

EQUITY IN CALIFORNIA HIGHER EDUCATION

In 1967, amidst racial turmoil in the United States, the Kerner Commission issued a watershed report that characterized American society as pervasively and systemically racist. The report was a milestone in the nation's movement from anti-discrimination and color blindness on the one hand to affirmative action and race consciousness on the other. During his 1965 commencement address at Howard University, President Lyndon Johnson foreshadowed this paradigm shift with a striking metaphor: "You do not take a person hobbled by chains and liberate him, bring him up to the starting line of a race and then say, 'You are free to compete with all the others,' and still justly believe that you have been completely fair." It is no accident that Johnson chose a university as the place to announce a new chapter in the nation's effort to confront inequities in our society. For at least a century, higher education has been an ever-widening path to upward mobility in the United States. Accordingly, colleges and universities have become one of the major arenas in which the national debate about social justice has taken place.

Affirmative action policies in university admissions have been tested in the courts, most notably in 1978's *Regents of the University of California v. Bakke*, and in 2003's cases involving the University of Michigan. In the Michigan cases, the Supreme Court upheld Justice Powell's reasoning in the *Bakke* case that a diverse student body serves a compelling public interest, and that race and ethnicity can legally be employed as one factor among others in admission to public universities.

But success in the courts has not ended the debate. Citizens in California and Washington have voted in state-wide elections to end racial and ethnic preferences. And the governor of Florida abolished such preferences by executive order. In 2006, a proposed ballot measure similar to California's Proposition 209 could make Michigan the latest testing ground for affirmative action. And organizers of the Michigan initiative are planning similar initiatives in neighboring states. Can we be "completely fair," in Lyndon Johnson's terms, *without* attention to race and ethnicity? In considering this question, we now have the benefit of several decades of experience with efforts to remedy the educational inequalities of American life. We also have the example of California, the nation's most diverse state and the first to abolish affirmative action.

In California, the conflict over affirmative action began at the University of California (UC), whose Board of Regents approved special resolutions SP-1 and SP-2 in July 1995. SP-1 banned racial and ethnic preferences in university admission; SP-2 ended them in university employment. The following year, a successful ballot measure, Proposition 209, extended the ban to all public entities in California.

Affirmative action had long been an important tool that allowed UC, a highly selective public university, to admit talented underrepresented minority students who for one reason or another had not meet all of its academic requirements. The University of California considers students "underrepresented" if they are members of a racial or ethnic group whose collective eligibility rate is below 12.5 percent, the proportion of public high school seniors statewide from which UC is required to draw its undergraduate students under the state's Master Plan for Higher Education. The

underrepresented groups for UC are Latinos, African Americans, and Native Americans.

Regents resolution SP-1 required the University to eliminate racial and ethnic preferences, but at the same time it directed UC to do everything possible to achieve a student body that reflected the diversity of California's population. Accordingly, the faculty and administration proceeded to reshape UC's admissions policies and practices. Let me briefly note the five most important changes:

- 1) We reoriented our outreach programs which previously focused on race and ethnicity to now focus on low-performing high schools—that is, schools whose students' academic performance ranked at the bottom of California high schools. The goal for UC's outreach programs was to work with students of all races and backgrounds who were enrolled in the poorest high schools in the state. In doing so, UC would qualify greater numbers of Latino, African American, and Native American students because they are disproportionately represented in low-performing schools.
- 2) We changed our standardized admissions test requirements to put primary emphasis on achievement tests rather than aptitude tests. This was important to make clear to students and their families that UC's admissions tests were not an effort to measure innate intelligence or IQ (whatever that may be) but rather to measure what students had actually achieved academically. Our goal was to send a message to students throughout the state that, if they worked hard and made the most of their opportunities, they could qualify for entrance to UC.
- 3) We instituted comprehensive review of applications, under which we look at students not only in terms of grades and test scores but also in terms of what obstacles they have overcome in preparing themselves for higher education, and what use they have made of their opportunities.
- 4) The University's mandate to select from a statewide pool of the top 12.5 percent of students meant that in some high schools as many as 40 percent or more of the graduates were eligible, while in other schools not a single student qualified for UC. After the passage of Proposition 209, we implemented a second path to admission, called Eligibility in the Local Context (ELC), or the four-percent plan. ELC made the top-performing four percent of *each* high school in California eligible for UC—if the students also completed a set of high school courses required by the University, known as the a-g requirements.
- 5) We expanded and strengthened our transfer programs so that more students who completed two years at a Community College (with certain grades in a set of required courses) were guaranteed admission to a UC campus.

Nearly a decade after the implementation of SP-1 and Proposition 209, two findings are evident. The first is that race-neutral admissions policies drastically limit the ability of elite universities to reflect diversity in any meaningful way. The second is that we will never resolve the conflict over affirmative action by an appeal to the values invoked on each side of the issue. The dynamics of the public debate create a situation in which compromise is not possible because each side claims the moral high ground.

