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DIVERSITY IN THE UNIVERSITY AND BUSINESS

Why the Business Case for Diversity Is Wrong

IAN MAITLAND*

ABSTRACT

Diversity is an idea whose time has come. As with other ideas whose time came, because diversity resonates with the zeitgeist, it has received little critical scrutiny. What is true of diversity, broadly conceived, is also true of one of its contemporary rationales, namely the business case for diversity. That is the claim that demographically diverse groups outperform more homogeneous groups “even when those homogeneous groups are made up of the best problem-solving individuals.” In this article, I scrutinize the business case in the context of the acrimonious debate over the “underrepresentation” of women and minorities in tech firms. My findings suggest that the business case is founded on hype rather than sound empirics and conceptual rigor. What is more, the rhetorical violence of the campaign to force tech firms to diversify their workforces has undermined the foundations of cooperation in demographically mixed teams by setting race against race and sex against sex, thus putting at risk any possible gains from diversity.

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* Professor of Business Ethics, Carlson School of Management, University of Minnesota. I am grateful to the participants of the 2017 Georgetown Institute for the Study of Markets and Ethics Symposium on the Ethics of Diversity for their comments. © 2018, Ian Maitland.

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INTRODUCTION: THE TRIUMPH OF DIVERSITY

This paper examines the “business case for diversity.” The business case promises that businesses that achieve gender and racial balance in their workforces or work teams will see payoffs in terms of greater productivity and innovativeness.

Diversity is an idea whose time has come. The business case has been embraced by powerful constituencies. Academics are largely progressives and have welcomed findings that support their agenda of diversity and inclusion.¹ It has been welcomed by advocates for identity groups who see it as a new marketing tool. It has found favor in large swathes of the media who have rapidly picked it up and propagated it.² Legions of practitioners and consultants have sprung up to help businesses meet their diversity goals.³

The business case is a spin-off of the concept of *diversity*. As is well-known, diversity's origins are not traceable to a lab or doctoral dissertation but to a Supreme Court opinion. The idea originated in Justice Lewis Powell's plurality opinion in *Regents of the University of California v. Bakke*.⁴ Writing in 2006, Yale Law School's Peter Schuck noted when the idea was first applied to preferential admissions for minorities at universities, diversity was “merely the current rationale of convenience” for longstanding policies of racial and other preferences.⁵ As Schuck describes, advocates for preferences were slow to adopt the rationale. They viewed group preferences as backward looking—intended to correct historical injustice—rather than forward-looking. So even though Powell's opinion eventually became the rationale of choice for racial and other preferences, it was only after a series of reversals in polling places and courts that the liberal academic establishment turned to this rationale in earnest.

From its conception, then, diversity has essentially been a political or legal theory favored by advocates of identity politics. Its origins still define it.

1. Alice H. Eagly, *When Passionate Advocates Meet Research on Diversity, Does the Honest Broker Stand a Chance?*, 72 J. SOC. ISSUES 199 (2016). Eagly's article is based on her Presidential Address delivered at the 2015 conference of the Society for the Psychological Study of Social Issues. See Alice H. Eagly, Address at the Conference of the Society for the Psychological Study of Social Issues (June 21, 2015).

2. See, e.g., Nicholas Kristof, *Twitter, Women, and Power*, N.Y. TIMES (Oct. 24, 2013), <http://www.nytimes.com/2013/10/24/opinion/kristof-twitter-women-power.html> [<https://perma.cc/SUQ7-47LD>].

3. Todd L. Pittinsky, *We're Making the Wrong Case for Diversity in Silicon Valley*, HARV. BUS. REV. (Apr. 11, 2016), <https://hbr.org/2016/04/were-making-the-wrong-case-for-diversity-in-silicon-valley> [<https://perma.cc/VR2N-YF5L>].

4. 438 U.S. 265 (1978).

5. Peter H. Schuck, *Affirmative Action: Past, Present, and Future*, 20 YALE L. & POL'Y REV. 1, 34 (2002), [<https://perma.cc/T6FM-DUV6>]. See also PETER H. SCHUCK, *DIVERSITY IN AMERICA: KEEPING GOVERNMENT AT A SAFE DISTANCE* (2005).

“Science” has ever since been playing catch-up—trying to supply a scientific foundation for what is a political objective.

The business case for diversity also serves as a rationale for group preferences. It simply repurposed Powell’s life-raft for group preferences in college or university admissions in *Bakke* for use in the employment context. In this paper, I argue that the primary function of the business case is to lend a veneer of scientific respectability to the political program of gender and racial balance in the workforce. I argue that the scientific evidence does not support the claims made by advocates of diversity in the workplace and the actions of the advocates themselves suggest that they don’t take the idea seriously. My takeaway is that diversity, and by extension the business case for diversity, is mostly political sloganeering.

That is not to deny that the business case has some true believers. There is no doubting that the invention of diversity was a stroke of advertising or rhetorical genius. In contrast to group preferences, which it essentially perpetuated and expanded, the idea of diversity has not aroused the same hostility. It is emollient and soothing. It disarms opposition. It is a triumph of the art of political rhetoric. Who can object to diversity? It appeals to our sense of who we are or aspire to be. It flatters our self-image. Unlike explicit preferences, with their divisive rhetoric of rectifying past injustices, diversity is forward-looking. It promises collaboration for our common benefit. It can also be a source of national competitive advantage. We want it to be true.⁶

Today, there is probably not a single university president or Fortune 500 CEO who would survive a ‘New York minute’ if he or she dared to publicly question diversity. True, that is not simply a triumph of framing. Diversity is the *soft* sell, which is backed up by the *hard* sell of the power of the purse. The threat of being cut-off from federal funds has been particularly effective at converting CEOs and educators.

I examine the business case for diversity in the context of Silicon Valley. U.S. tech firms like Google (formerly James Damore’s employer), Apple, Facebook, and Amazon, among others, have been the target of an intense media campaign to shame them into balancing their workforces. The term “balancing” needs some explication. For most advocates it means hiring a workforce that, in Bill Clinton’s phrase, “looks like America.” But, especially in Silicon Valley, where

6. See Eugene Volokh, *Diversity, Race as Proxy, and Religion as Proxy*, 43 UCLA L. REV. 2059, 2059–60 (1996) (“Diversity is particularly appealing because of what it is not. It is not based on theories of racial responsibility. It is not based on a vision of group rights, or on a theory that proportional racial representation is an end in itself. It is not based on controversial views of compensation for past discrimination. It does not require a different level of justification for programs that disadvantage whites than for programs that disadvantage minorities. It does not even require a social consensus about the magnitude of present discrimination. . . . Diversity is appealing because it’s forward-looking; it ascribes no guilt, calls for no arguments about compensation. It seems to ask simply for rational, unbigoted judgment: thoughtful professionals evaluating the whole person, including the regrettably but undeniably important factor of race, in a quest to achieve an eminently legitimate, even uncontroversial, goal.”).

women programmers and software engineers are about one-fifth of the total, and where racial minorities are less than one-twentieth of the total, the term may be best decoded as meaning substantial strides toward eventual parity.

