2015: 6). According to them AA can be viewed as 'an endeavour to create a far more just economic and socio-political order, one that entails the need to expose, even stress, the significance of the "idea of race" in colonial and contemporary construction of societies' (Crichlow and Gomez 2015: 4). Ratuva (2013b) suggests that in some countries AA has been implemented to engineer a new middle class and new patterns of ownership and power relations (Ratuva 2013b: 6). However, this feature of AA has also attracted criticism. Some critics state that rather than benefitting the truly disadvantaged minorities, AAPs tend to benefit those who are already in a higher socio-economic bracket (Darity 2013 in Yang et al. 2006: 208). Crichlow and Gomez (2015) argue that too much faith may have been placed in AAPs to begin with and they are not a panacea for group-specific poverty and socioeconomic lags caused by centuries of marginalisztion (Crichlow and Gomez 2015: 15).

2.1 Typology and types of affirmative action

There is no consensus among scholars, law makers, and policy makers about the range of policies that AA covers and how the related terms in common use fit within the framework of AA. A helpful, though not universally accepted, four-part typology is provided by Harrison et al. (2006), who sort AAPs into four general types. Firstly, opportunity enhancement AAs offer prior-selection assistance to the members of designated groups, typically through focused recruitment or training, but they do not give preferential treatment in the employment decision itself. Rather, their purpose is to diversify the pool of qualified candidates. Secondly, equal opportunity AAPs seek to eliminate discrimination and forbid decision makers from assigning a negative weight to the designated group members. Thirdly, tiebreak AAPs, or weak preferential treatment, give members of the designated group preference over others if, and only if, they have equivalent qualifications, assigning a small positive weight to designated group members. Fourthly, strong preferential treatment AAPs give preference to the designated group members even if their qualifications are not compatible with non-designated group members and therefore potentially assign a large positive weight to the group membership (Harrison et al. 2006: 1014).

More commonly AAPs are divided in two broad categories: 'soft' and 'hard' programmes. Soft programmes usually encompass informal or voluntary systems such as training and outreach programmes or so-called 'colour-blind' programmes, which use a proxy for race or ethnicity (Fershtman and Pavan 2021; Fryer and Loury 2005; Gomez and Premdas 2013). In contrast hard programmes usually refer to institutionalized quotas/reservations, policies which use observable characteristics as a tiebreaking or advantageous factor and sanction-driven policies (Ratuva 2013b: 1; Yang et al. 2006). Additionally, hard programmes are usually explicitly prescriptive and contain timetables (Gomez and Premdas 2013: 6). However, this division is not accepted by all. For instance Fryer and Loury (2005) argue that 'colour-blind' programmes do not fall under AAPs and are not an efficient substitute for AAPs. They also argue that it is not possible to draw a meaningful distinction between goals and quotas or preferences and enhancement efforts because they will lead to a similar equilibrium in which the targeted applicants of a given skill level enjoy a wider pool of options and possess more bargaining power (Fryer and Loury 2005: 150).

Along similar lines, as the proactive nature of AA is central in many of the definitions, some commentators suggest that 'equal opportunity', 'equal access', and 'non-discrimination' do not fall into the category of AA as AA always requires proactive steps (Crosby et al. 2006; Holzer and Neumark 2000). Fryer and Loury (2005) suggest that equal opportunity relies on the assumption that the educational or socio-economic gap between groups will converge over time as active discrimination no longer takes place. However, they disagree with this notion and suggest that AA, which requires more than enforcement of non-discrimination, is needed to ensure racial equality in the USA. Similarly, Schuck (2002) suggests that the adjective 'affirmative' distinguishes AA from more passive practices such as non-discrimination, which simply refers to the normative principle of not treating people differently based on their group membership or characteristics (Schuck 2002: 4). Schuck also uses 'preferential treatment/policy' as a synonym for AA.

