

**Research & Occasional Paper Series: CSHE.18.06**

**CSHE** | Center for Studies in Higher Education

UNIVERSITY OF CALIFORNIA, BERKELEY

<http://cshe.berkeley.edu/>

**OPPORTUNITY IN A DEMOCRATIC SOCIETY:  
Race and Economic Status in Higher Education<sup>1</sup>**

**November 2006**

**Richard C. Atkinson**

President Emeritus, University of California  
Former Director, National Science Foundation

**Patricia A. Pelfrey**

Center for Studies in Higher Education  
University of California, Berkeley

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**ABSTRACT**

In July 1995, the University of California's Board of Regents voted to ban consideration of race and ethnicity in admissions and employment—a ban that was extended to all state agencies when the voters of California approved Proposition 209 in November 1996. This paper discusses the national controversy over affirmative action and analyzes the experience of the University of California as a case study in how an elite public university responded to the end of nearly three decades of affirmative action. It concludes that profound social and demographic change in American society since the 1960s, especially the growth of income inequality, requires a rethinking of affirmative action, and of how the goal of diversity can be achieved in elite public universities.

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In 1968, the National Advisory Commission on Civil Disorders—better known as the Kerner Commission—issued a watershed report that characterized American society as threatened by a deep and dangerous racial divide. Its ringing message, that the United States was heading toward "two societies, one black, one white—separate and unequal," hastened the nation's movement from anti-discrimination to affirmative action policies.<sup>2</sup> 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."<sup>3</sup>

It is no accident that Johnson chose a university as the place to announce a new chapter in the effort to confront the social and educational inequities of American society. For at

least a century, higher education has been an ever-widening path to upward mobility in the United States. Colleges and universities have, therefore, become one of the important arenas in which the national debate about race, ethnicity, and social justice has unfolded. They have played a central and controversial role in the history of diversity and affirmative action.

U.S. universities, overwhelmingly white in the 1960s, set about attracting more minority students through outreach programs as well as through changes in the admissions process. And not without opposition. 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*, 1996's *Hopwood v. the State of Texas*, and 2003's University of Michigan cases, *Gratz v. Bollinger* and *Grutter v. Bollinger*. In the Michigan cases, the highest court in the land upheld Justice Lewis Powell's reasoning in *Bakke* 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.<sup>4</sup>

But success in the courts has not meant the end of debate. When voters were given the choice of ending racial and ethnic preferences in California (1996) and in Washington (1998), they did so decisively. The governor of Florida abolished such preferences by executive order in 1999. In 2006, a proposed ballot measure similar to California's Proposition 209 could make Michigan the latest testing ground for this contentious issue, and the organizers of the initiative are planning similar initiatives in other states. Some are predicting that America is about to enter its post-affirmative action age.

Can we be "completely fair," in Lyndon Johnson's phrase, *without* attention to race and ethnicity, especially in access to education? In considering this question, we now have the benefit of several decades of experience with efforts to end racial discrimination and remedy some of the social and 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 by the will of the electorate.

This paper will argue that far-reaching changes since the 1960s require us to rethink what we mean by affirmative action, and how we intend to achieve the goal of diversity in our colleges and universities. In particular, we should take into account a disturbing and growing imbalance in the United States today: the fracturing of American society along economic lines.

### **Lessons of the California Experience**

No one would accuse California of being a typical state. Because of the extraordinary racial and ethnic diversity of its population, however, and as the first state to end affirmative action, California offers a unique window on both public attitudes and policy issues in the debate about diversity.<sup>5</sup>

The conflict 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 consideration of "race, religion, sex, color, ethnicity, or national origin" in admission to the University of

California; SP-2 ended consideration of these factors in University employment. The following year, a successful ballot measure, Proposition 209, extended the ban to all public entities in California.

SP-1 and Proposition 209 transformed California into a battleground where opposing views of individual merit, fairness, and educational opportunity struggled to prevail (and still do). They also made the University of California a case study in how an elite public university, required to employ admissions policies that are demonstrably inclusive and fair, responded to the end of nearly 30 years of affirmative action.

