

**Because of Our Success**



# Because of Our Success

The Changing Racial and  
Ethnic Ancestry of Blacks  
on Affirmative Action

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# Foreword by Theodore M. Shaw

In recent years some observers have come to a growing awareness that the demographics of black enrollment in higher education have changed. Always modest in numbers, increasingly, black students at selective institutions of higher education, including graduate and professional schools, now come from first or second-generation immigrant families from the Caribbean or from Africa. Harvard's Lani Guinier and Henry Louis Gates are two of the better known members of the academy to publically acknowledge this phenomenon, but others have begun to research and write about it. Now Professor Kevin Brown, of Indiana University's Maurer School of Law, has written the most densely and comprehensively researched analysis of this phenomenon. In the course of doing so Prof. Brown, who has extensively and insightfully researched and written about race and law for many years, unpacks the complex, sometimes absurd, and yet undeniably and powerfully real and continuing significance of race we have collectively inherited and constructed.

Black America has always been internally diverse, even though this internal diversity was obscured and eclipsed by our Nation's preoccupation with race and the subordination of people of color in the service of white supremacy. Indeed, differences have long existed between "West Indians" and descendants of the U.S. intergenerational slavery to Jim Crow experience. The former, in spite of their own histories of slavery, racism and subordination, have often occupied different places on the ladder to educational and economic success. African Americans, in turn, sometimes perceived "West Indians" to be condescending as a consequence of their relative educational and economic success. Yet the two communities never maintained complete separation. Socialization, intermarriage, a shared understanding of their place in the African diaspora and their common struggle bound and blended these communities over time. Yet newer generations of Caribbean immigrants continue to stand apart to some degree, and, as is generally true for immigrant communities, some achieve el-

evated levels of success. Ideologically and politically progressive African Americans have welcomed ties with other members of the African diaspora, and may be uncertain and hesitant to talk about this phenomenon. But these difficulties disappear if one is clear about what is at issue. I, for one, am pleased to see the sons and daughters of Caribbean and African immigrants enrolled in selective American institutions of higher education. The concern is not about who is enrolled at these institutions; the concern is about who, increasingly, is not enrolled. African Americans who are descended from the intergenerational slavery-to-Jim Crow continuum are increasingly absent, especially black males.

Similarly, in recent decades African immigrants have come to the United States in greater numbers, and African students have pursued higher education at American universities in much the same way as have other foreign nationals. Immigrant black families may, and do, bring much to American colleges and universities, including their own perspectives as individuals, sometimes from communities and countries that have been impacted by racism, colonization, and other experiences, collective and individual. These experiences and perspectives may be considered in admissions under prevailing Supreme Court precedent. Or it may be that these students are being admitted much as any others, without race as a factor. Colleges and universities are effectively prohibited, however, from considering the most powerful and the original rationale for consciously engaging in efforts to admit African Americans from the U.S. slavery-to-Jim Crow continuum: remedial efforts to undo entrenched and systemic inequality of opportunity traceable to our Nation's long history of subordination of black Americans in the service of white supremacy.

The great irony is that affirmative action began as a remedial imperative, in the 1960s, in the wake of the Civil Rights and Black Power Movements. Yet in 1978, barely a decade after this imperative began in earnest, the U.S. Supreme Court decided *Regents of the University of California v. Bakke*. In *Bakke*, Justice Lewis Powell wrote an opinion bridging a Court deeply divided on the issue of whether the Constitution allowed public institutions of higher education to consider race in admissions to selective colleges and universities. Alan Bakke, an unsuccessful thirty-seven year old white applicant to the University of California at Davis Medical School, sued the Regents alleging discrimination on the basis of race, arguing that an affirmative action program designed to produce more minority doctors violated his rights under the Fourteenth Amendment. Four justices would have allowed the Medical School to consider race by applying a more lenient equal protection standard based upon its benign intent, i.e., the laudable goal of integrating the medical school and the medical

profession. Four other justices believed that “benign discrimination” should be judged under the same standard as invidious discrimination motivated by the belief that individuals were inferior or superior on the basis of race. By a narrow majority the Court declined to apply a different standard of review to challenges to race conscious affirmative action aimed at opening opportunities to African Americans, Latinos, and others who historically had been excluded from, and who remained underrepresented at, selective institutions of higher education. For civil rights advocates this and other aspects of the *Bakke* decision was a crushing blow. The silver lining in *Bakke* was Justice Powell’s opinion, which found that colleges and universities had a First Amendment based academic freedom interest in diverse student enrollment, which justified limited consideration of race as one factor among many in admissions. While at the time it was unclear how much water *Bakke* could carry in the effort to enroll minority students, it became clear over time that colleges and universities could admit modestly significant numbers of students of color to their incoming classes under the banner of diversity.