An even more difficult question is how 'positive discrimination' and 'positive action' relate to AA. Good examples of the distinction between the two and their meaning come from the UK, where positive discrimination is prohibited under the Equality Act of 2010. At the same time 'positive action' is employed at some level in many institutions. The Cambridge Dictionary defines positive action in terms of increased availability: '[positive action is] action to make education, employment, etc. available to members of groups who have traditionally been treated unfairly, for example because of their race or sex'. It defines positive discrimination in terms of advantage: '[positive discrimination is] the act of giving advantage to those groups in society that are often treated unfairly because of their race, sex, etc.' (Cambridge Dictionary 2021).

Along similar lines the University of Dundee describes positive action as 'a form of encouragement to increase candidates for a post. The selection process for the post, however, is the same for every candidate and the successful candidate is appointed on their ability for the post, irrespective of race or gender etc.' (University of Dundee 2021). In contrast positive discrimination is described as:

> …a form of discrimination that favours someone by treating them differently in a positive way. An example might be an organization appointing someone from an under-represented group to a role without considering whether they have the right skills for the post. Other candidates who are better qualified are passed over. Positive discrimination is unlawful discrimination. (University of Dundee 2021)

The UK Equality Act specifies that:

> …in practice [positive discrimination] allows an employer faced with making a choice between two or more candidates who are of equal merit to take into

consideration whether one is from a group that is disproportionately under-represented or otherwise disadvantaged within the workforce. This is sometimes called either a 'tie-breaker' or the 'tipping point'. (Government Equalities Office 2011)

Following these definitions and using the four-part typology by Harrison et al. (2006), positive action would fall into the category of opportunity enhancement AAPs or tiebreak AAPS, while positive discrimination would fall in the category of strong preferential treatment AAPs.

Strong preferential treatment, such as positive discrimination and quotas, has faced legal disputes elsewhere. In 1978 the USA Supreme Court declared racial quotas unconstitutional and since then AAPs in the USA have avoided connections to quotas and have shifted towards softer terms like 'targets' and 'goals' (Menand 2020). In India AA has also faced legal disputes, but the reservations are still in place. As Holzer and Neumark (2000: 487) point out (in the USA context) the problem does not only exist in the level of definition, and a clear legal distinction between affirmative action and Equal Employment Opportunity legislation is muddied further in practice. They add that: 'Laws barring race- or sex-conscious behaviour in hiring, promotions, etc., are likely to undermine not only explicit forms of affirmative action, but also any prohibitions of discrimination that rely on disparate impact analyses for their enforcement' (Holzer and Neumark 2000: 488).

All in all the definition of AA is not fixed and is lacking consensus. In the later sections of this paper, the decision to refer to a policy or programme as AA is left to the author of the original source.

3   Approaches to affirmative action and its intended and unintended impacts

As discussed, the definitions and understanding of AA vary and so do the intentions, the justifications, and the designs of AAPs. The interpretation of the impacts and effectiveness of AA also depend on how its meaning is formulated and its value is measured.

The motivations behind AA can be 'intrinsic' or ethical, referring to the psychological and philosophical questions of fairness, justice, diversity, equality, and equity (Steward 2013; Yang et al. 2006). The latter authors argue that in modern mass societies, broad social policies such as AA are often used to administer justice, and the programmes rely on historical and cultural information about unfair discrimination, transmitted primarily by modern media (Yang et al. 2006: 213). However, questions of efficiency and economic growth also propel AA. Reduced horizontal inequalities and increased minority representation in different sections of society can foster economic growth by increasing the overall human capital and labour force, increase competition, and reduce socio-economic exclusion and the dependency ratio. However, AA can also be argued to have a negative impact on efficiency and this argument is commonly used against it (Chowdhury et al. 2020; Holzer and Neumark 2000; Ratuva 2013b).

In addition political motives play a role in the implementation of AA. Affirmative action has been predominantly practised in democratic societies and it can be used as a political and ideological tool to attract support, appease ethnic minority groups, or even assimilate them into a dominant culture (Ratuva 2013b: 4; Yang et al. 2006: 213). Shoup (2011) even argues that:

The implementation of EBRs (ethnically-based redistribution) [in postcolonial states] sends a powerful message about which groups' welfare is to be prioritized by the state and, while such policies are often justified through a rhetoric of

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economic equality, they are more forcefully attached to claims of ethnic hierarchy that are intimately linked to narratives of an indigenous national project. (Shoup 2011: 786).

