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## CHAPTER 1

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### Historical Context

FEW PEOPLE today recall the full measure of the predicament in which African Americans found themselves prior to World War II. In 1940, most black men and women lived out of common view in rural communities, chiefly in the South. Approximately 90 percent lived in poverty (measured by today's criteria).<sup>1</sup> Their annual earnings were less than half those of whites. The education they received was markedly inferior in quality. African American children in the South went to predominantly black schools, in which (on average) pupil-teacher ratios were one-quarter greater than those in white schools, school terms were 10 percent shorter, and black teachers were paid half the salary of white teachers.<sup>2</sup> The median amount of education received by blacks aged 25–29 was about seven years.<sup>3</sup> Only 12 percent of blacks aged 25–29 had completed high school; less than 2 percent could claim a college degree.<sup>4</sup>

Very few blacks managed to enter the higher-paying occupations. Only 1.8 percent of all male professionals were black, and only 1.3 percent of all male managers and proprietors.<sup>5</sup> Blacks made up 2.8 percent of physicians, 0.5 percent of attorneys, and 0.5 percent of engineers. No more than thirty-three elected officials in the entire United States were black. Of these, one was a member of Congress, but there were no mayors, governors, or senators. Only a single African American sat on the federal bench.<sup>6</sup>

World War II brought an unprecedented demand for factory labor and a new wave of migration to the North, trends that did much to better the material circumstances of blacks. The sustained economic growth that followed the war accomplished even more. From 1940 to 1960, black poverty rates declined from roughly 93 to 55 percent, while expected lifetime earnings as a percentage of the prevailing levels for

<sup>1</sup> Jaynes and Williams 1989, p. 277.

<sup>2</sup> Card and Krueger 1992b, p. 167.

<sup>3</sup> Jaynes and Williams 1989, p. 334.

<sup>4</sup> U.S. Department of Education 1997, p. 17.

<sup>5</sup> Jaynes and Williams 1989, p. 273.

<sup>6</sup> Data on the professions are from the U.S. Bureau of the Census 1940, tab. 6; data on public service are from Jaynes and Williams 1989, pp. 240, 243.

whites rose from 42 to 50 percent for men and from 56 to 72 percent for women.<sup>7</sup>

Educational levels also increased as millions of blacks moved from the rural South to the urban North and as Southern states improved black schools in an effort to slow the outward migration of cheap labor. By 1960, even in the South, teachers' salaries and the length of the school term were approximately equal in black and white schools, and the high pupil-teacher ratios for black schools had declined to within approximately 10 percent of the average level in predominantly white schools.<sup>8</sup> Meanwhile, median years of schooling for blacks aged 25–29 grew from approximately 7 years in 1940 to 10.5 years in 1960.<sup>9</sup> Over the same period, the proportion of blacks aged 25–29 who had graduated from high school increased from 12.3 to 38.6 percent, and the percentage graduating from college rose from 1.6 to 5.4 percent.<sup>10</sup>

Despite these gains, little progress occurred in opening elite occupations to African Americans. The percentage of all professionals who were black rose to 3.8 percent for men and 6.0 percent for women, while the percentages of managers and proprietors who were black grew only to 3.0 percent for men and 1.8 percent for women.<sup>11</sup> The percentage of physicians who were black, only 2.8 in 1940, failed to increase at all during the ensuing 20 years. Meanwhile, the proportion of attorneys who were black rose only from 0.5 percent to 1.2 percent, while the percentage of black engineers remained the same.<sup>12</sup> The number of black elected officials jumped from 33 in 1941 to 280 in 1965, but even this total was only a tiny fraction of the thousands of elected offices throughout the nation. No more than four African Americans sat in Congress (less than 1 percent of all members), and there were still no senators. The largest gains came at the lower levels of government, with increasing numbers of blacks serving as state legislators (26 to 102), mayors (0 to 3), city council members (4 to 74), and school board members (2 to 68). In 1961, only four federal judges were black.<sup>13</sup>

The early postwar period also brought several Supreme Court rulings that changed the impact of the Constitution on African Americans. Most of these decisions involved educational opportunity. A 1938 Supreme

<sup>7</sup> Jaynes and Williams 1989, pp. 278, 295. The changes in the economic and educational status of blacks and Hispanics since 1940 have been described more recently by Reynolds Farley (1996, pp. 208ff.).