Efforts to increase the number of black students, and by extension, other students of color, at selective institutions of higher education began as a remedial, not a diversity, imperative. The driving rationale was rooted in the need to address the exclusion from opportunity experienced by black Americans as a consequence of the slavery-to-Jim Crow continuum. The remedial imperative was attacked as soon as it was initiated, and whatever its merits, *Bakke* narrowly limited its reach and applicability, and thereby signaled its demise. The diversity rationale, however, had far reaching potential, theoretically touching all aspects of a student’s identity and experiences. By grounding affirmative action efforts in universities’ interest in enrolling students of different backgrounds because of the educational value of diversity, the *Bakke* Court theoretically circumvented the still smoldering issues of America’s history of racial discrimination, and substituted universal interests for remedial claims on behalf of the Nation’s most disfavored minority group. Past discrimination and contemporary inequality was arguably no longer the touchstone for consideration of race in college admissions. If *Bakke* sanctioned diversity as a compelling state interest, allowing consideration of race as one factor among others, diversity-writ-large extends far beyond race or the interests and experiences of members of minority groups once excluded from higher education. In other words, after *Bakke*, diversity transcended but included race. Still, diversity remained a lightning rod for conservatives who equated affirmative action with “reverse discrimination.” To be sure, the focus has not been on diversity writ large; to counter the effects of underperformance of males that leads to more

qualified women applicants for admissions to many colleges and universities, gender based affirmative action on behalf of (white) males has been quietly implemented without so much as a peep, and a growing chorus is now pushing, appropriately, for conscious efforts to admit students from poor and working class families to elite selective colleges and universities. The heat, manifested in a series of cases in federal courts over the last four decades, has almost exclusively concerned efforts to admit African American students. The growing irony, emerging in recent years, is that in spite of the continuing assault on affirmative action/diversity, the original intended beneficiaries of affirmative action are increasingly missing at the most selective institutions. Black students are being admitted, but increasingly they are not the descendants of the U.S. intergenerational experience of slavery and Jim Crow.

It's complicated.

Professor Brown's thoughtful and scholarly study comprehensively analyzes a complex subject with variables that are widely misunderstood or ignored. It sets out to navigate sensitive and difficult terrain, noting distinctions between "Ascendant Blacks," "Black Multiracials," and "Black Immigrants." These categories provide imperfect but useful groupings that reflect varying experiences which usually fall under the umbrella of "black"-ness or African American identification. Race has always been a social construct, and its meaning in the early twenty-first century is shifting and changing as members of American society continue to redefine their identities. The intergenerational experiences of African American families descended from slavery and Jim Crow (Brown's "Ascendant Blacks") have been part of a long struggle to overcome the effects of racial subordination with contemporary reach, making it America's unfinished business. Yet waves of new immigrants, including many who are black and brown, are redefining the stage on which this unfinished business must be played out. Moreover, in recent decades intermarriage among racial groups has created multi-racial families that may eschew traditional categorization defined by the "one drop" rule, pursuant to which any visible black ancestry assigned blackness no matter how physical appearance manifested. In the face of this complex and ever-changing America, Brown engages in a historically based analysis of race and its meaning, past and present. He flies in the face of popular wisdom and jurisprudence, which counsel us to give a quick and cursory acknowledgment to our long and terrible history of racism and subordination before antiquing its reach and effects, all the while drawing the improbable conclusion that any massive racial inequality we find is not connected to that long history, which temporally dwarfs modern era of formal legal equality. The easiest way out of this mess, contemporary wisdom tells us, is to declare



victory—i.e., color blindness and post-racialism—and get out of the business of race. Brown resists this temptation, even while he explicitly declines to reargue the justifications for affirmative action. He takes Justice O'Connor's opinion in *Grutter* as a closed debate, but nonetheless demonstrates why the diversity rationale as applied to African American applicants will often require consideration of the effects of their historical experiences, which, of course, define who and what they are, and what they bring to the table.

The core of Professor Brown's thesis is that "Ascendant Blacks," i.e., descendants of the intergenerational U.S. slavery to Jim Crow experience, should be granted more preference in admission to selective colleges and universities because, even compared to Black Immigrants, and to multi-racial applicants, they are disadvantaged. They are less likely to come from two-parent households and they are more likely to carry the burdens and effects of discrimination. Brown prescribes even deeper dives on what race should mean in admission processes, which will no doubt drive diversity opponents even further into frenzy. His is not the step toward the color-blind society. It is Powell's diversity rationale's chickens coming home to roost. You may disagree, but you will think.