Chowdhury et al. (2020: 43) summarise one of the main debates within AA as follows: 'The proponents of AA tend to focus more on the moral justifications of AA while one of the major arguments against AA rests in its implication of encouraging mediocrity over meritocracy' (Chowdhury et al. 2020: 43).

The next section will explore the intended and unintended impacts through examples of AA.

3.1   Intended impacts

In most of the countries where AA has been implemented, social advantages and disadvantages coincide with ethnic and cultural lines or gender, and the programmes are designed to assign preference to historically disadvantaged groups (Gomez and Premdas 2013: 6). Officially, AAPs were first introduced in India in the late 1940s, but the first AA-type programmes had already been implemented there by the British during the first half of the 20th century as they introduced quotas in political representation and different AA policies were routinized after independence (Crichlow and Gomez 2015; Jaffrelot 2006). Since then AA has been implemented in other heterogeneously populated countries like the USA, Malaysia, Fiji, South Africa, Brazil, and Northern Ireland. The shared goal of these AAPS is to address inter-group inequalities in wealth and income distribution and education (Crichlow and Gomez 2015: 4).

However, the designation criteria differ among these countries. In the USA, South Africa, Malaysia, and Fiji, AA policies are based primarily on race or ethnicity. In contrast in India the designated groups are identified mainly by caste, which is based on social class and historical occupational membership. Brazil's policy targets Afro-Brazilians, but the division is based on the local taxonomy of skin colour rather than race or ethnicity (Yang et al. 2006: 211–12). In Northern Ireland the designation is based on religion. Commonly, AAPS relate to political representation, improved access to education and means of economic advancement, and provision for employment (Ratuva 2013b: 1). In India and the USA the policy was specifically designed to target ethnic minorities who are under-represented in economic and political spaces (Crichlow and Gomez 2015: 4). In Malaysia, South Africa, and Fiji, AA was designed to serve the majority population, who lacked economic power but whose elites had assumed political office. In Northern Ireland AAPs sought to level the playing field of opportunities between Catholics and Protestants. Catholics have historically suffered from socio-economic and political exclusion, but AA has been carried out in a way that targets both groups (Crichlow and Gomez 2015: 4). In South America, particularly in Brazil and Ecuador, AAPs are intended to be a remedy for a long history of racial discrimination linked to weak access to economic opportunities (Crichlow and Gomez 2015: 4).

Following Ratuva (2013b), the scope of intended impacts can be sorted into two categories. According to him, in Fiji, Malaysia, and South Africa, AA can be considered:

> ...a major social engineering undertaking, rather than policy prescription, to restructure society as a way of addressing horizontal inequality, or the differences between ethno-cultural groups. This entails engineering a new middle class and new patterns of ownership and power relations, with the hope of creating a more equitable, just and stable society. (Ratuva 2013b: 6)

In these countries the beneficiaries of AA belong to the majority group or ethnicity, and AAPs are also backed by ideology and the idea of 'primordial destiny' such as the 'paramountcy of Fijian interest' in Fiji, the Malay 'special privilege' in Malaysia, and 'black empowerment' in South Africa (Ratuva 2013b: 7).

In the second group of countries, such as the USA, India, Canada, Brazil, and Northern Ireland, AA is more of a policy prescription to balance the representation of disadvantaged groups in the political and socio-economics sphere rather than an effort to completely restructure the whole society. In these countries AA was originally intended to be a temporary measure rather than a fixed policy. Among countries such as the USA, AA is also more generally used to increase the presentation of other subordinate groups such as women and the disabled (Gomez and Premdas 2013; Sowell 2004; Yang et al. 2006).

It should be noted that women have also been targeted by AA around the world. Political quotas, in particular, have become a worldwide phenomenon. The World Economic Forum (WEF 2021) reports the global average distance completed to gender parity, which currently stands at 68 per cent. In political empowerment, only 22 per cent of the gap has been closed and only 58 per cent of the economic opportunity gap has been closed (WEF 2021). Therefore political quotas, in particular, have become widespread and more than 100 countries have introduced a form of gender quota in their electoral system at some point in time (Besley et al. 2017: 2204). Some countries have also imposed quotas for corporate representation and academia.