<sup>8</sup> Card and Krueger 1992, p. 168.

<sup>9</sup> Jaynes and Williams 1989, p. 335.

<sup>10</sup> U.S. Department of Education 1997, p. 17.

<sup>11</sup> Jaynes and Williams 1989, p. 273.

<sup>12</sup> U.S. Bureau of the Census 1940, 1960.

<sup>13</sup> Jaynes and Williams 1989, pp. 240, 243.

Court opinion had found that Missouri had violated the Equal Protection Clause of the Fourteenth Amendment by barring blacks from attending the state university's law school, giving them tuition money instead to attend an out-of-state law school.<sup>14</sup> In 1949, the Court went further, ruling that Texas could not satisfy the Fourteenth Amendment by establishing a separate law school for blacks.<sup>15</sup> Finally, in 1954, a unanimous Supreme Court handed down its celebrated decision in *Brown v. Board of Education*, putting an end to de jure school segregation in the South.<sup>16</sup>

As events unfolded, the early effects of *Brown* proved to be limited. Although the prohibition against segregation was quickly extended to public transportation and other state-owned facilities, these rulings were not widely enforced. Southern politicians uniformly denounced the school desegregation decision, and white citizens' councils sprang up in countless Southern communities to harass any black who advocated desegregation.

Responding to these developments, blacks began to organize.<sup>17</sup> The Montgomery, Alabama, bus boycott in 1955–1956 brought Dr. Martin Luther King, Jr., to prominence and launched a long series of efforts to desegregate public transportation, schools, and places of public accommodation throughout the South. During the rest of the decade, however, the federal government refused to take decisive action to secure the rights of blacks. Faced with open defiance by an Arkansas governor, President Eisenhower reluctantly sent federal troops to Little Rock to enforce a court order to integrate the schools, but the executive branch did little more to hasten the end of segregation. Congress did even less, passing a Civil Rights Act in 1957 that was too weak to have much effect in breaching the barriers to black voter registration in the South.

#### THE ORIGINS AND DEVELOPMENT OF RACE-SENSITIVE ADMISSIONS POLICIES

In 1960, then, the outlook for blacks seemed highly uncertain. Their economic position had improved greatly but was still vastly inferior to that of whites. Although they had acquired important new constitutional

<sup>14</sup> *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938).

<sup>15</sup> *Sweatt v. Painter*, 339 U.S. 629 (1950).

<sup>16</sup> 347 U.S. 483 (1954).

<sup>17</sup> A succinct summary of the struggle for civil rights can be found in Thernstrom and Thernstrom (1997, esp. pp. 97–180). Among the many extended treatments, see Kluger (1975).

rights, these Supreme Court rulings had not yet produced much tangible change. Moreover, the role of blacks in the nation's power structure was virtually nonexistent. Very few African Americans held public office, and few had entered the elite occupations and professions. Virtually no blacks could be found in the country's leading corporations, banks, hospitals, or law firms. Erwin Smigel reported in his 1960s study of Wall Street law firms: "In the year and a half that was spent interviewing, I only heard of three Negroes who had been hired by large law firms. Two of these were women who did not meet the client."<sup>18</sup> Colleges and professional schools enrolled few black students. In 1965, only 4.8 percent of all U.S. college students were African American.<sup>19</sup>

The position of blacks in selective colleges and universities was, if anything, even more marginal than in higher education as a whole. Occasionally, a particular college demonstrated a desire to attract black students. As early as 1835, the Oberlin board of trustees declared that "the education of the people of color is a matter of great interest and should be encouraged and sustained in this institution."<sup>20</sup> Beginning in 1941, Antioch College took steps to recruit black students and managed to enroll 123 black undergraduates before discontinuing the program in 1955. Even before World War II, universities such as Rutgers and the University of California, Los Angeles, featured a Paul Robeson or a Jackie Robinson on their football teams. It is probably safe to say, however, that prior to 1960, no selective college or university was making determined efforts to seek out and admit substantial numbers of African Americans.

