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Diversity Without Integration

Kevin Woodson

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Abstract

The de facto racial segregation pervasive at colleges and universities across the country undermines a necessary precondition for the diversity benefits embraced by the Court in *Grutter*—the requirement that students partake in high-quality interracial interactions and social relationships with one another. This disjuncture between *Grutter's* vision of universities as sites of robust cross-racial exchange and the reality of racial separation should be of great concern, not just because of its potential constitutional implications for affirmative action but also because it reifies racial hierarchy and reinforces inequality. Drawing from an extensive body of social science research, this article explains that the failure of schools to achieve greater racial integration in campus life perpetuates harmful racial biases and exacerbates racial disparities in social capital, to the disadvantage of black Americans. After providing an overview of de facto racial segregation at America's colleges and making clear its considerable long-term costs, this article calls for universities to modify certain institutional policies, practices, and arrangements that facilitate and sustain racial separation on campus. To this end, this article concludes by proposing several specific reforms that would enable universities to more fully obtain the potential social and educational benefits made possible by student body diversity.

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> *"The key finding across all the research on diversity is that student-student interaction is essential for realizing the educational benefits of diversity."*[1]

INTRODUCTION

When the U.S. Supreme Court finally decides whether the University of Texas' affirmative action admissions practices are constitutional,[2] it will have the opportunity to address a critical but poorly understood fact concerning the diversity-based justifications embraced by the Court in its landmark decision in *Grutter v. Bollinger*.[3] Contrary to popular perceptions, and perhaps even the understanding of the *Grutter* majority itself, the educational and societal benefits found to be constitutionally compelling in *Grutter* do not flow directly or inevitably from student body racial diversity. Rather, as Patricia Gurin, the University of Michigan's primary expert witness, made abundantly clear in the report that she prepared for the litigation,[4] student body diversity[5] is but a preliminary starting point, a mere precondition, for the real processes that produce these benefits.[6] Several components of the

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1. JEFFREY F. MILEM ET AL., MAKING DIVERSITY WORK ON CAMPUS: A RESEARCH-BASED PERSPECTIVE 27 (2005).

2. After hearing arguments in *Fisher v. Texas* in 2012, the Court remanded the case to the Court of Appeals of the Fifth Circuit for a more rigorous application of strict scrutiny analysis. Fisher v. University of Texas, 133 S. Ct. 2411 (2013). When a Fifth Circuit majority again found that the program met strict scrutiny in 2014, the Supreme issued a writ of certiorari and heard arguments for the second time on December 9, 2015.

3. Grutter v. Bollinger, 539 U.S. 306 (2003). In affirming the constitutionality of race-based admissions practices in higher education, the *Grutter* majority credited the racial diversity secured through the University of Michigan Law School's admissions practices with "promot[ing] 'cross-racial understanding,' help[ing] to break down racial stereotypes, and 'enabl[ing] students to better understand persons of different races.'" *Id* at 330. *See also id.* (observing that "numerous studies show that student body diversity promotes learning outcomes, and 'better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals.'").

4. *See* Patricia Gurin, *The Compelling Need for Diversity in Education*, (Jan. 1999), Expert report prepared for the lawsuits *Gratz and Hamacher v. Bollinger* and *Grutter v. Bollinger*, reprinted in 5 MICH. J. RACE & L. 363, 363–425 (1999). Gurin's report includes findings from her own empirical research examining data from three separate longitudinal surveys, most prominently the Cooperative Institutional Research Program, a national longitudinal study of American higher education.

5. Gurin creates the term "structural diversity" to refer to the racial composition of a university's student body. *See id.* at 376. Because this somewhat unorthodox use of the modifier "structural" is potentially unclear, I use the terminology "student body diversity," or simply "diversity," in its place throughout this article.

6. *See id.* at 377 (explaining that "structural diversity is essential but, by itself, usually not sufficient to produce substantial benefits; in addition to being together on the same campus, students from diverse backgrounds must also learn about each other in the courses that they take and in informal interaction outside of the classroom").

diversity rationale are contingent upon there being actual racial *integration*, in the form of high-quality cross-racial interactions and social relationships among students, in campus life.[7]

Though student body diversity is a necessary precondition for integration,[8] it is not a sufficient one. A full half-century after selective colleges and universities began implementing affirmative action admissions practices to achieve greater minority enrollment,[9] undergraduate life on many college campuses remains defined by stark

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Gurin posits that schools must implement significant curricular and cultural reforms in order to attain the important benefits made potentially available by student body diversity.

For new learning to occur, institutions of higher education have to make appropriate use of structural diversity. They have to make college campuses authentic public places, where students from different backgrounds can take part in conversations and share experiences that help them develop an understanding of the perspectives of other people. Formal classroom activities and interaction with diverse peers in the informal college environment must prompt students to think in pluralistic and complex ways, and to encourage them to become committed to life-long civic action. In order to capitalize amply on such opportunities for cognitive growth, institutions of higher education must bring diverse students together, provide stimulating courses covering historical, cultural, and social bases of diversity and community, and create opportunities and expectations for students to interact across racial and other divides. Otherwise, many students will retreat from the opportunities offered by a diverse campus to find settings within their institutions that are familiar and that replicate their home environments.
Id. This extensive discussion of these necessary intermediate conditions underscores the attenuated relationship between student body diversity and the outcomes endorsed in *Grutter*.

7. Throughout her report, Gurin emphasizes the importance of "informal interactional diversity," the engagement of students of different races in personal and social interactions. *See id.* at 376–77 (describing "interaction with a student's peer group" as "one of the most influential aspects of the college experience"). *See also id.* at 377 (explaining that "[t]he impact of structural diversity depends greatly on classroom and informal interactional diversity").
To be clear, not all of the diversity-related objectives recognized by the Court in *Grutter* are contingent upon campus integration. Specifically, *Grutter* also emphasizes the symbolic value of student body diversity in legitimizing America's business and political leaders and its institutions of higher learning. *Grutter*, 539 U.S. at 332. This benefit of diversity is not contingent upon the occurrence of meaningful cross-racial interactions.

8. *See* Gurin, *supra* note 4, at 376–77 (describing student body diversity as "first essential step" to securing the educational benefits of diversity); Mary J. Fischer, *Does Campus Diversity Promote Friendship Diversity? A Look at Interracial Friendships in College*, 89 SOC. SCI. Q. 631 (2008) (finding association between greater student body diversity and greater interactional diversity, particularly for white college students).

9. *See generally* Lisa M. Stulberg & Anthony S. Chen, *The Origins of Race-Conscious Affirmative Action in Undergraduate Admissions: A Comparative Analysis of Institutional Change in Higher Education*, 87 SOC. EDUC. 36 (2013) (describing the origins of affirmative action in undergraduate admissions at several selective colleges and universities in the 1960s). *See generally* William C. Kidder *The Struggle for Access from Sweatt to Grutter: A History of African American, Latino, and American Indian Law School Admissions, 1950–2000*, 19 HARV. BLACK LETTER L.J. 1, 11–14 (2003) (discussing the implementation of affirmative action practices by American law schools in the 1960s).

racial separation.[10] More than 30 years after Justice Powell's opinion in *Board of Regents v. Bakke*[11] first provided judicial recognition of the potential benefits of racial diversity,[12] the lofty underlying aspiration of robust, mutually beneficial cross-group exchange remains unfulfilled.[13] When college students make friends, choose roommates, and enter romantic relationships, they overwhelmingly do so with students of the

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10. This well-documented state of racial segregation has been decried by numerous university leaders and researchers. *See, e.g.*, Nathan D. Martin et al., *Interracial Friendships Across the College Years: Evidence from a Longitudinal Case Study*, 55 J. COLL. STUDENT DEV. 720, 720 (2014) (observing that "college students are increasingly self-segregating by race or ethnicity"); Anthony Lising Antonio, *Diversity and the Influence of Friendship Groups in College*, 25 REV. HIGHER EDUC. 63, 65 (2001) (discussing balkanization as "the tendency for students to group themselves racially on campus"); ORLANDO PATTERSON, THE ORDEAL OF INTEGRATION: PROGRESS AND RESENTMENT IN AMERICA'S RACIAL CRISIS 157 (1997) ("[A]ffirmative action seems to have been distorted by its beneficiaries into the goal of balkanizing America both intellectually and culturally."); Anthony DePalma, *Separate Ethnic Worlds Grow on Campus*, N.Y. TIMES, May 18, 1991, at 1 (quoting Ernest L. Boyer, former United States Education Commissioner, as commenting that "[s]eparatism and even tribalism in the old-fashioned sense are increasing" on college campuses); Elizabeth Stearns et al., *Interracial Friendships in the Transition to College: Do Birds of a Feather Flock Together Once They Leave the Nest?*, 82 SOC. EDUC. 173, 174 ("[T]he most salient characteristic of college students' friendships is that they are homophilous with respect to race.") (citations omitted).

11. Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265 (1978).

12. *Id.* at 313 ("[I]t is not too much to say that 'the nation's future depends upon leaders trained through wide exposure' to the ideas and mores of students as diverse as this Nation of many peoples."); *id.* at 316–19 (suggesting that schools could take the race of applicants into consideration in the interest of educational diversity, so long as they refrained from using racial set-asides and quotas).

13. *See infra*, Part 0. Many universities, including, perhaps most notably, the two that have recently defended their race-based admissions practices before the Supreme Court on diversity grounds, the University of Texas and the University of Michigan, have faced criticisms and concern for the lack of racial integration on their respective campuses. *See* Andrea Hsu, *At U. of Texas, A Melting Pot Not Fully Blended*, NPR,(Oct. 9, 2012, 7:10 PM), http://www.npr.org/2012/10/09/162565642/at-u-of-texas-a-melting-pot-not-fully-blended (discussing the views of students at the University of Texas who state that racial groups on campus tend to associate primarily with those of their own race); Rajiv Prabhakar, *Editorial: Ending Housing Segregation*, MICH. DAILY, Oct. 19, 2006, at 4A (criticizing the University of Michigan's failure to integrate student housing). Indeed, law professor Robert O'Neil presciently noted this possibility in an article authored shortly after the Court issued its opinion in *Bakke*.

But what if the expansion of minority enrollments in previously all-white student bodies does not, in fact, bring about this "robust exchange?" . . . Should courts heed evidence that minority students often tend to study, eat, and live by themselves, and that white students do likewise, so that significant informal contact does not always occur?

Robert M. O'Neil, Bakke *in Balance: Some Preliminary Thoughts*, 67 CAL. L. REV. 143, 159–60 (1979).

same race.[14] This is particularly true for black and white students, who consistently exhibit especially high rates of social segregation.[15]

The adverse implications of this segregation for affirmative action have not been lost on the many critics and skeptics of the diversity rationale,[16] who have argued rightly that the university policies, practices, and social dynamics that facilitate—or in some instances, possibly even promote—segregation are in tension with the logic of *Grutter*.[17]   Though legal scholars and advocates have provided

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14. *See infra*, Part 0.
15. *See, e.g.*, JIM SIDANIUS ET AL., THE DIVERSITY CHALLENGE: SOCIAL IDENTITY AND INTERGROUP RELATIONS ON THE COLLEGE CAMPUS (2008) (reporting high rates of same-race social relationships among black and white students).
16. Supporters of affirmative action also have criticized the Court's reasoning in *Grutter*, of course, particularly on the grounds that its emphasis on the benefits of diversity presents an inferior, inadequate substitute for more compelling remedial, compensatory, and integrative objectives. *See, e.g.*, Osamudia R. James, *White Like Me: The Negative Impact of the Diversity Rationale on White Identity Formation*, 89 N.Y.U. L. REV. 425, 451–52 (2014) (arguing that the diversity rationale exploits black students for white interests while reinforcing feelings of white superiority and entitlement); Orlando Patterson, Opinion, *Affirmative Action: The Sequel*, N.Y. TIMES (June 22, 2003), http://www.nytimes.com/2003/06/22/opinion/22PATT.html?pagewanted=all (objecting to the diversity rationale on the ground that it "distorts the aims of affirmative action" from its original, "morally incontestable" integrative goals); Derrick Bell, *Diversity's Distractions*, 103 COLUM. L. REV. 1622 (2003); Charles R. Lawrence III, *Two Views of the River: A Critique of the Liberal Defense of Affirmative Action*, 101 COLUM. L. REV. 928, 931 (2001) (criticizing the diversity-based defense of affirmative action for failing to challenge highly problematic understandings of merit); Tomiko Brown-Nagin, *Elites, Social Movements, and the Law: The Case of Affirmative Action*, 105 COLUM. L. REV. 1436, 1488 (2005) (arguing that "the diversity rationale for affirmative action, at least as advanced by the university and articulated by Justice O'Connor, reinforced the political status quo and denied the possibility of meaningful pluralism"); Nancy Leong, *Racial Capitalism*, 126 HARV. L. REV. 2151, 2155 (2013) (criticizing the manner in which universities pursue numerical diversity as superficial and inadequate). Some of these works have acknowledged the questions about the empirical foundation of the Court's diversity rationale reasoning. *See id.* at 2166 (acknowledging but not engaging the empirical debate); Meera E. Deo, *The Promise of* Grutter: *Diverse Interactions at the University of Michigan Law School*, 17 MICH. J. RACE & L. 63, 73 (2011) (noting the Court's failure to specify the causal process between affirmative action in admissions and the compelling diversity-related outcomes).
17. *See, e.g.*, Brian N. Lizotte, Note, *The Diversity Rationale: Unprovable, Uncompelling*, 11 MICH. J. RACE & L. 625, 666 (2006); Patrick M. Garry, *How Strictly Scrutinized?: Examining the Educational Benefits the Court Relied Upon in Grutter*, 35 PEPP. L. REV. 649, 652–54 (2008) (explaining that several of the benefits of diversity rest on assumptions not proven in the case); Note, *Educational Benefits Realized: Universities' Post-Admissions Policies and the Diversity Rationale*, 124 HARV. L. REV. 572, 573 (2010) (arguing that the failure of colleges to better promote interracial interaction "calls into question the seriousness of the diversity rationale" and renders affirmative action unconstitutional); John Bennett, *The Diversity Ruse: How Grutter Upheld Affirmative Action by Failing to Apply Strict Scrutiny*, 45 CUMB. L. REV. 225, 226 (2015) (accusing the *Grutter* court of failing to apply strict scrutiny while committing logical and empirical errors). *See also* John McWhorter, *The Campus Diversity Fraud*, 12 CITY J. 71, 71–81 (2002) (arguing that racially diverse campuses are "among the most

compelling defenses of race-based admissions on constitutional grounds wholly independent from the potential utilitarian benefits of campus diversity,[18] under the framework of the Court's existing affirmative action jurisprudence, these tensions are potentially of great consequence.

Because concerns about campus segregation are associated with the perspectives of opponents of affirmative action and multiculturalism, many people may regard efforts to address segregation as irrelevant—or even inimical—to the interests of students from underrepresented, stigmatized minority groups. This view, though understandable, is deeply mistaken.

This article addresses this misconception by setting forth a broader understanding of the true harms of racial segregation on college campuses. The racial separation prevalent on college campuses across the country disadvantages black Americans and exacerbates racial inequality in subtle but powerful ways that have thus far gone largely unexamined. Specifically, segregation perpetuates racist prejudices and stereotypes and leaves in place other social and cultural dynamics that deprive black Americans of access to valuable, professionally advantageous social networks. These problems compound the already formidable disadvantages that many black college graduates face in the workplace and beyond.[19]

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racially balkanized places in America" and that the diversity rationale is "a craven, disingenuous, and destructive canard" "shot through with duplicity and bad faith").

In his *Grutter* dissent, Justice Scalia suggested that the actions of colleges in providing the organizational infrastructure and resources that facilitate racial segregation might present grounds for subsequent constitutional challenges to affirmative action.

[O]ther suits may challenge the bona fides of the institution's expressed commitment to the educational benefits of diversity . . . (Tempting targets, one would suppose, will be those universities that talk the talk of multiculturalism and racial diversity in the courts but walk the walk of tribalism and racial segregation on their campuses—through minority-only student organizations, separate minority housing opportunities, separate minority student centers, even separate minority-only graduation ceremonies.)

Grutter v. Bollinger, 539 U.S. 306, 349 (2003).

18. *See, e.g.,* Randall Kennedy, *Persuasion and Distrust: A Comment on the Affirmative Action Debate,* 99 HARV. L. REV. 1327, 1334–37 (1986) (arguing that affirmative action plans can be distinguished from invidious forms of racial discrimination and that their effects on white third parties should not give rise to actionable legal claims); Cass R. Sunstein, *The Anticaste Principle,* 92 MICH. L. REV. 2410, 2439 (1994) (positing that, properly understood, the Fourteenth Amendment, which was intended "as an effort to eliminate racial caste—emphatically not as a ban on distinctions on the basis of race . . . would certainly allow affirmative action programs"); *Id.* at 2452 ("If a basic goal is opposition to caste, affirmative action policies are ordinarily permissible. Partly this lesson stems from the history of the Civil War Amendments; if history is relevant, it is hard to support the view that affirmative action programs are invalid."); Jed Rubenfeld, *Affirmative Action,* 107 YALE L.J. 427, 427, 451 (1997) (arguing that the Court's current affirmative action doctrine misconstrues the meaning of the Fourteenth Amendment and misapplies strict scrutiny).

19. The difficulties and disadvantages faced by black Americans in middle-class and professional occupations have been documented extensively by researchers and other

This predicament is not inevitable. To the contrary, universities facilitate, acquiesce to, and sustain racial segregation through their failure to implement practices and policies conducive to greater integration.[20] In recognition of the dire racial consequences of this state of affairs, this article calls for universities to more fully commit themselves to the pursuit of true racial integration. To do so, they will need to put forth purposeful, sustained efforts to dismantle the entrenched patterns of segregation. The recent spate of student protests over racial harassment, discrimination, and feelings of exclusion at colleges across the country[21] underscores the depth and urgency of the problems that universities will need to address in order to facilitate more fruitful integration.

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observers.   See, e.g., Kevin Woodson, *Race and Rapport: Homophily and Racial Disadvantage in Large Law Firms*, 83 FORDHAM L. REV. 2557, 2558 (2015) (discussing racial disparities across various career outcomes at large law firms); S. Michael Gaddis, *Discrimination in the Credential Society: An Audit Study of Race and College Selectivity in the Labor Market*, 93 SOC. FORCES 1451, 1464–71 (2015) (documenting a racial audit study finding evidence suggesting that black graduates of prestigious colleges face discrimination when applying for certain jobs); ADIA WINGFIELD, NO MORE INVISIBLE MAN: RACE AND GENDER IN MEN'S WORK(2012) (discussing racial difficulties encountered by sample of black workers in high-status occupations); William T. Bielby, *Minority Vulnerability in Privileged Occupations: Why Do African American Financial Advisers Earn Less than Whites in a Large Financial Services Firm?*, 639 ANNS. AM. ACAD. POL. & SOC. SCI.13 (2012) (detailing career obstacles faced by black professionals at financial services firm).

20.   To be sure, most realms of American life remain structured by racial segregation. *See* JOHN R. LOGAN, US2010 PROJECT, SEPARATE AND UNEQUAL: THE NEIGHBORHOOD GAP FOR BLACKS, HISPANICS AND ASIANS IN METROPOLITAN AMERICA (2011), http://www.s4.brown.edu/us2010/Data/Report/report0727.pdf   (noting   substantial residential segregation and isolation for black Americans, including among the most affluent black households). The segregation that occurs on college campuses to some extent reflects the some of the same antecedents as this broader racial stratification.

21.   *See* Anemona Hartocollis & Jess Bidgood, *Racial Discrimination Protests Ignite at Colleges Across the U.S.*, N.Y. TIMES, Nov. 11, 2015, at A16 (describing such protests at Smith College, Ithaca College, the University of Missouri, and Yale University); Ian Lovett, *Dean at Claremont McKenna College Resigns Amid Protests*, N.Y. TIMES, Nov. 12, 2015, at A22 (reporting malapropism in dean's response to minority student complaints concerning campus marginalization provoked spirited student protest); Michael Pearson, *A Timeline of the University of Missouri Protests*, CNN (Nov. 10, 2015, 8:21   AM),   http://www.cnn.com/2015/11/09/us/missouri-protest-timeline/   (discussing massive protests over university administrators' failure to address recent incidents of racist mistreatment suffered by black students); *In Nationwide Student Revolt over Campus Racism, NY's Ithaca College is Latest School to Erupt*, DEMOCRACY NOW   (Nov.   13,   2015) http://www.democracynow.org/2015/11/13/in_nationwide_student_revolt_over_campus (noting that thousands of students, faculty, and staff engaged in mass protest calling for ouster of university president over perceived inadequate handling of racist incidents on campus); Susan Svrluga, *Princeton Protesters Occupy President's Office, Demand 'Racist' Woodrow Wilson's Name be Removed*, WASH. POST (Nov. 18, 2015), https://www.washingtonpost.com/news/grade-point/wp/2015/11/18/princeton-protesters-occupy-presidents-office-demand-racist-woodrow-wilsons-name-be-removed/.

