The New Politics of Affirmative Action:
How an Endangered, Liberal, Civil Rights Policy
Has Transformed Into an
Entrenched, Conservative, Diversity Management Policy

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In the landmark *Grutter v. Bollinger* case (539 U.S. 306 (2003)), a divided U.S. Supreme Court issued a landmark victory for race-based affirmative action, upholding the constitutionality of racial preferences that are narrowly tailored as a measure to achieve racial diversity. The traditional civil rights organizations that fought long and hard to defend race-based affirmative action – especially the National Association for the Advancement of Colored People (NAACP) and the student-led Coalition to Defend Affirmative Action, Integration & Immigrant Rights and Fight for Equality By Any Means Necessary (BAMN) – took credit, viewing this decision as the *Brown v. Board* civil rights victory of the 21st century. On the surface, one could understand this University of Michigan case via the lens of the "old politics of affirmative action." That is, one could understand affirmative action as a battle between liberal proponents of group-based "equality of outcome" (who are disproportionately female and people of color) and conservative, color-blind proponents of individualistic "equality of opportunity" (who are disproportionately white and male). Of course, the old politics of affirmative action were never in reality divided so neatly into these camps. But in the public spectacle – in contrast to the reality – of affirmative action politics, the battle lines have largely been, and continue to be, drawn this clearly and simply.

One need not look far beneath the surface to recognize that the contemporary affirmative action controversies and events don't fit the categories of the old politics of affirmative action. Why did the conservative Supreme Court – in which seven of the nine Justices were appointed by Republican Presidents – uphold race-based affirmative action? Why did Fortune 500 companies and the military brass – two powerful institutions in America that are not known to be particularly liberal to say the least – file *amici curiae* briefs in defense of racial preferences? And why did the Bush administration neglect to ask the Court to overturn the landmark *Bakke*

precedent or put forward the strongest, legal argument against racial preferences – namely that diversity is not a compelling governmental interest?

Corporate America, the military, and the Republican Party – arguably the three most powerful institutions in the world today – have largely come to embrace race-based affirmative action. While law and social science scholars of race are predominantly arguing that affirmative action is in danger of extinction because of a conservative colorblind "assault on diversity" (Cokorinos 2003), this paper instead argues that race-based affirmative action is becoming increasingly entrenched in America now that it has transformed from a civil rights policy into a diversity management policy with the backing of the most powerful institutions in America. The colorblind movement has been almost entirely unsuccessful in attacking affirmative action through the elected branches of government. As a result, colorblind organizations and leaders have pursued their cause by bypassing the elected officials and instead initiating lawsuits and ballot initiatives.

Now that the Supreme Court has rejected the colorblind litigation strategy, the colorblind leaders have little choice but to push ballot initiatives and hope for colorblind conservative appointments to the Supreme Court while a Republican President is still in the White House. Given the razor-thin margin of the *Grutter* vote, it is entirely plausible that a Sandra Day O'Connor resignation could lead to a colorblind majority voting block on the Court. Thus, I do not mean to suggest that the battle of affirmative action is over. Nonetheless, I do argue in this paper that affirmative action is becoming entrenched, rather than endangered, in American policy and politics.

I argue that scholars of affirmative action policy and politics have largely failed to recognize the institutionalization of the *new politics of affirmative action* in American

government over the past two decades. Many of the major trends in affirmative action policy and politics are very difficult to explain – or even to identify in the first place – via the lens of the old politics of affirmative action. The paradoxes of affirmative action can be explained much more clearly when viewed through the lens of the new politics of affirmative action.

This paper begins by contrasting the "old politics" and "new politics" of affirmative action by briefly tracing the history of affirmative action from 1960 to the present. The second section argues that the 2003 *Gratz v. Bollinger* (539 US 244 (2003)) and *Grutter v. Bollinger* (539 U.S. 306 (2003)) Supreme Court cases on the University of Michigan affirmative action admissions policies serve as evidence of the new politics of affirmative action. The paper concludes by addressing the opportunities and limitations the new politics of affirmative action creates for movements to reduce racial stratification in America.

The old and the new: the transformation of affirmative action politics

This section will begin by defining affirmative action and arguing that disagreements over the meaning of affirmative action hinder scholarship, as well as civic deliberation, on affirmative action. I will then move on to explain the "old politics of affirmative action" and how it differs from the "new politics of affirmative action."

Defining affirmative action

Studying affirmative action is very difficult for a variety of interrelated reasons. All of the reasons share one theme – affirmative action is a muddled concept masquerading as a self-evident concept. It seems so clear to people that there is rarely any discussion about what affirmative action is – the assumption is that "…I know it when I see it."[1] But affirmative action

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[1] Justice Potter Stewart (concurring), *Jacobellis v. Ohio*, 378 U.S. 184, 198 (1964):

is just as muddled a concept as obscenity and pornography – what I know and see may be very different from what you know and see. The term "affirmative action" is a contested concept, perhaps even an essentially contested concept (Connolly 1974).

According to one scholar of affirmative action,

> In each case, the data suggest that widely held opinions about affirmative action may well be erroneous, and that these misconceptions are driving both the debate and policymakers in the wrong direction (Kane 1998 18).

Kane's article focuses on the misconceptions about the *effects* of affirmative action. For example, his research challenges the assertion that affirmative action does the beneficiaries more harm than good and the assertion that non-racial preferences could produce the same diversity that result from racial preferences (28).

Skrentny, the author of *The ironies of affirmative action*, calls attention to additional misconceptions – which he calls myths. He points the finger at the activists – both preference advocates and color-blind advocates – for perpetuating the myths of affirmative action:

> Opinion leaders on the Left and the Right have not let the paucity of data and lack of dispassionate, systematic study stop them from forming strong views on the topic and trying to convince other Americans to think as they do. The result of this situation is the maintenance of various myths about affirmative action and the continued neglect of some of the policy's important political, institutional, and social dynamics (Skrentny 1998).

Jennifer Hochschild emphasizes that affirmative action scholarship has largely focused on philosophical debates – scholars have not adequately examined how affirmative action works in practice:

> An examination of any collection of books on affirmative action over the past twenty-five years shows two phenomena – a huge outpouring of legal and philosophical analyses of its merits and a paucity of empirical studies of its practices and effects (Hochschild 1998).

> [C]riminal laws in this area are constitutionally limited to hard-core pornography. I shall not today attempt further to define the kinds of material I understand to be embraced with that shorthand description. ... But I know it when I see it.