In this essay, I focus primarily on the noisy recriminations over the gender imbalance in Silicon Valley. At the outset, I should mention the *pipeline* issue. Women represented 18.1 percent of the nation's computer science graduates in 2014.⁷ You might think that the inexorable 18.1 percent would constitute a complete defense for the “underrepresentation” of women in tech firms' workforces. However, you would be mistaken. Diversity advocates are adamant the pipeline cannot in any way excuse tech firms from their duty to hire the missing fifty percent.⁸

One remarkable aspect of the conflict over the number of women and minorities employed by Silicon Valley is how one-sided it is. The tech behemoths that bestride our economy turn out to be—in political terms—puny weaklings in the face of the shaming campaign directed against them. They are completely unnerved and outmatched by the diversity propaganda mill.⁹ One last preliminary

7. NATIONAL SCIENCE FOUNDATION, WOMEN, MINORITIES, & PERSONS WITH DISABILITIES IN SCI. & ENGINEERING 6 (Jan. 2017), <https://www.nsf.gov/statistics/2017/nsf17310/static/downloads/nsf17310-digest.pdf> [<https://perma.cc/9HMX-NP7K>].

8. I do not mean to imply that Silicon Valley only hires computer science graduates even for its technical positions. For example, James Damore has a degree in computational biology. But the gender ratio is revealing for two reasons: (1) tech workers are mostly recruited from computer science programs, and (2) the ratio of men and women in computer science is a rough gauge of the degree of interest in programming and software engineering. Note also that such ratios are routinely used by the courts to determine if disparities constitute *prima facie* evidence of discrimination: “Data can be evidence of discrimination, but only when an employer’s workforce is contrasted with the qualified and available labor pool and when other factors that might explain disparities are controlled for. Lack of qualifications and lack of interest might explain the disparities; women and minorities are underrepresented in the Science, Technology, Engineering and Math (STEM) majors, especially at the elite schools from which high tech firms hire most of their employees. Tech companies recruit employees through unconventional means, such as ‘acqui-hiring,’ where entire businesses are purchased, not for their products but for their talent. Acqui-hiring involves no individual hiring decision, but because start-up tech companies tend to be disproportionately white and male, this practice inadvertently adds to the homogeneity of larger companies.” Richard Thompson Ford, *Civil Rights 2.0: Encouraging Innovation to Tackle Silicon Valley’s Diversity Deficit*, 11 STAN. J. CIV. RTS. & CIV. LIBERTIES 155, 156 (2015) (citations omitted).

9. It is not just CEOs who seem unable to find their voices. Notoriously, even the President of Harvard has been shamed into silence. As is well-known, in 2005, at a conference at Harvard on *Diversifying the Science & Engineering Workforce* sponsored by the National Bureau of Economic Research, Harvard President Larry Summers provoked a firestorm of indignation by suggesting that one possible explanation (he mentioned three in all) for the underrepresentation of women “in tenured positions in science and engineering at top universities and research institutions” might be that men have more variability than women across traits, which means that men are over-represented in the upper and lower tails of ability distributions. Lawrence H. Summers, Remarks at NBER Conference on *Diversifying the Science & Engineering Workforce* (Jan. 14, 2005), https://www.harvard.edu/president/speeches/summers_2005/nber.php [<https://perma.cc/C7G9-P37H>]. For this he was sacrificed to the *zeitgeist*. As Richard Posner said: “For these actions, Summers—the most exciting and dynamic president that Harvard has had since James Conant—has been (or at least has felt) compelled to undergo a humiliating course of communist-style ‘reeducation,’ involving repeated and increasingly abject confessions, self-criticism, and promises to reform. He has been paraded in a metaphorical dunce cap.

point: what I will refer to as “diversity” is generally more accurately described as “forced diversity.”

I. THE BUSINESS CASE FOR DIVERSITY: *EVIDENCE*

To start, there are some reasons for skepticism about the science that supposedly underpins the current vogue for the *business case* for diversity. The business case argues that a diverse work team or workforce is a source of competitive advantage for firms because it enables greater creativity, innovation, and productivity. It rests on “the idea that groups of diverse individuals are more effective in solving problems and predicting events than are homogeneous groups, even when those homogeneous groups are made up of the best problem-solving individuals.”¹⁰

It is important to note that this reasoning is based “on the assumption that diversity of all types brings *cognitive heterogeneity*—differences between group members in their knowledge, perspectives, and heuristics, which yield more tools and resources for doing the work of the group.”¹¹ This idea has been critiqued for its unidimensionality, but remains the foundation for much of the theorizing regarding the benefits of diversity to this day.¹²

Despite diversity’s vogue, in a recent review of meta-analyses of empirical work on the performance effects of workgroup diversity by gender and race/ethnicity, Alice Eagly found “surprising contradictions between what advocates claim and what research has demonstrated.”¹³ Despite advocates’ claims that diverse task groups enhance performance, Eagly says, “research findings are mixed, and repeated meta-analyses have yielded average correlational findings that are null or extremely small.”¹⁴ In summary, “when aggregated across studies, an extensive research literature on group performance has shown no overall advantage for demographically diverse groups, with a small tendency toward disadvantage, especially on subjective measures of performance.”¹⁵

Eagly uses her findings to raise questions about the professional duties of advocates, policy makers, and scientists when there is “clear evidence that broad, simple claims about diversity’s positive relations to . . . group effectiveness are not supported by scientific research”¹⁶ and she urges scholars not to allow advocacy to drive their scholarship: “Rather than ignoring or furthering distortions of scientific knowledge to fit advocacy goals, scientists should serve as honest brokers

Why has he consented to participate in this ritual of self-abasement? Why has he refused to face down his critics?” Richard Posner, *The Summers Controversy and University Governance*, BECKER-POSNER BLOG (Feb. 27, 2005, 5:11 PM), <http://www.becker-posner-blog.com/2005/01/index.html> [<https://perma.cc/BNQ7-9JJ9>].

10. Eagly, *supra* note 1, at 204.

11. *Id.*

12. *Id.*

13. *Id.* at 200.

14. *Id.* at 199.

15. *Id.* at 207.

16. *Id.*

who communicate consensus scientific findings to advocates and policy makers in an effort to encourage exploration of evidence-based policy options.”¹⁷

But there is probably a still deeper problem that Eagly does not address, namely that even the extant literature may exaggerate the case for diversity for reasons of ideologically driven publication bias. The problem is that the field of social psychology lacks—for want of a better word—diversity. It is ideologically monochrome. It is dominated by liberals and progressives who unashamedly admit that they would be more likely to reject work for publication if it has a conservative slant.¹⁸ Todd Pittinsky notes the confirmation bias that infects work on diversity:

As an academic, I should point out [an] issue with the evidence that can only be called political. Anyone who conducts a study finding that diversity correlates with innovation has a great shot at being published in a journal. Anyone who does not find such a correlation or, worse, who finds that workplace diversity leads to *less* profitability or productivity has little chance of being published unless he or she is a very prominent researcher. In short, we’re seeing the evidence that we’re being allowed to see. Naturally, this creates a feedback loop so that researchers who have negative or equivocal findings about diversity’s benefits are less likely to write up their findings and submit them for publication.¹⁹

17. *Id.* at 199.

18. The proportion of social psychologists who call themselves conservatives is even smaller than the proportion of women tech workers in Silicon Valley. Yoel Inbar and Joris Lammers surveyed a large number of social and personality psychologists and found that only 6% described themselves as conservative “overall.” However, the more disturbing finding is that “[i]n decisions ranging from paper reviews to hiring, many [respondents] said that they would discriminate against openly conservative colleagues. The more liberal respondents were, the more they said they would discriminate.” Yoel Inbar & Joris Lammers, *Political Diversity in Social and Personality Psychology*, 7 PERSPECTIVES ON PSYCHOL. SCI 1 (2012); see also John Tierney, *Social Scientist Sees Bias Within*, N.Y. TIMES (Feb. 7, 2011), <http://www.nytimes.com/2011/02/08/science/08tier.html> [<https://perma.cc/S6AH-QETX>].