This article proceeds in four parts. Part I provides an overview of campus segregation between black and white students, tracing its evolution from the mid-twentieth century through to the present. Part II identifies key institutional arrangements, practices, and policies that sustain this segregation, and explains why this issue has generated so little concern from advocates of racial justice. Part III examines the racial harms and costly missed opportunities of this state of campus race relations. This part focuses specifically on the manner in which college segregation reproduces and reinforces racially-stratified social networks and squanders critical opportunities to reduce racial stereotypes, anxiety, and animus. Though the effects of these outcomes often are not immediately apparent, they eventually become evident, contributing to the labor market and workplace disadvantages encountered by many black workers. Part IV concludes by presenting several potential reforms that may enable colleges to achieve greater racial integration.

I.   A BRIEF HISTORY OF CAMPUS SEGREGATION

The racial segregation prevalent on college campuses today is a continuation of patterns that have existed since significant numbers of black students first gained access to these schools several decades ago. The following section provides a brief historic overview of this racial separation. It traces campus segregation from the racial isolation encountered by black students before the onset of affirmative action in the mid-1960s to the subsequent institutionalization of racial separation by university practices and policies, often implemented in response to the demands of black student activists, starting in the late 1960s.

A.   Pre-Diversity Era Race Relations

Through the first half of the twentieth century, with the exception of historically black colleges and universities ("HBCUs"),[22] American institutions of higher education saw very little racial diversity—particularly with respect to black students.[23] Jim Crow laws

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    22.   HBCUs are a group of over 100 colleges and universities throughout the United States that were originally established for the primary mission of educating black students. *See* U.S. DEP'T EDUC., OFF. OF CIV. RTS., HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND HIGHER EDUCATION DESEGREGATION (1991) (providing brief history and overview of HBCU institutions).

    23.   *See* MARTHA BIONDI, THE BLACK REVOLUTION ON CAMPUS 17 (2012) (describing the low average Black enrollment of white universities in the South (1.76%), East (1.84 %), Midwest (2.98 %), and West (1.34 %) in 1969); James D. Anderson, *Race in American Higher Education: Historical Perspectives on Current Conditions, in* THE RACIAL CRISIS IN AMERICAN HIGHER EDUCATION: CONTINUING CHALLENGES FOR THE TWENTY-FIRST CENTURY 3, 4–5 (William A. Smith et al. eds., 2002) (explaining that no black students attended American colleges prior to 1830 and that only an estimated 15-28

and customs barred black students from non-HBCU southern universities altogether,[24] and the majority of black students attended HBCUs.[25]

Black students who gained entrance into white schools generally were denied full access to the important social domains of student life.[26] Well into the 1950s, some university leaders stood by while white fraternities and other student groups at their schools maintained formally discriminatory membership practices.[27] When psychologist Philip Zimbardo conducted one of the first empirical studies of college race relations, at two New York City colleges in the 1950s and 60s,[28] he found evidence of severe racial segregation in student activities[29] and the

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attended any prior to the end of the Civil War); David W. Levy, *Before* Brown: *The Racial Integration of American Higher Education*, 24 J. SUP. CT. HIST. 298, 299 (1999) (describing the exclusion of black students from southern colleges and universities during the first half of the twentieth century). *See also* JEROME KARABEL, THE CHOSEN: THE HIDDEN HISTORY OF ADMISSION AND EXCLUSION AT HARVARD, YALE, AND PRINCETON 232–37 (2005) (discussing Princeton University's total exclusion of black students into the 1940s).

24. *See* Levy, *supra* note 23, at 299.

25. Walter R. Allen, *Black Student, White Campus: Structural, Interpersonal, and Psychological Correlates of Success*, 54 J. NEGRO EDUC. 134 (1985) (explaining that as of 1964, 60% of black college students still attended historically black institutions of higher learning).

26. *See The Year in Negro Education, 1930*, 37 CRISIS 262, 262–64 (1930) (discussing the formal and customary exclusion and segregation of black students at many white universities throughout the country); Michael Wines, *A Real Missouri 'Concerned Student 1950' Speaks, at Age 89*, N.Y. TIMES, Nov. 10, 2015, at A1 (describing the racial discrimination encountered by black students at the University of Missouri in the 1950s); THE OHIO STATE UNIVERSITY LIBRARY, *Minority Relations at The Ohio State University*, OHIO STATE UNIV., https://library.osu.edu/innovation-projects/omeka/exhibits/show/civil-rights/sections/minority-relations-at-the-ohio (explaining that black students were prohibited from living on campus until 1940 and faced widespread discrimination from local landlords) (last visited Feb. 15, 2016); UNIV. LIBRARY, *The University of Illinois in the Cold War Era 1945-1975: The Struggle for Integration in the 1940s and 50s*, UNIV. OF ILL. AT URBANA-CHAMPAIGN, http://guides.library.illinois.edu/coldwar (last updated Dec. 8, 2015) ("Black students were not allowed to live on campus until 1945 [and] were not allowed to eat on campus or at nearby restaurants into the 1960s. . . .").

27. *See* James Rorty, *Greek Letter Discrimination: Fraternities Without Brotherhood*, COMMENT. MAG.,(Feb. 1, 1956), https://www.commentarymagazine.com/articles/greek-letter-discrimination-fraternities-without-brotherhood/ (discussing refusal of university presidents to address rampant ethnic, racial, and religious discrimination by fraternities); Charles R. Lawrence, *Movement for the Abolition of Fraternity Segregation at 33 Colleges*, 2 SOC. PROBLEMS 140, 146–47 (1955) (discussing the refusal of the University of Michigan's presidents to sign bills that would have banned fraternity segregation and discrimination in the 1950s).

28. PHILIP G. ZIMBARDO, PHYSICAL INTEGRATION AND SOCIAL SEGREGATION OF NORTHERN COLLEGE NEGRO STUDENTS (1966). Zimbardo studied campus race relations at Brooklyn College in 1953 and at City College of New York in 1963 and 1965.

29. Black students belonged primarily to race-specific student activity groups; none had ever served on the school's newspaper staff or belonged to any of its sororities or fraternities. *Id.* Zimbardo found evidence of continued social segregation 10 years later,

informal social dimensions of campus life.[30] White students by and large avoided social interactions with black students,[31] and few universities did not attempt to promote more meaningful integration.

Such segregation continued throughout the 1960s and 1970s, even as many schools undertook outreach and admissions efforts that brought unprecedented numbers of black students to campus.[32] This influx of black students occurred just as young black people across the country were beginning to contest the integrationist underpinnings of the civil rights movement with ideologies and strategies rooted in black nationalism.[33] Through the confluence of these two developments, this nationalistic ethos soon permeated the gates of college campuses around the country. It gave rise to spirited black student activism, particularly at colleges and universities located in major cities. Increasingly disenchanted with the racial ambivalence that black students regularly encountered at these universities,[34] a growing number of these students embraced racial separatism, which they viewed as a more fulfilling and comfortable approach to campus race relations.[35] In this spirit of

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when he conducted a similar study at nearby CUNY. Just as at Brooklyn College a decade prior, none of the college's white fraternities and sororities had any black members; black students instead joined one of eight exclusively black fraternities and sororities. *Id.* at 9.

30. Examining cafeteria seating as an indicator of everyday social integration at Brooklyn College, Zimbardo found that more than 75 percent of black students sat in the same small section of the cafeteria, and nearly two-thirds of all black students sat at tables populated exclusively by other black students. *Id.* at 4–5 (describing the observed seating patterns as evidence of "quite extreme *segregation*"). At CUNY, there were four "negro tables" that were predominantly populated by black students, the remaining 50 tables in the cafeteria remained almost exclusively non-black. *Id.* at 6–9. Recently, in a stark indication of how little certain aspects of campus race dynamics have changed in the half century since Zimbardo's research, sociologist Valerie Lewis examined seating choices in a main cafeteria at a selective southern university and found substantial segregation, including staggeringly high dissimilarity scores of over 90 percent for black students. Valerie A. Lewis, *Social Energy and Racial Segregation in the University Context*, 93 SOC. SCI. Q. 270, 280 (2012).

31. ZIMBARDO, *supra* note 28, at 9, 14.

32. The administrators who pioneered these programs were motivated both by their moral beliefs in the importance of providing minority students access to the opportunities and benefits of higher learning as well as their institutional self-interests in avoiding the growing, intense student and local unrest over racial inequality and other salient social issues. Stulberg & Chen, *supra* note 9.

33. *See* BIONDI, *supra* note 23, at 16–17.

34. *See, e.g., id.* at 15–20 (detailing incidents of discrimination and harassment and feelings of alienation experienced by black students at elite colleges and universities in the 1960s).

35. As historian Martha Biondi explains:

[S]tudents in this era were increasingly coming to believe that it was white racism . . . that explained racial inequality in society. This new perspective moved Black students to embrace a Black identity, actively reframe Blackness in a positive fashion, push back against white conceits, and organize new, Black-identified social, cultural, and political

separatism, black student activists at schools across the country demanded race-specific housing,[36] institutional resources such as centers and meeting spaces,[37] and educational offerings[38] through forceful protests.[39] In direct response to this onslaught of pressure, a number of universities developed race-specific institutional infrastructures for their black students.[40]

From the outset, this move to formalized racial separation drew its share of critics, both among university leaders and within the civil rights community. Concerned that these programs entailed unlawful discrimination and segregation, at a time when the federal government finally had begun to crack down on recalcitrant southern school districts for defying the Court's desegregationist edict of *Brown v. Board*,[41] the Office of Civil Rights of the Department of Health, Education, and Welfare launched a number of federal civil rights investigations into

spaces on campuses, with Black student unions being the most prominent and well-known example.
Id. at 20. *See also* DePalma, *supra* note 10 (explaining that this racial separatism escalated on account of "the militancy and isolation of black students in the 1960's, who banded together for support in a hostile environment."); Gary Peller, *Race Consciousness*, 1990 DUKE L.J. 758, 761 (1990) (explaining that "in the late 1960s and early 1970s . . . black nationalism arguably had overtaken integrationism as the dominant ideology of racial liberation among African Americans").

36. *See, e.g.*, Frederick Burwell, *1969: Beloit College Blacks Win 12 Demands*, ROUND TABLE, Sept. 28, 1984 (stating that student demands included "sections of dorms reserved for black students").

37. *Id.*

38. *See generally* FABIO ROJAS, FROM BLACK POWER TO BLACK STUDIES: HOW A RADICAL SOCIAL MOVEMENT BECAME AN ACADEMIC DISCIPLINE (2010) (describing how student activism led to the creation of Black Studies academic programs at universities around the country).

39. BIONDI, *supra* note 23, at 1 (2012) (describing a "dramatic explosion of militant activism" of black student protests at "nearly two hundred college campuses across the United States in 1968 and 1969"). *See, e.g.*, STEFAN M. BRADLEY, HARLEM VS. COLUMBIA UNIVERSITY: BLACK STUDENT POWER IN THE LATE 1960S (2009) (discussing black student protests at Columbia University); Tyler Alicea, *Straight Takeover 45th Anniversary: April 19 & 20, 1969*, CORNELL DAILY SUN, Apr. 18, 2014, at 1 (discussing armed takeover of Cornell University building); *Blacks Take Over at Vassar*, DAILY ILLINI, Oct. 31, 1969, at 20 (discussing takeover of Main Building by black students at Vassar College); Bill Harsh, *Black Students Win Many Demands After 38-Hour Bursars' Office Sit-in*, DAILY NW., May 6, 1968, at 1; Jeff Stevens, *May 20, 1968: The UW Black Student Union Sit-In*, SEATTLE STAR (May 20, 2013), http://www.seattlestar.net/2013/05/may-20-1968-the-uw-black-student-union-sit-in/ (describing that student activists occupied the office of University of Washington president Charles Odegaard to demand greater minority recruitment, remedial services to improve retention, and development of a black studies curriculum).

40. *See, e.g.*, *Cornell Dorms Based on Race are the Focus of an Inquiry*, N.Y. TIMES, Mar. 16, 1995, at B7_("Since 1971, Cornell has had a dormitory primarily for black students called Ujamaa, which was formed in the aftermath of the 1969 armed takeover of the main student union by black students . . . .").

41. Brown v. Bd. of Educ., 347 U.S. 483 (1954).

various university programs across the country.[42] College administrators publicly worried that these new race-based programs might induce future generations of black students to isolate themselves from the full range of opportunities and experiences that their schools had to offer.[43] A number of black students, academics, and activists criticized the separatist movement as wrong-headed,[44] and condemned universities for acquiescing to student demands and retreating from the difficult, principled work of integration.[45] Most famously, Antioch College trustee Kenneth B. Clark, best known for his work as an expert witness for the NAACP in *Brown v. Board*, resigned from his position in opposition to the school's decision to open an Afro-American Institute with residential and classroom components open only to black students.[46] When the University of Pennsylvania agreed to open its black student center, the

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42. *See* Peter Grant, *HEW Closes Projects Elsewhere; DuBois House Probe Still Pending*, DAILY PENNSYLVANIAN, Sept. 17, 1975, at 1 (explaining that HEW had shut down black-themed housing arrangements at Vassar and Rutgers University and continued to investigate the University of Pennsylvania's WEB Du Bois College House); Louise Hutchinson, *Black Studies Face Big Hurdle in U.S.*, CHI. TRIB., May 19, 1969, § 3, at 11 (discussing government investigation of black studies program at Antioch College as a possible violation of the 1964 Civil Rights Act).

43. *See, e.g.*, Andrew van Nes, *Dean Warns of Negro Isolation*, COLUM. SPECTATOR, Apr. 26, 1967, at 1 (quoting Dean of Columbia College, David B. Truman, as warning of "a very real danger that Negroes at Columbia will become a college within a college" and cautioning that "[a] strong degree of self-segregation, or reactive segregation, is not a very good thing").

44. *See, e.g.*, Editorial, *Black Neo-Segregationists*, 74 CRISIS 439, 439 (1967) (condemning the calls for racial separatism as "a wail of defeat"); Oliver L. Henry, *Campus Confrontation*, 76 CRISIS 165, 167 (1969) (discussing the demands of black student activists as "representing a new segregation, a revivification of the color line, a new veil to opportunity"); Editorial, *On Learning "What the White Boys Learn,"* 76 CRISIS 198, 198 (1969) (criticizing "the confusion, parochialism, and immaturity of the separatist wing of the black student movement").

45. *See Antioch Drops Jim Crow Dormitory*, 77 CRISIS 111, 111–12 (1970) (reporting that NAACP President Roy Wilkins criticized universities for attempting to "buy cheap peace" at the expense of long-term racial progress and inclusiveness).

46. . Kenneth B. Clark, *Letter of Resignation from Board of Directors of Antioch College*, *in* BLACK STUDIES: MYTHS & REALITIES 32 – 34 (Martin L. Kilson et al. eds., 1969). *See also* Michael Meyers, *Black Residence: Where It's Been. . .*, DAILY PENNSYLVANIAN, Apr. 27, 1972, at 2 (protégé of Clark's criticizing race-themed university resources as rooted in assumptions of black cultural inferiority). Meyers became a lifelong opponent of race-oriented programming on university campuses, using his organization, the New York Civil Rights Coalition call for state and federal investigations into racial segregation on Cornell's campus, decades later. *See* Michael Meyers, *Cornell's Insult to Brown Decision*, WALL ST. J., May 17, 1996, at A14, http://www.wsj.com/articles/SB832290677208346000 (condemning Cornell University's race-themed housing as promoting balkanization and racial stereotypes); William, H. Honan, *No Violation of Rights is Found in Cornell Dorms for Minorities*, N.Y. TIMES, Sept. 24, 1996, at B2 (explaining that Meyers had filed unsuccessful complaints about Cornell University's housing policy to the New York State Education Department and United States Department of Education).

W.E.B. Du Bois College House, pursuant to the demands of black student activists, the NAACP threatened to pursue legal action against the university on the grounds that the plans violated the Equal Protection Clause of the United States Constitution and Title VI of the 1964 Civil Rights Act.[47] Harvard professor Martin Kilson caustically derided this separatism as "the thumb-sucking ethnic cul-de-sac" in a spirited essay in the school's student newspaper.[48] Though forceful, this opposition proved unable to stem the tide of racial separatism. In the following decades, racialized structures and institutional arrangements became persistent, enduring features of college life, reinforcing the isolation of black students at schools across the country.[49]

Such was the state of campus race relations in 1978, when language in the Court's landmark *Bakke* decision imbued the issue of student body diversity with new constitutional implications.[50] Although the Court declared the University of California, Davis Medical School's minority set-aside admissions practices unconstitutional,[51] Justice Lewis Powell's opinion included a critical bit of dicta that suggested a means by which other schools might justify and defend their own affirmative action efforts. Powell, who provided the crucial fifth and deciding vote against Davis' program, opined that the more nuanced forms of race-based affirmative action practiced by Harvard and other elite universities were constitutionally permissible.[52] His opinion suggested that such race-conscious programs could pass constitutional muster, so long as they avoided the use of rigid quotas, because of the legitimate interests of these schools in pursuing the educational benefits of student body diversity.[53] Though this portion of his opinion was not joined by any other justices and therefore did not have the force of binding precedent,

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47. Jim Kahn, *Local NAACP Unit Plans Suit Against U. Residence*, DAILY PENNSYLVANIAN, Oct. 26, 1972 at 1, 3.

48. Martin L. Kilson, Jr., *Black and White in the Ivy: The Ethnic Cul-de-sac*, HARV. CRIMSON (Oct. 17, 1978), http://www.thecrimson.com/article/1978/10/17/black-and-white-in-the-ivy/. Harvard's black Dean of Students Archie Epps was also a vocal critic. *See* Douglas Martin, *Archie Epps, 66, Unusual Dean and Administrator at Harvard*, N.Y. TIMES, Aug. 23, 2003, at B16 (discussing Epps' opposition to the establishment of a center for "third-world" students at Harvard). *See also* W. Arthur Lewis, *Black Power and the University*, 69 PRIN. ALUM. WKLY. 12, 16 (1969) (discussing black Princeton professor criticizing student separatist demands as misguided).

49. *See infra* notes 141–157 and accompanying text.

50. Regents of Univ. of Cal. v. Bakke, 438 U.S. 265 (1978).

51. *Id.* at 320.

52. *Id.* at 316–19 (describing the diversity-oriented affirmative action practices used by Harvard College and other schools, which weighed race as a plus factor in admissions).

53. *Id.* (distinguishing these programs from the unconstitutional quota system used by UC Davis).

universities across the country embraced it nonetheless,[54] using its diversity-oriented rhetoric to recalibrate the stated justifications for their race-conscious admissions policies (in many instances while making minimal substantive changes to their actual practices).[55] Nonetheless, the actual constitutionality of this diversity-oriented approach remained an unsettled question for many years. A series of Supreme Court holdings hostile to affirmative action in non-education cases[56] and the *Hopwood* decision striking down race-based admissions practices as unconstitutional[57] suggested that it would only be a matter of time before the federal judiciary outlawed race-conscious admissions practices

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54. *See* Stanford Levinson, *Diversity*, 2 U. PA. J. CONST. L. 573 (2000) ("[B]ecause of Justice Powell's emphasis on the almost unique legitimacy of 'diversity' as a constitutional value, it has become the favorite catchword—indeed, it would not be an exaggeration to say 'mantra'—of those defending the use of racial or ethnic preferences."); ELLEN BERRY, THE ENIGMA OF DIVERSITY: THE LANGUAGE OF RACE AND THE LIMITS OF RACIAL JUSTICE 10 (2015) (describing universities' use of Powell's opinion to justify affirmative action programs). *But see* Richard A. Posner, *The Bakke Case and the Future of 'Affirmative Action,'* 67 CAL. L. REV. 171, 182 (1979) (arguing that "the dispensation [Justice Powell's opinion] grants for the practice of reverse discrimination is a very limited one . . . far from the ringing affirmation of affirmative action that some of the media and governmental commentators discerned").

55. As few schools used such crude set-aside programs, most had to do little more than recalibrate the rhetoric that they used to explain the purposes of their race-based admissions practices. *See* O'Neil, *supra* note 13, at 144 ("The Davis program was extraordinary in the high degree to which it employed race as a criterion of admission."). *See also* PETER WOOD, DIVERSITY: THE INVENTION OF A CONCEPT 141 (2003) (arguing that universities adopted the rhetoric of diversity without meaningfully changing their actual affirmative action practices).

