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The Modern Presidency, The Media, and Affirmative Action: A Case Study in A
Affirmative Action

(Under the Direction of John M. Murphy)

The president, more than any other political agent, holds a powerful position as a symbolic broker, whose discourse often educates, inspires, and frames public discussions about issues. Indeed, the president's words greatly impacts our views of policy, and this is certainly true as well for controversies surrounding affirmative action. The controversies surrounding affirmative action over the last four decades have ebbed and flowed, contributing to a rhetorical trajectory which has changed paths and meanings many times. This project examines four controversial moments in history during the presidencies of Lyndon Johnson, Ronald Reagan, George Bush, and William Clinton, which contributed to the way we understand and talk about civil rights and affirmative action. Looking at the ways each president utilized the rhetorical strategies of history, definition, and persona, this project examines the means by which civil rights have been constructed as a moral issue and the implications for those attempting to advance arguments in the context of current society. Second, this dissertation examines how various agents have advanced histories in order to advance various notions of American Identity. Finally, an examination of the affirmative action debate as controversy provides insight into a more useful institutional manner of reasoning that more fully recognizes the modern context in which arguments are crafted. Ultimately, this dissertation is an

attempt to contribute to the understandings of social change and to more adequately consider rhetoric's role in this process.

INDEX WORDS: Controversy, Rhetoric, Affirmative Action, Modern Presidency, Civil Rights, Lyndon B. Johnson, Ronald W. Reagan, George H. W. Bush, William J. Clinton

THE MODERN PRESIDENCY, THE MEDIA, AND AFFIRMATIVE ACTION:
A CASE STUDY IN CONTROVERSY

by

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DEDICATION

For my grandparents, Arlyne and Alan Weber,
who inspired me to become an educator

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CHAPTER 1

THE AFFIRMATIVE ACTION CONTROVERSY:

THE ROLE OF THE PRESIDENCY

The president, more than any other political agent, holds a powerful position as a symbolic broker, whose discourse often educates, inspires, and frames public discussions about issues (Ceasar, 1985; Neustadt, 1960; Pauley, 2001, Windt and Ingold, 1987).

Many scholars argue that the president's use of rhetoric is an integral means of social action, imbued with a power to affect the terms and meaning of political change (Ceasar, 1985; Hinkley, 1990; Neustadt, 1960; Pauley, 2000, Windt and Ingold, 1987). Because presidents' words wield considerable authority, the stances they take strongly influence policy and national sentiment. For the modern presidency, the issue of civil rights is one area in which a president's rhetorical stance matters.

Civil rights is of particular concern for presidents, because their definitions and conceptions play a large role in framing its complex, multifaceted, and highly emotional meaning for the public. As Steven Shull notes, "symbolism perhaps is more important in civil rights than in other policy areas" (1993, p. 71). He explains, "although civil rights policy is generally a low priority for presidents, their leadership is critical in determining its direction and magnitude" (1999, p. 245). Using the force of the presidency in 1963, John F. Kennedy declared civil rights a "moral issue," influencing the public's perception of civil rights and the responsibility of subsequent presidents to articulate their stances on the issue. Presidents, looked to for their moral positions, are often expected to voice

strong stances and positions on civil rights. One feature of the modern presidency entails the responsibility to voice, at minimum, equal opportunity (Shull, 1999). Civil rights, therefore, is a central concern for the rhetorical presidency, though the term “civil rights” itself, because of its highly symbolic nature, is often hard to define.

Evolution of a Controversy

Congress coined the term “civil rights” in reference to the first measure they enacted in 1866 (Detlefsen, 1991, p. 17). According to the records in this debate, civil rights were first understood in terms of classical liberalism, concerned with the rights of the individual, personal liberty, and the right to attain property (Detlefsen, 1991, p. 17). Since then, the nature of civil rights and the public understandings of the term have mutated in meaning and focus, reflecting the changing cultural conditions surrounding race relations and discrimination in the United States. “Affirmative action” did not become conceptualized as a civil rights issue until the 1960’s.

The term “affirmative action” was not used in early discussions of race, but the concept of recognizing color and race in government policy has been debated since the inception of the United States. The institution of slavery, of course, was an entire system based on color. But until Abraham Lincoln issued the Emancipation Proclamation in 1863, recognizing unfair treatment of African Americans was not high on the federal government’s to-do list. Then, as now, controversy surrounding race discrimination was a highly emotional area of policy. Shortly after Lincoln’s executive order, Congress passed the thirteenth, fourteenth, and fifteenth amendments, which outlawed slavery, gave black Americans equal protection under the law, and made it illegal for a person to be prohibited from voting on the basis of race. Although these amendments were on the

books, they lacked enforcement, and for a long time the federal government and the federal courts refused to interfere in race relations, regarding it as a state or local matter. For instance, in the 1896 *Plessy v. Ferguson* decision, the Supreme Court upheld a Louisiana statute that separate facilities on a train were permissible, therefore authorizing the “separate but equal” approach to race relations for the next five decades.

Beginning with President Franklin D. Roosevelt’s New Deal (1933-1945), the federal government began playing a larger role in race relations as it commissioned federal employment programs. These programs were the first that were federally regulated to guard against discrimination. For instance, the Unemployment Relief Act of 1933, for the purposes of this act, outlawed discrimination based on race (Turner, 1990, p.4). The Civilian Conservation Corps, the Civilian Pilot Training Act, and the National Youth Administration Appropriation Act, while providing for separate but supposedly equal treatment of African Americans, contained similar nondiscrimination provisions. Further, prohibitions against employment discrimination on the basis of race were also found in the Unemployment Relief Act of 1933, the National Industrial Recovery Act of 1933, the Federal Housing Act of 1937, and the Public Works Administrations’ mandatory use of quotas in 1934 (Turner, 1990, p. 4).

The courts followed by increasingly recognizing the role of federal intervention in the private sector economy. For instance, in the early 1930’s the Supreme Court struck down federal laws on child labor, retirement and pensions, and limited the power of states in these areas as well. But by the mid-1940’s, a series of court cases had upheld government regulations on employment. The phrase “affirmative action” was contained in the New Deal legislation, specifically in the National Labor Relations Act of 1935,

which gave the National Labor Relations Board the power “to remedy unfair labor practices by the issuance of cease and desist, and reinstatement and back pay orders, and by ordering *affirmative action*” (Turner, 1990, p. 5). While the courts and legislative branch therefore took a greater role in government regulation, presidents were also increasingly receiving pressure to address the issue of race discrimination in the U.S.

Franklin D. Roosevelt was mostly silent in the arena of civil rights; however, his increasing symbolic commitments changed the relationship of the office of the presidency and civil rights and increased the expectations of African Americans (Pauley, 2001). For instance, in 1941, President Franklin D. Roosevelt issued the first Executive Order banning discrimination in federal and government defense contracts. This order prohibited discrimination in employment on the basis of “race, creed, color, or national origin,” and employers were commanded to provide “the full and equitable participation of all workers in defense industries without discrimination” (Turner, 1990, pp. 4, 5). Although the act did not call specifically for “affirmative action,” it did call for an “end to discrimination and a positive effort by management and labor to increase the employment of minorities and protected group members” (Turner, 1990, p. 5). The issuance of Executive Orders are often strategic for Presidents because they are often issued quietly and allow the president a means to support a current law without making a lot of noise that might arouse opposition. In addition, they also work as symbolic commitments, allowing the president to placate their constituents, without having to take too much of a vocal stance. Thus, President Roosevelt’s issuance of an Executive Order was a means for FDR to make a symbolic commitment in favor of civil rights without provoking hostility from opposing constituents. After all, the increasing pressure and

controversial nature of civil rights of civil rights presented increasing challenges for the next four presidents to account for race issues in their administration. As these presidents entered upon the scene, they would have to navigate between the belief that the U.S. must address with remedies the harmful effects of discrimination and the competing belief that law should not consider difference.

As a Missourian and a product of a state with mostly southern values, President Harry Truman did not inherit the trust that FDR inspired among black Americans. However, Truman went far beyond Roosevelt in civil rights and increased the president's role in relation to civil rights both in words and in deeds (Riley, 1999, p. 155). Of course, most historians have evaluated Truman's record on civil rights has as "mixed," since many of his actions were performed in response to the increasing political pressures put on the executive office to make civil rights advancements (Pauley, 2001, p.37; Riley, 1999, p. 160).

For his first two years in office, Truman attempted to bolster his relationship with black Americans with "strong rhetoric by historical standards" (Riley, 1999, p. 158). On June 29, 1947, Truman delivered his best and most historically noted speech to the thirty-eighth annual conference of the National Association for the Advancement of Colored People in Washington, D.C. (Riley, 1999, p. 160; Pauley, 2001). In his assessment of this speech, Pauley describes it as a "remarkable instance of presidential rhetoric on civil rights" and "a turning point in his relationship with African Americans" (2001, p. 55). Riley explains that the "speech was the most open expression of support for equal rights issued by any president since Lincoln" (1999, p. 160). Truman forcefully argued in his address that we had reached a "turning point" in our "long history" (Pauley, 2001, p. 53).

“Recent events,” he continued, “in the United States and abroad have made us realize” that racial minorities need their civil rights protected (Pauley, 2001, p. 53). Truman’s address was the first presidential speech delivered to the NAACP and was a clear index of his stance on civil rights. Truman also made other speeches¹ that publicly tied the office of the presidency to civil rights – one of the main legacies of the Truman administration for civil rights.

Truman demonstrated favor for civil rights not only in words, but also in deeds. Partly in response to political pressures, Truman issued a number of civil rights Executive Orders,² including 9980 and 9981, to outlaw discrimination in the federal government and armed forces (Shull, 1999, p. 122). Also, in response to increased racial violence, Truman formed a special committee to research racial violence. This proposal received a lukewarm response, because many black Americans believed Truman’s idea was just another study designed to forestall action. Southern Democrats, on the other hand, refrained from criticism, largely for this same reason. The committee produced the report, *To Secure These Rights*, which ultimately became a part of his President’s Commission on Civil Rights, created in Executive Order 9809. The committee in this Order was directed “to inquire into and to determine whether and in what respect current

¹ Truman addressed civil rights in a closing session of the United Nations Conference on Interational Organization on June 26, 1945; in his special message to Congress on September 6 and November 19, 1945; in his January 3, 1946 State of the Union message; and in his 1949 State of the Union message (Pauley, 2000, p. 37; Riley, 1999, p. 169).

² Truman issued five Civil Rights Executive Orders during his administration including Executive Order 9664, which established a committee to study and recommend employment discrimination policies in reconverted industries; Executive Order 9809, which created the Commission on Civil Rights; Executive Order 9980, which outlawed discrimination in government employment; Executive Order 9981, which mandated equal treatment in the armed forces; and Executive Order 10308, which created the President’s Committee on Government Contract Compliance.

law-enforcement measures and the authority of and means possessed by Federal, State, and local governments may be strengthened and improved to safeguard the civil rights of the people” (Riley, 1999, p. 159). The study argued that present discrimination in the U.S. did not align with America’s constitutional principles. It was used to propose a wide-array of legislation including: abolition of poll taxes, anti-lynching legislation, and voting rights in federal elections for qualified voters (Riley, 1999, p. 260). The report, however, went far beyond what Truman or his administration had planned and was widely attacked by southern Democrats. Truman, sensing the possible detonation of this political bomb, wavered. The first week the report was released, he declared to the committee, “I have already read the report and I want you to know that not only have you done a good job but you have done what I wanted you to do” (Riley, 1999, p. 160). But in a press conference one week later, he backed away from the committee’s arguments, replying that he had not read the report “carefully” (Riley, 1999, p. 160). Truman, nonetheless, made some strides to advancing civil rights, although often constrained by various political factors. While Truman did not address affirmative action in any sense, his administration did demonstrate an increased tendency by the executive office to speak to the disadvantages placed on black Americans.

Entering office in 1952, President Dwight Eisenhower refused to take a strong stance in support of civil rights, but he held the conviction that his personal opinions concerning morality on race, and specifically concerning the issue of desegregation, held no bearing on his responsibility to enforce the law (Pauley, 2001, p. 59). In fact, in the 1954 landmark *Brown v. Board of Education of Topeka, Shawnee County, Kansas*, which rejected the *Plessy v. Ferguson* decision and ruled that separate was not equal,

Eisenhower refused to comment on the decision. However, aside from Eisenhower's silence, this case was another important milestone in foreshadowing discussions on affirmative action as it simultaneously recognized the harmful effects of discrimination on minorities, while also attempting to distribute resources, such as public education, with an application of law that paid no regard to race. Critical legal studies scholars Richard Delgado and Jean Stefancic note that this ruling, "looked not merely to whether a law or practice mentioned race, but to its real-world effects" (2001, p. 104). Although Eisenhower dismissed his opportunity to announce the strong support of his office behind this major ruling, he was pressured to take a stance three years later. In 1957, courts ordered the integration of Central High School in Little Rock, Arkansas. In this historical moment, Arkansas Governor Orville Faubus refused to support the admission of nine black high school students, and after a series of tumultuous events, Eisenhower was forced to use federal troops to enforce integration. In order to justify his use of troops, Eisenhower addressed the nation and argued that his involvement was necessary due to the extreme nature of the situation in Little Rock (Pauley, 2001, p. 82). Eisenhower's address was sorely limited, as he chose to focus on the extreme nature of the events instead of taking a moral stance, a strong legal stance, or a position that denounced the extreme racist nature of the event (Pauley, 2001, p. 85). In general, this typified Eisenhower's stance on civil rights. Although he produced a few executive orders³ to

³ Eisenhower passed three Civil Rights Executive Orders, including Executive Order 10479, which established the Government Contract Compliance Committee; Executive Order 10557, which fortified and revised the nondiscrimination clause in government contracts; and Executive Order 10590, which increased the government's strength of its employment policy program (Shull, 1999, p. 122).

ameliorate the problems of race discrimination and the watered-down 1957 Civil Rights Act, he severely limited the executive office's role in both words and deeds.

The administrations of John F. Kennedy and Lyndon B. Johnson intersected with organized social protests and therefore culminated in the enactment of many legal victories in the decade and are often remembered as the "second Reconstruction." When President Kennedy was first elected, his civil rights concerns took a back seat to his international concerns. He did, however, take a somewhat friendlier stance than Eisenhower toward black Americans due to increasing political pressures. For instance, President Kennedy issued Executive Order 10925, in which the words "affirmative action" first appeared in the context of racial discrimination. This Order set up the President's Committee on Equal Employment Opportunity and made government contractors "take affirmative action to ensure that applicants . . . and employees . . . are treated . . . without regard to race, creed, color, or national origin" (Turner, p. 6).⁴ In addition, Kennedy "consciously raised both the number and stature of black appointments in his new administration" (Riley, 1999, p. 204). He also built up the Civil Rights Division and increased the number of civil rights lawsuits to which the government was a party (Riley, 1999, p. 205).

While Kennedy initially refrained from using the "bully pulpit," he did raise the rhetorical support of the office for civil rights (Riley, 1999, p. 205). For instance, in September, 1962, Kennedy was forced to call out the federal military forces in order to control the desegregation of the University of Mississippi. In order to justify his use of federal troops, Kennedy addressed the nation on September 30, emphasizing American's

responsibility to support civil rights laws. In this way, his rhetoric closely followed the rhetorical trajectory of Eisenhower's law and order rhetoric. However, on June 11, 1963, in response to Governor George C. Wallace's refusal to allow black Americans to register at the University of Alabama, Kennedy declared, "We are confronted primarily with a moral issue" (Pauley, 2001, 141). Many rhetorical scholars have noted the dramatic change that this speech had on the relationship between the executive office and civil rights (Windt, 1983; Goldzwig and Dionisopoulos, 1989; Smith and Smith, 1994). In sum, Kennedy subordinated his legal argument "that had characterized his earlier discourse on civil rights" and emphasized "the moral imperative" (Pauley, 2001, p. 106). This speech also set the stage for his proposal of a major civil rights bill. However, Kennedy's assassination on November 22, 1963, passed the mantle of this legislation to his successor.

Five days after Kennedy's assassination, Johnson delivered his "Let Us Continue" address and urged the nation to pass Kennedy's civil rights act as a memorial to the slain president. Johnson successfully garnered the needed support for the bill and signed the 1964 Civil Rights Act into law. After the passage of this major Civil Rights Act, Johnson began diligently working on his proposal for a Voting Rights bill. On March 15, Johnson's opportunity to persuade the nation and Congress to suppress this measure occurred after the horrible events of "bloody Sunday" in Selma, Alabama, when Governor George Wallace sent state troopers armed with billy clubs to fight against unarmed protest marchers. The scenes were broadcast across the nation, providing people with brutal pictures of racism. Johnson seized the moment and successfully

⁴ Kennedy issued two other Executive Orders, including Executive Order 11063, which outlawed discrimination in federally assisted housing and Executive Order 11114, which

attained the passage of the 1965 Voting Rights Act. With the achievement of voting rights, however, the vivid and emotional scenes waned, and some worried that this marked the end of the civil rights movement. In fact, many individuals, including civil rights leaders and historians, have attributed the decline of the movement to the achievement of these legal victories. It was at this point that Johnson and many civil right leaders realized the need to invigorate the movement and to set it on a new course with new goals. The concept of affirmative action was introduced as part of this new trajectory.

Lyndon Johnson's issuance of Executive Order 11246 in 1965 established the federal affirmative action programs, designed to enforce prohibition of discrimination in employment as dictated in Title VII of the 1964 Civil Rights Act. This marked the beginning of a series of programs representing one of the most publicly debated issues in civil rights policy today. In particular, over the last thirty-five years, new issues have moved to the forefront of political agendas. The controversy surrounding affirmative action is one of the ways in which the focus on the civil rights agenda has changed in the last several decades. Unfortunately, the temptation to view the movement as having ended with the advancement of legal gains has silenced an area of exploration that desperately needs more critical attention. The last four decades, after all, is a crucial segment of history that is relevant to the current and future direction of the affirmative action debate.

Design of Project: Constructing Controversy

This project seeks to ask a simple yet difficult question: what role has modern presidential rhetoric of the last four decades played in constructing the affirmative action established Grant-in-Aid Program under nondiscrimination policie.

controversy? In order to answer this general question, I focus on four presidential speeches that are rhetorically significant in the current affirmative action debate: Lyndon Johnson's June 4, 1965, "Commencement Address at Howard University," Ronald Reagan's June 15, 1985, "Radio Address to the Nation on Civil Rights," George Bush's November 21, 1991, "Remarks on Signing the Civil Rights Act of 1991," and William Clinton's July 19, 1995, "Remarks on Affirmative Action at the National Archives and Records Administration." In addition, I look at the media coverage of these speeches, including the positions that supported and opposed the presidents' arguments.

My selection of these texts is based on three main assumptions. First, it is my contention that the 1960's, 1980's, and 1990's are most relevant to understanding the affirmative action debate. Shull argues that within the modern era, civil rights as a policy concern "increased in the 1960's and 1980's and decreased in the 1950's and 1970's" (Shull, 1999, p. 7). Nicholas Laham reports one major study suggesting that after 1972, "congressional interest in further debate over fundamental assumptions and structures of the new civil rights laws and their enforcement mechanisms ... dropped 'virtually to zero'" (1998, p. 5). Although Nixon is credited with passing civil rights legislation, President Gerald Ford made no statements on civil rights (Formisano, 1992, p. 60; Pauley, 2001; Formisano, p. 60; Shull, 1999, p. 37). On the other hand, Shull notes the importance of the last two decades, indicating civil rights' "prominent place on the national agenda during the 1980s and 1990s" (1999, p. 44). For instance, Ronald Reagan and George Bush sought to change if not eradicate affirmative action (Laham, 1998, p. 2). As Shull contends, Reagan and Bush "not only renewed interest in civil rights, they also recast it" (1993, p. 70). Of course, Reagan and Bush did not ultimately dismantle the

program, but Bill Clinton's recent slogan, "mend it, but don't end it" marks a tenuous compromise between competing positions (Clinton, 1995, p. 110). Over the last several decades, U.S. presidents have articulated differing views about the meaning, effectiveness, and implementation of affirmative action. And so, presidential speeches not only influence the immediate debate, but they also play an integral role in constructing the long-term debate.

Second, this study contends that the presidents within these decades utilized discourse in ways that significantly influenced the debate. For instance, Hugh Graham explains that Johnson's speech at Howard University moved the terms of the debate from a discussion of equality as opportunity to an understanding of equality as a fact and a result (1992, p. 7). Both Reagan and Bush, on the other hand, forced a redefinition of affirmative action, equality, and discrimination (Shull, 1999, p. 262). Finally, as a progressive president facing a conservative Congress and Supreme Court, Clinton sought to use his discourse to negotiate this treacherous terrain. In this sense, these four presidents played critical roles in constructing the affirmative action controversy.

Third, each text represents a key moment in the affirmative action debate. They played a role in constructing affirmative action as a controversy as well as shaping many of the opponents' arguments presented in the media. Lyndon Johnson's speech at Howard University "was delivered at a crucial time in the history of the civil rights movement" (Zarefsky, 1980, p. 86). This address marks the first speech given by a president dedicated to the issue of affirmative action and spawned the terms of the debate. David Zarefsky explains, "the underlying logic of the Howard University speech (if not the speech itself) won wide acceptance in the late 1960's and early 1970's, and

was institutionalized in a variety of legal and political forms” (1980, p. 93). Ronald Reagan changed the terms by which presidents discussed affirmative action. In order to explore the rhetoric that redefined an understanding of civil rights and affirmative action, historian Nicholas Laham notes, Reagan’s June 15, 1985 “Radio Address to the Nation on Civil Rights,” stands as “perhaps the most comprehensive public statement on civil rights made by Reagan during his presidency” (1998, p.73). His speech was promoted by the specific controversy surrounding Reagan’s nomination of conservative William Bradford Reynolds for Associate Attorney General. Next, Bush’s November 21, 1991, “Remarks on Signing the Civil Rights Act of 1991,” marks his final response on one of the most controversial domestic issues during the Bush administration, the passage of the 1991 Civil Rights Bill. Although Bush vetoed a similar bill the previous year, a series of events and compromises led to his signature in 1991. Presidential attention, after the passage of this bill, generally waned until Bill Clinton’s July 19, 1995, “Remarks on Affirmative Action at the National Archives and Records Administration,” which represents the most definitive presidential statement on affirmative action. The speech also blunted the controversy surrounding the Supreme Court’s *Adarand* decision and concerns that a controversial presidential stance on affirmative action might fracture the Democratic Party (Stephanopoulos, 1999, pp. 361-375). Each of these texts, then, represented pinnacle presidential moments in the affirmative action debate.

In addition to the moments defined and articulated by these four presidents, I also provide an analysis of the media discourse surrounding these texts. Specifically, I seek to examine how the use of history, definition, and persona have influenced and shaped the public vocabularies surrounding affirmative action. This study is grounded in the

assumption that these single speeches, when analyzed together as part of a larger controversy, point to the ways competing arguments have defined the current affirmative action debate.

While there is no shortage of literature surrounding the heated concept of affirmative action, there is a dearth of rhetorical scholarship on this matter. For instance, some scholars have written on single speeches concerning various moments in the civil rights struggle (Goldzwig & Dionisopoulos, 1989; Pauley, 2001; Ryan, 1987; Zarefsky, 1980), but there has been little exploration into the specific affirmative action controversy over the long term. A review of the literature contributes to an understanding of the debate surrounding affirmative action and also determines the extent to which scholars have ignored rhetoric's role as an integral dimension of its changing nature. A review of scholarship warrants a renewed examination of the nexus of affirmative action, the presidency, and rhetoric.

The Rhetorical Presidency

In 1960, Richard Neustadt challenged the dominant strain of scholarship on the presidency, which had previously limited analysis to the executive's formal roles and powers (Corwin, 1957; Rossiter, 1960), and instead defined his or her ability to "bargain" as the *sin qua non* of presidential influence (1960, p. 106). This landmark study recognized that in the executive office, "power is persuasion," and thereby initiated other scholars to examine similar questions concerning presidential suasion (Neustadt, 1960, p.106). Among these later works, James Barber's *The Presidential Character* and Bruce Buchanan's *The Presidential Experience* explored the president's personal traits as indicators of their persuasive skill and leadership ability (Barber,1992; Buchanan 1978).

Barber argues that presidential character is a major factor in determining the shape of American policy (1992). Similarly, Buchanan contends that the stresses, frustrations, and dissonances of the various roles of the office are largely related to the president's own personality, which, in turn, impact policy formation and decisions (1978). Each of these works stresses the personal side of persuasion. For instance, Neustadt's marketplace metaphor stresses the importance of a president's personal skills in negotiating with different political agents. Similarly, Barber and Buchanan's studies focus on the means by which personal and psychological traits of presidents affect their ability to persuade. These scholars, however, ignore conceptions of persuasion that emphasize the role rhetoric plays in framing policy for the public. In an attempt to develop this notion of leadership, several scholars have turned to a line of inquiry that emphasizes the importance of the president's use of persuasion with the public.

Some scholars note the "rise of the rhetorical presidency" in our modern era, where a president's influence and power is largely determined by his or her ability to go over the heads of Congress and appeal to the people (Edwards, 1983; Kernell, 1993; Tulis, 1987). These studies move away from an interpersonal understanding of persuasion, such as Neustadt's attempt to look at the president's ability to negotiate with various political actors. Further, these works generally ignore the role of personal traits, character, or psychology in presidential persuasion and instead privilege rhetoric's ability to appeal to popular opinion. Jeffrey Tulis argues that "the essence of the modern presidency" is "rhetorical leadership" (1987, p. 4). Likewise, George Edwards contends that "the greatest source of influence for the president is public approval," and emphasizes the role of symbols, words, and arguments in persuading the public (1983, p.

1). Similarly, Samuel Kernell explains presidential leadership in terms of its ability to go public, whereby “a president promotes himself and his policies in Washington by appealing to the American public for support” (1993, p. 2). These works on the rhetorical presidency promote the importance of the president’s relationship with American citizens, yet they leave unexamined the influence of strategic discourse.

Several works develop the relationship between presidential persuasion and the use of symbols (Denton and Hahn, 1986; Hinkley, 1990; Smith and Smith, 1994). Robert Denton and Dan Hahn argue “political consciousness is clearly dependent upon language, for language can determine the way in which people relate to their environment. At the very least language should be viewed as the medium for the generation and perpetuation of politically significant symbols” (Denton and Hahn, 1994, p. 50). They explain, “at one level, a president attempts to manipulate symbols in order to mobilize support, deactivate opposition, and insulate himself from criticism. On a broader level, national symbols are perpetuated in order to preserve the prevailing culture, beliefs, and values” (1994, p. 52). Craig Smith and Kathy Smith articulate the important dimension that an understanding of the rhetorical presidency plays:

The presidency of the late twentieth century must be understood at the interface between the person and the office, between the leader and followers, between the Constitution and precedents, between the past and the future. It requires occupants to reconcile their goals with practical constraints, their personal identities with role expectations, their agenda with the public’s agenda, and personal coherence with social coordination. Through communication each president attempts to orient the country with words and symbolic actions (1994, p. 19).

Smith and Smith define presidential influence as contingent on discerning the available resources in order to invent arguments. Barbara Hinkley reinforces the centrality of symbols in presidential influence. She argues, “symbolism forms a large and important

part of political activity. It supports governments, selects leaders, and defines the terms of debate” (1990, p.1). “Symbols,” she continues, “can be used politically to shape attitudes, build support, persuade to action, or in widely accepted definition of political power, to help A get B to do what A wants done” (1990, p. 1). Further, Hinkley discusses the tendency for people to misunderstand the way symbols work as action in the presidency, “separating out the symbolic from all the other things the president supposedly is or does” (1990, p. 2). Hinkley argues that symbols are action and equates the power of words with presidential leadership. Finally, Karlyn Campbell and Kathleen Jamieson also argue that “words are deeds” (1990, p. 214). Focusing on a number of speech genres that presidents customarily deliver to the public, they posit that discourse is a type of power. “Presidential rhetoric,” they contend, “is one source of institutional power, enhanced in the modern presidency by the ability of presidents to speak when, where, and on whatever topic they choose, and to a national audience through coverage by the electronic media” (1990, p. 3). They explain that presidential genres of discourse are constrained by this rhetoric as well. “The constitutive power of these genres creates a distinct identity for the presidency as institution,” they note, “while setting rhetorical boundaries for its occupants” (1990, p. 213). In essence, scholars recognize that the presidential use of discourse works as social action. Words presidents choose, then, play an essential part in framing policy, and therefore also set the parameters by which future political debates, controversies, and policies are discussed by subsequent presidents. For this reason, a longitudinal study of presidential discourse is useful in order to examine rhetoric’s capacity to lead change and shape the meaning of policy. The concept of affirmative action, an issue on which presidents over the last forty years have held

considerably varied views, serves as an ideal case study in order to examine the role that rhetoric plays in the understanding, education, and advancement of policy and change in our society.

Affirmative Action, the Presidency, and Rhetoric

Surprisingly, little scholarship examines the relationship between presidential rhetoric and the affirmative action debate. However, scholarship that seeks to address the presidency and civil rights provides some insight into this particular area. The present research in this area is best found in the academic disciplines of political science, history, and rhetorical studies. Each of these fields approaches their scholarship with different methods of examination. Most works focus either on a single president and his relation to civil rights or a span of several presidential administrations. It is useful to inspect the present scholarship in rhetorical studies and outside of its boundaries as the work both provides useful perspectives and points to further work that needs critical attention.