Affirmative action had been an important tool that allowed UC to admit talented underrepresented minority students who for one reason or another do not meet its academic standards. The University of California considers students “underrepresented” if they are members of a racial or ethnic group whose collective eligibility rate for UC is below 12.5 percent, the percentage of graduating public high school seniors statewide from which UC is required to draw its undergraduate students under the state’s Master Plan for Higher Education. In 2003, African Americans qualified for UC at a rate of 6.3 percent, Latinos at 6.5 percent, Native Americans at 6.6 percent, whites at 16 percent, and Asian Americans at 31 percent.<sup>6</sup> Thus, the underrepresented groups for UC are African Americans, Latinos, and Native Americans.

SP-1 required the University to eliminate attention to race and ethnicity in its admissions policies, but at the same time it stated that UC must do everything possible to achieve a diverse student body “through the preparation and empowerment of all students in this state to succeed rather than through a system of artificial preferences.”<sup>7</sup> The faculty and administration proceeded to reshape UC’s admissions policies and practices accordingly. In brief:

- We reoriented UC’s outreach efforts, which had previously been targeted on race and ethnicity, to focus on low-performing high schools—that is, schools whose students’ academic performance ranked in the bottom 20 percent 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 African American, Latino, and Native American students because they are disproportionately represented in low-performing schools.
- 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 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.
- 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.
- 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 50 percent of the graduates were eligible, while in others—typically low-performing 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. In addition to being ranked in the top four percent of their high school class, students had to successfully complete a set of courses required by the University, known as the a-g requirements.

- We reorganized and expanded our transfer programs under which students who completed two years at a Community College with certain grades in required courses were guaranteed admission to a UC campus.

Two lessons can be derived from the California experience. The first is that race-neutral admissions policies drastically and demonstrably limit the ability of elite universities to reflect the diversity of a multicultural state 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 both sides of the issue. The dynamics of the public debate create a situation in which compromise is impossible because each side claims the moral high ground.

### *The possibilities and limits of race-neutral admissions*

Before SP-1 was approved in 1995, underrepresented minorities made up 21 percent of UC's systemwide entering class, having risen from about 10 percent in 1980. After SP-1, there was an immediate drop in minority freshman enrollment, which reached a low point of 15 percent in 1998. Over time this decline has begun to reverse. In 2004, underrepresented minorities constituted 18 percent of all entering students—close to the pre-SP-1 figure of 21 percent.

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 and UC's entrance requirements. 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.

Finally, the use of comprehensive review has created an admissions process that is 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. This kind of evaluation is not only better for students; it is of great value to the University in its task of assembling an entering class. UC's ten campuses share a common set of high academic standards but differ in possible academic majors, campus culture, intercollegiate athletics, and physical environment. Comprehensive review helps each campus select an entering class that can best benefit from what it has to offer.

Yet 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."<sup>8</sup> 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, UC Berkeley and UCLA enrolled 469 African Americans 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. This gap will continue to widen because Latinos and (to a much lesser extent) African Americans will account for about 70% of the increase in California public high school graduates between 2000 and 2008.<sup>9</sup> Proposition 209 did not create this problem, but it has made it far more difficult to address.

The prospects for diversity are even more sobering in light of what is happening to the high-school graduation rate of minority students in California. In 2002, almost half of African American and Latino students failed to finish high school.<sup>10</sup> By the time these minority students reach college age, it is already too late for many of them; crime-ridden neighborhoods, poverty, and failing K-12 public schools are a brutal winnowing process. It is devastating entire generations of minority young people.

As noted earlier, the situation of African American young people is especially troubling. A 2003 RAND study comparing intergenerational mobility among African Americans and Latinos in California found significant differences between the two groups. Latinos showed steady gains in both education and income from one generation to the next.<sup>11</sup> The same does not hold true for African Americans, many of whom are trapped in a desperate cycle of poverty and discrimination.

