

# **PART I**

## Introduction



# CHAPTER 1

## The Search for an Alternative Affirmative Action Policy in American Higher Education

In 1973 and 1974, a white U.S. military veteran named Allan Bakke applied to medical school at the University of California–Davis (UC Davis) and was twice rejected. At the time the student bodies of most American colleges and universities were overwhelmingly white, especially the professional schools, such as law and medical schools. In an attempt to remedy the underrepresentation of minorities, UC Davis had established an affirmative action program in the early 1970s, with the multiple goals of “reducing the historic deficit of traditionally disfavored minorities in medical schools and in the medical profession,” “countering the effects of societal discrimination, increasing the number of physicians practicing in underserved communities,” and “obtaining the educational benefits that flow from an ethnically diverse student body.”<sup>1</sup> In furtherance of these aims, the medical school at UC Davis created two separate admission pools: one for standard applicants and another for minority applicants. Sixteen of the one hundred seats in the entering class were reserved for the latter group.<sup>2</sup>

Bakke was born in Minneapolis in 1940 to a middle-class family of Scandinavian descent and was raised in Florida. His father was a postal carrier and his mother was a schoolteacher. He received a bachelor’s degree in engineering from the University of Minnesota in 1962 and joined the U.S. Marine Corps after graduation. He served as an engineer in the Marines for four years, including a seven-month stint in Vietnam, earning the rank of captain.

After his discharge, he worked as an engineer at NASA and completed a master's degree in engineering at Stanford University in 1970.<sup>3</sup>

Bakke first applied to medical school in 1973 at the age of thirty-three, a relatively late age at a time when medical schools throughout the United States were known to discriminate against older applicants.<sup>4</sup> After twice being rejected, Bakke sued the university, claiming racial discrimination, because his grades were higher than those of some of the school's minority admits. His lawyers argued that the minority quota at the medical school violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, as well as the 1964 Civil Rights Act. After several appeals, this case eventually reached the U.S. Supreme Court in 1977. Representing UC Davis, Archibald Cox argued that considering race as a positive factor in admissions, with the goal of overcoming the vestiges of slavery and discrimination, was legal and constitutional. The case, *Regents of the University of California v. Bakke* (1978), represented the first Supreme Court challenge to affirmative action policy in the history of American higher education.

## ELITE COLLEGES AND UNIVERSITIES IN THE UNITED STATES

UC Davis was not alone in adopting affirmative action practices. In the late 1960s, toward the end of the civil rights era, several colleges and universities in the United States started to give black students special consideration in admissions. These schools, for the most part, were among the most selective in the nation. In fact, most U.S. postsecondary institutions do not need to give special treatment in admissions because they admit all applicants who seek admission; only 20 to 30 percent of four-year colleges in America have enough applicants to be able to pick and choose among them.<sup>5</sup> A very small percentage are so selective that they reject the majority of applicants, including the historic Ivy League universities, most of which were founded centuries ago. These eight bastions of the elite in the Northeast—Brown University, Columbia University, Cornell University, Dartmouth College, Harvard University, Princeton University, the University of Pennsylvania (UPenn), and Yale University—are the traditional symbols of academic excellence and selectivity. In 2014 the undergraduate divisions of Harvard and Yale admitted only 6 percent of applicants, while the University of Pennsylvania admitted 10 percent.

Today there are several other four-year institutions around the country, most of them private, that are on par with the Ivy League in terms of prestige and selectivity, such as Stanford University (5 percent acceptance rate) and Rice University in Texas (14 percent). Several public state universities have also managed to enter the circle of elite schools—among them the University of California–Berkeley (UC Berkeley), the University of California–Los Angeles (UCLA), the University of Michigan (UMich), and the University of Texas–Austin (UT Austin). These public institutions were established to provide students with a top-notch education—tantamount to what the most distinguished private universities offer—but at a much lower price. Nonetheless, as more and more applicants were attracted to these world-class public research universities, they became more expensive and even more selective.<sup>6</sup> The undergraduate acceptance rate at UC Berkeley was 17 percent in 2014, similar to that at Cornell University. Today UCLA admits 18 percent of its college applicants, and UMich admits about one-third.

