

## Chapter 2

# Reclaiming Diversity: Advancing the Next Generation of Diversity Research Toward Racial Equity



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As a general concept, diversity is part of educational and mainstream discourse. It is common to hear about its value in K–12 and postsecondary education, in the workplace, and in society at large. In the case of higher education, it is considered central to an institution’s capacity to thrive in an increasingly multiracial and pluralistic society (Gurin, Dey, Hurtado, & Gurin, 2002; Page, 2007; Smith, 2015). For some, its worthiness as a goal in and of itself is simply taken for granted. At the same time, however, many perceive it as an elusive agenda that has missed its mark. Some of this tension derives from disagreement about what we mean when we say “diversity.” Are we talking about simple numerical representation or something more meaningful? In this chapter, we address this question as we describe how a notion that emerged as an avenue for upholding Civil Rights-era policies to address racial discrimination and exclusion has more recently come to include a broad range of social identities and experiential differences. We connect the evolution of diversity research to the outcomes of key U.S. Supreme Court cases over the last four decades, and we describe current conversations about the concept—conversations that are not necessarily tied to advancing racial justice in access, opportunities, and

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matriculation (Ahmed, 2012; Berrey, 2015b; Warikoo, 2016). This contradiction highlights a significant and pressing question: Is diversity still a useful concept for advancing social and racial equity, particularly in the context of postsecondary education?

We seek to complicate this binary question, as opposed to putting forth a simple answer. We discuss how constraints in early understandings of diversity have allowed for the concept to be co-opted, and argue that it is now therefore limited. We consider whether numerical diversity—which we view as a necessary but insufficient condition for promoting racial equity—can drive intentional work to fulfill a broader social justice vision. We encourage a more comprehensive interrogation of the supposedly “race-neutral” mechanisms within which postsecondary admissions practices and campus diversity initiatives are couched. Likewise, we consider the challenges of colorblindness and campus environments that center Whiteness as they co-exist with diversity infrastructures.

In this research synthesis, we define diversity in relationship to its emergence in the 1978 *Bakke v. University of California* U.S. Supreme Court decision. As we discuss extensively later, the term was employed in *Bakke* to narrowly define how and for what purposes colleges and universities could legally use race and ethnicity as a factor in admissions. Because the public and legal debates originated with and continue to center the racial and ethnic dimensions of diversity, that is where we also intentionally place our focus. This is consistent with the analytic approach we take in this manuscript, which is rooted in the tradition of critical race theory (CRT; Ladson-Billings & Tate, 1995; Ledesma & Calderon, 2015; Solórzano, 1997). While CRT calls for interdisciplinary approaches that invite intersectional analyses and consideration of multiple forms of marginalized social statuses, it does so while continuing to center race.

When we refer to diversity literature or scholarship, we borrow from Smith (2015), defining it as the body of social science research within the broader study of student learning and success that focuses on the role of and institutional conditions for diversity. This literature has emerged from a variety of fields, primarily social psychology, organizational theory, and higher education (Smith, 2015). It is in part the result of shifts in educational philosophies that now include a greater emphasis on pluralism, as well as increased student diversity of various forms on college campuses (Smith, 2015). But it has also largely materialized from concerted efforts to build a body of empirical inquiry to inform and defend legal challenges to the consideration of race in educational policies (Berrey, 2015b; Gurin, Lehman, & Lewis, 2007). In particular, diversity scholarship has sought to confront challenges to race-conscious admissions practices that made their way through the lower courts in the 1990s, leading up to the 2003 Michigan “affirmative action cases,” *Grutter v. Bollinger* and *Gratz v. Bollinger*, and continuing through the most recent *Fisher v. University of Texas* cases, all of which, we argue, were limited by the 1978 *Bakke* precedent (Berrey, 2015b; Garces, 2014a; Smith, 2015).

As we discuss at length, legal decisions over the last 40 years have allowed for the continuation of the consideration of race in university admissions policies and for the creation of palatable interventions for improving campus racial dynamics that are not

threatening to White interests. Unfortunately, these changes have also constricted the potential for implementing more radical and holistic solutions toward racial equity across campuses (Ahmed, 2012; Warikoo, 2016). And while the concept of diversity can help build consensus, foster a sense of belonging, and improve social relations, it can also insulate those in power from responsibility for enacting transformative structural changes (Berrey, 2015b). Thus, we argue that the next generation of scholarship must address these tensions in order to reclaim the utility of diversity research in advancing more transformative postsecondary interventions and *greater racial equity*.

When we say equity, we are mindful that in the U.S. context an individual's life chances, educational opportunities, and ability for self-determination are shaped by race and racism. Equity therefore requires that educational outcomes not be constrained by structural inequities (see Brayboy, 2005). This definition of equity is based on a notion of *justice as transformation*, which draws from CRT in acknowledging the existence of institutional and structural racism in education and the need for policies and practices that actively counter and dismantle these conditions (Dowd & Bensimon, 2015). Thus, as Museus, Ledesma, and Parker (2015) argued, "racial equity does not simply refer to equal representation." Rather, it means "racially equitable systems in which racially diverse perspectives"—and, we contend, group interests—"are equally embedded in power structures, policy-making processes, and the cultural fabric of organizations" (p. 13). As such, simple numeric diversity is necessary but far from sufficient.

In the absence of transformative policies and practices that address racial inequities on campus, diversity rhetoric and efforts can be used to justify the divestment of resources to students of color and other marginalized campus subgroups (Ahmed, 2012; Baez, 2004; Berrey, 2015b). Failure to recognize structural and institutional racism can lead to racial apathy, or a "lack of care about racial inequity and the related belief that there is no need to intervene to address racial inequality" (Forman & Lewis, 2015, p. 1417). This is compounded by embedded "colorblind frames"—ways of seeing that do not recognize the pervasiveness of race and racism within campus diversity infrastructures (Jayakumar, 2015b; Warikoo & de Novais, 2014)—and a growing belief among many that there is "reverse racism" against Whites (Bonilla-Silva, 2014; Cabrera, 2014).<sup>1</sup>

While White backlash against civil rights progress has been evident and growing over the past decade (Haney López, 2010; Lipson, 2011), these trends have arguably reached an emboldened status with the election of our 45th president, who has consistently denigrated groups of minoritized and marginalized peoples as part of his platform (Bannan, 2016). The failure of postsecondary institutions to foster environments that challenge rather than reinforce inequitable racial dynamics is not lost on students, as evidenced by protests and the thoughtful demands presented by Black student organizations and allied groups across 100+ institutions nationwide

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<sup>1</sup>In this manuscript we capitalize "White" and "Black" in reference to racial groups, per current APA guidelines.

last year. (See, for example, <http://www.thedemands.org>, as well as Chessman and Wayt's 2016 analysis of the demands in *Higher Education Today*.) We believe that it is only by understanding and engaging these new challenges and tensions that diversity scholarship can reclaim its utility and have significant implications for challenging racial inequality in postsecondary education.

Numerous scholars have offered useful and comprehensive syntheses of the now vast literature on how postsecondary campuses can bring students together to realize the educational benefits of diversity and build institutional capacity and conditions for healthy intergroup relations (see, for example, Garces & Jayakumar, 2014; Gurin, Nagda, & Zúñiga, 2013; Hurtado, 2005; Hurtado, Milem, Clayton-Pederson, & Allen, 1998, 1999; Jackson & O'Callaghan, 2009; Milem, Chang, & Antonio, 2005; Smith, 2015; William, Berger, & McClendon, 2005). To avoid repetition and provide a different perspective that engages the new tensions for diversity scholarship, we depart from this traditional approach. Instead, we provide a review of scholarly work to inform a reclaimed framing of diversity—one that will advance advocacy research, policy, and discourses as it provides direction for a critical diversity scholarship agenda toward racial equity.

Research and institutional discourse on diversity have been shaped by demographic trends as well as national and global imperatives (Smith, 2015), but the legal context has often dictated the role of diversity in movement toward racial equity and justice in postsecondary practices (e.g., Berrey, 2015b). As such, we frame our exploration around the U.S. Supreme Court cases that have informed and shaped diversity research in recent decades. This more context-informed (but not context-dependent) framing allows for a broader range of solutions across multiple advocacy contexts, and supports the advancement of diversity scholarship guided by a critical race consciousness (i.e., awareness of the existence of racism and the need to dismantle policies and practices that promote and sustain it). But legal parameters need not dictate the range of institutional interventions and solutions we envision for improving racial equity in postsecondary education (Chang, Chang, & Ledesma, 2005; Yosso, Parker, Solórzano, & Lynn, 2004). Thus, later in this chapter we also propose a range of future empirical studies on diversity that remain connected to postsecondary racial equity and justice, are informative for questions raised by current legal frameworks, and expand inquiry outside these legal parameters.

We have divided this chapter into three main parts. First, in Part I, we provide an overview of the legal context that informed the evolution of diversity-related research to date. We then discuss how constraints in early conceptions of diversity allowed other audiences to define the term for their own purposes in ways that took away from a focus on the racial discrimination students face on college campuses. In light of this “watering down,” in Part II we turn to critiques and limitations of diversity as a tool for addressing racial inequality and advocacy today. In so doing, we highlight Bell's (1980) thesis of interest convergence to explain the contradictions related to engaging in the debate over how race can be considered in educational policies and practices and argue that we need a new critical framing of diversity in order to advance research, policy, and discourse. Finally, in Part III, we highlight recent empirical and theoretical work that can inform a new agenda for

critical diversity research. We intentionally feature areas of work that engage prior lines of diversity scholarship in ways that continue to be helpful, while also highlighting new frameworks that put forth a re-envisioned agenda that advances racial justice.

This chapter will be of interest to higher education scholars and practitioners who have a strategic critical orientation toward diversity research, as well as those who are interested in developing a critical consciousness. It is dedicated to emerging scholars, institutional researchers, and student affairs administrators interested in contributing to the diversity literature in new ways that can inform more racially equitable policies and postsecondary practices. At the same time, it will also be useful to more seasoned higher education scholars and practitioners. In particular, it will be valuable to those who seek to consider recent racial critiques of diversity and the new challenges of a shifting policy context in work aimed at advancing postsecondary racial opportunity and justice.

Before turning to these three primary components, it is worthwhile to provide a bit more context for the endeavor. Specifically, we describe in greater depth our rationale for approaching this review of diversity research through a legal lens. Because our underlying goal in writing this chapter is to inform future directions for diversity scholarship, our approach was guided largely by a framework informed by a critical race praxis for educational research (CRP-Ed; Jayakumar & Adamian, 2015a). Thus, we close this introductory section with a summary of CRP-Ed as it relates to this manuscript.

## 2.1 Rationale for Our Approach

The phrase *diversity work* is used to describe efforts on college campuses to increase diversity or to facilitate meaningful inclusion on campus. These efforts include addressing the historical legacies of exclusion that characterize predominantly White institutions (Hurtado et al., 1998, 1999; Milem et al., 2005) as well as nurturing cross-racial interactions that contribute to learning and reduce prejudice (Gurin et al., 2013). Such efforts have primarily concentrated on gender, racial, and ethnic diversity, but in more recent years have expanded to include marginalized social status groups (e.g., English learners, LGBTQ community members, students with disabilities) and non-traditional identity status groups (e.g., international students, adult learners). Institutional leaders, as Berrey (2015b) asserted, “invoke diversity to describe heterogeneity, talk in code for black people, denounce minority exclusion, or build a concept of mutual gain. They ‘do’ diversity in a variety of ways, from implementing effective policies, to photoshopping. Their objectives vary as well, be they advocacy for race-targeted interventions, low-stakes affirmation, or legal inoculation” (p. 7). But how did this evolution, this broadening, take place?

In higher education, the concept of diversity cannot be divorced from the legal developments that have shaped its current definition and application. For this reason, we trace the concept back to the types of policies and practices that emerged out of

the Civil Rights Movement in the 1960s that were intended to address the legacies of government-enforced racial segregation (Karabel, 2005). Race-based affirmative action, for example, emerged from an express moral imperative on the part of some colleges and universities to contribute to the cause of racial equity and social change necessary to address centuries of racial oppression (Stulberg & Chen, 2014). At the most selective institutions, these policies started in the early 1960s at the initiative of liberally-minded administrators who were inspired by the Civil Rights Movement; others joined years later, in response to direct action campaigns by Black college students and their allies (Rogers, 2012; Stulberg & Chen, 2014). The resulting policies and practices included aggressive outreach to and recruitment of Black students and the consideration of their race as a favorable and “matter of fact” factor in admissions (Stulberg & Chen, 2014, p. 42).

Today, however, such race-based policies and practices have come to be seen by many as racially-discriminatory (Bonilla-Silva, 2014; Garces, 2014a; Harris, 2003). The only permissible legal rationale for considering race in postsecondary admissions is the goal of diversity; even then, it can only be considered alongside an array of other additional factors such as gender, sexual orientation, disability, and veteran status. In fact, diversity has come to denote differences in viewpoints, perspectives, and personal experiences of students—in many instances without attention to how these differences connect to unequal access to resources or to legacies of racial oppression in U.S. society. A main contributor to this shift was a concerted attack on race-based policies and practices by conservative groups in the legal arena (Lipson, 2011; Orfield, 2015). Concurrently, a large body of social science research has emerged related to diversity across a number of areas in postsecondary education.

Most if not all of the pioneering scholars who initially developed lines of inquiry foundational to the diversity literature did so to have a strategic advocacy voice in legal debates leading up to *Grutter v. Bollinger* (2003). Patricia Gurin, Mitchell Chang, Sylvia Hurtado, Eric Dey, and Jeffrey Milem, amongst others, provided important evidence that the Court cited in support of upholding affirmative action (Gurin et al., 2007; Jayakumar & Adamian, 2015b). While the Court ignored the more student-of-color-centered arguments of intervening groups that spoke to the role of racism in schools—including the organized efforts of the Coalition to Defend Affirmative Action, Integration and Immigrant Rights and Fight for Equality by Any Means Necessary (BAMN), student-activist intervenors at the University of Michigan, and scholars such as Walter Allen, Daniel Solórzano, Lani Guinier, and others (Harris, 2003; Ledesma, 2015)—these critical arguments impacted institutional practices, public discourse, and even the legal parameters of the impending debate (Jayakumar & Adamian, 2015b).

The evidence entered by those who stayed within the Court-defined precedent leading up to the most recent pronouncement of the parameters within which postsecondary institutions can consider race in their policies—*Fisher v. University of Texas* (2013, 2016)—included a tempered discussion of racism and discrimination, negative campus climate, and racial microaggressions in support of the university’s race-conscious policies (see, for example, Brief of American Social Scientist Researchers, 2013; Brief of 823 American Social Science Researchers,

2016; Garces, 2015a). This is encouraging. Still, despite the “wins” in the legal arena to maintain the constitutionality of “race-conscious” admissions policies and practices, universities’ most exclusionary practices of relying largely on standardized test scores in admissions remained intact (Berrey, 2015b; Guinier, 2015).

The early scholars noted above, and many of those who continue to do diversity research as advocacy, have experienced conflict in attempting to conform to the problematic terms of a constricting debate, which has been perceived as a requirement for participation. (For a longer discussion, see Jayakumar & Adamian, 2015b.) Here, we engage with the tension caused by the resulting false binaries of divergent paths to influencing change—diversity work or critical work; conformist or reformist; following or challenging the rules of the debate. Challenging racial inequality at its roots, critiquing diversity discourses in postsecondary institutions, and rejecting dominant narratives are all important. To enact social, political, and legislative change, however, we cannot overlook the potential impact of being a part of the policy conversation—and, moreover, of doing so while guided by a critical consciousness. The lesson here is that diversity research efforts going forward can be informed by critical theory and long-term radical vision, and that scholars must actively and strategically incorporate such a vision wherever possible. This vision must include interventions that stay within parameters of legal decisions, such as *Fisher* (2013, 2016), so the cases can reflect the lessons of research that can expand those legal parameters; likewise, some interventions must go outside of the policy context to challenge mechanisms contributing to the production of racial inequities.

As Jayakumar and Adamian (2015b) asserted, this long-term radical vision is what differentiates *critically conscious diversity research praxis*—where “praxis” is understood as strategic and intentional practice “directed at the structures to be transformed” (Freire, 1970, p. 126)—from *conformist diversity research*, which centers the dominant group’s interests without purpose or attention to policy implications for groups that are marginalized. Diversity work that does not consider political implications for people of color, perhaps even claiming objectivity, fits into the latter category because it implicitly or explicitly favors the dominant group’s interests in the guise of neutrality (Jayakumar & Adamian, 2015b). This vision is particularly important following *Fisher*, a case that preserved the constitutionality of considering race in educational policies but did not end the debate about or conservative attack on such policies. This ongoing struggle is exemplified by current lawsuits against Harvard University and the University of North Carolina, Chapel Hill (Biskupic, 2015).

As we have imagined future diversity research in this post-*Fisher* era, several important questions have emerged: Will scholars produce diversity research that feeds into or provides counter-narratives to the dominant legal parameters? Can scholars expand diversity research to address the very mechanisms that reinforce racial hierarchies and inequality in postsecondary institutions? How can scholars work within and outside of the parameters of the debate for the explicit purpose of advancing meaningful inquiry with implications for supporting existing (and future) policies and practices that support racial equity in higher education? Our collective

answers may determine whether we move toward or away from a critically conscious diversity research praxis.

We take a “both/and” approach—one that considers the incremental racial relief acquired through the use of the diversity rationale in the policy context and juxtaposes it with the very real consequences and limitations of diversity discourses in addressing racism in postsecondary institutions. Given the limitations of studying diversity (Baez, 2004) and the contemporary challenges of how it has been co-opted (e.g., Warikoo, 2016), we require an approach that takes into account the current policy terrain and the current challenges to advancing racial equity in higher education. As such, we depart from a traditional literature review. Instead, we analyze literature on the topic of diversity in shifting sociopolitical contexts and discuss the implications of that analysis for research going forward. As noted earlier, rather than identifying gaps in the literature, which has been done before (e.g., Garces & Jayakumar, 2014; Gurin et al., 2013; Hurtado et al., 1998, 1999; Jackson & O’Callaghan, 2009; Milem et al., 2005; Smith, 2015; Williams et al., 2005), we highlight frameworks and areas of scholarship that can advance strategic directions for diversity work that can more effectively advance racial equity in postsecondary education.