For the purposes of this research, "affirmative action" refers to policies that seek institutional inclusion of identity groups that are currently underrepresented (relative to the demographics of the institution's constituency – identifying the relevant constituency is often itself a contested and political undertaking) and have been historically excluded by specifically targeting them. Preferences are a type of affirmative action where an individual who identifies with a targeted group identity is given an advantage in a selection process. The following would be an example of race-and-gender affirmative action: a university gives under-represented minority (e.g. African American, Native American, Hispanic) applicants additional points in their academic index scores (many universities use quantitative indexes - which heavily weigh standardized test scores and grade point averages) over white and Asian applicants.

This paper focuses primarily on race-based affirmative action. I will at times only use the term "affirmative action" to refer to "race-based affirmative action." Unless otherwise specified (e.g. when referring to class-based affirmative action), affirmative action will refer to race-based affirmative action.

While the concept of affirmative action initially referred to policies that sought non-discrimination by carefully monitoring racial and gender representation via goals and timetables (which today is often called "soft" affirmative action), the concept today is more commonly used to refer to policies that specifically target women and/or underrepresented minorities through preferences or quotas (which today is generally called "hard" affirmative action). The meaning of affirmative action has evolved as the predominant variety of affirmative action has changed. Some scholars refer to affirmative action broadly, encompassing both "soft" and "hard" varieties. Many others, however, only use the term to refer to "hard" varieties. Because the soft varieties are really policies that are color-blind in implementation (that is, they don't treat people

differentially on the basis of their race in order to correct for histories of exclusion), I choose to refer to them as color-blind policies rather than as affirmative action policies.

The old politics of affirmative action

Scholars of affirmative action have largely explained the debate over affirmative action as a function of competing visions of equality. Under the old politics, affirmative action is primarily a civil rights issue in which the opposing sides disagree about whether affirmative action promotes or violates principles of equality. According to this analysis, proponents support a group-based vision of "equality of outcome," in which civil rights ought to be designed to eliminate racial stratification. Non-discrimination policies are necessary but not sufficient to achieve this goal, according to proponents of race-based affirmative action.

President Lyndon Johnson best articulated this case for group-based equality of outcome in his famous Howard University commencement speech:

> You do not wipe away the scars of centuries by saying: 'now, you are free to go where you want, do as you desire, and choose the leaders you please.' You do not take a man who for years has been hobbled by chains, liberate him, bring him to the starting line of a race, saying, 'you are free to compete with all the others,' and still justly believe you have been completely fair . . . This is the next and more profound stage of the battle for civil rights. We seek not just freedom but opportunity—not just legal equity but human ability— not just equality as a right and a theory, but equality as a fact and as a result (Johnson 1966).

Supreme Court Justice Harry Blackmun lent his voice to this group-based argument when he wrote in the *Regents v. Bakke* decision,

> I suspect that it would be impossible to arrange an affirmative-action program in a racially neutral way and have it successful. To ask that this be so is to demand the impossible. In order to get beyond racism, we must first take account of race. There is no other way. And in order to treat some persons equally, we must treat them differently. We cannot - we dare not - let the Equal Protection Clause perpetuate racial supremacy (438 U.S. 265 (1978) Blackmun, J. dissenting).

Under the old politics of affirmative action, colorblind proponents call for a competing vision of equality that relies on equal opportunity at the individual level. According to this view,

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"Our Constitution is colorblind, and neither knows nor tolerates classes among citizens" *Plessy v. Ferguson* (163 US 537 (1896)) (Harlan, J. dissenting). Colorblind proponents under the old politics of affirmative action argue that any racial preferences constitutes reverse discrimination (Cohen 1995; Eastland 1996; Glazer 1987; Kull 1992).

The classic colorblind arguments were based on meritocracy logic in addition to an individualist conception of equality of opportunity. According to this argument, universities had a responsibility to admit the most qualified applicants, and the most qualified applicants had a right to be admitted. Race-based affirmative action was objectionable not only because it was tampering with the meritocracy on *racial* grounds, but it was more broadly objectionable because it was tampering with meritocracy at all. Under the old politics of affirmative action, colorblind proponents envisioned a meritocracy in which applicants were admitted based on objective measures without preferences.

This understandably led the proponents of race-based affirmative action to point out the myriad forms of preferences and quotas that universities use in their admissions process – for legacies, low-income students, 1st generation college students, students from underrepresented regions of the country, international students, children of wealthy donors, athletes, veterans, students living with disabilities, and in-state residents, to name a few. While the proponents contested the notion that race preferences were the primary deviation from meritocracy, both proponents and opponents of race-based affirmative action generally shied away from contesting the existence of merit as a desirable and measurable goal.

Under the old politics of affirmative action, both proponents and opponents of race-based affirmative action communicated via the black-white discourse of the civil rights movement and primarily targeting African Americans. While some early affirmative action policies targeted

racial minorities other than African Americans, the debate largely centered on whether and how to give special consideration for African Americans (Skrentny 2002). As I will explain later, the expansion of race-based affirmative action to Hispanics, Asian Americans, Native Americans, Aleuts, Arab Americans, and other racial and ethnic minorities was a pivotal sign of the shift from the old politics to the new politics of affirmative action.

Universities generally justified their affirmative action policies by a combination of one or more of the following three rationales: remedying discrimination (a.k.a. compensation), aiding the disadvantaged (a.k.a. inclusion), and fostering racial diversity. Yet compensation stood out as the primary justification for affirmative action in the eyes of its proponents. As the classic quotes above from President Lyndon Johnson and Justice Harry Blackmun indicate, affirmative action was viewed as a necessary civil rights measure to remedy systemic discrimination. In the next section, it will become apparent that the Supreme Court's resistance to a broad interpretation of the compensation rationale led universities and other institutions to abandon the compensation rationale and instead elevate the diversity rationale as their primary justification for race-based affirmative action.

In the classic portrayal of the old politics of affirmative action, the battle lines were drawn rather clearly. Liberals and Democrats tended to support race and gender affirmative action, while conservatives and Republicans tended to be opposed. The vast majority of women and people of color supported race-and-gender affirmative action, whereas the vast majority of whites were opposed. According to Steeh and Krysan,

> Attitudes about affirmative action policies for which we have continuous data have not shifted dramatically for whites since 1965, and, even among African Americans, they remain constant for the most part. It is clear that white adults do not favor preferences, quotas, or economic aid for blacks when these questions are generally phrased. However, this support is considerably greater than it was in 1963 when the Harris poll asked a question about preferences for Negroes in job openings. In that year, before affirmative

action became national policy, only 3 percent of respondent approved of preference to make up for discrimination (Erskine 1968) (Steeh and Krysan 1996 140).