Results

There is considerable debate over the actual impact of AA policies. While a full assessment of impact is beyond the scope of this paper, it is fair to say that the results are generally mixed.

With regard to countries of 'major social engineering', in Malaysia AA has helped to boost Malay participation in the economy, especially in the modern economic sector, and a growing Bumiputra corporate and business community has consequently emerged. Similarly, participation in tertiary education has been boosted and the quota system in universities was dropped in 2001. On the flip side the benefits have not been evenly distributed among the community. Additionally, some of this success must be attributed to the speed of economic growth (Guan 2005: 223–25; Yang et al. 2006: 209). In Fiji AA has succeeded in addressing economic disparity and has benefitted various sections of the designated categories. However, one of the challenges has been that the programmes have failed to recognize intra-group diversity and although the indigenous Fijian middle class has expanded, poverty has also increased (Ratuva 2013a: 96, 120). Furthermore, the extent to which AA has addressed conflict resolution is questionable and Ratuva (2013a) argues that AA has instead, at least indirectly, escalated ethnic tensions.

In South Africa the impacts of AA are generally questionable. It has helped to create a new middle class, but as in Fiji and Malaysia, the elites have become the primary beneficiaries of the resources and business opportunities, inducing new intra-ethnic wealth and income inequities. It is also unclear whether or to what extent AA has contributed to poverty reduction (Gomez and Premdas 2013: 14). Burger and Jafta (2010) examine in more detail the effect of AA policies in reducing the employment gap between blacks and whites and find that the effects have been marginal at best. The effect of AA has been much less significant than improved access to education, improved educational quality, and the effects on employment of accelerated economic growth (Burger 2010: 23). The next section will discuss the unintended effects in more detail.

With regard to impacts in the 'policy prescription countries', most of the evidence comes from the USA. Holzner and Neumark (2000) summarize much of the evidence up to the year 2000. They

evaluate AA from three aspects: (i) the representation of minorities and women (particularly in education, the labour market, and contracting); (ii) the efficiency effects of AA; and (iii) the distribution effects of AA. In summary they conclude that there is compelling evidence that AA has increased employment, enrolment, and contracting for minorities and women (Holzer and Neumark 2000: 513). On the distribution side AA seems to have major redistributive effects in markets where discrimination still exists, and it may create some positive externalities such as efficiency gains (Holzer and Neumark 2000: 558). They conclude that the effects on efficiency are ambiguous due to the lack of existing evidence, but there is little convincing evidence of negative efficiency effects. Their findings are also supported by other evidence. Crosby et al. (2006) point out that studies by economists have shown that firms with 'vigorous' AA plans are as profitable as other firms (Crosby et al. 2006: 590). Yang et al. (2006) also summarize evidence and conclude that the programmes have been particularly successful in federal employment and that minority representation has increased in the upper levels of organizations (Yang et al. 2006: 208).

With regard to India AA has increased access to education among the designated groups and has had some success in alleviating poverty as it has created a new middle class among the disadvantaged castes (Gomez and Premdas 2013: 12; Yang et al. 2006: 207). According to Lee (2016), 'the imposition of hiring and educational quotas in India appears to have neither ignited a social revolution nor been an abject failure' (Lee 2016: 30–31, 2021: 1560). Therefore AA has become an integral part of party politics and has long exceeded the intended term limit (Lee 2021).

Northern Ireland provides some of the most promising results from AA as the Fair Employment Act has significantly improved access to employment opportunities (Gomez and Premdas 2013: 15). Muttarak et al. (2013: 574) find that, as a result of AA, there has been a general tendency to move towards a more balanced share of Catholic and Protestant employees in all areas (Muttarak et al. 2013: 574). They also find support for the claim that AA has contributed to the peace process as it has had a small positive effect on both groups' attitudes towards each other (Muttarak et al. 2013: 576). However, Northern Ireland remains divided and, particularly in the sphere of socio-economic disadvantage, levels of communal segregation are still high (Gomez and Premdas 2013: 15). The effects of AA on conflict management will be discussed in more detail in a separate section.