## **2.2 A Critical Race Praxis for Educational Research Approach**

The contemporary challenge for scholars who seek to critically inform consequential policy decisions by having a voice at the table is to understand the limitations of the legal context but not to accept these limitations as empirical truth. In other words, it is important to participate within the proverbial legal box, but at the boundaries—to press up against and expand its stated limits. In practical terms, this means engaging in empirical inquiry that provides evidence in language that will be well received in the legal context, but that also challenges dominant legal narratives (Jayakumar & Adamian, 2015b). At the same time, it means understanding that affirmative action and the diversity argument put forth to maintain the policy have always been grounded in partial truths and partial solutions—they have always been “race-conscious” but never “racism-conscious,” and always incomplete as solutions to achieving racial equity and justice (Jayakumar & Adamian, 2015a).

Thus, CRT calls on researchers to advance counterstories that challenge dominant narratives across multiple spheres of influence (Crenshaw, 2011; Delgado & Stefanic, 2012). Such spheres of influence might include a policy audience, various institutional stakeholders and practitioners, the college classroom, scholarly debate, public (critical) consciousness, or knowledge production. Within each sphere of influence there are associated parameters for participation—for example, particular languages and literacies that are accepted versus contested. Likewise, there are context-specific dominant narratives that support the racial status quo, and there



are different avenues to interventions against these narratives depending on whether the approach is short- or long-term, tempered or radical. To support the need for multiple counterstories, our approach here represents a reflective process toward envisioning the next generation of diversity scholarship. This process is guided by CRP-Ed.

CRP-Ed is rooted in CRT and is based on legal scholar Erik Yamamoto's (1997) foundational theorizing about what it would mean to employ CRT toward a critical race praxis in the field of law. Critical race scholars in the field of education have recently begun to draw on Yamamoto's critical race praxis (see, for example, Croom & Marsh, 2016; Stovall, Lynn, Danley, & Martin, 2009) in order to challenge oppressive schooling conditions. To further support its application in educational research and practice, Jayakumar and Adamian (2015a) put forth the CRP-Ed lens, which calls for educational scholars and practitioners to work toward transformation with a critical awareness of the current racial paradigm within which policies and practices are situated. In addition to foundationally drawing from Yamamoto (1997), the tenets of CRP-Ed (described in detail below) integrate the authors' interdisciplinary perspectives and advocacy experiences across secondary and postsecondary education sectors, as well as the theoretical contributions of Freire (1970), Ellsworth (1997), Gramsci (1971), Zuberi and Bonilla-Silva (2008), and Bell (1980), amongst others.

CRP-Ed supports bridging the counterproductive chasm between critical race theorists, researchers who strive to inform policy and schooling structures, and stakeholders who are aligned with community activism. It encourages a more synergistic relationship marked by mutual recognition and strategic leveraging of the role each group can play in seeking to advance racial justice, whether in tempered or radical ways, depending on the context in which advocacy is being generated. It is synergistic when these groups can inform one another to improve upon their respective weaknesses—whether that is a lack of practical application and policy relevance, or a lack of a critical perspective, which can limit the potential for radical change. CRP-Ed recognizes the advantages within each camp for effecting policy change and for transforming inequitable structures at different moments in the overall change process. Notably, it does not endeavor to quell the existing tensions and contradictions between various camps, but instead encourages awareness for how the tensions and contradictions can be mutually beneficial for countering White hegemony across multiple dimensions or battlegrounds.

*Hegemony* (or hegemonic ideology) is an ideology that is “dominant, rarely questioned, and often seems to be “common sense”; it is constructed, legitimized, and perpetuated to maintain social control through the privileging of more powerful social groups over the voices of those in positions of less power” (Camangian, 2013, p. 119; Gramsci, 1971). Collins (as cited in Camangian, 2013) noted that hegemonic ideology works to “absorb and thereby depoliticize oppressed groups’ dissent” (p. 119), which creates a need for re-naming co-opted justice strategies and creating new resistance tactics (Freire, 1970; Gramsci, 1971). Counter-hegemonic action and analysis can promote liberatory, humanizing thought and discourses against oppressive political, economic, and social hegemony (Camangian, 2013; Gramsci, 1971).

Jayakumar and Adamian (2015a) posited four tenets of CRP-Ed: (a) relational advocacy toward mutual engagement; (b) the re-definition of dominant and hegemonic systems; (c) research as a dialectical space that can challenge the racial status quo or perpetuate it; and (d) critical engagement with policy. The first of these, *relational advocacy toward mutual engagement*, asserts the importance of multiple counterstories to challenge dominant narratives across multiple spheres of influence (e.g., policy debate and public consciousness/debate), and collective reflection/leveraging across different positionalities (e.g., grassroots, teachers, students, educational researchers, political lawyers, policymakers) and within and across intersectional identities and power relations. The second tenet, *redefining dominant and hegemonic systems*, is a commitment to naming the world and the word in order to transform it (Freire, 1970), which requires cultivating a critical consciousness that informs the application of theory to practice. Naming the context of oppression includes understanding different resistances and their co-optations; it entails an iterative process that requires re-defining the context once it adapts to the resistance, in order to continue to challenge oppressive policies and practices.

Third, *research as a dialectical space* acknowledges the racist legacy of White research and White methods (see Zuberi & Bonilla-Silva, 2008), thereby interrupting the assumption of research as neutral and objective. At the same time, however, this tenet promotes the usage of empirical inquiry as a tool for advancing counter-narratives to support resistance that is accountable to communities of color. In other words, it reminds scholars of the power and legitimacy that research findings can generate for an idea or position as well as the imperative of taking this responsibility seriously and in a way that is accountable to oppressed communities. This means that critically conscious research praxis can come in many forms, methodologically speaking (e.g., qualitative or quantitative) and with regard to the utilization of language/terminology that allows for participation and advocacy particular to the context it seeks to transform.

Finally, the fourth tenet, *critical engagement with policy*, calls for strategic advocacy within (and outside of) the policy context that involves an understanding of the dynamics of *interest convergence constriction* and *expansion* (discussed in detail later in the chapter). It calls on scholars to both recognize when interest convergence expansion is happening—for example, when there is agitation and social movement that lead to mass consciousness raising—and to see that this expansion can be leveraged to advance more just policies and practices. In sum, this tenet encourages a broader understanding of the types of research that can impact policy change. This can include but looks beyond research that directly (and critically) questions and informs educational policy and school reform efforts within legal parameters. In particular, it draws an explicit link between research that supports agitation (and counter-hegemonic actions) and the policy transformation process. Together, the four CRP-Ed tenets emphasize and embrace the contradictions and tensions involved in working across different positionalities that involve power dynamics and differential constraints and opportunities for racial justice advocacy.

As a whole, a CRP-Ed lens supports research that answers problems of practice as they are situated within current legal and institutional paradigms that support White hegemony. At the same time, it supports research that names and challenges the very hegemonic systems and paradigms within which the work is situated in order to transform these structures. The latter is critical, not only for its theoretical value but also because it adds practical value by allowing research that is situated within the legal system and institutions to remain counter-hegemonic. Stated differently, this naming and challenging, informed by CRT and its interventions, can ensure that research designed to inform problems of legal and institutional practice has the potential to disrupt dominant narratives as opposed to blindly facilitating White hegemonic interests (usually framed in the guise of neutrality). The contemporary challenges identified in this manuscript include an increasingly colorblind policy context and the co-optation of diversity as an effective strategy for advancing more inclusive and equitable postsecondary institutional environments.

The CRP-Ed lens incorporates an understanding of prior strategy in order to guide future diversity scholarship within the legal paradigm and beyond. Thus, in the context of this chapter, a CRP-Ed approach calls for naming and understanding the shifting legal and institutional context and challenges within which future diversity work will be situated, toward envisioning the type of empirical inquiries that can generate interest convergence expansion and counter-hegemonic actions on multiple advocacy domains. Specifically, it calls for a holistic and critical assessment of the current legal and political climate—which, as we describe, is one of colorblindness and racial divisiveness. First, however, we turn to a discussion of how diversity research has evolved, and how this evolution can be mapped to the legal developments surrounding affirmative action in a postsecondary educational context.

### **2.3 Part I: Mapping the Evolution of Diversity Research to Legal Developments Around Affirmative Action in Postsecondary Education**

As we noted in the previous section, an understanding of the evolution of diversity research requires a simultaneous exploration of the effects of the legal developments around affirmative action policies and practices and the related collaborations between legal and social science scholars (e.g., Garces, 2014a). The consideration of race in education policies is subject to constitutional scrutiny under the Equal Protection Clause of the 14th Amendment to the U.S. Constitution. As such, when postsecondary institutions consider race—such as in affirmative action or race-conscious policies—they inevitably confront questions of law. As individuals and organizations bring new challenges under the 14th Amendment, postsecondary administrators and professionals must defend their policies and practices in the legal arena. Their efforts are supported by lawyers, legal scholars, and social scientists who can participate in the litigation as *amici curiae* (friends of the court)

through what are commonly referred to as amicus briefs. In this way, challenges to race-conscious practices in the legal arena generate new lines of research that can inform such litigation. The outcomes of these legal cases then shape educational policies and practices that, in turn, generate new lines of diversity research. And, in a continuation of the cycle, these new lines of research subsequently inform new challenges to race-conscious practices in the legal arena.

In this section we trace this dynamic process in the postsecondary context, highlighting challenges and compromises between legal advocates and, in particular, social science researchers. We first summarize the 1978 landmark legal case that set the legal foundation for considering the constitutionality of race-conscious admissions practices in postsecondary education, *Regents of the University of California v. Bakke*. As legal challenges to race-conscious practices continued, collaborations between legal scholars and social scientists generated early lines of diversity research that informed litigation in the next set of legal cases, more than 20 years later—*Grutter v. Bollinger* (2003) and *Gratz v. Bollinger* (2003). The outcomes of these cases shaped educational policies and practices as well as generated new lines of diversity research, as scholars worked within and sought to expand the constraints of the legal framework. These new lines of diversity research have informed ongoing litigation, including the recent decisions in *Fisher v. University of Texas* (2013, 2016).

### ***2.3.1 Bakke’s Shift: From Addressing the Effects of Racial Segregation Policies and Ensuring Access for Racial Minorities to Promoting Diversity, Protecting Whites from Discrimination, and Advancing Conceptions of White Innocence***

*Regents of the University of California v. Bakke* (1978) resulted in a splintered Supreme Court decision that established the legal framework used to evaluate the constitutionality of race-conscious policies in postsecondary education. The decision required institutions to shift the focus of race-conscious policies away from compensating for racial wrongs or addressing ongoing discrimination and toward promoting diversity. As we summarize in more detail below, the case also applied a legal test—strict scrutiny—that ultimately equated efforts to promote access to education for racial minorities with discriminatory practices against Whites and advanced the rhetoric of “White innocence” (Ross, 1990b), marking an important shift in judicial decision making that has had consequences for admissions practices and diversity research that persist to this day.

As Garces (2014a) has noted, before *Bakke*, early affirmative action efforts were grounded in the need to address racial inequities created by racial segregation policies and other exclusionary laws. The efforts of the Civil Rights Movement culminated in the Civil Rights Act of 1964 and various executive orders for

affirmative action. These laws focused on ensuring access to higher education and employment for African American, Latinx, American Indian, Asian American, and White women in fields where they were underrepresented. The laws, designed to address the effects of discrimination, gave the federal government the authority to bring a civil action against institutions that failed to take steps to racially integrate, and to withhold federal funds from school systems that failed to desegregate (Minow, 2010). In the late 1960s and early 1970s, reinforcing efforts by the executive and legislative branches of government, the U.S. Supreme Court made rulings to enforce racial desegregation and stop the delaying tactics used by some school districts (Minow, 2010). The Court authorized federal courts to institute comprehensive desegregation plans across the South and the North, essentially ordering that race be considered in education policies to remedy the effects of government-enforced (de jure) segregation in both K–12 and higher education.

In the absence of de jure segregation, institutions of higher education began adopting race-conscious admissions practices to address discrimination and racial/ethnic inequities. Race-conscious practices where segregation was not the result of an official government policy but of other structural factors, such as housing patterns, then became the focus of challenges and litigation. Litigation in this area culminated in 1978 with *Bakke*, which involved a challenge to the University of California, Davis, School of Medicine's consideration of race in its admissions decisions. (The school reserved 16 of 100 places for disadvantaged minority students.) In contrast to other institutions with a history of legally enforced segregation, the medical school had adopted its race-conscious admissions policy to remedy inequities and address the effects of societal discrimination.

Allan Bakke, a White student who had been denied admission to the medical school twice, challenged the race-conscious policy on the grounds that it violated the Equal Protection Clause of the 14th Amendment. The school sought to defend the policy on the grounds that it was needed to (a) address the effects of past discrimination practices and existing racial and ethnic inequities in higher education; (b) improve the delivery of healthcare services by increasing the number of physicians who would practice in communities currently underserved; (c) reduce the deficit of traditionally disfavored minorities in medical school and in the medical profession; and (d) obtain the educational benefits that flow from having an ethnically diverse student body. In six separate opinions with no clear majority and a controlling opinion by Justice Powell, the Court applied *strict scrutiny*, a legal test that had not previously been applied to affirmative action policies, and ultimately rejected all but the last of these four justifications—the educational benefits of diversity.<sup>2</sup>

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<sup>2</sup>The vote in *Bakke* was 4-1-4. Powell agreed with one four-Justice block on some aspects of the case and with the other four-Justice block on others. Thus, his rationale constituted the controlling opinion, as it resulted in a majority vote on the various legal issues. For a detailed analysis of Powell's rationale, see Garces (2014a).

*Bakke* established an important shift in constitutional jurisprudence by applying strict scrutiny to decide the case (Garces, 2014a). In considering the constitutionality of a policy under the 14th Amendment, a court will apply one of three legal tests, also known as standards of review: rational basis, intermediate scrutiny, or strict scrutiny. A rational basis standard is the lowest level of review and the easiest to satisfy; the Court will uphold the policy if the institution is pursuing a “legitimate” objective and there is a “rational relation” between the means chosen and the objective. Under intermediate scrutiny, the objective needs to be “important” and the means need to be “substantially related” to the objective. Strict scrutiny is the highest level of review and the hardest to meet. It requires a “compelling interest” and means that are “narrowly tailored” to this objective. The Court applies this standard to “smoke out” illegitimate use of race (i.e., racial classification) by ensuring that the institution “is pursuing a goal important enough to warrant use of a highly suspect tool” (*Johnson v. California*, 2005).<sup>3</sup>

When *Bakke* was argued, the precedent for which of these legal tests should apply was unclear, with opposing sides arguing for different standards (Garces, 2014a). Ultimately, in its splintered 4-1-4 decision, the Court applied the strict scrutiny standard to assess constitutionality, thus requiring that the admissions policy further a compelling interest in a manner that was narrowly tailored to that interest. By extending the Court’s strictest review to policies that were implemented to *include* racial minorities—as opposed to policies that were intended only to *exclude* racial minorities—the Court equated efforts to advance equality for Blacks and other marginalized populations with efforts that could be discriminatory against Whites. This shift thus provided a constitutional justification for individuals to challenge race-conscious policies as discriminatory against Whites (Garces, 2014a).

In an analysis of the *Bakke* decision, legal scholar Thomas Ross (1990a, 1990b) illustrated how the Court’s rationale underlying this constitutional shift was also based on a rhetoric of innocence. In particular, it was based on a notion of “White innocence” (Ross, 1990b) that characterized Whites as innocent victims of affirmative action. In assessing the medical school’s justification for its policy, for example, Justice Powell wrote about the “patent unfairness of ‘innocent persons. . . asked to endure. . . [deprivation as] the price of membership in the dominant majority’ . . . and ‘forcing innocent persons. . . to bear the burdens of redressing grievances not of their making’” (Ross, 1990a, p. 302). Ross (1990a, 1990b) demonstrated how such rhetoric—which questioned Black victimization—allowed the Court to avoid questions that called for a more complex understanding of affirmative action. These questions involved more realistic understandings of the benefits White individuals have experienced from the oppression of people of color and the advantages they continue to experience in myriad ways.

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<sup>3</sup>Even when a policy is “race neutral” under this legal definition, the strict scrutiny standard may apply if the court finds that the policy was motivated by racial or ethnic factors (see, e.g., *Hunter v. Underwood*, 1985). Under a legal definition, a policy is race-neutral when the language of the policy does not explicitly confer a benefit to an individual (such as an offer of admission) based on that individual’s race or ethnicity.

The one interest that Justice Powell found “compelling”—and therefore constitutionally permissible—was the need to further an educational mission by having a diverse student body. In endorsing this last justification for the educational benefits of diversity, Powell discussed how diversity contributes to the type of critical thinking central to the mission and quality of higher education, such as a “robust exchange of ideas” (*Bakke*, 1978, p. 313), a principle that is grounded in First Amendment constitutional principles and the umbrella of academic freedom. On the question of narrow tailoring (the second part of the strict scrutiny test), Powell emphasized that the compelling interest of diversity “encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is *but a single* though important element” (p. 315; emphasis added). He found that because the set-aside admissions program focused solely on ethnic diversity, it hindered rather than furthered the “attainment of genuine diversity” and thus was not narrowly tailored. Justice Powell also held that the policy had to be holistic and flexible, and that the medical school’s policy operated as a quota and therefore was not constitutionally permissible. For these reasons, he struck down the policy as unconstitutional.

With his ruling in *Bakke*, Justice Powell thus established a practice-based shift in race-conscious admissions, and universities throughout the country modified their policies to comply with the Court’s requirements (Welch & Gruhl, 1998). No longer allowed to expressly consider the effects of societal discrimination or racial inequities to justify voluntarily adopted race-conscious policies, institutions that sought to expand access for underrepresented populations had to focus their efforts on a broader notion of diversity, of which race could only be one of a number of factors considered. With this shift, social science research on diversity, as it is contemporarily understood, emerged.