The debate over affirmative action traditionally focuses on three factors: American principles, group interests, and group prejudice. According to this old politics of affirmative action, the battle lines are clearly drawn. The story told by scholars who focus on the old politics goes as follows: the advocates of affirmative action support group equality of outcome, whereas the critics support equality of individual opportunity. The majority of underrepresented people of color and women tend to support affirmative action, whereas the majority of white men oppose it. The scholarly debate concerning the old politics of affirmative action is how much of white opposition is rooted in overt and/or covert prejudice, and how much can be attributed to whites' adherence to American principles.

The scholars largely fall into three alternative camps, all of which agree that the majority of whites oppose affirmative action. The current literature on public opinion toward affirmative action policy continues to be divided over explanations of white opposition to affirmative action policy. Sniderman and Carmines suggest that whites' commitments to American political principles drive this opposition (Sniderman 1997). Sniderman and Carmines argue that neither ideology nor symbolic racism can adequately explain the contemporary opposition to racially targeted policies (Sniderman 1997 466). One of the central findings in this work is that "liberals are just as upset over affirmative action as [are] conservatives… when attitudes are measured covertly" (Sniderman 1997 468). To the extent that they reject the view of affirmative as a battle between liberal supporters and conservative opponents, Sniderman and Carmines begin to build a bridge from the old to the new politics of affirmative action. Nonetheless, they continue to view affirmative action as a battle over competing conceptions of equality, which is a core tenet of the old politics of affirmative action.

For Sniderman and Carmines, adherence to the American creed is driving the opposition. Citizens support racially targeted policies as long as the justifications are neutral. "Only conservatives are relatively unaffected by altering the justification and focus of proposed government programs" (Sniderman 1997). The authors nest experiments within their surveys by varying not only who is helped, but also how they are to be helped and why they may be entitled to such help (Sniderman 1997). The results suggest that "what limits the popular appeal of a policy targeted to blacks is not so much that it is race specific as that it is group exclusive" (Sniderman 1997).

In contrast, Kinder and Sanders argue in Divided by Color: Racial Politics and Democratic Ideals that elite framing of affirmative action combines with whites' racial resentment to drive white opposition to affirmative action (Kinder 1996). Kinder and Sanders develop a nuanced argument that places racial resentment (their synonym for symbolic racism) at the center. Their principal finding is that "by a fair margin racial resentment is the most important thing that matters for race policy" (Kinder 1996). Kinder and Sanders find evidence for racial resentment in citizens' increasing concern with social disorder, and decreasing concern with civil rights. They find that racially resentful whites tend to have the following policy positions: push for strong national defense and anti-communism, economic protectionism, oppose sanctions against South Africa, oppose gay non-discrimination laws, oppose federal efforts to cope with AIDS, favor death penalty, oppose increases in money for Food Stamps, support denying services to immigrants (Kinder 1996). On the one hand, these values are described by the authors as authoritarian values (Kinder 1996). But at the same time, the authors interpret racial resentment as being rooted in American individualism, "informed by the individualistic virtues of hard work and self-reliance" (Kinder 1996).

Although scholars from the political principle position (e.g. Sniderman and Carmines) and the symbolic racism position (e.g. Kinder and Sanders) disagree over the causes of white opposition to affirmative action policies, both camps agree in the descriptive claim that white citizens are overwhelmingly opposed to race-based affirmative action. Kinder and Sanders report (outdated) 1986 National Election Studies data that show 84 percent of whites opposing "preferential hiring and promotion of blacks" and 70 percent of whites opposing "college quotas for blacks" (a straw man argument given that quotas have been outlawed – except in cases of court-ordered desegregation – since the 1978 Bakke decision) (Kinder 1996). Sniderman and Carmines report similar results.

The third camp agrees that whites' racial attitudes are driven in part by symbolic racism – Larry Bobo instead uses the phrase "laissez-faire racism" (Bobo and Smith 1998; Bobo, Kluegel, and Smith 1997). But Bobo prefers to conceptualize racial policy attitudes in the economic terms of group interests rather than the psychological terms of group prejudice (Bobo 1998; Bobo and Smith 1994).

Scholars of racial policy attitudes have provided evidence that all three of these factors explain white opposition to race-based affirmative action. Indeed, a survey of the literature indicates that they agree about much more than they disagree. Sniderman and Carmines agree that a small but substantial minority of the population is overtly prejudiced against people of color (Sniderman 1997). Carmines acknowledges that Goldwater's articulation of racial conservatism was in part a strategic shift to subtle racism – that is, Goldwater's racial conservatism provided a socially acceptable discourse for expressing views that were considered to be overtly prejudiced using the pre-existing racial discourse (Carmines and Stimson 1989).

And group interests scholars acknowledge that a large segment of the white opposition adopts the views of laissez-faire racism.

While they disagree over the relative weight of these three variables, scholars of racial policy attitudes agree that three variables – principles, prejudice, and group interests – play a powerful role in the battle over affirmative action. However, I argue below that much of the existing scholarship is still attempting to explain affirmative action dynamics based on the schemes of the old politics of affirmative action. A variety of tectonic shifts have taken place that have led to a new politics of affirmative action, and the public opinion scholars have only begun to appreciate the scope of these changes.

Before proceeding to explain the new politics of affirmative action, it is important to point out that affirmative action never operated in the simplistic, neatly categorized manners that the old politics of affirmative action scheme maintained. In addition, it is important to be clear that no scholars buy the analysis of the old politics of affirmative action in its entirety. Nonetheless, in aggregate, the early scholarship in addition to the contemporary scholarship on affirmative largely examined the policy debate via the lens of the old politics of affirmative action. This analysis clouds the understanding of the contemporary affirmative action controversy, but it also has clouded the analysis of affirmative action during the 1960s through 1980s. I will first turn to the ways in which the old politics lens clouded the understanding of affirmative action in its early years.

First, contrary to the paradigm of the old politics of affirmative action, affirmative action in the form of preferences and quotas (a.k.a. "hard" affirmative action) was not an initiative of the liberal, African American, civil rights establishment. Almost all 1960s civil rights leaders opposed the political strategy of instituting affirmative action. With the exception of the Urban

League's Whitney Young, other leaders – including Martin Luther King, Jr. – opposed

affirmative action. King feared that affirmative action would divide the left – the white working

class would resent racial quotas and preferences. Instead, King advocated policies that would

build coalitions of poor Americans of all races.