19. Pittinsky, *supra* note 3. Lee Jussim notes that: “Papers in my home discipline of social psychology that can be used to craft narratives advancing social justice are generally cited far more than papers of equal or even higher scientific quality that contest those narratives. Here are two concrete examples. When a paper (link is external) finds stereotype bias, it gets nearly 1,000 citations but when a failed replication of that same study gets published, it gets 30. When a paper reporting a single study finds evidence of bias *against* women in STEM it gets 600 citations; when another paper reporting *five studies* finds gender bias *favoring* women, it gets 70 citations.” *The Psychology of the New McCarthyism, Blacklisting: The Reemergence of an Old Evil*, PSYCHOLOGY TODAY: RABBLE ROUSER (Aug 11, 2017), <https://www.psychologytoday.com/blog/rabble-rouser/201708/the-psychology-the-new-mccarthyism> [<https://perma.cc/65FM-6RBC>]; see also Fabian Homberg & Hong T. M. Bui, *Top Management Team Diversity: A Systematic Review*, 38 GROUP & ORG. MGMT. 455, 479 (2013) (finding no link between [top management team] diversity and performance, but finding evidence for publication bias).

II. THE MARKETING OF DIVERSITY

A. *The Business Case in Silicon Valley: Out of the Mouth of Babes and Sucklings*

Nowhere has the campaign to diversify a predominantly male workforce been more intense than in Silicon Valley. The campaign is marked by a number of features that tend to cast doubt on the business case. In the first place, that there is a campaign at all should put observers on their guard. If diversity increases performance, it should not be necessary to twist the arms of managers.

A second reason for skepticism about the business case is *who* is making it. The principal evangelists for the business case have been interested parties like advocates for women's or minority causes and consultants who see it as a business opportunity. There is something incongruous or presumptuous about advocates with little or no business experience instructing the executives of U.S. tech companies on how to run their businesses. Even academics are hesitant to second-guess managers' decisions. Ronald Gilson put it best: "One of the things I have learned from being an academic is that we usually discover things after the rest of the world, not before. The beetles usually figure out what they are supposed to be doing a long time before the entomologists ever come along to tell them why they are doing it."²⁰ In this case, too, it is not obvious that the beetles need their advocates' advice.

Third, if diversity is a source of competitive advantage, it is highly improbable that fact would not have occurred to the very people whose fortunes and careers depend on their skill at making those judgments. True, those judgments are art, not science, but if the truth is staring us in the face, it is unlikely that it has been missed by the tech firms. Therefore, the rebuttable presumption follows that that the present demographic compositions are at least approximately the ones that best fit the tech firms' requirements, though as the industry's environment changes, those requirements are constantly evolving. Over time, it is quite possible that firms' actual sex ratios (or mix of "gendered" skills) will change, with lags, to reflect these evolving challenges. It is next to impossible to predict what the optimal mix of genders or races will be for maximizing profits. That is a problem we prudently leave to the professionals.

Fourth, it is not obvious that, of all U.S. industries, *Silicon Valley* needs advice from well-wishers. As Pittinsky says, "Here we have one of the least diverse sectors of the U.S. economy. . . . Yet Silicon Valley is also by far one of the most innovative collections of people not only in the U.S. today but perhaps anywhere, ever. This might explain why the creativity and innovation arguments for workplace diversity, while seemingly compelling at first glance, have not had the expected impact on business investment in diversity."²¹ The *New York Times's*

20. MARGARET M. BLAIR, WEALTH CREATION AND WEALTH SHARING: A COLLOQUIUM ON CORPORATE GOVERNANCE AND INVESTMENTS IN HUMAN CAPITAL 33 (2010).

21. Pittinsky, *supra* note 3.

Manjoo puts the same question: “If a lack of diversity hasn’t hurt Google so far, why alter how the company works, apparently for reasons of political correctness?”²² So one obvious objection is that the business case for diversity does not accurately predict the past, so why should we have confidence that it can predict the future?

There are possible rebuttals, but they aren’t convincing. One is that I overlook the fact that there are deeply ingrained cultural barriers that prevent managers from appreciating the advantages of hiring women. But, ingrained or not, such barriers cannot long withstand competition. As Friedrich Hayek pointed out, competition is a “procedure for discovering facts which, if the procedure did not exist, would remain unknown or at least would not be used.”²³ Assuming *ex hypothesi* that women are underpaid and their talents are not being fully employed, then firms that, either by accident or because they have different tastes, hire women will enjoy a competitive advantage. As this becomes evident, to maintain their competitive position, rival tech firms will have no choice but to follow suit and hire women or go out of business.

Another theoretical possibility is that tech managers and venture capitalists are fully aware of the competitive advantages of diversity but they prefer the congeniality of working with people who look like them over higher profits. In other words, they indulge a “taste” for discrimination. There are two problems with this claim. First, no evidence that I know of supports the proposition that they are deficient in greed. Second, other things equal, hiring for congeniality rather than on merit will put tech firms at a competitive disadvantage vis-à-vis their unprejudiced rivals. Such firms will lose ground to their unprejudiced rivals and, ultimately, be supplanted by them. William Baumol has explained how, in a perfectly competitive market, systematic discrimination on the basis of race or gender—indeed on the basis of anything but profit—is suicidal:

[If a firm] proposes to pay a white male more than it offers, say, to a black woman of equal or superior ability (that is, whose marginal revenue product is higher) . . . such behavior will render the discriminating firm vulnerable to destruction through the competition of rival enterprises whose morality in terms of social discrimination is superior or whose greed is sufficiently powerful to lead them to forgo behavior consistent with their managements’ sexual or racial prejudices.

Thus, in this case, perfect competition and perfect contestability alike tolerate no business deviation from virtue. Regardless of the personal morality of a management . . . the outcome will be exactly the same.²⁴

22. Farhad Manjoo, *Exposing Hidden Bias at Google*, N.Y. TIMES (Sept. 24, 2014), <https://www.nytimes.com/2014/09/25/technology/exposing-hidden-biases-at-google-to-improve-diversity.html> [https://perma.cc/4X45-JFXC].

23. F.A. Hayek, *Competition as a Discovery Procedure*, 5 Q.J. AUSTRIAN ECON. 9 (2002).

24. WILLIAM J. BAUMOL & SUE ANNE BATEY BLACKMAN, *PERFECT MARKETS AND EASY VIRTUE* 18 (1991).

It is well-known that the market for programmers and software engineers is highly competitive, so these pressures should be decisive. I take up this argument again in the conclusion of this paper.

B. *Two Concepts of Diversity*

It will be helpful to distinguish between two sorts of diversity. People differ along countless dimensions, but two are relevant to our discussion. They are *cognitive or epistemic* diversity (what Eagly calls “job-related” diversity), that “pertains to differences in knowledge and expertise related to the problems that work groups are charged with solving,” and *demographic* diversity, that “pertains to differences in attributes such as gender, race, and age.”²⁵

The idea that job-related diversity might enhance the performance of a team holds intuitive appeal. After all, if Cambridge’s Cavendish Lab had been physically organized into separate departments, then James Watson, a biologist, and Francis Crick, a physicist, might never have shared an office there and so might never have built the first model of DNA.²⁶ But the diversity touted by advocates is *demographic diversity*. For all practical purposes, diversity in the American labor force has become synonymous with racial, gender and ethnic differences. The business case is almost invariably couched in terms of attaining gender and racial balance or parity in the workplace, but the arguments and evidence offered for the business case generally rely on evidence about job-related diversity. That is to say, the business case for demographic diversity is largely derivative of *job-related diversity*.