56. In the two decades following *Bakke*, a number of cases involving affirmative action in employment and government contracting contexts reached the Supreme Court. On balance, these cases evidenced a strong and growing judicial opposition to the use of affirmative action in non-remedial contexts. This trend peaked in *Adarand Constructors v. Pena*, just two years before *Grutter's* lawsuit, in which the Court held that federal contracting statutes must be subjected to the highest level of judicial scrutiny, and for the first time expressly overturned past precedents supportive of affirmative action. *See* Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995) (overturning Fullilove v. Klutznick, 448 U.S. 448 (1980) and Metro Broadcasting, Inc. v. FCC, 497 U.S. 547 (1990)).

57. Hopwood v. Texas, 78 F.3d 932 (5th Cir. 1996). In *Hopwood v. Texas*, the Center for Individual Rights (the same anti-affirmative action non-profit that helped Barbara Grutter file her lawsuit against the University of Michigan) prevailed in convincing a panel of the United States Court of Appeals for the Fifth Circuit to reject Justice Powell's decision in *Bakke. See id.* at 944.

These developments suggested to many observers that the days of schools' use of Powell's diversity rationale might be numbered. *See, e.g.*, Gabriel J. Chin, *Bakke to the Wall: The Crisis of Bakkean Diversity*, 4 WM. & MARY BILL RTS. J. 881, 881–82 (1996) ("As Justice Lewis Powell's 'diversity' rationale for affirmative action admissions in higher education nears the end of its second decade of existence, there is real doubt whether it will survive much longer.").

altogether.[58] This appeared to come to a head in 2003, a full quarter century after *Bakke*, when the Court finally revisited the question in *Grutter v. Bollinger*[59] and *Gratz v. Bollinger*.[60] To the relief of university administrators across the country, a 5-4 majority in *Grutter* affirmed that the educational and societal benefits of diversity in higher education were sufficiently compelling to justify race-based admissions practices.[61]

B.   Segregation in the Diversity Era

The utilitarian, diversity-based justifications for affirmative action embraced in *Bakke* and *Grutter* rest on a vision of life at selective colleges and universities that is decidedly at odds with the actual state of contemporary campus race relations. Although *Bakke* ushered in a new rhetorical emphasis on the virtues of student body diversity, universities made little discernable progress in ensuring that these benefits were actually realized.[62] Despite the considerable efforts that universities now take to pursue student body diversity,[63] longstanding patterns of social segregation remain undisturbed and, in some respects, even continue to intensify.

These conditions rose to mainstream national attention during the late 1980s and early 1990s,[64] when it became a regular point of contention in the ongoing political and intellectual skirmishes over issues

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58. *But see* Neal Devins, *Explaining* Grutter v. Bollinger, 152 U. PENN. L. REV. 347, 347 (2003) (arguing (in hindsight) that the opinion was not surprising because it was in accord with public opinion, business interests, the media, and the political branches of government).

59. Grutter v. Bollinger, 539 U.S. 306 (2003)

60. Gratz v. Bollinger, 539 U.S. 244 (2003).

61. *See id.* In *Gratz*, a different five-justice majority struck down the affirmative action practices used in undergraduate admissions at the University of Michigan, in which black applicants automatically received a set number of points based on their racial identity. *Id.* at 275–76

62. Attempts to put in place measures conducive to greater inter-group learning and exchange were sparse and in some instances proved highly contentious. *See, e.g.*, Larry Gordon, *UC Berkeley Will Require Course on Ethnic Studies*, L.A. TIMES, Apr. 26, 1989 (explaining that the "American Cultures" course requirement passed by a highly divided 227–194 vote).

63. *See, e.g.*, Bret D. Asbury, *Loyalty, Diversity, and Colorblindness*, 79 TENN. L. REV. 891, 907 (2012) (demonstrating that all manner of colleges and universities hold out their pursuit of racial and other forms of diversity as core institutional goals); ELLEN BERRY, THE ENIGMA OF DIVERSITY: THE LANGUAGE OF RACE AND THE LIMITS OF RACIAL JUSTICE 55–78 (2015) (discussing the University of Michigan's commitment to racial diversity).

64. This issue received the greatest mainstream attention via an episode of the national news program, *60 Minutes: Equal But Separate* (CBS television broadcast Apr. 25, 1993), http://www.cbsnews.com/videos/equal-but-separate/ (describing racial segregation on the campus of Duke University).

relating to multiculturalism, political correctness, and race relations at American universities.[65] As California's most selective universities have long been amongst the most racially diverse in the country, it is not surprising that they became the locus of some of the earliest post-*Bakke* anxieties over campus racial balkanization and the site of most of the early empirical research on the topic.[66] Concern over the lack of racial integration in his school's racially and ethnically diverse undergraduate student body prompted U.C. Berkeley chancellor I. Michael Heyman to convene the Diversity Project, a group of 23 university social scientists tasked with studying race relations on the school's campus.[67] After conducting a 16-month study, this group, led by sociologist Troy Duster, released a report finding the school's student body to be detrimentally "balkanized" along racial lines.[68]

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65. *See generally* President George Bush, Remarks at the University of Michigan Commencement Ceremony in Ann Arbor, (May 4, 1991), http://www.presidency.ucsb.edu/ws/?pid=19546 (arguing that alleged embrace of political correctness on university campuses "replaces old prejudice with new ones" and warning that "in their own Orwellian way, crusades that demand correct behavior crush diversity in the name of diversity"); DINESH D'SOUZA, ILLIBERAL EDUCATION: THE POLITICS OF RACE AND SEX ON CAMPUS 20–58 (1991) (criticizing political correctness and the perceived excesses of multi-culturalism on university campuses); *see generally* JOHN K. WILSON, THE MYTH OF POLITICAL CORRECTNESS: THE CONSERVATIVE ATTACK ON HIGHER EDUCATION (1995); Charles R. Lawrence III, *If He Hollers Let Him Go: Regulating Racist Speech on Campus*, 1990 DUKE L.J. 431 (1990) (documenting a number of recent incidents of racial harassment and racially offensive speech and behavior); Richard Bernstein, *Cap, Gown, and Gag: The Struggle for Control*, N.Y. TIMES, May, 30, 1993, at E3 (discussing several high-profile controversies concerning racially insensitive speech at multiple universities).

66. Controversy over issues of racial diversity at California's premier public universities first erupted in the 1980s, when a group of Asian-American civil rights activists waged a campaign alleging anti-Asian discrimination in admissions at UC Berkeley. Larry Gordon, *UC Berkeley Apologizes for Handling of Bias Charges*, L.A. TIMES, Jan. 27, 1988, at 3; Elaine Woo, *UCLA Denies Any Policy of Limiting Asian Admissions*, L.A. TIMES, Nov. 19, 1988, at 1 (describing allegations that UCLA also engaged in anti-Asian discrimination). *See also infra* notes 67–75 and accompanying text (describing research on diversity issues at California universities in the 1980s and 1990s).

67. *See For Berkeley, Diversity Means Many Splinters*, N.Y. TIMES, Oct. 3, 1990, at B9. Heyman was not the only Californian university president to take notice of student segregation. Shireen Krelle, *Theme Houses: Centers of Culture and Controversy*, STAN. DAILY, Oct. 7, 1985, at 6 (noting complaint of John Bunzel, the former president of San Jose State).

68. *For Berkeley, Diversity Means Many Splinters*, *supra* note 67. In a feature shortly after the release of the report, the New York Times, regarding its findings, described:
[A] recently completed study of campus life indicates there is far less mingling of cultures on the campus here [at the University of California at Berkeley] than its rich ethnic and racial diversity might suggest. Study sessions and parties, as well as student political, social and professional groups, tend to splinter along racial and ethnic lines.
Id.

A few years later, in the mid-1990s, Anthony Antonio, an education researcher conducting a longitudinal study of UCLA students, produced even more detailed evidence of segregation.[69] Virtually all (93 percent) of Antonio's respondents agreed that UCLA students predominantly clustered apart from one other in same-race groups.[70] Most reported that their own friendship groups consisted predominantly of co-ethnic peers;[71] a full 30 percent indicated that their friendship circles consisted *exclusively* of same-race counterparts.[72] This segregation was especially pronounced among white and African American students.[73] UCLA was also the site of another, even more expansive and sophisticated study on campus race relations in the late 1990s, when a team of academic psychologists led by Jim Sidanius launched a longitudinal study of incoming freshmen.[74] Sidanius and his collaborators again found strong statistical evidence of social segregation, particularly with respect to black students, who reported having almost no non-minority friends.[75]

Across the country, a team of sociologists led by Douglas Massey and Camille Charles began the National Longitudinal Study of Freshmen ("NLSF"), an even more ambitious study of students at a number of highly selective colleges primarily located on the east coast.[76] Although the NLSF focused primarily on the academic achievement of minority students,[77] it generated extensive data concerning their interracial interactions and social relationships (or lack thereof).[78] Researchers analyzing this data once again found considerable evidence

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69.   Antonio, *Diversity and the Influence of Friendship Groups, supra* note 10.
70.   *Id.* at 77, Table 4.
71.   *Id.* at 75, Table 2.
72.   *Id.* at 82.
73.   White and African American students were especially likely to report same-race friendship groups. *Id.* at 75.
74.   SIDANIUS ET AL., *supra* note 15, at 45. Through multiple waves of interviews, spanning from a precollege summer orientation program in 1996 to 2001, Sidanius and his collaborators collected detailed information about students' interracial interactions prior to entering college, their experiences and perspectives with respect to race relations on campus, and a number of other topics. *Id.* at 46–61.
75.   *Id.* at 190–91. As we will see below, this racial segregation was associated with a troubling array of socially harmful outcomes. *See infra* Part III.
76.   *See* DOUGLASS S. MASSEY, THE SOURCE OF THE RIVER: THE SOCIAL ORIGINS of THE RIVER: THE SOCIAL ORIGINS OF FRESHMEN AT AMERICA'S SELECTIVE COLLEGES AND UNIVERSITIES 31–32 (2003) (listing sample of 28 schools).
77.   *Id.* at 20.
78.   The initial questionnaire included items regarding the racial composition of participants' high schools and the racial and ethnic composition of their friendship networks. Researchers conducted follow-up interviews with participants during the springs of their first and second years in college, in 2000 and 2001. CAMILLE CHARLES ET AL., TAMING THE RIVER: NEGOTIATING THE ACADEMIC, FINANCIAL, AND SOCIAL CURRENTS IN SELECTIVE COLLEGES AND UNIVERSITIES 13, 36–37 (2009).

of racial segregation among black and white students.[79] When asked to identify their ten closest freshman-year friends, for example, white students on average listed more than seven white friends;[80] black students listed nearly six black friends and two white friends (by far the lowest frequency of friendships with white students reported by any racial group in the study).[81] The NLSF team found even higher degrees of segregation in the more intimate dating and romantic relationships of these students.[82] This segregation also shaped other dimensions of student life. Eighty percent of white students participated in majority-white student activity groups,[83] while less than one percent were involved in majority Asian, Latino, or black groups.[84] Black students were by far the least likely to join majority-white groups and the most likely minority group to join predominantly same-race groups.[85]

NLSF researchers Kimberly Torres and Camille Charles conducted a subsequent study of University of Pennsylvania students and found that black and white students reported predominantly same-race peer networks.[86] Most of the black students in their study participated exclusively in "Black-oriented" organizations and activities and had lived in the W.E.B. Du Bois College House, the campus's black-themed residential space.[87]

Because college is the first time that many black and white students come into close contact with significant numbers of different

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79.   Asian and Latino students displayed substantially lower rates of same-race friendships. *Id.* at 123.

80.   *Id.* They had on average one Asian friend, less than one black friend, and less than one Latino friend. *Id.*

81.   *Id.* at 123–24. This figure was substantially lower than would be expected if friendships were randomly distributed without regard to race. *Id.* As the researchers explained, this "preponderance of black friendships and the scarcity of white friendships is far too skewed to be a result of random race-neutral processes (F = 587.7, p<.001). On the contrary, it indicates a structured social process operating to overcome the constraints of campus demographics." *Id.* at 124.

82.   *Id.* at 128–36.

83.   *Id.* at 126.

84.   *Id.*

85.   *Id.* (reporting that 26.4% of black students joined majority black groups while only 7.9% of Latino students and 14.8% of Asian students joined predominantly same race groups).

86.   Kimberly C. Torres & Camille Z. Charles, *Metastereotypes and the Black-White Divide*, 1 DU BOIS REV. 115, 121–22 (2004) (reporting that 66% of white students' and 73% of black students' college peer networks were same-race).

87.   *Id.* This is consistent with data from a previous report finding that in 1993, black students accounted for 7 percent of the undergraduate student body at the University of Pennsylvania but constituted 80.9 percent of the Du Bois House residents and only 1.8 percent of the residents of the campus' largest dormitory, the Quad. *See* Daniel Gingiss, *U. Dorms Racially Divided, Report Reveals*, DAILY PENNSYLVANIAN, Jan. 13, 1994, at 1 (explaining that the 80.9% black composition of the Du Bois House population was by far the largest concentration of a single racial group in any of the university dormitories).

race classmates,[88] we might expect that social segregation would diminish over the course of their college careers, as students of different racial groups develop greater comfort and familiarity with one another. To the contrary, findings from the Campus Life & Learning Project ("CLLP"), a longitudinal study of students at Duke University,[89] suggest that the exact opposite occurs.[90] A team of researchers using CLLP data found that participants' friendship circles actually became substantially *less* diverse during their four years at the school.[91] As first-year students, only 36 percent of black study participants reported that their friends were either "mostly" or "all or nearly all" black[92] and a full 42 percent reported that their friends were mostly non-black.[93] These numbers changed drastically by their fourth years of college. By then, the percentage of black students who reported predominantly black friendship circles nearly doubled, rising to 65 percent,[94] and the percentage who reported having predominantly non-black friends dropped by slightly more than half, to 20 percent.[95] White students underwent a similar process of increased segregation. Those reporting predominantly same-race friend groups increased from 52 to 75 percent during their college years,[96] while those reporting predominantly non-same race friends plummeted by nearly two-thirds, from 27 to 10 percent.[97] Altogether, more than 60 percent of fourth-year students reported predominantly same-race campus friendship groups.[98] This data exemplifies the manner in which student life on some contemporary college campuses still trends toward substantially greater racial

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88. *See* Fischer, *supra* note 8, at 631 ("Because of racial residential segregation, most students entering postsecondary education have grown up in neighborhoods and attended schools that are predominantly composed of others of the same racial and ethnic background.").

89. *See   About   Us,* Campus Life and Learning, http://www.soc.duke.edu/undergraduate/ cll/ (last visited Feb. 10, 2016); Martin et al., *supra* note 10, at 720. The CLLP project tracked a sample of more than 1,500 Duke students from their pre-college summer to the spring of their fourth year. *See* Campus Life and Learning, *supra.*

90. Martin et al., *supra* note 10, at 720–21.

91. *Id.* at 720.

92. *Id.* at 721 tbl.1.

93. *Id.* Another 22 percent of the students in the sample described their friends as "half your race and half not your race." *Id.*

94. *Id.*

95. *Id.* This decrease in interracial friendships occurs in part because many of the black students who attend selective colleges find greater absolute numbers of black peers and a far more developed black social and institutional life than they had in high school, even at predominantly white colleges where they are statistically underrepresented. *See* Torres & Charles, *supra* note 86, at 121.

96. Martin et al., *supra* note 10, at 721 tbl.1.

97. *Id.*

98. *Id.* at 724. Another team of researchers analyzing CLLP data reached a similar finding. Stearns, *supra* note 10, at 184.

separateness and balkanization instead of greater cross-racial exchange.[99]

Studying a sample of students attending several selective colleges and universities, sociologists Thomas Espenshade and Alexandria Walton Radford uncovered extensive evidence of racial segregation.[100] At these schools, the starkest social divide was between black and non-black students, who were especially unlikely to interact with one another.[101] White students were far more likely to interact with other white students,[102] particularly in their closer and more intimate social relationships;[103] few reported any black or Latino students among their roommates or closest friends.[104]

Sociologist Maya Beasley examined student life at Stanford University and the University of California, Berkeley through in-depth empirical interviews with black and white students.[105] She found that black undergraduate life at Stanford was rooted in a "highly-segregated," "Black Community"[106] with "racially insulated social networks"[107] and very limited contact with white classmates.[108]

Consistent with the findings of these empirical studies, national news outlets and campus publications at schools across the country have run numerous stories indicating the prevalence and magnitude of campus segregation.[109] The national media has covered campus segregation at a number of elite schools including the University of Texas,[110] Duke University,[111] Cornell University,[112] Brown University,[113] and Stanford

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99. *See also infra* notes 110–122 and accompanying text (documenting extensive student commentary and media reportage on de facto racial segregation on college campuses).

100. *See generally* THOMAS J. ESPENSHADE & ALEXANDRIA WALTON RADFORD, NO LONGER SEPARATE, NOT YET EQUAL RACE AND CLASS IN ELITE COLLEGE ADMISSION AND CAMPUS LIFE (2009).

101. *Id.* at 214 (reporting that non-black students were on average just 16% as likely as black students to interact with other blacks).

102. *Id.* at 188 (reporting that on average "more than 50 percentage points more likely to interact with other white students than nonwhites").

103. *Id.* at 216 (reporting that "frequent socializing or roommate choices" was 60% less likely to occur between different-race students and dating 70% less likely).

104. *Id.* at 183–84.

105. .MAYA BEASLEY, OPTING OUT? LOSING THE POTENTIAL OF AMERICA'S YOUNG BLACK ELITE 10 (2011) (describing study's research methodology).

106. *Id.* at 60.

107. *Id.* at 62.

108. *Id.* at 103–04. Beasley found that this segregation posed several potentially formidable professional disadvantages for black Stanford students relative to their more integrated counterparts at Berkeley. *See infra* Parts III.B, IV.B.2.

109. *See infra* notes 110–122 and accompanying text.

110. Hsu, *supra* note 13.

111. Andrew Collins, *Students See Self-Segregation at Duke*, CHRONICLE (Feb. 18, 2004), http://www.dukechronicle.com/article/2004/02/students-see-self-segregation; *60 Minutes: Equal But Separate, supra* note 64. *See also* Clarence Page, *Students Who Shun Campus Diversity Cheat Themselves*, CHI. TRIB., Sept. 29, 1993, at 19.

University.[114]   Student newspapers also have published articles expressing concern about campus segregation at even more schools, including the University of Michigan,[115] Dartmouth,[116] Georgetown,[117] Emory,[118] Amherst College,[119] the University of Virginia,[120] and Columbia University,[121] among others.[122]

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112.   Michael Winerip, *In School: In Cornell's Student Housing, Boundaries are Drawn with the Oldest Kind of Division*, N.Y. TIMES, Apr. 20, 1994, at B13 (noting that a reporter observed only two black students amongst the 100 students eating in a cafeteria on the predominantly white West Campus); *Cornell: Opposition Blocks Plan to Improve Dorm Racial Mix*, N.Y. TIMES, Apr. 12, 1992, at 52 (noting the failure of a proposed plan to impose randomized housing on incoming freshmen students); *id.* (noting that a contingent of 75 primarily black students blockaded a meeting of the housing reform task force).

113.   Mary Jordan, *College Dorms Reflect Trend of Self-Segregation*, WASH. POST, Mar. 6, 1994, at A-1 (explaining that only one white student resided at Harambee House, Brown University's predominantly black dormitory).

114.   *Stanford University; Houses Divided: 'Focus' Dorms Are Debated*, N.Y. TIMES, Feb. 26, 1989, at 43.

115.   Rajiv Prabhakar, Editorial, *Ending Housing Segregation*, MICH. DAILY, Oct. 19, 2006, at 4A (discussing the University of Michigan's failure to counteract the campus' self-segregated residential centers); Emily Kraack & Samantha Lehto, *Res Halls Epicenter of Diversity Debate*, MICH. DAILY, Mar. 23, 2005, at 1.

116.   Grace Chua, *Despite Efforts, Self-Segregation Persists at College*, DARTMOUTH (May 19, 2004), http://thedartmouth.com/2004/05/19/despite-efforts-self-segregation-persists-at-college/; Joe Malchow, *The Dartmouth Editorial Board on Self-Segregation at Dartmouth*, DARTBLOG (Jan. 20, 2006), http://www.dartblog.com/data/2006/01/004835.php.

117.   Eugenia Sosa, *Survey Stresses Segregation Issues*, HOYA (Sept. 12, 2008), http://www.thehoya.com/survey-stresses-segregation-issues/ (noting that 76.2% of student survey participants reported that Georgetown University had a self-segregation problem); Clara Ritger, *Why Racial Integration is Still a Problem on Today's Campus*, USA TODAY COLLEGE (Mar. 11, 2013, 3:04 PM), http://college.usatoday.com/2013/03/11/why-racial-integration-is-still-a-problem-on-todays-campus/ (quoting a black Georgetown student describing "two Georgetowns," one for white students and the other for minority students); Victor Calderon, *New South Reveals Self Segregation*, HOYA (Oct. 18, 2002), http://www.thehoya.com/new-south-reveals-self-segregation/.