At UC and within the universe of American higher education, African Americans continue to represent a minority within minorities. There has long been a persistent academic performance gap between African American students—even middle- and upper middle-class African American students—on the one hand and white and Asian students on the other.<sup>12</sup> The reasons for this disparity are unclear. Some have theorized that African American students find university campuses unwelcoming; or that some African American young people associate getting good grades with "acting white"; or that the fear of negative stereotyping inhibits academic performance. Whatever the causes, we cannot ignore this phenomenon or fail to find solutions.

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. Any state tempted to emulate the example of California should think long and hard about the consequences.

### *The values debate*

There is another legacy of Proposition 209. In the months leading up to the UC Regents' decision in July 1995, and later during the campaign that concluded with the passage of Proposition 209 in the fall of 1996, public discussion of the issue in California polarized around two now-familiar 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—in the academic context—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. Indeed, the text of Proposition 209 quoted directly from that legislation. 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. Further, they argued, affirmative action promotes a culture of dependency among its supposed beneficiaries that is inimical to their real interests.

Why did Proposition 209 prevail? The story that unfolded in California is a complicated one. In broadest terms, it seems clear that Proposition 209 succeeded because its supporters shifted the ground of the debate from a discussion of broad public policy to one of individual rights. They pointed out that affirmative action entails costs, and those costs were unfair to the individuals who were not admitted as a result of the University's race-attentive policies.

Both sides argued from principles that are time-honored in American life. But while Proposition 209 won in the voting booth, a decade later the climate of public discussion in California remains divided and polarized. 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. This raises a fundamental question: How do we talk to each other about affirmative action without becoming mired in a rancorous stalemate over values?

### **Public Attitudes**

One way to begin is by exploring how Americans feel about diversity issues away from the heat and rhetoric of public discourse. Opinion surveys offer that opportunity. However, surveys that have been conducted suffer from limitations: most have sampled only white and African American attitudes, and responses depend heavily on how the

questions are phrased. Carol Swain of Vanderbilt University Law School has sought to address these limitations. Her research on public attitudes toward affirmative action has included Asian Americans and Latinos as well as African Americans and whites, and it has employed both opinion surveys and focus groups—small groups of individuals who are paid a nominal fee to participate in a conversation about a particular topic. Focus groups allow for a more thorough and nuanced interpretation of survey data.

Swain found striking differences among the groups in how affirmative action was perceived. Most participants thought affirmative action means quotas—though quotas are illegal unless court-mandated—but 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.

Swain concludes that the absence of common ground among the various groups stems from radically different perceptions of discrimination in American society. Most white Americans felt racial bias was 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.<sup>13</sup>

### **Stratification of American Society**

Like the values debate, these findings would seem to support the idea that national consensus on diversity is likely to remain elusive. But Swain’s research yields two further results worth pondering. One is that most respondents were much more 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 be among the beneficiaries of efforts to level the playing field of American life.<sup>14</sup> This finding is consistent with many opinion surveys.

Economic status connects in several important ways to the issue of educational access. Those who lack a college degree, for example, suffer an economic penalty that has grown considerably over the last century. The Census Bureau recently estimated that college graduates now earn about twice as much annually as those with a high-school diploma.<sup>15</sup>

Another economic trend deserves more scrutiny than it has received in discussions about access, and that is the widening financial chasm between rich and poor. According to research conducted by Thomas Piketty and Emmanuel Saez,<sup>16</sup> income inequality in the United States has jumped dramatically since the 1970s. Census data show that a rising share of income is going to the top 20 percent of Americans. In 1998, the income of the 13,000 richest American families was 300 times that of an average American family; to put it another way, the income of these 13,000 households was nearly equivalent to the income of the 20 million poorest families in the country.<sup>17</sup> For at

least a decade, the income disparity between the most and least affluent citizens has been wider in the United States 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 the single most 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 both academic quality and student access.<sup>18</sup> Their findings are compelling testimony to the social and educational implications of income inequality.

Bowen and his colleagues look at how students from different walks of life fare in the admissions process of these top universities, using data from their 1995 entering classes. All 19 institutions have repeatedly stated their support for admitting more students who are the first in their family to attend college as well as students from low-income backgrounds—that is, students from families whose annual income is in the bottom quartile (in 1995, \$25,000 or less). 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, early decision applicants, 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.