Research in Political Science

The work by political scientists accounts for the largest area of research on the nexus between affirmative action and the presidency. Research in this area focuses on the role of single presidents and their leadership in the civil rights arena (Miroff, 1981; Riccards, 1981; Shull, 1993; Yarbrough, 1985) or research that investigates civil rights across a series of administrations (Graham, 1992; Longaker, 1961; Morgan, 1970; Riley, 199; Shull, 1999, 1993, 1989; Sinkler, 1961; Sylva, 1995). Several scholars, for instance, have written on Ronald Reagan's role in civil rights and affirmative action (Amaker, 1988; Detlefsen, 1991; Laham, 1998; Shull, 1993, 1999; Yarbrough, 1985). Laham examines Reagan's civil rights politics through two major reforms, including the political

battle concerning affirmative action reforms during his administration and the imbroglio resulting from Reagan's veto of the Civil Rights Restoration Act (1998). Shull provides a provocative account of the Reagan and Bush administrations' impact on civil rights issues by examining four case studies including "Reagan's and Bush's vetoes of major legislation in 1988 and 1990" and their "nominations to the Civil Rights Commission and the Justice Department" (1993, p. xiv). Robert Detlefsen, in his study, focuses on the "systematic" attempts of the Civil Rights Division of the Justice Department to reformulate civil rights and affirmative action policy (1991, p.8). Analysis of the Reagan administration and civil rights policy is useful since it is difficult to talk about this era without including a discussion of the specific area of affirmative action. While the analysis of single administrations is not limited to the Reagan administration, few other single presidential studies between Johnson's administration to Clinton's term deal with affirmative action (Harvey, 1973). While these few studies offer useful perspectives of the affirmative action debate, they are often shortsighted in their ability to conceptualize the long-term impact of these single administrations or the influence that previous presidents held for the particular administration.

Several works in political science attempt to ameliorate this narrow perspective by providing a longitudinal view. Russell Riley argues that presidential behavior concerning civil rights is largely affected by the collective memory of Abraham Lincoln, John Kennedy, and Lyndon Johnson (1999, p. 7). Riley advances this claim by arguing that "a faithful rendering of the institution requires drawing on details from a much larger pool of presidents than just three" (1999, p. 8). Riley's institutional/historical account is well argued from a vast perspective of the executive office, yet includes little discussion

on the role of presidential discourse or the specific issue of affirmative action within the arena of civil rights. Similarly, Hugh Graham looks at the president's stance on civil rights and its changing nature during the time period spanning between 1960 and 1972 (1992). While Graham's study is useful in its attempt to provide a "historical analysis" of the "full policy cycle," it also does not look at the discourse during this time or provide any discussion of how this time period presently impacts the public vocabulary concerning affirmative action (1992, p. 5). Finally, Shull's latest book borders on recognizing rhetoric's importance for deliberation about affirmative action in his account of civil rights policy from Truman to Clinton (1999). For instance, he dedicates one chapter of his book entirely to the statements made by presidents concerning civil rights. Shull also contributes empirical verification that the "presidential role in civil rights policy implementation is revealed here to be substantial, particularly under presidents Reagan, Bush, and Clinton" (1999, p. 242). He explores this theme through six case studies concerning legislative and executive actions. Shull's research and the other studies within political science are useful institutional and policy analyses. However, the utilization of their methodologies tends to exclude analysis of discourse, or in the case of Shull, falls short in not recognizing discourse as a type of symbolic action, and thereby ignores the extent to which a president's use of rhetoric contributes to change.

The means by which political scientists define and conceptualize change often ignores the importance of rhetoric in this process. Russell Riley argues, for instance, "that because of a now-longwithstanding inclination in American political culture to inflate presidential achievement, any claim for the centrality of the presidential institution in the production of *change* [my emphasis] needs to be very carefully examined" (1999,

p. 3). Riley sees change as a president's initiative to advance beyond the status-quo or "nation maintaining" role that he argues the office has proven to hold. In his discussion of civil rights leadership, Riley claims that presidents too often are falsely credited with creating change (1999, p. 2). Shull explores several dimensions of change, particularly "the roles of presidents in the policy making process" (1999, p. 10). Shull asks, "How do their [president's] roles vary according to stimuli and responses, and how does temporal change in civil rights itself affect these relationships?" (1999, p. 10). Detlefsen defines change similarly, concluding that "no sweeping *changes* [my emphasis] occurred during Reagan's two terms in office" (1991, p. 3). He notes, "affirmative action is still widely practiced by professional schools and employers, both public and private, throughout the nation" (1991, p. 3). All of these understandings of change, however fail to include the role of rhetoric in reshaping the issues at stake in civil rights and the affirmative action debate. For instance, whether equal opportunity is understood as an inherent state or as a goal of our government is often defined through instances of presidential rhetoric (Zarefsky, 1980).

One reason for the misconception of change is the tendency of scholars to rely on the misguided assumption that words work separately from action (Pauley, 2000; Campbell & Jamieson, 1990; Burke, 1969). Laham separates words from actions in his study, for example, arguing that Reagan's veto of the Civil Rights Restoration act "was symbolic rather than substantive, since it had no chance of being sustained in Congress" (1998, p. 14). Shull, on the other hand, comes closest to advocating the importance of rhetoric, but his methodology still works to diminish its values as symbolic action. Shull

sees a clear distinction between words and deeds, describing his analytic model as a stimulus-response model, which includes statements, actions, and results. He notes:

statements usually can be equated with agenda setting and the initiation of public policy. Often, statements may be vague and symbolic, but they do contain specific policy preferences and recommendations. The data suggest the presidential role is preeminent here. Statements do vary by presidents and are related to subsequent actions and results. Policy actions are, of course, more tangible than statements, and virtually every actor can do something to influence civil rights policy making. Although they may occur at any stage of the process, policy actions commonly are thought of as influencing the formal decisions of policy, particularly its modification and adoption. Often such actions are responses to presidents, who usually set the stage or are the conduit for others to act. (1999, pp. 241, 242).

Concerning presidential statements, Shull further questions whether “presidential attention to civil rights represent policy support, or is it merely symbolic rhetoric?” (1999, p. 52). These distinctions between discourse and action tend to dismiss the assumption that words are symbolic action. Shull’s inclusion of statements is a useful addition to understanding presidential positions on civil rights, but it does not allow a discussion of the way that the words presidents use shape public discussion and the meanings of the debate.

Historical Contributions

The historical work concerning affirmative action and the presidency generally falls into two categories -- either single biographies of presidents that include cursory discussions of civil rights or affirmative action or more longitudinal historical accounts of the presidents’ role in civil rights. For instance, a series of biographies written on Lyndon Johnson include cursory mentions of his speech at Howard University on affirmative action, but leave out any detailed analysis (Johnson, 1972; Kearns, 1976). Generally, discussions of Lyndon Johnson and his role in civil rights tend to focus on his

accomplishments with the 1964 Civil Rights Act and the 1965 Voting Rights Act, with little attention given to his role in affirmative action. Perhaps, historians' decisions to focus on his involvement with the Vietnam War or the urban riots that dominated the second half of his administration explains this notable absence. Similarly, George Stephanopoulos dedicates half of a chapter to Clinton's speech on affirmative action, but the historical account focuses on Stephanopoulos's battle to get his strategic concerns implemented in the speech (1999, pp. 161-175). Other biographies covering the administrations over the last forty years provide brief historical discussions of affirmative action, but again, do not cover the area in any specific detail (Ambrose, 1989; Woodward, 1996).

Kenneth O' Reilly provides the only comprehensive treatment of the president's historical role in regards to race and civil rights. While he examines all of the presidencies since Washington, his analysis of Lyndon Johnson, Ronald Reagan, and George Bush are particularly useful in their treatment of affirmative action. O'Reilly does mention key rhetorical texts in his historical treatment, but he provides little analysis of their role in persuasion or how these texts influenced the controversy (1995).

Rhetorical Studies

Finally within the area of rhetorical studies only one article has been written dedicated entirely to the issue of Lyndon Johnson's specific involvement with affirmative action (Zarefsky, 1980). In this article, Zarefsky discusses Lyndon Johnson's attempt to redefine and equate "equal opportunity" with "affirmative action" in his speech at Howard University in 1965 (1980, p. 86). Zarefsky's article provides insight into Johnson's use of rhetoric in setting the stage and his ability to address his immediate

situation, but more discussion is needed to see how these definitions played out in the long run. While this is the only article dealing with the specificities of affirmative action and the presidency, several works examine the rhetorical presidency and civil rights, which provides useful background for a study seeking to explore presidential rhetoric and its impact on the affirmative action debate.

Most of the research on presidential rhetoric and civil rights includes a focus on only one president. Further, of the four presidents I plan to examine in my study, only Lyndon Johnson's civil rights rhetoric has been examined. The literature on Lyndon Johnson examines a variety of speeches he gave on the issue of civil rights (Ryan, 1987; Witherspoon, 1987; Zagacki, 1995; Zarefsky, 1983, 1983b). Such studies are useful as a rhetorical background to understand my specific question, but do not directly address affirmative action. Garth Pauley's book provides one of the only rhetorical analyses of the president and civil rights, looking at key rhetorical moments in the history of civil rights by Harry Truman, Dwight Eisenhower, John Kennedy, and Lyndon Johnson. Pauley seeks to answer the question, "What are the purposes and possibilities of presidential discourse on racial matters?" (2001, p. 5). Pauley analyzes four key texts in the history of civil rights by examining four areas: (1) "the president's private and public understanding of civil rights," (2) "contextual factors that shaped and were, in turn, shaped by the president's speech," (3) "the evolution of the speech – its planning, writing, and revision," and (4) "public and private responses to the president's address by examining reaction broadcast by the media and letters that ordinary citizens and public figures sent to the president" (2001, p. 20). Pauley's work adds to the paucity of literature in this area, but again, does not provide much discussion about the specific

issue of affirmative action. Further, his method of analysis deals more with the speech and the rhetor's personal understanding of the issue, and less with the ways in which their words crafted the debate.

A review of the literature provides a good background for the examination of the current affirmative action debate, but it also points to the inadequate attention given to the role of rhetoric surrounding this issue, the lack of attention given to the specific area of affirmative action within the broader civil rights context, and the inadequate conceptions of change by current scholars in political science, history, and rhetorical studies. This paper assumes social change is influenced by a president's position as a cultural authority. Presidents are often persuasive in a number of arenas, including the public vocabulary, or the familiar and accepted words, metaphors, and arguments that people within a public use to discuss and argue about particular issues. Therefore, this project hopes to contribute to a discussion of the influence of presidential discourse in public debates concerning affirmative action, an area that is presently considerably underdeveloped.

Considering Controversy Theory

In his 1991 key note address at the Alta Conference on argumentation, G. Thomas Goodnight proposed the beginning of a theory of controversy which he believed was currently lacking in argument and communication scholarship (1991, p. 2). In his address, Goodnight asked: "What happened to controversy? The description, evaluation, assessment, and meaning of controversy" (1991, p.2). Intrigued by the notion of controversy, Goodnight sought to develop and define the concept as "a site where the taken-for-granted relationships between communication and reasoning are open to

change, reevaluation, and development by argumentative engagement” (1991, p. 5). Since his lecture, Goodnight’s theory has been discussed more by himself and other scholars (Brigance, 1999; Goodnight, 1999; Gouran, 1991, Olson & Goodnight, 1994; Ono & Sloop, 1999; Phillips, 1999; Scott, 1991; Solomon, 1991) and indirectly addressed by others (Condit, 1987; Moore, 1993; Olson, 1989; Zulcik, 1991). These scholars attest to the productive knowledge a study of controversy generates and the need for more exploration. Goodnight’s theoretical development of the concept of controversy, in fact, grants the critic advantages in looking at discourse surrounding the affirmative action debate in three significant ways. First, the theory highlights the usefulness of studying institutional voices as a means to understanding more fully the role of power in change. Second, it justifies the usefulness of looking at discourse and arguments over the long-term. Third, Goodnight’s understanding demonstrates how change happens within a context of competing rhetorics.

Much of the present scholarship in controversy attempts to understand the way marginalized rhetorics claim voice in change (Goodnight, 1999; Ono and Sloop, 1999; Phillips, 1999; Zulick, 1992). The exploration of the affirmative action debate through the lens of the presidency and the mainstream media, however, shows that we also need to understand the role of institutional reason in change. An understanding of institutional reasoning demonstrates the ways rules are established. These rules have consequences for the ways marginalized rhetorics must adapt and respond to the system. Goodnight, for instance, argues that within controversy, “speech acts . . . implicitly define the parameters of argument contexts and grounds” (1991, p. 5). He explains that controversy puts up for discussion “rules and presumptions on who gets to talk, what counts as proof,

whose language is authoritative, what reasons are recognized, which grounds are determinative, along what lines contexts are invoked, and whether penalties should be attached to making objections” (1991, p. 6). Such an understanding of controversy yields insight into the affirmative action debate as a president’s stance on civil rights often establishes or negotiates the rules for future presidents and the terms by which larger audiences such as the media debate key terms. The words of presidents create spaces and sets of expectations for future rhetorical positions. Martha Solomon, in her analysis of women’s use of rhetoric to legitimate their right to speak, explains that Margaret Fell used cultural documents to create authority for her position. In Fell’s selection of this document to create authority, however, she was also bound by the rules of the document, which in this case empowered her to speak only on topics this sacred writ deemed appropriate (1991, p. 24). Similarly, the institution of the presidency is granted certain moral authority, but it is also constrained by that authority.⁵ Just as Campbell and Jamieson argue that rhetoric is integral to shaping the institution of the presidency (1990, p.3), this project explores the “civil rights presidency,” assuming that the leader’s civil rights rhetoric is constrained and creates boundaries for civil rights issues.

Second, Goodnight’s notion of controversy demonstrates how isolated rhetorical moments are better understood in diachronic and synchronic contexts. His orientation provides a vocabulary to discuss the rules of presidential discourse and how those rules are negotiated through time and opposing arguments. An examination of presidential rhetoric across time permits a more thorough understanding of how these rules are negotiated through the discourse of key players. A longitudinal analysis also allows the

⁵ For a discussion of the president’s power as a moral authority see, Hart, R.P. (1977). *The Political Pulpit*. West Lafayette, IN: Purdue University Press.

critic a better position by which to judge the president's use of the available means of persuasion. Therefore, this work assumes that a longitudinal approach more usefully examines social change as an on-going response and reaction to the executive office and the demands that prior presidents create in public controversies. In essence, this dissertation understands controversy as continuously shaped as contrasting sides compete to gain rhetorical legitimacy at different times in history. Each rhetorical act sets expectations that future presidents must address. Change, in any political controversy, is best examined by an analysis of these key rhetorical moments that shape and respond to the debate.

Third, the role of persuasion in change needs to be analyzed beyond simply assessing its "effects" and rather for rhetoric's role in inviting objections. Goodnight elucidates that controversies are "no longer only disappointments, the dross of failed communication, signs of improper reasoning and broken consensus, the persiflage of conflict, unpleasantness to be averted, or mere stunning performances" (1991, p. 6). In this way, Goodnight moves beyond measuring persuasiveness as an "effects" model. Rather, he understands change as an interactive process that is negotiated in argument. Arguments transform into the fodder that opponents use to build their disagreements and trace their common ground. In this way, the critic understands change as a much larger process than whether a speech persuaded an audience or created hostility. Controversy, or this "creature of the between," Goodnight argues, "expands cultural, social, historical, and intellectual arguments ... by generating opposing reasons pertinent to contested matters of common interest" (1991, p. 2). For instance, Solomon posits that many of the suffragist arguments drew upon each other as sources of invention in order to advance

their rationale for women's rights (1991, p. 24). In this same way, however, arguments also become sites wherein the opposition constructs their arguments. In essence, this process hopes to contribute to the notion of change as the transformation of new words and arguments across time that drive and set the terms of a debate.

The Role of Strategy in Controversy

Rhetorical controversies, of course, are rife with strategic discourses. In this sense, it behooves the critic to question the strategies agents choose in crafting their voice within controversies. In her attempt to reclaim the role of the public voice within controversy, Margaret Zulick draws on Bakhtin's "many-tongued" understanding of language (1991). Zulick attempts to affirm subjectivity in as far as it is able to orchestrate a number of traditions and voices in languages. She argues:

to speak of myself as engaged in dialogue or directed toward an end, is already to own a voice – to be able to orchestrate those unconscious and social powers that continually redefined the limits of the person in order to speak purposefully, to respond forcefully and to act with intent. A public voice capable of mediating concrete differences requires at least this much on the part of its participating subjects (1991, p. 100).

Within the affirmative action controversy, presidents have attempted to define their own positions in the debate through an understanding of the traditions embedded in their strategic choices. In addition, they have also played a role in advancing histories and definitions that are inextricably linked to many opposing and diverging traditions and constituencies. Presidents' uses of personae, histories, and definitions are important

additions to the understanding of a theory of controversy and therefore, each of these strategies deserves more examination.

First, history lends a type of authority to a rhetor. Indeed, history embodies a sense of objectivity, a feel of naturalization, and a notion that we can learn and do better than we have in the past (Gronbeck, 1998, p. 53). These histories, then, as Mary Stuckey has explained, “become symbols for actions and policy positions” (1992, p. 246).

History is simultaneously a story and an argument. The use of history is an important piece of artillery in controversies. Often, a rhetor is able to gain an advantage in influence to the degree he or she is able to appeal to history as a type of authority.

History, then, becomes a site of rhetorical struggle. As rhetorical scholar Bruce Gronbeck argues, “the past can be endlessly argued over and argued with. It can itself be a battleground or it can be raided, rebuilt, and perverted for any number of human purposes” (1998, p. 49). As Dionopolous and Goldzwig argue in their analysis of George P. Shultz’s use of history in a 1985 address, Shultz chose an “opening scene” from history that extended beyond simply framing his narrative, and rather, cast doubt on the “received view” of the “meaning of Vietnam” (1992, p.73). In this sense, history can be a powerful means to advance competing positions.

History is especially important for the president since he often must find “some unitary principle from which all his major policies may consistently radiate” (Burke, 1969, p. 391). A common history for a people can often arm a president with such a unitary principle. For example, during the Reagan/Bush administration, conservatives often invoked appeals to Martin Luther King, Jr.’s liberal philosophy as evidence of their definition of justice which included a system that privileges such concepts as “individual

rights” and “meritocracy.” Similarly, liberal appeals often resorted to the legacy of discrimination, which relies on historical evidence that supported the existence of an unequal playing field. Thus, an analysis of the use of history in the construction of controversy yields an understanding of the ways in which histories are competed for, negotiated, and redefined for the public.

Next, this study attempts to look at the use of definition within the construction of controversies. Katherine Olson explains the role of this rhetorical strategy in her analysis of the controversy over Reagan’s visit to Bitburg, noting “definitions extend beyond linguistic units and may include nonverbal, contextual, or psychological elements” (1989, p. 131). She continues, “a rhetor using a definition is not merely presenting an undisputed concept, but is advocating adherence to the particular definition and the perspective sponsoring it” (1989, p. 131). In this way, an accepted definition hinges on its ability to identify with the current and historical context in which it is uttered. In addition, she comments on the likelihood of mutation. As Olson contends, “a redefinition may either reinforce in a new way the world view sponsoring the original definition or may portend a more fundamental change in one’s perspective” (1989, p. 131). The affirmative action debate is rife with definitions and redefinitions. Throughout its history, opponents have attempted to gain ground by defining and redefining key terms involved in the debate such as affirmative action, quotas, and discrimination. Such terms across time have provided points of consensus, sites of fracture, and in some ways have played a large role in the formation and reformation of this particular terrain. The third presidential campaign debate between Vice President Al Gore and Governor George W. Bush, for instance, illustrates the current state of opponents’ and advocates’ inability to

agree on a simple definition of the term affirmative action. Further, Bush's introduction of another term, "affirmative access," is yet another attempt to redefine the concept and to alter this parameter of the debate through the use of redefinition.

Finally, this project examines the use of persona, a rhetorical strategy that many scholars have examined (Carpenter, 1994; Dow, 1992; Japp, 1985; Snow, 1985; Tonn, 1996; Ware and Linkugel, 1982; Zulick, 1992). When a rhetor utilizes the strategy of persona, he or she dons "an assumed character" (Ware and Linkugel, 1982, p. 50) in order to build his or her authority and invoke a cultural tradition that will persuade an audience. For example, Malinda Snow attributes King's rhetorical success to his adoption of the persona of the Biblical prophet Paul (1985). She contends, "By identifying with Paul ... King not only made vivid reference to the apostle's teaching and made ancient texts pertinent to modern affairs, he also lent authority and force to his own argument against racial prejudice" (1985, p. 320). Thus, King's adoption of the persona of the Prophet Paul was strategic to achieving his rhetorical ends.

Presidents often assume personae in order to lend credence to their arguments. The institution, after all, carries with it a variety of roles and traditions, and presidents choose to emphasize some over others at particular moments (Novak, 1972, p. 52). Mary Stuckey and Shannon Wabshall, for instance, explain the various roles that made up the executive office during President Clinton's impeachment trial (2000). As Denton and Hahn argue, "Presidents, although they have names, are corporate models of historical images and personae created in the public's collective consciousness" (1986, p. 10). Franklin Roosevelt, for example, once famously said that he moved from being Dr. New Deal to Dr. Win the War. War rhetoric is the most obvious of those moments, as the

president specifically assumes the active mantle of Commander-in-Chief. In addition, the use of a rhetorical persona holds particular consequences for the presidency and controversy. After all, a rhetorical persona is a type of “crustaceous image,” or “mask” that lingers on and “awaits another to fill it” after the ideologies that it once harbored have been ignored (Ware and Linkugel, 1982, p. 61). Often presidents attempt to assume personae and roles that past presidents have vacated. In so doing, the connotations of these personas often shift. In addressing various moments in the affirmative action controversy, Johnson, Reagan, Bush, and Clinton all assumed particular personae available to them because of the position they occupied as president. Thus, the president’s persona is crucial to his power in a debate, but not only because it serves as a type of authority, but because the shadows of rhetorical personas often cast specific roles for audiences to fill.

A rhetorical persona works symbiotically with its audience, often encouraging an audience to respond in a “second persona” (Black, 1995). For instance, Mari Boor Tonn argues that Mary Harris Jones, the organizer of the United Mine Workers of America and the most effective agitator for industrial labor around the turn of the twentieth century, used a maternal persona to lead the movement (1996, p. 2). In her adoption of this persona, however, Jones placed her followers in the roles of children. Tonn explains:

As “Mother,” Jones’s union talk encouraged emotional strength in her audiences while maintaining her maternal authority. She always spoke directly to her “boys,” often calling audience members by their given names. In so doing, she allowed miners with low self-esteem to feel noticed and cared for as individuals. In response, she would answer only to “mother,” which connected her intimately with her audiences yet strategically gave her power over them" (1996, p. 6).

In this way, rhetorical personae can become a way of defining expectations of an audience that are in line with a rhetor's goals. Thus, the exploration of presidential persona is a valuable and underutilized contribution to a theory of controversy.

For this project, I also look at reactions in the mainstream newspapers. I focus specifically on any news coverage that responded to the address or the event surrounding the address. The media captures the trends of supporting and opposing arguments and delivers them to multiple U.S. audiences. In this way, the words that various reports cover, aid in shaping the public vocabularies accessible to constituencies who debate, understand, and shape policy. For this reason, an analysis of the media coverage found in the media also aids a richer understanding of the affirmative action controversy and controversy theory.

Goodnight laments the loss of "controversy" and wonders where the "nonrational" and "irrational" have gone. And yet, the critic is unsure as to what reason and whose rationality he refers. This project, then, partly seeks to explore this oversight. It seems if we are going to understand the "irrational," we must understand what defines the "rational." Since the decline of Enlightenment rationality, scholars have sought to explore exactly what entails the best rules and standards for public deliberation. In addition, many contend that we must not pretend that we can avoid power, but instead seek to understand and acknowledge power (Mouffe, 1999). Analyzing the position of the president's voice in controversy is one way to examine how the rules are defined in our public deliberations. By looking at how the president's choice of strategy and language intersects with the public vocabularies in the media, scholars gain a deeper appreciation of power's location in rhetoric and rhetoric's role in change.

CHAPTER 2

LYNDON B. JOHNSON: DEFINING THE CONTROVERSY

On June 4, 1965, Lyndon B. Johnson delivered his commencement address, “Equality as a Fact and a Result,” to a mostly black audience of 14,000 persons attending the graduation ceremonies at Howard University. Historian James Harvey called the address one of Johnson’s “best-known civil rights speeches” (1973, p. 36). Policy analysts Lee Rainwater and William Yancey noted the speech signaled “an important shift in the stance of the federal government toward civil rights issues” (1967, p. 3). Delivered just months after Johnson’s successful “We Shall Overcome” speech that ensured the passage of the 1965 Voting Rights Act, the Howard address intersected with a time when many civil rights advocates were unsure in which direction to take the movement.

The effort to point the movement in a “new direction” is best explained by the changing nature of the civil rights battles. Civil rights leader Bayard Rustin commented, “the decade spanned by the 1954 Supreme Court decision on school desegregation and the Civil Rights Act of 1964 will undoubtedly be recorded as the period in which the legal foundations of racism in America were destroyed” (1971, p. 111). For instance, the 1954 *Brown v. Board of Education* was a watershed victory which overturned *Plessy v. Ferguson* and ruled that separate was not in fact equal. In addition, the passage of the 1964 Civil Rights Act and the 1965 Voting Rights Act symbolized for many Americans

the removal of legal barriers for black Americans. With these legal victories attained, however, many were unsure of what additional civil rights goals were needed.

On January 30, 1965, forty civil rights leaders held a conference to evaluate the movement and to explore possible new directions for 1965 (“40 Negro leaders,” 1965, p. 64). Civil rights leader A. Philip Randolph stated, “The time has come, for those who believe in the struggle for racial equality and integration through democratic and nonviolent means to come together to analyze, interpret, and evaluate the forces and direction for the civil rights revolution in the year 1965” (“40 Negro leaders,” 1965, p. 64). Also commenting on this new “phase” of the movement, civil rights leader Bayard Rustin duly noted that black Americans, despite their victories in the legal realm, were no longer “satisfied with integrating lunch counters. They now sought advances in employment, housing, school integration, police protection, and so forth” (1971, p. 112). These new challenges, however, created a sense of confusion about the procedures by which to progress and left ambiguity surrounding the identity of the leaders of this movement.

Lyndon Johnson believed that as president, he was the best person to act as the nation’s civil rights leader. For instance, in a 1966 press conference, Johnson said:

I think the Federal government must be a leader in this [civil rights] field and I have – the three years I have been President – tried, by word and action, to do everything I could to bring about equality among the races in this country and to see that the Brown decision affecting our schools was carried forward expeditiously and in accordance with the law” (1967, p. 738).

Johnson recognized his need to assume rhetorical leadership in this emerging confusing climate and recent events gave him the sense that progress was possible. In fact, civil

rights were a central concern and defining issue for Johnson's presidency since the first day he entered the office.

On November 27, 1963, five days after President John F. Kennedy's assassination, Johnson addressed the nation in order to ease the public's mind that Americans and the government can and will continue and to urge immediate passage of Kennedy's civil rights proposal he had submitted a few months earlier. On this day, he declared:

No memorial oration or eulogy could more eloquently honor President Kennedy than the earliest possible passage of the civil rights bill for which he fought so long . . . I urge you . . . to enact a civil rights law so that we can move forward to eliminate from this nation every trace of discrimination and oppression that is based upon race or color (1964, p. 9).

The bill passed on July 2, 1964, but not without a struggle.

The 1964 Civil Rights Act Senate debate lasted more than eighty days and consumed more than a thousand pages in the *Congressional Record* (Andrew, 1998, p. 26). Many senators supported the bill; many others rejected it. Southern Democrat Senator Richard Russell warned that the bill would "turn our social order upside down. It would have a tremendous impact on what we have called happier times, the American way of life" (Andrew, 1998, p. 27). And, echoing other southerners, Senator Strom Thurmond of South Carolina lamented on the day the bill passed, "This is a tragic day for America, when Negro agitators, spurred on by communist enticements to promote racial strife, can cause the United States Senate to be steamrollered into passing the worst legislation that has ever been considered by the Congress" (Andrew, 1998, p. 28). Behind the scenes, LBJ bargained, negotiated, and arm-twisted civil rights legislators and used the media to emphasize the importance of the bill.

Two months later, in September, Johnson followed the passage of the Civil Rights bill by issuing Executive Order 11246, which created the President's Council on Equal Opportunity. Often cited as the beginning of affirmative action programs, this Order barred discrimination on the basis of race, color, sex, or national origin by federal government contractors. The Order required federal government agencies to include in contracts with businesses an equal opportunity clause, which committed those firms to treat hires without regard to their status or membership of any particular group. Both the Executive Order and the 1964 Civil Rights Act were hotly debated in the 1964 election that year (Turner, 1990, p. 87).

The subject of race and the 1964 Civil Rights Act served as a key issue in the 1964 election between Johnson and Senator Barry Goldwater of Alabama, as many believed white Americans were growing tired of Johnson's policy for black Americans. In fact, Goldwater's success in the primary election was attributed to white backlash (Kenworthy, 1964, p. 22). On October 15, the *New York Times* reported:

The critical element in the campaign in Indiana is this: whether white resentment over civil rights outweighs as a political force, a widespread distrust of Mr. Goldwater.... The white backlash, is almost impossible to measure statistically, but competent observers here say it occurs in its most aggravated forms among industrial workers, among whom are many of foreign extraction. Its primary essence is economic, and there is reportedly a widespread belief among factory workers that under the recent Civil Rights Act of 1964 a certain proportion of white employees in every factory can be dismissed to make way for Negroes (Phillips, 1964, October 15, p. 29).

On October 28, Goldwater delivered a campaign speech at the Cleveland Auditorium in downtown Cleveland to a crowd of 14,000 attendants that roared in a 12-minute standing ovation. Here he declared, "the fundamental issue of our day – the new area into which the act of 1964 treads – is a different one. It is the issue of unfair discrimination in the

private affairs of men” (Pomfret, 1964, p. 1). Johnson did win the 1964 election, and he won by an overwhelming landslide, with Goldwater winning only five states in the South and Arizona. The seeming white resentment was not enough to affect the political vote. However, the role that race played during this election demonstrated that some Americans were growing tired of Johnson’s discussions of race discrimination.

The 1964 Civil Rights Act was the cornerstone of Johnson’s “Great Society,” a vision he articulated in a series of speeches between 1964 and 1965 (Zarefsky, 1979, p. 364). Some individuals, however, believed that Johnson’s Great Society programs were a thinly veiled attempt to advance black Americans at the “cost” of white Americans. Johnson’s “War on Poverty” campaign, for instance, inspired increased resentment by white Americans. The Harris Poll at this time reported that black Americans supported Johnson’s poverty programs, but that Americans generally criticized them by a five to four margin. This same poll showed that the most negative reactions to these programs came from poor white Americans, 70 percent of whom attested “that the War on Poverty is a black program and does not deal with their needs because their skins are not black” (Zarefsky, 1986, p. 104). Historian Kenneth O’Reilly recounts how Johnson knew Walter Cronkite erred when he referred to the “whole” Nation being concerned about the missing bodies of the civil rights workers, Michael Schwerner, James Chaney, and Andrew Goodman; as one unsympathetic individual declared, “hold a welfare check over the water. That’ll get that Nigger to the surface” (O’Reilly, 1995, p. 245). Such sentiments encapsulated some people’s tendency to associate poverty as a problem predominantly concerning black Americans (O’Reilly, 1995, p. 245). Because many white Americans did not believe the programs were designed to help them as they were

promised, a general feeling of distrust increasingly surrounded Johnson's philosophical vision.