Social elitism has always been associated with selective colleges and universities in the United States—most glaringly at the Ivy League schools, which until a few decades ago catered largely to the traditional American upper class: white Anglo-Saxon Protestants, especially the “old money” families of the Northeast. But today even selective public universities, which were founded on the principles of mass higher education and social mobility, are becoming more elitist as they become more competitive. The percentage of affluent students whose fathers and mothers have college degrees is rising in these schools, while the number of Pell Grant recipients (a form of federal financial aid given to students with financial need) is declining.<sup>7</sup> These public universities have also become bastions of privilege.

Once a magnet for prospective teachers and ministers, the Ivy League today, like other selective schools, draws its elite status from being the training ground for the nation’s leaders and high-rung professionals. The alumni of elite colleges are more likely than other bachelor’s degree holders to enter graduate and professional programs. Over half of those who entered a bachelor’s program at one of thirty elite colleges in 1976 went on to complete an advanced degree, compared with fewer than one-quarter of their counterparts at other four-year colleges.<sup>8</sup> An education at an elite school is also closely associated with some of the most prestigious positions in the country. Fourteen of the forty-three U.S. presidents graduated from an Ivy League university: eight had degrees from Harvard, five from Yale, three from Columbia, and

two from Princeton. The last four presidents all attended Ivy League schools for at least part of their education: George H. W. Bush was a Yale undergrad; Bill Clinton attended Yale Law School; George W. Bush attended Yale College and Harvard Business School; and Barack Obama was a Columbia undergrad and completed Harvard Law School. All nine sitting Supreme Court justices have a law degree from either Harvard or Yale. Three were undergrads at Princeton, two were at Stanford, and the rest studied at Harvard, Cornell, Georgetown, and College of the Holy Cross.

The common denominator at elite institutions in the 1950s and early 1960s was the notable absence of African American students.<sup>9</sup> Blacks constituted only 0.8 percent of the entering freshman classes of nineteen of the most selective colleges in 1951.<sup>10</sup> Jerome Karabel, a sociologist at Berkeley who studied the “Big Three” universities—Harvard, Yale, and Princeton, all Ivies—noted that the homogenous student body at these schools largely comprised the sons of alumni and members of the social and economic upper crust. In 1960 only fifteen blacks were in the entering class at the Big Three, among more than three thousand students. At Princeton only one black student could be found in the freshman class of over eight hundred students.<sup>11</sup> Even as late as 1965 blacks made up only 1 percent of enrolled students at selective colleges in New England.<sup>12</sup>

## RACE-BASED AFFIRMATIVE ACTION

In the United States in the late 1960s, toward the end of the civil rights era, most leading colleges and professional schools—where the paths to leadership roles in America tend to be found—began to acknowledge their crucial role in facilitating the social and economic mobility of minorities and leveling the playing field between blacks and whites. They also began seeking diversity on campus as they discussed the importance to the education process of having an array of talents, backgrounds, and opinions in the classroom. For these reasons, elite institutions started to give black students special consideration in admissions. In the five decades since these policies were first implemented, the term “affirmative action” has become synonymous with admissions policies that consider race or ethnicity—that is, that adopt as a main criterion applicants’ membership in specific racial and ethnic groups. During this period, race-based affirmative action has dominated policymaking, research, courts of law, and the public’s attention in the United States.

(For the sake of parsimony, I refer here to any policy based on race or ethnic origin as a “race” or “race-based” policy—that is, “race” in this context can also denote ethnicity.)

Yet this model of preferential treatment—based on an ascribed trait (a characteristic that an individual is born with, such as gender, race, ethnicity, or caste)—is not a uniquely American phenomenon. In fact, several countries have implemented or permitted similar affirmative action programs in higher education that draw attention to an ascribed trait. India, for example, initiated a quota program after gaining independence from Britain in 1947. Under this program, a percentage of positions in government and higher education are reserved for members of the Scheduled Castes and Scheduled Tribes, the two most disadvantaged groups in India.<sup>13</sup> More recently, South Africa also joined the affirmative action “club” in higher education. In the post-apartheid years, the University of Cape Town, one of the most selective institutions in South Africa, introduced affirmative action for black and mixed-race students, who had rarely been represented in the student body during the apartheid years.<sup>14</sup> Several selective universities in Brazil began using race-conscious admissions policies around the turn of the millennium. For example, in 2004 the University of Brasilia began reserving 20 percent of its enrollment for black and mixed-race students.<sup>15</sup>

What is unique, however, about race-based affirmative action in the United States is that it is voluntary—that is, it is not mandated by the government, but permitted when narrowly tailored. Remarkably, decisions about whether to implement such a policy at all and, if so, which applicants should get an edge in admission are made at the discretion of each institution (unless legislatively banned). Quotas are illegal. This approach to affirmative action represents a notable divergence from race- and ethnicity-based policies in other countries, which are state-sanctioned programs or legally permissible, such as India’s reservation policy and Brazil’s new Law of Social Quotas (which went into effect in 2012), under which admission decisions are formula-driven and based on state-proffered quotas.