The same conflation of cognitive or epistemic diversity and demographic diversity can be seen, for example, in McKinsey & Co.’s report “Diversity Matters.”²⁷ The report trumpets the advantages of diversity for “better decision making and innovation.” But note that these advantages derive from *viewpoint* diversity: “A diversity of informed views enables objections and alternatives to be explored more efficiently and solutions to emerge more readily and be adopted with greater confidence.”²⁸ The McKinsey report relies heavily on Scott Page’s influential work on the effects of diversity. However, Page’s work was based on theories about cognitive diversity—what McKinsey calls “professional” diversity—like

25. Eagly, *supra* note 1, at 205.

26. JAMES D. WATSON, *THE DOUBLE HELIX: A PERSONAL ACCOUNT OF THE DISCOVERY OF THE STRUCTURE OF DNA* (1968). See PHILIP KITCHER, *THE ADVANCEMENT OF SCIENCE: SCIENCE WITHOUT LEGEND, OBJECTIVITY WITHOUT ILLUSIONS* (1993). Kitcher discusses optimal diversity in a scientific discipline. He emphasizes the importance of both an adequate consensus and of doctrinal consensus in a scientific discipline. More diversity may be babel with more misunderstandings and lack of communications and frictions. These may offset any benefit from cross-pollination of ideas. See also Geoffrey M. Hodgson, *Dr. Blaug’s Diagnosis: Is Economics Sick?*, in MARK BLAUG: *REBEL WITH MANY CAUSES* 87 (Marcel Boumans & Matthias Klaes eds. 2013).

27. VIVIAN HUNT, DENNIS LAYTON & SARA PRINCE, MCKINSEY & CO., *DIVERSITY MATTERS 17* (Feb. 2, 2015), <https://assets.mckinsey.com/~media/857F440109AA4D13A54D9C496D86ED58.ashx> [<https://perma.cc/S8V5-47LN>] [hereinafter McKinsey].

28. *Id.*

having an engineer and a lawyer on a team.²⁹ McKinsey, illegitimately in my view, extrapolates Page’s findings about cognitive/viewpoint diversity to demographic diversity, claiming that Page “understood that benefits derived from one form of diversity would not necessarily be derived from others, but believed that professional and demographic diversity often went hand in hand.”³⁰

This means that the business case for diversity rests on the questionable premise that race and gender are adequate proxies for different viewpoints—i.e., different perspectives from different experiences—or other forms of job-related diversity. Every human being is unique, so whenever there are two people in a room, there is diversity. But it is not obvious that the diversity is much greater if the two people in the room are of different races or sexes. In his book *Liberal Racism*, Jim Sleeper describes how he was once challenged by an Asian-American student at Harvard.³¹ “But don’t you believe in diversity?” the student asked. Sleeper replied, “In the spirit of diversity, tell me three things you’d like to assume I know about you right now, given that I can see that you are Asian.”³² More recently, Apple’s new Vice President of Inclusion and Diversity, Denise Young Smith made the same observation: “There can be 12 white blue-eyed blonde men in a room and they are going to be diverse too because they’re going to bring a different life experience and life perspective to the conversation.”³³ Little surprise that, after six months on the job—and 20 years at the company—Smith is no longer employed at Apple.³⁴

The claim that demographic diversity is a proxy for viewpoints or job-related diversity seems dubious at best, particularly since job applicants to, say, Google, self-select and undergo the same training. Google’s James Damore got himself fired because he allegedly questioned the fitness of women to work at Google. As his boss said: “To suggest a group of our colleagues have traits that make them less biologically suited to that work is offensive and not OK.”³⁵ But, of course, Damore suggested nothing of the sort. He had nothing at all to say about

29. SCOTT E. PAGE, *THE DIFFERENCE* (2008). Page’s work is largely based on theoretical modeling. Comparing his own work with Robert Putnam’s, Page says: “Putnam had done survey research, I had written theoretical models.” *Id.* at xiv. See Robert Putnam, *E Pluribus Unum. Diversity and Community in the Twenty-First Century*, 30 SCANDINAVIAN POL. STUD. 137 (2007).

30. McKinsey, *supra* note 27. In fairness, Page probably invited this confusion by using the same formulation: “Identity diversity and cognitive diversity often go hand in hand.” See Page, *supra* note 29, at xiv.

31. JIM SLEEPER, *LIBERAL RACISM: HOW FIXATING ON RACE SUBVERTS THE AMERICAN DREAM* xxv (2002).

32. *Id.*

33. *Apple Diversity Chief Denise Young Smith Apologizes to Staff for Statements Made at Summit*, MACDAILYNEWS (Oct. 14, 2017), <http://macdailynews.com/2017/10/14/apple-diversity-chief-denise-young-smith-apologizes-to-staff-for-statements-made-at-summit/> [https://perma.cc/D87E-KY6S].

34. Sidney Fussell, *Apple’s Diversity Chief Is Leaving After Six Months*, GIZMODO (Nov. 17, 2017), <https://gizmodo.com/apples-diversity-chief-is-leaving-after-six-months-1820546336> [https://perma.cc/TZ9D-AEBN].

35. Peter Singer, *Why Google was Wrong: Did James Damore Really Deserve to be Fired for What He Wrote?*, N.Y. DAILY NEWS (Aug. 10, 2017), <http://www.nydailynews.com/opinion/google-wrong-article-1.3399750> [https://perma.cc/EEH3-FEM4] (quoting Google CEO Sundar Pichai).

Google's female employees.³⁶ Rather, he offered an explanation for *why there were not more of them*. He raised the possibility that one reason we don't see equal representation of women in tech is the "distribution of preferences and abilities of men and women differ in part due to biological causes."³⁷ Damore was simply trying to counter the pervasive narrative that any disparity between men and women must be explained by bias.

Not only is the theory that race and gender are adequate proxies for different viewpoints or knowledge or expertise empirically questionable, but it perpetuates stereotypes. As Peter Wood says: "One of the greatest moral gains of the Civil Rights Movement was the widespread recognition in American society that stereotyping is pernicious. The diversity movement, however, doubles back on that lesson. It offers a justification of sorts for reviving and maintaining racial stereotypes that should be recognized as morally repellent."³⁸

One final point needs to be made about the two concepts of diversity: If demographic diversity is valued because it is a proxy for differences in viewpoints or experiences, that leaves the question of why employers settle for proxies, *when they can hire the real thing*. Can it be all that hard to measure job candidates' diversity of viewpoint or experience? The fact that firms do not do this is a tip-off that the business case for diversity is a (pretty threadbare) cloak for a political agenda.

C. *Some Forms of Diversity are More Equal than Others*

In the previous section, I referred to the fact that some scholars and advocates for diversity have suggested that demographic diversity is a proxy for differences in viewpoints and job-related knowledge or skills. An example can be found in McKinsey's report *Diversity Matters*.³⁹ The report quotes Paul Block, CEO of US sweetener manufacturer Merisant: "People with different lifestyles and different backgrounds challenge each other more. Diversity creates dissent, and you need that. Without it, you're not going to get any deep inquiry or breakthroughs."⁴⁰ Another example is from Google CEO Sundar Pichai: "A diverse mix of voices leads to better discussions, decisions, and outcomes for everyone."⁴¹

36. *Id.* ("Damore explicitly, and more than once, made it clear that he was not reducing individuals to a group, and so was not saying that all—or even, necessarily, any—women employed by Google as software engineers are less biologically suited to their work than men. Google is a very selective employer, and so it is highly probable that Google's selection processes have led to Google employing women who are, in specific traits, uncharacteristic of women as a whole. The target of Damore's memo was the idea that we should expect women to make up half the software engineering workforce, and that Google should take measures directed towards achieving that outcome.").