Quoting from the regents resolution, SP-1 looked forward to a University of California in which diversity would be achieved “through the preparation and empowerment of all students in this state to succeed rather than through a system of

artificial preferences.” After a sharp drop in minority enrollment following SP-1, this decline began to reverse itself. By 2004, underrepresented minorities constituted 18 percent systemwide of all entering students—close to the pre-SP-1 figure of 21 percent in 1995. However, as will be evident from later remarks, these statistics overstate the case for an actual recovery.

UC's outreach programs have made some inroads on the huge problems facing teachers and students in California's poorest and most challenged K-12 schools. Comprehensive review has made UC's admissions process fairer to students because it looks at their academic record not in isolation but in the context of the individual student's school and personal circumstances.

We have also increased the number and proportion of students from low-performing high schools, a major goal of the ELC program. There are several reasons for this. At the outset of the program, UC launched a major effort to let students, parents, and counselors know about ELC. Every high school student eligible for the program was sent a letter from the UC president. This letter congratulated them on being in the top four percent of their class and encouraged them to complete the necessary a-g courses so they could qualify for UC. A few students were already eligible for UC but simply did not realize that fact until they learned of their inclusion in ELC. Others who had not taken certain a-g courses did so as a result of the letter. And a number of low-performing high schools that did not offer all of the a-g courses were under considerable pressure from students and parents to do so. Now virtually all of the students in the top four percent of their high school class have completed the a-g courses and thereby become eligible for UC on a *statewide* basis. ELC inspired students to become UC eligible and caused high schools to offer the courses students needed to succeed.

So where are we now that these changes have been implemented? If we look at enrollment overall, racial and ethnic diversity at the University of California is in great trouble. A recent report by the University's Academic Senate described the enrollment of underrepresented minority students in UC's graduate and professional programs as “alarmingly low.” At the undergraduate level, the modest rebound in underrepresented minority admissions in recent years is not across the board. It is almost entirely limited to Latino students. African American enrollment rates have not recovered since their initial plunge following SP-1. In 1995, just before SP-1, UC Berkeley and UCLA together enrolled a total of 469 African American women and men in a combined freshman class of 7,100. In 2004, the number was 218, out of a combined freshman class of 7,350. African American men, in particular, are virtually disappearing from our campuses. UCLA and Berkeley together admitted 83 African American men in 2004, nearly half of them on athletic scholarships.

Even before the ban on affirmative action, the University's ability to admit underrepresented minority students was outpaced by the growth in the proportion of these students—especially Latinos—in California's population. In 1995, before Proposition 209 took effect, underrepresented minority students accounted for 38 percent of California high school graduates and 21 percent of entering UC freshmen—a difference of 17 percent. In 2004, they made up 45 percent of high school graduates but had fallen to 18 percent of incoming UC freshmen—a difference of 27 percent. The gap will continue to widen because Latinos are projected to account for about 70% of the increase in California high school graduates in this decade. The prospects for diversity are even more sobering given the fact that in

2002 almost half of Latino and African American students in California failed to finish high school.

To sum up: Proposition 209 asked the University of California to attract a student body that reflects the state's diversity while ignoring two of the major constituents of this diversity—race and ethnicity. A decade later, the legacy of this contradictory mandate is clear. Despite enormous efforts, we have failed badly to achieve the goal of a student body that encompasses California's diverse population. The evidence suggests that—without attention to race and ethnicity—this goal will ultimately recede into impossibility.

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Let me now turn to another legacy of Proposition 209. During the campaign leading to its approval, public discussion of the issue polarized around two sets of arguments. Opponents of Proposition 209 advocated racial preferences as a matter of sound public policy and rational self-interest: a multicultural society like California needs leaders from all backgrounds to ensure social harmony and cohesiveness; a diverse workforce is important to economic competitiveness in an increasingly global marketplace; and diversity contributes to the quality of the educational experience for all students.

Proponents of Proposition 209 countered with the view that such preferences are contrary to American values of individual rights and the policy of color-blindness that animated the Civil Rights Act of 1964. They contested the validity of any definition of academic merit that gives a leg up to students on the basis of membership in a particular racial or ethnic group. And they argued that affirmative action promotes a culture of dependency among its supposed beneficiaries.

Proposition 209 succeeded because its supporters shifted the ground of the debate from a discussion of broad public policy to one of individual rights. Yet both sides argued from principles that are time-honored in American life. In its current form, the values debate does not encourage compromise because it turns so narrowly on principles that are, on the face of it, reasonable yet seemingly incompatible. Which raises a fundamental question: How do we talk to each other about affirmative action without becoming mired in a rancorous stalemate over values?

One way to begin is by exploring how Americans feel about diversity issues away from the heat and rhetoric of public discourse. Recent research has explored public attitudes toward affirmative action among Latinos, African Americans, Asian Americans, and whites, using both opinion surveys and focus groups.

The researchers found striking differences among the groups in how affirmative action was perceived. Most of the people interviewed thought affirmative action was equivalent to quotas. However, their attitudes toward quotas varied considerably, ranging from strong disapproval to ambivalent acceptance. There were also conflicting views about who benefited, and who should benefit, from affirmative action programs.

