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Commentary on "When Policy Opportunity is not Enough: College Access and Enrollment Patterns among Texas Percent Plan Eligible Students"

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Social scientists rarely produce work that speaks directly and persuasively to a major decision facing the nation in the immediate future. Catherine Horn and Stella Flores have done just that in this important research. In October 2012, the U.S. Supreme Court will consider the constitutionality of an affirmative action admissions policy at the University of Texas, Austin, in a case entitled *Fisher v. University of Texas*. The Court will revisit the issue only nine years since it affirmed the right of postsecondary institutions to implement holistic admissions policies that may consider race as a factor among many, in its landmark 2003 cases, *Grutter v. Bollinger* and *Gratz v. Bollinger*. Since 2003, colleges and universities across the country have carefully tailored their admissions programs to match the plans the Court endorsed nine years ago. Indeed, leaders of higher education assumed that the issue was settled for at least a generation, but the policies of affirmative action followed by most selective universities might suddenly be changed. The already-limited circumstances under which *Grutter* endorsed the consideration of race in admissions may be further restricted if the *Fisher* challenge succeeds in limiting institutions' efforts to directly consider race to address ongoing racial inequities in education and further the many educational benefits of racial and ethnic diversity.

One factor that may be considered in the decision is evidence of whether UT-Austin could still accomplish its diversity goals through the Top Ten Percent Plan alone, which guarantees admission to high school graduates in the top ten percent of their class. UT-Austin decided that the percent plan was inadequate for producing sufficiently-diverse learning environments, but, in arguments that lump together the percentage of Latino and African American students on campus and ignore changes in Texas' population, the plaintiffs claim it has accomplished its job. Untangling this issue requires the kind of close statistical analysis Flores and Horn have carried out. Texas is especially interesting for researchers because the percent plan in the state is widely seen as the nation's most vigorous, and because UT-Austin reinstated affirmative action in 2005 in response to the Court's decision in *Grutter*, which overruled a prior Fifth Circuit Court decision (*Hopwood v. Texas*) that had prohibited the practice since 1997. Thus, it is possible to compare the same campus under radically different policy decisions. Of course the analysis is made more complex by rapid changes in Texas' racial composition, intensifying competition for UT- Austin, and other factors.

Horn and Flores' article contributes important data about the effectiveness of the Top Ten Percent Plan for producing broad-ranging diversity and about the need for holistic admissions policies that may

consider race for furthering UT-Austin's educational mission. Their analysis disentangles admissions and enrollment patterns by race and ethnicity, and importantly, institutional type (elite, emergent elite, nonselective). One of their important findings is that Latino and African American high school graduates in the top ten percent of their class were more likely to apply, be automatically admitted, and enroll, at an emergent elite or nonselective university, while peer white and Asian students were more likely to apply, be admitted, and enroll at an elite institution. These patterns illuminate the ongoing racial and ethnic disparities that exist across institutional sectors despite policies like percentage plans. In fact, in states like California, which has its own version of a percent plan but where the consideration of race as a factor in admissions has been prohibited since Proposition 209 was passed in 1998, minority students have experienced a shift in enrollment from more -elective to less-selective institutions.¹ This shift to less-selective institutions harms students' educational opportunities, as attending a more selective institution is associated—for all students, but for Latino and African American students in particular—with a broad range of benefits, such as higher rates of degree completion,^{2,3} increased attendance at graduate and professional schools,⁴ higher earnings,^{5,6} and more leadership positions.⁷

Prior studies have demonstrated that the application of top-ten-percent-eligible students is not an automatic behavior, as it requires intensive outreach and institutional recruitment efforts.⁸ The findings in Horn and Flores' article now demonstrate that racial and ethnic disparities in enrollment persist despite the very substantial outreach and recruitment efforts that UT-Austin has engaged in to increase the racial and ethnic diversity of students who are eligible for admissions under the plan. A striking finding is that, from 1998-2010, roughly 45% of the Latino students eligible for admission under the percent plan and approximately 30% of eligible African American students enrolled each year at the state's elite institutions. These are substantially lower percentages than those for white students eligible for automatic admission under the percent plan, 60% of whom enrolled at either UT-Austin or at Texas A&M each year during that period. These figures are similar when we examine patterns from 1998 to 2004, when the percent plan was in effect at UT Austin without a holistic admissions policy that could include some consideration of race. These differences in enrollment patterns, moreover, are not explained by students' decisions to attend college out of state, as no more than 3% of white students, 4% of African American students, and 1% of Latino students who were eligible for admission under the percent plan

chose to attend college out of state from 1998 to 2008. These findings support the need for other institutional policies, such as race-conscious admissions, for increasing the racial and ethnic student body diversity at selective postsecondary institutions like UT-Austin.

Horn and Flores' consequential findings were cited in a friend-of-the-court brief submitted by 444 social science researchers from many universities in support of UT-Austin's race-conscious admissions policy. The findings provide insight into the complex college choice and enrollment patterns of students under the percent plan, and are directly relevant to the Court's legal determination in the case. In *Grutter*, the Court referenced social science research, including a prior study by Horn and Flores that provided a comparative analysis of Texas's, California's and Florida's experience with percent plans, to support its conclusion that racial and ethnic diversity served a compelling interest (the educational benefits of diversity) and that percent plans were not effective alternatives to the limited consideration of race in admissions. As with *Grutter*, social science evidence should inform the Court's determination in this case and the Horn and Flores study provides critical evidence that mechanistic admissions policies like percent plans are not effective, on their own, at achieving meaningful levels of racial and ethnic diversity in light of myriad factors that contribute to educational inequities in education. U.S. courts often make major decisions without adequate research data, relying on whatever information the two parties submitted in the initial trial. This work is an excellent example of serious research that could make a difference should the court choose to consider it, and it is a model for the way in which serious social science can illuminate a truly important national issue.

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