> King, like Rustin, hardly wavered from a color-blind approach, organizing, shortly before
> his murder, the Poor People's Campaign. It is true that in the late 1960s, King did lead
> "Operation Breadbasket," which threatened boycotts of local industries that did not have a
> proportional representation (based on the local black labor supply) of black employees. It
> is important to note, however, that race-conscious justice, while 'practiced' by King in this
> later period before local audiences, did not appear in his list of policy recommendations
> before a national audience in a 1967 book, except as a vague reference to percentage
> hiring of the 'difficult-to-place' (clearly, a more abstract, universalist term). Instead, King's
> focus was on the development of a human services industry that could give job
> opportunities to African-Americans (Skrentny 1996).

Only one of the civil rights leaders openly advocated affirmative action during the 1960s.

According to Skrentny, the Urban League's Whitney Young, who had become Executive

Director in 1961, "did test the boundaries of legitimacy and initially pushed for a race-conscious

policy, but found little flexibility in the political culture" (Skrentny 1996). He called for

"American Marshall Plan," published as a book *To Be Equal* in 1964 (Skrentny 1996). But

"[m]uch of this (at the time) heretical language was eventually eliminated from Young's plan.

His colleagues were uncomfortable with such dangerous discourse... He was in the danger zone

for the public audience" (Skrentny 1996). The support for hard affirmative action didn't come

from organized interests. Instead, as Skrentny shows, it came from Presidents and administrators

in federal agencies, who were responding to the crises of urban race riots and the concern that

domestic racism would hamper the war on Communism (Skrentny 1996).

It is not clear whether civil rights leaders' opposition to hard affirmative action was made

on political grounds more than policy grounds. That is, the civil rights leaders very well may

have supported affirmative action in principle. Only Young and King publicly endorsed

preferential affirmative action, and they both suffered the political costs for these temporary

endorsements of affirmative action. They clearly feared that it would lead to backlash in practice because of their perception that the majority of whites in America were not ready for race-based affirmative action. They feared that the Republicans would use the issue of race-based affirmative action to divide the Democratic coalition of African Americans and working class whites. Given that southern Dixiecrats were blocking civil rights policies in Congressional committees, they didn't have to work too hard to fend off hard affirmative action initiatives.

Some supported this out of genuine adherence to war against poverty principles – they supported class-based but not race-based affirmative action. Others supported it out of belief in pragmatic principles – they supported race- and class-based affirmative action but calculated that mobilization efforts such hard affirmative action would erode the Democratic coalition that was essential for their broader populist agenda. In short, they had a broader vision. Race-based affirmative action was one tool to achieve this broader vision, but it was a dangerous tool that they feared would hurt the movement's efforts to end race and class inequality and discrimination. Instead, the civil rights groups looked to the enforcement of colorblindness as an ideal in the short term. There is little evidence that they would have opposed hard affirmative action down the road, but the problems of discrimination were so severe that they were more focused on ending the discrimination rather than worrying about affirmative acts.

The battle over affirmative action in the early years also failed to fit the simplistic model of the old politics of affirmative action in a second way: hard affirmative action was first instituted by a Republican President. African Americans began to migrate in major waves to northern industrial cities in the post-World War II era to take advantage of the employment opportunities. While they found better job opportunities and states without histories of slavery, they also endured public and private discrimination in the northern cities (Klinkner and Smith

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1999; Polenberg 1980). Martin Luther King in his final years began pushing broadly for a broad agenda of class and racial solidarity and equality. The Republican Party feared this coalition building, because this coalition of working class whites with blacks and women could be broad-based enough to sustain the Democratic dominance of electoral politics in the U.S.

It was telling that the first race-and-gender *quotas* were instituted by Republican President Nixon. At the federal level, Nixon's affirmative action executive orders were part of his efforts to manage the crisis by giving the opposition some of what they demanded (Skrentny 1996). In addition to the anti-communism and crisis management concerns, Nixon had an additional incentive to develop soft and hard affirmative action policies. As mentioned above, the Democratic voting base was rooted in a fragile coalition between African Americans and working class whites. In addition, the Democratic success in Congress and the Presidency was based on a fragile coalition of liberal northern Democrats and conservative southern Democrats. The success of the Republican Party in the electorate and in government was tied to the ability to break this coalition, luring working class white voters and conservative southern Democratic legislators to join the Republican Party (Parikh 1997; Skrentny 1996).

Civil rights leaders and Democratic Party leaders saw the electoral risk of pushing quickly for strong civil rights policies, whether in colorblind or affirmative action form. Nixon and his fellow Republican Party leaders, on the other hand, were well aware of the electoral benefits of strong civil rights legislation. When combined with the above-mentioned legitimacy concerns of anti-communism and crisis management, Nixon began to calculate that a civil rights agenda was a win-win-win situation and signed an executive order creating hard race-based affirmative action in contracting (commonly known as the Philadelphia Plan).

This Philadelphia Plan was first created by the Office of Federal Contract Compliance (OFCC) under the Johnson administration. But the comptroller general struck it down on the grounds that it was too ambiguous (Skrentny 1996). When Nixon revived it, he modified the plan by mandating that certain explicit percentages of minorities be hired. Nixon later reversed course and opposed racial quotas but not until the Democratic Party and civil rights groups unified in favor of this hard affirmative action. Nixon's Plan required bidders to show manning tables that they would make a "good faith effort" to achieve proportional representation of African American in order to win the contracts (Skrentny 1996). Republicans in the House supported the Plan by a margin of 124 to 41. The majority of Democrats opposed it – 115 House Democrats voted no, while only 84 voted yes (Graham 1989).

It was an essential part of his strategy to divide the Democratic base, splitting working class white Democrats against African American Democrats (Kahlenberg 1996; Parikh 1997; Skrentny 1996). The plan worked – Democrats became more supportive of racial preferences, while Nixon disowned his own plan, speaking out against quotas in his reelection campaign (Kahlenberg 1996). Hugh Davis Graham found that racial rioting was being used by organized minorities as a bargaining chip to achieve racial policy objectives (Graham 1989).

In short, affirmative action in its early years was portrayed by scholars as a battle between liberal, Democratic, minority proponents and conservative, Republican, white male opponents. This analysis of affirmative action is oversimplistic and partially inaccurate both at the level of policy reform and public opinion. Nonetheless, there was a great deal of truth in this characterization of affirmative action. As Kinder and Sanders express in their book, Americans have been and continue to be (partially, but by no means entirely,) *Divided by color*, partisanship, ideology, and gender on the issue of affirmative action (Kinder 1996).