### **2.3.2 Early Stages of Diversity Literature Post-Bakke and Leading to Grutter**

#### **2.3.2.1 Early Collaboration Among Legal and Social Science Communities to Address Ongoing Legal Challenges Post-Bakke**

After the *Bakke* decision, challenges to race-conscious practices in admissions continued in both the policy arena and the courts, setting the stage for early research on diversity. In the early to mid-1990s, for example, a number of public policy initiatives and legal challenges organized and funded by Ward Connerly and likeminded conservative groups were designed to end the use of race as a factor in college admissions. In the policy arena at the state level, the University of California Board of Regents voted to end the use of race and gender in admissions and hiring practices in 1995 with Special Policy 1. The policy was replaced in 1996 by Proposition 209, a voter-approved referendum that prohibited affirmative action at all public postsecondary institutions in California. Soon after, in 1998, voters

approved a similar initiative in Washington State. Ward Connerly led these efforts as part of a national campaign to end affirmative action.<sup>4</sup> In the courts, a legal challenge to a race-conscious policy at the University of Texas law school led to the legal decision in *Hopwood v. University of Texas Law School* (1996), where, in an unusual move, the Fifth Circuit refused to extend otherwise binding Supreme Court precedent in *Bakke*, concluding instead that the race-conscious policy was unconstitutional, thereby prohibiting race-conscious admissions in Texas, Mississippi, and Louisiana (Garces, 2015a).

Around the same time, in 1997, Barbara Grutter, a White female applicant, was denied admission at the University of Michigan Law School. Supported by the national campaign to end affirmative action, she sued the school to challenge its admissions policy, which considered race, among other factors, as a characteristic that could enhance an applicant's chances of admission. The policy had been modeled after the type Justice Powell had endorsed in *Bakke*. Grutter argued that the race-conscious admissions policy violated the Equal Protection Clause of the 14th Amendment because a higher percentage of minority applicants were admitted than non-minority applicants with similar test scores. The law school argued that the policy was needed to further a compelling interest in student body diversity, which required the enrollment of a "critical mass" of students of color (i.e., more than a token number) to help diminish the impact of stereotypes. Further, the school argued, the admissions process met the narrow tailoring requirements of strict scrutiny because it was based on individualized consideration of every applicant. Social science research, as we describe in depth in a later section, informed these arguments. At the same time, Jennifer Gratz filed a separate lawsuit to challenge the admissions policy at the undergraduate College of Literature, Science, and the Arts, which awarded extra points to some candidates on the basis of their race.

As these legal challenges were making their way through the lower courts, it became clear that the ability of postsecondary institutions to consider race as a factor in admissions would again be reviewed by the U.S. Supreme Court. This led to a concerted effort among lawyers, civil rights advocates, policymakers, administrators, and scholars to review existing research that could support legal arguments for affirmative action, and to identify studies that could be done in a relatively short period of time to fill policy-relevant gaps in the existing literature. Modeled after the collaboration that had occurred in *Brown v. Board of Education of Topeka* (1954), the goal was to unite these diverse stakeholders to assemble compelling social science evidence that would inform the case and counter anticipated arguments challenging the use of race as a factor in college admissions.

Researchers involved in this early work came from a variety of fields—economics, education, law, political science, psychology, public policy, sociology—and

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<sup>4</sup>Six additional states currently ban the consideration of race as a factor in postsecondary admissions decisions as a result of similar voter initiatives, legislative efforts, or other avenues: Florida (One Florida Initiative), Michigan (Proposal 2), Nebraska (Initiative 424), Arizona (Proposition 107), New Hampshire (House Bill 623), and Oklahoma (Oklahoma Affirmative Action Ban Amendment).



included established and emerging scholars. The group was committed to a set of core values about the continued significance of race and racism in U.S. society, as well as to the social justice imperative of integration. The work focused broadly on racial dynamics in society, in educational institutions, and on college campuses (e.g., educational equity, race-relations, racial climate, and desegregation). Through their scholarship, they sought to inform and improve educational theory and practice with the hope of transforming institutions to make them more equitable and less exclusionary (Jayakumar & Adamian, 2015b).

Notably, in entering this policy and legal conversation, these scholars made the choice to be significantly constrained by legal advice on the types of evidence that would be permissible in the courts. Specifically, many of the social scientists opted to follow the advice of lawyers who predicted, based on legal precedent, what types of evidence could be entered in the particular political moment (Jayakumar & Adamian, 2015b). The advice at the time was to capitalize on the narrow avenue *Bakke* left for institutions to justify the consideration of race in admissions—that is, the educational benefits of diversity. This reframing meant moving away from a more critical focus on race that centers the experiences of students of color. For some, this evoked internal (and external) conflict and frustration.

The approach was intended to demonstrate “interest convergence” (Bell, 1980) on the part of Whites and students of color, wherein policies benefiting students of color would also be viewed as beneficial to Whites, so as to generate interest on the part of the Justices to rule in favor of the university. Social scientists thus focused on documenting the benefits of diversity for all students (e.g., Antonio et al., 2004; Chang, 1997; Gurin, 1999; Gurin et al., 2002; Hurtado, Engberg, Ponjuan, & Landreman, 2002). Thus began a strategic effort aimed at purposefully building on previous theory and research related to the educational benefits of diversity. This entailed executing targeted studies after identifying research questions, modes of inquiry, and analyses that could generate empirical findings that would be permissible in the legal deliberations. Much of the data were quantitative, accounting for the intended audience (e.g., the Supreme Court, with relatively conservative-leaning Justices), what those audiences would perceive as legitimate, and the degree of generalizability to broader student populations and institutional contexts.

### 2.3.2.2 Documenting the Educational and Societal Benefits of Diversity

In the context of these legal developments, two key frameworks guided the initial diversity scholarship on the educational benefits of diversity: (a) a framework by Gurin (1999) for explaining the impact of diversity on students’ learning, and (b) a framework by Hurtado et al. (1998, 1999), which incorporated a psychological and behavioral climate component and a lens for understanding the context for diversity and educational benefits on college campuses. These two frameworks guided the diversity and educational benefits literature from its inception and led to the documentation of a host of individual and societal outcomes, both short- and long-term.

These included enhanced critical thinking skills, greater cross-racial understanding, and improved leadership skills for a multiracial society.

Gurin (1999) drew from psychosocial theories of development and cognition, the college impact literature, and documentation of racial segregation patterns to link racial diversity to student developmental outcomes. Gurin's report, filed on behalf of the University of Michigan in *Grutter and Gratz*, cited an emerging body of policy-relevant research linking student body diversity to student learning outcomes and societal imperatives (e.g., democracy and citizenship). Complementing this work was Hurtado et al.'s (1998, 1999) ecological perspective that drew attention to the interconnections between individual, institutional, and social change and provided a holistic understanding of racially diverse learning environments by situating the campus experiences of students of color within institutional legacies of exclusion and discriminatory practices. Extending beyond numeric diversity, Hurtado and her colleagues outlined a conceptualization of racial climate that was not limited to perceptions and attitudes, but included the institution's structure and history as well as interracial interactions. It assumed that students are educated in contexts that vary from campus to campus, and that variations in racial climate are shaped by a range of external and internal forces.

These theoretical perspectives, couched within the educational benefits conversation, re-inserted attention to racism and racist structures into the approach by social scientists. The scholars doing this early work recognized the limitations in Justice Powell's statement and intended to use his own language to shift the discourse about the diversity rationale (Jayakumar & Adamian, 2015b). They offered a more nuanced, contextual, and student-of-color-centered understanding of the relationship between racial diversity and educational benefits. Unlike Powell's vision of the educational benefits equation, where simply admitting more students of color would result in positive outcomes, these scholars showed that institutional context and race relations also matter. Thus, while studies examining the educational benefits of diversity documented such benefits, they also showed, as we discuss in more detail later, that Powell's articulation was less than complete (see, for example, Antonio et al., 2004; Chang, 1999; Chang, Witt, Jones, & Hakuta, 2003; Gurin, 1999; Gurin et al., 2002; Gurin, Nagda, & Lopez, 2004).

It is important to note that the University of Michigan strategy in the *Grutter* and *Gratz* cases included a social justice-oriented shift in the discourse from "diversity" back to "integration," and an expansion from "individual benefits" toward "societal needs" and "national interests" (Lehman, 2004). Patricia Gurin's expert testimony, and a wealth of empirical social science research entered as evidence, sought to support these interests (Jayakumar & Adamian, 2015b). Gurin's testimony outlined a theory of how interactions across racial identity groups stimulate personal and cognitive development. Importantly, it connected long-established psychosocial and cognitive theories of development to de facto neighborhood and institutional segregation. The goal was to expand the conversation from a narrow diversity rationale to include a social justice agenda encompassing institutional responsibility in order to address racial segregation, thus forming a connection to the legal precedents in the 1954 case of *Brown v. Board of Education* (Jayakumar & Adamian, 2015b).

The social justice strategy also involved a group of student activists and three pro-affirmative action organizations that participated as intervenors at early stages of the litigation but that were denied a request to participate in the case at the Supreme Court level (Harris, 2003; Massie, 2001).<sup>5</sup> The student intervenors sought to foreground the Civil Rights roots of affirmative action as a policy designed to address systemic racial discrimination. They passionately defended the university's race-conscious policy as important for furthering diversity, while also critiquing it for falling short of fully addressing the corrective and remedial purposes of affirmative action (Berrey, 2015a). They focused on the history of discrimination, the effects of segregation, and the realities of racial bias that affect admissions to justify the university's policies (Berrey, 2015a; Ledesma, 2015). Throughout the litigation, however, their efforts were viewed as too confrontational, and were relegated to the margins through a series of concerted efforts by the legal team of the main parties in the case and university administrators (Berrey, 2015a).

### ***2.3.3 Legal Outcomes in Grutter and Gratz that Shaped the Next Stages of Diversity Research***

After being presented with a record number of amicus briefs in the *Grutter* case—some 200 in support of the University of Michigan policies—the Court, in a 5–4 opinion authored by Justice O'Connor, upheld the constitutionality of race-conscious policies under limited circumstances based, in part, on notions of how the benefits of diversity accrue to all students, regardless of race. The Court issued a separate decision in *Gratz v. Bollinger* (2003) striking down the undergraduate admissions policy on the grounds that the point system was not flexible enough to comply with the individualized consideration outlined in *Grutter*. Together, the *Gratz* and *Grutter* decisions established the parameters for postsecondary institutions to implement the consideration of race as a factor in admissions decisions in a constitutionally permissible manner. Here, we focus on the Court's decision in *Grutter*, as it outlines the rationale underlying the Court's endorsement of the educational benefits of diversity as a goal that justified the university's race-conscious policies.

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<sup>5</sup>The students included 41 Black, Latina/o, Asian Pacific American, Arab American, and White individuals who were prospective or current law students at the time of the litigation (Massie, 2001). The organizations included BAMN, which spearheaded the intervention, joined by Law Students for Affirmative Action and United for Equality and Affirmative Action.

### 2.3.3.1 Expanding Endorsed Benefits of Diversity to Include Democratic Interests

As Justice Powell had ruled in *Bakke*, the 5–4 Court decision in *Grutter* found that universities have a compelling interest in student body diversity. The ruling emphasized the notion that institutions should be afforded the freedom to select a student body that will contribute most to a “robust exchange of ideas” (p. 329, quoting *Bakke*), that student body diversity promotes “‘cross-racial understanding,’ helps to break down racial stereotypes, and ‘enables [students] to better understand persons of different races,’” and that “classroom discussion is livelier, more spirited, and simply more enlightening and interesting when the students have the greatest possible variety of backgrounds” (p. 329, quoting lower court record). The Court cited research studies showing that student body diversity “better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals” (p. 330, citing Brief of American Educational Research Association et al., 2003; see also Bowen & Bok, 1998; Orfield & Kurlaender, 2001; Chang et al., 2003).

While reaffirming the underlying justification for why diversity serves a compelling interest in *Bakke* (i.e., educational benefits), the Court’s rationale in *Grutter* further expanded the justification for race-conscious admissions policies by emphasizing that student body diversity is important not only for improved learning outcomes but also for the role it plays in sustaining U.S. democracy (i.e., democratic/societal benefits; Garces, 2014a, 2015a). Indeed, the majority opinion emphasized the role of universities, and professional schools in particular, including law schools, in providing “the training ground for a large number of our Nation’s leaders” (*Grutter*, 2003, p. 332). The Court stressed the need for these institutions to extend opportunities to individuals of all races and ethnicities so that members of our society can have “confidence in the openness and integrity of the educational institutions that provide this training” (*Grutter*, 2003, p. 332). With this expanded rationale, the Court recognized the important role postsecondary institutions play in sustaining the health of U.S. democracy by having a student body that more closely reflects the nation’s racial and ethnic diversity. The rationale also brought to the forefront the important role that racial and ethnic diversity plays in graduate studies, as graduate degrees are prerequisites to several professions and, often, to positions of influence and power in American society. Racial diversity in graduate studies can also contribute to a more racially diverse professoriate, which is critical for fostering creativity and innovation as well as generating more complex knowledge (Page, 2007).

This expanded rationale illustrates the likely influence of the early research on diversity in informing the Court’s support of the benefits of diversity for individuals as well as for society. Notably, the argument about the importance of diversity for democracy likely also gained traction as it aligned with the amicus briefs filed by 65 of the nation’s top corporations and military leaders articulating the advantages of diversity to the workforce and society (Coleman, 2004). In fact, it was clear from

Justice O'Connor's opinion in *Grutter* (2003) that, in addition to social science research, corporate and national interests played an integral role in the defense of affirmative action in the eyes of the Court. In this way, the language of national security, although embedded in racist policies and practices, served as an entry point for advocacy.

### 2.3.3.2 A Focus on Critical Mass and the Means for Attaining Racial Diversity

Importantly, the Court in *Grutter* (2003) agreed with the university's asserted need to have "a critical mass" of Latinx, African American, and Native American students "who without this commitment might not be represented in [the] student body in meaningful numbers" (p. 3). The university's arguments about critical mass drew from research documenting the harms of stereotype threat and tokenism. The Court acknowledged that in the absence of such a critical mass of same-race peers, students of color are more vulnerable to social stigma (Steele, 1992, 2010) and are more likely to experience racial tension (Hurtado, 1992) and tokenism (Kanter, 1977). Both the majority and dissenting opinions in the *Grutter* case asserted the need for more than token numbers of students of color to avoid the harms of racial isolation and to create the conditions for educational benefits. In Justice Rehnquist's words, a critical mass was necessary "[t]o ensure that these minority students do not feel isolated or like spokespersons for their race; to provide adequate opportunities for the type of interaction upon which the educational benefits of diversity depend; and to challenge all students to think critically and reexamine stereotypes" (*Grutter*, 2003, Rehnquist dissenting, p. 3.).

In *Grutter* (2003), the Court supported the description of a critical mass as "meaningful numbers," "meaningful representation," and "a number that encourages underrepresented minority students to participate in the classroom and not feel isolated," or "numbers such that underrepresented minority students do not feel isolated or like spokespersons for their race" (pp. 318–319). Informed by this work, the Court's majority opinion noted:

...diminishing the force of [racial] stereotypes is both a crucial part of the Law School's mission, and one that it cannot accomplish with only token numbers of minority students. Just as growing up in a particular region or having particular professional experiences is likely to affect an individual's views, so too is one's own, unique experience of being a racial minority in a society, like our own, in which race unfortunately still matters. (*Grutter*, 2003, p. 333)

In this way, the Court recognized the role that race plays in shaping students' experiences and educational pathways.

In *Grutter* (2003) and *Gratz* (2003), the Court noted that the consideration of race serves a compelling interest, and also that such consideration must be done in a narrowly tailored manner. This narrow tailoring prong of the legal test established in *Bakke* (1978) required that the policy (a) involve a flexible, individualized consideration of applicants so that race, while important, was only one of a number of

factors being considered; (b) not operate as a “rigid quota or a functional equivalent in the form of a set-aside or a predetermined number of seats for minorities” (Garces & Jayakumar, 2014, p. 9); (c) give good faith consideration to workable race-neutral alternatives to the race-conscious policy; (d) not unduly burden disfavored groups; and (e) be limited in time or include a periodic review to assess necessity (Garces & Jayakumar, 2014).<sup>6</sup> The Court held in *Grutter* that the law school’s policy satisfied each of these requirements, specifically noting that narrow tailoring did not require that every conceivable race-neutral alternative be exhausted.

At the time of the *Grutter* and *Gratz* litigation, amicus briefs also presented evidence to address the “narrow tailoring” part of the legal test. These briefs sought to demonstrate the limited effectiveness of so-called race-neutral policies, such as percentage plans, for yielding a student body as racially and ethnically diverse as one that would be generated if race was considered among many factors in admissions. This research involved one of the first studies on percentage plans by Horn and Flores (2003). Justice Ginsburg (joined by Justice Souter) cited the study in her dissent in *Gratz* (2003) as evidence that calling such plans race-neutral would be disingenuous because they were adopted for the specific purpose of increasing racial and ethnic representation.