In the fall of 1951, black students averaged 0.8 percent of the entering class at the nineteen College and Beyond schools for which adequate records are available; the range was from zero at four schools to a high of 3 percent at Oberlin, and the percentage of black matriculants exceeded 1 percent at only five other C&B schools. Overall, there were 63 black matriculants in these nineteen entering classes.<sup>21</sup> The faces in the college yearbooks tell the same story graphically.

By the end of the 1950s, faint stirrings of interest had begun to appear.<sup>21</sup> In 1959, the director of admissions at Mount Holyoke College started to visit "schools which might provide promising Negro appli-

<sup>18</sup> Smigel 1969, p. 45.

<sup>19</sup> Hacker 1983, p. 247.

<sup>20</sup> Cited in Duffy and Goldberg (1997, p. 137). Chapter 5 of this book provides an informative account of the earliest beginnings of active recruitment of minority students by selective liberal arts colleges and is also the source of the account below of "stirrings of interest" at colleges such as Mount Holyoke and Wellesley.

<sup>21</sup> The College and Beyond database is described in the Preface and in Appendix A. The 0.8 percent figure cited in the text is an unweighted average of the percentages at the individual C&B schools.

cants,” and the college actually enrolled a total of ten black students in 1964.<sup>22</sup> In 1963, Wellesley College introduced a junior-year program for black students attending colleges supported by the United Negro College Fund. Dartmouth, Princeton, and Yale all established special summer enrichment programs to prepare promising disadvantaged students for possible admission to selective colleges.

By the mid-1960s, amid a rising concern over civil rights, a number of schools began to recruit black students. Nevertheless, the numbers actually enrolled remained small, with blacks making up only 1 percent of the enrollments of selective New England colleges in 1965, according to one estimate.<sup>23</sup> The reasons were clear enough. As one author put it, “The selective colleges would rather be selective than integrated.”<sup>24</sup> Accordingly, although they might recruit black students vigorously, they did not significantly modify their regular standards for admission and financial aid. Their academic requirements were too demanding to accommodate more than a tiny number of African American students, and their tuition and fees were more than most of those who were admitted could afford.

Similarly, few blacks were enrolled in the nation’s professional schools. In 1965, barely 1 percent of all law students in America were black, and over one-third of them were enrolled in all-black schools.<sup>25</sup> Barely 2 percent of all medical students were African American, and more than three-fourths of them attended two all-black institutions, Howard University and Meharry Medical College.<sup>26</sup> It was in this context that Harvard Law School dean, Erwin Griswold (later solicitor general of the United States), undertook to increase the number of black students. Griswold was struck by the fact that law had come to play a crucial role in the lives of American blacks, yet virtually no black students were enrolled in the Harvard Law School or any other predominantly white law school. In 1965, therefore, he launched a special summer program for juniors from historically black colleges to interest them in attending law school. One year later, Harvard began admitting black students with test scores far below those of their white classmates. The strategy that Griswold employed was adopted by other law schools, and black enrollment began to rise.

Over this same period, the civil rights struggle had been intensifying throughout the country. In 1960, black students in North Carolina began a series of sit-ins to protest segregation at Woolworth stores and other

<sup>22</sup> Duffy and Goldberg 1997, pp. 138–39.

<sup>23</sup> Kendrick 1967, p. 6.

<sup>24</sup> *Ibid.*

<sup>25</sup> O’Neil 1970, p. 300.

