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This stigmatized understanding of blackness which evolved in the 18th and 19th centuries has had an enduring resonance in American social life. Without this insight, one may say, as many conservative commentators have, 'Look at the recent influx from Asia and Latin America. They too have been victims and yet they've advanced as you blacks in inner cities continue to lag. What is wrong with you people?' One may attribute the backwardness of those stigmatized people to their essence, culture, or lack of potential.

Putting relations before transactions leads to this counter narrative: 'Of course there may be something backward about their culture. US jails are full of blacks and they're not all political prisoners. Two in three blacks are born to a mother with no husband and that can't possibly be inconsequential to social outcomes. But is declaring that they possess certain values, attitudes and beliefs just a statement about them? Might it not also be a statement about us?' Imputing a causal role to what one takes to be intrinsic cultural traits of a subordinate racial group, while failing to see the system-wide context out of which these patterns emerge, is a significant cognitive error.

The self-limiting patterns of behavior among poor blacks are not a product of some alien cultural imposition upon an otherwise pristine Euro-American canvas. Rather, this 'pathological' behavior of these most marginal Americans is deeply rooted in American history, and has evolved in tandem with American social, economic and political institutions, and with the cultural practices that legitimated those institutions. This is an American tragedy; it is a national, not merely a communal disgrace. ■

FIND OUT MORE

Many of Glenn's ideas about race in the United States are explored in his 2003 book, "The Anatomy of Racial Inequality".
See www.glennloury.com

We have to demand JUSTICE

• WANDA MASTOR •
THE CASE FOR AFFIRMATIVE ACTION

IAST associate Wanda Mastor is a professor of law at University of Toulouse Capitole, and an expert in constitutional affairs. She argues that the African-American experience demonstrates that inequalities in law are sometimes required to compensate for inequalities in practice.

The election of Barack Obama should not allow us to forget that it is still easier to be born white than black on American soil. Following the civil disobedience efforts of the 1950s and 1960s, federal laws gradually aligned with anti-segregation movements. But due to America's deeply entrenched culture of racial opposition, reality did not align with the law. What in France is incorrectly called positive discrimination in favor of blacks should never be compared to similar policies favoring other formerly neglected groups. It's not that such policies are less dignified or less urgent. But given the extraordinary suffering and subjugation of African-Americans, the policies required to force their integration are equally unique.

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"It is hypocritical for judges to say, 'It's because I'm not a racist that I do not want to use race as a criterion of distinction.'"

Ideas about affirmative action owe a great debt to the father of black civil disobedience. Firmly, but without hate, Martin Luther King had these words for



his white compatriots: "Blacks crave justice, not just love. It's not enough to say, 'We love blacks, we have lots of black friends.' You have to demand justice. Love that does not pay its debt of justice does not deserve its name. It is only a sentimental affection, like that of a pet."

All the elements of affirmative action policy, which King describes as "preferential and compensatory", are found in his work: "It is not enough to radically transform one's attitude towards blacks, under the pressure of events; the country must also consider compensation for the



handicaps that blacks have suffered in the past [...], to restore equilibrium and allow them to enter into competition on a fair and equitable basis. King's proposal of an equivalent for blacks of the 1944 GI Bill of Rights (a preferential policy for veterans) makes an excellent case for positive discrimination and its legitimacy.

The suspicion among some judges of any distinction based on race is one way to reject a preferential policy (integration of blacks) in the name of a supposedly egalitarian

posture (to not stigmatize a race). It is so simple – and hypocritical – to say, *“It’s because I’m not a racist that I do not want the race test to be used as a criterion of distinction.”* Without this criterion – which, though not always suspicious, is potentially dangerous – blacks are barred from access to the life they deserve. Not from an abstract notion inscribed in the framework of beautiful ideals, but from a life with access to employment, housing, health and education. When equality cannot triumph by itself, when proclamations and condemnations are not

enough to change attitudes, we must not just use the massive weapon of pacifist disobedience, but also the firm and rigorous weapon of the law, albeit in a sophisticated way. ■

FIND OUT MORE

Read Wanda's article 'Désobéir Pour Être : Les Noirs Américains' (in French) at www.cairn.info/revue-pouvoirs-2015-4-page-81.htm