That said, the task of the remainder of the paper will be to argue that the politics of affirmative action have transformed to such a great degree that this old characterization of affirmative action – which was never entirely true – is even less true today, especially at the level of policy reform. It remains the case at the level of public opinion that liberals, Democrats, women, and people of color are more likely to support race-based affirmative action than are conservatives, Republicans, and white men (Bobo, Kluegel, and Smith 1997; Kinder 1996; Sniderman 1997). But at the policy level, affirmative action has experienced a policy realignment. Affirmative action has gained the support of major corporations, the military brass, and the Supreme Court. And the Republican Party has largely come to accept affirmative action, in large part due to the electoral incentive. I'll now turn to this new politics of affirmative action.

The new politics of affirmative action

On June 23, 2003, the United States Supreme Court handed down the landmark *Grutter v. Bollinger* decision, holding conclusively that race is a "compelling governmental interest" and that racial preferences in university admissions are a "narrowly tailored means" of achieving this compelling governmental interest. Legal experts knew that the case would come down to whether Justice Sandra Day O'Connor and Justice Anthony Kennedy agreed that diversity is a compelling government interest justifying race preferences.

According to the analysis of the old politics of affirmative action, liberal civil rights organizations would line up to defend affirmative action as an essential policy to remedy discrimination and to ensure that African Americans be included in elite institutions from which they were historically excluded. One would expect that the Republican Party and its conservative base would take a firm stance against race-based affirmative action. And one would expect the debate over the fate of race-based affirmative action to hinge on principled debates over

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conceptions of equality. In *The Color Bind*, Lydia Chavez attributed the attack on affirmative action in California to the electoral incentive of conservative, Republican lawmakers and candidates (especially Republican then-Governor Pete Wilson and its presidential aspirations during the 2006 campaign (Chavez 1998). Klinkner and Smith view the attack on affirmative action as being driven by conservative political elites who are seeking to roll back the civil rights progress of the civil rights movement (Klinkner and Smith 1999). Walton and Smith argue that the racism of the conservative Supreme Court and Republican lawmakers have led to the resurgence of racism via attacks on affirmative action and other civil rights policies (Walton and Smith 2003). And most recently, Cokorinos, in *The Assault on Diversity*, argues that a powerful, well-funded network of conservative, colorblind organizations is unleashing a large-scale assault on affirmative action and other diversity initiatives (Cokorinos 2003).

The old politics of affirmative action is by no means dead, and thus the numerous scholars – a small sample of whom I've mentioned above – who portray the affirmative action debate in this way are able to make persuasive arguments about the conservative assault on affirmative action. Scholars, activists, journalists, and laypersons alike have commonly portrayed the debate over the University of Michigan affirmative action admissions policies in exactly these ways. To be sure, much is correct about this conventional assessment of affirmative action politics. The traditional civil rights organizations such as the NAACP – along with the newer generation of civil rights organizations such as the BAMN student organization – organized large demonstrations in favor of affirmative action across the country. Both articulated a case for affirmative action as a matter of civil rights, declaring that this case would be the *Brown v. Board of Education* of the 21st century. And the critics of racial preferences articulated their conservative, colorblind case for abolishing racial preferences in civil rights language. The

Center for Individual Rights represented Gratz and Grutter and framed the issue as one of reverse discrimination. The American Civil Rights Institute – and its affiliated organizations in California, Washington State, and Michigan – has coordinated ballot initiatives to ban the use of racial preferences in education, employment, and contracting.

But to view the affirmative action controversy largely through the conventional framework of the old politics of affirmative action is to miss out on a transformation that has been underway over the last generation. The *Gratz* and *Grutter* decisions reveal three major changes. First, *affirmative action is no longer primarily a civil rights policy*. Instead, as Erin Kelly and Frank Dobbin explain, affirmative action has increasingly become a *diversity management* policy rather than a civil rights policy (Kelly and Dobbin 1998). Second, *the debate over affirmative action has largely become a debate among conservatives rather than one between liberals and conservatives*. Colorblind conservative litigation groups that oppose affirmative action on civil rights grounds are the "Davids" that are being largely defeated by the "Goliaths" (especially the military and Fortune 500 companies) who support affirmative action on diversity management grounds. Third, *the Republican Party has become remarkably hesitant to actively oppose affirmative action, in large part for electoral reasons*.

In the *Grutter* decision, Sandra Day O'Connor relied heavily on the *amici* briefs filed by the military brass and Fortune 500 companies. Note how O'Connor relies on both sets of briefs in her *Grutter* majority opinion:

> These benefits are not theoretical but real, as major American businesses have made clear that the skills needed in today's increasingly global marketplace can only be development through exposure to widely diverse people, cultures, ideas, and viewpoints. What is more, high-ranking retired officers and civilian leaders of the United States military assert that, '[b]ased on [their] decades of experience,' a 'highly qualified, racially diverse officer corps… is essential to the military's ability to fulfill its principle mission to provide national security…' Moreover, universities, and in particular, law schools, represent the

> training ground for a large number of our Nation's leaders… In order to cultivate a set of
> leaders with legitimacy in the eyes of the citizenry, it is necessary that the path to
> leadership be visibly open to talented and qualified individuals of every race and
> ethnicity…

The military and corporate briefs played a central role in the oral arguments for the cases in

Spring 2003, and O'Connor's notable focus on these *amici* briefs signified a transformation in

affirmative action politics.

Many scholars were surprised by the military brass' and Fortune 500 companies' amici

briefs in favor of the University of Michigan affirmative action policies. For example, judicial

politics experts Lee Epstein and Thomas Walker expressed a conventional reaction to these

amici briefs:

> Both *Gratz* and *Grutter* attracted significant amicus curiae participation… Among them, as
> expected, was an array of traditional civil rights groups, but, surprisingly, briefs were also
> submitted by individuals associated with the military and big-business interests (Epstein
> and Walker 2003)

Indeed, there are good reasons to be surprised. After all, both institutions are viewed as

conservative both in their missions and their workforces. Both have traditionally been core

constituencies for a Republican Party that has, for much of the latter half of the 20th century,

engaged in a southern strategy of "playing the race card" in order to lure white moderates from

the Democratic Party (Carmines and Stimson 1989; Klinkner and Smith 1999; Skrentny 1996).

Given the perception that proponents of affirmative action are largely liberal, females, and

people of color, it is surprising indeed to hear that these two powerful, conservative institutions

would be lobbying *for* race-based affirmative action. But to think about affirmative action in this

way is to miss the transformation from the old politics of affirmative action to the new politics of

affirmative action.