With regard to gender quotas some of the strongest evidence for political quotas comes from India, where the reservation system enables causal analysis (Pande and Ford 2011: 3). Some of the best evidence on corporate quotas comes from Norway, as the 2003 legislation, which requires the share of women on corporate boards to be 40 per cent, can be used as an 'exogenous policy shock' (Pande and Ford 2011: 3). The World Bank's 2012 report on Gender Quotas and Female Leadership draws three broad conclusions about gender quotas and addresses some of their externalities:

> First, quotas can and do increase female leadership in politics and the corporate sphere. Second, female leadership influences policy outcomes. […] To the extent that equitable representation in policymaking is desirable, quotas are a good policy tool to achieve it. In politics, there is no evidence that such representation has come at the cost of efficiency. The evidence from corporate board quotas does suggest some negative short-run impact on firm returns (however, the channels of influence and long-term effects are unclear). Third, gender quotas do not seem to create a sustained backlash among citizens—rather, evidence from political quotas suggests that voters use new information about how female leaders perform to update their beliefs about women. That said, we do find evidence that groups who are affected adversely—male incumbents, party leaders and firm owners—

respond strategically in order to reduce the impact of gender quotas on leadership outcomes. (Pande and Ford 2011: 3)

3.2 Unintended impacts

The unintended impacts of AA also require careful attention. Three concerns around AA commonly arise in the literature: (i) increased intra-group inequality; (ii) (in)efficiency and incentive impacts; and (iii) worsening of inter-group relations.

Increased intra-group inequality is one the most prominent concerns in the literature. This unintended impact has been reported in all the countries discussed above. It seems that, while AA has reduced poverty, it has tended to create a new middle class within the designated group(s). Even in India, where the so-called 'creamy layer' is excluded from AA, only a minority have reaped tangible benefits from it and it has contributed to greater intra-caste inequality (Gomez and Premdas 2013: 13). Sometimes there are distinct subgroups within the designated group who do not equally benefit from AA. This is the case in Malaysia. It should be noted that Bumiputra (the designated group) encompasses several subgroups, notably Malays, the Orang Asli of Peninsular Malaysia, and various indigenous peoples of East Malaysia. The non-Malay Bumiputra have not benefitted equally, and AA has created a new Malay-Bumiputra business and corporate elite (Guan 2005: 223–25). Gomez and Premdas also note that the existing spatial differences have been exacerbated due to the limited ability of the rural poor to take advantage of access to higher education. They note that, particularly in South Africa, Malaysia, and India, AA has not helped rural enterprises and that, in South Africa, Fiji, and Malaysia, AA has been pursued through selective patronage (Gomez and Premdas 2013: 16–17). Crichlow and Gomez (2015) sum up by stating that 'the affirmative action policies did not or rather could not and cannot rescue those on the margins of socioeconomic spaces. In fact, they may even have reinforced those tendencies' (Crichlow and Gomez 2015: 11).

The effects of AA on efficiency losses and incentive issues are not as well documented as the two others but they have invoked reactions among commentators. Sowell (2004) argues that because of AA, both designated and non-designated groups may weaken their efforts. The designated groups may consider it unnecessary to work at full capacity, while the non-designated groups may expect working to their fullest capacity to go unrewarded (Sowell 2004: 13). Chowdhury et. al (2020) explore AA in competitions at a more theoretical level and point out that there is a 'dual incentive problem' or a 'discouragement effect'. The dual problem indicates that:

> If there is too much asymmetry among players, weaker players have lower expected pay-offs and lower incentives to invest effort in the contest. However, if players are highly heterogeneous, even the strongest player is discouraged because of the decline in the expected intensity of competition. (Chowdhury et al. 2020: 49)

Efficiency questions are related to the incentive questions, and it has been argued that AA can decrease the standards and overall effort levels of students, create mismatches between skilled workers and jobs, and have negative cost–benefit outcomes (Chowdhury et al. 2020: 4). The questions of incentives and efficiency are also linked to the difficult relationship between AA and neo-liberalism. Ratuva (2013b: 7) points out that AA can be seen by neoliberal policy thinkers as a distortion of economic development . Along similar lines Crichlow and Gomez (2015: 10) note that the current neoliberal moment has also witnessed the emergence of arguments which emphasize the individualistic focus and require the identification of specific instances of wrongdoing and named perpetrators .