37. James Damore, *Google's Ideological Echo Chamber: How Bias Clouds our Thinking about Diversity and Inclusion* (July 2017) (unpublished manuscript), <https://assets.documentcloud.org/documents/3914586/Googles-Ideological-Echo-Chamber.pdf> [<https://perma.cc/EN82-QHTJ>].

38. PETER WOOD, *DIVERSITY: THE INVENTION OF A CONCEPT* 43 (2004).

39. McKinsey, *supra* note 27, at 17.

40. *Id.*

41. *Google Is Embroiled in an Internal Diversity Row*, MIT TECH. REV. (Aug. 7, 2017), <https://www.technologyreview.com/the-download/608565/google-is-embroiled-in-an-internal-diversity-row/> [<https://perma.cc/5RVQ-U9PT>].

But what happens when viewpoint diversity or dissent collides with demographic diversity? At Google, as we know, demographic diversity trumped viewpoint diversity. Pichai, whom I quoted in the last paragraph, is the man who fired James Damore for questioning whether the underrepresentation of women and minorities in Silicon Valley was the result of bias.

Ironically, by firing Damore, Google lent credence to Damore's critique of the company as "an ideological echo chamber where some ideas are too sacred to be honestly discussed."⁴² The company created "a climate of shaming and misrepresentation [that] is disrespectful and unaccepting of anyone outside its echo chamber."⁴³ It instituted mandatory "diversity training" on the premise that "all disparities in representation are due to oppression" and that discrimination is necessary "to reach equal representation."⁴⁴ Damore has described his mandatory diversity training: "You're not allowed to say that—that's sexist."⁴⁵ The training sessions expressly prohibited employees from questioning whether implicit bias was to blame for the underrepresentation of women. For instance, in a slide titled *off-topic for this session*, the first point underneath that heading reads: "Debating whether bias exists at your organization."⁴⁶

The Damore case forced Google to show its hand. It came to a diversity showdown, and, for Google, demographic diversity trumped viewpoint diversity. To appease critics, Google has created an ideological monoculture. I suspect that, as Google goes, so goes the tech industry.

If all businesses pursue this demographic diversity, that may have the perverse effect of making businesses less diverse at the global level. The ideal of diversity has come to stand for a program of making all businesses the same—they are all under intense pressure to have workforces that reflect the demographics of the larger US population. In Bill Clinton's phrase, the idea is that all businesses should "look like America," in terms of race and gender.⁴⁷ But, if *all* businesses "look like America," then there will be less diversity *among* businesses. Or, put differently, while companies will have more *internal* diversity, all companies will come to resemble each other. Different forms of organization and different mixes of employees may themselves be a form of diversity that contributes to greater creativity and innovation. Each unique business is an experiment. By trial and error, we learn what forms of business organization work best. I raise this point to reinforce my claim that advocates of diversity do not practice what they

42. Damore, *supra* note 37.

43. *Id.*

44. *Id.*

45. *Id.*

46. John Shinal, *These Slides from Google's Diversity Training Program May Help Explain Why Fired Engineer Felt Silenced*, CNBC (Aug. 15, 2017), <https://www.cnbc.com/2017/08/15/google-diversity-training-slides-prohibit-debate-promote-secrecy.html> [<https://perma.cc/XXX9-TFRU>].

47. "As president, Bill Clinton lived up to his promise. His cabinet and White House staff did, indeed, look like America." Terry Edmonds, *President Clinton's Civil Rights Legacy: From Little Rock to the Nation*, HUFFPOST: THE BLOG (Oct. 4, 2011), https://www.huffingtonpost.com/terry-edmonds/clinton-civil-rights_b_994501.html [<https://perma.cc/WZ6B-5GER>].

preach. If there is a business case for diversity, we should expect to find it systematically applied, not simply used to rebrand longstanding policies of racial and gender preference.

D. How Diversity Politics Undermines the Business Case

The business case for diversity rests on the premise that demographically mixed groups can leverage their differences to be more creative and productive. Assuming such benefits exist, however, employers will be unable to harvest them because diversity policies in the workplace hinder cooperation between people of different groups. The reason for this is that ethnic diversity has well-known *downsides* that are rarely mentioned in the glossy brochures making the business case. Robert Putnam shows that, in more ethnically diverse neighborhoods, there is less trust, less altruism, and fewer friendships.⁴⁸ Not only do people in diverse neighborhoods have less trust in those who are ethnically different, they also tend to be less trusting of people who are similar to them. These fissures already exist in the workplace; policies that treat employees differently based on demography may widen these fissures into chasms.

This problem is inherent in all diversity policies. Mathematically, diversity is a zero-sum game. Obviously, the ratio of women and minorities in, for example, Google's workforce, can only be increased by simultaneously *decreasing* the ratio of males and whites (and, in Silicon Valley, Asians). What is good for the cause of integrating women into Silicon Valley must by definition be bad for men. Thus, when the *Wall Street Journal* runs a news story with the title "Apple Makes Slight Diversity Gains,"⁴⁹ the title might just as accurately read "Men at Apple Make Slight Diversity Losses." Diversity policies inescapably highlight group membership and are framed in terms of group identity. As a consequence, policies intended to increase diversity may perversely hinder cooperation in the workplace by heightening employees' identification with their race or gender and thereby aggravating tensions between different classes of workers—and even within groups of workers. Teams won't be more productive if they are driven by ideological conflict and mutual suspicion of one another's motives.

The means by which diversity advocates have chosen to advance their goals worsens polarization in the workplace. Tech companies are subjected to an incessant drumbeat of criticism from magazines and newspapers. Women and

48. Putnam, *supra* note 29; see also Scott E. Page, *supra* note 29, at xv ("In practice team members don't always get along . . ."); Ryan Muldoon, *Paradox of Diversity* 16 GEO. J.L. & PUB. POL'Y (2018).

49. Georgia Wells, *Apple Makes Slight Diversity Gains*, WALL ST. J., Aug. 4, 2016. See also *Focusing on Diversity*, GOOGLE (Jan. 30, 2016), <https://www.blog.google/topics/diversity/focusing-on-diversity30/> [<https://perma.cc/7MN7-EJ3J>] (finding that 21% of Google's technical hires in 2015 were women). Therefore, if we assume that 18% of Google's applications for its technical workforce were women (corresponding to the share of women computer science graduates nationally), a back-of-the-envelope calculation (and a few assumptions) suggests that Google hired men at just over 4/5 the rate that it hired women. That is only a whisker away from the *Griggs* four-fifths requirement used for Equal Employment purposes to determine if a disparate income challenge may be made. So Google may be inviting reverse discrimination lawsuits.

minorities are taught that they face unrelenting hostility in the workplace from white men who oppose their presence there. This message primes women and minorities to interpret every setback, frustration, or reverse as the result of sexism in the workplace. The accusatory rhetoric thrown about by advocates can hardly create *détente* between the sexes in the workplace. Why would victims collaborate with their oppressors? It is plausible to speculate that the accusatory rhetoric of the diversity movement has had the perverse effect of *detering* women from seeking employment in tech.