Interestingly, despite significant between-country differences, affirmative action programs in all of these countries have been subject to criticism, and all have come under pressure to account for other aspects of disadvantage. Suggestions have arisen in India that preferential treatment eligibility be based on multiple disadvantages (gender, economic, and geographic factors, as well as type of prior schooling), not on caste.<sup>16</sup> The South African debate

on race-based affirmative action centers on whether the children of the emerging black middle and upper classes should continue to get the same break on admissions as impoverished black students.<sup>17</sup> It is reported that the University of Cape Town is developing race-neutral measures of disadvantage—such as the quality of an applicant’s high school and the educational attainment of his or her parents—in order to broaden access to underprivileged students. Brazil has already shifted to a class-based model of affirmative action in college admissions, with its new Law of Social Quotas, but the race of an applicant is still a factor in determining eligibility.

The fiercest and longest ongoing controversy over affirmative action, however, has taken place in the United States. Despite its noble goals, simply no other policy in higher education has been as divisive and litigious as affirmative action. Attempts have been made to abolish these policies from the moment they began. In fact, the Bakke case, which received tremendous media attention, reached the Supreme Court only about a decade after race-based affirmative action policies were first implemented in certain American colleges and universities.

### THE BAKKE CASE: LAYING DOWN THE LEGAL GROUNDWORK FOR CLASS-BASED AFFIRMATIVE ACTION

The University, through its special admissions policy, excluded Bakke from participation in its program of medical education because of his race.<sup>18</sup>

—Supreme Court justice John Paul Stevens

UC Davis’ goal of admitting minority students disadvantaged by the effects of past discrimination is sufficiently important to justify use of race-conscious admissions criteria.<sup>19</sup>

—Supreme Court justices William J. Brennan, Byron White,  
Thurgood Marshall, and Harry Blackmun

On October 11, 1977, the day before the presentation of oral arguments, newspaper reporters and camera crews camped out across from the Supreme



Court plaza. The next day hundreds of spectators lined up to get seats in the courtroom, while protesters on both sides filled the stairs outside of the Court.<sup>20</sup> The question raised by the Bakke case hit a nerve in a society grappling with the aftermath of the civil rights era: what happens when promoting opportunity for minorities comes at the expense of the majority? This question expresses the inherent tension between the notions of equal opportunity and race neutrality: the policies promoting the former can clash with the latter. On the one hand, the law forbids institutions from discriminating on the basis of race or color and from privileging one racial group. On the other hand, it allows minorities to be given special consideration for the purpose of promoting diversity and opportunity in employment and higher education.

The Supreme Court justices were divided in the Bakke case, and they issued six different opinions as the controversy was decided. Four justices—William Brennan, Byron White, Thurgood Marshall, and Harry Blackmun—argued that UC Davis’s special admissions program was permissible both constitutionally and under Title VI of the 1964 Civil Rights Act and that its use of a race-conscious program to correct social, legal, and historic wrongs was proper. On the opposing side, four justices—John Paul Stevens, Warren Burger, William Rehnquist, and Potter Stewart—voted to annul UC Davis’s affirmative action program, deeming it unconstitutional and in violation of Title VI of the 1964 Civil Rights Act.