While this military and corporate support is a surprise to those who view affirmative

action as a civil rights policy, it is for students of organizational behavior a predictable feature of

a transformation that has been long in the making. Organizational sociologists and legal studies scholars have been astutely aware of the central role of diversity management in the professional culture of large organizations in America (Edelman 1998; Edelman, Fuller, and Mara-Drita 2001; Kelly and Dobbin 1998; Lynch 1997).

Why would the military and Fortune 500 companies petition the Supreme Court to uphold race-based affirmative action? Most importantly, neither the military nor the corporate briefs defended affirmative action on civil rights grounds. Absent from these legal documents was any major concern for equal rights or remedying past or present discrimination. Instead, the Fortune 500 companies defended affirmative action by arguing that this policy is essential for the functioning of the companies themselves. In addition, corporations rarely miss the opportunity to argue that, to use the example of former General Motors C.E.O. Roger Smith, "What's good for G.M. is good for America."

An emerging literature on by organizational sociologists has traced the mechanisms by which organizations transform equal employment law. Because of ambiguity about the terms of compliance, implementers became policy developers. In developing these civil rights policies, the administrators created a new constituency of equal opportunity, affirmative action, and diversity management specialists.

> The history of corporate antidiscrimination efforts reveals the importance of internal constituencies in the institutionalization of corporate practices. In the 1970s, organizations adopted a variety of new practices, but most important, they created a new constituency of EEO/AA specialists. Selznick (1949, 1957) suggests that practices gain inertia as they develop constituencies of their own. They take on significance even beyond that predicted by their functional use. EEO and AA measures were constructed in the first place by members of a new management specialty, and those specialists ensured that the measures would survive even when affirmative action law was under the gun (Kelly and Dobbin 1998).

As the federal government required universities to create equal employment opportunity (EEO) offices in universities, government agencies, and private companies, these EEO positions

became an employment niche for advocates of race-and-gender affirmative action (Kelly and

Dobbin 1998; Powell and DiMaggio 1991). In sociology, Selznick focused on how structures

and practices develop an organizational constituency with institutional momentum (Selznick

1957). Kelly and Dobbin show how these organizational processes occurred in the realm of equal

employment in large organizations.

> Edelman, Petterson, Chambliss, and Erlanger (Edelman et al. 1991) and Selznick
> (Selznick 1949) note that affirmative action structures may "develop a life of their own"
> and evolve in ways that have little to do with legal requirements. In this case, we argue,
> uncertainty about the future of AA law led many human resources managers and EEO/AA
> specialists to develop new rationales and programs that were related to-but legally and
> politically distinct from-the affirmative action policies and practices they had formerly
> managed. Affirmative action offices and officers were 'the beachhead' within organizations
> for diversity programs (Kelly and Dobbin 1998).

Through inter-organizational diversity networks, these equal opportunity / affirmative

action (EEO/AA) managers planted their roots even deeper by relying on academic and non-

profit expertise in diversity management to root their goals in their organizational niches even as

conservative elites were cutting back EEO/AA enforcement and challenging affirmative action in

lawsuits. These specialists within universities networked with "consultants, authors in the

business press, and advocates from nonprofit organizations to push this idea" (Kelly and Dobbin

1998). In his research on the "diversity machine," Lynch (1997) found that these networks of

women and minority EEO/AA administrators in universities, corporations, foundations, and

government agencies "have linked up with an army of downsized colleagues-turned-consultants

to form the core of the diversity machine" (Lynch 1997).

Critics of race-based affirmative action note that administrators' stances on affirmative

action serve as a litmus test for administrative positions in selective universities. Indeed, as

Regent Fred Mohs of the University of Wisconsin-Madison notes, "adherence to diversity,"

which in practice ends up being translated by the administration as "support for affirmative

action" is written in many positions – including the Chancellor – as a component of the job

(Mohs 2002). It would be almost unthinkable for the Chancellor or President of a selective university to oppose race-based affirmative action. Several administrators have told me off the record that there are clear affirmative action litmus tests for Chancellors, for the Dean of the Law School, and for the Admissions office – candidates who fail to aggressively advocate affirmative action are rejected. Few critics of affirmative action within university administration would publicly voice their objections – as Regent Mohs explained, the peer pressure and job risks would be too great (Mohs 2002). Indeed, virtually all speak out in favor. Some are publicly derided for not speaking out aggressively enough in favor of affirmative action – African American Studies Professor Cornel West left Harvard University for Princeton University, claiming that part of the reason was that Harvard's new President, Lawrence Summers, wasn't speaking out forcefully enough in favor of race-and-gender affirmative action (Steinberg and Belluck 2002).

The diversity machine examines a variety of institutions – corporations, governmental agencies, foundations, and also the University of Michigan. Lynch's book mourns the rise of the diversity machine. Lynch attended several "sensitivity trainings" that preached the gospel of diversity in the language of political correctness. This is also consistent with the legal environments literature in organizational sociology and legal studies, which has found that civil rights laws and administrative rules in the 1960s and 1970s created niches (especially Equal Employment Opportunity positions) for pro-diversity and pro-affirmative action employees (Edelman et al. 1991; Edelman 1990; Edelman 1992a; Edelman, Lande, and Erlanger 1993; Edelman and Suchman 1997; Edelman, Erlanger, and Lande 1991; Edelman 1992b; Edelman 1999; Kelly and Dobbin 1998). These employees defended the diversity programs and

"retheorized antidiscrimination practices… using the rhetoric of diversity management" (Kelly and Dobbin 1998).

The corporate world has largely jumped on the affirmative action bandwagon as the diversity managers have persuaded the corporate executives that a racially diverse workforce is important for several reasons. First, businesses' success in the global marketplace depends on employing workers who understand diverse marketplaces and who resemble the variety of racial makeup of the racially diverse customer bases. In addition, corporations see a racial diverse workforce as an important recruiting tool – talented, young professionals increasingly view a racially diverse workforce as a valuable feature of their workplace. The Fortune 500 companies' brief argued that, without race-based affirmative action,

> [t]he University's graduates will therefore be less likely to possess the skills, experience, and wisdom necessary to work with and serve the diverse populations of the United States and the global community (3M et al.).

The military brass expresses its own distinct rationale for supporting race-based affirmative action in higher education:

> Based on decades of experience, *amici* have concluded that a highly qualified, racially diverse officer corps educated and trained to command our nation's racially diverse enlisted ranks is essential to the military's ability to fulfill its principal mission to provide national security (Lt. Gen. Julius W. Becton, Jr., et al.).

