
Saying the Unsayable

by Mark Bauerlein | March 23, 2018 02:00 AM

If you work for the companies that produce standardized tests, as I have done for many years (creating and evaluating exams in the area of English and reading), you will eventually identify a significant flaw in our nation's meritocratic system of higher education and in the highest-ranked schools that frequently trumpet their ratings. Standardized tests are a crucial component of the system; and yet, with implacable consistency, when test developers meet and review the results from past tests, the awkward moment arrives when they must address an uncomfortable fact: Without exception, whites and Asians score significantly higher than blacks and Hispanics on these tests. The gap is large, and it's persistent.

Test developers are never quite sure what to say. Nobody talks about the possibility that the tests are culturally biased, or that the students taking them might suffer from stereotype threat, or any of the many other popular rationalizations for the low scores. We accept the validity of the data. But we aren't comfortable with the group differences we have documented. America is an antidiscrimination nation, but our work as test-makers is highly discriminatory. That's what standardized tests are supposed to do—carve out the differences among the strong, middling, and weak. A good test produces a good bell curve. It predicts how well a test-taker will do at the next level. If racial achievement gaps show up, well, that's because of the intentional sorting effect of the assessment.

Colleges rely on tests to do just that. But the process that identifies an applicant as Yale-worthy puts even the best African-American students in the second tier. You see the problem.

This is the proper context for understanding the continued harassment of University of Pennsylvania law professor Amy Wax. Last year, with her coauthor, University of San Diego law professor Larry Alexander, Wax wrote an op-ed in the *Philadelphia Inquirer* arguing that social dysfunction in America is due, in part, to the decay of 1950s-era bourgeois values. "All cultures are not equal," they wrote, thereby violating the sacred dogma of cultural relativism that prevails in academia. It didn't matter that the behavioral norms they emphasized—work hard, don't have children out of wedlock, respect authority, eschew drugs and crime—are the ones applicants must follow if they hope to get into a selective university like the University of Pennsylvania and the ones that elite universities already enforce in their admissions process. Merely saying so is tantamount to putting other cultures down.

The fallout from the op-ed was immediate. Half of Wax's colleagues at the law school signed a public letter that began, "We write to condemn recent statements our colleague Amy Wax . . . has made in popular media pieces." The letter didn't attempt to refute anything Wax had

written—"We categorically reject Wax's claims," they wrote—it simply condemned her for writing it.

Now, Wax's critics are again incensed. A video interview Wax did last September with Glenn Loury on Bloggingheads.tv has surfaced in which Wax states, "I don't think I've ever seen a black graduate student in the top quarter of the class and rarely, rarely in the top half."

You can imagine the outrage. Penn alumni circulated a petition decrying "the false and slanderous nature of these statements." Like the earlier faculty letter, the petition offered no counterargument to what Wax had said or any evidence for the supposed slander of which Wax is accused. It was purely an expression of high indignation. As well, the dean of Penn law school removed Wax from teaching a course required of first-year students, stating, "These claims are false: black students have graduated in the top of the class at Penn Law." But he, too, failed to provide any data about student rankings and grades, claiming the school's confidentiality policies prevented it.

This isn't merely a disagreement over grades. If the dean is right, then Wax is facing a serious allegation: not that she merely said something inappropriate in public, but that she's an active bigot. Wax has taught the mandatory course for many years, which means she has graded a large percentage of the students who've been admitted to the law school. From her statements we may conclude that she has never put black students in the top quartile and only rarely in the upper half of her class. How can this be when, according to the dean, many black students place at the very top of the class by graduation time?

Professor Wax must be biased in her teaching. That's essentially the charge the dean makes in his letter, which says that black students "may legitimately question whether the inaccurate and belittling statements she has made may adversely affect their learning environment and career prospects." A story in *Inside Higher Ed* quoted an education professor at Penn and self-described expert in minority-serving institutions who put it more bluntly, stating that students "should not have to be required to learn in a hostile environment."