Support for these hypotheses in either direction is limited. Holzer and Neumark (2000) synthesize evidence from US studies and conclude that 'it may be possible to generate affirmative action programmes that entail relatively little sacrifice of efficiency. Most importantly, there is at this juncture very little compelling evidence of deleterious efficiency effects of affirmative action' (Holzer and Neumark 2000: 558). Along similar lines Chowdhury et al. (2020) find that properly tailored AA programmes could potentially improve efficiency as they can address the dual incentive problem. On the other hand, based on observations across six countries, Gomez and Premdas (2013) argue that targeting and preferential treatment in business has led to serious wastage in attempts to generate growth and industrialization. The lack of transparency in AAPs has induced capital flight and increased reluctance to invest in research and development for fear of redistributive exercises (Gomez and Premdas 2013: 17).

The final big issue among the unintended impacts is that it has been suggested that AA worsens inter-group relations. Sowell (2004) suggests two channels through which AA can influence inter-group relations. Firstly, the transfer of benefits from one group to another can cause resentment. This is partly because the size of the transfer effect is often overinterpreted. For instance, several people may feel that they have been dismissed because of a quota while, in reality, only one person has been dismissed. Secondly, the members of both designated groups and non-designated groups may redesignate themselves to gain benefits and/or alter their attitudes towards the other group members (Sowell 2004: 8). The first channel is linked to perceptions of fairness and justice. This is particularly the case with quotas. Ratuva (2013b) explains that 'the critics of quotas often argue that quotas victimize deserving people in the non-designated groups on the basis of their ethnic category and not on the basis of merit' (Ratuva 2013b: 3).

Yang et al. (2006) provide psychological background for the second channel. They point out that humans do not have cognitive architecture 'for automatic race encoding' (Cosmides and Tooby 2004 in Yang et al. 2006), but AA policies which use markers like race and ethnicity as the criteria for inclusion provide greater salience to these arbitrary cues, making race and ethnicity much more salient alliance identifiers, and increase consciousness of belonging to certain groups (Yang et al. 2006: 205). The effect on inter-group relations is also partly a product of attitudes towards AA and perceptions of it rather than actualized displacement and discrimination. Crosby et al. (2006) summarize evidence from laboratory and survey studies and provide examples of such situations. For instance the mere mention of AA is enough to increase students' intolerance of out-of-group members, and students of colour are aware that white professors and students may question the abilities of ethnic minority students (Crosby et al. 2006: 593). Some commentators have also suggested that AA could act as an assault on self-esteem, as preferential treatment suggests that group members could not have succeeded on their own, reinforcing harmful stereotypes and hurting designated groups as they invoke sentiments of sympathy and dependency (Chowdhury et al. 2020; Crosby et al. 2006; Sowell 2004).

Affirmative action can also have more serious effects on intra-group relations and contribute to conflict. This is discussed in the next section.

4   Conflict and affirmative action

The literature paints the relationship between conflict and AA as a doubled-edged sword. However, the literature linking AA directly to conflict is very limited. While it can also worsen conflict, AA can be seen as a conflict resolution tool. As discussed in the previous section, AA can increase intra-and inter-ethnic tension and thus feed further conflict. On the other hand the reduction of horizontal inequalities lies at the heart of AA, and AA has been introduced to promote

stability and regulate discontent stemming from unjust discriminatory practices (Gomez and Premdas 2013: 6).

Indeed AA is commonly linked to conflict through horizontal inequalities. According to Stewart (2000), a country's vulnerability to conflict can identified by the following: '(a) serious past conflict at some time over the previous 20 years; (b) evidence of a considerable degree of horizontal inequality; (c) low incomes and (d) economic stagnation' (Stewart 2000: 260). Gomez and Premdas (2013) point out that these horizontal inequalities between groups are the result of 'a number of cross-cutting factors, including colonial histories, differing paths of development, economic growth strategies, changes in migratory and settlement patterns, and the nature of the political system and form of governance' (Gomez and Premdas 2013: 3). These factors have led to conflict in both developed and developing countries (Gomez and Premdas 2013: 4).