The one remaining justice, Justice Lewis Powell, wrote the pivotal opinion in the case, which consisted of two parts. The first part (joined by four of the justices) struck down the affirmative action program at UC Davis’s medical school because it used a quota for minority admissions. Such quotas, he argued, are unconstitutional because they prevent people of other races from competing for the reserved seats and thus discriminate against them. The second part (joined by four other justices), however, upheld the constitutionality of considering race as one of a number of factors in college admissions to promote a diverse student body. In reversing the California court’s judgment enjoining UC Davis from any consideration of race, Justice Powell ruled that “the State has a substantial interest that legitimately may be served by a properly devised admissions program involving the competitive consideration of race and ethnic origin.”<sup>21</sup>

Despite the split among the justices, the Bakke case is often praised as the

legal cornerstone for affirmative action in higher education. Justice Powell, by way of his plurality opinion, set the stage for what came to be known as the “diversity rationale” for race-conscious admissions policies—the argument that having a diverse student body in postsecondary institutions serves a compelling government interest because “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.”<sup>22</sup> Race-conscious admissions, then, are permissible because, when narrowly tailored, they serve this substantial educational interest. All subsequent Supreme Court rulings on affirmative action in higher education have reaffirmed the diversity rationale established in *Bakke*. Following this ruling striking down UC Davis’s quota system, Allan Bakke was admitted to the medical school in 1978 at the age of thirty-eight. After graduation, Bakke began his residency in anesthesiology at the Mayo Clinic in Minnesota.<sup>23</sup>

The ruling has not ended challenges, however, to race-based affirmative action in college admissions. Far from resolving the controversy, the case encapsulates the differences of opinion concerning affirmative action. For one, the strict scrutiny that the Court imposed in *Bakke* stipulates that the consideration of race in admissions must be “necessary” for achieving diversity objectives, and this requirement has been used as ammunition against affirmative action in later lawsuits.<sup>24</sup>

Moreover, the issues at the heart of the jurists’ disagreements were not fully resolved in the melded-together *Bakke* ruling, and they inevitably reemerged in the various ensuing cases. As the late Ronald Dworkin, a constitutional law scholar, wrote shortly after the verdict: “The arithmetic of the opinions of various justices, and the narrow ground of the pivotal opinion of Justice Powell, mean that *Bakke* decided rather less than had been hoped and left more, by way of general principle as well as detailed application, to later Supreme Court cases that are now inevitable.”<sup>25</sup> Indeed, the public outcry against race-sensitive admissions in American colleges and universities has gained fervor over time, prompting more and more lawsuits in recent years and even bans concerning the use of affirmative action in several states, including Texas, California, Washington, Florida, Michigan, Nebraska, Arizona, New Hampshire, and Oklahoma (through voter-approved initiatives, referenda, executive decisions, or legislative votes).

Today, owing to this growing controversy as well as recent Supreme Court

rulings, affirmative action policy in U.S. higher education may be embarking on a new path. In *Fisher v. University of Texas* (2013), the Supreme Court affirmed the importance of diversity on college campuses, but instructed that universities may take race and ethnicity into account during admissions only if race-neutral solutions have been proven to be unworkable. The imposition of these guidelines is likely to increase the pressure on selective schools in the coming years to find new and creative ways of achieving campus diversity.

An obvious alternative to affirmative action based on race is affirmative action based on class—that is, giving special consideration in admission to the socioeconomically disadvantaged. Ironically, while the 1978 *Bakke* decision is often looked upon as the landmark ruling for legitimizing race-conscious admissions policies in higher education, it arguably did a better job of laying a legal groundwork for class-based affirmative action in three ways: (1) by shifting the rationale for affirmative action from reparation for past discrimination to promotion of diversity; (2) by pushing for broad diversity—that is, insisting that race be regarded as only one element in the overall diversity that enhances the learning environment; and (3) by imposing strict scrutiny, thereby permitting race to be considered as a factor in admissions only if no alternative policy can achieve similar goals. Justice Powell, in a sense, was the architect of class-based affirmative action.

In an era of widening inequality in both higher education and society at large, few would argue that selective colleges today no longer need policies that promote diversity. But the question is not whether affirmative action is needed, but whether it should be based only on race or on broader aspects of disadvantage as well.

## WHAT DO WE KNOW ABOUT CLASS-BASED AFFIRMATIVE ACTION?

Disadvantaged applicants of all races must be eligible for sympathetic consideration.<sup>26</sup>

—Justice Lewis Powell

One problem with the term “class-based affirmative action” is that it’s not so simple to define, and trying to do so raises several conceptual and practical

concerns. First and foremost, how exactly do we define “class”? Clearly, the designers of any class-based policy have to decide which factors determine eligibility. The most popular, almost instinctive, answer is to target people based on demonstrated individual disadvantages, such as being poor or being the first in the family to attend college. Alternatively, class-based policy can be based on structural factors, such as attending a low-performing high school or living in a poor neighborhood. And of course, class-based affirmative action can consider multiple factors, including both individual and structural disadvantages. This is not a trivial decision. For one, the decision is linked to our notions of morality and justice. But there are also important practical considerations that influence how we weigh the multiple factors.