If you care about these issues, this book forces you to rethink some of your assumptions, or at least to re-examine the path that Justice Powell's opinion in *Bakke* charted almost four decades ago, when the Court effectively blocked deliberate and focused efforts to openly remedy the effects of our long racial supremacy nightmare. We remain confused about race, and Kevin Brown tells us about the consequences.

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# Foreword by Dennis J. Shields

We are in a different place with regard to race relations in this country than we were even as recently as the early 1980s when I first became an admissions officer at the University of Iowa College of Law. Inside this frame, Professor Brown's book, *Because of Our Success*, raises important questions: What is the purpose of "affirmative action"? Can it and should it be seen as a part of reparations for Ascendant Blacks? Is it based on the experience of being a member of a historically discriminated group in the United States? Is affirmative action something different from the broader descriptor of "diversity"? This book stimulates discussion about these questions, makes the case for considering the impact of current and future policies on the Ascendant Blacks, and proposes a method by which admissions officials might incorporate Ascendant Blacks into their student bodies.

I approach the issues raised by *Because of Our Success* from two vantage points. First, 28 years of experience in legal education—twenty-five as the lead admissions officer at three different law schools. And second, from several years of university related international travel as the president of a medium sized public university. My university is a point of access and affordability for many first generation college students. So, access to higher education and the impact success at that level can have for my students is consistently in the forefront of my thoughts about higher education.

As the dean of law admissions at the University of Michigan and then at Duke University, I made the overwhelming majority of decisions on admission applicants.<sup>1</sup> This work required me to make comparative assessments of candidates for admission while keeping in mind the school's educational mission, admissions policies and the law. My recent international travels have given me the opportunity to see the alternative ways that other countries (and their educational institutions) have thought about and reacted to issues caused by the oppression of minority populations.

I have had the opportunity to travel twice to Europe, twice to Brazil, and three times to China. My university has a relationship with South Central University for Nationalities (SCUN) in Wuhan, China. SCUN is one of eight uni-

versities in China set up to address the educational needs of ethnic minorities in China. China has 57 different ethnic minority groups (3% of 1.3 billion Chinese). During my visits to Brazil, I had occasion to learn about recent efforts there to improve the educational opportunities for African-Brazilians who are the descendants of slaves in that country.<sup>2</sup> Brazil was the last country in the Western Hemisphere to outlaw slavery. China and Brazil possess very different histories with regard to minority groups. The history of race in the United States is very different from that of Brazil and China. I have been struck however by the somewhat more forthright way these societies have begun to address the disparate treatment of minority groups than we seem to be able to do in this country. I am not arguing that these countries have more positive histories (in some ways their historical treatment of minority groups is worse than ours). Rather that, at least to me, they have been more direct in acknowledging the need to redress at least some of the wrongs visited upon their ethnic minorities if their societies are to advance.

Since the establishment of affirmative action policies in the 1960s to expand the number of black Americans into institutions of higher learning in the United States, the programs themselves and selection criteria have been hotly disputed. In that era it was pretty clear that blacks were the primary group considered who were underrepresented at predominantly white selective colleges and universities as a result of discrimination. The purpose of affirmative action was both backward looking and forward looking. As to the former, taking affirmative steps to increase black participation in higher education was to redress the impact of wide-spread discriminatory practices that had limited access for blacks to the selective institutions. As to the latter, affirmative action was intended to increase the wider participation in society and to improve the education of all students by diversifying the makeup of student bodies and thereby broadening the nature and context of interactions in the educational environment.

During the early days of affirmative diversity efforts the focus was primarily directed at blacks, but since, a more robust inclusive regime has developed. Women, Hispanics, Native Americans, Asians and Foreign students have come into the mix. In addition, the representation of women and underrepresented minorities in applicant pools has grown substantially. The competition for seats at the selective institutions has become fiercer. Particularly in law school admissions, ranking has had an outsized influence on the behavior of law schools in their decision making. Thus admission decision making has become an even more high stakes process fraught with more contentiousness by disappointed denied applicants.

