

WORKERS VIEWPOINT

End the Criminal Rule
of the U.S. Monopoly Capitalist Class,
Fight for Socialism!

The Proletariat and Oppressed People
and Nations of the World, Unite!

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Opens Floodgate for Escalating Attacks

Bakke: A Historic Reversal

In a devastating legal setback against the rights of minorities and women, the U.S. Supreme Court upheld the Bakke decision, a historic reversal which could roll back across the board many hard-won gains of the last two decades.

On June 28th, the Supreme Court declared "unconstitutional" the affirmative action program of the University of California, Davis, medical school—and ruled Allan Bakke must be admitted.

The Court's decision slams the door of opportunity right in the face of minorities, for hundreds of thousands

of blacks, Latins, Asians and women in education and jobs. By ruling that the program had illegally discriminated against Bakke because he was white, the highest court in the land legitimized the racist codewords of "reverse discrimination" upholding the monstrous lie that minorities had prevented Bakke from getting in.

Allan Bakke is the 38-year old white engineer who in 1973 sued the University of California, Davis medical school claiming he was rejected because "less qualified" minorities had been admitted through the school's affirmative

action program. The Bakke case quickly became a landmark test to challenge the legality of an entire range of genuine affirmative action programs won as a result of the tremendous mass struggle of the '60s.

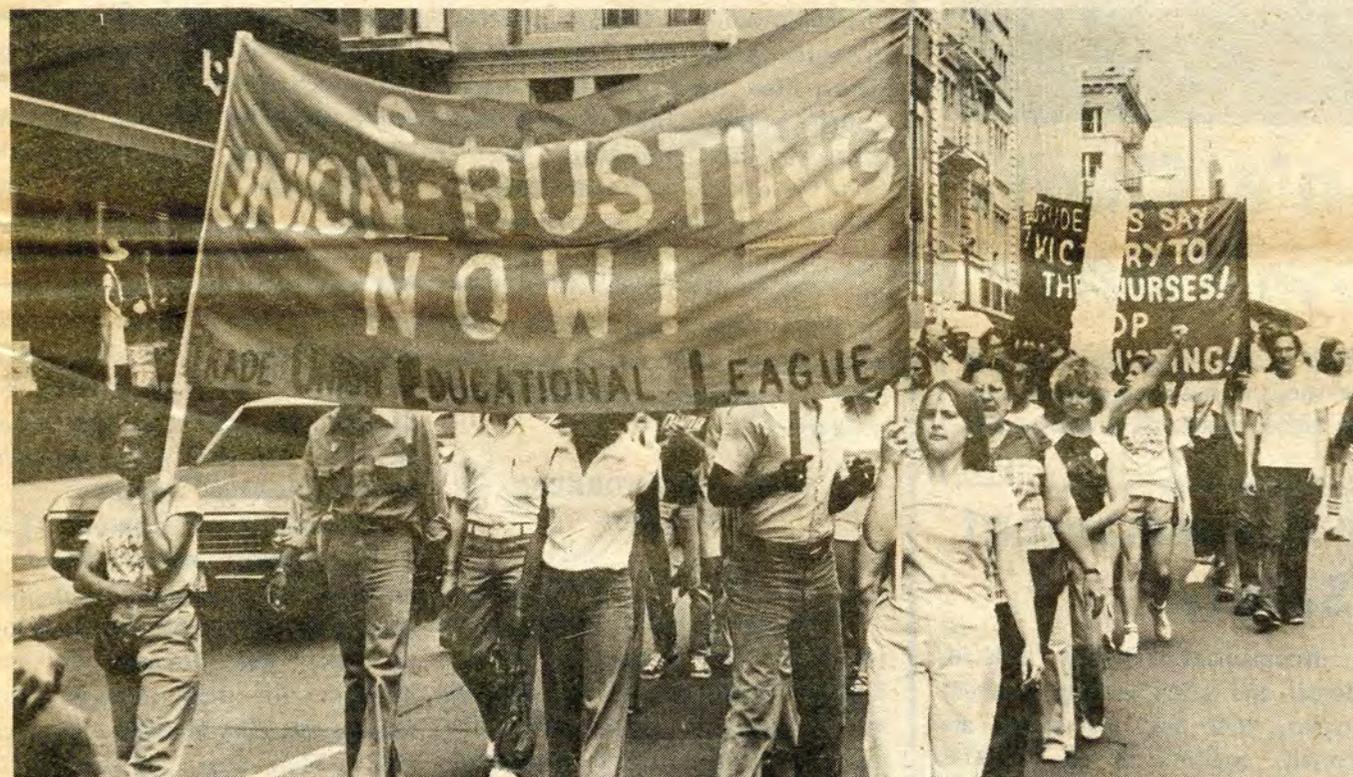
Despite the fact that the Supreme Court's decision in effect wipes out those gains, the decision is being hailed cynically as a victory for affirmative action. Jimmy "Human Rights" Carter and Attorney General Griffin Bell hailed it as a "great gain for affirmative action". Benjamin Hooks of the

NAACP called it "a clear cut victory." The *Wall Street Journal* headlines read "The Decision Everyone Won."