Low-income students constituted about 11 percent of those admitted to the 19 institutions that were studied; first-time college goers made up six percent. Students who fit both categories made up just three percent of enrollment at these schools, even though such students represent roughly 19 percent of the U.S. college-age population.

Further, “the odds of getting into the pool of credible candidates for admission to a selective college or university are *six* times higher for a child from a high-income family than for a child from a poor family; they are more than *seven* times higher for a child from a college-educated family than they are for a child who would be a first-generation college-goer. Simply put, poor families have great difficulty investing sufficient personal and financial resources to prepare their children to attend college, do well, and graduate.”<sup>19</sup>

Bowen et al. do not argue for substituting economic disadvantage for race-sensitive admissions. Doing so, they estimate, would cut nearly in half the share of students from underrepresented minority groups. The reason is that even though such students are highly represented among low-income college applicants, the overwhelming majority are whites and Asian Americans. Instead, Bowen and his fellow researchers propose adding some weight for low-income and first-time college applicants in the admissions process. They also urge the nation’s most selective institutions to increase their financial aid for economically disadvantaged students of every race. They justify these steps on several grounds, among them the fact that low-income students have overcome formidable odds in making it into an elite applicant pool in the first place and that, once enrolled, they do very well academically.<sup>20</sup>

It can be argued that elite universities are not the only places in which students can obtain an excellent undergraduate education; many less selective and less expensive institutions offer outstanding academic programs. But if educational equity means

anything, it means giving special attention to young people who have made the most of whatever limited opportunities they have had to prepare themselves for college. And, as Bowen and his colleagues point out, enrolling more low-income students in elite universities serves the democratic value of social and economic mobility.

### **A Strategy for the Future**

Another and broader point needs to be emphasized. Although some universities have made efforts to reach out to low-income students, the focus on race has been paramount. This approach is not surprising given the context of the 1960s and 1970s, when racial tensions were seen almost exclusively in terms of black and white. The demographic reality is far different today, however. Immigration from around the world has made this country far more diverse than it was even three decades ago. Inter-marriage is producing multiracial and multiethnic citizens to whom the old concepts of racial and ethnic identity do not apply in the same way they did to earlier generations. These developments have brought a much greater awareness of the sometimes dramatic variations within racial and ethnic groups in terms of culture, economics, and education.

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 simply 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 whether every American succeeds—and every American, in turn, has a stake in our society.

The deepening economic rift between rich and poor has profound societal and educational implications that need to be understood and discussed. Among the most important is that large disparities in income—like divisions over race—diminish the likelihood that people will think of the public interest as having any real connection to their own. A major goal of educational equity should certainly be integration—not just the integration of different races but the integration of our society into a more cohesive whole.

The past half-century has brought tectonic shifts in the social, racial, and economic landscape of American life. Our perspectives and policies on diversity have not caught up with these changes, which are in some respects quite profound. We have yet to think through what “affirmative action” and the pursuit of diversity ought to mean in the twenty-first century.

Justice Sandra Day O’Connor’s prediction that attention to race and ethnicity should no longer be necessary twenty-five years from now errs on the side of optimism. The diversity issue will be with us for a long time, principally because so much depends on the quality of the preparation minority students receive in the public K-12 schools. A

recent positive indication is the 2005 report of the National Assessment of Educational Progress, a federally administered test that periodically measures K-12 student achievement in mathematics and reading. The report found that the average scores for nine-year-old minority students, especially African American students, are up, and that the gap between white and Latino and African American test scores has shrunk significantly compared with earlier years.<sup>21</sup> Perhaps the trend will continue upward. But most of the other indicators are not encouraging.

And, at least in the short term, university admissions criteria based on economic disadvantage are not an answer to the dilemma of how to bring more underrepresented minority students onto American campuses. As both the Bowen study and the California experience show, the two goals may be complementary, but they are not the same. In 1997, for example, the UCLA School of Law changed its admissions policies and procedures to focus on economic disadvantage rather than on race. Although the result was a substantial increase in socioeconomic diversity, the faculty ultimately concluded that the approach did not yield sufficient racial and ethnic diversity.