118.   Aarti Dureja, Editorial, *Emory Students Tend Toward Self-Segregation*, EMORY WHEEL (Sept. 15, 2014, 11:22 PM), http://emorywheel.com/emory-students-tend-towards-self-segregation/ (noting the paucity of multiracial friendship groups on campus).

119.   *Editorial: Theme Housing Fortifies Latent Divisions*, AMHERST STUDENT, (Mar. 26, 2008, 6:50 AM), http://amherststudent-archive.amherst.edu/current/opinion/view.php?year=2007-2008&issue=21&section=opinion&article=01.

120.   Leah Brannon, *Stifle Segregation, Encourage Diverse Housing*, CAVALIER DAILY, Jan. 31, 1995, at 3 (noting residential segregation on campus and the disproportionate concentration of black students in the campus' Gooch/Dillard housing area).

121.   Soozan Baxter, *Separate, Mediate, Disintegrate*, COLUM. SPECTATOR, Apr. 11, 1995, at 5 (discussing social and organizational separatism among students of different races at Columbia University).

As the preceding section has demonstrated, racial segregation remains a pervasive feature of modern campus life, one that shapes the overall college experiences of individual students profoundly. The following Part will identify the institutional policies, practices, and arrangements through which many universities, perhaps unwittingly, facilitate and sustain these arrangements.

II. UNDERSTANDING CAMPUS SEGREGATION

The ongoing racial segregation of America's colleges and universities reflects any number of powerful contributing factors, ranging from students' life experiences prior to entering college to certain institutional practices and policies that facilitate and sustain the separation of students into racially distinct social spheres. The following section will identify some of the most important elements of college life that give rise to campus segregation.

A. Student Experiences and Perspectives

Due to widespread patterns of de facto residential and school segregation, many students begin their college careers with fairly limited experience in interracial friendships and social relationships. Black and white college students in particular disproportionately hail from racially segregated schools and neighborhoods.[123] In her expert report for the University of Michigan, Patricia Gurin found that the overwhelming majority of white students and a slight majority of black students arrive on campus without previous exposure to considerable racial diversity.[124] In their research on students at the University of Pennsylvania,

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122. *See, e.g.*, Joe Gettinger, *Ethnic Dorms: A Double-Edged Sword*, STAN. REV. (Sept. 26, 2010), http://stanfordreview.org/article/ethnic-dorms-a-double-edged-sword/ (arguing that the racial segregation engendered by Stanford's theme houses "denies the significant benefits of a diverse residence to the rest of the Stanford community"); Dan Taron, *Ethnic Theme Dorms Hinder School Diversity*, STAN. REV. (Feb. 19, 2004), http://stanfordreview.org/old_archives/Archive/Volume_XXXII/Issue_2/Opinions/Opinions5.shtml (arguing that the proliferation of ethnicity-based student housing undermined the diversity rationale advanced by many universities and embraced the Supreme Court in *Grutter*); Collins, *supra* note 111; Rui Dai, *Institutionalized Segregation*, CHRONICLE, Oct. 5, 2011, at 10; Erik Lords, *Michigan State's Black Graduation Ceremony Criticized*, DIVERSE ISSUES HIGHER EDUC., (Apr. 25, 2002), http://diverseeducation.com/article/2120. These now-common race-specific capstone ceremonies arguably convey symbolically the racial separateness of college life.

123. *See* Kevin Woodson, *Derivative Racial Discrimination*, 12 STAN. J. C.R. & C.L. __ (forthcoming, 2016) (describing the continued magnitude of residential, educational, and social segregation in twenty-first century America); Woodson, *Race and Rapport*, *supra* note 19.

124. Gurin, *supra* note 4, at 372 (explaining that "[v]ast numbers of white students (about 92 percent) and about half (52 percent) of the African American students come to the University of Michigan from segregated backgrounds").

sociologists Kimberley Torres and Camille Charles found that more than two-thirds of the white students participating in their study hailed from high schools that were less than ten percent black.[125] Even those students who attend more racially diverse schools frequently encounter additional racial segregation through student tracking.[126] In some instances, intra-school district residential segregation also reduces the likelihood of interracial interaction outside of school. The relatively few black students who grow up in predominantly white neighborhoods often develop disproportionately same-race social circles due to the social networks of their families and the purposeful efforts of their parents to involve them in black community organizations.[127]

As I have explained in other articles,[128] this social segregation later limits the ability of black and white Americans to develop relationships and rapport with one another across racial boundaries. This ongoing racial separation sustains racially distinct cultural and social preferences evident in many dimensions of life.[129] These differences shape and encompass all manner of cultural and recreational preferences from our tastes in music and television programs, to humor, fashion, and the types of venues where we prefer to socialize.[130] These differences, born of racial separation, ultimately reinforce and reproduce it. The theory of cultural homophily, the tendency of people to gravitate toward and form relationships with others who possess similar cultural traits,[131] implies that the limited interracial acculturation of black and white students in their years prior to college will render them less likely and less able to form interracial rapport and social relationships during college. The limited prior interracial acclimation also likely contributes

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125. Torres & Charles, *supra* note 86, at 121.

126. KAROLYN TYSON, INTEGRATION INTERRUPTED: TRACKING, BLACK STUDENTS, AND ACTING WHITE AFTER BROWN 10 (2011) (explaining that because of racialized tracking patterns,"[b]lack and white adolescents often have very little social contact with one another in school . . .").

127. LAWRENCE OTIS GRAHAM, OUR KIND OF PEOPLE: INSIDE AMERICA'S BLACK UPPER CLASS 83–100 (1999) (describing the participation of affluent black families in black Greek-letter organizations and community and social groups); Kathryn M. Neckerman et al., *Segmented Assimilation and Minority Cultures of Mobility*, 22 ETHNIC & RACIAL STUD. 945, 952 (1999) (describing lack of social interaction between black middle class workers and their white colleagues).

128. Woodson, *Race and Rapport, supra* note 19, at 2563–65; Woodson, *Derivative Racial Discrimination, supra* note 123.

129. *See generally* Woodson, *Derivative Racial Discrimination, supra* note 123.

130. *Id.*

131. *See* Noah P. Mark, *Culture and Competition: Homophily and Distancing Explanations for Cultural Niches*, 68 AM. SOC. REV. 319, 320 (2003) ("[C]ultural similarities and differences among people provide bases for cohesion and exclusion. Empirical research shows that individuals who are culturally similar are more likely to be associates than are individuals who are culturally different.") (citations omitted); Woodson, *Race and Rapport, supra* note 19.

to racial anxiety, the discomfort that people experience concerning interactions with people from other racial groups.[132] This social distance may also increase the likelihood that white students engage in conduct or make remarks that minority students find racially insensitive or offensive.[133] Hence, forging relationships with students of other racial groups can be difficult and fraught with awkwardness for black and white students alike.

For these and other reasons, many black students come to view their white classmates with suspicion and frustration.[134] Through their recognition that racism remains a widespread societal problem and their awareness of the all-too-common racial misconduct that takes place on college campuses,[135] many black students grow concerned about the potential racism of white classmates and university employees.[136] The

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132. *See* SIDANIUS ET AL., *supra* note 15, at 192 (explaining that same-race friendship patterns appear to produce greater interracial anxiety).

133. *See, e.g.*, Jolie Lee, *'I, Too, Am Harvard' Photos Tell Black Students' Stories*, USA TODAY (Mar. 5, 2014, 2:14 PM), http://www.usatoday.com/story/news/nation-now/2014/03/05/black-students-harvard-tumblr/6013023/ (documenting the complaints of black Harvard students about racially insensitive behavior on the part of their classmates).

134. *See, e.g., id.*; BEASLEY, *supra* note 105, at 62–67 (discussing social media campaign in which black students share their frustrations concerning awkward and discriminatory interracial encounters).

135. *See generally, Campus Racial Incidents*, J. BLACKS HIGHER EDUC., http://www.jbhe.com/incidents/ (last visited Mar. 12, 2016) (providing a comprehensive running list of reported racial incidents occurring on college campuses from 2011-2016); *Black Stereotype College Parties Spark Outrage*, NBC NEWS (Jan. 31, 2007, 10:38 PM) http://www.nbcnews.com/id/16912374/ns/us_news-life/t/black-stereotype-college-parties-spark-outrage/#.VY2Ql9TF9wQ (describing racially insensitive theme parties at Clemson University, John Hopkins University, Tarleton State University, and the University of Connecticut); Brief for Advancement Project as Amicus Curiae Supporting Respondents at 23, Fisher v. University of Texas, 133 S. Ct. 2411 (2013) (No. 11-345) (explaining that "[r]ecurrent racially-tinged incidents reinforce the students' feelings of unease" and recounting repeated incidents of racially-tinged vandalism); *see generally* JOE FEAGIN ET AL., THE AGONY OF EDUCATION: BLACK STUDENTS AT WHITE COLLEGES AND UNIVERSITIES (1996) (compiling evidence of the barriers and difficulties encountered by a sample of black students at a predominantly white college).

136. *See, e.g.*, Hannah Fry, *UCI Black Student Union Wants Campus Police Force Abolished*, L.A. TIMES (Jan. 28, 2016, 6:37 PM), http://www.latimes.com/socal/daily-pilot/news/tn-dpt-me-0129-uci-petition-20160128-story.html (discussing black student union's allegations of police racism); Peter Schmidt, *Tasked to Protect All on Campus, but Accused of Racial Bias*, N.Y. TIMES (Dec. 28, 2014), http://www.nytimes.com/2014/12/29/us/tasked-to-protect-all-on-campus-but-accused-of-racial-bias.html?_r=0 (discussing allegations of racial profiling by campus police). *See generally* WILLIAM C. KIDDER, CIV. RTS. PROJECT, THE SALIENCE OF RACIAL ISOLATION: AFRICAN AMERICANS' AND LATINOS' PERCEPTIONS OF CLIMATE AND ENROLLMENT CHOICES WITH AND WITHOUT PROPOSITION 209, at 11–12 (2012), http://civilrightsproject.ucla.edu/research/college-access/affirmative-action/the-salience-of-racial-isolation-african-americans2019-and-latinos2019-perceptions-of-climate-and-enrollment-choices-with-and-without-proposition-209/Kidder_Racial-Isolation_CRP_final_Oct2012-w-table.pdf (indicating that significant numbers of black

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intensity of these concerns was made clear by the wave of campus protests that recently ignited at universities across the country.[137] Such perceptions about campus racism can easily become self-sustaining. Students who perceive their schools to be racially hostile places may be more likely to interpret ambiguously unpleasant experiences as providing further evidence of widespread racism. For these reasons, a number of minority students have reported that segregated spaces can help ease the transition to college for students experiencing anxiety or "culture shock" in transitioning to predominantly white institutions of higher learning.[138] Black students who do not view their campuses as racially inhospitable domains and who are less inclined to develop their social lives within their schools' black communities may face peer influence, or even pressure, to conform.[139]

It is not difficult to understand how the various dynamics discussed in this subpart contribute to campus segregation. In many

students at a number of universities report that students of their race are not respected on campus).

137. *See supra* note 21 and accompanying text.

138. Torres & Charles, *supra* note 86, at 133 (noting that a majority of interviewees expressed their belief that separate black living and meeting space was necessary given the perceived hostility of the school's racial climate). *See generally* SIDANIUS ET AL., *supra* note 15, at 198 (explaining that students who perceive ethnic discrimination during their freshman years are more likely to develop same-race social networks in the following years). *See* Mary Jo Hill, *Do Theme Dorms Sanction Self-Segregation?*, CHRISTIAN SCI. MONITOR (July 15, 1996), http://www.csmonitor.com/1996/0715/071596.feat.learning.1.html (quoting Latino Living Center cofounder and current Cornell student, Xiomara Padamsee, on the need for such a center to help Latino students overcome the "culture shock" of Cornell's campus); BEASLEY, *supra* note 105, at 69 (finding that students who enter college with greater anxiety about interracial interactions or less comfort in coping with potential racism may be more likely to segregate themselves). Notably, these programs may help many concerned minority students feel more comfortable at the school and better able to envision themselves as members of the community regardless of the actual virulence of racism on a given campus.

139. For example, well-meaning older black students may steer younger ones away from mainstream campus organizations and activities to black-themed ones instead. This occurs, for example, when older students advise new students that certain dormitories, organizations, or events are inhospitable to or otherwise "not for" black students. *See generally* Ritger, *supra* note 117 (interviewing a black Georgetown student who explains that he was informed that minority students join the NAACP instead of the College Democrats).

Some black students are also subjected to intense intra-racial pressures to conform to segregated social arrangements at their schools. *See* Sandra Susan Smith & Jennifer Anne Meri Jones, *Intraracial Harassment on Campus: Explaining Between— and Within—Group Differences*, 34 ETHNIC & RACIAL STUD. 1567, 1567–68 (2011) (explaining that many black college students who regularly associated with members of other ethnic groups reported suffering harassment from other black students). Smith and Jones refer to this dynamic as "border patrolling" and observe that it seeks to promote racial solidarity by enforcing and reinforcing racial separateness. *Id.* at 1590. *See also* BEASLEY, *supra* note 105, at 75–78 (discussing the pressure felt by some black college students to conform to the racialized social practices of other black students).

instances, new students will simply find it easier, safer, and more comfortable to socialize with same-race peers.

B. Institutional Policies and Practices

Although some amount of racial separateness among college students is likely inevitable for the reasons discussed in this section, universities also play a role in encouraging and reinforcing segregation. This section will identify several specific policies and practices, including pre-college programming, segregated housing arrangements, and de facto student group segregation, that contribute to segregation and thereby undermine some of the potential benefits of student body diversity.[140]

1. Segregated Pre-College Events and Activities

As the first opportunities for students to meet their future classmates en masse, admitted students' events and pre-college orientations are foundational moments in the social careers of many students. They potentially shape students' social networks by bringing them into contact and giving them opportunities to develop rapport with the students with whom they will be spending the next four years of their lives. In doing so, these events in some instances provide the springboard for lifelong relationships.[141]

To make their campuses seem more welcoming to minority students, many universities hold separate admitted students events for minority applicants who have been accepted for admission.[142] These

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140. In identifying these practices as such, I do not mean to deny their possible positive effects on student life; rather, I merely seek to set the stage for a closer examination of their potential costs and risks.

141. Universities, students, and media sources alike commonly refer to these events as opportunities to meet "lifelong friends." *See, e.g.*, Menachem Wecker, *Outdoor Orientations Can Help Students Acclimate to College*, U.S. NEWS & WORLD REP. (Nov. 28, 2011, 10:00 AM), http://www.usnews.com/education/best-colleges/articles/2011/11/28/outdoor-orientations-can-help-students-acclimate-to-college; BOSTON COLLEGE ORIENTATION 2015, STUDENT PROGRAM: CATCH THE BC SPIRIT 4 https://www.bc.edu/content/dam/files/offices/fye/pdf/BC%20Orientation%20Student%20 Guide%201-6.pdf ("Orientation is a chance to . . . familiarize yourself with your new surroundings. You will also . . . meet many of your future classmates. Some of them will become lifelong friends."). *See also* Jannie S. Tsuei, *Like Love Story, But Less Nauseating*, HARV. CRIMSON (Sept. 25, 2003), http://www.thecrimson.com/article/2003/9/25/like-love-story-but-less-nauseating/?print=1 (describing how former Congressional candidate Taj Clayton's relationship with his wife, Tonika C. Cheek-Clayton, began during their pre-college Admitted Students Weekend).

142. *See, e.g.*, Veronica Menaldi, *To Strengthen Communities, Groups Organize Their Own Welcome Weeks*, MICH. DAILY (Sept. 6, 2010), http://www.michigandaily.com/content/events-welcome-students-old-and-new-back-

programs, which often consist of both organized and informal social activities and meetings with representatives of minority student organizations, introduce these future students to campus in ways that, from the onset, increase the salience of racial identity and the likelihood that they will develop disproportionately same-race social circles. As social lives are path dependent, these first friendships shape the social networks that many minority students come to develop during their time in college. In this manner, these university-sanctioned events, though well intentioned and popular with minority students, likely contribute to patterns of campus segregation significantly.[143]

2. Segregated Housing

By further constraining students' extended social networks, racialized housing arrangements reinforce and aggravate patterns of campus segregation. In the relatively closed contexts of college campuses, friends and roommates often come into contact with other members of each other's social circles. Through these encounters, students meet and develop lasting friendships with others with whom they otherwise never would have come into contact. This is likely a main reason why students with same-race roommates go on to develop fewer friendships with members of other racial groups compared to students who are assigned different-race roommates.[144] Therefore, this arrangement not only deprives students of potentially beneficial friendships with different-race roommates—it also deprives them of cross-racial interactions with friends and acquaintances of their roommates.

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campus; Amanda Young, *Campus Debates Merit of Minority Recruitment Weekends*, CHRONICLE (Apr. 20, 2011), http://beta.dukechronicle.com/articles/2011/04/20/campus-debates-merit-minority-recruitment-weekends/print; Shai Oster, *Perspectives of Color '92: Recruiting Minority Students*, COLUM. SPECTATOR, Apr. 27, 1992, at 8. *See also* Charles J. Wells, *Minding the Gap*, HARV. CRIMSON (Apr. 23, 2008), http://www.thecrimson.com/article/2008/4/23/minding-the-gap-you-know-the/
(describing how students with Harvard's Undergraduate Minority Recruitment Program contact admitted minority students and offer them a same-race host for their visits to campus).
   143. This concern has been raised by student critics at various universities. *See, e.g.*, Brandon Locke, Letter to the Editor, *A Week of Segregation*, CHRON., Mar. 28, 2011 (providing a black student's criticism of Duke's weekend for encouraging segregation); Matt Continetti, Editorial, *These Are the Days*, COLUM. SPECTATOR, Apr. 24, 2002 (criticizing Perspectives of Color, Columbia University's minority admit day, for separating students on the basis of race and ethnicity).
   144. *See, e.g.*, Noah P. Mark & Daniel H. Harris, *Roommates' Race and Racial Composition of White College Students' Ego Networks*, 41 SOC. SCI. RES. 331, 340 (2012) (finding that "white college freshmen who are assigned a roommate of a given race acquire more friends of that race (other than their roommate) than do white college freshmen who are assigned a roommate not of that race").

Though housing segregation by and large reflects the voluntary choices of individual students, some universities implement practices that increase its severity and impact on student life. Notably, a number of selective colleges and universities provide dormitories or other housing arrangements that are intended primarily to serve the needs of students of specific, designated racial groups.[145]   Though universities have long since recognized that this housing cannot be made available only to minority students, the tendency of these arrangements to produce de facto residential segregation has been well documented.[146]   The provision of such racially—and ethnically—defined, or "themed," housing has been the focus of the most intense disagreements over social segregation on college campuses.[147]

Though separate housing provides real benefits to students in the form of social comfort, it may come at a heavy social cost.   As law professor Richard Ford has explained, these houses "make day-to-day life . . . more manageable and comfortable, but at the cost of making it less varied and less challenging.   They allow students to immerse themselves in distinctive idioms and folkways but often leave them isolated from the cosmopolitan culture of university as a whole."[148] Ford's observation is an important one.   The cultural and social isolation brought about by housing segregation contributes to homophily and racial anxiety dynamics that disadvantage many black workers in predominantly white work-settings.[149]

These housing arrangements affect not only the students who choose to live there (in some instances, significant percentages of the relevant minority group's student body population),[150] but also those who reside elsewhere.   Many minority students who live on campuses in which critical masses of their peers reside (and in some instances dine and hold social events) in racially-defined housing will often themselves spend a disproportionate amount of their leisure time and social energy there, or risk falling out of touch with many of their minority classmates. At Stanford University, for example, sociologist Maya Beasley observed that the black-themed Ujamaa house shaped not only the social lives of the ten percent of the black student body that resided there, but also those of the many other black students who regularly ate and socialized

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145.   *See supra* notes 40–47 and accompanying text.

146.   *See, e.g.*, BEASLEY, *supra* note 105, at 74–75.

147.   *See supra* notes 42–47 and accompanying text.

148.   RICHARD THOMPSON FORD, THE RACE CARD: HOW BLUFFING ABOUT BIAS MAKES RACE RELATIONS WORSE 267–68 (2009).

149.   *See infra* Part 0.   *See also generally* Woodson, *Race and Rapport, supra* note 19; Woodson, *Derivative Racial Discrimination, supra* note 123.