Supreme Court Covers Attacks with Lies

Citing the 14th Amendment which is supposed to guarantee "equal protection under the law", the Court stated that the Constitution is "color-blind" and cannot "mean one thing when applied to one individual and something else when applied to a person of another color." So, the Court argues, Bakke was discriminated against because of his race.

But the learned arguments of the high justices amount to nothing more than turning reality upside down. The words "everyone equal before the law" sounds great—but they only cover up the reality that minorities never had equal opportunity, before the law or anywhere else. The phrase the "Constitution is color-blind" is only blind to the fact of the systematic, pervasive and persistent discrimination. It is only blind to the fact that being born black, Latin, Asian or other oppressed nationality means chances are you would earn 3/5 of the average person in the U.S., be twice as likely to be unemployed, have the worst jobs, the worst schools, the worst housing and the worst medical care. But it would mean you have the best chance of going to prison and the best chance for an early death.



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The bourgeoisie always appeals to fine-sounding phrases, be they "equality" or "democracy" to cover up what's real. And the Supreme Court used that favorite trick of bourgeois apologists—formal equality, equality before and abstract principle.

That is why they would totally and hypocritically twist the meaning of the 14th Amendment which was supposed to protect minorities from discrimination and guarantee the rights of emancipated slaves after the Civil War. They totally distort the meaning of the Civil Rights Act of 1964 which was also to protect the rights of minorities, a law passed only in response to the revolutionary struggle and demand for genuine equality.

While the Supreme Court says "everyone is equal" to deny the existence of inequality and national oppression, it attempts to cover itself by stating "race can be one factor" in determining admissions. According to Justice Powell, speaking for the 5-4 Court majority, "rigid racial classifications"—that is, quotas like UC Davis are illegal, but "flexible" admissions programs where "race is one factor" among many are legitimate.

But the court poses as defender of "flexible" affirmative action in order to really undermine it. Because left up to

the administrators and employers of universities, government and corporations—the ones responsible for discrimination past and present—"flexible" affirmative action is a license under which to take back any real gains made by affirmative action.

Without any concrete and definite ways to admit minorities—left up to the individual choice and interpretations of admissions officers—the real quotas will be what they have always been, quotas guaranteeing admissions to the sons and daughters of the bourgeoisie.

Bakke Signals Full-Scale Attack On Affirmative Action

The Bakke decision is a historic reversal, a huge setback for the rights of minorities and women on the legal front. Its impact will be felt directly and indirectly on minorities and women not only in education, but also jobs, and federally funded programs like bilingual education and manpower.

The bourgeoisie has now given the green light to 2,000 similar "reverse discrimination" cases, beginning to take back all the gains fought for in the last decades. Threatened are laws requiring federal government contractors to hire minorities and women based on the percent of minorities living in the site area. Also, ten per cent of construction contracts made under the Public Works Employment Act of 1977 are supposed to

go to minority contractors. With the Bakke decision, blacks, Latins and other minorities who have gotten jobs through years of struggle may be laid off.

In one case, *Weber vs. Kaiser Aluminum*, Kaiser was forced to set up an affirmative action program in 1974, setting a goal of 30% minority employment in craft jobs. This goal was to be achieved by placing one woman or minority member for every white male in a training position as they became available. At that time less than 2% of the craft jobs were held by minority members which make up over 40% of the population. Brian Weber, a white worker, has filed suit charging reverse discrimination because a black worker with less seniority was given a training slot over him. Those minority workers who got in through the affirmative action program could lose their jobs as well as any seniority accumulated during that time. It would be even harder for new minority workers to get in now.

The Bakke decision also makes it harder for minorities to get into college, especially with competition for law and medical school so fierce.

Supreme Court Serves the Bourgeoisie

The Supreme Court is part of the bourgeois state machine. Tailing after the policies of the bourgeoisie, the court gives legal justification for them. Because the Court is removed from the masses, it can also spearhead attacks on

the working class and oppressed minorities and take "unpopular positions."

The bloody history of the Supreme Court is filled with examples of how it carries out its task. In 1857, for example, a slave named Dred Scott filed suit for his liberty. But the court, upholding the murderous slave system, ruled that blacks "have no rights which any white man is bound to respect."

The judges who sit on the Court are some of the most trusted servants of the bourgeoisie. To make them look independent, judges are appointed for life by the President and have to get rid of any investments that could influence their decisions. But actually they have no responsibility to the masses and they are not affected by elections like the Congress or local officials.