This does not mean the problem is intractable. For thirty years, the dramatic underrepresentation of African Americans and later Latinos has meant that race and ethnicity have been at the center of universities' efforts. At this point we simply do not have enough empirical evidence about alternatives that respond to the impact of economic disparity as well as racial disadvantage.

The answers, when they come, are likely to be forged on the campuses of elite public universities. These institutions have a mandate to be inclusive; they are also subject to fierce political pressures to keep the issue of diversity high on their agenda. Public universities have been caught in the crossfire of the values debate. It is not a good place to be. But it can have a galvanizing effect on the priorities of both university administrators and faculty senates. The new Center for Institutional Diversity at the University of Michigan, established in the wake of the two Supreme Court cases on affirmative action, is an example of the kind of concentrated and sustained commitment to research on diversity that we need in the years ahead.

The California experience suggests that universities could further the cause of educational equity in this country by deciding that, while grades and test scores matter, so does the use students have made of their opportunities to learn. 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? UC's experience with outreach, the four-percent plan, and comprehensive review has shown that students in these situations have often shown extraordinary academic initiative and persistence. If our assumptions about merit are too narrow to include them, our assumptions need another look.

The stakes are high for universities as institutions. The debate over admissions has attracted so much attention in recent years that it has encouraged a tendency among the public to forget that American universities have large social responsibilities. These responsibilities encompass far more than assessing the academic merits of individual applicants against each other. The public needs to understand the many roles American universities play in our society, from creating and sharing new knowledge to the social

and racial integration of the nation's leadership. None is more important than providing wide educational opportunity and upward mobility.

Yet 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; the new SAT, which high-school students took for the first time this spring, will be a better predictor of college performance and sends high schools the message that learning to write and do mathematics is essential preparation for college. Another issue is the reflexive preference universities have awarded students who have amassed a large number of credits from honors and Advanced Placement courses.<sup>22</sup> We need to know far more than we currently do about what academic merit means and how we can accurately assess it.

It would be difficult to overstate the importance of K-12 and early childhood education to developing academic potential.<sup>23</sup> Programs like Head Start, particularly those that involve parents as well as children, make a profound difference in whether disadvantaged young people have the chance to acquire the requisite cognitive skills to succeed in higher education—and if they do not, “opportunity” is an empty promise.

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.

Race still matters. It matters especially to the prospects of African Americans. Yet we need to move toward another kind of affirmative action, one in which the emphasis is on opportunity and the goal is educational equity in the broadest possible sense. As the United States Supreme Court expressed it in *Grutter v. Bollinger*, “it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity.” The test of a democracy is its willingness to do whatever it takes to create the aristocracy of talent that Thomas Jefferson saw as indispensable to a free society. It is a test we cannot afford to fail.

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## Notes

<sup>1</sup> This paper was the basis for the Third Annual Nancy Cantor Distinguished Lecture on Intellectual Diversity, delivered by Richard C. Atkinson on 18 May 2005 at a national conference at the University of Michigan titled “Futuring Diversity: Creating a National Agenda.” It was also published in the June 2006 issue of the *Proceedings of the American Philosophical Society*.

<sup>2</sup> “Affirmative action” is a term that has acquired a number of forms and definitions. Its primary use in this paper is to refer to college and university policies and programs that take explicit account of race and ethnicity in admission, outreach activities, and scholarships. For a discussion of the various definitions of affirmative action, see *Color Lines: Affirmative Action, Immigration, and Civil Rights Options for America*, ed. John David Skrentny (University of Chicago Press, Chicago and London), pp. 4-6.

<sup>3</sup> Lyndon B. Johnson, "To Fulfill These Rights," Commencement Address at Howard University, 4 June 1965.

<sup>4</sup> Powell's opinion in *Bakke* essentially removed from the legal arena arguments about the validity of affirmative action as collective compensation for past societal discrimination, and shifted the debate to one over the benefits of diversity in the education of students. *Grutter v. Bollinger* expanded the justification for diversity by including not only its educational benefits but also the importance of producing future leaders from all racial and ethnic backgrounds.