On June 4, 1965, Johnson delivered his Howard University address and articulated a new vision for civil rights. Johnson's domestic adviser, Joseph Califano, recalled that this speech "set the stage for affirmative action" (1991, p. 56). Rhetorical scholar David Zarefsky argues that Johnson leapfrogged the movement with his speech, "by taking a stance in the direction in which the movement seemed headed but beyond the point at which it had arrived" (1980, p. 87). Indeed, Johnson's speech gave legitimacy to this phase of the movement, packaging these arguments for public discussion and debate.

It is noteworthy that Johnson's address was a unique moment in the history of presidential civil rights rhetoric because it lacked an emotional exigence. There were no vivid images of fire hoses, police, or dogs to respond to and no nation-wide reports of brutal beatings or murders on Alabama bridges. During a moment of seeming calm, Johnson had to rely upon his rhetorical finesse in order to convince his audiences of the plight of black Americans. The Moynihan report, a social policy report compiled by Daniel Patrick Moynihan on the state of race relations in the U.S., was the exigence that allegedly inspired Johnson's speech. Karlyn Campbell writes of the importance of finding new angles to arguments that are old and stale, warning of the apathy a subject with a long, cultural history can inspire (1996, p. 95). In order to inspire a new sense of urgency, Johnson seized the recently released findings of the Moynihan report to invent a new angle to lead the nation in a new direction.

Motivated by the heated controversy that surrounded issues of social justice, the Johnson administration made a concerted effort to study the best approach to address the plight of black Americans. The Moynihan Report attempted to pinpoint the “central issues” with the current structure of race relations and attempted to explore the ways by which policy might bring black Americans “into full participation with society” (Yancey and Rainwater, 1967, p. 4). Johnson’s address, in many senses, “gave a public face” to this report (Yancey and Rainwater, 1967, p. 3). Yancey and Rainwater report that “despite the voracious appetite of the federal government for social science findings and consultation, it was still unique to find a social science perspective so clearly central to a major presidential address” (1967, p. 3). In this report, Moynihan attempted to advance complex findings, which emphasized his twin concerns of employment and family, in order to inspire renewed interest in race policy. Moynihan argued that the weakened black American family was mostly due to the effects of unemployment, low income, urbanization, and past history (Rainwater and Yancey, 1967). The findings of this report and their representation in Johnson’s speech were fodder for the ensuing controversy over Johnson’s address.

The Howard University Address

For issues concerning federal policy, both the president and the news media assume powerful positions as brokers of language. This chapter proceeds by analyzing Johnson’s speech and his use of history, definition, and persona to advance his policy agenda. Johnson utilized history to argue that an urgent problem faced America, used definition to outline his solutions, and drew on his persona as a source of invention to argue that he was the best leader to follow in order to accomplish these solutions. While

the analysis proceeds in this order, it is essential to note that all of his arguments are inextricably linked in a web, making it impossible to pull one rhetorical thread without bringing with it the others. For instance, to understand Johnson's use of definition, the critic must look at the way he situated and linked his definition in the context of history. The analysis then moves to an examination of the press coverage of the event, and their presentation, reification, and reshaping of the President's arguments. In essence, this analysis assumes that the President's and the media's interaction both aid in producing public vocabularies, which are crucial to setting the acceptable terms of a controversy.

Appeals to History: A Unique Problem

In his address at Howard, Johnson uses history to make a specific argument about the plight of black American's relation to America. In essence, Johnson draws on history to support three main claims. First, he asserts that the situation of black Americans is different from other American minorities because of the history of slavery that they uniquely experienced in America. Second, Johnson argues that it is because of their unique status in this country that they require the help of all Americans. Third, he makes individuals active agents in history. Drawing on history, Johnson forcefully defined the issue of race one of the most important challenges for America to face.

To begin, Johnson argues the situation of black Americans is unique and different from other minorities. Johnson explains, "Negro poverty is not white poverty" (1966b, p. 638). These "deep, corrosive, obstinate" differences, he contends, are found in the "community, the family, and the nature of the individual" (1966b, p. 638). He says that we cannot find "a complete answer in the experience of other American minorities. They [other minorities] made a valiant and a largely successful effort to emerge from poverty

and prejudice” (1966b, p. 638). Rather, the difference, he argues, is largely due to the fact that other minorities did not have to experience the oppression of slavery (1966b, p. 638). He exclaims:

The Negro, like others, will have to rely mostly upon his [or her] own efforts. But he [or she] just can not do it alone. For they [other American minorities] did not have the heritage of centuries to overcome, and they did not have a cultural tradition which had been twisted and battered by endless years of hatred and hopelessness, nor were they excluded – these others – because of race or color – a feeling whose dark intensity is matched by no other prejudice in our society (1966b, p. 638).

Johnson reinforces his argument with a vivid metaphor that starkly paints the “dark intensity” of the plight of black Americans and their unique oppression due largely to the history of slavery.

Second, Johnson argues that it is because of this history that all Americans, not just black Americans, need to help correct the injustices.

Nor can these differences be understood as isolated infirmities. They are a seamless web. They cause each other. They reinforce each other. Much of the Negro community is buried under a blanket of history and circumstance. It is not a lasting solution to lift just one corner of that blanket. We must stand on all sides and we must raise the entire cover if we are to liberate our fellow citizens (1966b, p.638).

Using metaphors like “a seamless web,” a “blanket,” and a “cover,” history is made vivid and the complexity of it stark. It becomes something too overpowering to overcome without the help of all America. Further, Johnson notes:

For this, most of all white America must accept responsibility. It flows from centuries of oppression and persecution of the Negro man. It flows from the long years of degradation and discrimination, which have attacked his dignity and assaulted his ability to produce for his family. This too, is not pleasant to look upon. But it must be faced by those whose serious intent is to improve the life of all Americans. ... So unless we work to strengthen the family, to create conditions under which most parents will stay together – all the rest: school, and playgrounds, and

public assistance, and private concern, will never be enough to cut completely the circle of despair and deprivation (1966b, p. 639).

Discrimination is not a “Negro problem,” it is an American problem. Moynihan, in fact, recommended that Johnson make this argument in order to escape possible critiques that programs specifically designed to address race result in preferences. As Moynihan stated at a *Daedalus* conference in May 1965, “... in order to do anything about the Negro Americans on the scale that our data would indicate, we have to declare that we are doing it for everybody” (Rainwater and Yancey, 1967, p. 25).

Third, Johnson summons history to make individuals active in its shaping. He argues: “we have seen the high court of the country declare that discrimination based on race was repugnant to the Constitution, and therefore void” (1966b, p. 636). He adds:

The American Negro, acting with impressive restraint, has peacefully protested and marched, entered the courtrooms and the seats of government, demanding a justice that has long been denied. The voice of the Negro was the call to action. But it is a tribute to America that, once aroused, the courts and the Congress, the President and most of the people, have been the allies of progress (1966b, p. 635).

Black American progress, Johnson argues, is the proof that when all Americans act, progress is advanced. People are active agents responsible for the outcome of history. In order to advance his discussion of America’s new needed direction, Johnson employs a strategy of definition.

Definition: The Next Phase of Equal Opportunity

Definition has always been a place where advocates armed with oratorical finesse compete. The affirmative action controversy is an exemplary case in history in which definitions have been negotiated, changed, and debated. In the Howard address, the term “affirmative action” itself was not used, although a theoretical and philosophical

discussion of it was introduced. Rather, Johnson uses definition in his address to provide the needed direction for U.S. policy. Specifically, he uses the definitions of “freedom” and “equal opportunity” in order to define the stages of American progress.

Arguing that the American story is one of justice, LBJ defines the principles that must guide this rocky journey. He begins by defining “freedom,” stating, “it is the right to share, share fully and equally, in American society – to vote, to hold a job, to enter a public space, to go to school. It is the right to be treated in every part of national life as a person equal in dignity and promise to all others” (1966b, p. 636). Johnson carefully notes that freedom is crucial and the first step in attaining justice. He notes all of the legislation and laws that have worked to give black Americans freedom (1966b p. 636). Thus, LBJ equates freedom with “the removal of legal barriers” (1966b, p. 636). He argues that it is the efforts of black Americans’ peaceful protests, white Americans’ support of law and change, and the meaning of our American identity, that has allowed these legal freedoms to be realized.

Next, he argues that “freedom is not enough” (1966b, p. 636). He continues, “You do not wipe away the scars of centuries by saying: Now you are free to go where you want, and do as you desire, and choose the leaders you please” (1966b, p. 636). Rather, he proclaims that “equal opportunity” is “the next and more profound stage of the battle for civil rights” (1966b, p. 636). Johnson uses his definitions of “freedom” and “equal opportunity” in order to utilize what Gronbeck terms “bracketing,” a strategy which divides history and attributes meaning to these separations in order to support a larger claim (1998, p. 51). By defining freedom as predominantly a legal movement and associating this term with the beginning and the first phase of the movement, LBJ

separates the concept of equal opportunity from freedom and associates it with a new direction for America.

In addition, Johnson redefines equal opportunity by characterizing its purpose with the famous metaphor of two men in a race:

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 justly believe that you have been completely fair. Thus it is not enough to open the gates of opportunity. All our citizens must have the ability to walk through those gates. This is the next and more profound stage of the battle for civil rights. We seek not just freedom but opportunity – not just legal equity but human ability – not just equality as a right and a theory but equality as a fact and a result (1966b, p.636).

John Lucaites and Celeste Condit explain that “characterizations are the labels attached to agents, acts, scenes, or purposes in the public vocabulary, and integrate cultural connotations and denotations while ascribing typical and pervasive natures to the entity described” (1990, p. 7). In this way, the image of the foot race aided the way Americans conceptualized affirmative action, or at least the justification of it. By using the image of a person bound by chains, Johnson associates the removal of these chains with the removal of laws. The image of the crippled person that is left standing once those confines are removed, dramatizes the need for continued help and the obvious inequity of assuming that this person has a fair chance to compete. For instance, attesting to the forcefulness of the metaphor, the *New York Times*, reports on this section of the address, noting that Mr. Johnson went “far beyond” the issue of legal rights and addressed himself “more frankly than a President has ever done” (Wicker, 1965, p. 1). In explaining the process of definition, Perelman contends, “unless a person particularly emphasizes the fact that the defining expression gives only an approximation, the definition will tend to

view as interchangeable the defined term and the expression which defines it” (1982, p. 60). This vivid metaphor, then, is the dominant physical image of the discourse, which frames equality as a concept that advances not only opportunity, but results as well. We need to help those individuals who have been weakened by past constraints to compete in a fair manner. If only white Americans reach the finish line, then the race is not fair.

Further, Johnson reports the Moynihan findings and statistics in order to alert his audiences to the dismal state of black Americans in the U.S. For instance, he claims, “Thirty-five years ago the rate of unemployment for Negroes and whites was about the same. Tonight the Negro rate is twice as high” (1966b, p. 637). In another instance, he claims “In 1948 and 1959, the income of Negro men relative to white men declined in every section of this country. From 1952 to 1963 the median income of Negro families compared to white actually dropped from 57 percent to 53 percent” (1996b, p. 637). These alarming statistics work in conjunction with the foot race metaphor to reinforce his definition that true equality must recognize results. That is, if we accept objectively that a disparity exists between black America and white America, then we most likely accept that black Americans have not yet attained equal opportunity. The findings reinforce equal opportunity as being the product of results. Thus, Johnsons’s move is strategic as to reject his definition suggests that we would have to ignore the present findings of social inequities. Given their alarming nature, they are difficult to ignore.

Persona: Demonstrating the Merit of the Solution

Civil religion is composed of the words, documents, histories, and traditions that imbue our country with their sacred rituals and practices. Much scholarship has been produced on the psychological, sociological, and rhetorical role of civil religion in

American society (Hart, 1977; Marty, 1987; Novak, 1974). In a nation in which people are free to choose their own Gods, these scholars attest to the unifying role that civil religion plays. For instance, historian and religious scholar Martin E. Marty explains that because of multiple faiths, we “naturally cohere around national symbols” (1987, p. 80). Rhetorical scholar Rod Hart, attesting to the rhetorical nature of civil religion, confirms this need “for a rhetoric around which all rabid denominationalists and partisan politicians” can rally (1977, p. 93). “Civic piety,” he proclaims, “emerges not so much from blind passion, but from a knowing, practiced, thoroughly pragmatic understanding of the suasory arabesques demanded when God and country kick up their heels rhetorically” (1977, p. 45). The question then, is not so much about whether we have a national myth or its rhetorical significance, but rather, how these myths are spun into our public vocabularies.

Presidents play a large role in ministering to our civil religion and this is an important role of the office. Because these national myths rope power in presidential discourse, competition over their meaning is crucial. Michael Novak suggests that whether we like or dislike our civil religion, we cannot escape its role in our society. He explains, “chief officers of the state perform priestly and prophetic roles, conduct huge public liturgies, constantly reinterpret the nation’s fundamental documents and traditions, and furnish the central terms of public discourse” (1974, p. 303). When a society is fractured about a particular issue, presidents often don priestly personae in order to tap the power of this tradition for their rhetorical purposes. This rhetorical maneuvering is powerful because, as Perelman reminds us, when an argument holds competing ideas, “an appeal to authority” is often made “to cut short a dispute over values” (1982, p. 61).

Thus, the voice a president adopts can play a defining role in the shaping and acceptance of policy.

Two characteristics of civil religion are particularly important for the priestly persona. First, the priestly persona shapes the meaning of a community's sacred covenant and its relation to their identity. James Darsey, in explaining the task of the Old Testament prophets, notes that they, "addressed a community defined by knowledge of the covenant," which was central to the community's values (1997, p. 17). While the president occupies a role that is more enmeshed in society than the old Testament prophets, he still holds a position that is held above society. As Thomas Lessl explains, "The priest gives voice to whatever a particular community regards as the wholly real, whether that is constituted by nature or supernature, God or nothingness" (1989, p. 183). In modern times, the American Dream stands in as our modern sacred covenant and is a primary source of rhetorical invention for presidents (Murphy, 1990, p. 403; Ritter, 1980, p. 158). Mary Stuckey and Sharon Wabshall explain that the president is "an architect of national identity" and "he tells us how we are constituted and defined as a people through fulfilling our role in that dream and what sort of actions are required to fulfill that role" (2000, p. 522). Generally, a priest reminds the community of the covenant's relation to our identity and in so doing, constitutes us as a people.

Second, the priestly persona allows a president to argue that his people need to reassert their faiths and follow his lead. Darsey explains that the Old Testament's prophets "addressed a people whose vision had been clouded" and thereby attempted to "reassert the terms of the covenant to a people who had fallen away, to restore a sense of duty and virtue amidst the decay of venality" (1997, p. 18). Likewise, in pointing where

a people have fallen astray, a priest must also show that these times place a people within a time of crisis – “ a sense of overwhelming threat ... a threat to the self-definition of a people” (Darsey, 1997, p. 20). In discussing modern civil religion, Murphy explains that it usually works from the premise that “Americans are a chosen people” (1990, p. 404). He explains that ministers of civil religion, after showing where a people have transgressed, often refer to our American Dream or Covenant in order to “restore the principles of the past so that the promised bright future can become a reality” (1990, p. 404). Thus, the definition of the American Dream and its embodied values becomes the principle rhetorical vehicle for a president to sway his audience’s direction. These characteristics of the priestly voice are important to understanding the persona that Johnson adapted.

In his Howard University address, Johnson set the stage for his priestly persona by developing the story of the American Dream. Johnson wraps his arguments in a story about the meaning of America’s identity. For instance, the President begins his speech with the story of the universal quest for justice:

Our earth is the home of revolution. In every corner of every continent men [and women] charged with hope contend with ancient ways in the pursuit of justice. They reach for the newest of weapons to realize the oldest of dreams, that each may walk in freedom and pride, stretching his [or her] talents, enjoying the fruits of the earth. Our enemies may occasionally seize the day of change, but it is the banner of our revolution they take. And our own future is linked to the process of swift and turbulent change in many lands in the world (1966b, p. 635).

Johnson argues that the fight for freedom and justice is the *sin qua non* of the American Dream. We are at once a place of “revolution” reaching for the “newest of weapons” to fight for the enduring and the “oldest of dreams.” The success of our future, Johnson

contends, hinges on belief in justice and our ability to extend that freedom to other nations in our world.

Johnson also tells a story of American justice:

Thus, American justice is a very special thing. For, from the first, this has been a land of towering expectations. It was to be a nation where each man could be ruled by the common consent of all – enshrined in law, given life by institutions, guided by men [and women] themselves subject to its rule. And all – all of every station and origin – would be touched equally in obligation and in liberty. Beyond the law lay the land. It was a rich land, glowing with more abundant promise than man [or women] had ever seen. Here, unlike any place yet known, all were to share the harvest. And beyond this was the dignity of man [and woman]. Each could become whatever his [or her] qualities of mind and spirit would permit – to strive, to seek, and if he [or she] could, to find his [or her] happiness (1966b, p. 640).

Telling the story of the American Dream, the country is a place where justice prevails, and therefore, we must follow the covenant to ensure that justice continues.

The power of the priestly persona lies in its ability to determine where audiences are meeting the obligations of the Covenant and where they have veered astray. Johnson utilizes the power of this persona by demonstrating how the American covenant, in some ways, has not yet been fulfilled. Johnson argues that the American people face a test, freighted with the future of their identity as a people:

... our own future is linked to this process of swift and turbulent change in many lands in the world. But nothing in any country touches us more profoundly, and *nothing is more freighted with meaning for our own destiny* than the revolution of the Negro American [my emphasis]. In far too many ways American Negroes have been another nation: deprived of freedom, crippled by hatred, the doors of opportunity closed to hope (1966b, p. 635).

Johnson proclaims that our own future and identity as Americans depend on how we deal with the problems surrounding the plight of black Americans. In this way, Johnson sets

up the problems of black Americans to be the ultimate challenge for American democracy. He argues:

We have pursued it [justice] faithfully to the edge of imperfections, and we have failed to find it for the American Negro. So, it is the glorious opportunity of this generation to end the one huge wrong of the American Nation and, in so doing, to find America for ourselves, with the same immense thrill of discovery which gripped those who first began to realize that here, at last, was a home for freedom (1966b, p. 640).

If we can solve the problems for black Americans, we can solve any problem, foreign or domestic.

Not only does Johnson attempt to demonstrate that Americans are veering from their obligation to our covenant, but in line with the priestly function, he also attempts to invent the crisis nature of the times. The Moynihan report, of course, is the chief means that Johnson uses to create an exigence as the new statistics act as evidence of the crisis in America surrounding the devastating impact of poverty and racism (1966b, p. 638). Johnson notes that although there has been some progress for black Americans, for the “great majority” of black Americans “there is a much grimmer story” (1966b, p. 636). “They still, as we meet tonight,” Johnson despairs, “are another Nation” (1966b, p. 636). Johnson uses the Moynihan statistics to reinforce his claim that America had gone astray on its path to justice, that this represents a crisis – our obligations to justice and freedom are not being met. If black Americans are another nation, which has been deprived of this justice, then our own future rests on our ability to tear down these walls. Rhetorical scholar Thomas Farrell explains that “when an advocate lays claim to a pragmatic faith in the mutuality of social interests,” that this faith “cannot be empirically verified” (1976, p. 8). Rather, he notes, that “those who play the collective role of audience” must “become conscious that the suffering of others is pertinent to their own interests” (1976, p. 8). “In

microcosm,” he explains, “this is the faith of a democracy” (1976, p. 8). Thus, while the Moynihan findings dramatize the problem, it is the context of the American covenant that gives these numbers meaning to those members who are not affected by race. It is all of our futures that will be affected if we do not work to provide justice for black Americans. In this way, Johnson uses the Moynihan report to argue that we face a time of crisis, because the demands of our covenant, our meaning as a people, are not presently being met.

Finally, Johnson concludes his priestly call by reaffirming that if the people follow his lead and his vision, only then can our American covenant be fulfilled. He defines the fulfillment of our covenant with achievement. Johnson locates the solution to this American problem in a variety of places, including jobs, decent housing, welfare and social programs, health care, and other fronts which he notes he has dedicated “the expanding efforts of the Johnson administration” (1966b, p. 639). The challenges presented by the oppression of the black American, he argues, “must be faced and they must be dealt with and they must be overcome, if we are ever to reach the time when the only difference between Negroes and whites is the color of their skin” (1966a, p. 638). He contends that our objectives are, “to move beyond opportunity to achievement” (1966b, p. 639) and “to shatter forever not only the barriers of law and public practice, but the walls which bound the condition of man by the color of his skin” (1966b, p. 639). And, that we must “dissolve, as best we can, the antique enmities of the heart which diminish the holder, divide the great democracy, and do wrong – great wrong – to the children of God” (1966b, p. 639). Johnson defines his audience’s role as God’s people, and their special role as the children that need to help fulfill the American covenant. He

ends, “And I pledge you tonight that this will be a chief goal of my administration, and of my program next year, and in the years to come. And I hope, and I pray, and I believe, it will be part of the program of all America” (1966b, p. 639). In this way, he pleads with the American people to support his vision and the programs of his administration. He continues:

The Scripture promises: “I shall light a candle of understanding in thine heart, which shall not be put out.”

Together, and with millions more, we can light that candle of understanding in the heart of all America. And once lit, it will never again go out (1966b, p. 640).

Leading Americans in a prayer, LBJ emphasizes his promise to America – that if we follow him and the American covenant, we will attain the blessing of American justice. And with these concluding words, Johnson stands before the nation as priest and visionary, assuring them of the promise of God, a strategy that lends credence to his voice in the debate. Thus, Johnson’s priestly persona helps to make the treatment of black Americans the key, significant, natural, and moral challenge for the United States.

The Media’s Analysis: The Beginning of the Controversy Trajectory

Johnson clearly defined the problem of racial injustice, argued its urgency, and attempted to show that his leadership and direction was the right path for justice in America. Generally, the media accepted Johnson’s definition of the problem and its seriousness and they also legitimated his role as a good leader. However, most interesting were the contrasting interpretations that the press reports focused on in their analysis of where the direction of civil rights was headed and where President Johnson was taking the movement.

First, the press accepted Johnson's contention that America did indeed face a crisis. For instance, *The New York Times* reports:

One of the principal sources of Mr. Johnson's speech was an unpublished 78-page Government study analyzing the plight of the Negro family. The study pulls together a variety of information from many sources and concludes that the United States is approaching a *new crisis* [my emphasis] in race relations. This, it says, is because the expectation of Negroes that equality of opportunity will yield roughly equal results as compared to other groups is not going to be fulfilled – and will not be fulfilled for a long time unless new and special efforts are made (Pomfret, 1965, p. 1; Rainwater and Yancey, 1967, p. 372).

This excerpt reinforces Johnson's use of the Moynihan report to establish a crisis. It also supports Johnson's definition of equal opportunity, examining it in terms of the results in society. The coverage reinforced the claim that equal results were attainable, but only through the "special efforts" that Johnson outlined as part of his vision.

Another report emphasized the dramatic nature of Johnson's speech, even in a moment lacking any tumultuous events. However, by noting the novelty and drama of the address, the report reinforced the importance of Johnson's new arguments. *The Washington Star* wrote:

President Johnson's speech to the graduating class of Howard University Friday was a *dramatic departure* [my emphasis], both in content and context. He was the first President to speak on civil rights at a moment of calm in the racial turmoil of the past five years. He was the first President to ask the Negroes, with their legal rights all but won, to help find the remedy for their social plight (McGrory, 1965, p. 1; Rainwater and Yancey, 1967, p. 369).

The media coverage worked to reinforce Johnson's speech as an event in itself, noting his attempt to talk about race relations devoid of a stormy exigence.

In addition, Johnson's announcement of a new phase in the history of civil rights was also picked up on by the media. Commenting on the novelty of Johnson's position, *The Washington Star* wrote, "The first southern President in a hundred years, in other words, told the Negroes that in compassion and concern he would not be outdone. Now to be constructive, he must have their help. It was an authentic new note" (McGrory, 1965; Rainwater, 1969, p. 371). *The New York Times*, describing the present effort to revive the black family structure stated:

This effort, in the view of those working on the problem, is the key to the *next phase* [my emphasis] in the achievement of Negro equality – a phase, they hope, that will go far beyond merely establishing the legal rights of Negroes to make them genuinely accepted and equal members of the American community (Pomfret, 1965, p. 1; Rainwater and Yancey, 1969, p. 371).

The question of whether a problem existed was not the subject of debate. As Columnists Rowland Evans and Robert Novak said best, "it's easier to define problems than solve them" (Evans and Novak, 1965; Rainwater and Yancey, 1969, p. 378). These types of reports reinforced the problem that America was experiencing, reinforced its seriousness, and commented on the novelty of America's direction. Johnson's speech successfully introduced a space for a public discussion on the state of black Americans. However, the reports also introduced conflicting interpretations of Johnson's speech, which ultimately had a lasting impact on the affirmative action controversy.

The media is often noted for its tendency to lift fragments from discourse in order to support its own ideological conclusions (Murphy, 1997, p. 87). John Murphy suggests, however, that these responses are not the result of "a hopelessly fragmented and irrational public sphere," but a "reasonable consequence of the rhetorical traditions" from which these writers speak (1997, p. 87). In his address, Johnson argues that the problems of

black Americans are partly due to the legacy of slavery and bad public policy. Therefore, Johnson proposes equality of opportunity and results intertwined with a renewed commitment to family in order to address these problems. However, while Johnson presents this solution as both/and, the media chose either/or. That is, some argued that the new solution for the plight of blacks lies with self-help and that blacks should take responsibility for themselves. Other accounts reported that the solutions rested with the federal government.

To begin, many of the reports asserted that Johnson's speech was testament that blacks needed to begin helping themselves now that they had achieved legal freedom.

Mary McGrory wrote an article in the *Washington Post*. She reported:

Negro civil rights leaders have soft-pedaled the ills of the Negro community – the statistics on crime and illegitimacy among nonwhites, which have given their foes the excuse to deny them their rights. But with total legal victory at hand they have begun to turn their attention to *the core of the Johnson speech, the failure of Negro family life* [my emphasis]. Since last January, they have been suggesting that *self-improvement may be the key to Negro self-esteem* [my emphasis]. Participants in the civil rights demonstrations, which have produced a new breed of Negro, were exhilarated by their achievements. But the feeling did not trickle down to the illiterate jobless in the slums. The NAACP began a series of “citizenship clinics,” which were aimed at pointing out *the evils of anarchy in the home*, [my emphasis] and finding social uses for political agitators (McGrory, 1965, p. 1; Rainwater and Yancey, 1969, p. 370).

John D. Pomfret of the *New York Times*, also covered Johnson's speech and the Moynihan report. He concluded that the “fundamental problem” with the plight of black Americans is the “deterioration” of the black American family structure. However, as Rainwater and Yancey observe of Pomfret's article, “it gave a distorted impression” of Johnson's speech and the content of the Moynihan report (1967, p. 137). They note that his article overemphasized the problems with the black family to other points of

Johnson's speech and the Moynihan report, such as the role of employment, housing, and other institutional issues that were linked to such behaviors (1967, p. 137).

Similarly, Evans and Novak, in their syndicated column, reported:

The President's goal was a bold one: to switch the civil rights dialogue from the easily understandable problem of dismantling Jim Crow in the South to the incomparably more difficult question of the Northern Negro ghetto. Thus, months of preparation went into researching *the Negro male's loss of "manhood," the dominance of the Negro female, the breakdown of family life and the acceleration of illegitimate birth* [my emphasis] (Rainwater, 1969, p. 381).

The media reports defined the new phase of the movement to involve the breakdown of the black family, problems with black self-esteem, and the need for blacks to begin helping with their problem. Left out of the reports was any need for a renewed commitment on the part of all Americans or the federal government. Thus, these reports legitimized a discussion for the direction of the civil rights movement to move toward the private sphere.

In addition, the news accounts reported Johnson's assertion that black Americans must accept responsibility for their plight, while leaving out the main direction advocated in his speech, the need for all of America to take responsibility. The *Washington Star* commented:

In the past Negroes who have advocated the "bootstrap" approach to Booker T. Washington have run the risk of being called "Uncle Tom." *With the President's encouragement and approval* [my emphasis], more Negroes are expected to speak out on this hitherto most delicate subject (McGrory, 1965; Rainwater, 1969, p. 370).

Johnson's authority is usurped to support the writer's argument that more black Americans need to help themselves.

In November, Evans and Novak implied that the summer rioting, which occurred that August, was partly due to civil rights leaders' failure to follow Johnson's lead:

The conference evolved last spring when the White House became engrossed in a confidential report *on the deterioration of the Negro family* [my emphasis] prepared by then Assistant Secretary of Labor Daniel P. Moynihan. His report was *the underpinning of an eloquent commencement address at Howard University by President Johnson* [my emphasis], summoning the White House conference. . . .

But by the time of the Los Angeles riots in August, officials suspected Negro leaders were *in no mood to discuss these realities* [my emphasis]. These suspicions were more than confirmed last week. *Sweeping the problems posed by the Moynihan report under the table* [my emphasis], Negro leaders at the conference insisted that the Federal government alone could relieve the torment of the urban Negro. The implication of Rustin's freedom budget was spelled out at the White House conference by outspoken Floyd McKissick, of the Negro's plight, "the capitalistic system" must be changed. *And only thinly disguised was an unhealthy dose of Negro racism* [my emphasis]. Lawrence Landry, a Negro radical leader from Chicago, complained publicly that the conference was dominated by "whites and Jews" (Evans and Novak, 1965, p. 256; Rainwater, 1969, p. 381).

These two journalists frame black leaders as hostile, radical, and racist. Further, they are portrayed as simply unwilling to listen to the "realities" of the Moynihan report. Thus, the onus for the plight of black Americans in this report is attributed to unruly black Americans, not Johnson. Johnson's authority as a leader is upheld, but only as a leader of a new direction in a civil rights movement that relegates the amelioration of race discrimination to the private sphere.