150.   *See, e.g.*, BEASLEY, supra note 105, at 74–75 (explaining that 10% of Stanford University's black undergraduate students live in the university's black-themed house).

there.[151] These arrangements also affect white students. Those who do not live in or socialize in these dorms are deprived of valuable opportunities to learn from and better understand their minority classmates. This outcome of course is in direct tension with one of the compelling interests found to justify universities' use of race-based admissions practices in *Grutter*.[152]

3. Student Group Segregation

Student organizations funded and sanctioned by the university also contribute to campus segregation. For example, although race- and ethnicity-based student groups can serve important functions, offering fellowship among students and contributing to the cultural richness of campus life, they also all too often have the unfortunate effect of further separating students on the basis of race and ethnicity. Black students join race-themed student organizations and activities at rates far higher than those of other students.[153] Participation in these organizations is not intrinsically problematic by any means. But in the absence of complementary interracial interactions and organizational involvements, it can contribute to self-sustaining cycles of racial alienation.[154] Although many minority students undoubtedly would gravitate toward each other even in the absence of such groups, by providing this race-based organizational infrastructure, universities, in practice if not by design, nudge students from different racial groups to spend even more time apart from one another in racially defined spaces. Participation in race-based organizations can immerse students into same-race social circles with especially racialized peers who influence them to view their campuses as racially unwelcoming.[155] While a common perception is that black students join such organizations as refuges from racial animus and ambivalence on campus, this conventional wisdom may be

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151. *Id.*

152. *See supra* note 3 and accompanying text.

153. *See, e.g.*, SIDANIUS ET AL., *supra* note 15, at 23 (stating that 60% of all black students belonged to racially themed student groups); Stearns et al., *supra* note 10, at 184 (reporting that most black students joined culture- and ethnic-based student organizations, compared to fewer than four percent of white students).

154. This self-perpetuating tendency of campus segregation has been discussed in previous commentary. As Judge J. Harvie Wilkinson of the United States Court of Appeals for the Fourth Circuit explained more than 20 years ago, "The grave danger of establishing racial or ethnic enclaves in education . . . is that separatism has the uncanny potential to feed upon itself." J. Harvie Wilkinson III, *The Law of Civil Rights and the Dangers of Separatism in Multicultural America*, 47 STAN. L. REV. 993, 1004 (1995).

155. *See* SIDANIUS ET AL., *supra* note 15, at 235 (finding that minority students with higher ethnic identification scores were significantly more likely to join ethnic organizations); *id.* at 248 (explaining that "membership in ethnically oriented student organizations appeared to increase the sense of ethnic victimization").

backwards. Jim Sidanius and his colleagues found no evidence that black students joined these organizations because of their perceptions of campus racism but strong evidence that joining actually seemed to increase their perceptions of inharmonious race relations on campus.[156] Not surprisingly, students who join cultural groups develop fewer friends from different racial groups.[157]

These effects of joining race-themed organizations reflect the socialization that takes place within these organizations. As issues of campus race relations are common subjects for black student organization meetings and programs, freshmen joining these organizations in some instances hear repeated messages about the prevalence and virulence of racism on their campuses from well-meaning senior members. Though providing new students with information about racial incidents and problems on campus may better enable them to fight against these conditions, it can also lead to negative consequences. The framing of campus race relations as a state of constant racial conflict and latent animosity may have lasting effects on the perceptions of impressionable students coming to terms with the ambiguity and awkwardness of race in their new environments.

Notwithstanding the common tendency to discuss race-oriented groups as uniquely segregated (and segregative), many near-exclusively white student groups play just as large of a role in contributing to campus segregation. Greek-letter organizations in particular remain bastions of segregation,[158] in some instances because of outright discrimination against minority students seeking membership.[159] Fraternities and

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156. *Id.* at 240. As they explain, "while neither feelings of being victims of ethnic discrimination nor perceptions of zero-sum group conflict appear to be among minorities' motives for *joining* minority ethnic organizations, these variables do appear to be among the *results* of joining." *Id..*

157. *See* Stearns et al., *supra* note 10, at 191; ESPENSHADE & RADFORD, *supra* note 100, at 198 ("Students who are members of an ethnic organization have 31 percent significantly lower odds than their non-member classmates of having a close friend of a different race and 22 percent significantly lower odds of dating someone of a different race.").

158. Matthew Hughley, *A Paradox of Participation: Nonwhites in White Fraternities and Sororities*, 57 SOC. PROBLEMS 653 (2010); John D. Sutter, Opinion, *Are Fraternities a Form of American Apartheid?*, CNN (Mar. 10, 2015, 2:57 PM), http://www.cnn.com/2015/03/10/opinions/sutter-oklahoma-fraternity-racist/; Allie Grasgreen, *It's Not Just Alabama*, INSIDE HIGHER EDUC. (Sept. 19, 2013), https://www.insidehighered.com/news/2013/09/19/segregated-sororities-not-limited-alabama-experts-say; Beth Kassab, *University Greek Houses Often Segregated*, ORLANDO SENTINEL (Apr. 10, 2015, 8:09 PM), http://www.orlandosentinel.com/opinion/os-fraternity-segregation-beth-kassab-20150410-column.html.

159. Jason Zengerle, *This Student Took on University of Alabama's Segregated Sororities. It Didn't Turn out As She'd Hoped*, NEW REPUBLIC (Feb. 4, 2002),

sororities are significantly less racially heterogeneous than the student body populations of their schools.[160] The considerable time commitment entailed in fraternity and sorority membership, much of which is spent in private locations removed from the rest of the campus community, furthers the isolation of the students involved in these groups.[161]

In these segregated communities, white students all too often engage in racially offensive, polarizing behavior.[162] This occurs not simply because the students who choose to join these organizations are more racist than their peers, but also because the socialization that takes place within these organizations leads them to develop worse racial attitudes than they had when they began college.[163] This correlation between fraternity membership and increased racial bias reveals some of the costs of racial segregation and prevents schools from realizing some of the potential benefits of student body diversity.

As this section has explained, colleges and universities are partly responsible for the ongoing patterns of campus segregation. Universities have implemented a number of policies and practices that—notwithstanding their potentially valuable benefits—reify and reproduce racial segregation on campus. Despite widely held societal norms in favor of racial integration and substantial social science evidence revealing the harms of racial segregation,[164] these arrangements have

https://newrepublic.com/article/119156/segregation-lives-university-alabamas-sorority-row.

160. *See* MILEM ET AL., *supra* note 1, at 28 (discussing the racial homogeneity of Greek-letter organizations). Black students also primarily join same-race fraternities and sororities. These organizations were originally founded out of necessity, during a period where black students were uniformly excluded from the existing campus Greek-letter organizations and deprived of their comforts and conveniences. *See* W.E.B. DuBois, *Negro Fraternities*, 41 CRISIS 154, 184 (1934) (describing the lack of housing, social space, and other hardships experienced by black students barred from white fraternities). Since then, they have come to assume central roles in black social life on many college campuses. *See generally* AFRICAN AMERICAN FRATERNITIES AND SORORITIES: THE LEGACY AND THE VISION (Tamara L. Brown et al. eds., 2005).

161. MILEM ET AL., *supra* note 1, at 28.

162. This recently came to national attention most vividly with the shocking video of the members of an Oklahoma fiasco singing a violently racist song. *See* Joey Stipek & Richard Pérez-Peña, *Oklahoma Inquiry Traces Racist Song to National Gathering of Fraternity*, N.Y. TIMES, Mar. 27, 2015, at A11.

163. Jim Sidanius and his coauthors explain, "Net of precollege attitudes and demographic variables . . . membership in Greek organizations . . . increased their feelings of ethnic discrimination; increased their levels of symbolic racism; created more opposition to miscegenation; led to greater opposition to increasing diversity on campus . . . and marginally increased their levels of ingroup bias." SIDANIUS ET AL., *supra* note 15, at 242. *See also* Ernest T. Pascarella et al., *Influences on Students' Openness to Diversity and Challenge in the First Year of College*, 67 J. HIGHER EDUC. 174, 190 (1996) (noting that a longitudinal study of 3,331 incoming students at 18 universities found fraternity or sorority membership had significant negative impact on openness to diversity among white students).

164. *See infra* Part 0.

garnered remarkably little critical attention from proponents of racial justice. The following section explains why this campus segregation has not elicited greater concern and more decisive action from university leaders, antidiscrimination scholars, and racial justice advocates.

C.   Reluctance to Address Campus Segregation

In several respects, colleges are the ideal setting for the fostering of interracial social relationships. As Patricia Gurin explained in her expert testimony in the *Grutter* litigation, college is "a time of exploration and possibility" in which students can "experiment with new ideas, new relationships, and new roles."[165] The sheer amount of time college students spend living, learning, and working around each other dwarfs that which most students experience earlier, in their childhood years, or later, in the workplace. This propinquity provides unparalleled opportunities for students to develop relationships across racial lines.

Universities have thus far failed to take full advantage of these auspicious conditions. It is understandable that many college students will gravitate toward the protective cocoons of racial isolation in these unfamiliar, potentially hostile new settings. That universities acquiesce to and facilitate this tendency toward segregation, however, is objectionable nonetheless. Yet, there has been surprisingly little outcry or criticism on this issue from scholars, activists, and other proponents of racial justice. This apparent complacency toward campus segregation seems rooted to a large extent in doubts about both the viability and desirability of integration. These misgivings reflect the beliefs that campuses are incurably racist, that black students need segregated ("safe") social and organizational spaces as protections against campus racism, and that calls for integration carry normatively problematic assimilationist undercurrents.[166] This section will briefly address each of these in turn while also noting administrative reasons why colleges may refrain from aggressively targeting campus segregation.

1.   Concerns about Campus Racism

The view that predominantly white institutions are too resolutely racist to accommodate the interests of black people has long been a

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165.   *See* Gurin, *supra* note 4, at 368–69.

166.   Though this theory is speculative (and somewhat self-serving, given the arguments advanced in this article), it is also possible that some people who share the concerns addressed in this article refrain from speaking out against campus segregation out of fear of undermining the constitutional legitimacy of affirmative action.

source of support for purposeful racial separatism.[167]   Indeed, even W.E.B. DuBois, once one of the most stalwart champions of integration, eventually changed course out of frustration over the apparent intransigence and of white racism.[168]   Similarly, more recent scholars have argued in favor of various forms of segregation as constructive adaptive responses to persisting campus racism and racial anxiety.[169] Though these concerns about the manner in which racism may impede successful integration are legitimate, racial separation creates conditions that further exacerbate these problems.   As this article will explain below, more robust integration and more frequent interracial interactions may be necessary to make progress against the racial biases and animosity that separatist strategies seek to avoid.

2. Cultural Integrity Concerns

The continued acceptance of campus segregation also reflects to some extent the anti-assimilationist current of thought prominent in the work of several leading critical race theorists and antidiscrimination scholars.   Critical race scholar Alex Johnson's separatist argument for preserving historically black colleges and universities[170] would apply just as forcefully to attempts to reform black housing and organizational infrastructures at predominantly white schools. Johnson argues in favor of racial separatism in higher education not because of the racism concerns discussed above, but rather in service of an agenda to preserve and transmit to black students a distinctive black cultural "nomos."[171] Johnson posits that black institutions are needed to achieve these cultural goals, particularly in the face of the a "white . . . norm that . . . stifl[es] or

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167.   *See* W.E.B. DuBois, *The Anti-Segregation Campaign*, 41 CRISIS 182, 182 (1934) (reporting on an NAACP architect's argument that the persistence of white racism requires non-integrationist strategies of racial advancement).

168.   *Id.* ("[W]e have got to renounce a program that always involves humiliating self-stultifying to crawl somewhere where we are not wanted . . . . No, by God, stand erect in a mud puddle and tell the white world to go to hell, rather than lick boots in a parlor."). *See also* W.E.B. DuBois, *The N.A.A.C.P. and Race Segregation*, 41 CRISIS 52, 53 (1934) (arguing that "it would be idiotic simply to sit on the side lines and yell: 'No Segregation!' in an increasingly segregated world").

169.   *See, e.g.*, Drew S. Days, III, *Brown Blues: Rethinking the Integrative Ideal*, 34 WILLIAM & MARY L. REV. 53, 73 (1992) (surmising that black-themed housing may help black students avoid "undue psychological and emotional stress" at predominantly white colleges). *Id.* at 73 (positing that black-oriented housing can serve as sound educational policy). *See also* Richard Nagasawa, & Paul Wong, *A Theory of Minority Students' Survival in College*, 69 SOC. INQ. 76, 82 (1999) (positing that "'core' ethnic social networks rooted in the ethnic subculture" may offer the "solution for minority students' survival in college").

170.   Alex M. Johnson Jr., *Bid Whist, Tonk, and* United States v. Fordice: *Why Integrationism Fails African-Americans Again*, 81 CAL. L. REV. 1401, 1432–55 (1993).

171.   *Id.* at 1419.

eradicate[s] the consciousness of African-American students" at predominantly white schools.[172] Moving beyond the specific context of higher education, noted critical race scholar Patricia Williams has objected to integration more broadly as a process of assimilative black "self-erasure."[173] Similarly, Gary Peller has even likened integration to genocide.[174] This view frames integrationism as the antithesis and rejection of race consciousness,[175] an ideological project inadequately attuned to the real interests and needs of black people in America.

It is indeed possible that more aggressive efforts to promote integration may lead to some black students perceiving assimilative pressures to suppress certain aspects of their authentic selves to conform to norms and preferences predominant among their white peers. Nonetheless, this critique of integrationism is ultimately exaggerated and unpersuasive, as it relies upon a false dichotomy between integration and values such as racial solidarity and cultural preservation.[176]

3.   Administrative Convenience

Given the broader societal forces, general social tendencies, and existing university practices that produce patterns of segregation on

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172. *Id.* at 1456. Concerns about the unfair burdens of assimilation have given rise to a rich body of antidiscrimination scholarship addressing the possible personal and social costs suffered by minority workers subjected to formal and informal assimilation demands in the workplace. *See, e.g.*, Devon W. Carbado & Mitu Gulati, *The Fifth Black Woman*, 11 J. CONTEMP. LEGAL ISSUES 701, 720 (2001) (arguing that assimilative pressure faced by an employee in the workplace is "a continual harm to that employee's dignity"); Tristin K. Green, *Work Culture and Discrimination*, 93 CAL. L. REV. 623, 633 (2005) (discussing the "harms in time and energy devoted to engaging in appropriate work culture behavior and harms in devaluation and transformation of identity"). *See generally* KENJI YOSHINO, COVERING: THE HIDDEN ASSAULT ON OUR CIVIL RIGHTS (2006). Though they do not share the critical race theorists' opposition to integrationism per se or their objectives of black cultural preservation as an end in itself, their concerns about the burdens of assimilation have similar implications in this context.

173. PATRICIA J. WILLIAMS, THE ROOSTER'S EGG: ON THE PERSISTENCE OF PREJUDICE 25 (1997). *See also* STOKELY CARMICHAEL & CHARLES V. HAMILTON, BLACK POWER: THE POLITICS OF LIBERATION IN AMERICA 54 (1967) (criticizing integration as a demeaning and debilitating "subterfuge for . . . white supremacy").

174. *See* Peller, *supra* note 35 (citing Robert S. Browne, *A Case for Separation, in* SEPARATISM OR INTEGRATION, WHICH WAY FOR AMERICA?: A DIALOGUE 7-15 (Robert S. Browne & Bayard Rustin eds., 1968)).

175. *See e.g.*, GARY PELLER, CRITICAL RACE CONSCIOUSNESS: RECONSIDERING AMERICAN IDEOLOGIES OF RACIAL JUSTICE (2011).

176. Efforts to facilitate greater interracial interactions need not deprive students of same-race relationships or black cultural resources. *See generally* Michelle Adams, *Integration Reclaimed: A Review of Gary Peller's Critical Race Consciousness*, 46 CONN. L. REV. 725 (2013) (book review). *See also* Brandon Paradise, *Racially Transcendent Diversity* 50 U. LOUISVILLE L. REV. 415, 419 (positing that a "non-assimilationist ideal of integration" has become more dominant than assimilationist approaches).

campus, the formidable task of addressing this arrangement must seem rather quixotic to many university administrators. Integration is difficult work. Pursuing it will require administrators to make difficult, unpopular decisions and to engage in sustained, proactive oversight to manage it.[177] As administrators also undoubtedly recognize, the students who support some of the policies and practices that contribute to segregation seem to be far more forceful and outspoken in pursuit of their interests than students who oppose such arrangements.[178] In the current era of social media and omnipresent cell phone cameras, resisting the requests of student protesters brings the risk of career-jeopardizing negative publicity and reputational damage. Deferring to the demands of students is a path of far less resistance.

For these reasons, the failure of universities and proponents of racial justice to address campus segregation is not particularly surprising. Nonetheless, this state of campus race relations is quite problematic. While there might be some legitimacy to concerns about racial mistreatment and assimilationist pressure, this avoidance-based approach to the threat of racial conflict and discomfort is ultimately shortsighted, unduly fatalistic, and socially costly. Though segregation can provide some manner of short-term comfort and convenience for many students and administrators, it ultimately reinforces the alienation experienced by black students and works to their disadvantage in a number of critical ways. This comes at a potentially substantial long-term cost for black students, as relatively few will enjoy the luxury of freedom from assimilative expectations and demands when they enter the workforce. Further, the prevalent racial bias and incidents of racial mistreatment and insensitivity that occur at universities across the country are not inevitable, unalterable facts of life, but rather, are exacerbated by the social context of ongoing segregation. The existing segregation essentially locks in students' racial biases, anxieties, and interracial discomfort in ways that may work to the long-term disadvantage of racial minorities.[179]

Whereas observers once frequently critiqued these institutional arrangements for disadvantaging black students and depriving them of important resources and experiences,[180] these particular misgivings are now all but completely absent from the current public discourse on

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177. *See infra* Part 0.
178. The history of campus protests at schools across the country over the past fifty years bears clear testament to this. *See supra* notes 21, 36–40 and accompanying text.
179. *See infra* Part 0. *See also* BEASLEY, *supra* note 105, at 70 (explaining that "regardless of the ways or reasons by which students decided to engage in segregated social networks, the effect was . . . cutting off the possibility that interactions with individuals from outside could sway their perceptions about those groups").
180. *See supra* notes 42–48 and accompanying text.

educational diversity. The following Part will resuscitate these concerns by demonstrating the ways in which campus segregation reinforces and reproduces racial inequality.

III. HOW CAMPUS SEGREGATION REINFORCES RACIAL INEQUALITY

As critics of affirmative action have explained,[181] the ongoing racial segregation of college life interferes with some of the key preconditions necessary for the diversity benefits of *Grutter* and thereby destabilizes the constitutional legitimacy of affirmative action.[182] But perhaps even more troubling from a racial equality perspective, this segregation also impedes some of the broader racial justice goals that gave rise to affirmative action in the first place.[183] This Part will explain how the failure of colleges and universities to more effectively promote greater racial integration on campus reinforces a number of inequality dynamics that disadvantage black people in broader American society. Insights from several bodies of social science research suggest that the failure of colleges to achieve greater integration on campus has considerable racial consequences.[184] Specifically, as this Part will explain, universities miss critical opportunities to reduce the racial bias that continues to harm black Americans in all realms of life and to provide black students greater access to valuable, professionally advantageous social capital.

A. *Segregation Perpetuates Racial Bias*

Despite the profound decline of blatant, "old-fashioned" racism

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181. *See supra* note 17 and accompanying text.
182. *See supra* notes 5–7 and accompanying text.
183. Despite the rhetoric of racial diversity, the pursuit of black mobility and greater racial equality remain the true normative foundation for the affirmative action practices of colleges and universities.
184. *See infra* Part 0–0. A growing body of research has also established correlations between cross-racial interactions and a host of educational and developmental benefits that are less directly related to racial attitudes and race-related behavior. *See, e.g.,* Mitchell J. Chang et al., *The Educational Benefits of Sustaining Cross-Racial Interaction Among Undergraduates,* 77 J. HIGHER EDUC. 430 (2006); Mitchell J. Chang et al., *Cross-Racial Interaction Among Undergraduates: Some Consequences, Causes, and Patterns,* 45 RES. HIGHER EDUC. 529 (2004); Nicholas A. Bowman, *The Conditional Effects of Interracial Interactions on College Student Outcomes,* 54 J. COLL. STUDENT DEV. 322, 322 (2013) ("Interracial interactions are associated with academic, cognitive, civic, and psychological outcomes . . . and the strength of these relationships generally does not differ between students of color and White students."); Sylvia Hurtado, *Linking Diversity and Educational Purpose: How Diversity Affects the Classroom Environment and Student Development,* in DIVERSITY CHALLENGED: EVIDENCE ON THE IMPACT OF AFFIRMATIVE ACTION, at 187 (Gary Orfield ed., 2001) (discussing that studying with a student of a different racial group is associated with gains in a wide range of learning, civic, and employment outcomes).

during the last half of the twentieth century,[185] other more covert and complex forms of racial bias remain prevalent.[186] These subtle biases may be responsible for the continued widespread mistreatment of black Americans in any number of vital contexts including: disparate treatment at every stage of the criminal justice process,[187] employment discrimination,[188] lower quality medical treatment,[189] disparities in school

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185. *See* Paul M. Sniderman & Philip E. Tetlock, *Symbolic Racism: Problems of Motive Attribution in Political Analysis*, 42 J. SOC. ISSUES 129, 130 (1986).