<sup>26</sup> Nickens, Ready, and Petersdorf 1994, p. 472.

retail establishments. In 1961, black and white freedom riders boarded buses bound for the deep South to protest continued segregation in buses and other forms of public transportation. In 1962, a federal judge ordered the University of Mississippi to admit a black student, James Meredith, and violence erupted as Governor Ross Barnett ordered state troopers to block Meredith's entry. The following year, Governor George Wallace tried to keep two black students from attending the University of Alabama, the last remaining all-white state university. In 1965, police reacted with violence to a peaceful voting rights march in Selma, Alabama.

Meanwhile, as protests continued, public opinion in the country gradually shifted in favor of blacks. Eventually, Congress was moved to act. In 1964, President Johnson signed into law a Civil Rights Act committing the government to serious efforts to dismantle state-enforced segregation. In 1965, following the bloody police action at Selma, Congress passed a Voting Rights Act with real teeth. Almost immediately, black registration levels and election turnouts began to rise rapidly throughout the South.

As the 1960s progressed, the government's efforts on behalf of blacks grew more determined. A policy of simple nondiscrimination gave way to a requirement that companies contracting with the federal government make deliberate efforts to identify and consider minority applicants for employment. In June 1965, at Howard University, President Johnson delivered his now famous justification for moving beyond nondiscrimination to a more vigorous, affirmative effort to provide opportunities for black Americans: "You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line in a race and then say, 'you are free to compete with all the others,' and still justly believe that you have been completely fair."<sup>27</sup> Soon, the Office of Federal Contract Compliance and the Equal Employment Opportunity Commission were requiring federal contractors to submit elaborate plans that included goals and timetables for assembling a workforce reflecting the availability of minority employees in the relevant labor market. Before long, these requirements were extended beyond the recruitment of black workers to include Hispanics, Asian Americans, and Native Americans.

In the years that followed, almost all leading colleges and professional schools came to believe that they had a role to play in educating minority students. Often spurred by student protests on their own campuses, university officials initiated active programs to recruit minority applicants

<sup>27</sup> Reprinted in Rainwater and Yancey 1967, p. 126.

and to take race into account in the admissions process by accepting qualified black students even if they had lower grades and test scores than most white students. A few universities said that they were acting out of a desire to rectify past racial injustices. As the chapters that follow will elaborate, however, most college and university leaders adopted these policies for two other reasons, both closely related to the traditional aims of their institutions. To begin with, they sought to enrich the education of all their students by including race as another element in assembling a diverse student body of varying talents, backgrounds, and perspectives. In addition, perceiving a widely recognized need for more members of minority groups in business, government, and the professions, they acted on the conviction that minority students would have a special opportunity to become leaders in all walks of life.

These efforts soon bore fruit. According to one study, the percentage of blacks enrolled in Ivy League colleges rose from 2.3 in 1967 to 6.3 in 1976, while the percentages in other “prestigious” colleges grew from 1.7 to 4.8.<sup>28</sup> Meanwhile, the proportion of black medical students had climbed to 6.3 percent by 1975, and black law students had increased their share to 4.5 percent.<sup>29</sup>

Much had changed, however, from the early efforts to recruit black students to the approaches followed at the time the '76 C&B matriculants were admitted. The exuberance and strong ideological commitment that were so evident in the late 1960s and early 1970s had led many colleges to place an emphasis on recruiting truly disadvantaged students from the ghettos. It was frequently assumed that once minority students were admitted, they would fit in “naturally,” as earlier groups of newcomers had done. In fact, however, the absorption of black students into higher education did not prove to be a simple matter.<sup>30</sup> Some black students were disillusioned by their experiences in white institutions, and there was considerable debate on many campuses about admissions criteria, support programs, residential arrangements, and curricular offerings. Student protests in the late 1960s and early 1970s—which were closely tied to the Vietnam War—were but a visible manifestation of recurring efforts to reconcile differences in perspectives and priorities.

While selective colleges and universities continued to work hard to recruit minority students—often increasing their admissions staffs for this purpose—the numbers of black matriculants at these schools began to plateau. Also, by the mid- to late 1970s, many liberal arts colleges had

<sup>28</sup> Karen 1991, pp. 208, 217.

<sup>29</sup> Blackwell 1987, pp. 103, 290.