### 2.3.3.3 Endorsing a False Dichotomy Between Selectivity and Diversity

Even as the Court’s rationale in *Grutter* connected racial diversity to institutional missions and democratic goals, it endorsed the perspective that diversity and selectivity are two options between which institutions must decide (Garces, 2014a; Solórzano & Yosso, 2002). In defending the limited use of race in admissions, the university stated that it did not need to abandon “selectivity” as a “core part” of its mission to achieve racially diverse learning environments (Brief for Respondents in *Grutter*, 2003). The university argued that “overruling *Bakke* would force this Nation’s finest institutions to choose between dramatic resegregation and completely abandoning the demanding standards that have made American education the envy of the world” (Brief for Respondents in *Grutter*, 2003, p. 13). The university did not question whether its reliance on standardized tests in admissions discriminated against racial minorities, nor did it propose relying less on these measures as a way to attain racial diversity. In its opinion, the Court agreed with the university’s arguments, emphasizing that the university need not choose “between maintaining a reputation for excellence or fulfilling a commitment to provide educational opportunities to members of all racial groups” (*Grutter*, 2003, p. 309). However, by agreeing with the university’s argument, the Court essentially enforced the notion

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<sup>6</sup>Although the Court emphasized that the practice needed to be limited in time or subject to periodic review, in what has become an oft-quoted sentence, the Court also stated that it “expects that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today” (*Grutter*, 2003, p. 343).

that diversity and selectivity are mutually exclusive. Because selectivity is viewed as a proxy for educational quality, endorsing a dichotomy between diversity and selectivity essentially endorses a chasm between diversity and educational quality (Garces, 2014a).

A number of other organizations and groups that filed briefs in support of the university's policy had advanced arguments that did not frame the goals of diversity and selectivity as requiring a choice. These organizations included groups like BAMN, the United Negro College Fund, the National Center for Fair & Open Testing, and the Society of American Law Teachers. They focused instead on the disparate racial impact of the LSAT and SAT and the role of these racially biased admissions criteria in perpetuating racial inequities in education—an issue we discuss in greater detail later in the chapter. Fundamentally, these groups questioned whether White applicants with higher standardized test scores were in fact more qualified for admission than minority applicants with lower test scores, and whether the admission of racial minorities with lower test scores was discriminatory against Whites with higher test scores. They argued that the university's admissions policy was *not* used to create an exception to quality but was needed to address the law school's otherwise biased admissions criteria. They also affirmed the importance of affirmative action policies in continuing the racial gains brought about by the civil rights movement (see, for example, Brown-Nagin, 2005).

Interestingly, Justice Thomas's dissent highlighted the "Law School's refusal to entertain changes to its current admissions system that might produce... educational benefits," noting that "if the Law School is correct that the educational benefits of 'diversity' are so great, then achieving them by altering admissions standards should not compromise its elite status" (Grutter, 2003, p. 355, 356n4). Justice Thomas's dissent highlighted an important contradiction between the goal of the university—racial diversity—and the means it employed to further this interest—measures of achievement strongly correlated to race and class that reflect unequal advantages (see Brown-Nagin, 2005). His argument highlighted the point that the choice need not be between diversity and selectivity or quality, but between diversity and biased, poor measures of merit (Garces, 2014a).

### ***2.3.4 Stages of Diversity Research Post-Grutter, to Fisher and Post-Fisher: Pushing Within the Constraints of the Legal Framework***

Next we describe how some scholarship since *Grutter* (2003) has actively attempted to address these legal developments and reshape the diversity rationale toward a greater acknowledgment of the ongoing role that race continues to play in students' educational experiences and interactions. The educational benefits of diversity, as framed by Justice Powell in *Bakke*, and again in *Grutter*, focus on the relationship "between numbers [of students of color on campus] and achieving the benefits to be

derived from a diverse student body, and between numbers [of students of color on campus] and providing a reasonable environment for those students admitted” (*Bakke*, 1978, p. 324). While Powell acknowledged the importance of the environment for achieving benefits, he did not elaborate, adding only that “unplanned, casual encounters” within a diverse student body can lead to “improved understanding and personal growth” (p. 313). Powell further argued, “it is hard to know how, and when, and even if, this informal ‘learning through diversity’ actually occurs” (p. 313).

Scholars have deliberately reframed two points from Powell’s statements—whether “learning through diversity actually occurs” and the relationship between numbers and benefits.<sup>7</sup> For example, studies since *Grutter* (2003) have sought to empirically demonstrate the role of campus racial climate and other conditions that reflect a supportive institutional environment for students of color (for a review of this literature, see Garces & Jayakumar, 2014). These studies showed that higher education has a compelling interest in enrolling a racially diverse student body, but the associated educational benefits are not guaranteed; rather, they rest upon institutions creating the conditions that promote such learning outcomes within particular institutional contexts. This work countered Powell’s dismissive statement—“‘diversity,’ whatever it means”—in the *Bakke* (1978, p. 355) opinion and began to construct a more complete picture that attended to the dynamic relationship between students and their learning environments. Below, we review select literature to illustrate how researchers working within a constrained legal framework have deliberately sought to expand the understanding of diversity.

### 2.3.4.1 A More Comprehensive Focus on Cross-Racial Interactions

One way researchers have strategically documented the encounters Justice Powell referenced in *Bakke* (1978) as providing wide exposure to ideas (p. 312) is by measuring undergraduate students’ frequency of interactions with peers who do not identify as the same race, or what we and others refer to as students’ frequency of cross-racial interactions. Researchers have also capitalized on the Court’s assertion in *Grutter* (2003) about the need for adequate racial representation as a window of opportunity to further clarify the harmful effects of racial isolation and stereotype threat, harms that are connected to the undermining of cross-racial interactions, classroom participation, and the subsequent positive outcomes associated with racial diversity. This area of diversity research is rooted in a rich body of sociological and psychological scholarship concerning residential, employment, and school desegregation. In a meta-analysis of this literature, for example, Pettigrew and Tropp (2006)

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<sup>7</sup>We recognize that equating students of color to numbers contributes to a dehumanizing discourse. Shifting the conversation necessitates utilizing the problematic terminology, however. Therein lies a major tension for scholars and lawyers working within the legal system to undo unjust practices, particularly in the context of a politically conservative Court (Jayakumar & Adamian, 2015b).



showed that cross-racial interactions significantly reduce prejudice across a variety of samples and situations.

In fact, cross-racial interactions have been closely studied in higher education (pre- and post-*Grutter*) and have shown to be positively associated with a wide range of student outcomes. These outcomes include improved academic skills (Denson & Chang, 2009; Gurin, 1999; Gurin et al., 2002; Hu & Kuh, 2003; Luo & Jamieson-Drake, 2009); academic and social self-concept (antonio, 2004; Chang, 1999; Chang, Astin, & Kim, 2004; Chang, Denson, Sáenz, & Misa, 2006; Denson & Chang, 2009; Gurin et al., 2002; Nelson Laird, 2005); cognitive outcomes (antonio et al., 2004; Chang et al., 2006; Denson & Zhang, 2010; Gurin et al., 2002; Nelson Laird, 2005); personal growth and development (Hu & Kuh, 2003; Luo & Jamieson-Drake, 2009); teamwork and leadership skills (Denson & Zhang, 2010); prejudice reduction (Gottfredson, Panter, Daye, Allen, & Wightman, 2009; Zúñiga, Williams, & Berger, 2005); reduced social distance (Odell, Korgen, & Wang, 2005); perceived exposure to diverse ideas (antonio et al., 2004; Gottfredson et al., 2009); racial/cultural understanding and engagement (antonio, 2001; Astin, 1993; Chang et al., 2006; Denson & Chang, 2009; Denson & Zhang, 2010; Gurin, 1999; Gurin et al., 2002; Hu & Kuh, 2003); pluralistic orientation (Engberg, 2007; Engberg & Hurtado, 2011; Jayakumar, 2008); social agency and civic development (Astin, 1993; Bowman, 2011; Chang et al., 2004; Gurin, 1999; Gurin et al., 2002; Hurtado, et al., 2002; Nelson Laird, 2005; Zúñiga et al., 2005); retention (Chang, 1999); well-being (Bowman, 2010); and satisfaction with college (Astin, 1993; Chang, 1999; Luo & Jamieson-Drake, 2009).

Rare or superficial interracial interactions are not likely to lead to positive outcomes, however, because they can instead produce biased conclusions, such as attributions of counter-stereotypical behavior to circumstance or coincidence (Sekaquaptewa, Espinoza, Thompson, Vargas, & von Hippel, 2003; Seta, Seta, & McElroy, 2003), or to solidify previously held stereotypes (Berndsen, Spears, van der Pligt, & McGarty, 2002; Stroessner & Plaks, 2001). A large connected area of scholarship on intergroup dialogues (most recently presented in the litigation in *Fisher*, as noted below) provides evidence based on quasi-experimental design methodology that cross-racial interactions most effectively lead to prejudice reduction when there is facilitated dialogue that highlights similarities and differences across groups and an understanding of race and racism (Gurin et al., 2013).

While these findings make the case that encounters with people of different races contribute to undergraduate learning, they do not directly address what Powell referred to as the relationship “between numbers [of students of color on campus] and achieving the benefits to be derived from a diverse student body” (*Bakke*, 1978, p. 324). Although research pre-*Grutter* supported the notion that student body racial diversity is a prerequisite for the type of intergroup relationships thought to foster educational benefits (Hurtado et al., 1999; Chang, 1999), other research has contended that increasing racial diversity causes students to self-segregate into separate subgroups and not interact across race (Bloom, 1986; D’Souza, 1991; Thernstrom & Thernstrom, 1997). The conditions that lead to either self-segregation or interracial interaction were not clear within the empirical findings (Chang et al.,

2006). This relationship is especially important because the diversity rationale rests on evidence that increasing the numbers of students of color on campus will increase frequency of cross-racial interactions and, in turn, add value to the educational environment in ways that enrich all students' learning.

#### **2.3.4.2 Understanding the Connections Between Institutional Context and Cross-Racial Interactions**

In addition to more research documenting the benefits of cross-racial understanding, a number of studies have established a connection between the racialized experiences of students of color and the educational benefits of diversity. This research served to challenge conservative voices in the Court, such as those of Justices Thomas and Scalia, and other critics who suggested that diversity led only to racial balkanization. Campus racial climate plays a mediating role in determining whether increasing student body racial diversity leads to cross-racial engagement or self-segregation (Jayakumar, 2008). Based on structural equation modeling of 10-year longitudinal data, for example, Jayakumar (2008) showed that increased representation of students of color (numeric diversity) is directly and highly associated with a positive racial climate, but on its own is not associated with an increased likelihood that White individuals will engage in cross-racial interactions.

Denson and Chang (2009) similarly used hierarchical linear modeling to further explore the unique contextual effect between campus climate and interracial interactions. The authors anticipated and challenged a conservative assertion that institutions could achieve desired benefits without enrolling sufficient numbers of students of color by attending to the campus racial climate. Their study documented that, at the institutional level, a peer group average measure of cross-racial interactions had a significant positive effect on racial-cultural engagement. This finding suggests that while both are related, individual-level encounters are relatively more important to individual development than the broader context of race relations on campus. Overall, they confirmed the findings of two previous studies (Engberg, 2007; Nelson Laird, 2005) that also asserted the importance of positive quality interactions in enhancing students' academic self-concept and social agency. These studies and others (for example, Chang, 1997; Gurin 1999; Milem & Hakuta, 2000) generated policy-relevant quantitative evidence—which, as we note later, was cited in the amicus briefs filed in *Fisher*—about the contextual relationship between what Justice Powell called “numbers and benefits,” showing that it is not hypothetical but rather empirically linked to campus climate.

#### **2.3.4.3 Centering the Experiences of Students of Color and Focusing on Institutional Responsibility**

Another important line of research that continued post-*Grutter* involved centering the experiences of students of color with research to demonstrate that they

experience a more hostile racial climate than White students (e.g., Cabrera, Nora, Terenzini, Pascarella, & Hagedorn, 1999; Fischer, 2010; Harper & Hurtado, 2007; Hurtado, 1992; Rankin & Reason, 2005), and that a negative climate compromises the growth and development of all students (Cabrera et al., 1999; Carter & Hurtado, 1997; Harper & Hurtado, 2007; Jayakumar, 2008; Nora & Cabrera, 1996; Pascarella & Terenzini, 2005). Indeed, quantitative studies post-*Grutter* and pre-*Fisher* documented that students who report negative racial experiences are more likely to experience a lower sense of belonging in the first 2 years of college (Hurtado et al., 2007; Locks, Hurtado, Bowman, & Oseguera, 2008) and overall dissatisfaction with the college experience (Miller & Sujitparapitaya, 2010). The literature also documented the impact of climate perceptions on the academic adjustment and quality of engagement in all campus environments for students of color (Cabrera et al., 1999; Carter & Hurtado, 1997; Museus, Palmer, Davis, & Maramba, 2011; Pascarella & Terenzini, 2005), including the classroom environment (Quaye, Tambascia, & Talesh, 2009). In *Fisher*, as we discuss below, this argument was expanded to the classroom level to underscore the effects of racial isolation on the personal and educational experiences of students of color and on engagement and educational benefits for all students.

Adding to the ecological perspective that informed the *Grutter* litigation that was first advanced by Hurtado et al. (1998, 1999), Milem et al. (2005) added the dimension of organizational structure, pointing to institutional norms, policies, and practices that protect and perpetuate inequitable schooling conditions and outcomes. More recently, Hurtado, Alvarez, Guillermo-Wann, Cuellar, and Arellano (2012) further developed the framework to incorporate social identity and power relations among actors. Other scholars have more distinctly explored the types of interactions and facilitated experiences that contribute to the kind of institutional capacity and responsibility that helps realize the educational benefits of diversity. Collectively, these studies have shown, for example, that campuses with higher levels of cross-racial interactions within the student body have in place a curriculum that reflects the historical and contemporary experiences of people of color, programs that support recruitment and retention, and an institutional mission that reinforces a commitment to pluralism and racial equity (Allen & Solórzano, 2001; Gurin et al., 2013; Hale, 2004; Hurtado, Dey, Gurin, & Gurin, 2003; Richardson & Skinner, 1990; Smith et al., 1997). Such campuses, scholars have argued, are intentional about recruiting and retaining a racially diverse student body, attending to their historical legacy of exclusion, incorporating ethnic studies curricula more broadly, and facilitating positive intergroup relationships and a positive racial climate (Hurtado et al., 1999; Hurtado et al., 2012; Jayakumar & Museus, 2012; Milem et al., 2005).

The research related to the diversity rationale in support of the University of Texas in *Fisher* further connected the benefits to studies centering the experiential realities of students of color. Scholars connected to a social justice imperative by pulling in studies on microaggressions and counterspaces, for example. They demonstrated that the classroom, an important focus of the university's argument, is a particularly vulnerable site for racial microaggressions—that is, relatively subtle, indirect insults and forms of discrimination that can appear innocuous but have

cumulative negative weight and consequences (see Lewis, Chesler, & Forman, 2000; McCabe, 2009; Solórzano, Allen, & Carroll, 2002; Yosso, Smith, Ceja, & Solórzano, 2009). Likewise, counterspaces, settings that support the psychological well being of students who experience discrimination, are particularly important when there is a lack of critical mass and associated hostile climates for students of color who occupy token status in the classroom and beyond (McCabe, 2009; Yosso et al., 2009). Garces and Jayakumar's (2014) review of diversity rationale-related research exemplifies how this and other scholarship on racial climate and centering the experiences of students of color informed the legal questions in *Fisher*. Notably, relatively more qualitative work centering the voices of students of color was used to frame the arguments in *Fisher*, although quantitative studies were still privileged and strategically utilized to draw broader conclusions and to support qualitative findings.

### ***2.3.5 Legal Outcomes in Fisher That Need to Be Considered for Next Stages of Diversity Research***

In this section, we address the implications of the Court's *Fisher* decisions on diversity-related research moving forward. In its review of the case, the Court issued two separate decisions, one in 2013 (*Fisher I*) and another in 2016 (*Fisher II*). (For an overview of the cases, see Garces, 2016.) Overall, these decisions had the practical effect of requiring institutions to more fully document whether they are obtaining the educational benefits of diversity (Garces, 2015b), a move that requires that they not only attain numerical representation of students of color, but also promote the type of racial climate and environment that facilitates the benefits of diversity (Garces & Jayakumar, 2014). The decisions, however, also remind institutions of the need to explore race-neutral alternatives to obtain racial and ethnic diversity, a requirement that represents a colorblind approach, and, as we discuss in more detail in later sections, has important consequences for diversity research moving forward.

#### **2.3.5.1 Expanding Diversity Efforts to Focus on Inclusion**

While emphasizing the benefits of diversity as articulated in *Bakke* and *Grutter*—such as the destruction of stereotypes, promotion of cross-racial understanding, preparation of the student body for a diverse workforce and society, and the cultivation of leaders with legitimacy in the eyes of the citizenry—the Court's decision in *Fisher II* (2016) referenced the university's efforts to provide an “academic environment” and “educational setting” that allows for these benefits to occur. As Justice Kennedy wrote in the majority opinion, “Increasing minority enrollment may be instrumental to [the] educational benefits [of diversity],” but so is “provid[ing] an educational setting that fosters cross-racial understanding. . . [and]

enlightened discussion and learning” (*Fisher II*, 2016, p. 2211). The decision also introduced the importance of considering student experience as part of the regular evaluation that institutions need to undergo to continue to justify race-conscious admissions policies. In doing so, the Court’s decision focused on the experiences of students in a way that prior decisions on affirmative action had not, and shifted from a numbers-focused diversity approach to one that also considers efforts to promote what scholars and postsecondary administrators refer to as “inclusion” on campus.

In the K–12 context, the concept of inclusion is related to the notion of multiculturalism, particularly in curriculum and pedagogy (e.g., Banks, 2008; Blum, 2001). In the higher education context, however, the concept has not been clearly defined across the literature. Tienda (2013), one of the few scholars to include a specific definition, distinguished inclusion from diversity, defining it as “organizational strategies and practices that promote meaningful social and academic interactions among persons and groups who differ in their experiences, their views, and their traits” (p. 467). Museus (2014) described the value of racially inclusive and culturally engaging environments and provided a definition of inclusion focused on “the extent to which campus environments engage the cultural identities of racially diverse student populations and reflect the needs of these students” (p. 209). We would add to these prior definitions of inclusion a focus on creating conditions that trouble dominant status privilege and safety, wherein pervasive norms of prioritizing the voices and comforts of White students and others who maintain dehumanizing views about people and communities of color remain unchallenged (Leonardo & Porter, 2010).