However, the media did not respond as a united front with interpretations of Johnson's speech. In fact, other reports interpreted LBJ's speech as a need for more federal programs and for white America to take responsibility. Responding to Johnson's Howard Speech, the *New York Times* article on June 5, noted that White House sources

were arranging a conference that was “to produce specific ideas and to chart programs for implementing them” (Rainwater and Yancey, 1967, p. 134). Also, “each government agency will be asked to review its programs in the light of the speech and to see what can be done by the government to carry the Negro beyond ‘legal equity’” (Rainwater and Yancey, 1967, p. 134). The following day, a *New York Times* editorial, also reporting on Johnson’s address, noted:

The cures for the social afflictions that hold the Negro in thrall lie in public and private programs that make the present War on Poverty all its related undertakings for expanded education, urban renewal and improved welfare services seem incredibly puny. In the absence of much more massive action to engender full employment, clear the slums and make more schooling available to more people, the chief effect of these programs may be to confront the United States with problems not unlike those of the “revolutions of rising expectations” in Africa and Asia (Rainwater and Yancey, 1967, p. 134).

Thus, these reports reinforced the need for more federal help. In another report, the *New York Times* writes:

President Johnson has accepted the thesis of the report and is expected to make it the basis for White House conferences on civil rights next fall. In a speech at Howard University last June, the President said *white Americans must accept the responsibility* [my emphasis] for the breakdown of the Negro family structure (Herbers, 1965, p. 146; Rainwater and Yancey, 1969, p. 378).

Thus, while two strands of interpretations competed for legitimacy, both used Johnson as supportive of their interpretations. Such an analysis suggests that Johnson did attain credibility with his speech, but that it was used to create two opposing arguments for the direction of civil rights. This fracture, in turn, aided in supporting a public vocabulary that framed the debate for subsequent generations of policy makers.

Conclusion and Discussion

In his Howard University address, Johnson responded to a context devoid of any emotionally charged events and forcefully argued the grave problem that grasped America, pointed the country in a new direction, and promoted his role as the moral leader. Johnson's address, along with the media's reporting of this event, point to several insights concerning the affirmative action controversy.

First, Johnson appealed to history to set up the plight of black Americans as a unique problem in comparison to other minorities for all of America to face and overcome. The press reports agreed with the seriousness, newness, and urgency of the problem. Although people may not have agreed with Johnson or his solutions, his ability to argue that a problem existed worked in some ways to bring consensus to the public discussions. Farrell has discussed the construction of social knowledge, noting that in public deliberation there must be some point of consensus, whether advocates agree with the proposition or not, they must decide that there is something there worthy of disagreement (1976, p.8). In essence, Johnson's speech accomplished exactly this – it reified the notion that a severe problem existed in America.

Next, Johnson defined "liberty" and "equal opportunity" to argue for his proposals and to advance his theoretical discussion of affirmative action. David Zarefsky argues that before Johnson's Howard Address, equal opportunity was traditionally defined as a "*description of the natural condition of society in the absence of government interference*" (1980, p. 85). Zarefsky contends that Johnson, with his speech, justified a redefinition of equal opportunity "as a *goal to be achieved, in large part through government initiative*" (1980, p. 85). However, although Johnson may have intended this

meaning, multiple meanings were picked up on by the press reports. Michael McGee's notion of the ideograph helps explain why different interpretations were spawned from Johnson's discussion of equality. That is, ideographs, like equal opportunity, have dual defining characteristics that unite and separate individuals. Ideographs create unity through a "fundamental, categorical meaning" (McGee, 1980, p. 10). Thus, some defined the new phase as emphasizing the need for black Americans to take responsibility for their own plight, while others, reported that the findings supported the need for renewed commitment to federal policy (1980, p. 90). These competing understandings, then, defined the contours of the affirmative action debate and the role the government should play in assisting black Americans.

Finally, by adopting a priestly persona, Johnson attempted to present himself as a unifying moral leader for civil rights. His use of this strategy upheld his civil rights leadership in some ways as the news reports cited him as an authoritative figure. But, the crisis rhetoric – demanded by the priestly persona – also created unrealistic expectations. Disparity between black and white Americans would take a long time to resolve. When Johnson linked America's self identity to achieving results that could not realistically be solved in a short period of time, he constructed a tenuous argument. Johnson argued that Americans' self-identity hinged on a society where equality was a fact, and a result, he created roles for his audiences that were difficult to fill. Because the goals Johnson set were unrealistic, he created a space for Americans to look for a leader that could give them more achievable goals.

Furthermore, through his assumption of this priestly role, Johnson reinforced civil rights as a moral issue. He could have made other choices. For instance, he could have

argued from pragmatic grounds in a quieter way, that this policy makes sense as blacks enter the mainstream of American life. Instead, by setting this up as a grave moral challenge and by assuming the role of priest, he said, implicitly, to stand against me is to stand against God. This role sets this controversy on a particular trajectory, one that almost required even opponents to see it in moral terms.

Johnson's definition of a serious problem facing the U.S. was assumed by the next three subsequent presidents. Presidents Richard Nixon, Gerald Ford, and Jimmy Carter all followed the premises of Johnson's rhetoric in their own oratory. But while these presidents did not veer much from Johnson's arguments, they did not say much either, attesting to the difficulty that the strategy of a rhetorical crisis can present for sustaining long-term commitment. The silence at the executive level remained until President Ronald Reagan entered the scene in 1980, introducing an approach that reversed many of Johnson's premises and ultimately reshaped the debate.

CHAPTER THREE

RONALD W. REAGAN: RHETORIC OF RETRENCHMENT

On June 15, 1985, Ronald Reagan delivered his “Radio Address to the Nation on Civil Rights” in order to defend his civil rights policy and his recent nomination of William Bradford Reynolds to Associate Attorney General. Nicholas Laham contends this was “the most comprehensive public statement on civil rights made by Reagan during his presidency” (1998, p. 73). Reagan faced a rhetorical situation with a long and complex history. First, throughout the previous decade, the presidents and the Supreme Court supported affirmative action, but differentiated their support of affirmative action from “quotas,” or procedures that relied solely on race as a qualification. Because Reagan attempted to dismantle affirmative action programs, he needed to address these previous definitions of affirmative action in his arguments. Reagan lacked credibility as a civil rights leader; his record had demonstrated to many that his sincerity in this area was suspect. He needed to invent his ethos in this area with the vision for America. Finally, Reagan needed to garner support for the nomination of Reynolds to the position of Associate Attorney General, as his nomination had created considerable outrage and controversy. Thus, a closer examination of this situation is warranted to understand Reagan’s rhetorical maneuvering.

Richard Nixon, Gerald Ford, and Jimmy Carter: The Silent Decade

Public sympathy toward civil rights waned with the outbreak of riots beginning in the summer of 1964 and continuing every summer after until 1968 (Graham, 1992, p.

117). Coming out of the tumultuous sixties, the federal government assumed a much more silent civil rights role. Shull writes, "the late 1960s to mid-1970s witnessed a clear break in presidential advocacy of civil rights. Presidents Richard Nixon and Gerald Ford took office in a different environment" (1999, p. 37). By the time the 1970's arrived, the focus concentrated more on enforcing the laws set up by Johnson. Presidents Richard Nixon, Gerald Ford, and Jimmy Carter all made few statements about affirmative action. When they did speak, however, these presidents supported affirmative action programs, and differentiated these programs from "quotas." An examination of each president's civil rights discourse is insightful in setting up the rhetorical situation this decade presented for Ronald Reagan.

Richard Nixon Administration

When Richard Nixon entered the office in 1969, he could have acted progressively in the area of civil rights as Johnson had laid much of the groundwork (Ambrose, 1987, p. 406). However, as Amaker explains, "examination of the Nixon record reveals that he was no vigorous champion, that the presidential insistence on the importance of civil rights as a national priority had diminished, that overall leadership was lacking" (1988, p. 24). Rather, Nixon, who faced a Democratic Congress and whose Democratic friends were mostly Southern, simply "wished the problem would go away" (Ambrose, 1987, p. 407). He, therefore, assumed a maintenance role that emphasized, above all, a need for law and order. In addition, Nixon opposed the Supreme Court's ordering of busing as a means to advance the desegregation of schools, but he maintained that the nation must comply with the law. In a news conference, commenting on the

Supreme Court's decision to order immediate school integration,⁶ Nixon replied, "I believe in carrying out the law even though I may have disagreed as I did in this instance with the decree that the Supreme Court eventually came down with. But we will carry out the law" (1970b, p. 1010). Thus, although Nixon did not attempt to position himself as a progressive leader, he also "dared not tinker with the basic gains African Americans had made before he entered office" (Riley, 1999, p. 267). In following the path that Johnson had forged, he did advance one progressive idea, but even in this attempt he equivocated.

On August 8, 1969, Nixon issued Executive Order 11478, which implemented affirmative action programs to diminish job discrimination in federal agencies (Shull, 1999, p. 122). This Order set up the Office of Minority Business Enterprise within the Department of Commerce in order to advance Nixon's belief in promoting jobs as the best route to advancing racial equality (Parmet, 1990, p. 597). The advancement was "touted as the centerpiece of the administration's civil rights approach" (Parmet, 1990, p. 597). As Nixon's Director of the Budget Maurice Stans noted, it was "the first time the federal government had ever put into effect an organized program to help the minorities get a start – what Nixon called an equal place at the starting line" (Strober and Strober, 1994, pp.112, 113). On February 2, 1970, in his annual economic report to Congress, Nixon argued, "the free economy of the future will rest squarely on the foundation of genuinely equal opportunity for all. Some, because of race or national origin, find themselves situated far back of the starting line in our economy" (1971, p. 75). Nixon drew on Johnson's metaphor of a foot race to articulate the merit of his program. Through the use of his rhetoric and his Executive Order, Nixon followed in the rhetorical footsteps of Johnson – not by leaping ahead, but also not by running in the other

⁶ See *Alexander v. Holmes County Board of Education*, 369 U.S. 19 (1969).

direction. Nixon's Executive Order also became the foundation of his attempt to set up affirmative action programs for minorities in the construction industry, which later became known as his Philadelphia Plan.

The Philadelphia Plan was designed to demand that any construction job done with government funds be integrated – it had to create set-asides for minorities that favorably represented the percentage of blacks in that part of Philadelphia. Nixon explained his plan as an affirmative action plan that advanced positive "targets" or "goals." Former President of the Congress of Racial Equality James Farmer would later laud this program as evidence that at this point, Nixon was "the strongest president on affirmative action" (Strober and Strober, 1994, p. 114). However, this plan soon came under attack as a program that advanced quotas. On one hand, the plan created fear in white construction workers because they believed the plan sought to advance social change over their own needs (Parmet, 1990, p. 599). On the other hand, black leaders were also skeptical, believing the plan was divisive and worked to break up the coalition between black Americans and labor unions, which historically had been an important alliance in accomplishing social progress (Parmet, 1990, p. 599). Nonetheless, on December 19, 1969, responding to an amendment that was proposed in the House to get rid of the Philadelphia Plan, Nixon defended his plan:

[It] does not use quotas; it points to goals. It does not presume automatic violation of law if the goals are not met; it does require affirmative action if a review of the totality of a contractor's employment practices shows that he is not affording equal employment opportunity (1970a, p. 1038).

On December 22, 1969, the House voted 208 to 156 not to kill the Philadelphia Plan.

Nixon, however, would soon qualify his position on the Philadelphia Plan.

In 1971, the Supreme Court, in *Griggs v. Duke Power Company*, an important judicial interpretation for Title VII,⁷ ruled that it was possible to violate Title VII even when there was no intent to discriminate. This specific case denied an employer's use of a general intelligence test and a high school completion requirement. In explaining the rationale, Justice Warren E. Burger stated, "under the Act, practices, procedures, or tests neutral on their face, and even neutral in terms of intent, cannot be maintained if they operate to 'freeze' the status quo of prior discriminatory employment practices" (*Griggs v. Duke Power Company*, 1971). This case had specific implications for Title VII and affirmative action programs.

In this decision, the Court allowed for proof based on "disparate impact," which justified the uses of quantitative measurements to prove that a practice used by an employer to screen candidates for hiring or promotion were disproportionately excluding members of a group protected by Title VII. The Supreme Court's ruling on the constitutionality of disparate impact upheld a conception of discrimination that was different than its meaning in "disparate treatment" theory. In disparate treatment, the Supreme Court explains discrimination occurs when an employer "simply treats some people less favorably than others because of their race, color, religion, sex or national

⁷ See, Blumrosen, A. W. (1987). The Legacy of Griggs: Social Progress and Subjective Judgments, Chicago-Kent Law Review, 63, 1, 3-4. (Griggs "infused Title VII with extraordinary influence," caused employers to revise many practices so as to include minorities and women, and "laid the foundation for affirmative action programs."); Chambers, J. L. and Goldstein, B.G. (1986) Title VII: The continuing challenge of establishing Fair Employment practices, Law and Contemporary Problems, 49, 9, 16. (Griggs is the most important judicial interpretation of Title VII); Norton, N. E. (1988). Equal Employment Law: Crisis in interpretation – survival against the odds, Tulane Law Review, 62, 681, 691-692 (1988); Rutherglen, (1987). Disparate Impact under Title VII: An objective theory of discrimination, Virginia Law Review, 73, 1297.

origin. Proof of discriminatory motive is critical... ” (Teamsters v. U.S., 1977).⁸ Critical Legal studies scholar Alan Freeman observes that this was an important ruling because for the first time said that a neutral practice “not purposefully discriminatory” could still violate Title VII; it “changed the notion of ‘intentional’ in antidiscrimination law” and emphasized “a demand on results,” and it “virtually [coerced] employers ... into adoption of affirmative action programs” (Freeman, 1989, pp. 132-133). However, he also notes that “it has lost a good deal of its force” as subsequent court rulings complicated the test that employees had to show in order to prove discrimination (Freeman, 1989, p. 134). Nonetheless, at this point, the case was significant because it legitimated the presidential and public vocabularies at this time.

Although the Supreme Court upheld results-based affirmative action programs, beginning in 1972, with his reelection campaign, Nixon adapted his rhetoric to the increasing resentment surrounding his Philadelphia Plan and took a hard stand against “quotas.” In August of 1972, in his nomination acceptance address, Nixon declared, “my fellow Americans, the way to end discrimination against some is not to begin discrimination against others. Dividing Americans into quotas is totally alien to the American tradition” (1973 b, p. 788). In his Labor Day message on September 3, 1972, he also argued:

In employment and in politics, we are confronted with the rise of the fixed quota system – as artificial and unfair a yardstick as has ever been used to deny opportunity to anyone.... Quotas are intended to be a shortcut to equal opportunity, but in reality they are a dangerous detour away from the traditional value of measuring a person the basis of ability. (1973a, p. 852).

⁸ For further discussion of Title VII disparate treatment doctrine, see *USPS Board of Governors v. Aikens*, 460 U.S. 711 (1983).

Thus, Nixon reified a dissociation between affirmative action and quotas in the public vocabulary.

Gerald Ford Administration

Following on the coattails of Richard Nixon, Gerald Ford did little more for civil rights than follow the policies that Nixon had already established (Amaker, 1988, p. 24). Amaker explains that Ford's record in civil rights was simply "not notable" (1988, p. 25).⁹ The few times Ford did speak, he usually cited the programs he continued from Nixon's administration. In one of his only statements about black Americans, Ford noted that Americans still had further to go before they achieved equality, but he included no discussion of where it was the country needed to go or any policies he planned to implement (Ford, 1976, p. 902). Commenting on the recession that the U.S. experienced in the summer of 1975, Ford stated, "together we must create the ... necessary conditions to turn the legal right of equality into the reality of equality – a stable growing economy that allows all of our people to realize their full potential . . . Equality of opportunity can be sustained only in the context of economic stability" (1976, p. 902). Thus, Ford continued an understanding of "equal opportunity" as focused on results. In essence, for the decade of the 1970's, Ford was the most silent of the three presidents.

Jimmy Carter Administration

President Jimmy Carter made some important gains for civil rights, but he did not provide much rhetorical leadership. Amaker notes:

There was no sustained delivery of a vocal and highly visible public message under Carter as there had been with Lyndon Johnson, his last Democratic predecessor, but the Carter administration fully supported the goals of the civil rights laws that had been passed and the remedies the courts had endorsed to carry out those goals (1988, p. 28).

⁹ In fact, Ford issued no Executive Orders during his administration.

In his effort to restructure civil rights enforcement mechanisms in respect to equal employment opportunities, Carter, for the first time in history, appointed people from the pool of candidates that the measures were designed to protect (Amaker, 1988, p. 25). For instance, in Carter's first three years, he appointed more blacks, women, and Hispanics to the federal courts than all of the previous administrations combined (Amaker, 1988, p. 27). He also passed a series of executive orders¹⁰ behind the scenes.

Carter made some statements, but these generally he remained in line with the premises of Johnson's arguments. For instance, in his State of the Union address in 1978, he proclaimed, "All Americans have fundamental civil rights requiring government protection, and all must be afforded equal opportunity to participate as full members in our society" (1979, p. 110). He continued, "our efforts to eliminate discrimination and promote affirmative action programs, relying on flexible goals rather than on quotas, will continue in full force" (1979, p. 111). Thus, following Johnson's rhetorical agenda, Carter supported affirmative action programs that advanced the government's role in promoting equal opportunity, but carefully avoided quotas.

The 1970's were a decade that contained a tremendous amount of judicial action,¹¹ and during Carter's administration the Supreme Court ruled on two cases which

¹⁰ In 1978, Carter issued Executive Order 12067, which granted the EEOC authority to develop standards in complying with equal opportunity laws. In October of 1978, Carter issued Executive Order 12086, which designated the Secretary of Labor as responsible for enforcing and assuring compliance to Parts II and III of Johnson's Executive Order 11246. In 1980, Carter issued Executive Order 12250, which required the Department of Justice to require all federal agencies extended financial assistance to enforce Title VI of the Civil Rights Act.

¹¹ See *Griggs v. Duke Power Company*, 401 U.S. 424 (1971); *Albermarle Paper Company v. Moody*, 442 U.S. 405 (1975); *Dorthare v. Rawlinson*, 443 U.S. 321 (1977);

were instrumental in reinforcing the legality of affirmative action and the illegality of quotas.

In *Regents of the University of California v. Bakke* (1978), the Supreme Court addressed the constitutionality of affirmative action. In this case, an applicant to the medical school at the University of California at Davis, Alan Bakke, sued for admission on the grounds that his rights under Title VII of the 1964 Civil Rights Act had been violated. The court ruled the university's admission policy, which allocated sixteen of one hundred positions in a class for minority students, was illegal, and ordered his admission. In Justice Powell's view, the problem with the admission policy was its sole focus on race (Turner, 1990, p. 15). Thus, this case was important because the Court upheld affirmative action programs, but ruled that prospective students or employees could not be denied entrance or employment *only* on the account of race.¹² As Delgado and Stefancic explain:

The Supreme Court's splintered decision narrowed affirmative action by insisting that universities set aside no formal quota for minorities and that they compare every candidate with every other. If universities were careful to observe these limitations, they could consider race as one factor among many in order to achieve a diverse intellectual environment (2001, p. 104).

However, the case fueled a debate in the public concerning the means to eliminate racial bias and uphold diversity¹³ without resorting to methods that focused solely on race. For instance on December 7, *The Washington Post* commented on the "bitter campus

New York City Transit Authority b. Beaser, 440 U.S. 568 (1979); *Connecticut v. Teal*, 457 U.S. 440 (1982).

¹² See Tribe, L. (1979). Perspectives on Bakke: Equal protection, procedural fairness, or structural justice, 93 *Harvard Law Review*, 93, 864.

¹³ Subsequent court rulings, including the Fifth Circuit decision *Hopwood v. Texas* (which abolished race-conscious standards in three states) cast doubt on this diversity rationale.

debates” and the “turmoil in professional schools across the country in the wake of June’s Supreme Court decision” concerning the appropriate way to implement affirmative action programs (Bonner, 1978, p. A1). Thus, Bakke was a germinal case in the education context.

While Bakke was important for education, the Supreme Court also ruled on an important case for the employment context the following year. In *United Steelworkers of America v. Weber* (1979), the Court took a case concerning the affirmative action policy produced by a labor agreement between the Steelworkers and Kaiser Aluminum Chemical Corporation company. The labor agreement implemented an affirmative action policy, which reserved fifty percent of its work force for black employees. In 1974, the company selected thirteen applicants for its training program, with seven black hires and six white, even though some of the black employees held less seniority than the whites that were overlooked. Brian Weber, one of the applicants, who was denied employment, filed a class action, arguing that the employment standards violated Title VII of the Civil Rights Act. The Court upheld this suit, arguing that Kaiser violated Title VII’s ban on discrimination by focusing solely on race (Spann, 2000, p. 32). Thus, the two Supreme Court cases of the decade, *Bakke* and *Weber*, affirmed affirmative action, but ruled that race could not be the only basis by which an employee was hired or a candidate was admitted.

The courts during the 1970’s led the discussions surrounding affirmative action. Carter could have chosen to take a more outspoken stance, but instead he generally made brief statements supporting the Supreme Court’s rulings. By adopting this strategy of silence, Carter enabled the authority of the Supreme Court to lead in defining the

affirmative action controversy while also avoiding possible critiques that too strong a stance might have provoked against the executive office. At the end of the 1970's, both the Supreme Court and the Executive Office supported efforts to create "opportunity," but opposed number schemes or any criteria that accepted black candidates or employees on the sole basis of race. This, in turn, set the stage for Reagan to attempt to eliminate affirmative action programs altogether.

Ronald Reagan: A Rhetorical Situation of Retrenchment

Reagan may have differed greatly from Lyndon Johnson on his stance on civil rights, but both presidents utilized the institution of the rhetorical presidency in order to make changes. As Shull contends, Reagan used "strong rhetoric to rekindle and recast civil rights policy" (1993, p. 262). In fact, Shull refers to Reagan's decade of leadership in civil rights as part of the "presidential decade," which reversed "the direction that civil rights policy had taken during the past generation" (1993, p. 263). He also argued that Reagan's conservative rhetoric concerning civil rights demonstrated that "individual presidents matter" (1999, p. 70). Specifically, Reagan targeted affirmative action as an area of reform, and he used rhetoric both directly and indirectly to address this issue.

Reagan's presidency coincided with white backlash against previous civil rights laws and numerous government programs (Laham, 1998, p. xi). Given that the economy was in recession, Reagan's aim to "get the federal government off our backs" hit a responsive chord with many Americans. Generally, many whites held the perception, however incorrectly, that government only aided minorities (Laham, 1998, p. 6). By arguing that less government spending created more wealth for Americans, Reagan garnered support for his ideas to cut many government programs, policies, and procedures. Reagan argued that by minimizing the role of the federal government, all

Americans would prosper as they would have more money to enlarge the economic pie. In advancing this solution, Reagan also attempted to justify to black Americans his cuts in minority programs.

Historically, Republicans have had difficulty recruiting the votes of black Americans; however these votes are increasingly important, especially in swinging election contests to the Democratic party in close races (Laham, 1998, p. 45). In order to address the skepticism of black Americans, Reagan contended that less government was in their interest as well. In a speech to the National Urban League, Reagan argued, "our ultimate goal should be to transfer from the federal government back to the States and localities programs – such as welfare and education – which the federal government has usurped and has not managed well, along with the tax sources to pay for them" (1980, p. 3). By making this argument, Reagan claimed that it was the mismanagement of government that had caused black Americans and all Americans to lose – not the lack of government programs. In essence, he argued that the programs designed to help them were, in effect, hurting their progress.

Although, Reagan generally retreated from discussing his plans for civil rights before 1984, he did foreshadow his plans for affirmative action early, beginning with his 1980 campaign. For instance, he equated affirmative action with quotas in a major campaign speech in Mississippi (Bullock and Butler, 1985, p. 55). Reagan charged that "some affirmative action programs [are] becoming [racial] and [gender] quota systems. And I'm old enough to remember when quotas existed in the United States for the purpose for discrimination, and I don't want that to happen again" (Laham, 1998, p.19). Implying that LBJ's executive order resulted in quotas, Reagan partook in a series of

policy actions and institutional changes that stood as symbolic acts against affirmative action.

At the beginning of his administration, Reagan made a series of civil rights budget cuts and also reshaped the Civil Rights Commission. In 1982, Reagan fired Republicans Arthur Flemming and Stephen Horn from the Civil Rights Commission and named Clarence Pendleton and Mary Louise Smith as chairman and vice-chairwoman. Reagan's changes to the Civil Rights Commission sparked a heated controversy since their removal coincided with Flemming and Horn's criticism of the Reagan administration. In an interview following his dismissal, Flemming described the Reagan Administration's civil rights policy as "very discouraging" (Pear, 1981, p. A24). He continued, "The action [dismissal] seems to have been taken because of a divergence between the commission and the Administration on basic civil rights" (Pear, 1981, p. A24). Both the civil rights community and many members of Congress challenged Reagan's changes, but, in the end, Reagan made more changes to the commission and ended with a 5 to 3 conservative majority (Shull, 1999, 130). Indeed, Reagan's conservative appointments, budget cuts to civil rights, and opposition to affirmative action, left many skeptical and others outraged about his philosophical approach to civil rights.

Although Reagan stated his position on affirmative action early in his campaign and his administration, he waited to launch his serious effort to change the shape of affirmative action until November of 1984 because he was "fearful that political controversy over reforms ... might endanger [his] chances of reelection" (Laham, 1998, p. 3). Shull explains that Reagan found civil rights interests weak and divided; thus he was able to operate from a position of strength (Shull, 1999, p. 193). To begin, Reagan

planned revisions in Lyndon Johnson's Executive Order 11246. These reforms, however, conflicted with the *Weber* decision, since the president's reforms in affirmative action would have prohibited the use of racial and gender preferences in employment, which the Court had upheld. Reagan's civil rights reform led to considerable controversy and disagreements concerning the appropriate goal for civil rights policy. Reagan's side, unprecedented in its opposition to affirmative action, thought "goals and timetables" served as "smoke screens" for fixed quotas. The civil rights community, on the other hand, believed a distinction existed between affirmative action and quotas (Laham, 1998, p. 37). Thus, for the first time, the President occupied a position of retrenchment on civil rights and needed to justify this stance.

On June 15, 1985, Reagan delivered a radio address concerning his position on civil rights. The speech served to defend William Bradford Reynolds in the controversy surrounding his nomination and promotion to the position of Associate Attorney General from Assistant Attorney General. Opponents of Reynolds' nomination were not pleased with Reynolds' record as perhaps one of the most outspoken key administration officials against affirmative action (Detlefsen, 1991, p. 3). In one interview given in the summer of 1982, Reynolds remarked:

I think we should bring the behavior of government on all levels into line with the idea of according equal opportunity for all individuals without regard to race, color, or ethnic background. In my view we should remove whatever kinds of race- or gender-conscious remedies and techniques that exist in the regulatory framework to ensure that the remedies that are put in place are sensitive to the non-discrimination mandate that is in the laws (Chavez and Green, 1984, p. 34).

Opponents of Reynolds cited this controversial position on affirmative action, as well as his opposition to school bussing, his opposition to the proposition to strengthen the

Voting Rights Act by providing remedy to plaintiffs in their burden of proving discriminatory intent, his approval of a redistricting plan in Louisiana, which diluted the voting strength of blacks and his lethargic action toward trying fair housing suits (Pear, “Reagan defends,” 1985, p. 25). Because of the tremendous debate the nomination of Reynolds created, Reagan issued a defense of his nomination of Reynolds.

Reagan’s Radio Address to the Nation on Civil Rights

Reagan followed a decade in which three presidents had maintained that affirmative action programs were distinct from quotas. In addition, two seminal Supreme Court cases had also upheld this logic, arguing in each particular case that the 1964 Civil Rights Act can not be used as a justification to make race the only standard for admitting or employing a minority. Therefore, the use of the word “quota” in the public vocabulary was uncontested as a bad and unconstitutional goal for race policy. On the day of his radio address, Reagan defended Reynolds’ character, purpose, and intent in the arena of civil rights and did so by arguing that Reynolds held the same philosophical approach to civil rights as himself. Reagan utilized his defense of Reynolds to suggest that his policies were not racist, but rather that civil rights law had gone too far to be constitutional – that civil rights laws had become quotas.

History: A Problem of Legal Interpretation

Reagan uses legal history to move the argumentative ground from the history of slavery to a problem of interpretation of law. As Laham attests, Reagan used this speech to explain “that all forms of discrimination, no matter how benign or well-intended, violate the original intent of the Civil Rights Act of 1964” (1998, p. 74). Reagan sets up

a much different problem than Johnson established concerning race policy. Reagan claims:

Equal treatment and equality before the law – these are the foundations on which a just and free society is built. But there are some today who, in the name of equality, would have us practice discrimination. They have turned our civil rights laws on their head, claiming they mean exactly the opposite of what they say. These people tell us that the Government should enforce discrimination in favor of some groups through hiring quotas, under which people get or lose particular jobs or promotions solely because of their race or sex (1986, p. 773).

Whereas Johnson argued the main problem for America is the measurable discrimination against black Americans, Reagan now argues the main problem with civil rights to be the discriminatory application of remedies.

Furthermore, he supports this claim by drawing on the history of the designers' intentions as evidence that the 1964 Civil Rights Act's current use is an abuse of its original purpose. For instance, he notes:

When the Civil Rights Act of 1964 was being debated in the Congress, Senator Hubert Humphrey, one of its leading advocates said he'd start eating the pages of the act if it contained any language which provides that an employer will have to hire on the basis of percentage or quota. But I think if Senator Humphrey saw how some people today are interpreting that act, he'd get a severe case of indigestion (1986, p. 773).

Previously, affirmative action meant securing jobs for those whom deserved them, but were overlooked due to their race or gender. Now it means securing jobs for those who do not deserve them, but were given them due to misguided government policy.

Histories of slavery and discussions of structural problems are erased by focusing on the history of law. Reagan's reframing of the problem is supported with his definition of discrimination.