<sup>30</sup> See Peterson et al. (1978), for a detailed analysis of the period 1968–1975.

“discontinued their initiatives aimed at enrolling high-risk or under-prepared blacks,” while adopting other modes of minority recruitment.<sup>31</sup> The '76 C&B matriculants reflect this shift in emphasis.

The law had played little part in increasing minority enrollments. In fact, some university administrators worried that race-sensitive admissions might run afoul of Title VI of the Civil Rights Act, which states: “No person in the United States shall, on grounds of race, color, or national origin, . . . be subjected to discrimination under any program or activity receiving Federal financial assistance.” By the early 1970s, however, federal officials had incorporated reports on student enrollment into the affirmative action plans they required of universities, thus seeming to make race-conscious admissions not merely permissible but mandatory.

In 1978, a challenge to the legality of such admissions policies under Title VI of the Civil Rights Act finally reached the Supreme Court in the *Bakke* case, involving a white student who claimed that he had been wrongfully excluded from the medical school of the University of California, Davis, to make room for minority applicants with inferior academic records.<sup>32</sup> The Court was sharply divided. Four justices found that the system of racial quotas used by the medical school was discriminatory, and hence violated “the plain language” of Title VI. Four justices upheld the admissions procedure as a necessary device to overcome the effects of past discrimination, with Justice Blackmun writing, “In order to get beyond racism, we must first take account of race.”<sup>33</sup> The deciding opinion was written by Justice Lewis Powell. Powell condemned the use of rigid quotas in admitting minority students and found that efforts to overcome “societal discrimination” did not justify policies that disadvantaged particular individuals, such as Bakke, who bore no responsibility for any wrongs suffered by minorities. At the same time, as a means to secure the educational benefits of a student body of diverse backgrounds and experience, he ruled that admissions officers could “take race into account” as one of several factors in evaluating minority applicants in comparison with other candidates.

On the authority of Justice Powell’s decisive opinion in *Bakke*, virtually all selective colleges and professional schools have continued to consider race in admitting students. The period from 1975 to 1985, however, was a difficult one for many colleges and universities because of the severe financial pressures brought about by the oil crisis and stagflation. These pressures affected financial aid budgets at many institutions, drove up

<sup>31</sup> Duffy and Goldberg 1997, p. 152.

<sup>32</sup> 438 U.S. 265 (1978).

<sup>33</sup> *Ibid.*, p. 407.

tuition, and in general made it harder to build on previous efforts to enroll a more diverse student population. As a general rule, black enrollments did not decline as a percentage of total enrollment, but they did stop increasing.

As the economic circumstances of colleges and universities improved in the latter half of the 1980s, there was “a resurgence in recruitment.”<sup>34</sup> It was not only administrators, faculty members, and current students who stressed the need to continue—and, if possible, augment—efforts to enroll talented minority students. For example, John Anderson, the dean of admissions at Kenyon College, recalled that parents would comment that Kenyon was “too sheltered” and that their children needed to be exposed to people from different backgrounds.<sup>35</sup> At the same time, competition for places at the most selective colleges and universities was intensifying; black students were now competing not only with rising numbers of extremely well-qualified white candidates but also with much larger numbers of well prepared Asian Americans and Hispanics. The result was that the percentages of black students remained largely constant through the 1980s, while the relative numbers of Asian Americans and Hispanics increased.<sup>36</sup>

Looking back over the whole period from the beginning of the civil rights movement to the present day, we see that the percentage of black students graduating from colleges and professional schools has grown enormously. From 1960 to 1995, the percentage of blacks aged 25 to 29 who had graduated from college rose from 5.4 to 15.4 per-

<sup>34</sup> Duffy and Goldberg 1997, p. 155.

<sup>35</sup> Quoted in Duffy and Goldberg 1997, p. 156.