It is reasonable to assume that adopting a more variegated set of criteria increases the likelihood of identifying the truly disadvantaged, but implementing and administering such an inclusive policy entails determining the relevant indicators of eligibility and then collecting, verifying, and weighting a wide array of sensitive information. It is when pondering potential alternatives to the current policy that this insight sinks in: while the focus on a single group characteristic (race or ethnicity) is the primary objection to race-based policy, it is also what streamlines its logistics. In class-based affirmative action, the question of who is eligible is far more complex. As two prominent economists note, there are “some important procedural questions about how a university might implement such a class-based affirmative action policy, because measuring family background is much less straightforward than measuring an individual’s race or gender.”<sup>27</sup>

It is also unclear whether a class-based policy would enhance racial diversity at elite institutions, relative to the race-based plans currently in place. Can race-neutral affirmative action achieve *broad* diversity—that is, socioeconomic, geographic, *and* demographic diversity? Or is the consideration of race in admissions essential for generating demographic diversity? Some researchers have tried to answer these questions by simulating a model of class-based affirmative action using U.S. data sets.<sup>28</sup> These statistical models suggest that policies based only on income will not promote racial and ethnic diversity nearly as well as race-sensitive policies do. But these simulations focus on a very narrow definition of class (family income) that may not be an adequate predictor of disadvantage, especially when it is the only criterion used. These studies do not take into account many of the factors likely to be

significant in fostering broad diversity, such as household net worth, the quality of secondary education, neighborhood influences, and family structure. The question, then, is whether a race-neutral model that considers an extended array of disadvantages in admissions will suffice to create both socioeconomic and racial-ethnic diversity in the student bodies of elite schools. In other words, can class-based affirmative action replace race-conscious admissions? Or, alternatively, should class-based policies supplement race-based policies so that applicants' race and socioeconomic background are both taken into account in making the admission decision?

An eligibility scheme that considers multiple factors in determining class disadvantage may create broad diversity but end up with a very small pool of applicants from socioeconomically disadvantaged backgrounds who also have stellar academic achievements that put them near the threshold of the nation's most selective colleges. The question thus arises: how many applicants out there who fit this description have somehow managed to beat the odds? This is a critical issue because the size of the pool determines the potential of this model to boost diversity.

There is also the issue of money. Admitting poor students to expensive schools is costly and requires boosting financial aid budgets. So even if selective colleges are able to find enough socioeconomically disadvantaged students with good enough grades and test scores to cope with the colleges' academic rigor, all of these students will need generous financial aid packages in order to enroll and persist until graduation. In contrast, the current race-conscious admissions policies include the pool of socioeconomically strong minorities who can pay, at least partly, for their education. In other words, the size of the financial aid budget will largely determine the potential of class-based policies to infuse elite institutions with poor students and to augment socioeconomic diversity on campus.

These are just some of the many issues involved in shifting from race to class in affirmative action, a move that is neither simple nor straightforward. The problem is compounded by how very little we know about how well class-based affirmative action works, mostly because, with the exception of sporadic experiments, it has never been implemented in the United States. And so, with few real examples of class-based programs to observe, we are left wondering about the impact of class-based policy on disadvantaged youth and campus diversity.

If we look beyond the United States—as this book aims to do—we find that while the class-based road is certainly less traveled, several countries are experimenting with various models of class-based affirmative action in higher education. These policies, I argue, open up an invaluable opportunity to see class-based admissions policy in action—specifically, to evaluate how others have dealt with the challenges of determining and implementing eligibility criteria, and to measure and compare diversity outcomes. Looking outside our borders may help us decide whether it is finally time for the United States to embark on the class-based path in affirmative action.

This book is rooted in this perspective—the idea that close observation of other nations’ battles with inequality can teach us something about our own, and specifically about whether the class-based model is feasible and fitting for U.S. colleges and universities. This idea led me to look for a natural experiment somewhere in the world that would allow me to empirically examine class-based affirmative action that had been implemented in higher education on a large scale. I wanted to compare such a program to the race-based approach favored by advocates of affirmative action in the United States—to reveal the respective gains and pitfalls and highlight the contextual and institutional factors conducive to each set of practices. Such an analysis, I reasoned, might help steer the debate on affirmative action in the United States away from political talking points and toward understanding whether this alternative could replace or supplement the race-based policy currently in effect.