One channel that links conflict and AA holds that AA can lead to solidification of group identities and groups may become more aware of their position. Hillesund et al. (2018) point out that 'horizontal inequality researchers argue that the development of a collective motive requires individuals to compare the status of their group to that of other groups. These conditions are more likely to materialize if individual group members' identification with the group is strong' (Hillesund et al. 2018: 467). Along similar lines Stewart (2000) notes that in order to mobilize groups, there must be some way in which they are differentiated one from another, e.g., by ethnicity, class, or geographical location. Group identity is a powerful mechanism for political leaders to cohere and mobilize groups in their competition for power and resources. Economic and political differentiation is of fundamental importance for group mobilization and, for this reason, the relative position of a group is more crucial than its absolute position (Stewart 2000: 248). She continues to note that 'if a whole society is uniformly impoverished, there may be despair, but there is no motivation for group organization' (Stewart 2000: 248). However, Stewart reminds us that it can also be the privileged who initiate violence out of fear of losing their position (Stewart 2000).

Another channel between AA and conflict is increased intra-group inequality. On one hand, as Gomez and Premdas (2013) point out, the solidification of group identities may increase inter-group solidarity and may help to mitigate the potential conflicts that arise from increasing wealth and income inequalities. While, on the other hand, if policies aggregate several group identities into one large group, this may exacerbate tensions (Gomez and Premdas 2013: 17). Tensions may also arise when particular subgroups benefit from AA disproportionally (Gomez and Premdas 2013; Yang et al. 2006) An additional way to link AA-induced, increased intra-group inequality to conflict is that it may facilitate the ideal conflict dynamic. Esteban and Ray (2011) introduce a model of ethnic conflict and focus on the role of heterogeneity between and within groups in explaining group and individual contributions. Conflict requires both capital and human inputs for soldering, thus a greater economic inequality within a group facilitates a synergy of finance and human inputs, which makes it easier to employ militants (Esteban and Ray 2011).

The evidence for AA as a conflict management tool is generally limited. Some of the most promising results of conflict management come from Northern Ireland. However, this may partly be due to the special design of Northern Ireland's AA. Northern Ireland's AAP was established by the Fair Employment Act (FEA) of 1989. In a sense the FEA emerged as a crisis management tool to address social division, discrimination, and the conflict between Catholics and Protestants (Gomez and Premdas 2013: 15). For this reason AA in Northern Ireland is symmetric in nature and seeks to secure the fair participation of both groups in employment. Additionally, it applies to both public and private entities above a certain size (Muttarak et al. 2013: 562, 565). Todd and Ruane (2012) argue that:

Strongly egalitarian policies (of which affirmative action programmes were an important part), introduced late and against strong resistance, have at once lessened inequality and changed and moderated national conflict: resistance to these policies has lessened and the issue of communal economic inequality is now depoliticized. (Todd and Ruane 2012: 2)

They suggest that the equality measures have been effective in reducing conflict because they have significantly reduced inequality and created a context in which proactive projects and participation can be effective, rather than having achieved strict communal equality of condition (Todd and Ruane 2012). They also point out that the tone of nationalism has changed: 'Catholics are less likely to portray themselves as victims, and are increasingly willing to be Irish and nationalist within Northern Ireland, lessening the urgency of their constitutional aims' (Todd and Ruane 2012: 17).

On the other hand a good example of the opposite effect of AA comes from Fiji where conflict resolution was one of the major justifications for AA. Ratuva (2013a) argues that, while AA has addressed economic disparity between Indo-Fijians and indigenous Fijians, benefitting various sections of the designated categories, it has simultaneously escalated ethnic differentiation and tension between and within groups. According to Ratuva (2013a), the dream of building a large entrepreneurial class of indigenous Fijians quickly heightened the expectations within the group and led to tensions within the indigenous Fijian community. The situation is also made complex by the contested definition of inequality between indigenous Fijians and Indo-Fijians. Indigenous Fijians have the majority in political and military power and land ownership, while Indo-Fijians hold the majority of the wealth and control the entrepreneurial activities. Both groups share the experience that their power is meaningless without the other (Ratuva 2013a: 122). The causality between conflict and AA is impossible to determine but AA has been in place throughout Fiji's independence and six coups have taken place during the same period (Gomez and Premdas 2013: 14).