The absence of common ground among the various groups stemmed from radically different perceptions of discrimination in American society. Most of the white Americans interviewed felt racial bias is no longer a dominant reality of contemporary life; most African Americans strongly disagreed. Asians and Latinos tended to concur with the idea that minorities face continued discrimination, but held a variety of opinions on whether affirmative action was the right solution.

Terms like “affirmative action,” “quotas,” “targets,” and “preferences” have become so burdened with emotional baggage that they confuse rather than clarify the discussion. As a nation, we simply do not speak the same language when we talk about discrimination and affirmative action.

Like the values debate, these findings would seem to suggest that a national consensus on diversity will remain elusive. But the research I have described yields two further results worth pondering. One is that most respondents were sympathetic to programs involving preferences of one kind or another when the specific program was described to them, rather than simply called “affirmative action.” Another is that a majority of every group agreed that the poor—whatever their race or ethnicity—should benefit from efforts to level the playing field of American life.

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The economic chasm separating rich and poor has jumped dramatically in the past four decades; a rising share of income is going to the top group of Americans. In the 1998 census, the income of the 13,000 richest American families was equivalent to the income of the 20 million poorest families in the country. The income disparity between the most and least affluent citizens is wider in the United States today than in the older, class-based societies of Great Britain, France, or Germany—wider, in fact, than in any other developed country. This trend reaches directly into the life of universities because of their role as a critically important avenue to upward mobility in the United States. A new study by William Bowen, Martin Kurzweil, and Eugene Tobin, *Equity and Excellence in American Higher Education*, analyzes 19 elite American colleges and universities in terms of student access. Their findings are compelling testimony to the social and educational implications of income inequality.

All 19 institutions have stated their strong support for (1) admitting more students who are the first in their family to attend college, and (2) admitting more students from low-income backgrounds. The study found, however, that applicants from these two groups gained *no* advantage in the admissions process. This is in contrast to underrepresented minority students, children of alumni, students who applied early, and athletes, all of whom enjoy a competitive advantage over those who come from modest backgrounds or are the first in their family to apply to college.

The odds of making it into the admissions pool of a selective college or university are *six* times higher for an applicant from a high-income family than for one from a poor family. The odds are more than *seven* times higher for an applicant from a college-educated family than they are for a student who would be the first in his or her family to go to college. In the words of the study, and I quote, “Simply put, poor families have great difficulty investing sufficient personal and financial resources to prepare their children to attend college, do well, and graduate.”

The answer is not to substitute economic disadvantage for race-sensitive admissions in these elite colleges and universities. Doing so would cut the share of students from underrepresented minority groups by nearly half. Instead, Bowen and his fellow researchers propose adding some weight for low-income and first-time college applicants in the admissions process and increasing financial aid for poor students of every race.

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If the goal is equity in access to education, then a return to the color-blind policies of the era before the Kerner Commission report will not work. The California experience with Proposition 209 unequivocally demonstrates that fact. But is a

policy focused predominantly on race and ethnicity adequate to the realities of American society today? The values debate, the increasingly multicultural character of our population, and the trend toward income stratification suggest the answer is no.

We need a strategy that recognizes the continuing corrosive force of racial inequality but does not stop there. We need a strategy grounded in the broad American tradition of opportunity because opportunity is a value that Americans understand and support. We need a strategy which makes it clear that our society has a stake in ensuring that every American has an opportunity to succeed—and every American, in turn, has a stake in our society.

Universities could further the cause of educational equity by deciding that, while grades and test scores matter, so does the use students have made of their opportunities. What hurdles have students faced on the way to a college education, and how have they surmounted them? Did they manage to achieve academically despite the hardship of inadequate schools and the barrier of low expectations? Many students in these situations have shown extraordinary academic initiative and persistence. If our assumptions about merit are too narrow to include them, our assumptions need to be changed.

One of the productive outcomes of the admissions debate is that it has led us to question some long-held assumptions about academic merit and potential. We must look closely and honestly at the academic criteria that universities have traditionally assumed are valid indicators of academic achievement. One example is the long indenture of American education to so-called aptitude tests like the old SAT. Based on a substantial body of research, the new SAT will be a better predictor of college performance, will be fairer to minorities, and will send high school students and their teachers the message that learning to write and do mathematics is indispensable preparation for college.

Whatever the drawbacks of the words we use to describe them, the ideas embodied in such terms as equity, access, and affirmative action express aspirations that lie deep in the American experience. They resurface from time to time with special urgency. It has been more than 60 years since Franklin Delano Roosevelt signed Executive order 8802, which outlawed discrimination on the basis of “race, creed, color, or national origin”; 51 years since the Supreme Court declared segregation unconstitutional in *Brown v. Board of Education*; 41 years since the landmark Civil Rights Act of 1964; and 38 years since the Kerner Commission issued its indictment of the disfiguring racism of American society.

Race still matters. Yet we need to move toward a more inclusive kind of affirmative action, one in which the emphasis is on opportunity and educational equity in the broadest possible sense. As the United States Supreme Court expressed in *Grutter v. Bollinger*, the University of Michigan case, “it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity.” A fair and open path to leadership is the ultimate test of a democracy. It is a test that we cannot afford to fail.