# Affirmative action equals discrimination

MATTHEW MADDOX

Monday's Supreme Court decision allowing renewed affirmative action in higher education has produced more questions than answers. What percentage of one's heritage must be minority to qualify for racial preferences? How will government-sanctioned racial discrimination cure the problem of racial inequality? Can someone define the term "critical mass" without using circular reasoning? And will racial preferences ever end?

In two conflicting rulings, the Supreme Court announced on Monday that it would effectively uphold the use of racial discrimination in college admissions, so long as universities weren't too obvious when doing so. The court not only made the problem of racial preferences worse, but it rewrote the Constitution in the process.

The two cases were from the University of Michigan, one involving undergraduate admissions and the other, law school admissions. On one hand, the court ruled that the undergraduate system is too much like a racial quota, and was therefore unconstitutional. On the other hand, the court upheld the law school's use of race in admissions because it uses the term "critical mass" instead of a "quota."

Essentially, administrators chose a target number of favored minority students, called a "critical mass," and admitted minority applicants to achieve a goal. In other words, the court's decision means that schools may not openly use racially discriminatory methods, but they may use subjective and ambiguous methods to take race into account. During Supreme Court testimony, representatives for the University of Michigan could not even define how a "critical mass" differed from a quota. And for very good reason.

Justice Sandra Day O'Connor wrote the majority opinion of the court stating, "In summary, the Equal Protection Clause (of the 14th Amendment to the Constitution) does not prohibit the (University of Michigan) Law School's narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body."

Up until Monday, affirmative action was only allowed as a temporary violation of the Constitution to remedy past racial discrimination. Now that O'Connor has justified the suspension of constitutional rights on the never-ending cause of creating racial diversity, there will be no stop to racial discrimination by the government as long as the ruling stands.

O'Connor, a self-admitted product of affirmative action, supports racial discrimination on the false assumption that by simply being of a minority skin color, a student contributes something to the educational experience that other students cannot. Compare that with O'Connor's ruling in Metro Broadcasting v. FCC.

"Social scientists may debate how people's thoughts and behavior reflect their backgrounds, but the Constitution provides that the government may not allocate benefits or burdens among individuals based on the assumption that race or ethnicity determines how they act or think," wrote O'Connor.

Her contradictory statements imply that she believes the Constitution should change to fit the political ideas of the day rather than be the unwavering foundation of America's laws. O'Connor demonstrated this again at the end of Monday's ruling. "We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today."

The 14th Amendment means the same thing today that it will in 25 years. Either this form of discrimination is always constitutional or it is not. Taking a lesson from history, racial preferences will not disappear as long as the court manufactures a way for their existence.

Chief Justice William Rehnquist was also critical of O'Connor's ruling. "The (University of Michigan) Law School has managed its admissions program, not to achieve a critical mass, but to extend offers of admission to members of selected minority groups in proportion to their statistical representation in the applicant pool. But this is precisely the type of racial balancing that the Court itself calls patently unconstitutional ... here the means actually used are forbidden by the Equal Protection Clause of the Constitution." Rehnquist's assessment is exactly correct. To reach their decision, the majority of the justices had to overlook years of precedent as well as common sense.

By allowing discrimination to take place whenever an administrator wishes it, the Supreme Court has left the constitutional rights of individuals unprotected in the hands of unaccountable officials. This action has undone years of progress toward the color-blind society pushed by Martin Luther King Jr. and established by the Constitution. Because of this, the American people and government will have to address the issue of race more now than ever before.

Justice Scalia poignantly summed up the rulings. "(They are a) split doubleheader (that) seems perversely designed to prolong the controversy and the litigation." All today's university applicants can pray for is that by the time their children are of college age, their skin color will not be held against them. Like King before me, that is my dream too.

