

# OVERTURN the BAKKE DECISION

## affirmative action in jeopardy

by ANNA GOLD

Marvin Jones, a Black youth, grew up in a West Philadelphia row house, the son of a press operator at Budd. He attended public school and community college and did well in the basic courses offered. Marvin was determined not to join the 40% of Black youth hopelessly searching for a job. His dream was to be a doctor, and when he graduated he applied to Medical school.

At the same time, John Smith graduated from an Ivy League school, the son of a Main Line doctor. He also did well in school, and took advantage of many of the specialized courses offered. He too applied to Medical School.

As recently as five years ago, the Medical School was all white and Marvin's dream would have remained just that -- a pipe-dream. But because of an affirmative action policy the dream became reality. Marvin became one of a small number of national minority applicants to be admitted, though his test scores were slightly lower than John's, who was denied admission. Was John a victim of "reverse discrimination?"

### BACKLASH AGAINST CIVIL RIGHTS

The job squeeze has tightened for everyone and white as well as national minority workers are being turned away from personnel offices and school enrollment desks. And now we are hearing an increasingly shrill accusation that the gains of the Civil Rights and women's movements have resulted in a tendency to discriminate against white men.

**Black unemployment is more than double white unemployment and the gap between the wages received by women and men is increasing. Yet you hear people say, "Sure, there used to be discrimination. But that's against the law now. If you admit Black people according to a quota system then you're turning the white guy away because of his race. Two wrongs don't make a right."**

Allan Bakke, a 34 year old white applicant to the University of California Davis Medical School took these arguments to the courts in an attempt to challenge the hard won gains of the civil rights movement. The Bakke case, due to be heard in the US Supreme Court in October, has received national attention as Black, Chicano, Asian and progressive white people organize themselves to defend the affirmative action approach to hiring and admittance.

### WHAT ARE THE FACTS OF THE BAKKE CASE?

In 1974 there were 3737 applicants fighting for 100 openings in Davis Medical College. 16 of these spaces were earmarked for "economically and educationally disadvantaged" applicants and they were awarded to 6 Blacks, 8 Chicano, and 2 Asian-American students. Bakke was one of the 3637 applicants turned down. He had already been rejected by at least 10 medical schools and this was his second attempt to get into Davis Medical School.

Although there were 32 white students ahead of him outside of the Special Admissions program, Bakke became convinced that he was the victim of "reverse discrimination" and that he had been denied entrance because of the existence of the Special Admissions policy. It is worth noting that in 1973 the UC Davis

Assistant to the Dean for Admissions had provided Bakke with legal counselling and encouraged him to bring a suit against the special admissions program.

The case was brought before the California Supreme Court. While the Bakke case was itself weak, the University of California legal team hardly put up a fight. They refused to hire a minority counsel, which meant that those most directly affected by the suit did not have any input into the legal defense. Their general lack of commitment to the struggle against racism was evidenced throughout the trial.

On September 16, 1976 the California Supreme Court declared the special admissions program at Davis unconstitutional. It cited the fact that the University had not presented any evidence of past discrimination to justify an affirmative action program. Secondly, it argued that the University must prove not only that the previous policies had the effect of discriminating against minorities but that it *intended* to do so. Finally, it ruled that the minority students in question were less qualified as shown by the Medical Admissions Test.

### HISTORY OF RACIST POLICIES

Had the University of California been serious about defending the rights of national minority students, its counsel could easily have countered these points. First, the history of discrimination is well-documented. There were no Black or Chicano students at the school before 1970 when the program began. In 1974 there were 57, only 7 of whom were admitted under regular admissions. Despite various affirmative action programs effective over the past 8 years, whites still hold 91% of medical school places. Enrollment in state university systems is only 2.7% Black.

**Secondly, it is almost impossible to prove that any institution intended to discriminate, particularly in the post Civil Rights Act period. To demand such proof is to place an extraordinary burden upon the victim of discrimination and effectively rules out any possibility of correcting the present imbalance.**

Finally, Bakke's claim that he is better qualified than those admitted in the Special Admissions Program is based on the Medical College Admissions Test. However, the Association of American Medical Colleges has shown that "Blacks who had successfully completed the first two years of medical school had lower MCAT scores than whites who had flunked out."

The absurdity of Bakke's argument is underlined by the fact that 36 whites with lower grades than his were admitted. Clearly grades and tests are only some of many indications of the potential strength of an applicant.