Definition: The Disappearing Act of Affirmative Action

Reagan argues for a different definition of discrimination than Johnson. For Johnson, discrimination was determined by measurable disparities in society. For Reagan, discrimination is defined in the context of law. His administration, he claims, “has worked energetically to end discrimination in employment, voting, housing – in all the areas covered by law” (1986, p. 773). However, while Reagan argues that legal protection from discrimination is an important concern, he advances a commitment to a specific understanding of discrimination, a definition which is advanced through his characterization of the act. Using the imagery of an American justice icon to bolster his definition, Reagan explains:

The principle that guides us and the principle embodied in the law is one of nondiscrimination. I’m sure that you have all seen the statue representing justice that presides in many of our courtrooms—the woman with the blind fold covering her eyes. Her eyes are covered because justice should never depend on whether you’re rich or poor, or black or white, or if you’re Hispanic or Asian, or if your ancestors came from Italy, Poland, Latvia, or any other country, including Ireland, where some of my family is from (1986, p. 773).

Reagan’s characterization of discrimination competes with the dominant imagery that Johnson used to define the concept. Whereas LBJ defined discrimination by measuring the results in society and the ability that a group possessed to compete on an equal playing field, Reagan uses the vivid imagery of a blind-folded woman to argue that discrimination is recognizing difference between individuals in any way that accounts for their race. Such imagery is a powerful means to reverse the presumptions of Johnson, because it aptly appeals to American values of American law, meritocracy, and individualism (Zarefsky, 1980, p. 93).

Reagan next associates civil rights with “quotas,” a word that is a devil term in our public vocabularies (Weaver, 1953, p. 223). He contends:

Some bluntly assert that our civil rights laws only apply to special groups and were never intended to protect every American. Well they couldn't be more wrong... . The truth is, quotas deny jobs to many who would have gotten them otherwise, but who weren't born a specified race or sex. That's discrimination pure and simple and is exactly what the civil rights laws were designed to stop. Quotas also cast a shadow on the real achievements of minorities, which make quotas a double tragedy. In 1980 and 1984 I ran for President and told you I was opposed to quotas. In response to your mandate, our administration has worked to return the civil rights laws to their original meaning – to prevent discrimination against any and all Americans. (1986, p. 773).

Thus, Reagan sets up a choice of two options for his audience to accept. Either they can accept the use of quotas, which are illegal and an abuse of our civil rights laws. Or they can follow his proposal, a solution he contends that the American people elected him to implement. By creating this binary, Reagan dismisses a discussion of “affirmative action,” that previous presidents and court rulings legitimated. What Reagan claims that “some” people want and implicitly defines as affirmative action policy is precisely the position that has been outlawed. But Reagan defines this policy as affirmative action in a bid to eliminate the programs. Quotas, then, replace the concept of affirmative action.

Persona: A Society of Character

Reagan adopted a similar persona that Johnson donned in his Howard University Address. In doing so, Reagan demonstrated the power that rhetorical personae hold in controversy. Zulick, in her discussion of prophetic personae, argues that personae are “preserved in text” and suggests that identifying personae gives us “things to look for in analyzing later adoptions” (1992, p. 140). For instance, Reagan took on a similar voice as Johnson, but in doing so, he advanced a very different argument. Reagan, like Johnson, defines the American covenant, appealing to founding documents, which

support our American covenant. He declares that the Declaration of Independence is “the greatest blow ever struck for the cause of freedom” (1986, p. 772). He continues, “‘We hold these truths to be self-evident,’ our Founding Fathers proclaimed, ‘that all men are created equal, that they are endowed by their Creator with certain Unalienable Rights’” (1986, p. 772). Reagan explains that the words of our American covenant inspired our community to complete its promise:

That declaration inspired our nation to reach new heights of human freedom, but its promise wasn’t complete until we abolished the shame of slavery from our land and, in the lifetime of many of us, wrote the civil rights statutes that outlawed discrimination by race, religion, gender, or national origin (1986, p. 772).

Reagan contends that the promise of our American covenant has been fulfilled with the abolishment of slavery and the passage of the 1964 Civil Rights Act. He does not argue that discrimination, however, is a phenomenon of the past. For example, he notes, “discrimination is still not yet a thing of the past, unfortunately; and for the last 41/2 years, this administration has acted vigorously to defend and extend every American’s fundamental right to equal treatment” (1986, pp. 772, 773). In making this argument, Reagan naturalizes his position, making the ending of discrimination the inevitable, unfolding destiny for America. Gronbeck refers to this type of appeal as a “genetic argument,” in which “an advocate can rely on our general belief in progressivism to argue that action today will advance some aspect of life we can see stretching from the past to the present to the future” (1998, p. 55). Whereas Johnson argued that the passage of 1964 and 1965 Civil and Voting Rights Act marked the passage of the first “phase,” Reagan contends that as a nation we have fulfilled our promise and progress will flow from its completion.

Reagan assumes a similar priestly persona as Johnson, but he relies on his different place in time to create different roles for his audiences. Johnson argued that we must have equality as a result before our covenant can be fulfilled; Reagan argues that we have now fulfilled it with the passage of law. Reagan's argument is persuasive because he gives his audience a national identity that they can take pride in as a community – they have already fulfilled their obligation to their American covenant.

In addition, whereas Johnson argued that we still have a ways to go before our covenant is fulfilled, Reagan presents his audiences with an opportunity to reaffirm their fulfilled covenant by supporting the Reynolds nomination. In essence, Reagan sets Reynolds up as the test by which Americans should be judged. To support Reynolds is to affirm the identity of America. For instance, he states:

Brad Reynolds is not only a tireless fighter against discrimination, he's a brilliant and dedicated lawyer. Recently, I nominated Brad Reynolds to be Associate Attorney General – the number three job in the Justice Department. He deserves that promotion, but his nomination is being opposed by some who don't agree with us about the civil rights, by some who favor the discrimination of quotas.

Brad Reynolds' qualifications and character are impeccable. Indeed everyone knows Brad Reynolds is a man of integrity and strong ideals, that he's firmly committed to the same vision of a just society that I am. I've nominated Brad Reynolds to carry out my policies, the policies for which you elected me, the policies that reflect our best principles as a nation. I'm confident that the Senate will confirm him (1986, p. 773).

Reagan constructs a set of standards to judge individuals, which impinge on a firm dedication to American principles and good character. Reynolds, and implicitly Reagan, are good leaders because they meet these standards.

Finally, Reagan assumes the prophetic voice of Martin Luther King, Jr. While presidents often assume the priestly voice, in this instance, Reagan speaks through King's voice, in order to assume the authority of this tradition. Reagan proclaims:

Twenty-two years ago Martin Luther King proclaimed his dream of a society rid of discrimination and prejudice, a society where people would be judged on the content of their character, not by the color of their skin. That's the vision our entire administration is committed to – a society that keeps faith with the promise of our Declaration of Independence, a proud society in which all men and women are truly created free and equal under God (1986, p. 773).

Drawing on the words of King, Reagan uses the authority of King's heroic status in our culture. King's prophetic status, after all, holds more authority than most other American documents or figures in the area of civil rights. Michael Dyson comments on the increasing use of King's image "to settle disputes on either side of the racial or political divide" (2000, p. 3). These rhetors, he claims, reference King's words "to prove one's authenticity as a champion of truth and justice" (2000, p. 3). In so doing, Reagan gave credence to his arguments that the vision of the ideal society, where character is judged over the color of a person's skin.

Media Analysis: Character Over Content

While the media generally opposed Reagan's position, his speech, in many ways, set the terms of the press coverage. The press focused on our progress since the 1960's, the legality of affirmative action, and the issue of character. In this way, the media accepted Reagan's definitions – that America had progressed, that affirmative action is quota-based, and that character counts.

To begin, in his address, Reagan defined a problem with the current misinterpretation of the 1964 Civil Rights Act. He argued that America needed to uphold

the principles of our laws, and to promote a system that does not discriminate on the basis of race, religion, gender, or national origin. However, in advancing this argument, Reagan implied that the work of the government was finished when we passed civil rights legislation in the 1960's and that programs that attempt to go farther are wrong. Such an assertion opened up a discussion in the media concerning racial progress. The media coverage debated Reagan's premise by including discussions about whether the administration was "turning back the clocks" of racial progress by attempting to get rid of the policy advanced since the sixties. For instance, the President of the NAACP at this time, Benjamin Hooks stated in one report that "the Administration was trying to 'roll back' civil rights gains of the 1960's and 1970's" (Douglas, 1985, p. D-11). In a June 28 editorial, William Raspberry stated of the Reynolds' nomination, "Reynolds, with the tacit and sometimes participatory blessing of the White House, has been a one-man malignancy, eating away at two decades of civil rights gains, including settled federal policy" (Raspberry, 1985, p. A25). The report continued:

my suspicion is that Reynolds, like some others in the administration, sees himself as part of a righteous crusade to undo two decades of race-specific laws, court orders, procedures and consent decrees – heedless that his zeal is doing the nation more harm than good (Raspberry, 1985, p. A25).

Another editorial noted that Reynolds, "has used his position to try to reverse decades of hard-won advances, contending disingenuously that he merely opposes quotas and other controversial remedies" ("Civil rights is not a shell game," 1985, p. A22).

On the other side of the debate, the press also included Reagan's defense against these arguments:

He said that by seeking to undo agreements that relied on quotas he hopes to prevent "reverse discrimination" in the future. "We are not trying to

interrupt or undo anything,” [Reagan] said (Pear, “Reagan defends justice,” 1985, p. 25).

The reports thus centered on the debate of whether or not Reagan was undoing civil rights progress or keeping in line with the intention of civil rights laws.

Next, the media debated the concept of affirmative action on legal terms. Reagan’s speech never specifically used the concept “affirmative action,” but rather discussed the present misuse of “quotas,” a fixed measurement accepted as illegal in America. However, this left affirmative action as a site of argument for the media. On June 25, 1985, *The Washington Post* included an article on Labor Secretary William E. Brock and his support of affirmative action, which broke with Reagan’s policy. The article stated, “Brock did not specifically endorse quotas as affirmative action tools but said this most controversial form of affirmative action should not distract from the need for further affirmative action plans” (Williams, 1985, Brock backs affirmative action, p. A4). In addition, the media included reports concerning the unfairness of affirmative action programs to white men. For instance, on June 19, the *New York Times* reported:

Mary E. Mann, a lawyer in the Civil Rights Division of the Justice Department, testified today that she had the Federal Bureau of Investigation check the criminal record of a black employee in the city government in Birmingham, Ala. The Justice Department contends that the city has illegally discriminated against whites by promoting blacks who were less qualified than the whites (Pear, “Reynolds apologizes,” 1985, p. A20).

Thus, the media’s discussion followed the terms of Reagan’s address. Whereas in Johnson’s speech, the media centered on whether the solution for black Americans should be relegated to the public or private sphere, the media coverage now centered on whether affirmative action was quota-based.

Finally, the coverage focused on issues concerning character. The media utilized Reagan's standard of civil rights leadership to frame their discussions. The reports both assessed Reagan and Reynolds on these terms. For instance, *The Washington Post* coverage of Brock included him assessing Reagan's motives. "I don't think there is anyone," he said, "who honestly believes that Ronald Reagan doesn't want the maximum opportunity for everyone in this country" (Williams, 1985, p. A4). The editor, Andrew Rosenthal, of the *New York Times*, commented on the nomination of Reynolds, "The Senate has no obligation to approve the promotion of someone I cannot fully trust" ("civil rights is not a shell game," 1985, p. A22). The editor evaluated Reynolds' trustworthiness as the important reason to deny his nomination. This report then focused on his misleading remarks to Congress and various other evasions. Other reports focused on this issue as well. For instance, on June 28, *The Washington Post* wrote a similar conclusion about Reynolds:

... While it was his [Reynolds'] reactionary record that led civil rights advocates to oppose his promotion to the rank of associate attorney general, what apparently moved key members of the Judiciary Committee were his misleading answers to questions raised during nearly two months of confirmation hearings.

Sen. Howell Heflin (D-Ala.), who cast crucial "no" votes on three separate efforts to get the nomination before the full Senate, said his examination of the hearing record led him to conclude that the nominee had been "deceptive and lacking in forthrightness" (Raspberry, 1985, p. A25).

Later in the report the journalist asked Ralph Neas, executive director of the Leadership Conference on Civil Rights, "Is Reynolds a racist?" Neas replied that he didn't "read him as a racist," but rather as an "ideologue" (Raspberry, 1985, p. A25). On June 19, the *New York Times* covered Reynolds' Senate testimony concerning his nomination and reported

the reactions of Arizona Democrat Senator Dennis DeConcini. The Senator observed, “the central question in the hearing was not the merit of employment quotas and bussing, but Mr. Reynolds’ truthfulness” (Pear, 1985, “Reynolds apologizes,” p. A20). Character is an important area of discussion for nominations and civil rights policies. However, the issues of motives, character, and personal intent in these reports were the controlling theme in the coverage, instead of other discussions, such as needed race policies.

Of course, some articles included other discussions of Reynolds’ failure of policy in various areas such as voting, employment, and housing. This was, however, not the norm, and generally these reports also included a discussion of Reagan’s speech and proclaimed Reynold’s character as “a man of integrity and strong ideals,” whose “qualifications and character are impeccable” (“Reagan defends,” 1985, p. A25).

Another editor, breaking with many of the reports commented on the unfairness of much of the commentary surrounding the issue of character. He wrote:

Some senators who voted against Mr. Reynolds justified their action partly on grounds that he misled the committee during his confirmation hearings. They suggested the vote hinged on integrity. We do not think that’s fair either to Mr. Reynolds or to the day’s results. The controlling issue was not the character of the nominee; it was his record over the past four years as assistant attorney general for civil rights (“The Reynolds vote,” 1985, p. A24).

Johnson’s speech centered on standards based on results-based policy, but now Reagan’s discussion framed standards in terms of character. Thus, even though this editor attempted to argue that character should not be the controlling theme, he reinforced this focus by centering his article on the topic of character.

Conclusion and Discussion

The seventies marked a decade that upheld affirmative action programs, while carefully differentiating these programs from quotas. Reagan, however, entered office

with a different philosophical vision for civil rights, one he argued that was more closely aligned with many Americans' conceptions of justice. When Reagan chose to defend Reynolds' nomination for one of the top civil rights positions, he argued that the current problem with race policy rested in the misinterpretation of law and the current use of quotas. He also argued that the solution to this problem rested upon an understanding that the true intentions of our civil rights laws advanced a society that did not use race as a standard for advancement, and that America was a society, much as King envisioned, that advanced individuals on character, not groups because of their color. The media closely followed the premises of Reagan's arguments to frame their discussions, and in this way, Reagan's discourse aided in shaping and continuing the debate.

First, Reagan argued that the intentions of our civil rights laws were being misinterpreted. Opponents of the Reagan administration often resorted to attacks that the Reagan administration was attempting to "turn back the clock" on progress. Reagan's speech implied that America had accomplished the aim of the civil rights movement and we were now to wait for progress to unfold naturally. On the other side, liberals claimed that he was reversing progress back to the sixties. However, images of Washington marches, fire hoses, Alabama bridges, and billy clubs consume our popular memory of this decade, and liberal arguments failed to recognize the calmer context of the eighties. The absence of a context that matched the popular memory of the sixties made it difficult to argue successfully that Reagan was returning us to these times. In addition, the media's general avoidance of arguments about present inequities kept the debate on Reagan's terms – a debate about whether change had occurred since the sixties, not a debate about the continuing present inequities. Thus, Reagan controlled the terms of the

discussion in a way that supported his argument that America had fulfilled the American promise with the passage of our civil rights laws.

Next, Reagan argued that our laws were designed to eliminate discrimination against all individuals. Quotas, he argued, were illegal, because they pitted one group against another and were discriminatory in practice. Reagan, in turn, argued that we must return our laws to their original purpose and promote policies that do not promote based on race. In effect, his strategy moved to equate the notion of affirmative action with quotas. In turn, the media discussed the legality of affirmative action, and whether the programs were in fact quotas. In this way, Reagan did not eliminate a discussion of affirmative action, but he did reify some people's understanding of affirmative action to be a program that only advanced quotas. This debate surrounding affirmative action in the press later became a source of invention for President George H. W. Bush's own definition of the concept.

Finally, Reagan donned priestly and prophetic personae that advanced a society, rooted in Martin Luther King, Jr.'s vision, that judged the character of individuals, not the color of a group. Reagan, in this way, moved the discussion from race policy to character. Character and intentions, not policies and results, become the test for measuring the administration. This move altered the ground. A president or anybody no longer has to take the right action; they can merely say they want to take the right action or that they believe in the principle. In many ways, the acceptance of Reagan's persona created roles for America that were more realistic and more optimistic for our national identity. Americans, now, did not have to achieve results to fulfill their covenant, they just have to support good character of any race, creed, or nationality. Furthermore,

Reagan's strategy aptly worked to uphold his leadership. Reagan's address was situated as a reaction to accusations waged against his and Reynold's character. To the extent he could demonstrate that he and his administration were not racist or insincere, but simply held different policy positions, the better he could bolster the credibility of his vision for America's race policy and the choice of his nominees. Perhaps Reagan's popularity can partly be attributed to this type of rhetorical finesse. In fact, although public opinion opposed Reagan's policies, the public supported him personally (Shull, 1999, p. 249). In this way, Reagan upheld his character, even if his polices and nominations were not supported.

Ultimately Reynold's nomination was rejected and overturned, evidence of the divisive climate in which Reagan advanced his plans for affirmative action. In fact, because of the controversy that surrounded Reagan's attempt to dismantle affirmative action, including internal disagreement in his own administration, he dropped his battle for this reform in 1986, surrendering to pragmatic concerns over his philosophical stance (Laham, 1998, p. 71). However, Reagan was not entirely defeated since the contours of the debate that he legitimated remained. Reagan did not entirely dismantle affirmative action programs either, as his rhetoric left a space in the public vocabulary to again question the merit of affirmative action. Reagan's own defeat in reforming affirmative action and the heated controversy he inspired, made it difficult for his conservative successor to argue that all of America was against these programs.

Reagan exited the presidency, loved by many, but also hated by many, especially for his actions in civil rights. Capitalizing on this sentiment, George H. W. Bush attempted to differentiate himself from Reagan by claiming that his presidency would

advance a “kinder, gentler America.” As to whether Bush was, in fact, more kind and gentle, would be a central question for this next administration.

CHAPTER FOUR

GEORGE H. W. BUSH: CREATING UNITY OR DIVISION?

On November 21, 1991, President George Herbert Walker Bush signed the 1991 Civil Rights Act and delivered an address to commemorate this event. In this speech, Bush set out to defend his support of affirmative action. His address attempted to respond and adapt to the rhetorical situation he faced, which encompassed several constraints surrounding his administration and his position on civil rights. First, Bush, from the beginning, had a hard time garnering respect as a principled leader, and this held true for the area of civil rights. He used his address, therefore, to combat this reputation and to promote a more principled image. Second, Bush's record in civil rights was, at best, questionable, and many were skeptical of his intentions in this arena. Defending his record and his stance, then, was an important goal. Third, considerable controversy surrounded the passage of the 1991 Civil Rights Act, including questionable events on the day before he gave his address. Bush attempted to minimize the damage of these events by fixing the meaning of the moment as a favorable advancement for civil rights. Thus, on the day Bush commemorated the signing of the 1991 Act, he had to adapt to this situation in an attempt to define the event positively.

During the 1988 presidential campaign, many conservatives were skeptical of Bush's vision and feared he lacked the type of principled leadership that they believed characterized President Reagan's term. For instance, Herbert Parmet reports of Bush's 1988 campaign, "He had yet to prove himself with those

Republicans still skeptical about his fidelity to Reaganism” (1997, p. 341).

Richard A. Viguerie, conservative activist and publicist, expressing his skepticism of Bush, noted, “Voters want a decisive leader who is in touch with the people and who has an idea of where he wants to take the country” (Viguerie, 1988, p. 31). Many Republicans, at this time, feared that the public was comparing Bush to Reagan – not to Michael Dukakis, his Democratic opponent. In Reagan’s shadow, Bush seemed spineless and less stately. “The problem is,” as one reporter put it, “the President [Reagan], by his mere presence, reminds voters that Mr. Bush was ... a loyal follower instead of a leader, a man who attended more funerals than policy meetings” (Roberts, 1988, p. A1). Thus, in convincing his voters to follow his lead, Bush lacked the right image – a problem that he faced for much of his administration.

Further, the U.S. was becoming increasingly divided within the context of a multicultural discourse, which began with the inception of the civil rights movement in the 1950’s. As Shull contends, the “rhetoric and politics of multiculturalism empower racial-ethnic minorities, [but] they further destabilize the traditional white ‘majority,’ already shaken and shrunken by the rapidly changing demographics” (1999, p. 17). With the increasing importance of racial politics, Bush responded with a campaign that promised a “kindler, gentler America.”

Although Bush needed to show recognition of the nation’s growing diversity, such sensitivity was complicated by the continued social and political climate that aided Reagan in achieving his popularity with the “common person.” For one, many middle-class Americans still blamed their lack of success in the economy on governmental

problems that attempted to redistribute resources away from the middle class majority and give money and opportunity to minorities. Reagan, of course, had based much of his presidential administration appealing to this resentment against government. For instance, Michigan's Macomb County had long been understood by politicians to represent middle-class America. Stanley Greenberg contends that in Macomb county there existed a "Reagan Democratic state of mind," which reflected a cynicism about government and Democrats who were forgetting the middle class (1995, p.50). In the 1988 election, Macomb tilted slightly back to the Democrats, but not significantly, with 61 percent for George Bush and 39 percent for Michael Dukakis (Greenberg, 1995, p. 49). These types of middle class anxieties were reflective of many Americans at this point in time.

Despite this tenuous climate during his campaign, Bush managed decently on the civil rights front. In a speech to the National Urban League, Bush stated, "My Administration is committed to reaching out to minorities, to striking down barriers to free and open access. We will not tolerate discrimination, bigotry, or bias of any kind, period" (Johnson, 1989, p. A24). In response to this speech, John E. Jacob, the President of the National Urban League at this time, praised Bush for this sentiment (Johnson, 1989, p. A24). In his first news conference on November 10 after his election, Bush noted the importance of the President's role to use "the bully pulpit of the White House" to make very clear that "bigotry has no place in America." (Bush, 1988, p.4). Parmet recounts of another instance in which Bush displayed concern for race:

He appeared with black leaders, mainly Republicans, at a prayer Committee and told the 500 present that morning that the Rev. Martin

Luther King, Jr. “lived a hero’s life” and “dreamed a hero’s dream.” The civil rights leader was “a great gift from God,” whose vision would also be his. His appearance at the Washington Hilton gathering was publicized by a picture high on *The New York Times*’s front page that showed his obvious delight at being greeted by the black-liaison director of the inaugural committee (1997, p. 362).

In light of these actions, Bush seemed sympathetic to black voters’ concerns.

The contrast between Reagan and Bush could not have been more vivid on this front. Just a week before leaving office, Reagan questioned the motives of civil rights leaders in an interview taped for the CBS News program “60 Minutes.” He implied that some civil rights leaders exaggerated the degree of discrimination faced by black Americans in order to ensure their own prominence. Reagan stated “sometimes I wonder if they [civil rights leaders] really want what they say they want ... because some of those leaders are doing very well leading organizations based on keeping alive the feeling that they’re victims of prejudice” (Rosenthal, 1989, p. 18). Not surprisingly, civil rights leaders criticized Reagan for this interview, calling his remarks “vacuous,” and “out of touch” (Rosenthal, 1989, p. 18). Thus, in the early months of his presidency, Bush’s plank of a “kindler, gentler America,” more than any Republican predecessor, garnered support from black Americans, but such favor quickly dissipated.

Bush committed a series of actions very early in his administration that outraged the civil rights community and signaled to them that his supposed kinder and gentler America was not so kind and gentle to them. In addition to his civil rights budget cuts and ideologically conservative judicial appointments, the nomination and defeat of William Lucas, a Detroit Republican lawyer, made many people question Bush’s commitment to civil rights (Shull, 1999, pp. 109, 141). Bush selected Lucas as his first nominee for the head of the Civil Rights

Division. Initially the appointment seemed certain because the conservative black Republican was assumed to be more supportive of civil rights than his controversial predecessor, William Bradford Reynolds. Yet Lucas inspired controversy for both personal and professional reasons. For instance, Lucas was opposed by Dr. Benjamin Hooks, head of NAACP, but supported by Rev. Jesse Jackson, who believed Lucas would “honor the trust that the Government is putting in him” (Philip, 1989, p. A16). Opponents of Lucas described him as having “little experience in civil rights law, as unqualified for what is arguably the most important civil rights job in the federal government” (Philip, 1989, p. A16). In addition, the 61-years-old Lucas had “never worked as a trial lawyer or handled a civil rights case” (Philip, 1989, p. A16). Eventually he was deemed unqualified to serve. His defeat was a failure for Bush, because he missed the chance to show minorities he cared about civil rights (Shull, 1999, p. 220). Bush was criticized for allowing the Civil Rights Division to “flounder” without a new head (“Is Mr. Bush Serious,” 1989, p. A26). As a *New York Times* editorial explained, “the vacancies [invited] questions about whether President Bush is serious about civil rights” (“Is Mr. Bush Serious on Civil Rights?,” 1989, p.A26). Controversy surrounding Bush and civil rights did not end here.

In 1989, six Supreme Court decisions were handed down which made it harder to prove job discrimination and collect damages.¹⁴ The most controversial of these cases was the Supreme Court’s ruling in *Wards Cove v. Atonio* (1989). This case involved a class action suit by minority, unskilled cannery workers who

argued the cannery's hiring practices were resulting in a racially stratified work force, with the majority of white employees in the skilled, non-cannery jobs. They charged the promotion practices gave rise to disparate impact liability under Title VII. The Supreme Court, however, ruled that plaintiff's use of statistical evidence to prove disparate impact was erroneous, because the statistics were drawn from a comparison between the cannery and the non-cannery workers and not from the qualified pool of non-cannery workers in the relevant population of labor workers. The Court ruled that determining disparate impact by the former method could result in any employer who – for some reason – had a segment of his or her workforce which was unbalanced, to be “haled into court and forced to engage in the expensive and time-consuming task of defending the ‘business necessity’ of the methods used to select the other members of his work force” (Wards Cove v. Antonio, 1989). In explaining the implications of this ruling,

Carrie McCrea states:

The employer's evidentiary burden in demonstrating business necessity was ambiguous in *Griggs* and was subjected to numerous interpretations. In the 1970s and 1980s when Chief Justice Burger, who authored the opinion in *Griggs*, was still on the Court, the subsequent cases mirrored his intent that the employer's burden be weighty. On the other hand, in ... *Wards Cove* the Renquist Court took great liberties to constrict the accepted interpretation of *Griggs* – to the point where it is difficult to see what more it would take to state that *Griggs* has been overturned (McCrea, 1989/1990, pp. 466-467).

Commenting on the magnitude of this decision, Samuel Myers explained that the “Supreme Court placed limits for the first time on efforts to fight racial discrimination in employment” (Myers, 1997, p. 220). Thus, the ruling resulted

¹⁴ The six Supreme Court decisions were *Wards Cove v. Antonio* (the most controversial); *Patterson v. McLean Credit Union*; *Martin v. Wilkes*; *Lorance v. AT&T Technologies*; *Federation of Flight*

in complicating the employee's burden of proof. The employee now had the burden to prove that specific practices created a disparate impact and to show how each practice challenged created this impact.

On February 7, 1990, Democrats proposed legislation in an attempt to overturn the Supreme Court rulings. Their legislation made it easier for victims of discrimination to attain compensatory and punitive damages. The most controversial provision, however, shifted the burden of proof back from employee to employer (McCrea, 1989/1990, p. 469). This proposition sparked tremendous controversy and, in the end, resulted in Bush's veto of the legislation. In response, Bush issued a statement on October 22, stating, "I deeply regret having to take this action with respect to a bill bearing such a title, especially since it contains provisions that I strongly endorse" (Holmes, 1990, p. A1). However, this polarizing issue did not die with Bush's veto and would surface again the next year when Democrats would again push for another bill.

Throughout the heated negotiations that transpired over this bill, Bush made a number of statements that articulated to the public his principles on this proposed legislation. In a commencement address he delivered to the United States Military Academy, Bush articulated and defined his view of equality. He proclaimed:

We must serve those for whom the American dream still seems an impossible dream. ... More than three decades ago, the civil rights movement reshaped a nation by appealing to this American character. It invited people to join hands in common cause against evil, to build a society upon common decency and respect. Martin Luther King dreamed of an America in which one day our children would – and to quote – "not

Attendants v. Zipes; and Price Waterhouse v. Hopkins.

be judged by the color of their skin but by the content of their character” (1992b, p. 590).

Bush, in his articulation of his policy, aligned his commitment to civil rights with the trailblazing efforts of the 1960’s. Further, Bush defined his view on the role of government in this pursuit:

Government’s responsibility is to enhance, not redistribute, opportunity to ensure that all people get a fair chance to achieve their dreams. And today, some talk not of opportunity but of redistributing rights. They’d pit one group against another, encouraging people to think of others as competitors, not colleagues. That’s not the way to achieve justice and equality here in America. We need to adopt a more unifying, moral, and noble approach (1992b, p. 590).

Although the main controversy surrounding the need for a Civil Rights bill involved the recent decisions concerning employee’s burden of proof, Bush explained the faults of the other side to be their privileging of group rights. Adding to his stance on civil rights, Bush declared:

To me, true affirmative action expresses a duty of citizenship: good faith efforts to provide opportunity for individuals based on merit, to reach out and create truly equal opportunity for those who have been left behind, those who have been excluded. Some think affirmative action should involve a Rubik’s Cube of workplace guarantees. And I believe that it should inspire people of all races to nurture affirmative values, affirmative views of themselves, affirmative lives. And that’s why our administration is committed to a comprehensive attack on the problems facing disadvantaged Americans (1992b, p. 590).

Bush made a distinction between a false affirmative action, which advances “guarantees,” and a true affirmative action, which advances “opportunity,” “affirmative values,” and “affirmative lives.” He continued:

These policies give power back to the people, and they move us toward achieving the goal of equal opportunity. They do not – cannot – ensure equal success. In that spirit, consider our civil rights package. Our administration’s 1991 civil rights bill would forbid consideration of factors such as race and sex in employment by the same rules it prescribes

for others. And it will not force employers to choose between using quotas or risk of costly litigation (1992b, p. 590).

