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OPINION

America's Universities Are Living a Diversity Lie

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Thirty years ago this past week, Supreme Court Justice Lewis F. Powell Jr. condemned our nation's selective colleges and universities to live a lie. Writing the deciding opinion in the case *Regents of the University of California v. Bakke*, he prompted these institutions to justify their use of racial preferences in admissions with a rationale most had never considered and still do not believe – a desire to offer a better education to all students.

To this day, few colleges have even tried to establish that their race-conscious admissions policies yield broad educational benefits. The research is so fuzzy and methodologically weak that some strident proponents of affirmative action admit that social science is not on their side.

In reality, colleges profess a deep belief in the educational benefits of their affirmative-action policies mainly to save their necks. They know that, if the truth came out, courts could find them guilty of illegal discrimination against white and Asian Americans.

Selective colleges began lowering the bar for minority applicants back in the late 1960s to promote social justice and help keep the peace. They felt an obligation to help remedy society's racial discrimination, even if they generally weren't willing to acknowledge their own. And with riots devastating the nation's big cities, they saw a need to send black America a clear signal that the establishment it was rebelling against was in fact open to it – and that getting a good college education, not violence, represented the best path to wealth and power.

In the mid 1970s, when colleges talked about the educational benefits of race-conscious admissions, what they had in mind were the benefits reaped by minority students. And tellingly, the University of California had said nothing about the educational benefits of diversity in defending the UC-Davis medical school's strict racial quotas against the lawsuit brought by Allan P. Bakke, a rejected white applicant.

When the U.S. Supreme Court took up that decision on appeal, however, the educational diversity argument was tucked into a few of the many friend-of-the-court briefs submitted in the case.

Justice Powell would come to rely heavily on one of those briefs, in which Columbia, Harvard, Stanford and the University of Pennsylvania joined in arguing, without any empirical evidence, that diversity "makes the university a better learning environment." Like the four other conservatives on the court, Powell rejected the social-justice rationale for such policies, arguing

that the government should not be in the business of deciding which segments of American society owed what to whom for past misdeeds. Nevertheless, he did not want the court to be radically changing how colleges did business. Looking for a way out, he ended up saying the four elite colleges had convinced him of the educational benefits of treating some applicants' minority status as a "plus factor."

Most selective colleges interpreted Justice Powell's controlling opinion in the case as a green light to keep doing what they had been as far as racial and ethnic-group admissions preferences were concerned. At the same time, they fretted little about how their campuses were actually becoming less diverse in socioeconomic terms as they jacked up tuitions and increasingly favored applicants from families wealthy enough to fatten endowments and pay their children's full fare. And despite a professed concern with viewpoint diversity, some colleges adopted rigid speech codes aimed at squelching statements that made minority students uncomfortable.

Academe got a rude awakening in 1996. Californians passed a ballot measure in that year barring public colleges from considering race and ethnicity in admissions. And a federal appeals court rejected Justice Powell's diversity rationale in a lawsuit, *Hopwood v. Texas,* involving the University of Texas law school. In his book, "Diversity Challenged," Gary Orfield, a staunch advocate of affirmative action, says people in higher education looked around and suddenly realized "no consensus existed on the benefits of diversity" and "the research had not been done to prove the academic benefits."

Over the next several years, education researchers scrambled to find such proof and repeatedly met with college leaders to discuss their progress. Their work took on a sense of urgency, on the expectation the Supreme Court would soon be revisiting *Bakke*. Yet again and again, their studies were shown to have gaping holes and deemed too weak to hold up in the courts.

Fortunately for affirmative-action advocates, the Center for Individual Rights, which coordinated the legal assault on race-conscious admissions, made a tactical decision not to seriously challenge such research – out of a belief it could win on legal principle. When the Supreme Court waded back into the controversy, it reaffirmed Justice Powell's diversity rationale in a 2003 decision, *Grutter v. Bollinger*, involving the University of Michigan law school. The opinions revealed that the majority of justices had been swayed by a barrage of friend-of-the-court briefs spinning and exaggerating what the research said about the alleged educational benefits of diversity.

Proponents of race-conscious admissions policies have yet to produce a study of their educational benefits without some limitation or flaw. Many focus only on benefits to minority students. Others define benefits in nakedly ideological terms, declaring the policies successful if they seem correlated with the adoption of liberal views. A large share relies on survey data that substitute subjective opinions for an objective measurement of learning. The University of Michigan's star witness, Patricia Gurin, a professor of psychology and women's studies, presented studies showing the educational benefits of classes and campus programs that promote interracial understanding. Those may exist at colleges that don't consider an applicant's race.

Affirmative action advocates argue that it is unreasonable to expect more of the research, because no education policy has incontrovertible proof of effectiveness. But affirmative-action preferences are not just any education policy; they require some students to suffer racial discrimination for the sake of a perceived common good. In grounding his definition of that good in the shifting sands of social science, Justice Powell may have left colleges legally vulnerable for decades to come. The courts, after all, are known for diverse opinions.

Mr. Schmidt is a senior writer at The Chronicle of Higher Education and the author of "Color and Money: How Rich White Kids Are Winning the War over College Affirmative Action" (Palgrave Macmillan, 2007).