SOFTWARE & TECH

# The Policy Of Affirmative Action Arose When

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## Introduction: Tracing the Origins of a Landmark Policy

The policy of affirmative action arose when historical injustices and systemic discrimination demanded a deliberate, proactive response from the federal government. For decades after the abolition of slavery and the passage of the Civil Rights Act of 1964, racial minorities, women, and other marginalized groups continued to face significant barriers in education, employment, and contracting opportunities. The policy of affirmative action arose when President Lyndon B. Johnson issued Executive Order 11246 in 1965, a moment widely recognized as the formal birth of affirmative action in the United States. However, the roots of this policy stretch back much further, into the civil rights struggles of the mid-20th century and the persistent advocacy for equality that reshaped American law and society. This article explores the historical context, key legislative milestones, legal challenges, and ongoing debates surrounding affirmative action, providing a comprehensive understanding of why and when this groundbreaking policy came into being.

## The Historical Context: From Jim Crow to the Civil Rights Movement

### The Legacy of Systemic Discrimination

To understand the policy of affirmative action arose when it did, one must first recognize the deep-seated inequalities that pervaded American life before the 1960s. After the end of Reconstruction in 1877, Southern states enacted Jim Crow laws that enforced racial segregation and disenfranchised African Americans. Even in the North, discriminatory practices in housing, employment, and education were widespread. By the mid-20th century, African Americans had lower life expectancy, higher poverty rates, and severely limited access to higher education and skilled professions. Women, too, faced legal and cultural barriers that relegated them to lower-paying jobs and excluded them from many fields.

### The Civil Rights Momentum of the 1950s and 1960s

The modern civil rights movement gained momentum with landmark events such as the **Brown v. Board of Education**Supreme Court decision in 1954, which declared racial segregation in public schools unconstitutional. Peaceful protests, sit-ins, and marches—including the 1963 March on Washington—drew national attention to the urgency of racial justice. President John F. Kennedy initially used the term "affirmative action" in 1961, when he issued Executive Order 10925, requiring federal contractors to "take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin." However, this early order lacked enforcement mechanisms and was largely symbolic. The policy of affirmative action arose when President Lyndon B. Johnson decided to strengthen and formalize these obligations in the wake of the Civil Rights Act of 1964.

The Key Event: Executive Order 11246 (1965)

### President Johnson’s Vision for “Equality as a Fact”

The policy of affirmative action arose when President Lyndon B. Johnson signed Executive Order 11246 on September 24, 1965. This executive order prohibited discrimination by federal contractors and required them to implement affirmative action plans to ensure equal employment opportunity. In a famous 1965 commencement speech at Howard University, Johnson explained the rationale: "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." This speech articulated the shift from equal treatment under the law (formal equality) to equal opportunity through proactive measures (substantive equality).

Executive Order 11246 established the Office of Federal Contract Compliance Programs (OFCCP) to monitor compliance. The policy of affirmative action arose when this order created a framework requiring federal contractors to set goals and timetables for increasing the representation of minorities and women in their workforces. Later, President Johnson also issued Executive Order 11375 in 1967, which added sex to the protected categories, expanding affirmative action to include women.

### The Role of the Civil Rights Act of 1964

While Executive Order 11246 directly addressed federal contractors, the **Civil Rights Act of 1964**was the legislative backbone that made affirmative action legally possible. Title VII of the act prohibited employment discrimination based on race, color, religion, sex, or national origin. The Equal Employment Opportunity Commission (EEOC) was created to enforce these provisions. The policy of affirmative action arose when the combination of legislative and executive actions created a legal environment in which proactive measures to correct historical imbalances were both necessary and permissible. Courts later interpreted Title VII to allow voluntary affirmative action plans by employers to remedy past discrimination.

## The Evolution of Affirmative Action in the 1970s and 1980s

### Expansion to Education and Contracting

Following the initial employment-related initiatives, the policy of affirmative action arose when it expanded into other domains, notably higher education and federal contracting. In 1969, the Nixon administration introduced the "Philadelphia Plan," which required federal construction contractors in Philadelphia to set specific goals for minority hiring. This was a significant step because it applied affirmative action to industries that had historically excluded minorities. In education, universities began adopting affirmative action admissions policies to increase enrollment of underrepresented minority students. The Supreme Court’s 1978 decision in **Regents of the University of California v. Bakke**established that race could be considered as one factor among many in admissions, but racial quotas were impermissible. This ruling shaped affirmative action in higher education for decades.