<sup>36</sup> During the 1960s, most universities seeking to enroll a more racially diverse student body concentrated on black students. It was soon apparent, however, that other groups, especially Hispanics, also suffered from inferior schools, low enrollments in colleges and universities, and scant representation in management and the professions. In 1970, more than half of all Americans over the age of twenty-five had completed high school, but less than one-third of all Hispanics possessed a high school diploma. Whereas 10.7 percent of whites had graduated from colleges, only 4.5 percent of Hispanics possessed a BA (U.S. Bureau of the Census 1997, tab. 243, p. 159). Only 2 percent of all managers and administrators and less than 1 percent of all lawyers were Hispanic (Reddy 1995, p. 506). Against this backdrop, students began to protest the failure of selective colleges and professional schools to seek out Hispanic applicants. By the early 1970s, almost all of these institutions had responded by expanding their minority recruitment programs to include not only Hispanics but Native Americans as well. Along with the admission of women to traditionally single-sex colleges, the rapid rise in applications from Asian Americans, and the influx of many more foreign students, the growth in the number of minority students was a major element in the enrollment of much more diverse student bodies in all selective institutions.

cent.<sup>37</sup> In the nation's law schools, the percentage of blacks grew from barely 1 percent in 1960 to 7.5 percent by 1995.<sup>38</sup> Similarly, the percentage of medical students who were black climbed from 2.2 percent in 1964 to 8.1 percent in 1995.<sup>39</sup> Although figures for Hispanics are not available for years prior to 1970, the percentage of Hispanics twenty-five years of age or older with a college degree more than doubled, from 4.5 percent in 1970 to 9.3 percent in 1995; since 1981, their share of professional and doctoral degrees has nearly doubled.<sup>40</sup>

### SOCIETAL CONSEQUENCES

These trends have led to striking gains in the representation of minorities in the most lucrative and influential occupations. By 1996, blacks made up 8.6 percent of all male professionals and 13.1 percent of all female professionals (up from 3.8 percent and 6 percent in 1960). They also accounted for 8.3 percent of all male executives, managers and administrators and 9.6 percent of all females in such positions (up from 3 percent and 1.8 percent).<sup>41</sup> From 1960 to 1990, blacks almost doubled their share of the nation's physicians and almost tripled their share of attorneys and engineers.<sup>42</sup> From 1965 to 1995, black representation in Congress increased from four to 41 members, and the total number of black elected officials rose from a scant 280 in 1965 to 7,984 in 1993.<sup>43</sup> Hispanics also made impressive gains. From 1983 to 1996, they increased their share of executives, managers, and administrators from 2.8 percent to 4.8 percent and their proportion of professionals from 2.5 percent to 4.3 percent.<sup>44</sup>

The growing numbers of blacks graduating from colleges and professional schools, and the consequent increase in black managers and professionals, have led to the gradual emergence of a larger black middle class. In 1990, 20 percent of blacks were managers or professionals, up from only 5 percent in 1950.<sup>45</sup> The proportion of blacks earning more than \$50,000 per year rose from 5.8 percent in 1967 to 13 percent in

<sup>37</sup> U.S. Department of Education 1997, p. 17.

<sup>38</sup> Nettles and Perna 1997, p. 330.

<sup>39</sup> Nickens, Ready, and Petersdorf 1994, p. 472; Association of American Medical Colleges 1996, p. 73.

<sup>40</sup> U.S. Bureau of the Census 1997, pp. 159, 194.

<sup>41</sup> Jaynes and Williams 1989, p. 273; U.S. Bureau of Labor Statistics 1998.

<sup>42</sup> U.S. Bureau of the Census 1960, 1990.

<sup>43</sup> Jaynes and Williams 1989, p. 240; U.S. Bureau of the Census 1997, pp. 281, 286.

<sup>44</sup> U.S. Bureau of the Census 1997, p. 405.

<sup>45</sup> Hochschild 1995, p. 43.