Other diversity-related frameworks that call for a shift from “diversity-minded” to “equity-minded” policy and practice (e.g., Dowd & Bensimon, 2015; Jayakumar & Museus, 2012) can also be related to this concept of inclusion; equity-minded practices bring attention to the importance of addressing past and present racial discrimination and moving toward practices that address the oppression of minoritized students in education. These frameworks center the experiences of students of color within specific institutional contexts that may be shaped by exclusionary practices (i.e., those that reinforce the status quo/White privilege, and that intentionally or unintentionally signal to non-dominant status students that they are not welcome). Inclusionary practices, by contrast, are those that move toward racial equity as it relates to systems of power, policy-making processes, and organizational culture at both the institutional (e.g., mission statements, strategic plans, curricula, etc.) and broader state and federal levels (Museus et al., 2015).

While related, inclusion can be distinguished from “inclusive excellence,” which Williams et al. (2005) connected to how campus environments adapt to meet the needs of today’s highly diverse entering students. Their definition incorporates the Association of American Colleges and Universities definition of inclusive excellence, which consists of four primary elements: (a) a focus on student intellectual and social development; (b) a purposeful development and utilization of organizational resources to enhance student learning; (c) attention to the cultural differences learners bring to the educational experience and that enhance the enterprise; and

(d) a welcoming community that engages all of its diversity in the service of student and organizational learning.

Beyond the lack of an explicit definition, a commonality across studies that relate to inclusion has to do with the conditions that need to be in place for the educational benefits of diversity to occur (see Garces & Jayakumar, 2014). These conditions include the importance of attending to the institutional context and historical legacies of exclusion that characterize traditionally White institutions, or TWIs<sup>8</sup> (Hurtado et al., 1998, 1999; Milem et al., 2005), as well as the need to nurture cross-racial interactions that contribute to learning and reduce prejudice (Gurin et al., 2013). In addition to practices such as supporting ethnic studies programs, diverse student organizations, academic support programs, and multicultural programs, efforts would also require generating greater awareness among White students and predominantly White student organizations about systems of privilege (see, for example, Garces & Jayakumar, 2014). Importantly, the Court's rationale in *Fisher II* (2016) reflects this definition of inclusion as supported by decades of research, research that was submitted to inform the Court's deliberation in the case. Evidence of these inclusion efforts will be critical to justifying future race-conscious admissions policies, as was the case for the University of Texas at Austin in *Fisher II*.

## 2.4 Part II: Accounting for Interest Convergence and Critical Race Critiques

### 2.4.1 *Interest Convergence, Constriction, and Expansion: Possibilities and Limitations*

As we mentioned in Part I, affirmative action victories based on the diversity rationale, such as in *Grutter* (2003), capitalized on the notion of interest convergence, wherein policies that advance opportunity for people of color are seen as in alignment with those that advance the interests of the majority (Bell, 1980). Following the Court's decision in *Bakke* (1978), for example, some affirmative action advocates and social scientists viewed the diversity rationale as the best approach for defending affirmative action in anticipated future attacks. This led to a concerted

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<sup>8</sup>We use "traditionally White institution," instead of "predominantly White institution." The increase in student of color populations can mean that institutions with previously majority-White student populations are no longer predominantly White. However, these institutions (unless transformed) maintain a legacy of exclusionary structures and oftentimes continue to uphold exclusionary traditions and cultures. Notably, TWIs would include those newly designated as minority- or Hispanic-Serving Institutions if their origins were rooted in traditional White (male) populations and culture. Historically Black Colleges and Universities (HBCUs) and Tribal Colleges and Universities (TCUs) fall outside the TWI category because they were never segregationist institutions, but were founded with the goal of providing access to education for people who were excluded from traditional colleges.

effort among social scientists to explore particular questions aligned with political lawyering practice that could be used within the limited legal paradigm in preparation for the defense of affirmative action involving the University of Michigan in *Grutter* and *Gratz*. (For reflections from those involved in the initial social scientists strategy, see Jayakumar & Adamian, 2015b.) This defense included, in part, documenting the benefits of diversity for White students, so as to demonstrate an interest convergence on the part of White students and students of color and thereby generate interest on the part of the Justices to rule in favor of the university (Garces & Gordon da Cruz, 2017).

As scholars such as Bell (2005) have demonstrated, however, the Court's decision in *Grutter* also came with substantial compromises. The decision reinforced a divide between the goal of fostering racial diversity and of addressing persistent racial/ethnic inequities in education, while furthering an inaccurate understanding of racial diversity as something that comes at the expense of educational quality rather than as something that is necessary to achieve it (Garces, 2014a). Race-conscious admissions policies, moreover, became a shield that allowed institutions to "retain policies of admission [standardized test scores like SAT or LSAT] that are woefully poor measures of quality, but convenient vehicles for admitting the children of wealth and privilege" (Bell, 2003, p. 1632; see also Guinier, 2015; Soares, 2011). And, as the findings of more recent diversity research that we summarize below demonstrate, although meaningfully maintained in *Grutter* and *Gratz* collectively, the practical utility of diversity as a policy has been significantly watered down for addressing the concerns and needs of students of color (Ahmed, 2012).

Other recent Court decisions regarding race-conscious admissions practices in higher education, such as *Schuetz v. Coalition to Defend Affirmative Action* (2014) and *Fisher v. University of Texas* (2013, 2016), and the policy debate over affirmative action have moved toward a more colorblind orientation that overlooks systemic inequity (Garces, 2014b; Garces & Gordon da Cruz, 2017; Jayakumar & Adamian, 2015a). In *Schuetz*, the Court upheld the constitutionality of a ban on race-conscious policies in admissions in Michigan, reversing a lower court ruling that had found the ban violated the federal constitutional guarantee of the Equal Protection Clause. In five different opinions, the Justices outlined extremely varied understandings of how the Equal Protection Clause should be understood to operate in our democracy, with equally strong and passionate disagreement about the ways in which race continues to matter.

Rather than understanding race-conscious policies as a way to further diversity or to address persistent racial inequality, the various opinions in *Schuetz* (2014) demonstrated that the majority of the Justices viewed them as "preferences" that embody rather than address racial discrimination (Garces, 2014b). The use of race in admissions policies, therefore, is viewed as highly suspect, and, as the Court articulated in *Fisher I* (2013) and *Fisher II* (2016), requires the consideration of other possible "race-neutral" alternatives before it is considered. Within this colorblind ahistorical framing, affirmative action is viewed as a policy that preferences people of color and as reverse discrimination against White students, rather

than one that seeks to counteract cumulative advantages that occur to dominant White populations (Garces & Gordon da Cruz, 2017).

The political climate, moreover, has indeed shifted from where it was nearly a decade ago when the United States proudly inaugurated its first Black president, and some heralded in what was believed to be a post-racial era (Bonilla-Silva, 2014). At the time, any public figure expressing overt racial bigotry would arguably have been booed off the political stage and out of the public eye. In contrast, the 2016 presidential election cycle revealed voters willing to overlook and even embrace such bigotry and policies directed at setting back racial progress (Bannan, 2016). These constituents are largely poor working-class Whites—a group likely to be further underserved by proposed changes. Yet their support, along with that of the majority of White men and women of all socioeconomic and educational backgrounds, can be understood as a response to politicized appeals to White innocence and a sense of loss of group status.

By White innocence, we mean the notion that White people and the systems that protect White interests have only an abstract connection—not one with accountability—to the subordination and inferior status of Black people and other minoritized groups (Ross, 1990b). For example, in *Brown v. Board of Education* (1954), White innocence was kept intact by the Court acknowledging the harms of racial segregation to Black children and ignoring the racist intentions and material consequences of sanctioned segregation (Gotanda, 2004; Ross, 1990a). White innocence erodes the possibility of an empathetic response to the suffering of Blacks and other people of color. Further, it leads Whites to believe they are losing something, without recognition of what they have gained from structural White privilege. White innocence and a sense of loss seem to be increasingly salient in recent affirmative action cases and on college campuses.

As in *Bakke* (1978), the *Gratz* (2003) and *Grutter* (2003) cases were based on the premise that a White plaintiff had suffered the loss of a tangible seat at a particular university. More recently in *Fisher I* (2013) and *Fisher II* (2016), however, the Court treated a *perceived* loss due to race-conscious admissions as an actual harm. In fact, members of Fisher's legal team themselves admitted from the beginning that the plaintiff would have been rejected from the university regardless of affirmative action. And on postsecondary campuses, White student groups have emerged in direct backlash to consciousness raising by the #BlackLivesMatter movement and student protests demanding institutional attention to racial bias, underrepresentation, and structural racism. In other words, appeals for greater institutional responsibility and action toward racial justice have triggered a sense of loss of status among a growing number of vocal White students. The Union of White Cornell Students, for example, submitted a set of demands to the administration as "a community of white students who wish to preserve and advance their race" (Keller, 2016). Their open letter denouncing Black student demands demonstrates the salience of White racial resentment.

According to Bell's (1980) concept of interest convergence, this backlash and resistance to racial justice is to be expected. After all, from an interest convergence perspective, affirmative action was never a revolutionary policy that could bring



about racial justice in higher education; rather, it carried the promise of incremental progress and momentary racial relief, one that would be depleted as soon as it posed a threat to the superior status of (mostly middle- and upper-class) Whites. Indeed, interest convergence has ebbs and flows—moments of *expansion* where there is a high level of racial justice potential and moments of *constriction*, where it severely wanes (Jayakumar & Adamian, 2015a).

A time of racial backlash—of constriction, wherein White interests are seen as under threat and no longer aligned with racial progress—is upon us (Wise, 2010). This is evident in the racial climate of the nation, particularly regarding perceptions of reverse racism and a loss of status among White Americans (Bonilla-Silva, 2014; Garces & Gordon da Cruz, 2017; Jayakumar & Adamian, 2017). As Derrick Bell's (1992) notion of racial realism reminds us, “only by accepting that racism is real and operates in different ways at different points in history, can we slowly work toward a different future that challenges racism and the ways it structures meaningful engagement in important areas of society” (Garces & Gordon da Cruz, 2017, p. 2). For these reasons, we can anticipate that any promising social science strategy within the legal system (and U.S. society at large) will eventually lead to a shift in the hegemonic context, including progress and new problems that require a new set of solutions and approaches that account for shifts in manifestations of racism.

CRP-Ed, the theoretical framework that guided our envisioning of the next generation of diversity scholarship, draws heavily from Bell's (1980) reflections on *Brown v. Board of Education* (1954), and particularly his recognition that racial progress in the legal system is tied to White elite interests, but that such progress can come with substantial compromises. Bell called for an understanding of this context—that is, White interests motivating a concession, or, as informed by the notion of racial realism, White resentment and backlash over perceived threatened status resulting in the revoking of said progress. While Bell's groundbreaking concept of interest convergence, including the notion of racial realism, is important for understanding the relationship between policies that promote racial justice and communities of color, it has been critiqued for its static, prescriptive analysis that falls short when it comes to considering possibilities for agency and action (Driver, 2011).

Jayakumar and Adamian (2015a) addressed this limitation by drawing from Freire (1970) to advance their notion of interest convergence expansion. The interest convergence that led to the desegregation of secondary and postsecondary schooling was generated by activism and social movement that raised awareness of racial injustice, both at home and abroad. In other words, grassroots movements rooted in a critically conscious collective struggle created the disequilibrium and incentive that brought about the potential for incremental racial progress to transpire within the legal system. Thus, awareness raising produced through agency enacted by oppressed peoples can be destabilizing and threatening to the interests of those in power, creating the space and opportunity—the expansion—for a concession to be made in order to bring interests back to equilibrium (Jayakumar & Adamian, 2015a).

In the present post-*Fisher* moment—a moment of interest convergence *constriction* with regard to racial equity in higher education—the work of critical race scholars amongst others can provide a critique of the limitations of diversity

research; it can generate the basis for a critical consciousness that names the current contexts and hegemonic structures. Naming and understanding the particular challenges of the current policy context can help propel interest convergence *expansion*, leading to greater possibility for policy changes that advance racial justice. CRP-Ed requires recognizing where such interest convergence is happening, and then leveraging this for change in more constricted contexts, including the current colorblind policy context (Jayakumar & Adamian, 2015a). To better understand the challenges of addressing racism as it is playing out in this particular moment of postsecondary racial inequality, we explore the critiques of a diversity-based framework and the challenges we face.

#### ***2.4.2 Research Critiquing the Limitations of Diversity and Ramifications of Court Rulings Perpetuating Colorblindness***

Arguing that the diversity conversation must be expanded beyond race is a common strategy to derail the imperative of addressing racial inequality in higher education. Social science research plays a critical role in challenging this co-optation and dilution of diversity. As we will demonstrate in this section, the term *diversity* in higher education has been redefined to capture difference in terms of gender, religion, sexual orientation, disability, veteran status, and geographic location, to name a few, without attention to how these differences—particularly around race and ethnicity—determine levels of privilege and power in society (Allen, 2011; Garces & Gordon da Cruz, 2017; Warikoo, 2016). Indeed, we have yet to see a clear focus on transforming institutions so that students of color are truly supported and their needs are met (Ahmed, 2012; Dowd & Bensimon, 2015; Leonardo & Porter, 2010). There are also biases and roadblocks, particularly for White faculty and students, when it comes to meaningful engagement concerning White privilege and power. Addressing these challenges toward facilitating race dialogues that are humanizing for students of color is absolutely necessary, however, in order for meaningful interactions across race to take place (Leonardo & Porter, 2010; Singleton, 2013). As scholars have asserted, the overarching framework for both K–12 and postsecondary education relies on a deficit-based orientation—one that calls for “fixing” students of color so that they can achieve traditional educational success or assimilate into dominant spaces, instead of addressing inequitable structures, systems, policies, and practices that contribute to racially disparate outcomes that preserve White status privilege (Garces & Gordon da Cruz, 2017; Harper, 2010; Yosso, 2005).

Given the constraints of the contemporary legal landscape, proponents of diversity have had to walk the tightrope between advancing a legally and publically acceptable version of diversity and highlighting the persistence of racial injustice. Researchers have documented how this tension has at times resulted in diversity

efforts that highlight the former at the omission of the latter (Warikoo, 2016), reflecting the limited ability of current Court rulings to speak to the continued realities of racism and racialization. While a vision of diversity research and practice that incorporates explicit recognition of racism and racial realities is in alignment with the underlying need for a diversity-based rationale, the execution of such a vision has been more elusive. The legal framework for examining the constitutionality of race-conscious policies calls for an ahistorical definition of diversity that ignores the links between present-day racial and ethnic inequities and past (persistent) legacies of exclusion. Further, as scholars have documented, a vision of diversity that does not explicitly address racism and the ways that race continues to shape students' educational experiences and opportunities has led many institutions to advance a watered down vision of diversity—one that allows for a symbolic commitment to the numeric representation of students of color while bypassing systemic changes and interventions that address racial inequality or discrimination (Ahmed, 2012; Garces & Bilyalov, *in press*).

Various scholars have documented how diversity-related discourse has been exploited to avoid the more difficult issues of race and racism (Ahmed, 2012; Leonardo & Porter, 2010; Warikoo, 2016). In some cases, they have maintained that the rising prominence of “diversity” has upheld White supremacy, or at minimum, left it unchallenged (Berrey, 2015b). This critique extends to efforts to create inclusive campus environments and racial dialogues. Scholars such as Cabrera, Watson, and Franklin (2016) and Leonardo and Porter (2010) have used critical methodologies to make important contributions to our understanding of the broader political context surrounding diversity and inclusion, underscoring why efforts to promote diversity must be tightly coupled with anti-racism work at the individual and institutional levels. Their research shows the unintended fallout from the legal strategy of the diversity defense, ushering in a challenge to diversity educators concerning how their work can more faithfully honor the vision of a framework that recognizes and challenges the perniciousness of racism.

A key theme in the research critiquing the implementation of diversity-related programs is the limitation of the diversity-based legal framework for radical, systemic change. The Supreme Court's favoring of a diversity rationale for affirmative action over a rationale focused on remediation for inequality left campuses with a diminished toolkit to address persistent racial injustice. Justice Powell's decision to decouple the educational benefits of diversity from the continuing need to remedy past and present racial injustice led to a weakening of the vision for why diversity is part and parcel of the broader cause of advancing racial justice (Chang et al., 2005). Further, Powell's decoupling of the two rationales seriously weakened the capacity of universities to foster the unique context and conditions needed engaging in racial diversity work toward institutional transformation. It also supported a lack of institutional efforts toward racial justice, including further interrogation and improvement of admissions practices outside the context of the Supreme Court (Garces, 2014a).

As a result, institutions all too easily celebrate diversity as a form of difference but do not go deeper to investigate why they fundamentally lack it or to explore the

complicated power dynamics that emerge when they support a racially diverse student body (Warikoo, 2016). Warikoo and Deckman (2014) documented this phenomenon in their comparison of approaches taken by Harmony University and Powers University (pseudonyms for two elite institutions). They conducted 77 interviews with undergraduates and found that organizational and institutional dynamics deeply influenced student attitudes towards race relations. Notably, Harmony had institutional features such as randomized housing (meant to combat student clustering along racial/ethnic lines) and attempted to foster interaction among all students. Harmony's approach was to foster "integration and celebration," which Warikoo and Deckman (2014) believed opened the door for cultural appreciation, but gave students few tools to critique power structures and address racism. The approach gave students a short-term sense of campus unity but, in the long-term, most students were generally unaware and uncritical of structural inequities.

In contrast, Warikoo and Deckman (2014) noted that Powers took a more direct "power analysis and minority support" (p. 960) approach to challenging racism and oppression. They created spaces to provide intentional support for students of color, such as through a Third World Transition Program (TWTP). Setting the tone from the beginning of college, TWTP gave first-year students of color the opportunity to come to campus early to engage in discussions around power, racism, and oppression, communicating that such issues were ongoing challenges for the campus and society. Some White students critiqued the program as divisive, but participants expressed the need for the opportunity.