Bush delineated between what he felt was the appropriate federal role for advancing equal opportunity, and what he believed to be unfair policy, which he described as quotas. For instance, he repeatedly defended his veto of the 1990 Civil Rights bill, referring to it as a “quota bill.” Similarly, in a commencement ceremony at Michigan University, Bush articulated his view of affirmative action programs:

When Lyndon Johnson – President Johnson – spoke here in 1964, he addressed issues that remain with us. He proposed revitalizing cities, rejuvenating schools, trampling down the hoary harvest of racism, and protecting our environment – back in 1964. He applied the wisdom of his time to these challenges. He believed that cadres of experts really could care for the millions. And they could calculate ideal tax rates, ideal rates of expenditures on social programs, ideal distributions of wealth and privilege. And in many ways, theirs was an America by the numbers: If the numbers were right, America was right. And gradually, we got to the point of equating dollars with commitment. And when programs failed to produce progress, we demanded more money. And in time, this crusade backfired. Programs designed to ensure racial harmony generated animosity. Programs intended to help people out of poverty invited dependency. We should have learned that while the ideals behind the Great Society were noble – and indeed they were – the programs weren’t always up to the task. We need to rethink our approach (1992a, p. 471).

Bush argued that the wisdom of Johnson’s solutions, which rested solely on government programs, did not solve our racial problems. Further, he cited the failure of these programs to bring harmony and to balance the disparity between races as evidence that we need to rethink our solutions.

The events that occurred the next year, however, slowed Bush’s campaign against this bill. First, the Clarence Thomas hearings created a politically explosive environment for Bush to navigate. Many women, remembering Bush’s opposition to the Equal Rights Amendment, were offended by his insistence on Thomas’s nomination. Bush feared

rejection of another Civil Rights bill might provide further evidence of his anti-civil rights stance. Second, former Ku Klux Klan member David Duke identified himself with the Republican Party, and entered the election for governor in Louisiana that year. Bush feared that another veto might inextricably link him to the extreme racist sentiments that Duke represented. One news report explained of Bush's situation in 1991:

The rise of David Duke, the former Klansman running as a Republican for governor of Louisiana, put an embarrassing light on the Bush strategy of arousing racism by calling the civil rights legislation "a quota bill." The savaging of Anita Hill in the Clarence Thomas hearings hurt Mr. Bush with women.

So Mr. Bush looked at the compromise civil rights bill, with its slight changes, and declared: "It is not a quota bill" (Lewis, 1991, p. A17).

In the light of his situation, Bush sought a way to negotiate a compromise in order to get the bill passed.

In the end, the 1991 Act represented a legal and political compromise. The new bill "allowed an employer to avoid charges of discrimination if it could be proven that the racial disparity in the workplace had been caused by a valid 'business necessity'" (Greene, 2000, p. 159). The bill also lifted some of the burden of proof off the employee that was created in *Wards Cove*, and thus created in the words of Michael Zimmer a "new structure of compromise" (1999, p. 143). However, Bush's compromise evidenced to many his lack of principle. John Green observed, "black Americans decried the flip-flop more than they did the quotas. Over the three days that Bush agreed to sign the bill, his approval rating among nonwhites dropped to 28 percent. They never recovered" (Greene, 2000, p. 159). Thus, both parties reached a settlement that limited damages and set up legal procedures for employers accused of hiring discrimination, but Bush compromised

the most and signed the bill into law, further strengthening his image as a man more political than principled.

The day before Bush was scheduled to sign the 1991 Civil Rights Act, however, controversy ensued when a draft of his directive leaked out to the press. The directive, to be delivered by the President as part of his signing statement, urged an immediate end to all affirmative action programs that stemmed from Lyndon Johnson's original Executive Order 11246. The leaked draft incited hostility from the press and civil rights leaders. Upon hearing the outrage, the President's administration changed the directive before Bush delivered his speech, claiming that White House Counsel C. Boyden Gray had written and submitted the draft before Bush had the opportunity to read Gray's directive.

The New York Times reported the harried event that preceded Bush's address:

...senior Administration officials said [the directive] reflected White House policy. Later in the evening, the press office said the matter was not decided and was still under review. Today, White House officials said Mr. Gray had sent out the directive without consulting either Mr. Bush or John H. Sununu, the chief of staff. They said the review began last night when Mr. Bush became aware of the matter through inquiries from press organizations and law makers (Rosenthal, 1991, p. A1).

The event added further reason to question Bush's seriousness on civil rights since his own advisor had just the day before attempted to interpret the new bill as a strategy to end affirmative action programs.

Bush's Address at the 1991 Civil Rights Act Signing

On November 21, Bush signed the 1991 Civil Rights Act and delivered his address at this ceremony. In his speech, Bush needed to defend his support of affirmative action because many felt Bush's stance was confused and politically motivated (Shull, 1999, 119). After all, his civil rights record and his veto of the 1990 Civil Rights bill led

some spectators to believe that Bush only compromised on the 1991 Act to avoid any further damage to his image. Further, the leaked directive by one of his top advisors fostered further skepticism concerning his intentions. Some believed that the leaked directive was an attempt to placate conservative Republicans, while also demonstrating support for civil rights by signing the bill. In navigating these constraints, Bush celebrated this particular day as significant for the history and future of civil rights and for America.

History: A Problem of Division

Bush begins his address by arguing that in the last few years the United States has confronted a problem of division. It is noteworthy that his discussion of history is limited. He recounts, “For the past few years, the issue of civil rights legislation has divided Americans. No more” (1992c, p. 1502). Whereas Johnson embedded his arguments in the history of oppression against black Americans and Reagan discussed the original intentions of law, Bush limits his use of history to the past several years. Situating his discussion of the Civil Rights Act in a strategy of definition, then, Bush explains the reason his Act offers us the solution to this problem.

Definition: A Solution in Harmony

Bush defines the passage of his bill as the solution to the division in America. In order to offer up his new bill as a panacea, Bush associates his Act with harmony and disassociates his Act from what he termed a “quota bill.” To begin, Bush sets up the definition of his new law:

Today we celebrate a law that will fight the evil of discrimination while also building bridges of harmony between Americans of all races, sexes, creeds, and backgrounds. ... Discrimination, whether on the basis of race, national origin, sex, religion, or disability, is worse than wrong. It’s an evil that strikes at the very heart of the American ideal. This bill, building

on current law, will help ensure that no American will discriminate against another (1992c, p. 1502).

Bush's bill is the law that will aid in the eradication of discrimination, which he notes "strikes at the heart of the American ideal," and the law that will provide "harmony" in the U.S.. Bush provides a variety of instances to support his contention that his bill is one of harmony:

This bill contains several important innovations. For example, it contains *strong new remedies for the victims of discrimination and harassment*, along with provision capping damages that are an important model to be followed in tort reform. And it *encourages mediation* and arbitration between parties before the last resort of litigation. *Our goal and our promise is harmony, a return to civility and brotherhood, as we build a better America for ourselves and our children [my emphasis]* (1992c, p. 1503).

Noting the measures intended to foster good relations, Bush frames this bill as a means to create rapport between people. Bush offers not only the internal workings of this bill as proof that it will bring cohesiveness, but external proof that it already has. He observes:

We had to work hard for this agreement. This bill passed both Houses of Congress overwhelmingly with broad support on both sides of the aisle. ... No one likes to oppose a bill containing the words "civil rights," especially me. And no one in Congress likes to vote against one, either. I owe a debt of gratitude to those who stood with us against counterproductive legislation last year and again earlier this year, as well as to those who led the way toward the important agreement we've reached today. I'm talking about Democrats, I'm talking about Republicans, and those outside the Congress who played a constructive role (1992c, p. 1503).

Noting the unanimity, Bush contends that the bill has brought unity to a formerly partisan and controversial issue.

Next, he moves to a definitional strategy of dissociation, contrasting his good bill from the "quota" bill that he argues was proposed in 1990. David Zarefsky best describes the process of dissociation, noting that the process involves two terms "thought to be in

opposition” where “one is generally recognized to be preferable to the other” (1980, p. 89). He says, “the originally unitary idea is then equated with the less preferred member of the philosophical pair and the speaker’s reformulation of the idea, with the more preferred terms” (1980, p.89). “In this way,” he concludes, “dissociation serves as a means of redefinition, so that the original term, with all its heritage and connotations, takes on a different referential meaning” (1980, p. 89). Thus, to accomplish this dissociation, Bush described the specific functions of the 1991 Act:

... this is a very good bill. Let me repeat: This is a very good bill. ... Last year, I said ... the American people deserve a civil rights bill that number one, insisted that employers focus on equal opportunity, not on developing strategies to avoid litigation. Number two, they deserved a bill that was based upon fundamental principles of fairness, that anyone who believes their rights have been violated is entitled to their day in court and that the accused are innocent until proved guilty. And number three, they deserved a bill that provided adequate deterrent against harassment based upon race, sex, religion or desirability (1992c, p. 1502).

Claiming his bill advances “equal opportunity,” “fairness,” and innocence until “proven guilty,” Bush avoids a discussion of the main debate surrounding its passage, which involved the level of burden of proof on the employee and the ability to sue for damages, and instead frames the bill’s achievements in popular American values. Then, Bush reinforces his commitment to affirmative action programs:

... this administration is committed to action that is *truly* affirmative [my emphasis], positive action in every sense, to strike down all barriers to advancement of every kind for all people. And in that same spirit, I say again today: I support affirmative action. Nothing in this bill overturns the Government’s affirmative action programs (1992c, p. 1502).

This reinforcement worked in tandem with his denunciation of what he termed last year’s “quotas bill.” (1992c, p. 1502). He declares:

... unlike last year’s bill, a bill I was forced to veto, this bill will not encourage quotas or racial preferences because this bill will not create

lawsuits on the basis of numbers alone. I oppose quotas because they incite tensions between the races, between the sexes, between people who get trapped in a numbers game (1992c, p. 1502).

Thus, good “affirmative action” promotes harmony and fights the evil of discrimination, and “quotas” bring division and racial tension. In this definition, therefore, Bush defines “truly” affirmative action through the positive goal of harmony and therefore forced a redefinition of this program’s goals. Whereas, Reagan argued that quotas resulted in discrimination, Bush argues that they cause division.

Persona: Transcending the Political

In order to establish himself as a leader of harmony and principle, Bush followed in the tradition of the presidency and donned a priestly persona by implicitly setting up his bill as the written creed of our American Dream. He implies that writing it and passing it encompasses the first phase, but we must also believe in it and commit in our personal faith. For instance, he declares:

But to the Congress I also say this: The 1991 civil rights bill is only the first step. If we seek – and I believe that every one of us does – to build a new era of harmony and shared purpose, we must make it possible for all Americans to scale the ladder of opportunity. If we seek to ease racial tensions in America, civil rights legislation is, by itself, not enough. The elimination of discrimination in the workplace is a vital element of the American dream, but it is simply not enough (1992c, p. 1503).

From here, Bush mimics the words of the Apostles’ Creed:

I believe in an America free from racism, free from bigotry. I believe in an America where anyone who wants to work has a job.

I believe in an America where every child receives a first-rate education, a place where our children have the same chance to achieve their goals as everyone else’s kids do.

I believe in an America where all people enjoy equal protection under the law, where everyone can live and work in a climate free from fear and despair, where drugs and crime have been banished from our neighborhoods and from our schools.

And I believe in an America where everyone has a place to call his own, a stake in the community, the comfort of a home.

I believe in an America where we measure success not in dollars and lawsuits but in opportunity, prosperity, and harmony.

I believe in the ideals we all share, ideals that made America great: Decency, fairness, faith, hard work, generosity, vigor, and vision (1992c, p. 1503).

Creeds, generally, vary in content and form, and contain statements of belief that the authors feel are necessary for salvation or the well-being of the true church. Historically, creeds have arisen out of a need to address a particular heresy. But the psychological and sociological value of a creed rests upon its relation to a higher covenant, like the Bible (Schoff, 1993). Specifically, the Apostle's Creed is a personal oath of faith affirming a person's belief in truth (Schoff, 1993). Using the form of the Apostle's Creed, Bush leads his audience, much like a priest, in a recitation of America's creed as a testament of personal faith in the American Dream. In this way, Bush moves the solution for race policy from the political sphere to the personal sphere. We, as a people, have passed legislation; now we need to commit to harmony in our hearts.

Bush concludes his address by situating America's Creed in the Covenant of our American dream, and thereby reaffirms his vision for America:

The American dream rests on the vision of life, liberty, and the pursuit of happiness. In our workplaces, in our schools, or on our streets, this dream begins with equality and opportunity. Our agenda for the next American century, whether it be guaranteeing equal protection under the law, promoting excellence in education, or creating jobs, will ensure for generations to come that America remains the beacon of opportunity in the world (1992c, p. 1503).

In this way, Bush's bill and leadership are good because, together, they fulfill the principles of America, and are solutions to end the divisiveness that has engulfed the nation.

Media's Analysis: Reinforcing the Division

The press reports that followed Bush's speech did not limit their analysis to Bush's rhetoric, but rather viewed his signing remarks, the 1991 Civil Rights Act, and the incident surrounding the leaked draft, authored by White House Counsel, C. Boyden Gray, as the whole event. However, Bush's address, which proclaimed we had entered a new era of harmony with the passage of the 1991 Civil Rights Act, did set the agenda for the media's ensuing commentary. In fact, the news coverage evaluated the event, the Civil Rights Act, and Bush himself using this standard of unity. Thus, Bush's speech became part of a political reality that aided in shaping eventual judgment and reaction to the event.

While Bush argued that America had entered a new stage of harmony, the press accounts painted a different picture. Media commentators described the larger political scene as mired in controversy. For instance, the *Los Angeles Times*, stated, "Although the new civil rights bill is now law, the attorneys who negotiated it say they expect the fight with the White House counsel to go on" (Savage, 1991, p. A1). Another report stated, "some White House critics worry that Gray – or Bush through Gray – has been trying to speak to the Republican right in a way that will open yet another ugly chapter in the politics of racial division" ("Uncivil uproar," 1991, p. 1B). Similarly, the *St. Louis Post* observed:

George Bush spoke of harmony and brotherhood when he signed the Civil Rights Act of 1991 last week. But the preceding chaotic hours at the

White House had already sowed new seeds of legal doubt and political dissension. The Rose Garden signing ceremony Thursday was to have celebrated the end of a two-year battle over some of the most bitter political controversies involving minorities' and women's employment rights. Instead, Bush faced furor over his administration's legal intentions and political convictions ("Uncivil uproar," 1991, p. 1B).

The *New York Times* wrote:

President Bush today signed the 1991 Civil Rights Act, hoping to end a bruising two-year fight over job discrimination, but instead found himself embroiled in a political furor over an effort within the Administration to put a conservative interpretation on the new law (Rosenthal, "President Tries to Quell," 1991, p. A1).

Such reports reinforced the embittered battle in which the community and the Bush administration were engaged.

In addition, the media constructed the affirmative action debate as a battle between Gray and the civil rights community, and pitted them as stark opponents. For instance, portraying the outrage of the community concerning the leaked draft, the *Los Angeles*

Times commented:

Leaders of civil rights groups, who had watched Gray fight over every word and comma in the legislation, were outraged that the White House counsel seemed to be redefining the bill on the day it was signed into law (Savage, 1991, p. A1).

Further reinforcing the distance between Gray's views and those of civil rights groups,

the *Los Angeles Times* reported:

He raised eyebrows during the negotiations on the civil rights bill when he commented that he felt empathy with minority members because he had been the lone Southerner and "WASP" on the board of the Harvard Crimson, the school's newspaper.

"You could see the blacks and Hispanics looking at each other as he told this story," said one civil rights negotiator, who described the incident (Savage, 1991, p. A1).

These types of portrayals demonstrated that Bush's bill was not bringing unity, but in fact, was serving to reinforce tension between his administration and the larger civil rights community.

Further, Gray was characterized as a villain in this scene, which served to dramatize the tension. For instance, the *Los Angeles Times* wrote, "The latest flap over affirmative action has reaffirmed Gray's standing as the Administration's chief villain in the eyes of civil rights attorneys" (Savage, 1991, p. 1). In this same report, Kerry Scanlon, an attorney for the NAACP Legal Defense and Educational Fund, commented of Gray, "He has put together an ideological Mafia, and they exert a tremendous amount of power. This small group of right-wing extremists has set policy for the whole Administration" (Savage, 1991, p.1). The *New York Times* described the event as "Mr. Gray's foiled coup on civil rights" (Dowd, 1991, p. A1). Another editorial in the *New York Times*, commented:

Boyden Gray is said to resent any idea that he is a racist, and he is no doubt sincere in denying it. But I think he has done as much as any American to arouse racial feelings in this country in recent years. By their fruits ye shall know them (Lewis, "government by cabal," 1991, p. A19).

The reports moved beyond evaluating Gray's policy stance, and depicted him as an evil racist. Such characterizations worked to highlight the debate by creating narratives laced with antagonists and protagonists. Further, they reinforced Bush's argument that good affirmative action programs work to eliminate the evil of discrimination. Because Gray was opposed to affirmative action programs, he was therefore portrayed as villainous to the American way.

To be fair, not all of the reports portrayed Gray so harshly. For instance, the *Los Angeles Times* included accolades from Terry Eastand, a spokesperson and speech writer

in the Meese Justice Department, explaining that for Gray, “his responsibility is the law, not politics and strategy, and you have to understand him in those terms” (Savage, 1991, p. A1). Most of the news releases, however, portrayed Gray’s role in the administration as counter to civil rights. Either way, Gray embodied the extreme position of one side of the debate.

Not only was the larger political community depicted as embroiled in controversy, but Bush’s own administration was painted as divided. The *Los Angeles Times* stated:

For nearly two years, Gray and his staff of White House lawyers have relentlessly fought congressional Democrats and civil rights advocates who were seeking to overturn the rulings of the Rehnquist Court. For the last year, they have also fought Republicans, such as Sen. John C. Danforth (R. Mo.), who sought to fashion a compromise civil rights bill. This week it seemed they were even fighting President Bush (Savage, 1991, p. A1).

In addition to the “fighting” within the administration, Bush’s position is clearly distanced from his own top advisor. For instance, the *St. Louis Post* stated:

President George Bush signed the Civil Rights Act of 1991 on Thursday, amid a furor touched off by his legal counsel’s interpretation of the bill as a reason to eliminate key federal anti-discrimination efforts. Bush praised the law at a Rose Garden ceremony and repudiated an interpretation of it prepared by White House Counsel C. Boyden Gray, one of Bush’s more conservative aides (Freivogel, 1991, p. A1).

In another report, the *Los Angeles Times* wrote:

On Thursday, the President, beating a quick retreat, abandoned much of Gray’s statement and announced instead, “I say again today that I support affirmative action. Nothing in this bill overturns the government’s affirmative action programs” (Savage, 1991, p. A1).

The *New York Times* wrote:

The White House counsel, trying to give conservative coloration to a surrender on quotas, circulates a policy that the President has not even seen and the new Attorney General, after the political trouncing of the old, is shown to be out to lunch (Safire, “The Bushwackers,” 1991, p. A19).

These types of reports portrayed the Bush administration in a state of disarray on the issue of civil rights.

Finally, the reports portrayed Bush as personally divided and lacking any unified principle. Many of the news releases followed the *Atlanta Constitution's* evaluation of Bush's role in the event, which commented, "no one can defend George Bush on a principle quicker than he can back away from one" (Akerman, 1991, p. 10). Similarly, the *St. Louis Post* wrote:

The Senators praised Bush for repudiating Gray's restrictive interpretation. But some Democrats boycotted the signing ceremony, and some critics said they feared that the White House might use the bill to play racial politics. "We fear that he's still trying to have it both ways," said Donna Lenhoff of the Women's Legal Defense Fund, which worked for the bill. "We fear that he wants to claim credit on the one hand, and on the other hand signal to the David Dukes out there – wink, wink – that he's really with them" ("Uncivil uproar," 1991, p. 1B).

Bush is seen as trying to play the sides against the middle, and he himself is compromised and divided. For instance, another *New York Times* article reported:

... in the last few weeks, the President has appeared to Republicans and Democrats alike as a wavering leader, a captive of a few top aides who make sweeping decisions on their own and leave him to try to clean up the mess.

"It's just causing distress and dismay among Republicans that's almost like a physical pain," said Eddie Mahe, a Republican consultant with strong ties to the White House. "It's almost schizophrenic, the way the President keeps lunging in different directions. They have to stop the hemorrhaging with this disarray, this lack of planning, this lack of thought, this lack of vision, this lack of coherency. George Bush is hurting himself every time he opens his mouth" (Dowd, 1991, p. A1).

Thus, Bush lacks a center, lacks selfhood, and is even "schizophrenic."

The media's definition of the opposing sides reinforced the controversial nature of the debate and assessed it on Bush's standards of unity. The debate was painted as

intense and hostile, within Bush's own administration and in the larger political community. In fact, the event was reduced to a debate between extremists. Further, Bush's leadership was depicted as playing politics, as lacking solid principles, and in the words of one journalist, as "muddled" (Savage, 1991, p. A1). In this way, media commentary worked against Bush's premise that his bill created unity. In fact, Bush's speech might be described as a failure, but such an evaluation should be left for the conclusion.

Discussion and Conclusion

Bush's address, commemorating the passage of the 1991 Civil Rights Act, was in many ways, politically unsuccessful. The events that surrounded Bush's speech, including the leaked draft by C. Boyden Gray, did not work well with Bush's strategy, and the media seized this moment to evaluate his leadership. However, the media's coverage of Bush's speech did reinforce the contours that the Bush's speech defined.

First, Bush situated his address in a history of political divisiveness, in order to argue that his bill was a panacea for harmony in America. In this sense, Bush implicitly argued that with the passage of his bill, our problems would naturally work out. In addition, although previous presidents had situated their addresses in a larger context of history, Bush virtually ignored history in crafting his argument, and in this way adopted a strategy of silence. As Barry Brummett explains, "silence is strategic when someone has pressing reason to speak, but does not" (1980, p. 289). The absence of history was strategic for Bush as it allowed him to situate the problem with race relations to concern predominantly discordance. Murray Edelman provides some insight on the construction and uses

of social problems in political rhetoric, explaining “they signify ... which actions will be rewarded and which penalized” (1988, pp. 12, 13). The construction of problems, he observes, “create[s] beliefs about the relative importance of events and objects,” and also “construct[s] immunity from concern because those areas are not seen as problems” (1988, pp. 12, 13). Thus, in Bush’s framing of the problem, he left out any discussion of inequality among groups, histories of oppression, or a discussion of past laws.

The press reports also centered on the issue of division – which was not especially favorable for Bush’s credibility. After all, the media’s coverage of Bush’s lack of control within his own Administration reinforced perceptions of his inability to lead. However, news reporters did inadvertently demonstrate that there was a problem surrounding affirmative action policy, a problem they implied that involved division. Thus, Bush’s speech silenced other issues in regards to civil rights policy, such as the weight of burden of proof that an employee should assume, by framing the analysis in terms of unity and division, instead of more substantial areas of discussion.

Second, in his speech, Bush dissociated good affirmative action programs from quotas, arguing that affirmative action programs that were good created racial harmony. Whereas Reagan had argued that affirmative action was equivalent to quotas, Bush reinforced a legitimate form of affirmative action, which was designed to eliminate the evil of discrimination. In this way, Bush attempted to profess agreement with the goals of civil rights advocates. In addition, this strategy served to justify Bush’s veto of the 1990 civil rights act, which he termed a “quota bill.” This label helped reinforce his dissociation between good affirmative action, which produces opportunity and harmony

and bad affirmative action, which produces quotas or guarantees. This dissociation was reinforced by the media's caricature of Bush's advisor, C. Boyden Gray. Gray, who wanted to dismantle all affirmative action programs, was pitted as the antithesis of good, and construed as evil and villainous. In this way, the media also legitimated a good form of affirmative action, even if they discussed its legitimacy in moral discourse, such as their characterizations of Gray as "evil."

However, this change in the debate created yet another shift in the discourse. The key test for policy shifted to happiness, implying that it is simply enough to have harmony. In some senses, this is similar to the good intentions standard that was established in the Reagan administration, but it also slightly different. It is a standard that, in the United States, is almost impossible to meet. Furthermore, Bush's discourse sought to broaden what counts as a civil rights measure. For instance, it was now possible that all measures titled "civil rights" were not necessarily moral or sound. It was now possible to have both good and bad affirmative action.

Third, Bush's assumption of a priestly persona located the need for action in the private arena, in the personal belief or faith of individuals. It behooves the critic, however, to question whether this persona was the best choice for Bush. For instance, Bush was portrayed by the media reports as lacking principle and as divided himself. These types of reports depicted Bush's stance as more about politics than about morals. Bush attempted to argue that Americans must believe and enact harmony in their personal lives for the future in order to keep the American Dream alive. However, the media's portrayal of Bush as a divided self, made him seem to lack the faith which he professed. In some ways, then, Bush's priestly persona fostered more of a hypocritical

image than a moral one, revealing that perhaps this persona was no longer sufficient for the issue of civil rights – or at least not for Bush. At the same time, this strategy kept the discussion of civil rights progress isolated in the private realm as the reports chose to focus more on the standards that Bush advanced.

Bush's speech within the context of the press reports denigrated his credibility, while also demonstrating that American had a problem with civil rights issues, although mostly concerning consensus. Bush also reinforced in the public vocabularies legitimate forms of affirmative action. Thus, a site was created for continued debate and discussion concerning affirmative action policy. In essence, Bush's discussion of the problem, his definition of affirmative action, and his use of the priestly persona, together, left a space for the next president, William Jefferson Clinton, to assume.

CHAPTER FIVE

WILLIAM J. CLINTON: COMPROMISING IN CONTROVERSY

In the 1992 election, the issue of race did not take a front seat, and, as a result, many minority groups were initially unexcited by Clinton's run for the presidency (Shull, 1999, p.199). After all, Clinton's presidency faced a very conservative Congress and Supreme Court and coincided with a public that was conservative on civil rights (Shull, 1999, p. 44). In his election campaign, Clinton needed the support of both black and white Americans, but this presented him with a challenge. James Burns and Georgia Sorenson explain that "the Clinton campaign needed to walk a tightrope, holding to its black base without any concrete promises and at the same time attempting to attract southern voters who had been steadily Republicanized" (1999, p. 247). Early in his campaign, Clinton articulated his philosophy of equality and opportunity guided by optimism, confidence, responsibility, and hard work, but he also remained elusive on any specific commitment to civil rights for black Americans. The problem was that many people believed that some government programs were antithetical to the value of hard work. John Murphy observes, "many white Americans felt that black Americans had been given a free ride though policies such as affirmative action" (1997, p. 78). Clinton, therefore, remained cautious on what he said in relation to race. In addition, during this election, most people were more concerned about the recession. Clinton, therefore, turned his campaign rhetoric away from race concerns and, instead, focused on economic frustrations (Seib, 1994, p. 82). In the end, Clinton won the 1992 campaign with heavy

minority support,¹⁵ but continued to avoid serious questions concerning race until 1993 (Murphy, 1997, p. 78; Shull, 1999, p. 199).

Throughout his presidency, Clinton performed a number of symbolic acts that demonstrated his Democratic views on civil rights and which won him admiration from the majority of black Americans. For instance, during a trip to Africa, Clinton apologized for slavery. He also apologized to the victims of the Tuskegee syphilis experiment. In addition, he nominated more women and minorities to federal and judicial appointments than any other prior president (Wright, 2000, p.226). Although Clinton was not particularly assertive in legislation, he did issue a number of executive orders to support his policy preferences (Shull, 1999, p. 110).¹⁶ Further, contrary to popular conceptions of Democratic “government spending,” Clinton made on average the same amount of budget requests as Reagan (Shull, 1999, p. 110), but proposed a spending increase for civil rights law enforcement of 17 percent (Shull, 1999, p. 110). On June 14, 1997, he announced the creation of the seven-member, race-initiative advisory board, formed to discuss the complex issues surrounding diversity and called for a “national conversation on race” (1998, Commencement address, p. 738). All of these actions seemed to symbolize Clinton’s commitment to civil rights, but it was in 1995 that two main events brought affirmative action to the forefront of American consciousness: the Supreme Court’s ruling on *Adarand Contractors v. Pena* (1995) and the debate over Proposition 209 in California.

¹⁵ Clinton received approximately 82% of the black vote (Wright, 2000, pp. 225-226).

¹⁶ Clinton issued Executive Order 12876, which established a board of advisors for historically black colleges; Executive Order 12892, which created authority for programs and activities related to fair housing; and Executive Order 13050, which established Presidential Advisory Board on race.

The Supreme Court's decision to review *Adarand Constructors v. Peña* threatened to dismantle all federal affirmative action programs. The affirmative action program under dispute gave financial incentives to contractors to hire subcontractors who "were socially and economically disadvantaged" (Spann, 2000, p. 53). This particular feature of the federal affirmative action programs was challenged, however, since it could be proven that individuals who were not members of "enumerated minority groups" were disadvantaged and that likewise, members in enumerated minority groups were not disadvantaged (Spann, 2000, p. 54). This specific case involved a white-owned company, *Adarand Constructors*, that underbid a Hispanic-owned company by 1,700 dollars for the construction of a Federal highway guardrail project in Colorado, and lost the bid because the general contractor wanted to earn a 10,000 dollar bonus for meeting affirmative action requirements. When the case was brought twice to the lower courts in Colorado, each court ruled against *Adarand Constructors* on the basis of Supreme Court precedent. However, the Supreme Court decided it would hear the appeal, making the case a significant decision for the fate of affirmative action programs. The *New York Times* reported, "theoretically, this is the conservative majority's long-awaited opportunity to rein in affirmative action at the Federal level" (Greenhouse, 1995, Detours, p. IV3). In this particular case, the lower courts focused on "the power of an agency to exceed congressional affirmative action goals without specific findings of past discrimination, the Supreme Court [however] used the case as an opportunity to announce a new standard of strict scrutiny for congressionally authorized affirmative action programs" (Spann, 2000, p. 54). On June 12, the Supreme Court "seemingly invalidated" federal affirmative action with the application of the strict-scrutiny test

(Spann, 2000, p. 53). The majority then remanded the case to the lower courts in order to test the case again with the new standards (Spann, 2000, p. 53). Their decision represented a reversal of the Court's general support for affirmative action, crystallizing their doubt about the constitutionality of such programs. The *New York Times* reported on Justice Sandra Day O' Connor's majority opinion:

In a decision likely to fuel rather than resolve the debate over affirmative action, the Supreme Court today cast doubt on the constitutionality of Federal programs that award benefits on the basis of race.... Writing for the majority, Justice Sandra Day O'Connor said such programs must be subject to the most searching judicial inquiry and can survive only if they are "narrowly tailored" to accomplish a "compelling governmental interest"... Justice O'Connor's opinion included an important qualification, leaving the door open to the defense of such programs in future cases (Greenhouse, "Justices," 1995, p. A1).