186. Political psychologists have advanced a number of theoretical approaches that seek to classify and measure these more subtle strains of racism. *See, e.g.*, John B. McConahay, *Modern Racism, Ambivalence, and the Modern Racism Scale, in* PREJUDICE, DISCRIMINATION, AND RACISM 91, 91 (John F. Dovidio & Samuel Gaertner eds., 1986); Christopher Tarman & David O. Sears, *The Conceptualization and Measurement of Symbolic Racism*, 67 J. POL. 731 (2005); John F. Dovidio & Samuel L. Gaertner, *Aversive Racism*, 36 ADVANCES EXPERIMENTAL SOC. PSYCHOL. 1 (2004). A particularly large body of research and commentary has developed around the concept of implicit racial bias. On the basis of experimental studies and computer-based tests of implicit bias, psychologists believe that many millions of Americans may possess automatic racial biases strong enough to lead them to discriminate against black people unknowingly and unintentionally. *See* John T. Jost et al., *The Existence of Implicit Bias is Beyond Reasonable Doubt: A Refutation of Ideological and Methodological Objections and Executive Summary of Ten Studies that No Manager Should Ignore*, 29 RES. ORGANIZATIONAL BEHAV. 39 (2009). *But see* Gregory Mitchell & Phillip B. Tetlock, *Antidiscrimination Law and the Perils of Mindreading*, 67 OHIO ST. L.J. 1023 (2006); Hart Blanton et al., *Strong Claims and Weak Evidence: Reassessing the Predictive Validity of the IAT*, 94 J. APPLIED PSYCHOL. 567 (2009).

187. *See, e.g.*, Samuel R. Sommers & Phoebe C. Ellsworth, *White Juror Bias: An Investigation of Prejudice Against Black Defendants in the American Courtroom*, 7 PSYCHOL., PUB. POL'Y & L. 201 (2001); Irene V. Blair et al., *The Influence of Afrocentric Facial Features in Criminal Sentencing*, 15 PSYCHOL. SCI. 674 (2004); Jeffrey J. Rachlinski et al., *Does Unconscious Racial Bias Affect Trial Judges?*, 84 NOTRE DAME L. REV. 1195 (2009); L. Song Richardson & Phillip Atiba Goff, *Implicit Racial Bias in Public Defender Triage*, 122 Yale L.J. 2626 (2013).

188. *See, e.g.*, DEVAH PAGER, MARKED: RACE, CRIME, AND FINDING WORK IN AN ERA OF MASS INCARCERATION (2007); Marianne Bertrand & Sendhil Mullainathan, *Are Emily and Greg More Employable than Lakisha and Jamal? A Field Experiment on Labor Market Discrimination*, 94 AM. ECON. REV. 991 (2004); S. Michael Gaddis, *Discrimination in the Credential Society*, 93 SOC. FORCES 1 (2014); John M. Nunley et al., An Examination of Racial Discrimination in the Labor Market for Recent College Graduates: Estimates from the Field (Mar. 24, 2014) (unpublished manuscript), http://cla.auburn.edu/econwp/archives/2014/2014-06.pdf; Jonathan C. Ziegert & Paul J. Hanges, *Employment Discrimination: The Role of Implicit Attitudes, Motivation, and a Climate for Racial Bias*, 90 J. APPLIED PSYCHOL. 553 (2005); Robert J. Smith & Justin D. Levinson, *The Impact of Implicit Racial Bias on the Exercise of Prosecutorial Discretion*, 35 SEATTLE U. L. REV. 795 (2012).

189. *See, e.g.*, Lisa A. Cooper et al., *The Associations of Clinicians' Implicit Attitudes about Race with Medical Visit Communication and Patient Ratings of Interpersonal Care*, 102 AM. J. PUB. HEALTH 979 (2012); Alexander R. Green et al., *Implicit Bias Among Physicians and Its Prediction of Thrombolysis Decisions for Black and White Patients*, 22 J. GEN. INTERNAL MED. 1231 (2007); Knox H. Todd et al., *Ethnicity and Analgesic Practice*, 35 ANNS. EMERGENCY MED. 11 (2000); Louis A. Penner et al., *Aversive Racism and Medical Interactions with Black Patients: A Field Study*, 46 J. EXPERIMENTAL SOC. PSYCHOL. 436 (2010); Elizabeth N. Chapman et al., *Physicians and*

discipline and ability-group tracking,[190] and disparities in violence and coercion at the hands of law enforcement.[191] Through these grim consequences, racial bias continues to pose an existential threat for many black Americans.

Few means of reducing racial bias are as tried and tested as positive, high-quality interracial interactions. By providing people opportunities to learn about individual members of other social groups, this type of constructive intergroup contact can alter affective, cognitive, and behavioral responses to out-groups and their members.[192] The value of such interracial contact in improving race relationships and reducing group-based stereotypes has been thoroughly demonstrated in a large body of psychological research spanning well over half a century.[193]

This proposition was first distilled into an overarching theory of

Implicit Bias: How Doctors May Unwittingly Perpetuate Health Care Disparities, 28 J. GEN. INTERNAL MED. 1504 (2013); Irene V. Blair et al., *Unconscious (Implicit) Bias and Health Disparities: Where Do We Go from Here?*, 15 PERMANENTE J. 71 (2011); JOHN HOBERMAN, BLACK AND BLUE: THE ORIGINS AND CONSEQUENCES OF MEDICAL RACISM (2012); DAMON TWEEDY, BLACK MAN IN A WHITE COAT: A DOCTOR'S REFLECTIONS ON RACE AND MEDICINE (2015).

190.   *See generally* Seth Gershenson et al., *Who Believes in Me? The Effect of Student-Teacher Demographic Match on Teacher Expectations* (Upjohn Inst. Working Paper No. 15-231, 2015), http://dx.doi.org/10.17848/wp15-231; Donna St. George, *Holder, Duncan Announce National Guidelines on School Discipline*, WASH. POST (Jan. 8, 2014), https://www.washingtonpost.com/local/education/holder-duncan-announce-national-guidelines-on-school-discipline/2014/01/08/436c5a5e-7899-11e3-8963-b4b654bcc9b2_story.html; RACIAL INEQUITY IN SPECIAL EDUCATION (Daniel J. Losen & Gary Orfield eds., 2002). *But see* Paul L. Morgan & George Farkas, Opinion, *Is Special Education Racist?*, N.Y. TIMES, June 24, 2015, at A23 (disputing the existence of racial bias in student placement disparities).

191.   *See, e.g.*, L. Song Richardson, *Arrest Efficiency and the Fourth Amendment*, 95 MINN. L. REV. 2035 (2010); L. Song Richardson, *Police Efficiency and the Fourth Amendment*, 87 IND. L. J. 1143 (2012); Anthony G. Greenwald, et al., *Targets of Discrimination: Effects of Race on Responses to Weapons Holders*, 39 J. EXPERIMENTAL & SOC. PSYCHOL. 399 (2003); Joshua Correll, et al., *Event-Related Potentials and the Decision to Shoot: The Role of Threat Perception and Cognitive Control*, 42 J. EXPERIMENTAL SOC. PSYCHOL. 120 (2006).

192.   *See* Thomas F. Pettigrew, *Intergroup Contact Theory*, 49 ANN. REV. PSYCHOL. 65, 80 (1998) [hereinafter Pettigrew, *Intergroup Contact Theory*].

193.   For early examples, see Rose Zeligs & Gordon Hendrickson, *Racial Attitudes of 200 Sixth Grade Children*, 18 SOC. & SOC. RES. 26 (1933); F. TREDWELL SMITH, AN EXPERIMENT IN MODIFYING ATTITUDES TOWARD THE NEGRO (1943) (reporting decreased racial bias amongst white students who spent two weekends in Harlem with exemplary black community members); H.A. Singer, *The Veteran and Race Relations*, 21 J. EDUC. SOC. 397 (1948); DANIEL M. WILNER ET AL., HUMAN RELATIONS IN INTERRACIAL HOUSING: A STUDY OF THE CONTACT HYPOTHESIS (1955) (noting that white women who had multiple interactions with their new black neighbors were more than twice as likely to develop positive racial attitudes than white women who had only exchanged casual greetings with them). *See also* John F. Dovidio et al., *Intergroup Contact: The Past, Present, and the Future*, 6 GROUP PROCESSES & INTERGROUP REL. 5, 5 (2003) ("Intergroup contact has long been considered to be one of psychology's most effective strategies for improving intergroup relations.").

human behavior in psychologist Gordon Allport's seminal 1954 treatise, *The Nature of Prejudice.*[194] Although scholars have disagreed at times about which specific conditions are necessary, sufficient, or helpful for productive intergroup contact,[195] the conventional view at its core still reflects the theory as Allport originally articulated it. In *The Nature of Prejudice*, Allport specifies a set of conditions that have since been regarded as central to intergroup contact theory.

> To be maximally effective, contact and acquaintance programs should lead to a sense of equality in social status, should occur in ordinary purposeful pursuits, avoid artificiality, and if possible enjoy the sanction of the community in which they occur. The deeper and more genuine the association, the greater its effect.[196]

Allport's analysis was developed into four specifications—that members of different groups interact with equal group status within the relevant situation, common goals, intergroup cooperation, and authority support—that are now widely accepted as the optimal conditions for stereotype-deflating intergroup contact.[197] This core conceptual framework of intergroup contact theory has been corroborated in hundreds of studies and meta-studies over the past half-century, in a wide variety of social contexts.[198] In reviewing this research, Thomas Pettigrew, the leading proponent of intergroup contact theory, has discerned an additional fifth requirement for optimal intergroup contact, one that is especially relevant in the college context: the time and opportunity for people to develop cross-group friendships.[199]

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194. GORDON W. ALLPORT, THE NATURE OF PREJUDICE (1954).

195. For example, some psychologists have theorized that intergroup contact reduces bias most effectively when the group membership identity is not salient. *See* Dovidio, *supra* note 193, at 11. Others have concluded that intergroup contact only reduces bias when the group membership identity of the individual in the interaction is salient. *See* Rupert Brown, James Vivian, & Miles Hewstone, *Changing Attitudes Through Intergroup Contact: The Effects of Group Membership Salience*, 29 EUR. J. SOC. PSYCHOL. 741, 761 (1999) (concluding that "the positive effects of [intergroup] contact can be heightened by maintaining the salience of [group] categories . . .."). *See generally* Tristin K. Green, *Discomfort at Work: Workplace Assimilation Demands and the Contact Hypothesis*, 86 N.C. L. REV. 379 (2008) (discussing various intergroup contact-related theoretical approaches).

196. ALLPORT, supra note 194, at 489.

197. *See* Pettigrew, *Intergroup Contact Theory*, *supra* note 192, at 66–68.

198. *See id.*; Thomas Pettigrew et al., *Recent Advances in Intergroup Contact Theory*, 35 INT'L J. INTERCULTURAL REL. 271 (2011); Thomas F. Pettigrew & Linda R. Tropp, *A Meta-Analytical Test of Intergroup Contact Theory*, 90 J. PERSONALITY & SOC. PSYCHOL. 751 (2006) [hereinafter Pettigrew, *A Meta-Analytical Test*].

199. Pettigrew explains: "The power of cross-group friendship to reduce prejudice and generalize to other outgroups demands a fifth condition for the contact hypothesis:

The existing empirical research on campus race relations has been highly consistent with intergroup contact theory.[200] The salutary effects of interracial contact have been demonstrated most vividly in a number of studies that have examined the effects of cross-racial roommate relationships.[201] Psychologist Colette Van Laar and her coauthors found living with roommates from different racial or ethnic groups to be associated with decreased intergroup prejudice.[202] Jim Sidanius and his collaborators found that even white students who were randomly assigned black roommates exhibited increased positive affect toward blacks and decreased symbolic racism relative to white classmates who did not receive black roommates.[203] Sidanius' team also found that white students who received roommates from one stigmatized racial group (blacks or Latinos) reported more positive feelings toward members of the other group.[204] They also found that students who engaged in more intergroup dating exhibited less in-group bias by the end of college.[205]

These and other empirical findings consistent with intergroup contact theory[206] suggest that the ongoing prevalence of racial segregation results in missed opportunities to make further headway against harmful racial stereotypes and prejudice. The failure of colleges and universities to better take advantage of these opportunities is felt

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The contact situation must provide the participants with the opportunity to become friends." Pettigrew, *Intergroup Contact Theory, supra* note 192, at 76.

200. *See infra* notes 201–206 and accompanying text. *See also, e.g.,* Colette Van Laar et al., *The Effect of University Roommate Contact on Ethnic Attitudes and Behavior,* 41 J. EXPERIMENTAL SOC. PSYCHOL. 329, 337 (2005) (finding that "individuals randomly assigned to live with outgroup roommates at the start of their first year of university showed improved intergroup attitudes by the end of this year, consistent with contact theory").

201. *See* SIDANIUS ET AL., *supra* note 15, at 215–226.

202. Van Laar et al., supra note 200.

203. SIDANIUS ET AL., *supra* note 15, at 215–226. *See also* Shana Levin et al., *The Effects of Ingroup and Outgroup Friendships on Ethnic Attitudes in College: A Longitudinal Study,* 6 GROUP PROCESSES & INTERGROUP REL. 76, 89–90 (2003) (finding that college students with more friends of other races exhibit less racial bias when they graduate, even controlling for initial racial attitudes and pre-college variables).

204. SIDANIUS ET AL., *supra* note 15, at at 215.

205. *Id.* at 196.

206. *See, e.g.,* Bowman, *supra* note 184, at 327 (finding that white and Asian students with greater interracial interactions were less likely to "blam[e] people of color for their life outcomes"); *id.* at 326 (finding "increased closeness to other races," for non-white students, and "greater ease in getting along with people from other races."); Jesse D. Rude et al., *Racial Attitude Change During the College Years* 4–5 (Apr. 6, 2012) (prepared for the 2012 Annual Meeting of the American Educational Research Association), http://www.norc.org/PDFs/AERA%20Annual %20Meeting/Racial%20Attitude%20Change%20during%20the%20College%20Years%2 0(AERA%202012).pdf (noting that students who developed interracial friendships and participated in frequent conversations with students of other races exhibited increased commitment to promoting racial understanding).

well beyond the gates of their campuses.

B.   Diminished Access to Valuable Social Capital

Campus segregation also undermines racial progress by depriving black students and workers of access to the potentially valuable financial and cultural capital embedded within the social networks of their non-black classmates. By bringing them into close proximity with students from more social-capital rich backgrounds, college offers black students potential opportunities to develop professionally advantageous social contacts. Bright, upwardly mobile black students who arrive at selective colleges without the benefit of family connections or insider career insights could benefit greatly from their relationships with classmates who have better access to career information and opportunities. Black students who otherwise may never have considered careers in investment banking, consulting, or the tech industry, for example, can receive invaluable insights and information about these fields from classmates whose relatives, neighbors, or friends work in these areas. Through these well-connected classmates, black students can gain access to information about job openings, internship opportunities, and the unwritten rules helpful to navigate the hiring processes at elite corporate firms. Campus segregation effectively denies many black students access to these vital social resources.

Though seldom acknowledged as such, the segregation and inequality of black and white Americans' social capital[207] is one of the damaging, enduring consequences of America's appalling racial history. In a more racially egalitarian society, the segregation of social networks would not necessarily harm the members of any racial group more than others. In present day America however, entrenched racial inequality ensures that white people generally have far greater access than black people to family and social connections able to provide them work opportunities, information, and support.[208] In *American Non-Dilemma*, her insightful book on the social determinants of racial inequality in employment, organizational researcher Nancy DiTomaso offers example after example of white workers who were able to attain their first "good jobs" through the assistance of various social ties including family,

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207. The concept of social capital generally can be understood as the goodwill and access to preferential treatment that is available to people based on their membership in groups and relationships. *See* James S. Coleman, *Social Capital in the Creation of Human Capital*, 94 AM. J. SOC. (SUPP.) S95, S100–01 (1988).

208. *See, e.g.,* NANCY DITOMASO, THE AMERICAN NON-DILEMMA: RACIAL INEQUALITY WITHOUT RACISM 46–101 (2013). *See also* Steve McDonald et al., *Networks of Opportunity: Gender, Race, and Job Leads*, 56 SOC. PROBS. 385, 397 (2009) (finding that white male workers receive better employment leads from their social contacts than Hispanic workers do from theirs).

friends, family friends, and the family of friends.[209] Black workers, whose connections are far less able to provide them this kind of information and opportunities, suffer a considerable comparative disadvantage.[210]

Similarly, sociologist Maya Beasley found that the parents of the black Stanford and Berkeley students in her study were often able to offer their upwardly-mobile offspring only the most general (and therefore least helpful) career advice.[211] This segregation also produces racial disparities in students' human capital and work experience, which begin to take shape well before students graduate from college. Maya Beasley found that black Berkeley and Stanford students with integrated social networks were "far more likely [than other black students] to have involved themselves in career-related job activities during college,"[212] including skill-enhancing, resume-building employment and internship positions during their summers.[213] By contrast, black students with segregated networks more often worked in low-skill service positions in their hometowns.[214] In time, these disparities further limit the movement of many talented black students into a number of high-status employment positions.

The failure of black students to develop greater interracial social capital on campus ultimately hinders them from establishing valuable interracial relationships in the workplace. Because of cultural homophily,[215] students who experience inadequate interracial social acclimation during their college and childhood years may later have greater difficulties developing rapport and relational capital with white

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209. *See* DITOMASO, *supra* note 208.

210. *Id.*

211. BEASLEY, *supra* note 105, at 46–52.

212. *Id.* at 159.

213. *Id.* at 159–61.

214. *Id.*

215. *Id.* Cultural homophily, the tendency of people to gravitate toward others who share similar cultural interests and backgrounds, is a particularly important source of rapport. *See, e.g.,* Andreas Wimmer & Kevin Lewis, *Beyond and Below Racial Homophily: ERG Models of a Friendship Network Documented on Facebook,* 116 AM. J. SOC. 583, 607 n.20 (finding that students "display a significant preference for culturally similar [others]"); Thomas J. Berndt, *The Features and Effects of Friendship in Early Adolescence,* 53 CHILD DEV. 1447, 1454 (1982) ("[F]riends are similar in their orientation toward contemporary teen culture. They like the same kind of music, have similar tastes in clothes, and enjoy the same kinds of leisure-time activities.") (citation omitted); Noah P. Mark, *Culture and Competition: Homophily and Distancing Explanations for Cultural Niches,* 68 AM. SOC. REV. 319, 320 (2003) ("[C]ultural similarities and differences among people provide bases for cohesion and exclusion. Empirical research shows that individuals who are culturally similar are more likely to be associates than are individuals who are culturally different.") (citations omitted). The forms of culture that can serve as the basis for homophily include any of a broad range of attributes relating to individuals' recreational, leisure-time, and consumption practices.

colleagues, supervisors, and potential mentors on the job.[216] Though the tendency of cultural homophily is itself race-neutral, in predominantly white work settings it disproportionately disadvantages black workers.[217] This occurs not because those social and cultural traits of their white counterparts are intrinsically superior but simply because they provide means of developing rapport with a greater number of colleagues and employers.[218] I have called attention to this problem in two previous articles with qualitative empirical data from interviews of black workers working in predominantly white employment settings.[219] In conducting these interviews, I observed that those workers who reported having had little meaningful interracial social contact during their childhood and university years frequently struggled to develop rapport with colleagues and mentors in their firms and industries.[220] This lack of rapport contributes to the well-documented racial disparities in workplace social capital,[221] and thereby reinforces racial disparities in access to opportunities, support, and a variety of career outcomes.[222] Though

216. *See* Woodson, *Derivative Racial Discrimination*, *supra* note 123. Of course, many people are also able find rapport with dissimilar others too. It is not impossible, just more difficult. People who are extroverted and gregarious, in particular, may find that their social skills regularly offer them entrée into networks and bonds with people with whom they have virtually nothing in common. To the extent that outsiders are not excluded because of bias or animosity, but disadvantaged by homophily instead, they can often attain inclusion by mobilizing the right social and cultural skills and resources.

217. *See* Woodson, *Race and Rapport*, *supra* note 19; Woodson, *Derivative Racial Discrimination*, *supra* note 123.

218. *See* Woodson, *Race and Rapport*, *supra* note 19, at 2574; Woodson, Derivative Racial Discrimination, *supra* note 123.