Brazil, at first glance, looked like a tempting case study for such a comparative analysis. As mentioned earlier, in 2012 Brazil enacted a new class-based affirmative action program, the Law of Social Quotas.<sup>29</sup> According to this law, the public universities in Brazil, which are the selective universities, are required to reserve at least half of their slots for students from public high schools, which serve a poorer population and perform worse overall than the country’s private high schools. Furthermore, half of these reserved slots are set aside for low-income students.<sup>30</sup> However, while this policy’s hybrid design is noteworthy, its relevance to the current debate on affirmative action in the United States is limited. First, the policy—which focuses on high school type, income, and race simultaneously—is not race-neutral, in that the allocation of reserved slots must match the racial makeup of each state. Thus, this model does not comply with the U.S. Supreme Court’s instructions to give serious,

good-faith consideration to race-neutral methods of boosting diversity. Second, a U.S. “law of social quotas” would be problematic because first, quotas have been held to be unconstitutional in U.S. higher education ever since the Bakke decision, and second, affirmative action practices are voluntary. Finally, because the Brazilian policy is so new, it will be many years before it can be properly evaluated.

Nonetheless, there is a country with a voluntary class-based affirmative action policy in place that is large-scale enough to study, feasible for replication in the United States, and available for scrutiny. That country is Israel, whose higher education system I have been investigating for years, alongside my work on the American postsecondary education system.

### **A NATURAL EXPERIMENT IN CLASS-BASED AFFIRMATIVE ACTION IN HIGHER EDUCATION**

The Israeli affirmative action policy, the first of its kind to be implemented in university admissions anywhere in the world, was adopted in the mid-2000s by four of the country’s most selective universities. The program targets disadvantaged applicants, but it is completely race-neutral and need-blind: in evaluating the eligibility of applicants, these universities consider neither financial status nor ethnic origins. The emphasis, rather, is on structural determinants of disadvantage, specifically on neighborhood and high school socioeconomic status. (Some individual hardships are also weighed.) This design, while unique, nevertheless has deep roots in the long tradition of sociological research on the heavy impact of social structures, such as neighborhoods and schools, on educational outcomes.

Just as the reliance on race-based affirmative action in American colleges is no indicator that class is not a problem in the United States, it would be a mistake to deduce from the race-neutral design of the Israeli program that ethnicity<sup>31</sup> is not a factor in inequality in Israel. Israeli society is in fact divided along ethnic lines, with two main demographic cleavages. The first cleavage is between Israeli Arabs (the majority of whom are Muslims), who account for approximately 20 percent of the population, and Israeli Jews, who make up the rest. The second cleavage exists within the Jewish population between Jews of European and American origin (hereinafter “Ashkenazi”) and Jews of Asian and African origin (hereinafter “Mizrachi”). These

differences in ethnic origin shape Israel's stratification system. The hierarchies of educational attainment, occupational status, and earnings are clear and have persisted for over fifty years: Ashkenazi Jews are at the top, followed by Mizrahi Jews, while the Arab citizens of Israel occupy the bottom rung of the socioeconomic ladder.<sup>32</sup> In light of this stratification, there are occasionally calls in Israel for affirmative action policies in higher education that would consider applicants' ethnicity in admissions, giving an edge to the country's ethnic minorities, Arabs and Mizrahi Jews. But to properly evaluate whether such a change is warranted, we must go beyond the arguments and opinions and look at the numbers.

In this book I study the class-based, race-neutral, and structure-based program of affirmative action at Israeli flagship universities and compare these results (in terms of feasibility, academic standing, diversification, mobility, and students' success) with what ethnic-based affirmative action could generate. Simultaneously, I examine U.S. race-based plans and assess how their outcomes measure up against those that could have been advanced by class-based affirmative action.