*Matthew Maddox is a senior management major.*

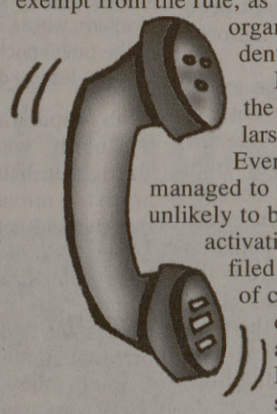
# No-Call list a fraud

## *Many residents still receiving unsolicited phone calls*

SARA FOLEY

Upon first glance, the Texas No-Call List, a service provided by the Public Utility Commission with the intent of removing residential phone numbers from telemarketers' databases, appears to be an attractive offer. Residents are no longer bothered by unwanted phone calls, and telemarketers save time by removing those from their lists who do not wish to be contacted.

However, once residents sign up, they may be surprised to discover that despite the fee they paid, the calls will keep on coming, thanks to numerous loopholes within the law. Companies with state licenses, such as insurance or real estate agencies are exempt from the rule, as well as charitable organizations, political organizations, or any company that the resident has bought something from before.



In reality, it is the PUC that comes out of the process on top, collecting millions of dollars for a service that is not fully provided. Even if the company that is soliciting hasn't managed to use any of these easy excuses, it is still unlikely to be prosecuted. Within the first 15 days of activation of the service, 3,813 complaints were filed by Texans angered enough by the lack of change in the frequency of telemarketing calls that they contacted the agency, according to The Houston Chronicle. A No-Call list, to be true to its name, should result in zero unwanted calls: there have been 3,813 too many complaints.

However, since the first two weeks of service, only 11 investigations of violating companies are pending, with only four staff members on the enforcement team. Without an effective monitoring system on this law, telemarketers can easily toss the list aside and continue to aggravate residents who do not wish to be bothered at home.

According to subscribers to the service such as Tracy Jackson and Wendy Tiderman, who were interviewed in a Chronicle article, this indifference is what appears to be happening. Both of them, along with many other frustrated customers, still receive a significant number of unwelcome calls despite the addition of their names to the list. Imagine how many customers didn't even bother to complain. The PUC promised users that calls would be more or less eliminated, when evidently, the frequency of them has not decreased.

Still, the PUC continues to collect money, with more than 920,000 subscribers paying a fee that varies depending on the term length of the service, according to the Chronicle. As money rolls in to the PUC, telemarketers keep calling, leaving almost a million Texans out of a few dollars and still being inconvenienced by plenty of sales calls, interruptions and growing anger.

The mere necessity of this service, despite its uselessness, is enough evidence that companies have far too much access to private life. Paying to remove unwelcome calls on a private line that the resident pays for is a contradiction within itself, but even more so when the payment doesn't eliminate the calls. The number of complaints itself speaks for the futility of the service.

Residents are left with few options to ensure that their privacy and time are protected. Choosing to pay additional fees to have their number unlisted, using only wireless phones or simply screening calls are all methods of avoiding the problem that the PUC was supposed to solve. House Bill 472, the Texas Telemarketing Disclosure and Privacy Act, which established the No-Call List, was signed in 2001 but has been overlooked for long enough. The PUC must find a way to effectively prosecute and charge companies violating the law and give customers the benefits they paid for.

*Sara Foley is a junior journalism major.*
*Graphic by Gracie Arenas.*

# Deregulation decision valid

MICHAEL WARD

Tuition deregulation, which Gov. Rick Perry rightly signed into law last week, has become a controversial topic in recent months. The arguments against deregulation, more often then not, exude a chicken-little philosophy. Those who have fought deregulation have done so by claiming that tuition left in the hands of the Board of Regents would skyrocket and force Texas' middle class into an inescapable squeeze play. This argument, along with its subsequent corollaries, is fraught with hysteria rather than logic.

Texas A&M needs money. After years of what The Houston Chronicle has called "artificially low tuition" at public universities in Texas, it is time that the students of A&M start paying more for their education. Tuition deregulation presents itself as an imperfect but equitable solution to these challenges. No one will be paying inordinate tuition prices, and those who use the University's resources will be those who pay the most for them.