The basic argument is based on the need for cohesiveness and harmony in a hierarchical institution in which African Americans and Hispanics are overrepresented at the lower enlisted levels and underrepresented at the higher officer positions. The military recruits in the lower, enlisted positions tend to come from the low-socioeconomic sections of society, for the responsibility, security, heroism of the military are especially appealing to citizens who are willing to accept the dangers and sacrifices because they see few other occupational opportunities (Klinkner and Smith 1999). As a result, it should be no surprise that African

Americans and Hispanics – who are overrepresented in the lower socioeconomic levels – would

be overrepresented at the lower, enlisted positions of the military. According to the brief,

> Today, almost 40% of servicemen and women are minorities; 61.7% are white, and the
> remaining almost 40% are minorities, including 21.7% African-American, 9.6% Hispanic,
> 4% Asian-American and 1.2% Native American. Dep't of Def. ("DoD"), Statistical Series
> Pamphlet No. 02-5, *Semiannual Race/Ethnic/GenderProfile By Service/Rank of the
> Department of Defense &Coast Guard* 4 (Mar. 2002) ("*DoD Report*").

The military brief is remarkable in its tone – the authors argue that the continuation of

race-based affirmative action in ROTC and the military academies is essential for the military,

which is on the verge of self-destruction because of racial tensions. According to the brief, the

stakes are incredibly high:

> A substantial difference between the percentage of African-American enlisted personnel
> (21.7%) and African-American officers (8.8%) remains. The officer corps must continue to
> be diverse or the cohesiveness essential to the military mission will be critically
> undermined.

The enlisted personnel of color are troubled that their superiors are largely white officers. The

military brass argues that affirmative action is necessary to increase the pool of officers of color:

> At present, the military cannot achieve an officer corps that is *both* highly qualified *and*
> racially diverse unless the service academies and the ROTC use limited race-conscious
> recruiting and admissions policies.

Since the Founding of the United States, the military and national economic powers have

been the central functions of the national government. American corporations and the American

military are not only among the most powerful institutions in America, but they are also among

the most powerful institutions in the world. The United States Supreme Court has a long tradition

of deferring to the calls of the military and corporate establishments (McCloskey and Levinson

2000). When affirmative action is framed as a corporate and military necessity, it becomes

understandable why a generally conservative Supreme Court – in which seven of its nine Justices

were appointed by a Republican Presidents – would uphold a policy that clashes with an

individualist, equality of opportunity interpretation of the 14th Amendment equal protection clause.

The corporate and military support of affirmative action pose a major obstacle to the colorblind cause. While Cokorinos sees an "assault on diversity" by a powerful network of well-funded, right-wing, colorblind organizations such as the Center for Individual Rights, the Center for Equal Opportunity, and the American Civil Rights Institute (Cokorinos 2003), the leaders of this powerful network view their movement as a small-scale, grassroots movement that faces resistance from government, business, and education elites (Connerly 2000; Lynch 1997). The Republican Mayor of Houston successfully rallied the major corporations to oppose Measure A, a ballot initiative to ban race-based affirmative action in the public sector. While Steve Forbes and Rupert Murdoch provide extensive funding to the colorblind ballot initiatives (the 1996 Proposition 209 in California, the 1998 Initiative 200 in Washington state, and now the proposed 2004 Michigan Civil Rights Initiative), the major corporations in each state have funded the pro-affirmative action causes in all three states (Connerly 2000).

Indeed, the leaders of the colorblind movement can no longer count on the Republican Party for their support. Colin Powell opposed race-based affirmative action in his autobiography (Powell and Persico 1996) but has since come out in favor (Connerly 2000). Former Congressman J.C. Watts objected to affirmative action in principle but supported it nonetheless, ostensibly because he believes that America is not ready yet to abandon this measure to reduce racial stratification. Presidential candidates Bob Dole and Elizabeth Dole both distanced themselves from the colorblind movement, as has President George W. Bush. In the final section of this paper, I will argue that the Bush administration's *Grutter* brief – though seeking to strike

down the University of Michigan Law School affirmative action policy – was by design such a weak legal brief that it almost deserves to be labeled a pro-affirmative action brief.

It wasn't clear how, when, or whether the Bush administration would side on the *Gratz* and *Grutter* cases. On the one hand, taking a colorblind stance would appease the Republican Party's conservative base, especially wealthy white men. On the other hand, the Bush campaign and Republican Party in general has been increasingly attentive to the importance of luring increasing proportions of the rapidly expanding Hispanic population, only 1/3 of which currently votes Republican (Hulse 2003). Campaign consultants declare that the future of the Republican Party depends on increasing the Hispanic vote. As a result, the Republican Party has shifted away from race-baiting and toward a "compassionate conservative" agenda that is based on a discourse of racial inclusion. The Bush administration could even point to specific policy decisions that demonstrated that commitment to racial diversity and inclusion. For example, the had already filed a previous brief before the Supreme Court that argued in favor of a race-based affirmative action contracting policy early in Bush's term (Walton and Smith 2003).

Bush ultimately was persuaded to take a public stand against race-based affirmative action and to direct Solicitor Ted Olson – a member of the Federalist Society with a clear track-record of firmly opposing race-based affirmative action – to file briefs opposing the University of Michigan Law School and undergraduate policies. On the surface, it appeared that the Bush administration was taking a strong stance against race-based affirmative action. Under the old politics of affirmative action, it would have been entirely predictable.

However, the Bush administration's stance was instead a remarkably weak argument against affirmative action. Instead of calling for the Court to rule that diversity is not a

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compelling governmental interest, the Solicitor General's brief ducked that issue. Indeed, the

brief went so far as to praise diversity as an appropriate goal:

> Ensuring that public institutions, especially educational institutions, are open and
> accessible to a broad and diverse array of individuals, including individuals of all races
> and ethnicities, is an important and entirely legitimate government objective (Brief for the
> United States as *Amicus Curiae* Supporting Petitioner).

Instead of calling for the Court to overturn *Regents v. Bakke*, the landmark 1978 case

upholding the constitutionality of racial preferences, the Bush administration brief explicitly

conceded that "[i]n the end, this case requires this Court to break no new ground to conclude that

respondents' race-based admissions policy is unconstitutional." Instead of claiming that diversity

is not a compelling government interest, the Bush administration brief challenged the University

of Michigan Law School policy by arguing that it was in effect a quota and hence not narrowly

tailored to achieve a compelling government interest as required by the Court's equal protection

jurisprudence. In short, the brief reaffirmed *Bakke* and argued that the University of Michigan

policy resembled the quota-like policy of the University of California at Davis Medical School

that the Court struck down in 1978.