1992.<sup>46</sup> These developments contrasted sharply with the condition of blacks possessing only a high school education or less. From 1967 to 1992, the share of total black income received by the most affluent 20 percent of blacks rose from 44.6 percent to 48.8 percent, while the share received by the poorest fifth fell from 4.7 percent to only 3 percent.<sup>47</sup> After the rate of economic growth declined sharply in the early 1970s, the incomes of the most affluent 20 percent of blacks continued to rise at virtually the same rate as the incomes of their white counterparts, while the bottom 20 percent of blacks saw their incomes fall at more than twice the rate for similarly situated whites.<sup>48</sup>

With all the progress that has occurred since the 1960s, the black middle class is still much smaller proportionately than the white middle class. Blacks are less than half as likely as whites to earn \$50,000 a year. Moreover, their economic position is even more precarious, since even the highest-earning blacks have less than a quarter of the net financial assets of whites earning comparable incomes.<sup>49</sup> Still, the entry of so many highly educated blacks into the ranks of managers and professionals must count as the principal success story for African Americans in the past twenty-five years.

The growth of minority managers and professionals has been encouraged by a widespread recognition of the pressing need for greater diversity at all levels of responsibility and in all walks of life. Evidence of this recognition is provided by the actions of leaders throughout government, business, and the professions. It is reflected in the efforts of every U.S. president since Lyndon Johnson to appoint a diverse cabinet and to achieve diversity in other federal appointments. It is manifest in the programs initiated by the American Bar Association and the American Medical Association to attract more minority lawyers and doctors into their professions and into leading law firms and hospitals. It is underscored by the policies and practices of major companies. As Louis V. Gerstner, Chairman and CEO of IBM, has said: "Inclusion is a time-honored aspect of our corporate culture. We're a diverse organization by design, not mandate. The practices and policies we follow . . . were in place many years before required by law. . . ."<sup>50</sup>

The reasons why diversity has become so important at the highest levels of business, the professions, government, and society at large are readily apparent. By the year 2030, approximately 40 percent of all Amer-

<sup>46</sup> *Ibid.*, p. 44. Income reported in constant 1992 dollars.

<sup>47</sup> Hochschild 1995, p. 48.

<sup>48</sup> *Ibid.*, p. 49.

<sup>49</sup> Oliver and Shapiro 1995, p. 101.

<sup>50</sup> Executive Leadership Council 1998, p. 59.

icans are projected to be members of minority groups.<sup>51</sup> It will surely be more difficult for government officials to produce enlightened policies and harder still to enjoy the confidence of the minority community if an overwhelmingly white cabinet and Congress are making the decisions affecting the lives of such an increasingly diverse, multiracial society.

Similar considerations apply to business. More than \$600 billion in purchasing power is generated by minorities and more than one-third of all new entrants to the workforce are persons of color. In this environment, a diverse corporate leadership can be valuable both to understand the markets in which many companies sell and to recruit, manage, and motivate the workforce on which corporate performance ultimately depends. Two statements by corporate CEOs make these points forcefully:<sup>52</sup>

At The Coca-Cola Company, we remain focused on taking actions that serve us best over the long run. That includes building strong management teams and a diverse workforce. As a company that operates in nearly 200 countries, we see diversity in the background and talent of our associates as a competitive advantage and as a commitment that is a daily responsibility.

At Chrysler Corporation, we believe that workforce diversity is a competitive advantage. Our success as a global community is as dependent on utilizing the wealth of backgrounds, skills and opinions that a diverse workforce offers, as it is on raw materials, technology and processes.

In addition, business executives often stress another reason for seeking diversity at all levels. Ultimately, they say, corporations will not be healthy unless the society is healthy, and a healthy society in the twenty-first century will be one in which the most challenging, rewarding career possibilities are perceived to be, and truly are, open to all races and ethnic groups.

Other important opportunities exist for highly trained minority managers and professionals in meeting the pressing needs in predominantly minority communities. At present, minority groups are disadvantaged in government and politics because they are less likely to vote than the rest of the population. This is especially true in poor communities, where voting rates have been falling for three decades and are now far below the national average. Because these communities have such a vital stake in public policies involving health care, welfare, law enforcement, job training, education, and other areas, it is especially important that they have well-trained, articulate leaders to represent them in the political arena.