The major myth surrounding deregulation is that it will lead to unlimited tuition expenses — an unfounded proposition. In a free market, which is a consequence of deregulation, there would be a ceiling on tuition and a low one at that. "They are not going to price themselves out of business," Perry said of state universities, according to The Associated Press. "The market will work."

If the current tuition cap is removed under deregulation, A&M students will set a new cap. Capitalism will drive students' decisions. If the regents of A&M want to raise tuition, they will have to ensure a proportional increase in the quality of education. Much to the dismay of those opposed to deregulation, other schools whose academic prowess is unquestioned have kept their tuition low. And while this new "natural" tuition cap will be a bit higher than it is currently, a breakdown of similar state institutions around the country would suggest that the increase will be small.

Currently, A&M charges students about $2,000 per academic year in tuition. This stands in stark contrast to the Universities of Virginia, California and Michigan which respectively charge students about $6,000 and $4,000 each. Incidentally, tuition deregulation has taken hold in the latter two schools. By what logical method does one conclude that, given the power, the A&M regents would exceed these figures? Academically, the breadth and depth of these schools' programs are far richer than what A&M currently has to offer. If the regents charge more than what A&M is worth, students will necessarily look to other academic institutions for an education.

"But only rich kids (per their parents) and poor kids (per scholarships) will be able to afford to attend Texas A&M," shout the critics of tuition deregulation. Really? Then one supposes that only the rich kids and poor kids go to UCLA or Michigan. That is hardly the case. Even in California, where the cost of living is twice that of Texas, middle class students can still afford to attend UCLA. UCLA's campus is almost 80 percent white and Asian — which is primarily California's middle class — and two thirds receive financial aid, according to www.ucla.edu. Clearly, the middle class can still afford college.

What about the struggling student of today whose parents are unable to offer any financial assistance and must forge ahead, alone, with grants, loans and a job? Deregulation will surely affect this student. But the ignorance espoused within these ideas is most troubling.

Do Aggies fail to realize how economical their tuition is already? Even if tuition went up $1,000 tomorrow, every student here would be paying at least $1,000 less than other students at state schools around the country. An Aggie who works 40 hours a week and has $10,000 in loans is not going to find much sympathy from a Cavalier in Virginia who works the same hours, with the same debt but pays twice as much in tuition.

A college education is neither a right nor an entitlement. One must pay for the services rendered based on the quality of the services. As such, most would agree that Joe Taxpayer would rather Bob Aggie pay for Bob Aggie's education. If an A&M education costs a little more then one can be sure that, under the leadership of President Robert M. Gates, the money will be put to good use. Whether the result is more professors being hired, a decrease in the student-to-teacher ratio, or any of the vast arrays of opportunities that an influx of money would provide, the extra cost will be reflected in the quality of the education that was purchased.

There is no perfect solution to the budgetary crisis; however, tuition deregulation and the subsequent tuition increase reflects the best attempt at harmonizing the many facets of higher education in the public sector.

*Michael Ward is a senior history major.*

## MAIL CALL

### Juneteenth should be an official A&M holiday

The fact that Texas A&M doesn't observe many holidays — including federal and state holidays — is a known fact.

But in Dr. Gates' great push of diversity through the system in every way possible, why was the Texas state holiday of Juneteenth left out?

Juneteenth has been observed all over the world since the Emancipation Proclamation was read in Galveston on June 19, 1865. It is the celebration of the end of slavery that once gripped this nation.

Now it is easy to understand and reasonable for the University to have to choose very carefully which holidays to observe, but there should have at least been recognition of the importance of this day somewhere in The Battalion. This is only an observation of how one wish — diversity — could be expressed by the leaders at A&M, yet it is a key component greatly overlooked.

*Daniel Kapavik*
*Class of 2006*