Affirmative action has also been used post conflict as a tool to empower the disadvantaged, sustain peace, and reduce horizontal inequalities. Waldorf (2019) explores the effect of legal empowerment on horizontal inequalities in the post-conflict setting in Liberia. Legal empowerment refers to the act of increasing disadvantaged groups' protection and control over their lives through legal services and related development activities.[2] In the Liberian context land rights are the most common source of legal disputes. The Americo-Liberian elite has benefitted disproportionally from economic growth, while land concessions to foreign companies have reduced livelihood security for many non-Americo-Liberians in rural areas. Consequently, two paralegal programmes—Community Justice Advisors by the Catholic Justice and Peace Commission and a land documentation programme by the Sustainable Development Institute (SDI)—were designed to address this issue. Waldorf concludes that legal empowerment holds modest potential in the reduction of horizontal inequalities, especially social ones (Waldorf 2019: 450). However, Waldorf continues to note that 'the post-conflict environments are particularly "inauspicious" environments for legal empowerment, especially when horizontal inequalities contributed to conflict in the first place' (Waldorf 2019). Due to this, as discussed above, efforts to reduce horizontal inequalities could end up reinforcing group identities, reducing social cohesion, and, in the worst case, triggering conflict (Waldorf 2019). Land documentation of the paralegal programme resurrected old disputes but also created new ones. It was also more specifically targeted at 'historically marginalized communities', benefitting specific ethnic groups within

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[2] As Waldorf (2019) notes, the definition is contested and open to interpretation. Whether it is classified as affirmative action is also open to interpretation.

communities. However, community-based programmes, namely the SDI programme, had more potential as they emphasized collective action and community empowerment (Waldorf 2019: 449).

All in all, whether AA can mitigate conflict is a fine balance between intra-group and inter-group inequality, solidification of group lines, and solidarity and expectations. Exploring the relationship between AA and inter-group relations, Krieger (1998) argues that:

> At a minimum, for intergroup conflict to subside, members of different groups must become involved in relationships of cooperative interdependence. Some researchers argue that even this is not enough: so long as category boundaries remain salient, even a cooperative intergroup reward structure will fail to reduce intergroup bias. (Krieger 1998: 1331)

5   Conclusion

The goal of this paper was not to make any strong or sided arguments about the nature and impact of AA but to disentangle the different accounts of AA and provide an overview of its meaning. However, some concluding remarks can be made. First of all there is no consensus about the meaning and scope of AA. Some commentators consider AA to include everything from more passive equal opportunity to strongly preferential quotas and reservations. Some legislative systems have made strongly preferential programmes unlawful. Overall most commentators emphasize that AA includes a proactive element and thus differs from equal access and opportunity.

Further, AA can be implemented in different ways and the motivations behind it vary. In some countries AA has been a major restructuring exercise and social engineering undertaking, while in other countries AA has been a more subtle policy tool. Affirmative action policies also differ in their designation of the targeted groups. The designation criteria can be based on ethnicity, race, gender, disability, or social class. With regard to the impact of AA, in most contexts where it has been implemented it has succeeded in increasing the representation of minorities or disadvantaged groups (where discrimination exists) and has contributed to poverty reduction. However, these positive impacts are shadowed by possible unintended (adverse) impacts. Affirmative action can also contribute to the worsening of intra- and inter-group relations and inequality and, if badly implemented, can create incentive and efficacy issues.

Finally, the relationship between AA and conflict is complex. It can be helpful in managing conflict and sustaining peace if it reduces horizontal inequalities and alleviates inter- and intra-group grievances. However, it may worsen both inter- and intra- group relations by increasing inequality within the group and further solidifying the group lines. Overall the jury is still out on AA. It can have both positive and negative effects, which are dependent on the specific design, context, and local institutions.

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