As early as 1978, the Supreme Court issued a decision in the *University of California v. Bakke* case.<sup>3</sup> In that case the court upheld affirmative action in admissions but ruled against specific quotas for minority students. But that was not the end of the discussion. Challenges to college and professional school admissions programs have continued unabated, by students concerned that the admission of minorities, specifically black minorities have prevented them from earning a “deserved” seat at institutions of higher education.

When I was Dean of Admissions at the University of Michigan law school, I was personally sued by Barbara Grutter. She challenged our admissions policy which she claimed discriminated against her based on race in violation of the Fourteenth Amendment, Title VI of the Civil Rights Act of 1964 and 42 U.S.C. Section 1981, by giving black or minority applicants what appeared to be a greater chance of admission than white students. At Michigan, we determined that a diverse student body was critically important to our educational mission. The Michigan law school after careful deliberation by a committee composed of a representative cross section of the faculty, students and administrators at the school developed a policy that took account of the mission of the school and described how the admission policy was to be used to further that mission. The Supreme Court held that the policy and its implementation had been narrowly tailored to promote diversity in the law school student body. The diversity we contemplated included ethnic minorities that had historically been underrepresented in law schools and the legal profession. But it was also broader than those groups. We sought to attract students that came from across the United States and the world. We sought diversity in academic disciplines and socio-economic status. We sought diversity in life experience and political perspectives, understanding that admissions decision making was not a science, rather a matter of looking closely at what each candidate had to offer and making our best judgment about those who had the talent and potential to succeed in law school and the profession.

Professor Brown’s work takes up an important issue, the fate of Ascendant Black students under the affirmative action/diversity policy regime. Brown’s argument, that Ascendant Blacks, those descended from blacks who were formerly underrepresented and discriminated against in the United States, are being passed over for professional school admissions in favor of multi-racial and foreign blacks is an argument worthy of consideration. What is the impact of current policies on Ascendant Blacks and should it matter? Is there justification for making sure access to higher education, especially at our selective institutions, includes a critical mass of Ascendant Blacks? Is there room in the current diversity regime for this nuanced consideration?

Brown's argument is about what the purpose of at least some portion of the affirmative diversity efforts should be. Here I must acknowledge my discomfort about this kind of granular parsing of ethnicity in making admission decisions. I acknowledge the appeal of addressing past discrimination to the descendants of slaves and the aftermath of slavery. But my years in making the decisions makes me leery of the ability to discern with clarity who "qualifies" for favorable consideration under this kind of policy. Having acknowledged the difficulty of determining Ascendant Black candidates, it is still worth considering the merits of concern about Ascendant Blacks access in the broader efforts to diversify opportunity if admission to selective institutions of higher education.

Support for the use of race in admissions decisions making is no longer justified by a single reason. A collection of policy considerations is in play in what is becoming an ever more multi-cultural/ethnic society. Some of the policy justification for considering Ascendant Blacks is to redress the past oppression of specific groups that limited prior opportunities. Some of it is justified by the systemic impact of past and current discrimination on the Ascendant Blacks. Some of it is justified by the educational benefits of a diverse student body that includes individuals impacted by their status as Ascendant Blacks. Some of it is justified by the need to look beyond traditional measures of merit (i.e., test scores and previous academic work) to discern other indicators of ability and potential for all candidates. Some of it is defensible because it is easily proved by past experience that academic achievement or the potential professional contributions to social good cannot be measured solely or accurately by the traditional measures of merit alone.

Certainly the merits of considering ascendant status needs to be discussed given the American experience of the descendants of slaves. When I worked in the trenches as an admissions person at Iowa, at Michigan and at Duke, reviewing applications meant looking beyond the traditional indicators of merit to the essays that were required of the candidates. I read the letters of reference. I spoke with the candidates and their advocates. Always, I looked to find something that warranted thinking about the candidate beyond test scores and grades to see potential for academic excellence, professional contributions, and contributions to the education of their classmates, etc. The goal was to assemble not some quantifiable best group to include in the class. Rather to assemble a cohort of superbly talented, interesting, and capable people who would learn from one another, contribute in meaningful ways to the discourse in and outside of class and that showed the potential to contribute in meaningful ways to the advancement of the profession and society in general. Obviously the ex-

perience of at least some Ascendant Blacks could be argued to possess knowledge and experience that would add positively to the afore mentioned goals.