Warikoo and Deckman (2014) found that, in general, Powers students were more direct in addressing racism and structural inequality as realities that persisted in spite of the existing diversity on campus. Their findings indicate that celebrating diversity without addressing systematic inequality, as Harmony University did, may foster surface-level interracial cooperation, but likely falls short in addressing deeper issues around inequality and the challenges encountered by students of color. In prioritizing the comfort of the majority of the campus, Harmony likely missed opportunities to spur deeper, albeit more difficult and uncomfortable, learning around systematic inequality for its students, and potentially fell short in prioritizing the well-being of students of color.

Similarly, Leonardo and Porter (2010) pointed to the potential harm and even violence that students of color may experience in watered down campus racial dialogues and "safe spaces." These spaces—environments that supposedly protect non-dominant/marginalized students from discrimination and/or hostile ideas—tend to actually cater to and nurture White fragility and innocence by prioritizing the comfort of Whites (Leonardo & Porter, 2010). When catering to White innocence, safe spaces effectively preserve colorblind ideology and a positive sense of self for White students over dialogue that can address racism (Cabrera, 2014; Leonardo & Porter, 2010; Unzueta & Lowery, 2008). Nurturing White innocence supports a lack of concern or empathy toward the injustices suffered by marginalized communities (Gotanda, 2004; Gutierrez, 2006; Ross, 1990a, 1990b).

Arguably, as Warikoo and Deckman's (2014) work demonstrates, celebrating diversity without addressing deeper power dynamics sends the message that

diversity is paramount due to its benefit for the majority population—White students—rather than because it is part of a broader ecosystem of structural changes meant to challenge systematic racial inequality. Leonardo and Porter (2010) further demonstrated that discussing race/racism while not attending to issues of power can take a toll on students of color, who bear the burden of vulnerability while benefits are disproportionately accrued by Whites. Indeed, when discussions of diversity and race/racism are decoupled from issues of power and White supremacy, majority-status students too easily come to view diversity as a commodity that benefits them in a global market economy, rather than understanding the pressing need to address systematic inequality and racism (Cabrera et al., 2016).

Relatedly, the concept of diversity has been co-opted in such a fashion that the original intent of advocating for systemic change has been diluted (Berrey, 2015b). More specifically, when it is decoupled from recognition of racism and inequality, a weakened diversity-based rationale opens the door for institutionalized diversity work that lacks meaningful engagement with race, racism, and inequality. Initiatives once seen as major reforms, such as the hiring of a chief diversity officer or the creation of an office to support diversity, can end up as token efforts that reinforce a colorblind paradigm and even signal that diversity work holds a marginal place in the institution (Ahmed, 2012).

At too many institutions, racism is still seen as an individual-level phenomenon, an aberration rather than an entrenched component of the culture. Diversity marketing abounds in the form of brochures featuring smiling students of different races, with no mention of how students of color continue to experience persistent marginalization in the academy. In her study of how institutions in the United Kingdom have addressed diversity, Ahmed (2012) powerfully articulated how such efforts fall short when diversity becomes a way of “rearranging things” in order to position an organization in the best possible light (p. 107). Ironically, then, diversity discourse can be used to avoid doing the actual difficult work of diversity, antiracism, and institutional transformation. As Ahmed observed, “When our appointments and promotions are taken as signs of organizational commitments to equality and diversity, we are in trouble” (p. 43).

It may be hard to remember, but there was a time when multiculturalism and diversity were hotly contested issues at the national level (Leonardo, 2013). On the whole, however, the concept of diversity has gained a level of acceptance that was difficult to imagine in earlier times; it is now embraced—at least on some level—by corporate America and across academia. But with this acceptance has come a weakening of the original vision; this mainstreaming has come at a cost (Berrey, 2015b). A vision of diversity decoupled from racial inequality will only reinforce, rather than transform, existing inequality. Institutions all too easily fall into the “magical thinking” described by Chang et al. (2005), idealistically hoping for an “if you build it, they will come” approach, where acquiring the requisite markers of diversity (e.g., diversity offices, administrators, and programming) will somehow adequately prepare students to navigate a world permeated by inequality. Instead, “diversity” becomes superficial window dressing without deeper and more meaningful entry into work that addresses systemic racism and inequality (Ahmed, 2012).

All of this leads to some important questions: Has the terminology of diversity lost its usefulness? Or is the language of diversity still useful as long as institutions recognize that diversity is a necessary but insufficient condition for promoting racial justice and equity, and work to fulfill that broader vision? Educators should consider the need to interrogate others' usage of diversity terminology, recognizing that mere reference to diversity is no guarantee that it is being addressed in meaningful ways alongside the broader causes of equity and justice. Although the legal context has resulted in a favoring of the educational benefits of diversity over the persistence of racial inequality as a justification for affirmative action, there is no legal barrier to institutions addressing the continuing realities of racial stratification in their efforts to promote diversity.

Recognizing that diversity is a multi-faceted, dynamic phenomena requiring persistent attention to numerous spheres (Garces & Jayakumar, 2014; Jayakumar & Adamian, 2015a) can help universities identify ways that diversity advocacy has been weakened or limited on their own campuses, as well as design ways to incorporate strategies that take issues of power, inequality, and race into diversity promotion efforts. Universities need not choose between staying within legal bounds and proactively working for change, although this is a constraint that many administrators perceive (Garces & Cogburn, 2015). Significant agitation can and should occur within the context of what is legally permissible, and more explicit recognition of racial inequality is needed to advance diversity at the compositional level.

The relatively recent emphasis on inclusion in conjunction with diversity has some potential to help institutions recognize the importance of addressing racial inequality, although there is also the risk of the notion of inclusion being co-opted to reinforce colorblind norms. Additionally, the Equity Scorecard developed by Bensimon (2007) and colleagues has been an important tool for systematically identifying gaps in racial equity, challenging deficit-based approaches to student achievement, and helping educators to understand where institutions are falling short. The scorecard creates explicit metrics that can support institutions in taking stock of and improving the racialized outcomes of their organizational behaviors, policies, and practices, including diversity and inclusion efforts (Dowd & Bensimon, 2015).

On a similar note, the issue of diversifying the faculty demonstrates the need to bridge diversity-promoting efforts with attention to racial inequality. Put another way, the lack of meaningful institutional transformation speaks to the ineffectiveness of diversity recruitment efforts that ignore structural inequality (Smith, 2015). For many years, institutions have made efforts to recruit faculty of color, but numerous studies affirm that their efforts have fallen short, resulting in low retention and morale for faculty of color (Turner, González, & Wood, 2008). Clearly, the problem runs much deeper than merely recruiting faculty members to campus; pervasive barriers exist, preventing these scholars from flourishing in environments that are often at best ambivalent, and at worst hostile to their presence (Griffin & Reddick, 2011).

In short, institutions need take a more direct approach to recognizing how racial dynamics—including in both subtle and overt manifestations—affect sense of

belonging and retention. A definition of inclusion that addresses racial inequality as the paramount challenge to university efforts to achieve diversity would be highly beneficial, especially in comparison to a more generic vision that equates inclusion with a sort of fuzzy desire to promote belonging without interrogating the underlying causes for why a lack of belonging persists in the first place. Altogether, addressing diversity and racial equity together is not an “either/or” conundrum, but rather a “both/and.” Institutions have room—limited but still existing—within the legal framework to address the dynamics of power and inequality that underlie the broader purpose of seeking diversity. Such attention is greatly needed for broader institutional transformation.

### ***2.4.3 Constraints and Limitations of the Legal Framework for Institutions***

The narrow tailoring requirements in the Court’s decision in *Fisher II* (2016) expanded diversity to consider the educational environment and experiences of students after admission. At the same time, it moved institutions away from being able to consider race explicitly in their admissions policies toward so called “race-neutral” approaches that create a path toward a colorblind approach to racial diversity. For example, an institution needs to show that “‘a nonracial approach’ would not promote its interest in the educational benefits of diversity ‘about as well and at tolerable administrative expense’” (*Fisher II*, 2016, p. 2208). While the Court clarified that “narrow tailoring does not require exhaustion of every conceivable race-neutral alternative,” it does “impose ‘on the university the ultimate burden of demonstrating’ that ‘race-neutral alternatives’ that are both ‘available’ and ‘workable’ do not suffice” (*Fisher II*, 2016, p. 2208).

As noted previously, in the legal arena, a policy or practice is defined as race-neutral when, with respect to language and intent, it confers no benefit (e.g., an offer of admission or scholarship) associated with an individual’s race or ethnicity. However, a rich body of work has found that approaches considered race-neutral under this legal definition, such as class-based admissions, are not effective substitutes for creating racial diversity (Flores & Horn, 2015; Kidder & Gándara, 2015; Reardon, Baker, Kasman, Klasik, & Townsend, 2015). Studies that examine the effectiveness of strategies like expanded and targeted outreach to high schools that serve large populations of students of color have found that administrators view these approaches as ineffective in maintaining racial diversity (Garces & Cogburn, 2015). This is because, even if more students of color are encouraged to apply, other factors, such as structural inequities in K–12 education and standardized testing requirements, can impede whether students are admitted. Moreover, the inability to offer targeted financial aid to students of color can undermine whether they enroll (Garces & Cogburn, 2015).

An emerging body of work has also started to document the detrimental consequences that race-neutral approaches in admissions are having in other essential areas of university life. A study of the 2006 affirmative action ban in Michigan, for example, found that not being able to consider race as part of a holistic admissions process has had negative consequences for efforts to support an inclusive environment. Administrators said the ban has effectively silenced conversations around race and racism, thus making efforts that support racial diversity less visible and leading the administration to feel disempowered to support racial diversity on campus (Garces & Cogburn, 2015). Other recent work has shown that admissions policies that do not consider race as a factor and are therefore deemed race-neutral, such as those at the University of Georgia, can make efforts to focus on race increasingly challenging (Glasener, Martell, & Posselt, 2016). By diverting attention to race and undermining the sustained support that diversity efforts require (Hurtado et al., 1999), these consequences can create serious barriers to promoting inclusive learning environments.

When institutions are required to show that race-neutral alternatives are insufficient, it reinforces an illusion of colorblindness because the requirement is based on an assumption that policies can, in fact, be race-neutral (Garces, 2014b). This moves institutions further away from being able to consider the systemic and societal ways in which race affects educational opportunity. As race scholars have demonstrated (e.g., Bonilla-Silva, 2009; Haney López, 2007), a colorblind approach is an illusion; it obscures the ways in which race continues to matter in shaping students' experiences and educational opportunities, and the mechanisms that advantage Whites within and outside education in American society (powell, 2012). This approach also ignores the persistent, stubborn link between historical racial exclusion and contemporary reasons for racial inequality (Bell, 2005; Harris, 2003). Thus, the ways in which institutions implement the Court's requirements have important implications for improving racial representation and equity on college campuses.

For these reasons, racial equity-minded scholarship is crucial for addressing the mechanisms that advantage White students within and outside of the educational system and policy context. This includes addressing problematic notions of meritocracy and cultural capital valued in admissions, institutional environments that center Whiteness and promote colorblindness, narratives aimed at dividing communities of color, and problematic colorblind institutional practices. Within the legal paradigm, it entails advancing a more contextualized and nuanced understanding of how diversity works, such as a dynamic diversity framework (Garces & Jayakumar, 2014). In the next section we elaborate on these mechanisms as key areas of focus for diversity research and social science evidence related to racial equity in higher education.



## 2.5 Part III: Advancing a New Diversity Research Agenda

In this section, we highlight key perspectives and areas of social science research that can advance a re-envisioned agenda of empirical inquiry for addressing issues of diversity and inclusion in postsecondary education. Rather than providing a traditional review of diversity literature to identify gaps in research, which has been done before (e.g., Garces & Jayakumar, 2014; Gurin et al., 2013; Hurtado, 2005; Hurtado et al., 1998, 1999; Jackson & O’Callaghan, 2009; Milem et al., 2005; Smith, 2015; Williams et al., 2005), our approach entails highlighting frameworks and research areas that can advance necessary strategic directions for diversity scholarship. To be clear, this is not an exhaustive list, as we encourage the generation of additional areas that align with a CRP-Ed approach and our analysis of the contemporary legal and institutional contexts. These areas of research align with the CRP-Ed approach by advancing empirical inquiries across multiple domains and spheres of influence. In particular, we focus on five directions.

First, we argue that diversity research can continue to play an important role in advancing inquiry that informs the national and institutional policy context, as affirmative action and institutional efforts targeted at increasing diversity and inclusion continue to be dismantled and co-opted. Along this domain, we address how the dynamic diversity framework (Garces & Jayakumar, 2014) and intersectionality (Crenshaw, 1991; Hill Collins, 2000; Núñez, 2014a, 2014b) can be employed to foster more equity-minded research, policy, and practice. Both lenses support challenges to co-opted diversity discourses such that we can continue to expand research inquiry that informs legal and institutional diversity conversations while advancing racial equity within legal parameters.

Second, given the role of the public debate and broader narrative in shaping legal challenges and strategies, we name and challenge dominant narratives and frames that perpetuate postsecondary racial inequality. Such narratives not only stifle the policy context but also uphold the root mechanisms and problems—including problematic admissions practices—that prevent us from achieving racial equity in access, representation, and inclusion on college campuses. Specifically, we address the oppressive narratives in admissions, including meritocracy (Liu, 2011; Posselt, 2016) and dominant narratives that threaten to divide communities of color (Park & Liu, 2014; Lee, 2008). While research has focused on barriers to access tied to pre-college contexts—including school resources, academic preparation, and familial agency (Perna, 2006)—there is a greater need to examine the role of postsecondary admissions practices as a mechanism that produces racial inequality (Guinier, 2015; Yosso, 2005). Thus, throughout this section, we illustrate how admissions practices can be re-envisioned to foster more equitable outcomes.

Third, we explain how future diversity inquiry that addresses the mechanisms of exclusion can be greatly enhanced by a focus on generating power within and among communities of color. We describe the strategic equity framework, which is critical for supporting diversity scholarship that can generate this power to ultimately lead to more equitable institutional policies and practices. The framework offers three

principles that can help advance more equitable postsecondary policies and guide future research to generate new areas of interest convergence among intersecting and shifting identities (i.e., race, gender, sexual orientation, citizenship status, language, class, etc.).

Fourth, to inform a more nuanced understanding of how to improve race relations and inclusion on college campuses, we highlight strategies to address issues that have strategically been left out of or minimized in the conversation—racism, colorblind ideology, and Whiteness. We emphasize frameworks that can deepen our understanding of campus environments and race relations that center racism and Whiteness. We highlight Leonardo and Porter (2010) and Cabrera et al.’s work (2016) that challenges conceptualizations of safe spaces, and Ledesma’s (2016) healthy campus racial climate framework that offers an alternative to “positive racial climate” discourses. Both complicate our understanding of what will be necessary to address the challenges that keep us from finding real solutions to our diversity and inclusion problems on college campuses.

And fifth, we recognize that, in addition to choosing relevant and useful topics of inquiry, in order to follow a CRP-Ed perspective it is critical to choose appropriate methods and perspectives to interpret findings (see, for example, Martínez-Alemán, Pusser, & Bensimon, 2015; Stage & Wells, 2014). In the absence of mindfulness and careful maneuvering around the known pitfalls of diversity, future diversity work will only restrict the potential for advancing more racially just policies and postsecondary practices. Thus, we close with a discussion of the possibilities and limitations of quantification and the use of innovative research methods.

## ***2.5.1 Advancing Inquiries That Can Inform Policy Within Legal Parameters***

### **2.5.1.1 Dynamic Diversity on College Campuses and the Need for an Equity Focus**

“Dynamic diversity” is a framework that promotes a more contextual discussion of diversity beyond numbers (Garces & Jayakumar, 2014) and addresses the critique of critical mass by former Justice Scalia in *Fisher I* (2013). Specifically, to challenge the problematic de-contextualization of critical mass in the *Fisher I* and *II* deliberations, the framework synthesizes the social science literature related to critical mass in order to demonstrate the connection between racial representation and the educational benefits of diversity. Prior scholarship has indicated that the proportion and number of students of color on campus can mitigate or prevent experiences of tokenism, racial isolation, and stereotype threat (McCabe, 2009; Murphy, Steele, & Gross, 2007; Smith, Allen, & Danley, 2007; Purdie-Vaughns, Steele, Davies, Ditlmann, & Crosby, 2008; Walton & Carr, 2012; Walton & Cohen, 2007; Walton & Spencer, 2009; Yosso et al., 2009). But numbers alone do not generate educational benefits; rather, the interactions that take place among students, the particular

contexts of these interactions, and the conditions that help facilitate productive interactions generate the exchange of ideas (e.g., Cabrera et al., 1999; Gurin et al., 2013; Harper & Quaye, 2009; Hurtado & Carter, 1997; Hurtado et al., 1998, 1999; Jayakumar, 2008; Milem et al., 2005; Pascarella & Terenzini, 2005).

Thus, diversity and the related concept of critical mass must be reconceptualized; the focus must shift from numbers to the relationship between students and their environment. Understanding diversity as dynamic illuminates the types of transformations in which institutions need to engage in order to support students and help create the conditions necessary to foster related educational benefits. Research on diversity suggests that it is important to (a) foster a healthy racial climate to instigate productive interactions (Hurtado et al., 2012; Ledesma, 2016); (b) address institutional legacies of exclusion and current organizational practices that maintain inequity (Hurtado et al., 1998, 1999; Milem et al., 2005); (c) eliminate impediments for productive interactions in learning environments (Denson & Chang, 2010; Dasgupta & Asgari, 2004); and (d) nurture healthy cross-racial interactions and intergroup relations (Gurin et al., 2013).