### Legal Challenges and Supreme Court Precedents

The policy of affirmative action arose when it also became a subject of intense legal scrutiny. In the 1980s, the Reagan administration pushed back against affirmative action, arguing that it amounted to reverse discrimination. However, the Supreme Court in **United Steelworkers v. Weber** (1979) upheld voluntary race-conscious affirmative action plans in the private sector. Later, in **City of Richmond v. J.A. Croson Co.**(1989), the Court imposed strict scrutiny on state and local government set-aside programs for minority-owned businesses. These cases reflected a growing tension between supporters who saw affirmative action as a necessary remedy and opponents who viewed it as unconstitutional preferential treatment.

### The Case for Affirmative Action

Proponents of affirmative action argue that the policy addresses the persistent effects of historical discrimination, which cannot be eliminated by simply ending discriminatory practices. The policy of affirmative action arose when it became clear that "colorblind" policies were insufficient to create equal opportunity. Supporters point to data showing that without affirmative action, representation of minorities and women in selective universities and well-paid professions would drop significantly. They also emphasize the educational benefits of diversity—students learn better in racially diverse environments, and workplaces with diverse teams are more innovative and productive. Furthermore, affirmative action is seen as a tool for dismantling structural barriers such as implicit bias, unequal schooling, and social networks that perpetuate inequality.

### The Case Against Affirmative Action

Opponents argue that affirmative action violates the principle of equal treatment under the law and can lead to reverse discrimination against qualified individuals who are not members of the targeted groups. They contend that the policy of affirmative action arose when government overreach began to prioritize group identity over individual merit. Critics also claim that affirmative action can stigmatize beneficiaries by implying that they achieved success due to race or gender rather than ability. In recent years, some have argued that socioeconomic status rather than race should be the basis for affirmative action, as poverty affects all racial groups. Legal challenges have increasingly focused on the belief that race-conscious policies are no longer necessary in a society that has made significant progress toward equality.

## Affirmative Action in the 21st Century: Recent Developments

### Supreme Court Decisions and State Bans

The policy of affirmative action arose when it was a federal initiative, but its implementation has become increasingly fragmented due to state-level actions. In 1996, California's Proposition 209 banned race-based affirmative action in public education, employment, and contracting. Similar measures followed in states such as Michigan, Washington, and Florida. The Supreme Court's 2023 decision in **Students for Fair Admissions v. Harvard** and **Students for Fair Admissions v. University of North Carolina**struck down race-conscious admissions policies at public and private universities, effectively ending affirmative action in higher education as it had been practiced for decades. The Court held that the programs violated the Equal Protection Clause of the 14th Amendment. This ruling marked a historic shift, but the story of affirmative action is far from over.

### The Future of Equal Opportunity Initiatives

In the wake of the 2023 decisions, colleges and universities are exploring alternative methods to promote diversity, such as class-based affirmative action, targeted recruitment in underserved communities, and the elimination of legacy preferences. Meanwhile, federal contractors remain subject to Executive Order 11246, although recent administrations have varied in enforcement intensity. The policy of affirmative action arose when it was seen as a necessary remedy for entrenched discrimination; today, its future depends on new legal interpretations and societal choices about how best to achieve equality. The core question remains: can a society that has witnessed centuries of inequality achieve genuine equal opportunity without some form of proactive, race-conscious measure?

## Conclusion

The policy of affirmative action arose when the United States confronted the reality that legal equality alone was insufficient to overcome the legacy of slavery, segregation, and discrimination. From President Johnson's Executive Order 11246 in 1965 to the Supreme Court's recent rulings, affirmative action has been both a tool

for inclusion and a flashpoint for political and legal debate. Its origins are rooted in the civil rights movement's moral imperative, and its evolution reflects the ongoing struggle over what justice means in a diverse democracy. While the legal landscape continues to change, the broader goal of creating equal opportunity for all remains as relevant today as when the policy first arose. Understanding this history is essential for anyone seeking to navigate the complex and vital conversation about race, equality, and fairness in modern society.

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