219. *See* Woodson, *Race and Rapport*, *supra* note 19 (explaining that homophily disadvantages many black associates working in large, predominantly white law firms); Woodson, *Derivative Racial Discrimination*, *supra* note 123 (explaining that homophily disadvantages professional and managerial-level black workers in other corporate settings).

220. *See* Woodson, *Race and Rapport*, *supra* note 19, at 2569–70.

221. Racial disparities in workplace social capital have been documented in empirical studies of a number of different employment contexts. *See, e.g.*, Erika Hayes James, *Race-Related Differences in Promotions and Support: Underlying Effects of Human and Social Capital*, 11 ORG. SCI. 493, 496–97 (2000) (stating that black corporate managers reported receiving less mentorship support than white managers); Monique R. Payne-Pikus, et al., *Experiencing Discrimination: Race and Retention in America's Largest Law Firms*, 44 L. & SOC'Y REV. 553, 567–72 (2010) (noting racial disparities in law firm associates' informal social contact with partners and their desires for better mentorship relationships).

222. *See* Woodson, *Derivative Racial Discrimination*, *supra* note 123; Woodson, *Race and Rapport*, *supra* note 19. This social distance between black workers and their white supervisors and potential mentors and sponsors is a central mechanism underlying the particularistic mobility and minority vulnerability theses, two related theories of racial disadvantage that attribute racial disparities in promotions and terminations in part to their lack of informal relationships with supervisors and senior colleagues. *See, e.g.*, Stephanie Baldi & Debra Branch McBrier, *Do the Determinants of Promotion Differ for Blacks and Whites?*, 24 WORK & OCCUPATIONS 478 (1997); Ryan A. Smith, *Do the*

racial segregation and cultural homophily impede workers of all races from developing interracial social capital, in the many employment settings where white workers are overrepresented (particularly in positions of power and influence), the brunt of this social dynamic falls squarely upon black workers.[223]

Further, as some leading antidiscrimination scholars have argued, these racial differences in cultural traits may also render black workers vulnerable to discrimination on the basis of stereotypes attached to cultural and performative markers of black racial identity.[224] Though legal scholars have argued persuasively that black workers should be spared from pressures to conform to the subjective cultural preferences and expectations of their colleagues and employers,[225] as a practical matter, the inability to do so can have dire racial consequences.

C. Greater Racial Anxiety

The ability to function effectively and comfortably in interracial relationships is a competency that people develop over time through extensive experience and exposure. Black workers who enter the workforce without adequate prior interracial exposure are more likely to experience anxiety during interactions with white employers and colleagues. This anxiety in turn can hinder them from developing productive beneficial relationships.[226] Hence, workers with limited prior

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Determinants of Promotion Differ for White Men Versus Women and Minorities? An Exploration of Intersectionalism Through Sponsored and Contest Mobility Processes, 48 AM. BEHAV. SCIENTIST 1157 (2005); George Wilson & David J. Maume, *Men's Race-Based Mobility into Management: Analyses at the Blue Collar and White Collar Job Levels*, 33 RES. SOC. STRATIFICATION & MOBILITY 1 (2013); George Wilson et al., *Reaching the Top: Racial Differences in Mobility Paths to Upper-Tier Occupations*, 26 WORK & OCCUPATIONS 165 (1999).

223. *See* Woodson, *Race and Rapport*, *supra* note 19, at 2565; Woodson, *Derivative Racial Discrimination*, *supra* note 123.

224. See, e.g., Devon W. Carbado & Mitu Gulati, *Working Identity*, 85 CORNELL L. REV. 1259, 1262–72 (2000); Carbado & Gulati, *The Fifth Black Woman*, *supra* note 172, at 717–19 (presenting fictitious example of black employee treated adversely because of her distinctively black cultural and social traits including her self-presentation style, grooming preferences, and recreational preferences); Devon Carbado et al., *After Inclusion*, 2008 ANN. REV. L. & SOC. 83, 97 (2008) (positing that black employees who "act black" "in terms of social behavior" may be vulnerable to adverse treatment); Camille Gear Rich, *Performing Racial and Ethnic Identity: Discrimination by Proxy and the Future of Title VII*, 79 N.Y.U. L. REV. 1134, 1160 (2004) (discussing "the special stigma attached to race/ethnicity-associated practices").

225. *See, e.g.*, Carbado & Gulati, *The Fifth Black Woman*, *supra* note 172; Barbara J. Flagg, *Fashioning a Title VII Remedy for Transparently White Subjective Decisionmaking*, 104 YALE L.J. 2009 (1995); Green, *Discomfort at Work*, *supra* note 195, at 381. *But see* RICHARD T. FORD, RACIAL CULTURE: A CRITIQUE (2005).

226. Rodolfo Mendoza-Denton et al., *Sensitivity to Status-Based Rejection: Implications for African American Students' College Experience*, 83 J. PERSONALITY &

interracial interaction may shrink from certain interracial encounters[227] that workers who have greater prior interracial contact can more fruitfully navigate.[228] Given the importance of rapport and informal social relationships with colleagues in many employment contexts,[229] this anxiety and the ensuing self-protective avoidance behaviors[230] exacerbate the social isolation and professional disadvantages of many black workers.[231]

Researchers have found evidence consistent with this dynamic in the context of interracial social relationships and interactions on college campuses. In an experiment involving a sample of students who had entered a large public university as freshmen between 1997 and 2000,[232] Johanne Boisjoly and her collaborators found that white students who had been randomly assigned black roommates reported greater comfort in interactions with non-white students later in college.[233] Similarly, Jim Sidanius and his collaborators found that students who engaged in

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SOC. PSYCHOL. 896, 898 (2002) (noting that racial anxiety leads individuals to experience greater wariness toward interactions with members of other racial groups).

227. *See* Sophie Trawalter et al., *Predicting Behavior During Interracial Interactions: A Stress and Coping Approach*, 13 PERSONALITY & SOC. PSYCHOL. REV. 243, 252 (2009).

228. *Id.* at 251–52. Psychologist Sophie Trawalter and her coauthors explain the value of prior interracial contact in enabling people to engage in productive interracial interactions:

> In general, White and racial minority individuals who have positive racial attitudes and previous experience with interracial contact are most likely to appraise the demands of interracial contact as low and therefore engage. By virtue of their positive racial attitudes and experience with interracial contact, these individuals are also likely to feel capable of making a good impression on their interaction partner . . . as a result of their experience with interracial contact, these individuals are likely to have scripts for these encounters.

Id. at 251.

229. *See supra* note 222.

230. Racial anxiety leads people to attempt to avoid interracial interactions. As psychologist Elizabeth Pinel explains:
Whether or not a high level of stigma consciousness is justified, it may have cognitive and behavioral consequences that shape targets' future experiences. Paradoxically, people's excessive concern about their stereotyped status can actually have the unintended effect of spoiling their opportunities to move beyond it.
Elizabeth C. Pinel, *Stigma Consciousness: The Psychological Legacy of Social Stereotypes*, 76 J. PERSONALITY & SOC. PSYCHOL. 114, 127 (1999). *See also* Mendoza-Denton et al., *supra* note 226, at 915 (explaining that "[o]ne strategy for reducing such stress involves avoiding exposure to status-based rejection").

231. *See* Mendoza-Denton et al., *supra* note 226, at 915 (explaining that although efforts to avoid intergroup interactions "serve self-protective functions, they can also constrain the diversity of one's social contacts, limit one's use of available resources, and compromise one's success . . .").

232. Johanne Boisjoly et al., *Empathy or Antipathy? The Impact of Diversity*, 96 AM. ECON. REV. 1890 (2006).

233. *Id.* at 1902.

intergroup dating in college displayed less intergroup anxiety by the end of college.[234] Conversely, these researchers found that students with higher proportions of same-race friends exhibited greater inter-group anxiety by the time they had completed college, even controlling for their background views and experiences.[235] This anxiety also renders students more likely to perceive greater incidences of racial discrimination at their schools,[236] which in turn leads to further racial isolation and anxiety.

These experimental findings are consistent with the qualitative research of sociologist Maya Beasley, who found that participating in segregated social groups heightened black students' perceptions and expectations of racism,[237] making them less comfortable in interracial interactions.[238] Beasley also observed that campus segregation appeared to lead to self-imposed constraints on the career aspirations of many black students at two prestigious universities.[239] Beasley found that despite their considerable talents and formidable academic credentials, black students with racially segregated social networks often lacked the interracial comfort necessary to pursue careers in various predominantly white industries.[240] While black students with integrated networks aspired to the same broad range of jobs and careers as their non-black classmates, black students with the least interracial contact often perceived that high-status occupations in these predominantly white industries were insurmountably racist and therefore limited their career aspirations accordingly.[241] Through this process of self-elimination, college segregation plays an indirect role in further limiting the inroads of black workers into a number of high-status professions.

This Part has illuminated some of the heavy costs of the prevailing patterns of racial segregation on college campuses. Even

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234. SIDANIUS ET AL., *supra* note 15, at 196.

235. *Id.* at 192.

236. *Id.* at 199.

237. BEASLEY, *supra* note 105, at 96–98.

238. *Id.* at 70–71.

239. Beasley demonstrates this possible linkage by contrasting the experiences of two of her interviewees, both of whom grew up in low-income urban California neighborhoods in households of relatively limited means. BEASLEY, *supra* note 105, at 57–59.   One of them, who immersed herself in a racially isolated social and organizational life, aspired to pursue a career in the non-profit sector, an industry in which black workers are somewhat overrepresented. *Id.* at 58. The other, who developed a racially diverse group of social contacts, spoke of pursuing a career path in international diplomacy, a field in which black workers are notably underrepresented, aspiring ultimately to become Secretary of State. *Id.* at 58–59.

240. *Id.* at 163 (finding that campus segregation "constrain[s] the boundaries of students' expectations for their futures"). *Id.* at 13 (stating that black students' segregated social networks "stifle[d] the flow of information imperative to making educated career decisions and having more career options").

241. *Id.* at 97–99.

when it is partly the product of voluntary choice,[242] the social segregation of black and white Americans' informal networks and relationships functions as part of the social architecture of racial inequality.[243] This problem is all the more objectionable because it is not entirely unavoidable. The high prevalence of campus segregation is not some inevitable consequence of unalterable student attitudes; rather, it is the natural and foreseeable outcome of certain practices and policies that have been widely adopted by American universities. These universities, therefore, should be required to pursue institutional reforms that might help set things right. The following Part identifies a number of possible steps through which universities might address some of the excesses of campus segregation and thereby more fully realize the potential benefits of student body diversity.

IV. AFFIRMATIVE INTEGRATIVE ACTION

Given the many societal and university-based factors that produce and sustain de facto segregation on campus, addressing this balkanization will be a difficult, demanding undertaking requiring concerted planning and effort. Making any headway at all will require bold strategies, unpopular reforms, and significant resource expenditures. In the absence of affirmative, purposeful efforts on the part of university leaders to attain greater racial integration, the social segregation prevalent at American colleges and universities will continue indefinitely. As sociologist Elizabeth Stearns and her collaborators conclude in their research on campus race relations, unless universities "intentionally structure opportunities for students to leave the comfort of their homogeneous peer group and build relationships across racially/ ethnically diverse student communities on campus," students will likely form interracial friendships only "rarely."[244] University administrators cannot in good faith stand by and hope that students will find the will and means to achieve greater integration on their own. Schools can

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242. There is considerable qualitative and anecdotal evidence that college-educated black workers seek out residential and social segregation after they have joined the workforce and begun their careers. This is a common theme in writings on high-income black professional households. *See, e.g.*, SHERYLL CASHIN, THE FAILURE OF INTEGRATION: HOW RACE AND CLASS ARE UNDERMINING THE AMERICAN DREAM (2004); SAM FULWOOD III, WAKING UP FROM THE DREAM: MY LIFE IN THE BLACK MIDDLE CLASS (1996); KARYN LACY, BLUE-CHIP BLACKS: RACE, CLASS, AND STATUS IN THE NEW BLACK MIDDLE-CLASS (2007).

243. While campus segregation also limits the social networks of white students, the instrumental consequences of this stratification are far less costly for them, given the disparities in black and white students' networks. *See, e.g.*, BEASLEY, *supra* note 105, at 63 (explaining that segregation did not appear to effect white students' career aspirations).

244. Stearns et al., *supra* note 10, at 192.

maximize their prospects of achieving the benefits of racial diversity by implementing a number of institutional reforms.[245]

At best, progress will likely be piecemeal and gradual. Such efforts will potentially pay great dividends though, particularly for black students, who, as a practical matter, have the most to gain from progress against racial bias, racial anxiety, and the entrenched stratification of social capital.[246] This Part will identify a number of policies and practices that may help university leaders curtail segregation and promote more positive and sustained interracial relationships and interactions. These reforms include addressing perceptions of racial inhospitality, eliminating pre-college programs and housing arrangements that effectively divide students on the basis of race, placing additional constraints on roommate choice, restricting fraternities and sororities from campus, and offering courses that might help individual students engage in meaningful cross-racial exchange. Though several of these proposals are likely to be highly controversial and potentially expensive, schools truly committed to racial inclusiveness and diversity should take them into consideration.

A. Addressing Student Perceptions of Campus Inhospitality

So long as many minority students perceive their universities to be racially unwelcoming institutions populated by ambivalent classmates and apathetic administrators, efforts to dismantle campus segregation will likely prove futile. Therefore, as a threshold matter, it is of paramount importance that university leaders take all appropriate measures to address the grievances and concerns of minority students concerning incidents of alleged racial misconduct. Universities need to ensure that their university and local police forces receive sufficient training concerning racial profiling and insensitivity, as mistreatment at the hands of campus security and police have been frequent, longstanding sources of complaints from black male students.[247]

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245. Patricia Gurin explains:

> [I]nstitutions of higher learning must bring diverse students together, provide stimulating courses covering historical, cultural, and social bases of diversity and community, and must create opportunities and expectations for students to interact across racial and other divides. Otherwise, many students will retreat from the opportunities offered by a diverse campus to find settings within their institutions that are familiar and that replicate their home environments.

Gurin, *supra* note 4, at 370.

246. *See supra* Part II.

247. *See* Scott Jaschick, *Racial Profiling on Campus?*, INSIDE HIGHER ED. (Jan. 26, 2015), https://www.insidehighered.com/news/2015/01/26/incident-yale-sets-new-debate-

Universities also should strive to reduce the incidence of "microaggressions," the relatively minor, often inadvertent slights and insensitivities that many minority students encounter in their day-to-day lives on campus.[248] Publicly and vigilantly addressing concerns of racial discrimination or harassment on campus carries the key symbolic benefit of communicating to minority students that they are full members of the campus community whose needs and well-being are taken seriously by university leadership.[249] To this end, universities should consider convening task forces or standing committees on minority student life with regular student involvement and input to assure open lines of communication and greater responsiveness regarding the concerns of minority students.

The failure of university leaders to address student concerns appropriately can produce just as much alienation and resentment as the underlying incidents themselves. Indeed, the apparent unresponsiveness of former University of Missouri president, Tim Wolfe, and his administration to complaints regarding multiple incidents of racial abuse suffered by black students was a principle impetus for student demands for his ouster.[250]

Recent events at Yale University provide another prime example of the type of conduct that universities should seek to avoid. When Yale College Dean of Student Engagement Burgwell Howard sent out an email to persuade students to consider the unintentional effects of culturally and racially insensitive Halloween costumes may have on other members of the university community,[251] in a now notorious

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racial-profiling (discussing recent highly-publicized allegations of racial profiling at several colleges and universities across the country).

248. See Tanzina Vega, Students See Many Slights as Racial 'Microaggressions', N.Y. TIMES, Mar. 21, 2014, at A1; Collin Binkley & Errin Haines Whack, Black Students On Daily Campus Microaggressions: 'It's Exhausting,' TALKING POINTS MEMO (Nov. 13, 2015), http://talkingpointsmemo.com/news/black-on-campus-students-missouri-protests; Greg Lukianoff & Jonathan Haidt, The Coddling of the American Mind, ATLANTIC (Sept. 2015), http://www.theatlantic.com/magazine/archive/2015/09/the-coddling-of-the-american-mind/399356/ (complaining that the term has become diluted and overused over time, to disastrous effect).

249. Indeed the failure of universities to take such steps played a significant role in fueling the recent wave of student protests. See John Eligon & Richard-Pérez-Peña, University of Missouri Protests Spur a Day of Change, N.Y. TIMES, Nov. 9, 2015, at A1 (reporting that black students at University of Missouri complained that university administration failed to address several reported incidents of racial harassment).

250. Summer Balantine & Jim Suhr, U. of Missouri President, Chancellor Leave Over Race Tension, ASSOCIATED PRESS (Nov. 10, 2015), http://bigstory.ap.org/article/e39861e9b88045bba25e28888dfa551c/university-missouri-protests-grow-after-athletes-jump.

251. The most pertinent part of the email read:

follow-up email to the students of her residential college, university administrator Erika Christakis directly undermined Howard's email and suggested that it amounted to heavy-handed administrative overreach.[252] Christakis's email conveyed to minority students a belief that the university should not take even modest steps to seek to protect them from unnecessary racial affronts and distress.[253]

In addressing racial misconduct, universities should not limit themselves to punishing perpetrators or implementing specific reforms demanded by students. Though in a perfect world, university leaders committed to racial inclusiveness and equality would be able to eradicate all incidents of racial misconduct and insensitivity from their campuses, in the real world, the racial attitudes and conduct of students is clearly to some extent beyond their control. Therefore, in addition to working to prevent and sanction racial mistreatment, administrators also should implement programming to help aggrieved students contextualize their

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Yale is a community that values free expression as well as inclusivity. And while students, undergraduate and graduate, definitely have a right to express themselves, we would hope that people would actively avoid those circumstances that threaten our sense of community or disrespects, alienates or ridicules segments of our population based on race, nationality, religious belief or gender expression.

The culturally unaware or insensitive choices made by *some* members of our community in the past, have not just been directed toward a cultural group, but have impacted religious beliefs, Native American/Indigenous people, Socio-economic strata, Asians, Hispanic/Latino, Women, Muslims, etc. In many cases the student wearing the costume has not *intended* to offend, but their actions or lack of forethought have sent a far greater message than any apology could after the fact. . .

There is growing national concern on campuses everywhere about these issues, and we encourage Yale students to take the time to consider their costumes and the impact it may have.

Email from Burgwell Howard, Yale Dean of the College Office/Office of Student Life, Intercultural Affairs Committee, to Yale University Students (Oct. 28, 2015), https://www.thefire.org/email-from-intercultural-affairs/.

252. *See* Rahel Gebreyes, *Yale Student Explains Why Students Were Offended By Halloween Costumes Email*, HUFFINGTON POST (Nov. 11, 2015), http://www.huffingtonpost.com/entry/yale-student-halloween-costumes-christakis_us_5644baa8e4b045bf3dedfe1e (describing Christakis's email and the ensuing backlash).

253. *See Open Letter to Associate Master Christakis*, DOWN MAG (Oct. 31, 2015) (written by Ryan Wilson), http://downatyale.com/post.php?id=430 (posting an open letter from students, faculty, and staff criticizing Christakis for being dismissive and insensitive toward the feelings of minority students). *But see* Conor Friedersdorf, *The New Intolerance of Student Activism*, ATLANTIC (Nov. 9, 2015), http://www.theatlantic.com/politics/archive/2015/11/the-new-intolerance-of-student-activism-at-yale/414810/ (defending the email as a legitimate defense of free speech and academic freedom).

unpleasant experiences and challenges so that they ultimately can work through them. Schools should work to make clear to these students that the misconduct of a few bad actors do not represent the values of their classmates or the institutions as a whole. They also should implement supportive training and counseling programs that will help minority students better cope with the frustrations of racial mistreatment and microaggressions so that their effects are not as harmful. Though addressing these persistent problems may prove challenging, in some instances this difficult task may be a necessary precondition of more fruitful campus race relations.

B.   Disrupting Segregation

The following section will identify a number of realms of college life in which concerted integrative interventions on the part of university administrators may reduce campus segregation.

1.   Eliminating Segregated Pre-College Events

As an initial matter, universities should eliminate race-based pre-college events, including the separate recruiting, admitted students and orientation events that are still in place at many selective universities.[254] These programs, which funnel students into racially defined peer groups at the onset of their college careers,[255] undermine *Grutter* and bear other long-term costs that outweigh the short-term comfort and enjoyment that they provide for participating students. Instead of condoning such practices, schools should take advantage of these opportunities to put together programs that will more clearly convey norms of interracial interaction and nudge participating students to develop acquaintanceships and friendships across racial lines as early as possible in their college careers.