And the judges get their jobs only after being tested over a long period of time by the ruling class. The present Chief Justice, *William Rehnquist*, is a good example. Back in 1952 he helped swing Minnesota and the Republican Convention over to Eisenhower who later became President. Eisenhower repaid him by appointing him Assistant Attorney General in charge of the Civil Division of the Justice Department where he was the government's chief prosecutor in all civil suits. Later in 1956 Burger was promoted to the Appellate Court for the District of Columbia Circuit. This is one of the most important circuits be-

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cause it not only deals with local affairs of Washington, D.C., but also has jurisdiction over many federal agencies and departments located in the city. Burger became the government's hatchet man, doing the dirty work for thirteen years on this job and gained a stinking "law and order" name. So when Nixon went looking for a new Chief Justice to replace Earl Warren to help deal with the rising mass movements, Burger was chosen for promotion again.

The "Substantial Interest" of the Bourgeois State

Justice Powell in speaking for the Court against the Davis medical school's affirmative action program said: "The state certainly has a legitimate and sub-

stantial interest in ameliorating, or eliminating where feasible, the disabling effects of identified discrimination."

When has the bourgeois state had such a "substantial interest"?

The Supreme Court's *Brown vs. Board of Education* decision calling for desegregation of schools is one such case. After World War II, the U.S. was top-dog imperialist in the world and trying to consolidate its grip on many European colonies in Southeast Asia and the rest of the third world. The U.S. bourgeoisie had to cover up how it deals with non-white minorities back home to fool people abroad as pressure from the national liberation forces grew in the third world. This was the "substantial interest" that *Brown vs. Board of Education* helped serve. Secondly, it was a concession to the rising Black Liberation and Civil Rights movements. As these

mass movements gained momentum through the 1950's and 1960's, the bourgeoisie gave more reforms to cool down the masses. The liberal Warren Court (when Earl Warren was Chief Justice, 1954-1969) shows the bourgeoisie's tactics and policies in that period.

In the present period of deteriorating economic crisis, the bourgeoisie is less and less willing to give reforms. It is cutting back and faced with the spectre of the unity of the multinational working class, has to resort more to tricks. The more recently appointed Supreme Court justices who voted for Bakke shows this new period.

The Bakke decision in which the Supreme Court uses the Civil Rights Act to give legal justification for stepping up attacks on oppressed minorities and women is another dirty trick. Other tricks handed down by the Supreme

Court recently were on forced busing (see our article in the June, 1977 issue, page 6) and on pregnancy benefits (see our article in the January, 1977 issue, page 9). The court has shown its true colors more openly recently when it allowed the Nazis to march in Skokie, Illinois.

Bourgeoisie Tries to Confuse and Diffuse the National Movements

The bourgeoisie is afraid to come out directly and openly against affirmative action at this time because it would help rally and set free the potential power of the movement of oppressed nationalities and the working class and also because it wants to continue to push its fake "human rights" campaign through its chief representative Jimmy Carter. That is why the Supreme Court is saying that "race can be a factor

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among other factors" used for admissions criteria. By phrasing the decision this way, it allows so-called leaders in the national movements room to cover up for the bourgeoisie and confuse the oppressed minorities.

Benjamin Hooks, executive director of the NAACP called the Bakke decision "a clear cut victory for affirmative action" not only in education but also in other areas. Dr. Joseph Lowery, president of the Southern Christian Leadership Conference, said that the ruling would permit schools to "continue to be aggressive in their recruitment and admissions of minorities."

But the bourgeoisie knows that these stooges can't fool the people for long with this garbage. By coming out against quotas and for "race as one factor among others", the Court leaves it

up to each individual school to carry out or not carry out genuine affirmative action as it chooses. Not only is this a guarantee that gains will be cut out, this tactic diffuses the focus of the struggle for affirmative action into separate local struggles. It takes away a rallying point for the oppressed minorities and the anti-Bakke forces to unite around and form a powerful political movement.

Bourgeoisie Always Tries to Split the Working Class

With inflation and unemployment gone wild, the multinational working class and oppressed minorities along with the petty bourgeoisie are being squeezed dry. They are getting uptight and pushing out without clear direction like the Proposition 13 movement. So at this time competition for what's left will get fierce. The bourgeoisie is trying to egg on more infighting between minorities and whites, men and women.

The Supreme Court, by legalizing the lie of "reverse discrimination" in the Bakke decision is telling white workers and poor whites they are being squeezed out. They are telling oppressed minorities that whites like Bakke are the main enemy and that the racism of poor whites and not capitalism is the main problem.

But the vast majority of white workers and the poor don't own the industries and control the medical schools. It is the greedy monopoly capitalists who rule. They are the main enemy. It is because of capitalism that there aren't enough jobs and not enough schools. The meager 100 places at the Davis medical school is the capitalists' response to the crying need for doctors in all poor and working class communities. That is why Bakke hurts white workers as well as minorities, because it serves to divide and weakens the entire working class in its struggle for a better future. ■