Assuming there are potential benefits deriving from workplace diversity, they will not be reaped thanks to the way the diversity movement has undermined the foundations of cooperation in mixed teams by setting race against race and sex against sex. There is ample evidence of this polarization.⁵⁰ Writing before the Damore *affaire*, Dover et al. reported that workplace diversity policies “may function as a cue that members of their group are unwelcome or under-valued.”⁵¹ “We found evidence that it not only makes white men believe that women and minorities are being treated fairly—whether that’s true or not—it also makes them more likely to believe that they themselves are being treated unfairly.”⁵² Dobbin & Kalev report that lab studies show that the kind of force-feeding used in diversity training can activate bias rather than eradicate it.⁵³

E. Witch Hunts for Bias

Women are not the only group impacted by diversity training in the workplace. It is a major source for the alienation of male employees in Silicon Valley. These training sessions are intended to root out implicit bias in the workplace. Naturally, then, male employees may experience diversity training as a rebuke—one they are prohibited from defending themselves against.⁵⁴ After all, there is no point rooting out implicit bias if it does not exist. Therefore, the logical inference

50. Of 440 Google employees who responded to a blind survey, 56% said they disagreed with Google’s decision to fire Damore. Jack Nicas, *Google Cancels Meeting on Diversity, Citing Safety Concerns for Employees*, WALL ST. J. (Aug. 10, 2017), <https://www.wsj.com/articles/google-engineers-firing-fuels-debate-among-employees-1502395326> [<https://perma.cc/C9ZM-7FUD>]. *Motherboard* captured tweets and/or email threads from Google employees and published them. See *infra* note 75. They give us a vivid glimpse into the polarization in Google’s workforce. See *infra* Appendix 1 for the Google employees’ reactions.

51. Tessa L. Dover, Brenda Major & Cheryl R. Kaiser, *Diversity Policies Rarely Make Companies Fairer, and They Feel Threatening to White Men*, HARV. BUS. REV. (Jan. 4, 2016), <https://hbr.org/2016/01/diversity-policies-dont-help-women-or-minorities-and-they-make-white-men-feel-threatened> [<https://perma.cc/7923-CLRJ>].

52. *Id.*

53. Frank Dobbin & Alexandra Kalev, *Why Diversity Programs Fail*, HARV. BUS. REV., July–Aug. 2016, at 52. According to Dobbin and Kalev: “Executives favor a classic command-and-control approach to diversity because it boils expected behaviors down to dos and don’ts that are easy to understand and defend. Yet this approach also flies in the face of nearly everything we know about how to motivate people to make changes. Decades of social science research point to a simple truth: You won’t get managers on board by blaming and shaming them with rules and reeducation.”

54. As noted earlier, at least in diversity training sessions, Google employees are prohibited from discussing whether their workplace is infected with bias or not. See Shinal, *supra* note 46.

from diversity programming is that the firm's management believes that some (or most) of the firm's male employees are carriers of implicit bias. That is where Damore and other male employees enter. They are the designated scapegoats. If the low number of women at Google is a national scandal, it is men's fault, or so it must feel.⁵⁵ If Damore is representative, male employees may feel betrayed by their employers who have failed to defend their honor and who have implicitly validated the charge of bias by adopting a program designed to eradicate it.

The *New York Times's* tech/Silicon Valley reporter Farhad Manjoo provides a fascinating glimpse of how Google (Damore's employer) developed a series of workshops or diversity training sessions aimed at making Google's culture more accepting of diversity.⁵⁶ He reports that:

Google's leaders say they are unhappy about the firm's poor gender diversity And so they are undertaking a long-term effort to improve these numbers, the centerpiece of which is a series of workshops aimed at making Google's culture more accepting of diversity.⁵⁷

Inevitably, the first question is, "how did Google learn that its culture is hostile to diversity?" Google did not actually conduct a test. According to Google's Human Resources Manager at the time, Laszlo Bock, Google had *very few* cases of overt discrimination against women. "This is a pretty genteel environment, and you don't usually see outright manifestations of bias," Bock said. "Occasionally you'll have some idiot do something stupid and hurtful, and I like to fire those people."⁵⁸

Notice that I referred to "overt" discrimination. What about evidence of implicit bias? Manjoo believes that Bock, who seems to have just heard about theories of implicit bias, wondered how such unconscious biases might be playing out at Google: "Mr. Bock suspected that the more pernicious bias was most likely pervasive and hidden, a deep-set part of the culture rather than the work of a few loudmouth sexists."⁵⁹ As Damore says, "At Google, we're regularly told that implicit (unconscious) and explicit biases are holding women back in tech and leadership."⁶⁰ Despite Google's proud boast to be data-driven, its implicit bias training was launched based on nothing more than a hunch. No surprise then that Manjoo reports that Google "has no solid evidence that the workshops, or many of its other efforts to improve diversity, are actually working."

55. No one could have missed the sophomoric lampooning of Silicon Valley's male workforce. Just search terms like "frat boys," "tech bros," "geeks," "nerds," "troglydites," "frat culture," and "frat party." Also, search "the problem with programmers," "taking Silicon Valley back from programmers," "the bro-tastic startup," "dress code for geek chic," "idiotic Silicon Valley programmers," "the Big Ole Fraternity," and so on, *ad infinitum* and *ad nauseam*.

56. Manjoo, *supra* note 22.

57. *Id.*

58. *Id.*

59. *Id.*

60. Damore, *supra* note 37.

To summarize, a claim of bias in a workplace like Google's is, to borrow Popper's term, "unfalsifiable" or irrefutable. If bias is observed, that goes to prove that there is bias. If bias isn't observed, then that goes to show that the bias is concealing itself—it is operating below our radar. As with all conspiracy theories, the absence of evidence of a conspiracy shows how diabolically ingenious the conspirators are at covering their tracks.

As Amy Wax and Philip Tetlock have written about the political uses of implicit bias theory:

Assuming everyone is biased makes the job easy: The problem of demonstrating actual discrimination goes away and claims of discrimination become irrefutable. Anything short of straight group representation—equal outcomes rather than equal opportunity—is “proof” that the process is unfair.⁶¹

It is of little wonder, then, that researchers report that “[t]hese approaches to managing diversity . . . are often developed by human resource managers and self-professed diversity experts who have neither the training in theoretical and empirical issues from science on diversity nor the necessary background to evaluate the effects of these programs.”⁶²

So what actually motivated Google's decision to adopt implicit bias training? Surely not Mr. Bock's whim. Nor do I believe that anyone in Google's management seriously believes that bias is pervasive at the company (it is currently arguing the opposite in the courts). You don't have to be a cynic to doubt that bias training had anything to do with making over the company's workplace culture. The most likely motivation is political insurance and virtue-signaling. The training is intended to signal to external audiences or constituencies that the company

61. Amy L. Wax & Philip Tetlock, *We Are All Racists at Heart*, WALL ST. J. (Dec. 1, 2005), <https://www.wsj.com/articles/SB113340432267610972> [<https://perma.cc/J3EC-KCV4>]; see also Amy L. Wax, *The Discriminating Mind: Define It, Prove It*, 40 CONN. L. REV. 979, 1022 (2008) (emphasis added). Over the past several years, major reviews of meta-analyses of research on the IAT or *Implicit Association Test* used in Google's diversity training have found the methodology wanting. “In the end, all of the meta-analyses converge on the conclusion that, across diverse methods of coding and analyzing the data, IAT scores are not good predictors of ethnic or racial discrimination, and explain, at most, small fractions of the variance in discriminatory behavior in controlled laboratory settings” F.L. Oswald et al., *Using the IAT to Predict Ethnic and Racial Discrimination*, 108 J. PERSONALITY & SOC. PSYCHOL. 562, 562 (2015); see also F.L. Oswald, *Predicting Ethnic and Racial Discrimination: A Meta-Analysis of IAT Criterion Studies*, 105 J. PERSONALITY & SOC. PSYCHOL. 171 (2013). A similar fate seems to be overtaking the concept of *microaggressions*. Scott O. Lilienfeld recommends abandoning the term “microaggression” and has called for moratorium on microaggression training programs: “Although the [microaggression research program] has been fruitful in drawing the field's attention to subtle forms of prejudice, it is far too underdeveloped on the conceptual and methodological fronts to warrant real-world application. I conclude with 18 suggestions for advancing the scientific status of the MRP, recommend abandonment of the term “microaggression,” and call for a moratorium on microaggression training programs and publicly distributed microaggression lists pending research to address the MRP's scientific limitations. Scott O Lilienfeld, *Microaggressions: Strong Claims, Inadequate Evidence*, 12 PERSP. PSYCHOL. SCI. 138 (2017).