<sup>5</sup> See Richard C. Atkinson and Patricia A. Pelfrey, "Rethinking Admissions: US Public Universities in the Post-Affirmative Action Age," invited paper at the UK and US Higher Education Finance and Access Symposium, Oxford University, 29 September 2004, available at <http://cshe.berkeley.edu/publications/papers/papers/ROP.Atkinson.Pelfrey.11.04.pdf>.

<sup>6</sup> These eligibility rates translate to a 2004 UC undergraduate student body that is .6 percent Native American, 3.1 percent African American, 14.1 percent Latino, 39.2 percent Asian American, and 36.2 percent white, with 6.8 percent not stated or unknown.

<sup>7</sup> University of California Regents' Resolution SP-1, 20 July 1995.

<sup>8</sup> "Report on Graduate/Professional School Admissions and Diversity," University Committee on Affirmative Action and Diversity, University of California, 14 January 2005, pp. 4-5.

<sup>9</sup> Saul Geiser, Carla Ferri, and Judy Kowarsky, "Admissions Briefing Paper - Underrepresented Minority Admissions at UC after SP-1 and Proposition 209: Trends, Issues and Options," p. 6.

<sup>10</sup> "Confronting the Graduation Rate Crisis in California," The Civil Rights Project, Harvard University, 24 March 2005.

<sup>11</sup> James P. Smith, "Assimilation across the Latino Generations," *American Economic Review*, May 2003, 93(2), pp. 315-319.

<sup>12</sup> "New Directions for Outreach: Report of the University of California Outreach Task Force," July 1997, p. 11.

<sup>13</sup> Carol Swain, *The New White Nationalism in America* (Cambridge University Press, 2002), pp. 184-218.

<sup>14</sup> Swain, p. 212.

<sup>15</sup> U. S. Census Bureau, "Educational Attainment in the United States: 2004," available at <http://www.census.gov/population/www/socdemo/educ-attn.html>. Specifically, workers 18 or older with a bachelor's degree earn an average of \$51,206 annually; those with a high school diploma earn \$27,915; those without a high school diploma, \$18,734. Workers with an advanced degree earn an average of \$74,602.

<sup>16</sup> Thomas Piketty and Emmanuel Saez, "Income Inequality in the United States, 1913-1998," *Quarterly Journal of Economics*, February 2003, CXVII(1), pp. 1-39.

<sup>17</sup> Paul Krugman, "For Richer," *New York Times Magazine*, 20 October 2002.

<sup>18</sup> William G. Bowen, Martin A. Kurzwell, and Eugene M. Tobin, *Equity and Excellence in American Higher Education* (University of Virginia Press, 2005). The 19 institutions studied include five Ivy League universities (Columbia University, Harvard University, Princeton University, University of Pennsylvania, and Yale University); 10 selective liberal arts colleges (Barnard College, Bowdoin College, Macalester College, Middlebury College, Oberlin College, Pomona College, Smith College, Swarthmore College,

Wellesley College, and Williams College); and four leading state universities (Pennsylvania State University, the University of California at Los Angeles, the University of Illinois at Urbana/Champaign, and the University of Virginia).

<sup>19</sup> Bowen et al., p. 248.

<sup>20</sup> Bowen et al, pp. 176-77.

<sup>21</sup> Results of the 2005 National Assessment of Educational Progress can be found at <http://nces.ed.gov/nationsreportcard/>.

<sup>22</sup> Saul Geiser and Veronica Santelices, "The Role of Advanced Placement and Honors Courses in College Admissions," Center for Studies in Higher Education, UC Berkeley, 2004. Available at

<http://cshe.berkeley.edu/publications/papers/papers/ROP.Geiser.4.04.pdf>.

<sup>23</sup> See John D. Bransford, Ann L. Brown, and Rodney R. Cocking, eds., *How People Learn: Brain, Mind, Experience, and School*, Committee on Developments in the Science of Learning, National Research Council, 1999.