Our understanding of diversity must be contextual, interdependent, cross-racial, and participatory. First, we need an understanding of the conditions required for meaningful interactions and participation—*contexts* that cut across national, state, campus, classroom, and interpersonal levels, as well as the additional dimensions of time and space, from historical to current sociopolitical contexts. The key institutional components that enable dynamic diversity—the number of students of color on campus and particularly members of historically underrepresented groups, the campus climate, and the classroom climate for participation—are *interdependent*, shaped by one another in a cyclical reaction. Dynamic diversity is defined by productive *cross-racial interactions* at the individual and institutional (intergroup relation) levels. It is characterized by participation that engages group members' full selves under conditions that promote equal status contact.<sup>9</sup> When cross-racial interaction allows for *full participation*, it triggers dynamic diversity by activating more lively discussions, challenges to prior understandings/convictions and stereotypes, greater potential for innovation, and an expanded range of perspectives and solutions (Garces & Jayakumar, 2014).

Most importantly, the study of diversity and cross-racial interaction must be better informed by a focus on racial equity, inequality, and institutional environments (Hurtado et al., 2012). The study of cross-racial interaction has always highlighted the effect of institutional environments including racial heterogeneity (see, for example, Bowman, 2012; Chang et al., 2004; Park, Denson, & Bowman, 2013). But the quantitative framing of these studies has allowed for less consideration of other factors that may influence equity (or lack thereof) in students'

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<sup>9</sup>The importance of equal status contact in determining the quality and value of intergroup contact—particularly with respect to reducing stereotypes and prejudice—was first outlined in Allport's (1954) classic work. Today, we can think of it as interactions that take place under conditions that account for privileged and marginalized social statuses and the accompanying power dynamics.

interactions with one another. This dynamic is particularly critical to consider given Allport's (1954) assertion that a pre-condition for healthy intergroup contact is relative equal status between students—something often assumed to exist, especially in comparison to the imbalanced student–faculty relationship (Aries, 2008). However, the rich body of research documenting inequity and the persistence of racism in students' everyday lives (see, for example, Harper & Hurtado, 2007; Harper, 2012; Museus & Park, 2015) makes it clear that the inequality that shapes students' lives prior to college does not go away upon enrollment.

So, how might the study of cross-racial interaction take these surrounding conditions into greater consideration? One suggestion is to provide clearer recognition of the inequities that exist in the benefits accrued from engaging with racial diversity: White students tend to benefit most consistently, with mixed findings for other groups (see, for example, Gurin et al., 2002; Spanierman, Neville, Liao, Hammer, & Wang, 2008). Other suggestions include the expansion of qualitative and network-based methods in the study of cross-racial interaction to highlight the inequities and challenges to relative equal status that exist among students and that are influenced by institutional environments (Park, 2013; Park et al., 2013; Warikoo, 2016).

### **2.5.1.2 Intersectionality in Higher Education**

The study of intersectionality represents an additional area in which future research can advance our understanding of diversity in nuanced and critical ways. Pioneered by Black feminists, intersectionality explains how experiences, inequality, and oppression operate uniquely when two or more social identities function in tandem with one another (Crenshaw, 1991; Hill Collins, 2000; Núñez, 2014a, 2014b). Given the sometimes watered down use of intersectionality in research today, Núñez (2014a) pointed to the need to consider power relations in intersectionality work, as was initially intended by Black feminist scholars. For example, the experiences of Latinx students may have some general commonalities, but within the population, inequality could operate distinctively along gender lines. For example, Latinas may be subject to manifestations of sexism that affect women of color more generally and Latinas more specifically, while Latino students simultaneously grapple with both privilege and oppression that represent the unique ways in which their identities related to race, ethnicity and gender interact (Núñez, 2014a, 2014b). Within each subpopulation, further forms of intersectionality may exist—for instance, relating to the intersections of race/ethnicity, gender, sexual orientation, and religion.

The growing emphasis on the unique dynamics that affect women of color and men of color represents increasing acceptance and understanding of intersectionality; this has deep implications for policy and practice in higher education. Research organizations such as Project MALES (Mentoring to Achieve Latino Success), based at the University of Texas, Austin, the Minority Male Community College Collective, based at San Diego State University, and the Supreme Love Project (a social and emotional justice initiative for women of color; see

[supremeloveproject.com](http://supremeloveproject.com)), all of which seek to address the contextualized inequitable power dynamics that limit opportunities for the groups they serve, reflect this dynamic (see Sáenz, Ponjuan, Segovia, & Del Real Viramontes, 2015; Staples, 2016).

Within diversity research, intersectionality has also gained traction as an analytical lens used to draw attention to how attitudes and patterns related to intergroup relations, diversity, and equity play out uniquely when researchers pay attention to the differences that exist both within and between populations. For instance, in a study comparing the experiences of Black female and male faculty, Griffin and Reddick (2011) drew attention to how both groups experienced significant challenges linked to race and ethnicity, but Black female faculty were taxed in particular, with heavier expectations related to their levels of service and socioemotional caretaking of students. While research has documented the caretaking that is often expected of female faculty, Griffin and Reddick documented how the dynamics for Black women play out in unique ways that both parallel and diverge from patterns linked to gender alone, due to the unique intersectionality of race, ethnicity, and gender. The study showcases the possibilities of intersectionality research for more precisely identifying patterns of inequality that co-exist with compositional diversity.

Other studies do not explicitly reference intersectionality but demonstrate that attention to how individual demographic traits operate in tandem with one another can open up new insights into the complexities of diversity and equity. Park et al. (2013) found that the socioeconomic diversity of an institution in combination with the racial diversity of the student body was an indirect predictor of cross-racial interaction. While socioeconomic diversity did not subsume the direct effect associated with the racial diversity of the institution, these researchers suggested that socioeconomic diversity played a role in “priming” racial diversity by creating a more fluid, equitable environment for cross-racial interaction. An institution where racial lines are not reinforced strongly by socioeconomic boundaries can open up more opportunities for students to share relative equal status—as noted above, this is one of the key conditions identified by Allport (1954) for healthy intergroup contact. In contrast, when socioeconomic divides overlap strongly with racial divides, the social distance further widens, making it harder to cross these boundaries. Park et al.’s (2013) work highlights the unique intersections that exist between racial and socioeconomic diversity—two forms that have distinctive, as well as interrelated, characteristics.

Reardon et al. (2015) offer another example that does not explicitly utilize the framework of intersectionality but that nevertheless demonstrates how careful attention to interlocking forms of diversity has key implications for equity. These researchers included simulations of various undergraduate admissions outcomes when institutions considered race and/or class in varying capacities. They found that the highest level of socioeconomic diversity came not from policies only incorporating social class-related preferences, but from the simulation where both race and class were considered. Unsurprising but perhaps counterintuitive, class-alone policies failed to capture the full magnitude of socioeconomic disadvantage

due to the unique ways that race and class intersect in fostering economic inequality (Park et al., 2013).

In sum, intersectionality is a promising framework for advancing diversity research while taking into account a move toward broader definitions of diversity beyond race. Both dynamic diversity and intersectionality can support intentional, critically conscious diversity scholarship within the legal parameters of a very constricting debate.

## **2.5.2 *Advancing Inquiries That Address Public Discourses and Dominant Narratives***

### **2.5.2.1 “Meritocracy” and Admissions Metrics in an Era of Supposed Race-Neutrality**

The coming years will require researchers to think critically about the conceptualization of merit. Despite rulings preserving the consideration of race in *Fisher I* (2013) and *Fisher II* (2016), we are facing an era in which consideration of race in admissions is far from guaranteed. The existing admissions system promotes the myth of meritocracy by operating under the guise of fairness, fostering traditional notions of merit as an objective, quantifiable standard that can be applied uniformly across populations (Liu, 2011). In reality, it upholds and reinforces deeply troubling structures that greatly limit opportunity for students (Guinier, 2015). In fact, the issue of meritocracy is deeply fraught (Baez, 2006; Liu, 2011; Park & Liu, 2014), and a re-envisioning of the admissions system that boldly addresses the reality of structural inequality is sorely needed. Investigations of graduate admissions also unveil the complex dynamics behind how students are assessed and the importance of holistic admissions, particularly those that can consider race as a factor, for expanding opportunity (Garces, 2012; Posselt, 2016).

Much of this work will need to pay careful attention to the metrics currently used in admissions decisions, and perhaps none of these is more contested than the SAT. The entire point of the SAT is, arguably, to provide a standardized assessment of all students. Critiques of the test have highlighted disparities in access to supplemental tutoring, either privately or via test preparation classes. In particular, critics note that test prep—and, in particular, high quality test prep—is more readily accessible to the wealthy (McDonough, 1997). East Asian Americans also have higher levels of test prep participation than other racial/ethnic groups, likely due to the infrastructure of the ethnic economy that provides such opportunities in abundance (Park, 2012). While the latter trends are of concern, perhaps more troubling is work that suggests that the actual benefits linked to test prep are inequitable. Contrary to advertising, it actually does not pay off in sizable gains for most populations (Avery, 2013; Briggs, 2009), and some studies suggest that gains are disproportionately accumulated by East Asian Americans, high-income students, and those with the highest prior levels of academic preparation (Briggs, 2009; Byun & Park, 2012; Park & Becks, 2015).

Discrepancies in the benefits linked with SAT prep suggest that solutions that focus on expanding its availability, as the College Board has done by partnering with online tutoring resource Khan Academy, are laudable but fall short of ensuring equity in college admissions. Future diversity research can further unpack the underpinnings of a system that can do little to compensate for cumulative inequities at the K–12 level, challenging the notion that meritocracy in its most popular framing (e.g., test scores) can be captured objectively and consistently. Likewise, findings on the inequities of SAT prep—not just in terms of access, but in terms of its actual benefits—raise major concerns about reliance on SAT scores in admissions decisions, particularly at the level of selective and highly selective admissions. Is comparing scores between students really a case of “apples to apples” (Park, 2015)? The fact that SAT coaching and the related benefits fall along racial, ethnic, and socioeconomic lines speaks to the need for the continued individual, contextual, and holistic assessment of student achievements, including test scores. It also speaks to the continuing need to consider race, ethnicity, and social class in the admissions process in order to understand the context in which scores are achieved, or the alternative: eradicating the consideration of standardized tests in admissions altogether.

To be sure, another potential area for research will be to examine the implications of SAT-optional initiatives, where institutions do not require that applicants submit these test scores. Viewed widely by admissions officers as one of the most effective means to advance equity in admissions, it remains one of the least utilized (Espinosa, Gaertner, & Orfield, 2015). Individual institutions have reported promising findings on the effects of making the SAT optional. For instance, the president of Hampshire College reported a 10% increase in student-of-color enrollment, as well as a sizable bump in first-generation college students and an increase in admissions yield (Strauss, 2015). However, more systemic, multi-institutional research is needed to advance understanding of how holistic admissions can better capture talent and achievement that might otherwise go unrecognized.

Furthermore, it is critical that we address the wide-ranging influence of the current race-neutral policy climate and legal requirements on university policy in admissions and other areas of campus life. Past work has demonstrated the negative consequences that affirmative action bans can have, not only on the number of students of color who enroll, but also on efforts that are necessary to promote racially inclusive campus climates (Garces & Cogburn, 2015). Recent work illustrates how a colorblind admissions approach can take hold through seemingly innocuous practices and responses that are called “race-neutral” (Garces & Bilyalov, *in press*). It will be important to address how requirements to adopt these policies can give cover to seemingly race-neutral actions that have racial consequences for students on college campuses.

### 2.5.2.2 Narratives Aimed At Dividing Communities of Color: Implications for Meritocracy

Affirmative action cases featuring Asian American plaintiffs are currently moving through the lower courts (Wong, 2016). As they do so, we can anticipate a continued shift in the discourse toward dividing communities of color. Indeed, the anti-affirmative action movement has actively courted Asian Americans to support its case, despite surveys indicating the majority of Asian Americans support race-conscious admissions (Park, 2009). The co-optation of Asian Americans by the anti-affirmative movement represents an insidious form of interest convergence, wherein the anti-affirmative action movement has shown little interest in supporting the needs of Asian Americans except in situations that serve its own agenda (Park & Liu, 2014). For example, it raises questions about the nature of meritocracy and the limitations of a system that does not address the roots of systemic inequality.

The courting of Asian Americans by the anti-affirmative action movement persists despite the fact that Asian Americans have historically been direct beneficiaries of affirmative action programs (Lee, 2008).<sup>10</sup> Asian Americans have been visible supporters of affirmative action through the decades, from legal scholars Charles Lawrence and Mari Matsuda's (1997) classic, *We Won't Go Back: Making the Case for Affirmative Action*, to the aptly named civil rights organization, Chinese for Affirmative Action. At the same time, Asian American groups have also organized against affirmative action, particularly in 1994 when a group of Chinese Americans sued the San Francisco Unified School District to challenge the consideration of race in admissions for the selective magnet Lowell High School.

While affirmative action as a policy does not explicitly disadvantage Asian Americans, institutional admissions practices informed by racial bias and discrimination have led to exclusionary practices that do. In the 1980s, several high-profile universities were accused of maintaining ceilings on Asian American enrollment (Takagi, 1992). Both Harvard and UCLA were under federal investigation by the U.S. Department of Education's Office of Civil Rights. Brown and Stanford were not subject to federal investigation but did admit to irregularities in their own admissions processes. Harvard was exonerated, as discrepancies in admit rates could be attributed to differences in legacy and other special admissions considerations, but UCLA was ordered to admit certain math graduate students who had previously been denied admission (Takagi, 1992). This historical context is indicative of how the topic of college admissions and Asian Americans has been a complicated and sensitive issue within the community for decades.

In more recent years, divides within the community have been increasingly apparent. A major shift occurred in California in 2014, when a coalition of primarily

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<sup>10</sup>From the 1970s to the present day, Asian Americans may be considered eligible for race-conscious programs and admissions depending on the context of the institution. For instance, the University of Wisconsin system gathers data not just on students' racial identification, but also on their ethnic identification, allowing the institution to be aware of the unique issues affecting educational opportunity for students from Southeast Asian American populations.



Chinese American recent immigrants launched an attack against State Constitutional Amendment 5 (SCA-5), which would have repealed Proposition 209 (which had prohibited affirmative action) in higher education institutions. In the same year, Edward Blum, who coordinated the plaintiff's case in *Fisher I* and *Fisher II*, specifically sought out Asian American plaintiffs to launch a high-profile lawsuit against Harvard University. Since these events, coalitions of Asian American groups have launched public campaigns both in support of and in opposition to race-conscious admissions. Both sides also filed amicus briefs in the *Fisher* cases, and a brief filed by the Asian American Legal Education and Defense Fund in support of the University of Texas was cited in Justice Kennedy's majority opinion in *Fisher II* (2016) to argue that there was no evidence of discrimination against Asian American applicants at UT Austin.

Asian American groups opposing affirmative action have relied heavily on a misinterpretation of statistical analysis from Espenshade and Radford's (2009) study of the admissions processes at selective institutions, which found that, on average, Asian Americans had SAT scores that were about 140 points higher than those of White students. Frequent references to Espenshade and Radford's study neglect the fact that it is based on analysis of standardized admissions metrics (e.g., SAT, GPA, class rank), which only represent a fraction of the factors and experiences that admissions officers consider at selective institutions. Espenshade himself has acknowledged that his work is not conclusive evidence of discrimination against Asian Americans (Jaschik, 2009). Anti-affirmative action advocates also neglect Espenshade and Radford's (2009) finding that selective colleges and universities give significant preference to low-income and working class Asian Americans at private institutions, challenging the perception that Asian Americans are uniformly disadvantaged by race-conscious admissions policies.

Asian American groups that have supported affirmative action point to three factors to make their case: (a) the continued need for race-conscious admissions for both certain Asian Americans and underrepresented students of color more generally; (b) the fact that Asian American (and all) students benefit from engaging in a racially diverse student body; and (c) the idea that *negative action* is distinct from affirmative action. Negative action refers to the phenomenon where Asian American applicants are disadvantaged in the admissions process when compared to White applicants who are equally qualified (Kang, 1996). Interestingly, the anti-affirmative action wing of the Asian American population has identified negative action as a reason to reject race-conscious admissions, while Asian American supporters of affirmative action have recognized it as a distinct issue that does not undermine the continuing need for such policies (Park & Liu, 2014).

In either case, the identification of negative action is challenging (Park & Liu, 2014). It is relatively easier to spot in cases like 1980s UCLA admissions decisions that were heavily reliant on quantified metrics (e.g., GPA and SAT scores) and specific numbers of available slots. In contrast, it is more challenging to diagnose in the current era of holistic admissions where institutions rely on a much wider array of traits to identify talent. Even extracurricular activities, leadership positions, and teacher recommendations are not necessarily quantifiable, as admissions officers

seek to understand students' academic, social, and leadership accomplishments in the context of their opportunities to achieve, as well as students' ability to contribute to the richness of the student body community.

In an era where admissions rates at the most selective institutions are in the single digit range, the oversupply of qualified applicants as measured by quantified metrics far exceeds the number of slots available; hundreds if not thousands of strong students—even those with near perfect test scores and stellar records—will be rejected. Thus, comparisons between admit rates for various groups based solely on quantified metrics are insufficient in diagnosing negative action. It is also important to recognize that negative action may exist even in the absence of affirmative action. The common conflation of negative action and affirmative action divides communities of color, making some Asian Americans hesitant to support affirmative action because they see it as responsible for negative action. Although negative action is still worthy of attention, it is important to address it as an issue distinct from affirmative action (Kang, 1996).

Altogether, this discussion highlights how undergraduate admissions research and practices concerning Asian Americans represent numerous tensions in the affirmative action debate, shifting the conversation in ways that previous, underqualified White plaintiffs were less able to do. The discussion points to important questions that are deserving of inquiry: What do fairness and equality look like when there is an overabundance of students who meet standardized admissions criteria? How can admissions officers identify the context for educational opportunity without consideration of race/ethnicity? What element of admissions is somewhat arbitrary when market forces have contributed to an oversupply of “qualified” students and yet the most coveted, selective institutions have admission rates in the single digits? How might race-conscious admissions policies actually open the door for Asian Americans who do not fit the mold of the perfect 1600-SAT-score-achieving student? These questions further underscore the need for careful examination of the conception of merit—an examination that moves beyond a view of merit as objective and unbiased, to one that addresses contextual factors affecting educational opportunity, racism, and institutional context (Park & Liu, 2014).