62. Cheryl R. Kaiser et al., *Presumed Fair: Ironic Effects of Organizational Diversity Structures*, 104 J. PERSONALITY & SOC. PSYCHOL. 504 (2013).

is making a good-faith effort to address complaints about its treatment of women and its unbalanced workforce. That way the company hopes to appease public opinion, diversity advocates, the Department of Justice, and perhaps potential plaintiffs. If Google shamefully sacrifices its employees for its PR purposes, that is tough (Google might respond), but that is the way the game is played.⁶³

CONCLUSION

Notice that advocates of forced diversity have impaled themselves on a logical contradiction. Either women are basically the same as men or they are different. If women and men are basically the same, then hiring more women into a predominantly male workforce will not increase diversity. It would just mean hiring more of the same. But if women are different from men, then it should come as no surprise that they make different career choices. In that case, the disparities in Silicon Valley's workforce may be entirely innocent—the result of the free choices of women and men.

There are strong reasons for concluding that the latter explanation is true—that the underrepresentation of women in Silicon Valley may be the result of women's and men's choices. One telling finding that suggests this is the case was reported a few years ago. Ming-te Wang and his colleagues found that “mathematically capable individuals who also had high verbal skills were less likely to pursue STEM careers than were individuals who had high math skills but moderate verbal skills.”⁶⁴ No surprise there, you might think. But the study also found that “the group with high math and high verbal ability included more females than males.” In other words, it may be theorized, more men than women go into STEM fields because that is the only choice open to them. The gender disparity in STEM and Silicon Valley may be due to the fact that, in the aggregate, *women have more choice than men, not less.*

There is an abundance of evidence suggesting that the gender disparity in STEM fields, and presumably in Silicon Valley too, largely results from unforced individual choices. Recall that, according to the NSF, in 2014 only 18.1 % of computer science graduates from US colleges were women.⁶⁵ This pattern is evident early in life. “Gender differences in attitudes toward and expectations about math careers and ability (controlling for actual ability) are

63. “Currently, diversity initiatives' strongest accomplishment may be protecting the organization from litigation—not protecting the interests of underrepresented groups.” Tessa L. Dover et al., *Diversity Policies Rarely Make Companies Fairer, and They Feel Threatening to White Men*, HARV. BUS. REV. (Jan. 4, 2016), <https://hbr.org/2016/01/diversity-policies-dont-help-women-or-minorities-and-they-make-white-men-feel-threatened> [<https://perma.cc/JJJ2-EW6L>].

64. Ming-Te Wang, Jacquelynne S. Eccles & Sarah Kenny, *Not Lack of Ability but More Choice: Individual and Gender Differences in Choice of Careers in Science, Technology, Engineering, and Mathematics*, 24 PSYCHOL. SCI. 770 (2013).

65. NATIONAL SCIENCE FOUNDATION, *supra* note 7.

evident by kindergarten and increase thereafter”⁶⁶ With some variations, the pattern persists through the career trajectories of women as well. A survey of 500 mathematically gifted men and women at ages 25 and 35 found that, at both ages, men “placed more value on high salaries, taking risks . . . and the prestige of their organization.” Also, in their mid-thirties, over half of women with children considered working fewer than 50 to 60 hours a week “extremely important,” versus less than 20 percent of childless women, childless men, and men with children.⁶⁷ Wang and Degol have found that, while the gender gap in math performance has declined in recent decades, “differences in career interests and lifestyle values between males and females explain the large number of highly competent women bowing out of STEM fields.”⁶⁸ As Ceci et al. say about the gender disparity in STEM fields, “current barriers to women’s full participation in mathematically intensive academic science fields are rooted in pre-college factors and the subsequent likelihood of majoring in these fields, and future research should focus on these barriers rather than misdirecting attention toward historical barriers that no longer account for women’s underrepresentation in academic science.”⁶⁹

But, particularly in the present climate and the politicization of science, this sort of evidence is unlikely ever to convince the advocates of forced diversity. In their view, any disparity in the representation of women in the workplace—or at any rate in what are seen as desirable workplaces—must be a product of man’s inhumanity to woman. And anyone who dares question their reductionist account—be it the President of Harvard or Apple’s VP for Diversity and Inclusion or a lowly programmer at Google—is hounded out of their jobs. Anything that doesn’t fit the bias narrative gets immediately denounced as biased. Worst of all, this project has the inhuman goal of overriding the choices of real women in the market and imposing the ideologues’ *a priori* conception of balance on all workplaces. As Linda Gottfredson pointed out more than fifteen years ago, “if you insist on using gender parity as your measure of social justice, it means you will have to keep

66. Stephen J. Ceci et al., *Women in Academic Science: A Changing Landscape*, 15 PSYCHOL. SCI. PUB. INT. 75 (2014).

67. Kimberley Ferriman et al., *Work Preferences, Life Values, and Personal Views of Top Math/Science Graduate Students and the Profoundly Gifted: Developmental Changes and Gender Differences During Emerging Adulthood and Parenthood*, J. PERSONALITY & SOC. PSYCHOL. 517, 523 (2009); see also David Lubinski & Camilla Persson Benbow, *Study of Mathematically Precocious Youth After 35 Years: Uncovering Antecedents for Math–Science Expertise*, 1 PROSP. PSYCHOL. SCI. 316 (2006).

68. Ming-Te Wang & Jessica Degol, *Motivational Pathways to STEM Career Choices: Using Expectancy-Value Perspective to Understand Individual and Gender Differences in STEM Fields*, 33 DEV. REV. 304 (2013); see also Rong Su et al., *Men and Things, Women and People: A Meta-Analysis of Sex Differences in Interests*, 135 PSYCHOL. BULL. 859 (2009) (interests may play a critical role in gendered occupational choices and gender disparity in the STEM fields); Francesca Gino et al., *Compared to Men, Women View Professional Advancement as Equally Attainable, but less Desirable*, 112 PROC. NAT’L ACAD. SCI. 12,354 (2015) (nine studies of MBAs (and others) found that, “compared to men, women have a higher number of life goals, place less importance on power-related goals, associate more negative outcomes (e.g., time constraints and tradeoffs) with high-power positions, perceive power as less desirable, and are less likely to take advantage of opportunities for professional advancement. Women view high-level positions as equally attainable as men do, but less desirable.”).

69. Ceci et al., *supra* note 66, at 76.

many men and women out of the work they like best and push them into work they don't like."⁷⁰

If this tale has a moral, it is that it proves the futility and destructiveness of trying to impose some external standard on employment choices. There is no *a priori* answer to what is a fair or productive balance of men and women or minorities and whites in the tech workforce—or any workforce. There is no magic ratio of genders or races. Such an external standard disregards what actual companies and workers want. It hamstring managers' ability to make use of the superior information that they have in order to make efficient decisions about the make-up of the workforce. It also compels companies to achieve artificial goals that take no account of their business needs.⁷¹

So if no external standard will work, what is to be done? I anticipated my solution earlier in this paper. It is lying in plain view: Employers are *already* incentivized to hire qualified women and minority tech workers. Gary Becker's model of discrimination predicts that competitive forces will reduce or eliminate employer discrimination in the long run because the least prejudiced firms will drive their more prejudiced rivals out of business.⁷² It follows that a promising strategy to reduce discrimination is to expose more firms and sectors of the economy to competition, say, by dismantling trade barriers and/or by pursuing more vigorous anti-trust enforcement.