Admissions officers and university administrators should consider the argument Professor Brown is making and the statistics he cites showing that Affirmative Action policies are not serving Ascendant Blacks. Colleges, universities and professional schools would do well to consider using the enhanced demographic information provided today by the Common Application to identify formerly disenfranchised students and should consider Brown's suggested changes in the admissions process to prevent the eradication of Ascendant Blacks from the campuses of our nation's selective higher education institutions. The incorporation of Professor Brown's ideas will aid professional schools in creating diverse student bodies that include underrepresented minorities with a history of discrimination as affirmative action was built to do. This will be in accordance with the law, promote diversity in the workforce and benefit society at large by remedying some of the past discrimination that has injured our nation and our law schools to date.

Dennis J. Shields  
Chancellor, University of Wisconsin-Platteville  
Former Director of Admissions,  
The University of Michigan Law School





# Preface

During the early part of my academic career, my scholarship focused on school desegregation and school desegregation termination litigation. As a product of *de jure* segregated schools in Indianapolis and integrated schools in the suburbs of Indianapolis during the 1960s and 1970s, I came to believe that the best possible educational situations for African-Americans were in schools with integrated student bodies, diverse faculties, and true multicultural educational philosophies. While my scholarship focused on K–12 education, I always viewed improving primary education as part of the process of increasing the numbers of African-Americans who would eventually attend selective higher education institutions. This was a necessary step in our society's process of eliminating the effects of its history of racial discrimination inflicted on black people in the United States root and branch. As a result, the true purpose of my putting forth legal theories that would preserve or allow for integrated schools was an effort to increase the number of African Americans who obtained highly valued educational credentials. This would significantly increase the numbers of African-Americans who were employed in prestigious jobs or elite occupations. Thus, while my scholarship focused on desegregating America's primary schools, the ultimate goal was to increase the numbers of African-Americans who came through the educational pipeline and landed in elite jobs and occupations in American society.

I have two Ascendant Black and two Black Multiracial (black/white) children. I have also spent a considerable amount of time in South Africa where I was the foreign-born black in a country with a history of racial discrimination. Up until the fiftieth anniversary of the Supreme Court's 1954 decision in *Brown v. Board of Education*, as most other Americans, I determined who should receive positive considerations for being black by admissions officials of selective higher education programs based on the idea that all blacks in the United States are alike, regardless of race or ethnicity. Thus, I accepted the one-drop rule and did not draw distinctions between foreign-born and native born blacks.

In the fall of 2004, I became the Director of the Hudson & Holland Scholars Programs (HHSP) at Indiana University Bloomington. HHSP is a scholarship

program and its mission is to recruit, retain, and prepare students with outstanding records of academic achievement, strong leadership experiences, and a commitment to social justice for their futures after college. But, since HHSP was part of the campus' efforts to assure the benefits of diversity, HHSP gave substantial positive weight during the admissions process to applicants from underrepresented minority groups with a history of discrimination. HHSP was, therefore, a selective minority scholarship program that provided students with funds to cover approximately half the cost of in-state tuition.

When I resigned as Director in the fall of 2008, there were about 570 HHSP Scholars spread throughout the four undergraduate years. At that time, HHSP had approximately 25 percent of the black and one-third of the Latino undergraduate students on the campus. However, HHSP also produced nearly 50 percent of the campus' graduates from both of these minority groups and about 75 percent of those that graduated with a 3.5 cumulative grade point average or better. In other words, the overwhelming majority of black students from Indiana University-Bloomington who would go on to selective graduate programs like law schools, medical schools, dental schools, and other selective graduate programs were HHSP Scholars.

As the Director of HHSP, I reviewed over sixteen hundred applications from underrepresented minorities throughout the United States, but since about 80 percent of our HHSP Scholars were resident students, the overwhelming majority of applications came from the State of Indiana. The Associate Director for Recruiting, Anthony Scott, and I jointly made all the admissions decisions. While HHSP was not an affirmative action college admissions program, we encountered all of the issues that admissions committee members at selective colleges, universities, and graduate programs encounter when trying to decide which underrepresented minorities to admit. We also employed a holistic approach in making our admissions decisions, as dictated by the Supreme Court's opinion in *Grutter v. Bollinger*. Nevertheless, the applicants' academic record as determined or explained by ACT or SAT scores, strength of high school's academic reputation, number of advanced placement courses, high school grade point averages, and high school class ranks were the primary factors that we considered during our admissions process.