<sup>51</sup> U.S. Bureau of the Census 1997, tab. 19, p. 19.

<sup>52</sup> M. Douglas Ivester (Chairman and CEO of The Coca-Cola Company) and Robert J. Eaton (Chairman and CEO of Chrysler Corporation), in Executive Leadership Council 1998, pp. 10, 34.

Urban minority communities are also in need of business leadership to help offset the loss of jobs resulting from the movement of employers from the cities to the suburbs. Jobless rates for black males have been double those of whites. Minority enterprises can play a distinctive role in helping to overcome this problem, because the record shows that minority-owned businesses—whether they are located in the central city or the suburbs—are much more likely than white-owned companies to hire minority employees.<sup>53</sup>

Finally, many minority neighborhoods suffer from a shortage of doctors and from a lack of ready access to high-quality health care. Minority doctors are not the only physicians capable of meeting these needs, and one recent study of the medical school at the University of California at Davis found that there was no significant difference in the ethnic mix of patients treated by graduates (mostly minority students) recruited through a “special” process and graduates recruited through the regular admissions process.<sup>54</sup> But more comprehensive investigations have found that black and Hispanic physicians are much more likely to serve minority communities and to include minorities and poor people among their patients.<sup>55</sup> According to one study, minority physicians are twice as likely to work in locations designated as health manpower shortage areas by the federal government.<sup>56</sup> Another study revealed that minority patients are more than four times as likely as whites to receive their regular care from a minority physician.<sup>57</sup>

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Despite widespread recognition of the value of diversity, efforts to increase the number of minority professionals through race-sensitive admissions policies have never been fully accepted. For almost two decades, the *Bakke* case seemed to have settled the issue from a legal standpoint. Still, large segments of the public continued to object to the use of race as a factor in deciding who should gain entry to selective institutions. As the competition to enter leading colleges and professional schools continued to intensify, this opposition became more vocal.

In 1989, and again in 1995, Supreme Court opinions involving other aspects of affirmative action signaled a possible shift in the attitudes of the Justices toward race-based policies.<sup>58</sup> In 1996, the Court of Appeals

<sup>53</sup> Bates 1993, pp. 90–91. For unemployment data, see Jaynes and Williams 1989, p. 308.

<sup>54</sup> Bronner 1997.

<sup>55</sup> See, e.g., Komaromy et al. 1996, p. 1305.

<sup>56</sup> Keith et al. 1985, p. 1521.

<sup>57</sup> Moy and Bartman 1995, p. 1515.

<sup>58</sup> *City of Richmond v. J. A. Croson Co.*, 488 U.S. 469 (1989); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995).

for the Fifth Circuit ruled in the case of *Hopwood v. Texas* that the University of Texas law school could not take race into consideration in admitting students unless such action was necessary to remedy past discrimination by the school itself.<sup>59</sup> Although the court could have invalidated the law school's admissions policy on the ground that it did not meet the *Bakke* test, a majority of the judges chose instead to declare that *Bakke* no longer represented the view of the Supreme Court and that "the use of race to achieve a diverse student body . . . simply cannot be a state interest compelling enough to meet the steep [constitutional] standard of strict scrutiny."<sup>60</sup>

At about the same time, the Regents of the University of California issued a ruling of their own, announcing that the nine universities in the state system would no longer be permitted to take race into account in admitting students. This policy was subsequently affirmed by the voters of California in a statewide referendum.

By now, therefore, the efforts of selective institutions to increase the number of black, Hispanic, and Native American students have come under heavy fire. Lawsuits have been filed in several other states challenging the race-sensitive admissions policies of public universities. All signs suggest that the controversy is moving toward some new authoritative review and resolution. Clearly the time is ripe for a careful accounting of how race-sensitive admissions policies have been applied during their thirty-year history, and what their consequences have been.

<sup>59</sup> 78 F.3d 932 (5th Cir. 1996), *cert. denied*, 116 S.Ct. 2581 (1996).

<sup>60</sup> *Ibid.*, p. 948.

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