Is it possible that Wax has been discriminating against black students all these years? Consider that the grading of first-year exams is blind—professors have no idea of the names of students to whom they assign grades. They only find out who is who after the grades are sent in, when they receive a list of their students' final grades by name. It's nearly impossible to discriminate under that arrangement. Besides, if Wax's grades were so out of line with other professors' assessments, it's unlikely to have gone unnoticed. Others would have commented on the gross discrepancy and raised concerns or lodged complaints. Wax has been teaching at Penn since 2001, and no formal allegations of racism have ever been made against her.

In other words, Penn has not opened an investigation into Wax's grading practices, which suggests that no such grading discrepancies exist. In fact, the statements she made in the Bloggingheads.tv interview are quite close to the data we *do* have on law students nationally.

The Law School Admissions Council has tracked LSAT scores by race for several years, producing one report that covers the years 2005-2012 and another that spans 2007-2014. The data in those reports show a wide and stable achievement gap between whites and Asians on the one hand and African Americans on the other. Mean scores for those groups differ consistently by 10 to 11 points.

Other charts in the reports show the percentage of students in each racial group who earned different standardized test scores. The report does not offer a granular breakdown of individual test scores by race or ethnicity. When I asked Lynda Reese, a psychometrician at the LSAT, for clarification about African-American students' scores, she responded that although there were African-American test-takers who scored "above the LSAT scaled scores of 171 and 170" (she did not say how many), they weren't included in the graphs in the report because "they were dropped from the graphical display by the smoothing method employed due to the sparseness of data in that region of the score scale." When I pressed her on this, asking if this meant that no African-American students scored above a 172, I did not receive a response. The key finding, then, is that far fewer African-American test-takers scored above 172 in 2014 compared with students of other races, while a number of whites and Asians scored in the mid- to upper-170s.

Penn is a highly selective law school, with a 2017 acceptance rate of only 17.6 percent, according to AdmissionsConsultants. The median LSAT score for entering Penn students last year was 169. This means that half the incoming class has higher LSAT scores than the top-scoring or most promising African-American students. In other words, the standardized test scores match Wax's experience with her students. True, the LSAT is merely "predictive," that is, it is a projection of how students will perform once they enter law school. But the Law School Admissions Council performs regular studies of the LSAT's validity and finds that the LSAT is a better predictor of first-year achievement in law school than are undergraduate grades.

No one is happy about this. The existence of racial achievement gaps runs against the American egalitarian ideal. We want fair prospects and no race-based disadvantages. But the gaps persist despite various forms of social engineering over the years, including affirmative action in higher education. They are a constant embarrassment to selective colleges and universities, which not too long ago were convulsed by Black Lives Matter protests and student demands that left administrators feeling cornered and anxious.

Institutions such as Penn Law are liberal and diverse. They say so all the time. But they are also maniacally competitive. Despite frequent nods to diversity, administrators at these schools want to be super-selective, not inclusive, because being selective boosts their rankings. If a school admits students who can't handle the work and drop out, a school's graduation and retention rates go down, as does its all-important *U.S. News & World Report* ranking. *U.S. News* also factors in admissions test scores in its rankings. The higher the average ACT score for the Class of 2022, for example, the higher a school climbs the rankings ladder.

Achievement trumps diversity, even in the admissions office. The results might leave some professors and deans feeling nervous and guilt-ridden, but they all benefit from the prestige of working for a selective school. The 31,000 youths who applied for one of the 1,300 slots in Princeton's freshman class next fall didn't do so because, as Princeton's admissions dean claims, successful applicants have a "diverse range of skills, ideas, backgrounds and beliefs." They longed to be one of those happy, chosen few at the apex of the meritocratic food chain.

This is a taboo subject because of the profound liberal guilt that academics suffer over the very policies their own schools follow, such as requiring test scores in the admissions file. We are at the point now at which merely mentioning the failings of affirmative action is itself an act of racism. If only troublemakers such as Wax would keep quiet, the problem of the achievement gap could be papered over with voluminous talk about diversity, a new diversity course requirement, and a couple of minority hires every year. Just stop telling the truth. The ready and swift charge of racism lodged against Wax is a sign of desperation, not righteousness. That's the real sin Professor Wax committed when she talked about her classroom experience. She shined a spotlight on the pretense at the heart of contemporary academic liberalism.

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