In my first year as Director, I noticed that a significant number of our black students were either Black Multiracials or Black Immigrants. So, we changed our application forms in order to accurately track both the race and ethnicity of our black students. While we tried to do the same with Hispanic/Latino students, we quickly came up against the reality that many of them do not view race in the same way that most blacks and whites in the U.S. view race. As a result of our revised application forms, Anthony and I discovered that

thirty percent of our incoming black HHSP Scholars for the fall of 2006 were Black Multiracials and another five percent were Black Immigrants. Furthermore, after having then served as Director for two years, it was plain that many of the Black Multiracials and Black Immigrants in HHSP did not identify with the historic struggle of blacks against racial oppression like our Ascendant Black Scholars. Also, many of the Black Multiracial and Black Immigrant Scholars did not have the same experiences of and reactions to race, racism, and America's history of racial discrimination that were so common among their fellow Ascendant Black Scholars. Given that the percentage of Black Multiracials among blacks approaching college age in the State of Indiana would skyrocket in the next 15 years, as it would nationally, it was clear that, if nothing changed, Ascendant Blacks would virtually be eliminated from HHSP long before the expiration of the 25 year time-table for affirmative action that Justice O'Connor mentioned at the end of her opinion in *Grutter v. Bollinger*. Since the State of Indiana is in America's heartland, it was also obvious that the changing racial and ethnic ancestry of blacks that I was witnessing occurring on HHSP had to be happening at other selective higher education programs in the country.

Because of this knowledge, I was forced to ask, "which blacks should benefit from programs established by selective higher education institutions to benefit those underrepresented minorities with a history of discrimination?" In trying to answer that question, I had hundreds of discussions with others, blacks, whites, Asians, and Hispanic/Latinos about the racial and ethnic ancestry of blacks on HHSP. Many people had a hard time distinguishing blacks based on race or ethnicity. They were caught in the notion that I had previously believed, the experiences of blacks in the U.S. were similar regardless of race or ethnicity. What I began to notice, however, is that they viewed blacks primarily from the standpoint of people who had been victims of racism and racial discrimination. For them the experience of being black in the United States was limited to the experience of being a victim of discrimination. As a result, since Black Multiracials and Black Immigrants also encountered discrimination in the United States, they had the necessary experience of being a member of a historically discriminated group in the United States. But, this was an understanding of the black experience in the U.S. that only reflected one perspective. It failed to appreciate the counter-discourse of struggle against their oppression that the descendants of the soil of Africa created. The experience of being black in America involves not just being victimized by racism, but the struggle against it. Here then was the issue, many Black Multiracials and Black Immigrants do not identify with the struggle against racial oppression of blacks in the United States, nor do they, in general, have nearly the same amount

of experience shaped by the history of discrimination suffered by blacks in the United States that Ascendant Blacks have.

Since the graduates of selective higher education programs come to dominate the boardrooms, the corner offices, the faculty lounges, the pressrooms, the courthouses, and the statehouses in the United States, the impact of the changing racial and ethnic ancestry of blacks on affirmative action would affect which “black” individuals come to dominate public life in the next generation. In addition, the blacks who attend selective higher education institutions also influence the educational experiences of all other students who are enrolled in these programs. Thus, the changing racial and ethnic ancestry of blacks benefiting from affirmative action will also impact the formal and informal education of all of those in the nation’s selective higher education programs. It could lead to a systematic mis-education about the black experience in the United States by those who we are training to occupy our most important social positions. This understanding made me realize that much of the scholarship, theorizing, and political discussions about race and education, at least as it regards African-Americans, was already obsolete. This included my own scholarship that focused on improving the educational situation of public primary education for African-Americans. Such lines of reasoning were based on several assumptions that simply no longer held true: such as racial categories are stable, race is a socially ascribed characteristic not the product of self-identification, and all blacks’ experiences with America’s history of racial discrimination are similar regardless of their ancestry.

# Acknowledgments

The genesis for this book can be traced back to September 2007 when my colleague, Jeannine Bell, asked me to co-write a piece with her about the effect of the changing racial and ethnic ancestry of blacks on affirmative action. Jeannine was concerned that Black Multiracials and Black Immigrants did not share the same commitment to the historic struggle of blacks against the continuing effects of the history of race discrimination on blacks in the U.S. of Ascendant Blacks. She realized that these changes were significantly undermining not just the ability, but also the desire, of the more successful members of the “Black Community” to engage in racial upliftment. As a result, she suggested that we entitle the article we co-wrote, *Demise of the Talented Tenth: Affirmative Action and the Overrepresentation of Black Biracials and Black Immigrants*. We published that article in the 2008 Ohio State Law Review’s symposium issue on “The School Desegregation Cases and the Uncertain Future of Racial Equality.” I want to acknowledge the tremendous assistance and support that I received on this project from Jeannine and give her my special thanks for being such a wonderful and valuable longtime colleague and friend.

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