### **2.5.3 *Advancing Inquiries That Promote Interest Convergence Expansion by Generating Power Among Communities of Color***

#### **2.5.3.1 A Strategic Racial Equity Framework**

A strategic racial equity framework can help guide how educational policies are framed and enacted toward racial equity in light of a current period of retrenchment, which we summarized in Part II. Such a framework combines a range of concepts and strategies including racial literacy, intersectionality, community organizing, and opportunity hoarding—the practice of dominant group members regulating the

distribution of resources in ways that ultimately restrict nondominant group members from gaining full access to such resources (DiTomaso, 2013; Lewis & Diamond, 2015). The strategic racial equity framework benefited from the interventions of CRT and its intellectual lineage (see Yosso & Solórzano, 2005) as well as from CRP-Ed. While drawing from different literature, it provides an approach that is similar to CRP-Ed, with principles that overlap with and compliment its key tenets. Nonetheless the strategic racial equity framework is uniquely beneficial in that it hones in on guiding research focused on advancing policies toward racial equity within existing legal parameters. In other words, it can be viewed as a specialized and practical application of CRP-Ed, with the potential for supporting scholars with a developing critical consciousness. The framework encompasses three basic principles: (a) attending to the dynamic relationship among power, race, and identities; (b) actively naming and addressing hidden contributors to inequity; and (c) generating power among marginalized communities of color toward transformative policies (Garces & Gordon da Cruz, 2017).

The first of these principles—*attending to the dynamic relationships among power, race, and identities*—is related to the above-mentioned areas of dynamic diversity and intersectionality, which can inform policy within legal parameters. Rather than deny a focus on race, which legal decisions have encouraged, Garces and Gordon da Cruz (2017) proposed what legal scholar Lani Guinier (2004) termed *racial literacy*, so that we understand race as dynamic and in relationship with fluid identities and access to power. Guinier (2004) argued that to be racially literate in our current context is to simultaneously not lose sight of race and not *only* focus on race. Consequently, to be racially literate is to “interrogate...the dynamic relationship among race, class, geography, gender, and other explanatory variables” (p. 115). Further, Guinier noted, racial literacy stresses the relationship between race and power; power—or, in her words, agency—is both an individual phenomenon as well as connected to larger environmental and institutional factors that influence an individual’s capacity to exercise this agency. A racial literacy lens requires a focus on dynamic shifting identities—including race—and the relationship between these identities and the power to access opportunities and resources. The concept of *intersectionality*, already discussed at length, provides a helpful lens for research and policies that promote racial literacy with a focus on these dynamic shifting identities (Crenshaw, 1991; Hill Collins, 2000; Núñez, 2014a, 2014b).

The second principle of the framework—*actively naming and addressing hidden contributors to inequity*—is connected to racial equity. This principle is similar to the CRP-Ed tenet focused on redefining dominant systems in order to act in counterhegemonic ways and to challenge dominant narratives (Jayakumar & Adamian, 2015a). It emphasizes that countering a colorblind framework in education requires naming and addressing the hidden (and not-so-hidden) policies and practices that contribute to and perpetuate racial inequity. Specifically, this principle calls for: (a) actively naming the social and historical contexts that shape current events and policies; (b) making explicit the advantages afforded to Whites based on laws, policies, and cultural practices; and (c) developing language and other tools for naming privilege and advantage. Research studies might use this principle to guide

studies that document the racialized implications of so-called race-neutral approaches in educational policies and practices.

In addition to naming and addressing the policies and practices that sustain inequity (such as exposing the racialized dimensions of approaches that are purportedly race-neutral under a legal definition), a strategic racial equity framework is focused on the importance of *generating power among historically marginalized communities of color* to enact transformative policies in education. This principle reflects a practical application of CRP-Ed, which recognizes that the power of individuals from oppressed communities can be a source of transformation potential (Jayakumar & Adamian, 2015a). As such, the framework focuses on generating power among communities that have historically been marginalized in an attempt to minimize the inevitable compromises that happen as a result of interest convergence as traditionally conceived (e.g., interests across Black and middle- or upper-income White communities within a hegemonic system). This principle is particularly relevant at present, when dominant narratives are aimed at dividing communities of color.

### ***2.5.4 Advancing Racial Equity-Minded Inquiry That De-centers Whiteness***

Another area that we believe is critical to the future of diversity research is the legacy of institutional environments that put Whiteness at the forefront, and the responsibility of institutions to their students in this regard. Challenging the co-optation of diversity discourses on campus requires advancing inquiry that addresses the legacy of institutional environments that center Whiteness and individualism. Bensimon's (2004, 2007) groundbreaking work on equity-mindedness advanced the notion of how standard post-positivistic research practices reinforced deficit-minded, individualistic notions around students—that individual students were largely responsible for their achievement, and that institutions had little control or ability to change their environments to support racially and economically diverse student bodies. Her work drew attention to the surrounding layers of inequality that permeate what goes on within institutions, as well as the influence on students and their ability to thrive. Likewise, other scholars have highlighted the legacies of institutional environments that center Whiteness—and with it, an individualistic paradigm in which structural forces are either dismissed or ignored (see, for example, Ahmed, 2012; Cabrera, 2014; Warikoo, 2016). Thus, we suggest that a future priority for advancing the diversity research agenda is a focus on how institutional environments advance or discourage equity alongside the pursuit of diversity.

Central to understanding the impact of institutional environments is Ledesma's (2016) work reframing traditional understandings of campus climate as negative or positive. Earlier approaches to climate research have emphasized the achievement of a positive or “warm” climate, but climate may vary within a single institution, or

such a climate may never be truly achieved. Climate is a constantly dynamic state that requires careful attention. Indeed, studies of institutional environments highlight how institutions that have been lauded for innovative work in the area of diversity and equity can later experience significant difficulties due to the ever-changing influence of state and federal policy (Garces & Cogburn, 2015). Thus, rather than encourage an approach that assesses campus climate as singularly chilly or warm, Ledesma argued for a health metaphor—an approach that can help individuals understand that an entity may have areas of well-being that co-exist with areas of sickness, frailty, or risk. This approach to assessing climate, that includes an understanding of how health is a constantly changing state, is a helpful tool to assess the climate for diversity and equity.

Ledesma (2016) made a strong case for moving beyond simply increasing racial representation to cultivate healthy climates that address reluctance to acknowledge White discomfort and the negative emotions that can occur with race talk and the decentering of White privilege. In higher education—as Gutierrez (2006) noted in the K–12 domain a decade ago—there is an urgent need to articulate and address how problematic notions of White innocence and safety are protected at the expense of students of color. It is no longer sufficient to tangentially incorporate this analysis, particularly in increasingly racially diverse schooling environments. Similarly, building on Leonardo’s (2009) work, Cabrera and colleagues (2016) questioned the popular conceptualization of “safe spaces” in diversity work—as we noted earlier, these spaces protect White innocence and colorblind racism, and are in fact unsafe for students of color.

White students’ comfort, safety, and positive self-perceptions are protected in schooling environments that largely center Whiteness and meritocracy (Cabrera et al., 2016; Leonardo & Porter, 2010; Lewis, 2001; Unzueta & Lowery, 2008). White college students are often protected from confronting their own racial biases and assumptions. This is particularly true at TWIs, where White students experience high levels of (White) racial isolation (Jayakumar, 2015b; Warikoo & de Novais 2014) and where colorblindness has been extensively documented (e.g., Bobo, Kluegel, & Smith, 1997; Bonilla-Silva, 2014; Cabrera, 2014; Forman & Lewis, 2015; Kinder & Sanders, 1996; Lewis et al., 2000; Picca & Feagin, 2007). Thus, when Whites do have experiences in which Whiteness is made salient, they experience *racialized vulnerability*, defined as unease based on perceived control and protection against various threats to integrity and personhood, which are shaped by dominant or marginalized racial identity statuses (Jayakumar, 2015a). In contrast, students of color tend to experience high race salience and consistently experience (and have built up resistance toward) racialized vulnerability brought on by tokenism, microaggressions, stereotype threat, and racism in schooling and society (Jayakumar, 2015a). Nonetheless, as Leonardo and Porter (2010) pointed out, racial dialogues and spaces at large entail a level of emotional violence towards students of color. A healthy racial climate is one in which racialized vulnerability and violence are minimized for students of color, and where productive racialized vulnerability is nurtured for White students, toward the development of anti-racist and humanizing identities and relationships.

As White students navigate shielded TWI campus environments, they are absolved of confronting their role as actors and beneficiaries in the perpetuation and maintenance of institutional racism. Protecting White students from engaging with such discomfort stifles their ability to situate themselves where they can endure the pain and discomfort that arise in the face of race and racism (Cabrera et al., 2016; DiAngelo, 2011; Leonardo & Porter, 2010). DiAngelo (2011) identified Whites' inability to deal with the stressors that come with confronting racism as *White fragility*. She explained, "These moves include the outward display of emotions such as anger, fear, and guilt, and behaviors such as argumentation, silence, and leaving the stress-inducing situation" (p. 54). Furthermore, White fragility engenders racial apathy, defined as a "lack of care about racial inequity and the related belief that there is no need to intervene to address racial inequality" (Forman & Lewis, 2015, p. 1417).

More alarming, White students' racial apathy has been on the rise in the last 25 years (Forman & Lewis, 2015), as racial attitudes have not only shifted from overt to covert forms of racism (Forman, 2004; Forman & Lewis, 2006, 2015; Samson & Bobo, 2014) but are developing in a more complex manner. As such, the performance of colorblind ideology is more nuanced and insidious. For example, recent research (Jayakumar & Adamian, 2017) documents an emerging fifth frame of colorblind ideology—the disconnected power-analysis frame—that represents an adaptation of colorblindness to contexts wherein race salience and fragility are heightened for White students. With these challenges in mind, diversity research connected to racial equity must work to address the prevalence of White fragility and colorblind ideology within diversity infrastructures and across campus.

### ***2.5.5 Advancing Inquiries That Are Mindful of the Possibilities and Limitations of Quantification in Diversity Research and the Potential of Innovative Research Methods***

In line with a CRP-Ed approach, it is important to think not only about the content of the inquiries we have just outlined, but also the methods we will use in future research—particularly, what they will illuminate and where they will have blind spots. When it comes to diversity, future research may consider both the limitations and possibilities of the quantification of merit, as well as the benefits linked with engagement with racial diversity. The aforementioned co-optation of Espenshade and Radford's (2009) work to promote the misconception that Asian Americans need certain SAT scores to be admitted to selective institutions is a powerful example of how the quantification of merit in statistical analyses can lead to information that is too easily misinterpreted and misconstrued by the public. In this example, analyses that primarily relied on limited indicators of merit such as SAT scores and GPAs to predict the odds of acceptance led to problematic

conclusions about the nature of admissions and the ability to predict one's likelihood of acceptance.

At the same time, quantitative analyses can still serve as a powerful tool to challenge assumptions around the effectiveness of various approaches to admissions. As noted earlier, using agent-based simulation models, Reardon et al. (2015) found that simulations where both race and class were considered produced more economic diversity than simulations where class alone was weighed strongly and race was not considered at all as a "plus" factor. Their findings, while counterintuitive, are helpful in showing how class-alone policies fail to capture the full extent of economic disadvantage due to the unique intersectionality between race and class. The use of quantitative methods in admissions simulations can lead to misinterpretation when variables that influence admissions decisions, such as essays, teacher recommendations, and the quality of extracurricular involvement, are omitted. In contrast, Reardon et al.'s (2015) analysis is arguably more effective because it is able to compare numerous simulations with scenarios that give different weights to race and class, respectively, while operating under the assumption that less quantifiable factors (e.g., essay quality) would be held consistent.

Thus, an ongoing recommendation for future quantitative analyses is that they simply be qualified and contextualized—that researchers have a responsibility to explain what implications can be drawn from their results and what conclusions are less appropriate or unsubstantiated in the data. Of course, it may be difficult to anticipate all of the potential assumptions or implications of a study, but we suggest that researchers should be cognizant that this work is all too easily politicized or co-opted for purposes beyond original intent. The growing visibility of critical quantitative analyses in higher education (Carter & Hurtado, 2007; Stage & Wells, 2014) also raises questions around paradigms and approaches utilized by quantitative research—whether post-positivism really results in a "do no harm" ethic, or whether post-positivism without sensitivity to diverse populations may perpetuate deficit perspectives or false understandings of the experiences of people of color.<sup>11</sup>

Baez (2004) powerfully recognized the limits of quantification, in particular to capture the educational benefits of diversity. In "The Study of Diversity: The 'Knowledge of Difference' and the Limits of Science," he noted how a heavy reliance on quantitative research implicitly or explicitly narrowed the public's ability to value easily quantifiable educational benefits, which could lead to a devaluing of traits that are more difficult to capture through survey instruments, but that are no less critical to the development and flourishing of students. Quantitative, qualitative, and mixed-methods work can all play a critical role in capturing the multifaceted ways that students engage with diversity, as well as identify inequities and injustices that may be perpetuated in its name. Ethnographic work in particular has highlighted

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<sup>11</sup>Post-positivism is the implicit paradigm guiding the majority of quantitative research. Unlike its predecessor, positivism, it rejects the complete detachment and conviction that absolute truth can be found. Post-positivism generally adheres to the idea that researchers can identify cause-and-effect relationships, that truth is more objective and standardized (versus subject to interpretation), and that objectivity and detachment are ideal stances for approaching research (Creswell, 2013).

the influence of pervasive systematic inequality on well-intentioned efforts to promote diverse and inclusive environments (see, for example, Park, 2013; Posselt, 2016; Warikoo, 2016). Methods such as critical discourse analysis represent promising tools to advance the study of race, racism, diversity, and equity (Goldstein Hode, 2014).

The emerging study of social networks and social ties (Clarke & Antonio, 2012; González Canaché, D'Amico, Rios-Aguilar, & Salas, 2014; McCabe, 2016), which seeks to understand the interconnectedness of students within particular networks, is another area ripe for better understanding how peers influence individuals' interactions across racial and ethnic lines. In particular, the role of subcultures and peer groups can help elucidate dynamics that have previously been assumed to be more related to individual student choice and agency (Clarke & Antonio, 2012; Park & Kim, 2013). Research using the subculture as the primary unit of analysis also unveils patterns such as how participation in ethnic student organizations is actually linked with higher rates of cross-racial interaction for students, including students of color (Bowman & Park, 2014), challenging the assumption that such communities contribute to the negative balkanization of campuses.

Studies of social networks and connections are among the first to take on the overwhelming but critical question of how technology and social media influence student interactions and engagement (Davis, Deil-Amen, Rios-Aguilar, & González Canaché, 2015). Given that the very nature and understanding of what constitutes "interaction" is subject to constant evolution due to the pervasiveness of social media (Park, Buckley, & Koo, 2017), innovative methods and approaches to studying how this type of technology influences racial dynamics is greatly needed. Additionally, creative methods are needed to account for the limitations of self-reported data in patterns of cross-racial interaction and interracial friendships. While techniques like name recall represent an improvement over self-reports, the rise of technology and social media also represent potential opportunities for researchers to mine data on student engagement across race.

## 2.6 Conclusion

Diversity scholarship has a long history with ties to particular legal contexts. This history has created particular agendas and approaches that have not always effectively served a racial justice agenda. A more critical awareness of how diversity discourses are being diluted and diminished can support future scholarship that actively challenges the co-optation of the initial diversity agenda and the long-term radical hope rooted in the policies that preceded it, including race-based affirmative action. Researchers must focus in on particular analyses that address outstanding questions in legal strategy and issues raised by the U.S. Supreme Court in dissenting opinions and by swing vote Justices; they must challenge the co-optation of diversity in both the legal and institutional policy contexts. But



diversity scholars must also “zoom out” for the larger view and operate with a critical consciousness about the hegemonic social and legal context shaping the debate.

It is essential that diversity scholars not lose sight of the broader roots of racial inequalities in higher education and the mechanisms that have created the need for affirmative action in the first place, including traditional notions of meritocracy and admissions metrics, a legacy of exclusion, and present day barriers to inclusion. Research that seeks to inform and agitate the policy debate about race-conscious practices and institutional diversity discourses can be impactful. However, as a CRP-Ed approach reminds us, this work involves negotiating within contradictions and must be guided by a critical consciousness about hegemonic forces at play (Jayakumar & Adamian, 2015a). It also requires an understanding of how reliance on interest convergence is limiting, wherein incremental racial progress is met with co-optation and dilution of the concessions made by those in power (Bell, 1980; Garces & Gordon da Cruz, 2017; Jayakumar & Adamian, 2015a).

As we discussed in Part I of this manuscript, early diversity research was advocacy-oriented and strategic. Although it had a limited role in advancing racial justice, it contributed toward desegregating postsecondary institutions. As the agenda became institutionalized, however, it was employed for other purposes and diluted when it came to racial justice. Thus, in Part II of this manuscript, we discussed how this progression unfolded, using the lens of interest convergence to name the challenges of advancing racial equity within the affirmative action debate. Just as scholars who initiated the body of work on diversity contemplated how to inform the different legislative and policy decisions leading up to the *Grutter* (2003) and *Gratz* (2003) Supreme Court cases, future scholars can advance the work by addressing the watered down conception of diversity that has taken hold and the current political climate of racial backlash and colorblind interpretations of the law.

Recognizing and leveraging resistance, consciousness raising, and grassroots efforts that generate interest convergence expansions can help to push policy conversations around diversity and race in more critical directions (Jayakumar & Adamian, 2015a). Future diversity research must strategically recognize interest convergence (including both constrictions and expansions), and advance areas of inquiry that can be useful for expanding knowledge and leveraging advocacy across multiple spheres of influence—including the legal paradigm and institutional policy constraints—to the root mechanisms that support problematic institutional policies and practices (e.g., admissions and notions of meritocracy), to understandings of diversity that recognize and benefit from critical race critiques and increased public consciousness about racism that is generated by grassroots efforts. This approach can actualize the initial intent and fulfill the promise of diversity research to inform and generate more racially equitable policies and practices in higher education.

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