While this case became the exigence for Clinton's speech on affirmative action, the debate over proposition 209 in California also instigated a renewed examination of the affirmative action debate.

The efforts to dismantle affirmative action programs in early 1995 were waged by two San Francisco academics, Glynn Custred and Thomas Wood. Describing themselves as "staunch conservatives," these professors proposed a referendum for the state of California to put on the ballot:

Neither the state of California nor any of its political subdivisions or agents shall use race, sex, color, ethnicity or national origin as a criterion for either discrimination against, or granting preferential treatment to, any individual or group in the operation of the State's system of public employment, public education or public contracting (Ayers, 1995, Conservatives Forge, p. A1).

Launching a ferocious battle against California's affirmative action programs, the proposition failed that year but passed the following year. However, in July of 1995, Governor Pete Wilson successfully persuaded the University of California regents to end

affirmative action, and he also made affirmative action the central issue of his campaign for the presidency. The debate invigorated conservatives and liberals across the U.S. to question the present state of affirmative action programs.

Together, *Adarand* and Proposition 209 ignited considerable controversy, perpetuating a Republican initiative to dismantle affirmative action. Early in 1995, Republicans threatened to dismantle and kill any remains of the programs inspired by the Great Society. Both the House and the Senate drafted legislation to strike down federal affirmative action programs. Elizabeth Drew writes of this time:

In February, Phil Gramm started talking about the need for “color-blind” programs. Also, in early February Dole said on *Meet the Press* that “affirmative action has to be looked at.” (In March, in a speech on the Senate floor, Dole said, “The American people sense all too clearly that the race counting game has gone too far.”) Inevitably, Gramm chastised Dole for coming later to the issue than he had. In mid-February Lamar Alexander, another Presidential candidate who had shown himself to be flexible, said that affirmative action as it was currently practiced should be eliminated. Around the same time, Gingrich said, in a press briefing, “I’m very interested in rewriting the affirmative action programs” (1996, p. 290).

As George Stephanopoulos recounts, the Clinton administration did not want to have to deal with affirmative action because many conservative strategists predicted it would become the “wedge issue” in the 1996 election (1999, p. 361). Nonetheless, rising opposition put pressure on Clinton to take a stand on affirmative action. He had, up to this point, remained vague.

On February 23, 1995, Clinton called for a study and review of affirmative action – a common stalling strategy. This created skepticism in the civil rights community and signaled that Clinton might be considering a retreat from affirmative action. As Elizabeth Drew explains, the evidence of Clinton’s indecisiveness was there. She notes:

In discussions with his advisors, Clinton talked about white people he had grown up with who felt as excluded economically as blacks. He said that the issue wasn't as much about anger or lack of anger as it was about opportunity. One person close to the process said while it was underway, "He has a set of hunches and intuitions about some promising avenues to explore and this is one of them." For some time, a sentence about basing affirmative action on need cropped up in Presidential statements. Another person involved in the process said, "It crossed through the President's thinking that if you reallocated on economic grounds and were rewarding poor whites versus middle-class blacks that might be worth considering" (1996, p. 291).

Clinton had always been for equality and economic opportunity, and had generally taken liberal positions on civil rights. However, he often equivocated on the application of these principles to the concept of affirmative action. Stephanopoulos explained that Clinton clearly wanted to "keep his options open" on the heated issue (1999, p. 365).

Stephanopoulos noted:

At an early-March press conference, after surprising me by announcing that our nascent review was "almost done," Clinton sent a shock wave through affirmative action supporters by suggesting that we should move to an "alternative" based on economic need rather than race. But in other appearances he would proudly proclaim to be a "relentless practitioner of affirmative action" and declare that his goal was "to build support" for the programs. At the April convention of the California Democratic Party, he argued both sides in a single speech: "We need to defend, without apology . . . anything we're doing that is right and decent and just that lifts people up," he declared, but he added that we Democrats must also empathize with the "so-called angry white males" and "have to ask ourselves: Are they [affirmative action programs] all working? Are they all fair?" (1999, p. 365)

The White House knew the Supreme Court planned to issue a decision in the beginning of summer, and so the administration decided to wait for their ruling. On June 12, the Court's decision resulted in a break for the administration. The court did not end affirmative action, but they did issue a set of tougher standards that affirmative action programs needed to meet. President Clinton could now argue that he was complying

with the law of the land as he prepared to deliver his definitive address and, once and for all, take a more concrete stand on the issue.

First, in preparing his speech, Clinton needed to appear principled on the issue of affirmative action and avoid the charge that he held no moral center. As Drew says, in the words of one official, “If it was perceived as a political act it was doomed” (1996, p. 294). As Renshon argues, the “disparate nature of his positions coupled with his numerous policy shifts have left many arguing that Clinton has no authentic center, or real political identity, and thus no real core of ideals or values to organize and consolidate his presidency” (1996, p. 75). One reason for this is that Clinton “[tended] to envelop people and ideas rather than confront them, and so he [remained] slightly out of focus” (Klein, 1993, p. 33). Others commented, “What is worrying about Clinton is the possibility that something very fundamental is lacking in this very smart man” (Lewis, 1993, p. A17).

Second, Clinton needed to be careful of the potential that a wrong stance by the Administration might fracture the Democratic Party. Stephanopoulos recalls of this time, “unifying the Democrats was not only politically prudent, but, at least to me, had become a matter of principle – of solidarity” (1999, p. 370). Any move more right than the *Adarand* decision, such as the elimination of affirmative action programs before they were analyzed by the standards of scrutiny set by the court, might result in severe divisions in the Democratic Party. In addition, Jesse Jackson threatened to run as a third-party candidate in the 1996 election if the administration pulled their support on affirmative action. Stephanopoulos recounts his fear that Jackson would run since he knew that it was a general political rule that primary challenges always hurt the

incumbent president (1999, p. 370). A month after the *Adarand* decision, Clinton delivered his address that attempted to take a principled stand as well as maintain unity in the party and in the country.

Clinton's Address on Affirmative Action at the National Archives

On July 19, 1995, President Clinton delivered his most eloquent address on affirmative action at the National Archives Records. During this address, Clinton articulated the moral dimension of civil rights, but he also went beyond this dimension, as he faced a difficult rhetorical situation. Reagan and Bush had reified the moral dimension of civil rights, a tradition that was now firmly part of the rhetorical responsibility of the presidency, but they used the moral stance to argue for a different direction for civil rights than did Clinton. Clinton, then, needed to sustain the moral dimension of history, but he also needed to tie it to a pragmatic one in order to garner support for affirmative action. Dionisopoulos and his colleagues argue that “a moral vision can be rhetorically successful in American society only to the extent that it is convergent with a pragmatic translation of that vision in keeping with traditional American values – in other words, it is eventually co-opted or subsumed by the pragmatic” (1992, p. 105). Pragmatic rhetoric “localizes and temporalizes visions; it ties the speaker and his or her rhetoric to a particular time and place” (1992, p. 105). In his address, Clinton carefully tied his economic or pragmatic argument with his jeremiadic call by drawing on history, definition, and persona. In this way, he argued for the need for affirmative action in the past, present, and future.

History: Emphasizing Agency

In his address, Clinton draws on history to advance the claim that individuals shape history – that agents act and history changes as a result. In featuring this main claim, Clinton argues we face a unique moment in history to make change and that we need to work together – both the private and public sectors. Drawing on history, Clinton demonstrates the historical need for unity and affirmative action, but also embeds his claim in practical and economic arguments. That is, Clinton argues that Americans need to continue to act, not only because it is the right thing to do, but because it will benefit them personally and economically.

Imploring Americans to “trace the roots of affirmative action,” Clinton launches into a historical discussion of the role of public and private sectors in making the values embedded in the American creed a reality (1996, p. 1106). Clinton recounts several instances from American history to support his claim that, “our whole history can be seen first as an effort to preserve ... [our] rights and then as an effort to make them real in the lives of our citizens” (1996, p. 1106). For example, he recalls:

We know that from the beginning there was a great gap between the plain meaning of our creed and the meaner reality of our daily lives. Back then, only white male property owners could vote. Black slaves were not even counted as whole people, and Native Americans were regarded as little more than an obstacle to our great national progress. No wonder Thomas Jefferson, reflecting on slavery, said he trembled to think God is just (1996, p. 1106).

Presidents Bush and Reagan, in their discourse, implied that we will naturally continue to move toward equal opportunity. Clinton, on the other hand, argues for a historic rift between our creed and our reality, and credits individuals with narrowing this gap. For instance, Clinton recalls President John Kennedy’s struggle for this cause:

I first came to this very spot where I'm standing today 32 years ago this month. I was a 16-year-old delegate to the American Legion Boys Nation. Now, that summer was a high-water mark for our national journey. That was the summer that President Kennedy ordered Alabama National Guardsmen to enforce a court order to allow two young blacks to enter the University of Alabama. As he told our Nation, "Every American ought to have the right to be treated as he would wish to be treated, as he would wish his children to be treated" (1996, p. 1107).

From here, Clinton remembers the events that occurred soon after at the March on Washington and Martin Luther King, Jr.'s address delivered at this significant historic milestone:

Later that same summer, on the steps of the Lincoln Memorial, Martin Luther King told Americans of his dream that one day the sons of former slaves and the sons of former slaveowners would sit down together at the table of brotherhood, that one day his four little children would be judged not by the color of their skin but the content of their character. His words captured the hearts and steeled the wills of millions of Americans. Some of them sang with him in the hot sun that day. Millions more like me listened and wept in the privacy of their homes (1996, p. 1107).

Whereas Reagan usurped King's words to advance an argument for a reinterpretation of law, and Bush also often usurped King's vision, Clinton uses King's prophetic voice as evidence of our collective struggle to make civil rights a reality in our lives. He continues, delineating the progress in America since his childhood:

A lot has changed, and it did not happen as some sort of random evolutionary drift. It took hard work and sacrifices and countless act of courage and conscience by millions of Americans. It took the political courage and statesmanship of Democrats and Republicans alike, the vigilance and compassion of courts and advocates in and out of Government committed to the Constitution and to equal protection and to equal opportunity. It took the leadership of people in business who knew that in the end we would all be better. It took the leadership of people in labor unions who know that working people had to be reconciled.

Some people, like Congressman Lewis there, put their lives on the line. Other people lost their lives. And millions of Americans changed their own lives and put hate behind them. As a result, today all our lives are better. ...

For an example of where the best of our future lies, just think about our space program and the stunning hookup with the Russian space station this month. Let's remember that that program, the world's finest, began with the heroes like Alan Shepard and Senator John Glenn. But today it's had American heroes like Sally Ride, Ellen Ochoa, Leroy Chiao, Guy Bluford, and other outstanding, completely qualified women and minorities (1996, p. 1108).

Clinton credits American progress in civil rights to the hard work and sacrifice of individuals. Perelman and Olbrechts-Tyteca explain the frequent use of "argumentation by sacrifice," which "is based on the sacrifice which one is willing to make in order to achieve a certain result" (1969, p. 248). In this type of argument, they explain, "the sacrifice is a measure of the value attributed to the thing for which the sacrifice is made" (1969, p. 248). Clinton's rhetorical maneuver differs from arguments from others, which have explained progress as a natural and unfolding promise of the American dream. Rather, Clinton defines the American values of hard work and individualism as necessary components of change. In this way, Clinton demonstrates the merit and worth of the legal system by which so many individuals have sacrificed their lives in order to uphold.

Clinton embeds his argument that individuals must play a role in shaping history, in a plea for the importance of action. Clinton situates his argument in the uniqueness of the moment:

In recent weeks I have begun a conversation with the American people about our fate and our duty to prepare our Nation not only to meet the new century but to live and lead in a world transformed to a degree seldom seen in all of our history. Much of this change is good, but it is not all good and all of us are affected by it. Therefore, we must reach beyond our fears and our divisions to a new time of great and common purpose (1996, p. 1106).

Clinton sets up a problem of division for the American people to act and solve. He emphasizes the challenge of living in this moment of history, and appeals to a greater “common purpose” that we must unite to attain.

Next, Clinton offers his audiences a justification for why they should continue to act and shape history, an argument embedded in practical benefits. Clinton notes that affirmative action “is one of those issues” of divisiveness (1996, p. 1106). In a sense, Clinton aptly follows Bush’s rhetorical act. Bush, after all, tried to argue that the passage of the 1991 Civil Rights Act brought unity, but instead the events surrounding the signing ceremony succeeded only in emphasizing the continued division in the U.S. on race issues. Clinton reminds his audiences that affirmative action was not always a divisive issue. He states, “It is, in a way, ironic that this issue should be divisive today, because affirmative action began 25 years ago by a Republican President with bipartisan support. It began simply as a means to an end of enduring national purpose: equal opportunity for all Americans” (1996, p. 1106). Attributing the beginnings of affirmative action to Nixon, not Johnson, Clinton contends that affirmative action was once a bipartisan issue and that the division that currently surrounds the issue is a new phenomenon.

After setting up the problem surrounding division in the U.S., Clinton introduces his pragmatic argument that racial inequality holds us back, not just morally, but economically as well. He recounts:

Even though my grandparents were in a minority, being poor Southern whites who were pro-civil rights, I think most other people knew better than to think the way they did. And those who were smart enough to act differently discovered a lesson that we ought to remember today: Discrimination is not just morally wrong it hurts everybody (1996, p. 1107).

Clinton draws on past, personal experience to support his contention that most people know in their hearts the right thing to do, and in the past, those who chose the right moral course also learned the practical benefits. As proof of his practical claim, Clinton demonstrates the economic benefits that all receive when we act together to fight discrimination. He states:

In 1960, Atlanta, Georgia, in reaction to all the things that were going on all across the South, adopted the motto, “The city too busy to hate.” And however imperfectly over the years, they tried to live by it. I am convinced that Atlanta’s success -- it now is home to more foreign corporations than any other American city, and one year from today it will begin to host the Olympics – that that success all began when people got too busy to hate (1996, p. 1107).

By providing Atlanta as an example of what can happen when a city focuses on unity, Clinton advances his claim that unity is the best means to provide economic prosperity.

Drawing on the lesson of his historical example, he notes:

The lesson we learned was a hard one. When we allow people to pit us against one another or spend energy denying opportunity based on our differences, everyone is held back. But when we give all Americans a chance to develop and use their talents, to be full partners in our common enterprise then everyone is pushed forward (1996, p. 1107).

President Bush used harmony as an end goal in his address, but for Clinton, unity is a precondition to economic success. In this way, Clinton reinforces for his audiences the practical benefits of supporting a unified position, demonstrating how it is in each individual’s self-interest. Thus, affirmative action is not a policy of preferential treatment; rather it is a policy that serves all of America.

Finally, supporting his practical, economic argument, Clinton demonstrates through history that affirmative action was one way that helped us open our hearts and move more quickly toward economic opportunity:

How did this happen? Fundamentally, because we opened our hearts and minds and changed our ways. But not without pressure, the pressure of court decisions, legislation, executive action, and the power of examples in the public and private sector. Along the way, we learned that laws alone do not change society, that old habits and thinking patterns are deeply ingrained and die hard, that more is required to really open the doors of opportunity. Our search to find ways to move more quickly to equal opportunity led to the development of what we now call affirmative action (1996, p. 1108).

Whereas Reagan and Bush moved the burden of equal opportunity exclusively to the private sector, Clinton advocates involvement from both the private and public spheres in order to move more quickly to the goal of equal opportunity. In the past, Clinton argues, examples from the public and private sector have aided in helping change our ways. Clinton supports his argument by providing examples from the private and public sectors and by advocating government programs, like affirmative action. In addition, Clinton positions affirmative action as the natural extension of the civil rights movement, due to the sacrifice of individuals like Martin Luther King, Jr., John F. Kennedy, and John Lewis. Whereas Reagan dissociated affirmative action from the civil rights movement, and Bush associated only “good” affirmative action with civil rights strides, Clinton ties it back to our civil rights history. The past is reason and proof for the future.

Definition: Affirming Affirmative Action

Like many of the past presidents, Clinton used definition to advance his view of affirmative action. Clinton spoke in a decade when affirmative action had been defined and redefined by many preceding presidents, advocates, and opponents. Therefore, he needed to advance his definition of affirmative action as the best definition, as the one that works, and as the true and good program. Clinton utilizes definition in order to

advance two arguments: 1) that affirmative action works when it is implemented properly, and 2) that affirmative action is only part of a broader economic solution.

To begin, Clinton presents a definition of affirmative action, including its purpose and intent. He notes, the “purpose of affirmative action is to give our Nation a way to finally address the systemic exclusion of individuals of talent on the basis of their gender or race, from opportunities to develop, perform, achieve, and contribute” (1996, p. 1106). In addition, he notes, “affirmative action is an effort to develop a systemic approach to open the doors of education, employment, and business development opportunities to qualified individuals who happen to be members of groups that experienced longstanding and persistent discrimination” (1996, p. 1108). Next, Clinton places his definition of the program, a “policy that grew out of many years,” firmly between two unacceptable concepts of affirmative action (1996, p. 1108). The first unacceptable path, he contends, “was to say simply that we declared discrimination illegal and that’s enough” (1996, p. 1108). He laments, “We saw that that way still relegated blacks with college degrees to jobs as railroad porters and kept women with degrees under a glass ceiling with a lower paycheck” (1996, p. 1108). “The other path,” Clinton recalls, “was simply to try to impose change by leveling draconian penalties on employers who didn’t meet certain imposed, ultimately arbitrary, and sometimes unachievable quotas” (1996, p. 1108). But, he notes, “That, too, was rejected out of a sense of fairness” (1996, p. 1108). Recounting the evolution of affirmative action, Clinton states, “so a middle ground was developed that would change an inequitable status quo gradually but firmly, by building a pool of qualified applicants for college, for contracts, for jobs, and giving more people the chance to learn, work, and earn” (1996, p. 1108). Clinton reminds his audiences, “when

affirmative action is done right, it is flexible, it is fair, and it works” (1996, p. 1108).

Clinton defines the middle ground, and in so doing, changes the definition of affirmative action advanced by past presidents. For instance, Reagan equated affirmative action with quotas. However, Clinton argues that “quotas” or “draconian penalties” have been rejected out of a sense of “fairness.” In this way, Clinton reopens a site to disassociate affirmative action programs from quotas. Clinton’s definition also changes Bush’s use of definition. That is, Bush insisted that there was bad affirmative action, which resulted in quotas, and a true affirmative action, which did not. Clinton changes this conception by suggesting that any program which results in quotas is simply not affirmative action – therefore we no longer have false affirmative action programs.

Clinton further engages in a strategy of definition by dissociating affirmative action from a critique that is often launched against it and that was launched by Reagan and Bush – that affirmative action results in discrimination. Clinton contends, “I know there are times when some employers don’t use it in the right way” (1996, P. 1108). He continues, “they may cut corners and treat a flexible goal as a quota. They may give opportunities to people who are unqualified instead of those who deserve it” (1996, p. 1108). He finishes his dissociation, noting, “they may, in so doing, allow a different kind of discrimination” (1996, p. 1108). But Clinton qualifies, “When this happens it is also wrong. But it isn’t affirmative action, and it is not legal” (1996, p. 1108). Clinton repeats his opposition to “preference,” “quotas,” and lack of regard to “merit,” stating:

Let me be clear about what affirmative action must not mean and what I won’t allow it to be. It does not mean and I don’t favor the unjustified preference of the unqualified over the qualified of any race or gender. It doesn’t mean and I don’t favor numerical quotas. It doesn’t mean and I don’t favor rejection or selection of any employee or student solely on the basis of race or gender without regard to merit (1996, p. 1109).

After firmly dissociating affirmative action from mechanisms that he frames to be illegal and discriminatory and not part of the true intentions of affirmative action, he further provides a definition of discrimination in the U.S. He notes, “there are those who say, my fellow Americans, that even good affirmative action programs are no longer needed ... because there is no longer any systematic discrimination in our society” (1996, p. 1109). He asks his audience to consider the contrary, noting that we must “consider the facts” (1996, p. 1109):

The unemployment rate for African-Americans remains about twice that of whites. The Hispanic rate is still much higher. Women have narrowed the earnings gap, but still make only 72 percent as much as men do for comparable jobs. The average income for an Hispanic woman with a college degree is still less than the average income of a white man with a high school diploma.

According to the recently completed glass ceiling report, sponsored by Republican Members of Congress, in the Nation’s largest companies only six-tenths of one percent of senior management positions are held by African-Americans, four-tenths of a percent by Hispanic-Americans, three-tenths of a percent by Asian-Americans. Women hold between 3 and 5 percent of these positions. White males make up 43 percent of our work force but hold 95 percent of these jobs.

Just last week, the Chicago Federal Reserve Bank reported that black home loan applicants are more than twice as likely to be denied credit as whites with the same qualifications and that Hispanic applicants are more than 1 ½ times as likely to be denied loans as whites with the same qualifications.

Last year alone the Federal Government received more than 90,000 complaints of employment discrimination based on race, ethnicity, or gender; less than 3 percent were for reverse discrimination.

Evidence abounds in other ways of the persistence of the kind of bigotry that can affect the way we think, even if we’re not conscious of it, in hiring and promotion and business and educational decisions.

Crimes and violence based on hate against Asians, Hispanics, African-Americans, and other minorities are still with us. And I’m sorry to say

that the worst and most recent evidence of this involves a recent report of Federal law enforcement officials in Tennessee attending an event literally overflowing with racism, a sickening reminder of just how pervasive these kinds of attitudes still are (1996, p. 1110).

Citing a number of statistics to prove that systemic discrimination still exists, Clinton defines discrimination in terms of its measurable effects on society. It is not, as Bush and Reagan defined it, simply a lack of equal opportunity in process or theory.

Next, Clinton places his definition of affirmative action within a larger economic context. Clinton argues that those who blame affirmative action programs for the economic hardships of the middle class are using it as a scapegoat to avoid discussing the real problems. In this way, Clinton disconnects the sign of middle class economic hardships from its seeming cause – affirmative action programs. Perelman and Olbrechts-Tyteca explain that “the technique of breaking connecting links ... consists in affirming that elements which should remain separate and independent have been improperly associated” (1969, p. 411). Clinton utilizes this strategy:

Now let's deal with what I really think is behind so much of this debate today. There are a lot of people who oppose affirmative action today who supported it for a very long time. I believe they are responding to the sea change in the experiences that most Americans have in the world in which we live. If you say now you're against affirmative action because the government is using its power or the private sector is using its power to help minorities at the expense of the majority, that gives you a way of explaining away the economic distress that a majority of Americans honestly feel. It gives you a way of turning their resentment against the minorities or against a particular Government program, instead of having an honest debate about how we all got into the fix we're in and what we're all going to do together to get out of it. That explanation, the affirmative action explanation, for the fix we're in is just wrong. It is just wrong. Affirmative action did not cause the great economic problems of the American middle class.

... it is wrong to use the anxieties of the middle class to divert the American people from the real causes of their economic distress, the sweeping historic changes taking all the globe in its path and the specific

policies or lack of them in our own country which have aggravated those challenges. It is simply wrong to play politics with the issue of affirmative action and divide our country at a time when, if we're really going to change things, we have to be united (1996, pp. 1109, 1110).

In this argument, Clinton argues that explanations for middle class anxieties have been wrongly associated with affirmative action. Instead, Clinton attempts to offer an explanation for the economic problems that are really causing the anxieties that many Americans are experiencing. Clinton suggests that we are attacking the wrong structure when we attack affirmative action. Rather, we need to rethink our economic goals. He continues:

I must say, I think it is ironic that some of those, not all but some of those who call for an end to affirmative action also advocate policies which will make the real economic problems of the anxious middle class even worse. They talked about opportunity and being for equal opportunity for everyone, and then they reduce investment in equal opportunity on an evenhanded basis. For example, if the real goal is economic opportunity for all Americans, why in the world would we reduce our investment in education from Head Start to affordable college loans? Why don't we make college loans available to every American instead?

If the real goal is empowering all middle class Americans and empowering poor people to work their way into the middle class without regard to race or gender, why in the world would the people who advocate that turn around and raise taxes on our poorest working families, or reduce the money available for education and training when they lose their jobs or they're living on poverty wages, or increase the cost of housing for lower income working people with children? Why would we do that? If we're going to empower America, we have to do more than talk about it. We have to do it. And we surely have learned that we cannot empower all Americans by a simple strategy of taking opportunity away from some Americans (1996, p. 1111).

Clinton argues that we should question the economic policies that are being implemented by those who claim to advocate equal opportunity for all Americans. In this way, Clinton attempts to blame the opponents of affirmative action's economic policies. Next, he discusses the results of the study that he called for:

This review concluded that affirmative action remains a useful tool for widening economic and educational opportunity. ... Since President Nixon was here in my job, America has used goals and timetable to preserve opportunity and prevent discrimination, to urge businesses to set higher expectations for themselves and to realize those expectations. But we did not and we will not use rigid quotas to mandate outcomes (1996, p. 1111).

Whereas Reagan argued that the American people, not government, must revitalize the economy in order to further opportunity, Clinton argues that the government and the people must work together in order to advance economic opportunity. Affirmative action, then, becomes linked to economic opportunity and national unity, and dissociated from quotas. Affirmative action is returned to Nixon's original definition, at the beginning of his administration, that conceptualizes the programs in terms of outcomes and flexible goals and away from Reagan's association of the program with quotas or Bush's dissociation of affirmative action from guarantees.

Clinton and Multiple Personae

Whereas other presidents tended to rely on single aspects of the presidential role, Clinton draws on a variety of personae to make his case. Specifically, Clinton draws on the priestly role of the presidency, like past presidents, but also the personae of Head-of-State and of legislator. Clinton weaves in and out of these various roles in order to invent his authority and to persuade those audience members who have come to believe that those in favor of affirmative action are on the wrong moral side. Murphy, in his work on another Clinton speech, writes of Clinton's tendency to draw on "the diverse voices and languages of the public sphere" (1997, p. 71). In this way, the critic uncovers the multiple personae that Clinton dons to make his argument. Edward Panetta and Marouf Hasian, for instance, also note the constant bombardment of "discursive constructs that

defines significant causes and invite us to discriminate between those who are ‘truly needy’ and those who are only in apparent need” (1994, p. 75). They observe that, as critics, we are only beginning “to decode some of the ways in which lexicons can be used to silence or empower particular voices” (1994, p. 70). An examination of Clinton’s address examines which voices of the presidency he utilizes and how they define particular roles for his audiences.

First, Clinton dons the persona of Head-of-State. Karlyn Campbell and Kathleen Jamieson explain that when a president enacts the presidential role, he or she must “demonstrate an appreciation of the requirements and limitations of the executive in our system of government” (1990, p. 23). That is, they must show their audiences that they can “function as a leader within the constitutionally established limits of executive power and can perform the public, symbolic role of the president of all the people” (1990, p. 23). Clinton advances his support of affirmative action within the confines of the system of checks and balances set up in the Constitution. For instance, he calls for support of affirmative action programs based on the authority of the Courts, directing all of the agencies “to comply with the Supreme Court’s *Adarand* decision and also to apply the four standards of fairness to all our affirmative action programs ...” (1996, p. 1113). Generally, we rely on law in our American system to insure consistency of the application of our principles, to judge our laws against past decisions, and test our ideas in a crucible of truth. In this way, we are comforted that Clinton’s direction for the future is embedded within the limits of his power, and is checked by the Supreme Court. In addition, Clinton exhibits the role of Head-of-State by showing that he is president of all the people and that his policies are in the best interest of all Americans. In arguing

affirmative action's merit, Clinton suggests that "quality and diversity can go hand-in-hand" (1996, p. 1109). Clinton gives several examples to show how affirmative action is in the interests of all Americans. For instance, Clinton notes, "most economists who study it agree that affirmative action has ... been an important part of ... strengthening the entire economy" (1996, p. 1109). In addition, he contends:

A group of distinguished business leaders told me just a couple of days ago that their companies are stronger and their profits are larger because of the diversity and the excellence of their work forces achieved through intelligent and fair affirmative action programs. And they said, "We have gone far beyond anything the Government might require us to do because managing diversity and individual opportunity and being fair to everybody is the key to our future economic success in the global marketplace" (1996, p.1109).

Clinton defines American interests as largely economic and reinforces his assertion that affirmative action policy is in all American's economic interest.

Next, Clinton dons another persona, that of legislator. Karlyn Campbell and Kathleen Jamieson, in their discussion of the legislative role embedded in presidential veto messages, explain that this discourse "must provide objections, its overarching strategy is refutative, and it is deductively argued and structured" (1990. p. 82).

Similarly, Clinton sets up his address using appeals embedded in forensic discourse, in a fashion that mimics a legal brief: it is deductive, involves refutation, and deals with issues of justice. A typical feature of a legal brief often includes a method of residues, in which "a series of justifications [are] presented, such that, if the audience rejects the first, a second follows, and if that is rejected, a third emerges, and so forth" (Campbell, 1989, p. 111). As Clinton's address unfolds, he follows this method of residues, refuting a series

of claims that opponents often cite as reasons to oppose affirmative action,¹⁷ in order to support his larger argument that affirmative action has worked in the past and is still needed for the future.

In their discussion of the president's adjudicative posture in veto messages, Campbell and Jamieson explain that the president as legislator must demonstrate that they have "arrived at a conclusion through the most thoughtful consideration and examination of the facts" (83). Clinton also utilizes language to facilitate a feeling of fairness and reason. Donning this style of the legislator, Clinton's discourse is sprinkled with his attempt to look at the issue "based on the evidence" (1996, p. 1113) and pleas to "openly and honestly deal with the issues that divide us" (1996, p. 1106). He continues, "let's get to the other side of the argument. If affirmative action has worked and if there is evidence that discrimination still exists on a wide scale in ways that are conscious and unconscious, then why should we get rid of it as many people are urging?" (1996, p. 1110). Clinton insists throughout his speech that his case is based on "the facts, not the politics, of affirmative action" (1996, p. 1111). He contends that "to those who use this as a political strategy to divide us, we must say no" (1996, p. 1111). He continues:

But to those who raise legitimate questions about the way affirmative action works or who raise the larger question about the genuine problems and anxieties of all the American people and their sense of being left behind and treated unfairly, we must say yes (1996, p. 1111).