Becker's prediction is supported by a number of natural experiments. Thus, for example, Devah Pager found that firms that discriminated on the basis of race were more likely to have failed 5 years later (36%) than firms that did not discriminate (17%).⁷³ And Hirata & Soares exploited Brazil's trade liberalization during the 1990s to test whether the sectors of the economy that experienced greater exposure to international competition in final goods markets had larger reductions in the wage differential between black and white workers. Becker's prediction was confirmed.⁷⁴ Blau & Kahn cite four additional studies with results

70. Claire Lehmann, *The Sexism in Science Controversies*, PSYCHOL. TODAY (July 2, 2015), <https://www.psychologytoday.com/us/blog/rabble-rouser/201507/the-sexism-in-science-controversies> [<https://perma.cc/NV4C-D4P9>] (citing Constance Holden, *Parity as a Goal Sparks Bitter Battle*, 289 SCI. 380 (2000)).

71. Any echo here of Robert Nozick's objection to what he called a patterned principle of justice is purely intentional: "The general point . . . is that no end-state principle or distributional patterned principle of justice can be continually realized without continuous interference with people's lives." ROBERT NOZICK, ANARCHY, STATE, AND UTOPIA 163 (1974).

72. Francine D. Blau & Lawrence M. Kahn, *The Gender Wage Gap: Extent, Trends, and Explanations*, 55 J. ECON. LITERATURE 789, 829 (2017); see also GARY S. BECKER, THE ECONOMICS OF DISCRIMINATION (2d ed. 1957).

73. Devah Pager, *Are Firms That Discriminate More Likely to Go Out of Business?*, 3 SOC. SCI. 849, 852 (2016).

74. Guilherme Hirata & Rodrigo R. Soares, *Competition and the Racial Wage Gap: Testing Becker's Model of Employer Discrimination* (IZA Discussion Papers, No. 9764, 2016), <https://www.econstor.eu/bitstream/10419/141523/1/dp9764.pdf>, [<https://perma.cc/KZ73-AQ49>].

that are consistent with Becker's reasoning.⁷⁵

Central planners and social engineers don't know how to run tech companies better than their current bosses. True, as I noted, some bosses may prefer to be biased than be rich, but then they will pay the price. It's also true, as I noted, that some bosses—or possibly many—will be blind to the competitive disadvantage that they are incurring by being biased against minority and women tech workers. But they too will pay a price—the devil will take the hindmost.

The solution I propose won't be to everyone's taste. The sort of justice that the market metes out is rough justice and meritocratic rather than egalitarian. It can in principle coexist with continuing gender and racial gaps. But its moral superiority over the alternative is clear: gender and racial gaps are benign if they are the results of people's free choices. And forced diversity has not only had little or no success, but the cost in terms of social divisiveness and a debased civil discourse has been intolerably high.

75. Blau & Kahn, *supra* note 72, at 835 (citing Judith K. Hellerstein, David Neumark & Kenneth R. Troske, *Market Forces and Sex Discrimination*, 37 J. HUM. RESOURCES 353 (2002) (among plants with high levels of product market power (and hence the ability to discriminate), those employing relatively more women were more profitable); Sandra E. Black & Philip E. Strahan, *The Division of Spoils: Rent-Sharing and Discrimination in a Regulated Industry*, 91 AM. ECON. REV. 814 (2001) (with the deregulation of the banking industry, beginning in the mid-1970s—interpreted as an increase in competition—the gender wage gap in banking declined); Sandra E. Black & Elizabeth Brainerd, *Importing Equality? The Impact of Globalization on Gender Discrimination*, 57 INDUSTRIAL & L. REL. REV. 540 (2004) (increasing vulnerability to international trade, i.e., increased competitive pressure, reduced apparent gender wage discrimination in concentrated industries); Fredrik Heyman, Helena Svaleryd & Jonas Vlachos, *Competition, Takeovers, and Gender Discrimination*, INDUSTRIAL & L. REL. REV. 409 (2013) (firm takeover—interpreted as a manifestation of competitive pressure—was associated with a reduction in the gender wage gap). Becker himself has noted that “[t]he rapid growth of world trade during the past several decades, and the increasing market orientation of different economies, sometimes raise rather than lower income inequality, as least for a while. However, trade and competition has made this inequality more dependent on differences in human and other capital, and less directly on skin color, gender, religion, caste, and other roots of discrimination. This is an unsung but major consequence of greater trade and globalization.” Gary Becker, *Competitive Markets and Discrimination against Minorities*, THE BECKER-POSNER BLOG (Sept. 7, 2008, 6:08 PM), <http://www.becker-posner-blog.com/2008/09/competitive-markets-and-discrimination-against-minorities-becker.html>, [<https://perma.cc/5CTY-UYB3>].

APPENDIX 1: REACTIONS FROM GOOGLE EMPLOYEES TO JAMES DAMORE'S
MANIFESTO⁷⁶

- “If HR does nothing in this case, I will consider leaving this company for real for the first time in five years.”
- “Honestly, more people have been agreeing with it than I would like.”
- “From what I’ve seen it’s been a mix of women saying, ‘This is terrible and it’s been distracting me from my work and it shouldn’t be allowed;’ Men and women saying ‘this is horrible but we need to let him have a voice;’ and men saying ‘This is so brave, I agree.’”
- “Google’s left bias has created a politically correct monoculture that maintains its hold by shaming dissenters into silence.”
- “The fact that colleagues are calling for him to be fired—on very public forums—proves his point that there is an ideological silo and that dissenting opinions want to be silenced. Why don’t they debate him on his argument? Because it’s easier to virtue signal by mentioning on a social network how angry and offended you are. Debate and discussion takes time.”
- “This is actually terrifying: if someone is not ideologically aligned with the majority then he’s labeled as a ‘poor cultural fit’ and would not be hired/promoted. Eric [possibly referring to Eric Schmidt, executive chairman at Google] somewhere said that Google has the lowest percentage of conservatives and I think this post underlines the institutionalized discrimination that led to this extreme lack of intellectual diversity.”
- “I’m impressed. It took serious guts to post that. I hope nothing happens to the guy.”
- “We should all go and respond with support. The more the supporters, the safer he is.”
- “The fella who posted that is extremely brave. We need more people standing up against the insanity. Otherwise ‘Diversity and Inclusion’ which is essentially a pipeline from Women’s and African Studies into Google, will ruin the company.”
- “The company is the way I like it. Go find another company that doesn’t value diversity.”
- “The author is an idiot, grasping at pseudoscience to justify sexism. It’s a struggle for anyone who’s approached the issue with an open heart to read like this.”
- “[R]emember, you can’t be racist against whites and can’t be sexist against men. Because equality!” another person wrote in the internal Blind thread.”
- “So diversity and inclusion actually means that having a divergent opinion results in exclusion? That’s the very definition of hypocrisy.”

76. Sarah Emerson, Louise Matsakis & Jason Koebler. *Internal Reactions to Google Employee’s Manifesto Show Anti-Diversity Views Have Support*, MOTHERBOARD (Aug. 5, 2017), https://motherboard.vice.com/en_us/article/ywpmw/internal-reaction-to-google-employees-manifesto-show-anti-diversity-views-have-support [<https://perma.cc/37B2-KGE6>].