Colorblind leader Ward Connerly remains to this day furious with President Bush for

taking a "Clinton-esque," waffling, spineless stance on *Gratz* and *Grutter* (Connerly 2004). The

core legal issue was whether diversity is a compelling state interest. The *Hopwood* court ruled

that it was not in 1996, and this sparked debate over how the U.S. Supreme Court would resolve

the issue. For the Bush administration to direct Solicitor General Ted Olson not to contest that

diversity is a compelling state interest was a blow of major proportion.

It is understandable from an electoral incentive perspective that the Bush campaign

would want to avoid news headlines that insinuate that Bush in some way opposes or rejects

racial diversity. To argue that diversity is not a compelling state interest is to risk alienating large

segments of the voting public that revere racial diversity. Thus, the most plausible explanation is that the administration sought to have its cake and eat it too by staking out a middle-ground position. By praising diversity while rejecting the University of Michigan Law School and undergraduate policies for being "quotas," the administration could take a "compassionate conservative" stance. The headline news would indicate that Bush opposed affirmative action, but the headline news wouldn't attack Bush for rejecting racial diversity. The administration would file such a weak legal argument that the Supreme Court would uphold affirmative action. So the policy wouldn't change, yet Bush would show his symbolic support for the colorblind Republican base. At the same time, the military brass, Fortune 500 execs, and others in the know would see that the Bush administration filed a brief that was weak enough to make it unlikely for the Court to eliminate race-based affirmative action. As a result, the main anger at Bush would come from (a) the pro-affirmative action advocates who didn't realize that his administration's brief was so weak that it likely helped their cause more than it hurt it and (b) the colorblind leaders like Ward Connerly who saw what a weak legal argument it really was.

The compassionate turn in the Republican Party could also be seen in the colorblind movement as a whole. Whereas the conventional colorblind leaders largely called for replacing race-based affirmative action with a strict meritocracy that was devoid of compassionate reform measures for the socio-economically disadvantaged (Chavez 1991; Cohen 1995; Eastland 1996; Glazer 1987; Kull 1992; Steele 1991), the new wave of colorblind leaders have called for replacing race-based affirmative action with some variety of class-based (Kahlenberg 1996) or disadvantage-based affirmative action (Connerly 2000). Even Charles Murray now advocates disadvantage-based preferences:

> Social disadvantage has been ignored… The image of blacks as oppressed and whites as privileged is not adequately complex. We need to help out those who have had a 'raw deal.' Yes, let's take disadvantage into consideration (Murray 1997).

It should not be surprising that affirmative action proponents distrust the motives of the new colorblind leaders. The affirmative action proponents are suspicious that the colorblind advocates' recent discursive support for the disadvantage model is a case of thin symbolism – a strategic shift in discourse to appear populist and compassionate. Dyson sardonically notes that the typically libertarian critics of the race-and-gender model are at times abandoning their libertarian discourse, instead writing of compassion for the proletariats of the nation: "[o]pponents of affirmative action become Karl Marx when they worry about poor whites versus middle class blacks" (Dyson 1997).

Nonetheless, at least one colorblind leader – University of California Regent Ward Connerly – has moved beyond the rhetoric to inscribe preferences for the socially and economically disadvantaged into university policy – Ward Connerly wrote and mobilized the passage of the Regents' SP-1 decision, which mandates that the individual University of California campuses give "special consideration (Lipson 2001).

In short, as the vast majority of the first generation of color-blind leaders – from the civil rights movement – defected to become affirmative action supporters, a second generation of largely libertarian, conservative, white men filled the niche. Connerly puts Tom Sowell, Shelby Steele, George Will, and himself in this category of libertarian colorblinders, but labels this category the "color-blind absolutists" (Connerly 2002). In my interview with Connerly, he emphasized the variation among "color-blinders":

> The color-blinders come in different shades… I lean toward libertarianism. There are many in the color-blind movement who are not color-blind. Tom Wood [a color-blind proponent who was one of the two co-founders of Proposition 209] opposes the Racial Privacy Initiative [Connerly's 2002 ballot initiative to ban the state from collecting racial data]. There are those on the left and those on the right who are true racists. And I mean this in a non-normative sense – they believe in the biological basis of race (Connerly 2002).

But the recent trend even among these libertarian-leaning colorblind activists has been toward supporting a populist, disadvantage model of affirmative action. The new colorblind movement has imported populism back into colorblind discourse while still retaining the core libertarian model. Whereas the 2nd generation of colorblind leaders insisted that standard measures of merit be the sole determinants of university admissions, employment, and contracting decisions, the new leaders increasingly support the use of preferences for the socially or economically disadvantaged as tools to achieve the goal of equality of opportunity.

Affirmative action proponents have increasingly began to call for reforming affirmative action in ways that begin to blur with the new wave of colorblind agendas (Lipson 2001). For example, affirmative action proponent Orlando Patterson called for phasing out race-based affirmative action in 15 years (since his book was published in 1997, 15 years would be in 2012) and replacing it with class-based affirmative action (Patterson 1997). Economist Glenn Loury, a former critic of race-based affirmative action, now promotes "developmental affirmative action." William Julius Wilson calls for continuing race preferences a la the individual assessment method of the University of Michigan Law School but renaming it "affirmative opportunity" because of its renewed effort on aiding the disadvantaged.

Conclusion

In this paper, I have argued that the three transformations have taken place in affirmative politics in the past decade. First, affirmative action has largely become a conservative party, and the debate has largely become one among colorblind conservatives and pro-affirmative action conservatives. Second, affirmative action is becoming entrenched rather than endangered. Third, the reason for this entrenchment is that three of the most powerful institutions in the world – corporations, the military, and the Republican Party – have in effect come to support (or at least refrain from actively opposing) – affirmative action. Affirmative action is no longer primarily a

civil rights policy. Its defenders have transformed affirmative action into a diversity management policy. Together, these trends comprise the new politics of affirmative action.

The promise of these trends, for those seeking to reduce racial stratification, is that the commitment to racial inclusion in three major institutions in America (government agencies, corporations, and universities) appears to becoming more entrenched. The danger of these trends is that the rights-based (e.g. compensation-based affirmative action) and material-based agendas (e.g. Poor People's Campaign and Great Society program) that will be needed to reduce racial stratification are both being replaced by a diversity management agenda that lacks the capacity and commitment to reduce stratification.

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