### DECISION WILL HAVE FAR-REACHING IMPLICATIONS

The Bakke case may seem far removed from the problems of the construction worker in New York, or the nurse in Oregon. However, if the US Supreme Court upholds the findings of the California Court, the decision will immediately affect all affirmative action programs which have attempted to reverse the historic pattern of discrimination. The decision is bound to set back the gains made by women as well. Particularly threatened are national minority women who bear



Demonstrators protest the Bakke decision. Alan Bakke, a white applicant to medical school, blames his rejection on the Special Admissions policy which reserves openings for "economically and educationally disadvantaged" applicants. California courts ruled in favor of Bakke—a blatantly racist attack on Black civil rights and on all affirmative action programs.

the double oppression on the basis of race and sex.

The issue at stake is whether or not schools, employers and social service programs will be forced to put into practice a verbal commitment to end discrimination. The Justice Department has stated that while race *can* be taken into consideration, quotas or numerical goals are unconstitutional. President Carter is trying to keep one foot in each camp, claiming that while he is in favor of affirmative action he opposes "quotas."

**It is however, impossible to be on both sides of the question. The history of racism and sexism in the US has shown us that high sounding phrases about equality are not sufficient. Even the New York Times calls on President Carter to "reject the Justice Department's seductive but unworthy compromise over equal opportunity." They further state that "It would be shabby politics indeed to endorse the end but forbid the means."**

In a letter to Carter the Congressional Black Caucus said that a ruling in Bakke's favor would be a "landmark setback for the civil rights of Blacks." It goes on to say that such a ruling would "jeopardize virtually all government programs which are designed to ameliorate the conditions of Black people."

What about the argument that white applicants are presently being victimized because of past racist practices for which they are not personally responsible? If reverse discrimination were a reality, how would we explain the fact that the gap between white and Black workers is growing in every aspect of their working lives? And in the educational field this is even clearer. White access to medical training has increased, not decreased, since 1968. The number of first year medical school places occupied by whites rose by 49%. So it can hardly be argued that affirmative action programs have cut into job possibilities of white applicants.

### WHO'S REALLY TO BLAME?

To the extent that white applicants perceive that their opportunities are narrowing it is a reflection of two things: 1) the impact of the recession on the job market for everyone and 2) the fact that white applicants are no longer automatically assured that they will receive preference over their national minority and women counterparts.

**The whole working class, whites as well as oppressed nationality workers, suffer from lack of jobs and opportunity. Racism diverts the attention of the white workers away from the real source of the problem, the employer class and the profit system, and leads them to blame national minority workers for their problems. The result, of course, is to drive a wedge between the white workers and the**

**oppressed nationalities to the detriment of both.**

It is wrong to counterpose affirmative action demands for full employment or expansion of educational opportunity for all. Both must go hand in hand if we are to secure united working class action.

In the past couple of years we have witnessed a consistent attack on the gains made by the Civil Rights and the Women's Movements. Programs which promote equality for minorities, women, the unemployed, the aged, or the poor are being butchered. The courts have recently played a major role in the attacks.

Numerous busing plans have been struck down, seriously setting back the move to desegregate the schools. Discriminatory zoning rules which perpetuate segregated housing have been upheld. Discriminatory hiring and seniority systems have been ruled constitutional where "intent" to discriminate has not been proven. The courts have ruled that women do not have to receive disability pay during pregnancy and state medical plans do not have to cover abortion costs. Now if the Bakke case is upheld it will give credibility to the concept that the victims of racism and sexism have in fact become the perpetrators.

### OPPOSITION ORGANIZING

The struggle against the Bakke decision has included numerous civil rights and women's rights groups, community organizations, government officials, rank and file groupings and some unions. The National Committee to Overturn the Bakke Decision has been organizing around a number of tactics to pressure Carter to reject the Bakke arguments and to force the Supreme Court to strike down the Bakke decision. They have focused around three major demands:

- 1) Overturn the Bakke Decision.
- 2) Implement, maintain and expand special admissions and other essential services for minority students at the graduate and undergraduate levels. Only such programs will insure that minorities learn skills necessary to serve the needs of their communities and to participate fully in all aspects of society.
- 3) Implement, maintain and expand affirmative action programs in employment. The Bakke decision is not only a question of minority access to education, but is an attack on minority peoples as a whole, and will have a very negative impact on the aspirations of women as well.

A national day of protest against Bakke is scheduled for October 8. A student day of protest will be observed on October 3. All workers have a stake in standing up and being counted in the struggle against this attack on our class.