Using this type of legal structure and language, Clinton appears to offer an objective examination of the issues and brings presence to his reason-driven arguments.

¹⁷ He refutes four main claims of opponents: (1) that affirmative action does not work because it always results in quotas, (2) that affirmative action is no longer needed because there is no longer discrimination in the U.S., (3) that we should end affirmative action because it is no longer effective, and (4) that affirmative action is to blame for the economic anxieties of the middle class.

Also, it is in the role of the legislator that Clinton attempts to build his trustworthiness with his audience. Recounting his stance on civil rights even as a young boy, Clinton demonstrates his life-long commitment to civil rights:

It's hard to believe where we were just three decades ago. When I came up here to Boys Nation and we had this mock congressional session, I was one of only three or four southerners who would even vote for the civil rights plank. That's largely because of my family. My grandfather had a grade school education and ran a grocery store across the street from the cemetery in Hope, Arkansas, where my parents and my grandparents are buried. Most of his customers were black, were poor, and were working people. As a child in that store, I saw that people in different races could treat each other with respect and dignity. But I also saw that the black neighborhood across the street was the only one in town where the streets weren't paved (1996, p. 1107).

Campbell, in her discussion of research on building trust, explains that “others trust us to the degree that they know details about us; we are trusted as we emerge for them as unique individuals” (1996, p. 132). However, Campbell and Jamieson note that “personal narrative is inappropriate in a rhetorical genre designed for the formal display of the president as president” (1990, p. 23). Thus, Clinton’s adoption of the legislator persona allows him to build his credibility in a way that the Head-of-State does not. Personal experiences are a way to invent a trustworthy reputation. By disclosing his background to his audiences, we come to understand his personal motivations concerning race. We also, in a sense, learn of his morality – another expectation of his role that he must fill. That is, like all of the preceding presidents, Clinton must use the moral dimension of the office to discuss civil rights. Thus, he shifts to another persona – that of high priest.

In order to invent his persona as high priest, Clinton appeals to characteristics of epideictic speech, including values in our national identity and pleas to his audiences’

consciences. Setting the context for his speech, Clinton appeals to the cherished values of America:

There could be no better place for this discussion than the National Archives, for within these walls are America's bedrocks of our common ground, the Declaration of Independence, the Constitution, the Bill of Rights. No paper is lasting as the words these documents contain, so we put them in these special cases to protect the parchment from the elements. No building is as solid as the principles these documents embody, but we sure tried to build one with these metal doors 11 inches thick to keep them safe, for these documents are America's only crown jewels. But the best place of all to hold these words and these principles is in the one place in which they can never fade and never grow old, in the stronger chambers of our hearts (1996, p. 1106).

Using the concrete metaphors of solid chambers, Clinton implores Americans to hold on to and protect our cherished values. Clinton asks that we not just value them on paper, but subscribe to their value in our hearts. In this way, Clinton, like Reagan and Bush, asks Americans for commitment in their private lives. Reciting the words of our cherished values like a Sunday pastor, Clinton traces the meaning of these words:

Beyond all else, our country is a set of convictions: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness." Our whole history can be seen first as an effort to preserve these rights and then as an effort to make them real in the lives of all our citizens (1996, p. 1106).

Clinton argues that our entire American history, both in our personal and public actions, is an effort to preserve our principles. In this way, Clinton differs from Reagan and Bush by expanding the need for commitment back to the public sphere.

Clinton ends his speech with a call for unity and plea that America do the right thing:

In our national community we're all different; we're all the same. We want liberty and freedom. We want the embrace of family and community. We want to make the most of our own lives, and we're determined to give our children a better one. Today, there are voices of division who would say forget all that. Don't you dare. Remember we're still closing the gap between our Founders' ideals and our reality. But every step along the way has made us richer, stronger, and better and the best is yet to come (1996, pp. 1113, 1114).

Calling on the moral dimension, Clinton asks his audience to render a decision based on reason, but also that keeps in line with our identity as Americans and with the principles of our country.

Weaving in and out of various personae, Clinton appeals to and casts his various audiences into particular roles. His speech creates a space for his varied audiences to step into and fill. In particular, Clinton gives his hearers an opportunity to put on their rhetorical robes and assume the position of judge. A judge, after all, occupies a unique position in society. We expect judges to consider both sides of an argument, for their decisions to be moral, and just. Perelman explains of our expectations of a judge:

[When a] judge makes a decision, his [or her] responsibility and his [or her] integrity are at stake... . [Also a judge's decision] takes account of all the directives which the legal system has given, and that he [or she] is responsible to apply – a system from which he [or she] draws his [or her] authority and competence – without putting aside the obligations which his [or her] conscience, as an honest man [or woman], imposes on him [or her]. In fact, to the degree that the judge is not a calculator entirely programmed by a third party, but a social being charged with confronting values belonging to the spirit of the system, a sensibility for values is an indispensable condition for the exercise of his [or her] functions (1980, p. 129).

Clinton invites his audiences to participate as judge. He states:

I just have to tell you all of you have decide how you feel about that [affirmative action], and all of our fellow country men and women have to decide as well.

In addition, the deductive and logical structure of his speech connotes a certain set of rules, a set of rules that call for his audiences to act as judges and assess his arguments based on the evidence. As Perelman and Olbrechts-Tyteca observe, the structure of discourse “involves formal structural rules which binds those who use it” (1969, p. 163). In turn, the rules of a structure that play a role in defining the speaker, “may also exhibit a set of characteristics connected with communion with the audience” (Perelman and Olbrechts-Tyteca, 1969, p. 163). Clinton asks the audiences to make the best decision based on “moral, practical, and legal interests” in order “to see that every person can make the most of his own life” (1996, p. 1113). If Clinton’s audiences accept their role as judge, then, they must carefully examine Clinton’s arguments based on the evidence and the issues as he presents them. However, they must also grapple with their own internal beliefs concerning justice, law, and morality. After all, Clinton’s priest and Head-of-State personae add weight to his audiences’ roles as judge. In essence, Clinton’s use of multiple persona places the judgment on the conscience and the good reason of his audiences. In this way, Clinton’s strategy imbues his audiences with a much more active responsibility than a typically more passive audience.

The Media’s Commentary: Shifting Standards

Clinton called upon America’s conscience and reason to support his leadership as well as affirmative action. Both agreeing and disagreeing with affirmative action, the media coverage mostly followed the terms that Clinton set. In this way, although affirmative action was still presented as controversial, certain features of the debate changed. Most notably, the press legitimated Clinton’s arguments that we faced a unique

moment in history, they reinforced his definitions surrounding the debate, and they upheld his leadership as principled.

A Unique Moment in Time: Competing for History

To begin, the press reports picked up on Clinton's contention that America faced a unique moment in history. However, the reports conflicted on the meaning of this historical moment and whether we should push toward or away from affirmative action.

David Broder reasserted the unique issue of race for America. He writes:

But there is one issue that dominates all the others in American history and life – the issue of race – and last week President Clinton treated it with the seriousness it deserves. Slavery and segregation are the dark stains on the banner of American history. The great test of our future is our ability to erase that stain and make this multiracial, multiethnic society truly “one nation, under God, with liberty and justice for all.”

That is why the president was right to treat the volatile issue of affirmative action as part of the overarching question of race, to quote Lincoln's observation that “we cannot escape our history,” and to add, cannot escape our future either (Broder, 1995, p. 2C).

Broder supports Clinton's use of history to support the need for affirmative action.

Reminiscent of President Johnson's argument of race being the paradigmatic case for America, Broder reaffirms Clinton's use of the past to create policy for the future and his argument that Americans must be united on the issues.

On the other hand, some reports affirmed Clinton's crafting of a unique moment in history, but took issue with the implications of this historical time. Michael Wines of the *New York Times* used history in his article to demonstrate why affirmative action is not as fair and simple as it was when Lyndon Johnson proposed the programs. Wines notes:

It looked different 30 years ago. President Johnson forged a national consensus on affirmative action by appealing to a sense of fairness and

equal opportunity. “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 the others,’” he said in 1965 (1995, p. 3).

Recalling the foot race metaphor that Johnson employed in his Howard University Speech, Wines argues that Johnson’s solutions were based on fairness, but that today’s affirmative action programs are no longer fair. He argues:

... anger that used to be pretty much the sole preserve of black people, now [has] turned into a rainbow of ill-suppressed grievances. So lately the mark of a bigot, it is now the ticket with which anyone can lay claim to a bigger share of the American pie (1995, p. 3).

He follows this commentary, with a series of instances designed to note the abuse that our present system has witnessed:

... recent years have seen claims of minority status by the morbidly overweight, who have sued for wider seats in theaters and promotions in jobs, and the homeless, who have sued for free public accommodations and services. A male flight attendant who sued American Airlines last year, [sued for] employment discrimination because the Dallas Cowboys football team accepted only female attendants on its flight (1995, p. 3).

In this way, Wines offers a series of examples to demonstrate that affirmative action has veered astray from its original purpose and intent. In the past, affirmative action programs were designed to rectify the discrimination against black people. But now, Wines argues, it has been widened to engage a variety of groups who are abusing the American system, not helping all of us. In this way, Wines attempts to compete for historical legitimacy to support his claim.

In addition, Andrew Sullivan also competes for historical ground. He writes:

The paradox is that if there was ever a time for ... liberalism, it is now. It is the only creed that can recognize and repulse the ethnic, collective urges that are darkening the old world, and the only creed that can guide the dazzling racial and cultural complexity of the new. History’s joke is that it has taken conservatives to rediscover it (1995, p. 315).

Sullivan similarly agrees with Clinton's contention of the new times we face, but argues that it is conservative agendas who have the best solution for these new times. Thus, while the media interpretations generally all affirmed the present need for us to reexamine our policy, they disagreed with which policies were still practical for our current society.

Next, one of the significant changes in the coverage of Clinton's speech, in comparison to Reagan or Bush, was the terms and standards which press reports discussed affirmative action. Instead of focusing on motives or character, there was a clear break in the coverage to debate the content of the arguments. Molly Ivins' syndicated column in the *Atlanta Journal and Constitution* was a clear example of many of the journalists' attempt to move away from discussions of character and motives in their analysis of affirmative action. For instance, she commented, "Let's assume that everyone on all sides of the affirmative-action debate is speaking in good faith. It makes the discussion so much more pleasant. What we are all after is the famous level playing field" (1995, p. 18A). She continued, noting, that "We may differ on how to get there, but that doesn't automatically mean that some of us are racists or that others are insisting on special preferences" (July 22, 1995, p. 18A). In addition, she supported Clinton's definition of discrimination, noting "The next point we need to admit, no matter what we think should be done about it, is that Discrimination Lives" (1995, p. 18A). Ivins moved the terms of the debate away from personal intentions, and instead introduced a discussion of discrimination and her argument that it is still a problem in the U.S.

In fact, many of the reports focused on the present problems with discrimination and reinforced Clinton's conception of its definition as results-oriented. For instance, in

a report from the *Rocky Mountain News*, Gilbert Roman reported that “although this country has come a long way, it still suffers from the effects of past discrimination” (1995, p. 1C). “Recent reports,” he continues, “not to mention common sense, substantiate this conclusion” (1995, p. 1C). Roman cites several statistics:

- Almost all top managers are white males. Rarely have women and minorities landed top management jobs, according to the Glass Ceiling Commission’s fact-finding recent report (approximately 97% are white and 97% are male.)
- Blacks “have the added burden of labor market discrimination,” says the Economic Policy Institute of Washington, D.C. The unemployment rate is higher for Hispanics and blacks than for their white counterparts, and their per capita income is lower, according to virtually every unemployment report nationwide.
- No widespread abuse of affirmative action programs and only a few reported cases of reverse discrimination were found in a U.S. Labor Department report prepared by Rutgers Law School professor Alfred Blumrosen (1995, July 23, p. 1C).

The main argument of this article was that Clinton was being too sympathetic to the “angry white males.” It is noteworthy, however, that the majority of the article focused on statistics and the results of discrimination in society. In this way, the article followed the standards that Clinton crafted in his speech.

Similarly, the *Star Tribune* reported on both Clinton’s address on affirmative action as well as Governor Pete Wilson’s position on the issue. Commenting on this event, the report noted America’s division on the issue, but stated, “President Clinton’s approach to closing that division is the one that will bring races and sexes together, not Wilson’s” (“Affirmative action,” 1995, p. 22A). The article supported this by noting that affirmative action “was designed to rectify discrimination – which, by the way, still exists, as Clinton pointed out” (July 23, 1995, Affirmative Action, p. 22A). Thus, this journalist supported Clinton’s argument that affirmative action was the best means to

bring unity to America, an understanding of unity that is much different than the type of unity advanced in Bush's 1991 Address.

In addition, Broder followed the terms of Clinton's argument, by noting that "it was only when affirmative action was explicitly targeted to women and minorities that we began to hear complaints of reverse discrimination and solemn lectures about the degrading effects of group preferences" (1995, p. 2C). He continues, "But only 3 percent of the discrimination complaints filed with the government come from white males" (1995, July 23, p. 2C). He continues, "at least 95 percent of the top jobs in corporate America still go to white males, and companies they own get at least 92 percent of the government contracts" (1995, p. 2C). In this way, the reports supported a definition of discrimination that understood it in terms of its measurable effects on society (1995, p. 2C).

Not all of the reports agreed with Clinton's definition of discrimination, but they still followed the standards of his argument. For instance, Sullivan attacked Clinton, but did so using similar argumentative strategies that Clinton used, instead of discussing character or his personal motives. Rather, he took issue with Clinton's policy because Clinton sees "results rather than opportunities" (1995, p. 15). Further, Sullivan opposed Clinton's argument that the disparity of "minorities in many fields 'screams'" for affirmative action, declaring:

... here's another statistic that screams. It's from last year's Hopwood v. Texas lawsuit, one of the many cases that are unraveling affirmative action as fast as Mr. Clinton tries to shore it up. The University of Texas Law School was sued because it had set up separate admissions standards for white and black students. In a mirror image of the 1950's, the differing standards were designed not to keep out qualified blacks but qualified whites. The reason? The lawsuit revealed that looking at LSAT scores in 1992, only 88 blacks in the entire country had scores higher than the

median score of white students at the highly selective law school. On scores alone, the school would have admitted nine black applicants to its entering class of 500 students. Yet affirmative action demanded almost proportionate results in admission. Is this huge discrepancy between black and white scores the result of “systemic racism” on the part of law schools? Or is it owing to the neglect of public education and collapse of family structures that disproportionately affect young black Americans? Surely the fundamental solution lies in tackling those deep problems rather than chasing impossible goals (1995, p. 15).

While Sullivan clearly does not support Clinton’s position, he opposed Clinton’s argument by statistics by offering his own argument based on numbers.

Finally, the media reports generally upheld Clinton’s position as principled, sincere, and centered. Whether the reports agreed or disagreed with Clinton’s position, his focus on “reason” and “principle” was lauded. For instance, *The Atlanta Constitution and Journal* noted:

Forget the tally of political points lost or won by President Clinton’s recent speech on affirmative action. The important thing is that Clinton restored reason to the public debate over policies of racial and gender preference. He reminded the nation why such policies were started and why they are still needed (“Clinton takes,” 1995, p 4N).

In addition, Broder lauded Clinton’s principled stance, contending:

too often, on issues from Bosnia to the budget, Bill Clinton has waffled and wavered. That habit has lessened his authority and may cost him a second term. But whatever his fate, he can know that on the overriding issue of American life, he did not betray his heritage. Instead, he called on the nation to heed its history and honor its ideals (1995, p. 2C).

Jack Germond and Jules Witcover noted that “reaction to President Clinton’s speech on affirmative action has been notable in the way it has been divided” (1995, p. 2A).

“Supporters commend the president,” they reported, “for acting on principle; critics castigate him for being motivated by politics. Both are correct, in that this is one of those happy circumstances for a politician in which acting on principle may also happen to be

the best politics” (1995, July 21, p. 2A). They continued in this article, referring to Clinton’s defense of affirmative action policy as “staunch and reasoned” and “squarely within the tradition and principles of the old Democratic Party from which he seemed to be fleeing headlong in other recent actions” (1995, July 21, p. 2A). The news media coverage demonstrated Clinton’s success with moving the terms of the debate from attacking character to debating content. Whether the journalists agreed or not with Clinton’s policy, they refrained from attacking his character.

Conclusion and Discussion

Clinton’s speech inspired much discussion and debate in the media. However, the media followed Clinton’s attempt to make the times a unique moment, to debate affirmative action on his standards, and to uphold his leadership as principled.

First, Clinton used history to demonstrate that America faced a unique point in time, to argue for unity, and to situate affirmative action programs as a natural extension of our historical struggle for civil rights. The press reports generally agreed with the complexity of modern times, but disagreed about what this meant specifically for race policy. For instance, some reports supported the need for affirmative action as a means to inspire unity in the U.S. However, other reports implied that affirmative action was no longer bringing unity, but causing division due to too many groups abusing the original intent of the programs. In this way, the media affirmed the need for unity, but disagreed on the means – and therefore kept the affirmative action controversy unsettled. In addition, their arguments seemed to recycle arguments popularized during President Reagan’s administration – that affirmative action was abusing the original intentions of

civil rights goals. And also, hints of arguments during the Bush administration resurfaced, such as the need to advance unity as a goal for our policies.

Second, Clinton asserted a different definition of affirmative action from past presidents. While Reagan associated affirmative action with quotas, and Bush defined a true and false type of affirmative action, Clinton dissociated all affirmative action programs from quotas. In addition, he argued that affirmative action was still needed since both conscious and unconscious discrimination presently exists in our society. The media accounts, while both agreeing and disagreeing with Clinton's position, followed Clinton's results-oriented definition of discrimination. In this way, the press did not debate standards based on character or intent, or on harmony-results, but rather, assessed Clinton's evidence. In this way, the debate moved to more of a standard based on results-oriented evidence. This project does not argue or pretend that such a change in the standards were permanently altered. In fact the long-term effects of Clinton's presidential discourse on affirmative action are hard to analyze fully since we do not have the knowledge that time often brings. However, an analysis of this particular rhetorical moment does demonstrate that the choices Presidents make do have consequences on setting the standards for the debate.

Third, Clinton, like past presidents, spoke about civil rights as a high priest. However, he also assumed other personae in his speech – that of a litigator and Head-of-State. These personae worked to tie his moral arguments to more practical ones and also enhanced Clinton's position as principled and fair. Mary Stuckey and Shannon Wabshall have argued that in the Clinton years, we witnessed a change in the role of the office. Stuckey and Wabshall claim that Americans' support of Clinton's role as a litigator, or

what she terms “policy maker,” demonstrated that perhaps American citizens “may be indicating a certain political maturity, having outgrown the need to treat presidents in idealized terms” (2000, p. 12). The press accounts generally appreciated Clinton’s attempt to keep the debate centered on the issues, even when they did not agree with his position. In this way, the media accounts reinforced a change in standards – one centered on assessing content, not attacks on character.

Clinton’s address at the National Archives on affirmative action in 1995 was a clear example of discourse that temporarily altered the standards by which people argued. After this 1995 speech, two years later, Clinton was criticized for his call for a National Conversation on Race. The criticism can partly be attributed to the fact that his choice of metaphor again changed the standards from action to discussion. In some senses, however, the point of controversy should be to continue the battle. After all, the point that something ceases to be “controversial,” is the point that rhetorical battles for change are stabilized. As we have much to do on the civil rights front, the need for controversy in this area continues.

CHAPTER SIX

CONCLUSION

Current State of the Controversy

President Clinton's rhetorical strategy worked temporarily to quell conservative attempts to dismantle affirmative action policy. In fact, Clinton's call for a conversation about race around our American table has allowed for his successor, George W. Bush, in some ways, to push the issue under the table. Bush's campaign rhetoric avoided a serious discussion of affirmative action by advocating a fuzzy notion of "affirmative access," causing some to suspect that he would not support concrete, results-oriented programs such as government set-asides. The appointment of conservative John Ashcroft to the attorney general position further raised fears that the Bush administration might work to undermine civil rights. However, President Bush's first test came in 2001 in the form of the familiar *Adarand* case, now referred to as *Adarand vs. Minet*. After the Supreme Court remanded the case back to the lower courts to be re-tried with stricter standards, the white Colorado contracting company again lost its case. An appeal was submitted to the Supreme Court, and an opportunity arose for the courts to restrict affirmative action. Perhaps because it is generally considered a violation of Supreme Court etiquette for a new president to reverse his predecessor's position on a long-standing case, the Bush administration asked the Supreme Court to rule that the amended affirmative action program withstood the test of the higher standards. However, the opinion statement was submitted just before midnight on the last day before the deadline, seemingly to escape

media attention (Wickham, 2001, para. 2). Claiming that *Adarand* had changed its argument since the appeal was accepted, the Supreme Court dismissed the case entirely, and media coverage was minimal (Lane, 2001, para. 2). Bush was praised by NAACP President Kweisi Mfume for his position, and civil rights leaders now hope that Bush's public support of affirmative action in this case will make it harder for him to reverse positions later (Wickham, 2001, para. 10).

Although Bush provided public support for affirmative action in this instance, his administration has undermined the program in more subtle ways. It is doubtful that Attorney General John Ashcroft will actively promote federal affirmative action programs in the way his predecessor Janet Reno did, and without this support the programs will be rendered less effective (Jones, 2001, p. 230). Also, Bush has appointed members of the Center for New Black Leadership (CNBL), a conservative Black political organization, to key Civil Rights positions including Center President Gerald Reynolds to head the U.S. Department of Education's office of civil rights (McWhorter, 2001, para. 9), and Peter Kirsanow, chairman of the Center's board of directors, to sit on the U.S. Commission on Civil Rights (McWhorter, 2001, para. 7). The CNBL has openly opposed affirmative action, and Reynolds has gone on record stating "Racial preference policies do not increase the productive capacity of their beneficiaries. This type of dependence is the antithesis of freedom" (McWhorter, 2001, para. 9). Board Chairwoman Mary Frances Berry has opposed Kirsanow's appointment on the grounds that there are no open positions, and the Bush administration is now suing to force the appointment (McWhorter, 2001, para. 1). Throughout his efforts, Bush is presently

employing a strategy of silence as he fights to keep the affirmative action controversy off the media's radar.

Discussion and Implications

The controversies surrounding affirmative action over the last four decades have ebbed and flowed, contributing to a rhetorical trajectory which has changed paths and meanings many times. This project has looked at four controversial moments in history during the presidencies of Lyndon Johnson, Ronald Reagan, George Bush, and William Clinton, which contributed to the way we understand and talk about civil rights and affirmative action. From this study, I glean three further implications to consider concerning the debate.

First, beginning with Johnson, all of the presidents, even Clinton to some extent, framed affirmative action as a moral issue. In fact, only Clinton began to discuss affirmative action as a pragmatic policy. Initially, Johnson introduced affirmative action in moral terms, which set the debate on a particular trajectory. Reagan simultaneously denigrated affirmative action while usurping the moral ground for his position. In this way, Reagan turned affirmative action into a wedge issue for conservatives. If they could argue that Republicans held the moral ground in civil rights and that Democrats had gone too far, they held a chance of gaining more popular support for their positions. The moral framing of this debate, then, set the rhetorical ground for Clinton in 1995. The press and the presidential candidates touted affirmative action as the “wedge issue” for the 1996 presidential campaign. For instance, although presidential candidate Bob Dole originally did not make affirmative action a central issue in his campaign, he changed his tactic later and strongly attacked Clinton for not supporting Proposition 209 in California. Asked

about his shifting emphasis on affirmative action and immigration, Dole replied, “They’re wedge issues” (Cain and MacDonald, 2002, para. 6). Clinton, in contrast to Dole, supported affirmative action with his “mend it, don’t end it” campaign. Although in 1996, many white Americans were against affirmative action programs and supported the passage of Proposition 209 in California, Clinton’s strategy successfully tabled the discussion of ending federal affirmative action programs and focused on concerns that mattered more to many Americans, like the economy. For this reason, it is unlikely that Clinton’s strategy won the moral ground with all of his constituents. Rather, his various argumentative strategies worked to appeal to the different constituents and served to stop the complete dismantling of affirmative action. In general, then, a moral argument for affirmative action is unlikely in present society to be enough to win its acceptance.

Second, this study demonstrates how history has been one site on which we have worked through notions of American identity. Maurice Charland, in his discussion of rhetoric’s constituting power, writes, “subjects within narrative are not free, they are *positioned* and so constrained.” He adds, “all narratives have power over the subjects they present” (1987, p. 141). Phillip Abbott, in his discussion of American identity, asserts the role of discourse, arguing that “we have ‘become the way we talk’ more than ‘we talk the way we have become’ (1999, p. 5).” Presidents, imbued with the role of national historian, significantly aid in shaping our identity. And while they are constrained by history, they also are able to make choices about which histories they choose to define the American people. Johnson argued that our success as a country and our meaning as a people rested on our ability to solve the problems of black Americans. Reagan argued that we had already met this challenge and dealt with this scar on our

history with the passage of law. Bush argued we were a land of harmony. Clinton argued that our national identity was about making our American rights and principles a reality. The view we hold of our own identity has tremendous consequences for how we perceive the proper role of private and public commitment. We learn from this examination that history is a means to constitute individuals as active or passive. One of the key differences in the use by liberal and conservative presidents is the way in which agents are placed in history. Johnson and Clinton feature individuals in history as active agents of change. Reagan and Bush, on the other hand, construct history as unfolding naturally. If we see progress as inevitable, there is less reason to make sacrifices. However, if we see individuals as active in history, then the rhetor must demonstrate to audiences why they should make sacrifices. As rhetors continue to compete for rhetorical legitimacy, the role of agents in history is an important rhetorical dimension to consider.

Finally, an examination of the affirmative action debate as controversy can develop a means of exploring a more useful institutional manner of reasoning that more fully recognizes the modern context in which arguments are crafted. Institutions define the parameters of rational debate. In this project, three main institutions surface as players in the affirmative action controversy: the Supreme Court, the Executive Office, and the mainstream media. The Supreme Court limits the president through its powers of interpreting the legality of his actions. Presidential rhetoric is expected, at the least, to abide by the confines of the Supreme Court's decisions. This is most evident in the case of Eisenhower, who propounded that his opinions would not interfere with his ability to follow the law. Presidents wishing to move outside the confines of Supreme Court rhetoric must find creative ways of doing so, as did Reagan when he blurred the

distinction between affirmative action and quotas and appealed to the American ideal of justice as blindfolded. By never directly contradicting Supreme Court rhetoric and by appealing to an idealized judicial archetype, Reagan shifted the debate onto his own terms. Clinton was more constrained by the Supreme Court, since his address followed on the heels of the *Adarand vs. Pena* case. His administration chose to wait until the decision was announced, and the “mend it don’t end it” theme was a direct response to the stricter limits established by the Supreme Court on federal affirmative action programs. Within the limits set by the Supreme Court, the president has considerable power to voice his opinions. The president is imbued with the power to act as a national historian, to reinforce key terms and their definitions in public vocabularies, and to assume authoritative roles. In addition, the media grants more lengthy and prominent coverage to the president. For instance, after the Supreme Court ruling of *Adarand*, the president’s view was a front-page story while the opinions of civil rights leaders were relegated to the back of the newspapers. However, since it is mostly the mainstream media that will report the president’s positions, the media has considerable power to define the parameters of the controversy and to set the agenda for what people perceive as important. For instance, Johnson’s speech concerned the need for race policy and the media reified the existence of the problem, but it also introduced discussion of whether this should be addressed in the private or public sphere, which became an important issue in the debate. Thus, although the president has considerable power in centering the debate, the limits set by Supreme Court and the parameters of controversy set by the media also heavily influence the constraints on a president.

Much of the present research isolates the analysis of affirmative action rhetoric to itemizing and listing the major arguments in the debate and excludes an understanding of how this discourse works within an arena of values and beliefs. Goodnight's notion of controversy allows for a definition of change that moves beyond an analysis of "rational" arguments, and instead seeks to discover how competing rhetorics work to define institutional reasoning. Goodnight's theory offers a way to conceptualize the means by which rhetoric creates change, without simply lamenting the decline of rational argument within the public arena. He admonishes, "the confessions of mass media should not obscure the greater horizon of discursive norms still available to the public sphere" (1991, p. 7). The role of rhetoric in change and public deliberation, therefore, must include a proper recognition of the immediate and long-term contexts within which such arguments are made. Chantal Mouffe writes, "if we accept that relations of power are constitutive of the social, then the main question for democratic politics is not how to eliminate power but how to constitute forms of power that are compatible with democratic values." She advocates a project that acknowledges "the existence of relations of power and the need to transform them, while renouncing the illusion that we could free ourselves completely from power..." (1999, p. 753). An understanding of how political contexts are constructed in the affirmative action controversy informs future participants on better ways to negotiate the constraints inherent in the political sphere.

Further Research

This project does not assume that presidents create public vocabularies, but rather that they aid in shaping and popularizing argumentative strands. Thus, an examination from a different perspective of the particular controversies analyzed in this project might

contribute to the ways that arguments reach the executive office. For instance, it would benefit the critic to look at civil rights groups and various factions involved in the design of the Moynihan report. In addition, it might behoove the critic to look at congressional responses to Reagan's policy decisions, which ultimately persuaded him to drop his initiative against affirmative action. Similarly, it would be useful to look at the congressional battles that surrounded Bush's decision to veto the 1990 Civil Rights Act.

In addition to these studies, this project points to other research that might be beneficial. For instance, historically, other groups such as women, Native Americans, and homosexuals used the civil rights movement as a springboard to also argue for their own rights. A useful project, therefore, might be to explore the ways that the affirmative action controversy has both provided constraints and opportunities for other marginalized groups to make cases for their own rights. For instance, women have historically analogized their plight to that of black Americans. However, to what degree has this argument been helpful and hurtful? These types of analyses are warranted and this project has contributed to only the tip of a vastly rich and understudied iceberg of rhetorical scholarship.

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