Some university leaders have recognized the potential benefits of such reforms. Former Yale College dean Richard Broadhead for example, required that program organizers open to white students the school's previously minority-only pre-college orientation program, Cultural Connections.[256] Very few schools have taken such steps though, possibly because such efforts would provoke considerable student outrage, particularly from the schools' minority populations, many of whom enjoy the camaraderie of these events as they are currently

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254. *See supra* note 142 and accompanying text.
255. *See supra* note 143 and accompanying text.
256. Bess Hinson, *Connections to Expand*, YALE DAILY NEWS (Feb. 23, 2004), http://yaledailynews.com/blog/2004/02/23/connections-to-expand/.

designed.[257] The risk of disapproval and backlash is a necessary evil that is well worth enduring for the potential benefits at stake.

2.   Addressing Segregated Housing Patterns

Even more critically, universities need to confront and disrupt the rampant racial segregation in student housing.[258] In recognition of the impact of integrated housing arrangements on students' subsequent racial attitudes and the racial composition of their social networks,[259] universities must work to further promote racial integration in housing and to restrict the ability of students to opt for racially segregated housing.

There are a number of possible housing-related reforms with varying levels of feasibility and probable impact. Where possible, schools should work purposefully to diversify roommate pairings, whether through racialized assignments or by providing incentives.[260] This is most important,[261] and perhaps easiest to accomplish, with respect to freshman roommate assignments, which many schools already handle with minimal student input. An even more effective approach—the use of race conscious housing assignments for multiple years,[262] would likely encounter greater resistance to the extent that it is perceived as infringing upon long-held prerogatives of upperclassmen.

Universities that have the necessary infrastructure in place or financial resources available could also consider implementing the residential college model already used by a small number of schools across the country.[263] Under the residential college model, schools

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257. *See id.* (explaining that Dean Broadhead received criticism for his efforts in integrating Yale's orientation program).

258. *See* MILEM ET AL., *supra* note 1, at 28 (concluding that "heterogeneous residence halls are an extremely important site for the development of friendships with students from different racial and ethnic backgrounds.").

259. *See supra* notes 201–205, 232–233 and accompanying text *See also* Stearns et al., *supra* note 10, at 190 (emphasizing the importance of propinquity in residential settings for sustaining interracial interaction).

260. As a constitutional matter, taking race into consideration here should easily meet the requirements of strict scrutiny, for it seeks to further the compelling interest of educational diversity through means that are far less impactful than the weighting of race in student admissions.

261. *See* MILEM ET AL., *supra* note 1, at 28 ("[T]he first year is the period when friendship selection is the dominant aspect of a student's social life.").

262. *See* Martin et al., *supra* note 10, at 725 (offering these suggestions).

263. *See* Holly Ramer, Associated Press, *A Look at How Residential Colleges Work at Some Schools*, WASH TIMES (Mar. 22, 2015), http://www.washingtontimes.com/news/2015/mar/22/a-look-at-how-residential-colleges-work-at-some-sc/?page=all# (listing Yale University, Harvard University, Dartmouth University, Rice University, Middlebury College, Trinity College, Vanderbilt University, and Murray State University as schools that either already have residential college systems or have begun implementing them). *See, e.g.*, YALE COLL., *Residential Colleges*,

assign their undergraduate students to smaller residential communities within their schools that they share for the duration of college. This approach promotes a greater sense of common identity and community, providing continuity in social relations that might better enable students to develop relationships across racial lines.

Colleges can also better promote integration by eliminating or substantially scaling back race- and ethnicity-themed housing arrangements. Though efforts to implement such reforms undoubtedly would spark massive protest and fierce resistance,[264] the stakes are high enough to merit serious consideration from schools truly committed to securing the benefits of racial diversity. Though it is far from conclusive, the existing empirical evidence suggests that lessening the amount of formally racialized space on campus may have a broader impact on students' overall social and extracurricular lives. Sociologist Maya Beasley, who found substantial segregation among Stanford University undergraduates, observed noticeably less segregation amongst black undergraduates at Berkeley.[265] Beasley attributed the greater integration at Berkeley in large part to the lack of race-based physical and social space at the university,[266] reflecting the impact of Proposition 209 in limiting the size of Berkeley's black student population.[267]

YALE U., http://yalecollege.yale.edu/campus-life/residential-colleges (last visited Mar. 13, 2016) (Yale College); *About the Residential College System*, RICE U., http://students.rice.edu/students/Colleges.asp (last visited Mar. 13, 2016) (Rice College); NORTHWESTERN UNIV. STUDENT AFFAIRS, *Residential Services*, NW U., http://www.northwestern.edu/living/about-us/orai/index.html (last visited Mar. 13, 2016) (noting that one in three Northwestern students live in the university's 11 residential colleges); *Residential Colleges*, PRINCETON U., http://www.princeton.edu/main/campuslife/housingdining/colleges/ (last updated Nov. 18, 2015) (Princeton).

264. *See* Winerip, *supra* note 112 (describing backlash against housing reform at Cornell University). *But see* RICHARD J. LIGHT, MAKING THE MOST OF COLLEGE: STUDENTS SPEAK THEIR MINDS 190–94 (2001) (reporting that although many non-white students initially were disappointed by the lack of race-themed dorms and centers at Harvard, most came to perceive the school's reduced segregation and emphasis on interracial interaction as important virtues).

265. BEASLEY, *supra* note 105, at 61.

266. Beasley explained:

> Effectively, physical spaces reserved for black students are relatively insignificant entities on Berkeley's campus ... there is no one place large enough for a significant number of black students to congregate on a regular basis; more important, there is no single space in which African American students are consistently separated from the rest of the campus.

Id. at 61. *But see id.* (explaining that Berkeley has a black-themed house open to more than 50 students); Mara Van Ells, *For Black Students at UC Berkeley, Protests Are About Ferguson — and Their Own Lives*, BERKELEYSIDE (Jan. 15, 2015, 9:00 AM), http://www.berkeleyside.com/2015/01/15/for-black-students-at-uc-berkeley-protests-are-

Several prominent universities already have implemented some of these housing policy reforms for these very reasons.[268]   Harvard University, once the site of stark racial housing patterns,[269] eventually eliminated   student-housing   choice   to   reduce   self-segregation   in housing.[270]   Cornell University has moved to implement a residential college system partly in response to the racial segregation long prevalent on its campus.[271]   Some schools have taken incremental measures to reduce the segregative impact of their race-themed housing programs. The University of Pennsylvania, for example, whose W.E.B. Du Bois College House is one of the most well-known black theme houses in the country, moved to randomly assign dormitory space to first-year students in order to ensure that black students receive at least one year of residential propinquity with students of other races.[272]   Cornell University's   president   unsuccessfully   sought   to   prevent   first-year

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about-ferguson-and-their-own-lives/ (describing 21-student "Afro House" whose residents were almost entirely black students).

267.   Proposition 209, also known as the California Civil Rights Initiative, was passed into law on November 5, 1996. *See* Coal. of Econ. Equity v. Wilson, 122 F.3d 692, 697 (9th Cir. 1997) (describing the passage of Proposition 209). The language of the initiative forbids public universities in the state of California from granting preferential treatment on the basis of race. CAL. CONST. art. 1, § 31 ("The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race . . . in the operation of . . . public education . . . ."). Following the passage of Proposition 209, the number of black students who were able to gain admission to the University of California's flagship campuses fell substantially. *See* Eric Grodsky & Michal Kurlaender, *The Demography of Higher Education in the Wake of Affirmative Action*, *in* EQUAL OPPORTUNITY IN HIGHER EDUCATION: THE PAST AND FUTURE OF CALIFORNIA'S PROPOSITION 209, at 33, 49 (Eric Grodsky & Michal Kurlaender eds., 2010) (finding substantial declines in percentage of black students enrolled at U.C. Berkeley after passage of Proposition 209).

268.   *But see* OFFICE OF COMMC'NS, *University, Students Reach Agreement on Campus Climate   Concerns*,   PRINCETON   U.   (Nov.   19,   2015,   8:45   PM), https://www.princeton.edu/main/news/archive/S44/79/75E24/index.xml?section=topstori es (reporting that Princeton University administrators agree to consider creating race-themed housing in response to demands of student protesters).

269.   *See* Johannah S. Cornblatt, *'82 Study Finds Segregation*, HARV. CRIMSON (June 4, 2007), http://www.thecrimson.com/article/2007/6/4/82-study-finds-segregation-span-stylefont-weight/ (discussing former concentration of black students in Harvard's Currier House).

270.   Hill, *supra* note 138; *Taking Steps to Curtail Black Student Self-Segregation at Harvard College*, J. BLACKS HIGHER EDUC., Spring 1997, at 14, 14.

271.   Bruce Weber, *The Residential College*, N.Y. TIMES, July 29, 2007, at 4A (discussing the efforts of Cornell and other universities to implement residential college systems to avoid student alienation, promote a greater sense of community, and address other problems).

272.   Ralph Vigoda, *At Colleges Across the Country, More Students Choose Segregation Their Living Choices Jolt Many '60s-era Administrators*, INQUIRER (Mar. 23, 1994),   http://articles.philly.com/1994-03-23/news/25850264_1_student-government-college-administrators-separatism.

students from residing in theme houses[273] before striking a compromise requiring all freshmen to live in the same part of campus (the section containing the theme houses).[274] Brown University at one point also placed a moratorium on the opening of additional theme houses out of concern over the looming threat of balkanization.[275] Though these reforms indicate that these schools are aware of the considerable social costs of racialized housing arrangements and appreciate the need for greater integration, these incremental measures are too meager to bring about much progress by themselves.

3.   Reducing Student Organizational Segregation

Racial and cultural student organizations have much to contribute to the richness of campus life; they provide important benefits for their members and, potentially, the student body at large. Nonetheless, universities should be mindful of the manner in which these organizations can contribute to campus segregation,[276] and they should take steps to counteract this problem. One possible approach would be for universities to incentivize through use of earmarked funds, or even require, greater cross-group participation between university-funded organizations.[277] This would have the benefit of preserving the vibrancy and solidarity of existing groups while creating greater opportunities for meaningful cross-racial exchange.

Colleges truly committed to addressing organizational segregation also should consider the admittedly highly controversial reform of eliminating fraternities and sororities from their campuses.[278] Though such a policy would quite likely be prohibitively controversial at the larger public universities with formidable, deeply entrenched Greek systems,[279] the push for colleges to end fraternities already has been joined by a growing chorus of voices including national journalists and bloggers,[280] student newspapers,[281] professors,[282] and alumni[283] motivated

273. *See Cornell Moves to End a Rift Over the Housing of Freshmen*, N.Y. TIMES, Oct. 9, 1997, at B7.

274. *Id.*

275. *See* Jordan, *supra* note 113 (quoting Brown Executive Vice President Robert A. Reichley). Cornell University's president, Hunter Rawlins III once proposed a similar reform measure. *See* Hill, *supra* note 138.

276. *See supra* Part 0.

277. *See* MILEM ET AL., *supra* note 1, at 29–30.

278. This also has implications for student housing, given the racial segregation of fraternity and sorority membership and residence.

279. Jake New, *Banning Frats?*, INSIDE HIGHER ED. (Sept. 30, 2014), https://www.insidehighered.com/news/2014/09/30/should-colleges-ban-fraternities-and-sororities.

280. Caitlin Flanagan, *Shutter Fraternities for Young Women's Good*, WALL ST. J., Apr. 23, 2011, at C12; Lark Turner, *Let's Ban Fraternities And Sororities: Amherst*

by concerns ranging from racial intolerance and sexual violence to excessive drinking. Although banning Greek-letter organizations from campus comes with potential risks and costs,[284] some schools already have eliminated fraternities and sororities without sustaining any cataclysmic fallout.[285] The experiences of these schools suggest that this type of reform may be a viable, pro-integration policy option at other schools.

      These proposed efforts to disrupt campus segregation are not without their potential drawbacks. They may be particularly difficult for

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College Just Did It, And Here's Why Everybody Else Should Follow Suit, BUSTLE (May 7, 2014), http://www.bustle.com/articles/23745-lets-ban-fraternities-and-sororities-amherst-college-just-did-it-and-heres-why-everybody-else-should.

281. Michael McDonald, *Dartmouth Student Newspaper Calls for End to Greek System*, BLOOMBERG BUS. (Oct. 17, 2014, 4:58 PM), http://www.bloomberg.com/news/articles/2014-10-17/dartmouth-student-newspaper-calls-for-end-to-greek-system-1-.

282. *See, e.g.*, *Dartmouth Professors Vote to Abolish Greek System*, INSIDE HIGHER ED. (Nov. 5, 2014), https://www.insidehighered.com/quicktakes/2014/11/05/dartmouth-professors-vote-abolish-greek-system; Laurie Essig, *Fraternities are Tradition. End Them Anyway*, CHRON. HIGHER EDUC. (Aug. 24, 2011), http://chronicle.com/blogs/brainstorm/fraternities-are-tradition-end-them-anyway/38580; Carlo Rotella, *Fraternities, Sororities Make College Life Worse*, BOSTON GLOBE (Mar. 26, 2015), https://www.bostonglobe.com/opinion/2015/03/26/fraternities-sororities-make-college-life-worse/uj7biFFS6hPHACdxyFk96L/story.html#.

283. *See, e.g.*, Andrew Lohse, *If There Were Ever a Time to Abolish Frats, It's Now*, TIME (Dec. 3, 2014), http://time.com/3616027/abolish-frats/; Andrew Lohse, *Why Fraternities Need to be Abolished*, MSNBC (Mar. 20, 2015, 12:54 PM), http://www.msnbc.com/msnbc/why-fraternities-need-be-abolished (discussing unlawful and offensive behavior by various fraternity chapters across the country).

284. Several commentators have suggested that removing fraternities from the oversight and regulation of university administrators could have adverse unintended consequences. *See, e.g.*, Elizabeth Armstrong, Opinion, *How Fraternities Dominate College Life*, N.Y. TIMES (May 6, 2011, 1:32 AM), http://www.nytimes.com/roomfordebate/2011/05/05/frat-guys-gone-wild-whats-the-solution/the-threat-to-young-women ("[Banning fraternities] may even backfire: Fraternities do not depend on universities to survive, and severing ties may only serve to eliminate university oversight."). *See also* Rebecca Schuman, *Will Banning Frats Cut Down on Assault and Destructive Partying?*, SLATE (May 13, 2014, 9:07 AM), http://www.slate.com/blogs/browbeat/2014/05/13/fraternities_banned_at_amherst_colleg e_will_this_help_or_hurt_undergraduate.html.

285. *See* Julia Ryan, *How Colleges Could Get Rid of Fraternities*, ATLANTIC (Mar. 3, 2014), http://www.theatlantic.com/education/archive/2014/03/how-colleges-could-get-rid-of-fraternities/284176/ (explaining that "[s]ome small liberal arts schools, like Colby, Bowdoin, and Williams, have successfully removed Greek life from campus without taking huge financial hits."); Zach Schonfeld, *Inside the Colleges that Killed Fraternities for Good*, NEWSWEEK, (Mar. 10, 2014, 12:24 PM), http://www.newsweek.com/inside-colleges-killed-frats-good-231346. In short order, Williams College, one of the first national schools to ban fraternities, rather seamlessly transitioned from a campus where nearly all students ate at fraternity houses and more than 40 percent were members, to a fraternity free campus. *See End Fraternities, Williams Urged*, N.Y. TIMES, July 2, 1962. Bucknell, Bates, and Hamilton are also reported to have eliminated fraternities and sororities.

some minority students who, as a result of being thrust into more predominantly white social and residential spaces, may experience greater discomfort and encounter more incidents of racial mistreatment. Though these concerns are legitimate they should not preclude universities from undertaking purposefully integrative reforms, given the potential long-term benefits of greater integration for all students, minority and non-minority alike.

C.   Pedagogical Initiatives

In her expert report for the University of Michigan, Patricia Gurin testified that particular classroom-based pedagogical programming might better enable schools to secure the benefits of student body racial diversity.[286]   Gurin reached this conclusion in part based on outcomes that she observed among the students participating in the University of Michigan's intergroup dialogue sessions.[287]   These sessions, run by the university's Program on Intergroup Relations, involved students in dialogic and interactive learning designed to provide them greater intergroup understanding and involvement.[288]   These programs, which have now been adapted by universities across the country,[289] offer a means of ensuring that some number of university students experiences

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286.   Gurin explained her belief that in racially diverse classrooms, schools, instructors, and staff should implement activities and approaches that "prompt students to think in pluralistic and complex ways, and to encourage them to become committed to life-long civic action." Gurin, *supra* note 4, at 377.

287.   *See id.* at 421 (describing the results of the program as "[t]he results are clear, consistent, and supportive of my arguments about the impact of diversity on student development").

288.   *See Intergroup Dialogues*, U. OF MICH., https://igr.umich.edu/article/intergroup-dialogues (last visited Mar. 13, 2016) (describing intergroup dialogue programs at the University of Michigan as "three-credit courses carefully structured to explore social group identity, conflict, community, and social justice. Each dialogue involves identity groups defined by race, ethnicity, religion, socioeconomic class, gender, sexual orientation, (dis)ability status, or national origin."); Biren A. Nagda & Patricia Gurin, *Intergroup Dialogue: A Critical-Dialogic Approach to Learning About Difference, Inequality, and Social Justice*, NEW DIRECTIONS FOR TEACHING & LEARNING, Autumn 2007, at 35, 35 (discussing intergroup dialogues, 10-14 week programs involving 12-16 students using trained facilitators to promote interaction and community-building across social group boundaries). *See also generally* Nicholas Sorensen et al., *Taking a "Hands On" Approach to Diversity in Higher Education: A Critical-Dialogic Model for Effective Intergroup Interaction*, 9 ANALYSES SOC. ISSUES & PUB. POL. 3 (2009); Biren A. Nagda et al., *Evaluating Intergroup Dialogue: Engaging Diversity for Personal and Social Responsibility*, 12 DIVERSITY & DEMOCRACY 4 (2009).

Pedagogically, these programs utilize a social justice orientation that "involves understanding social identities and group-based inequalities, encourages building of cross-group relationships, and cultivates social responsibility." *See* DIALOGUE ACROSS DIFFERENCE: PRACTICE, THEORY, AND RESEARCH ON INTERGROUP DIALOGUE 3 (Patricia Gurin, ed. 2013).

289.   *See* DIALOGUE ACROSS DIFFERENCE, *supra* note 288, at 2-3.

the type of substantive interactional integration conducive to attaining the benefits of student body diversity.[290]

To examine the effectiveness of these programs, Patricia Gurin and the founders of the University of Michigan's intergroup dialogue program conducted a field experiment of intergroup dialogue programs involving 1,437 student participants at nine schools.[291] The researchers paired students and randomly assigned one member of each pair to the intergroup dialogue program and the other to a control group.[292] Researchers found that participation in the intergroup dialogue program registered statistically significant outcomes across 20 of 24 measures used.[293] Participation increased students' understanding of and complexity of thought regarding intergroup relations,[294] affective positivity toward members of other groups,[295] intergroup empathy,[296] and the frequency and confidence in which they engaged in subsequent intergroup action and collaboration.[297] Just as importantly, the vast majority of these effects were evident a year later, in the results of a follow-up survey completed by student participants.[298] These findings provide compelling empirical evidence of the potential usefulness of purposeful pedagogical programming in helping universities better secure the benefits of student body diversity.

CONCLUSION

This article has sought to expand the scholarly discourse on racial diversity in higher education by making clear the substantial long-term social consequences of campus racial segregation. In calling attention to these heretofore-neglected racial costs, this article reestablishes collegiate integration as an urgent racial justice issue with implications for black Americans in the workforce and other dimensions of American life. This article aims to help scholars and other proponents of racial justice come to terms with the magnitude of this problem and

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290. These efforts may be particularly important, given that the existing empirical research suggests that universities commonly fail to ensure that students receive classroom exposure of the type contemplated in *Grutter*. *See* Rachel F. Moran, *Diversity and its Discontents: The End of Affirmative Action at Boalt Hall*, 88 CAL. L. REV. 2241, 2279–94 (2000); Deo, *supra* note 16.

291. *See* DIALOGUE ACROSS DIFFERENCE, *supra* note 288, at 4–5, 14, 126–50 (describing the project's origins and empirical methods).

292. *Id.* at 4–5. Researchers also assembled a comparison sample of students enrolled in race- and ethnicity-related social science courses. *Id.* at 5.

293. *Id.* at 5, 168–73.

294. *Id.* at 152–53, 155–57.

295. *Id.* at 154–55.

296. *Id.* at 157–58.

297. *Id.* at 158–60.

298. *Id.* at 165–66.

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thereby to prompt them to develop and embrace integrationist strategies of reform. Even more importantly, this article calls for university leaders and administrators to undertake bold, purposeful action in pursuit of greater social integration and cross-racial exchange. Only then will universities finally be able to realize fully the potential benefits of racial diversity enumerated in *Grutter* and addressed at length in this article. Though the path to greater integration is sure to be beset by obstacles and resistance from all quarters, the racial justice stakes are simply too high to permit continued acquiescence to the segregated status quo.