## THE COMPARATIVE INVESTIGATION

The anchor of this book is a comparative study of actual and simulated race-based versus class-based affirmative action—which I refer to hereafter as simply “the comparative investigation.” I use the United States as a case study of race-based affirmative action and Israel as a case study of class-based affirmative action. For each country I compare the model that has actually been implemented to a simulated scenario of the road not taken—the alternative policy type. For the Israeli case, I compare the actual class-based affirmative action in place to a simulated model of ethnic affirmative action. For the American case, I put the current race-based policies up against three simulated models of class-based affirmative action: one focusing on individual socioeconomic status as determined by family income, family wealth, and parents' education levels (this is the most popular model in public discussion); one targeting applicants in poor schools that focuses on group affiliation (with schools), not on individual disadvantages (this model most closely replicates the Israeli program); and one that combines aspects of the first two models by focusing on both individual- and school-level disadvantages. The



simulations also examine a race-sensitive, class-based model—that is, a hybrid design that integrates race and ethnicity as another element in class-based affirmative action. These simulations let us observe how the diversity dividends of American race-conscious admissions programs measure up against those that could be advanced by different types of class-based affirmative action. They also tell us what model is practical and feasible and show us the likely impact on participating universities' academic selectivity (in terms of the test scores and grades of incoming classes) of shifting from race to class in affirmative action.

Diversity is not a class-based policy's only outcome of concern: students' mobility is also an important issue. As with race-based policies, the objective of Israel's class-based program is not only to diversify the student bodies of elite schools but also to pave the way for the social and economic mobility of disadvantaged populations. Thus, I evaluate the Israeli model by examining whether this policy helps its beneficiaries rise from the lower rungs of the ladder. Also pertinent is the ability of the beneficiaries of affirmative action to thrive and attain a degree. One of the claims against race-conscious admissions policies is that admitting minority students to elite schools harms these students and that they would be better off attending less rigorous schools.<sup>33</sup> Given this argument, the empirical investigation tracks the academic progress of students admitted under the Israeli policy during the college years and evaluates whether a policy that gives an edge to Arabs and Mizrahi Jews (ethnic minorities) produces a student body that is academically stronger or weaker in comparison. Similarly, I track the academic progress, pathways to degree attainment, and type of degrees obtained by the beneficiaries of the race-based affirmative action practiced by American colleges and universities. Documenting the mobility dividends and the repercussions for academic success of race- and class-based affirmative action—a topic that has not been fully addressed in the scholarly literature—is critical for evaluating preferential treatment policies and informing the ongoing debate about the shift from race- to class-based policy.

The comparative investigation allows me to examine how both types of affirmative action policy fare in terms of feasibility, diversification, mobility, and academic outcomes. Implementing such a simulation framework requires a wealth of reliable information about students' socioeconomic status. The empirical analyses of the U.S. side of the comparative investigation are

based on a cohort that started college in the fall of 1995 (the 1995–1996 academic year) and whose data are found in the Beginning Postsecondary Students Longitudinal Study (BPS), a study linked to the National Postsecondary Student Aid Study (NPSAS) and conducted by the U.S. Department of Education. These data include detailed information about students' social, economic, and academic backgrounds, their parents' educational attainment, and the type of high school they attended, and are thus ideal for determining applicants' eligibility for various class-based affirmative action prototypes. The data set also contains details about the postsecondary institution students attended and their academic outcomes and attainment in college. The Israeli-side analyses are based on institutional administrative data (a data set constructed with the support of the Spencer Foundation) from the four elite universities that practice this preferential treatment: Tel Aviv University (TAU), The Hebrew University (HUJI), The Technion (TECH), and Ben-Gurion University (BGU).<sup>34</sup> This rich data set contains application information, admission decisions, and student transcripts. Attractive aspects of the Israeli data set include the availability of applicant transcripts (including applicants' field-of-study selections and institution decisions)<sup>35</sup> and the ability to single out all affirmative action applicants, admits, and students.

## AN OUTLINE OF THE BOOK

As the search in the United States for effective models of class-based affirmative action in college admissions intensifies—especially in light of recent court rulings—it is imperative that we obtain empirical evidence about the feasibility and effectiveness of class-based policy compared with race-based policy. This is what I do in this book.

Part II provides context for the debate about the consequential and turbulent development of affirmative action policy in American higher education. Chapter 2 describes the birth of race-conscious admissions policies in the wake of the Civil Rights Act of 1964, as well as the current state of these policies in U.S. higher education. I review the success of this practice in enhancing racial and ethnic diversity at elite colleges and widening the path of mobility for minorities. The chapter presents statistics demonstrating the decline of blacks and Hispanics in postsecondary education that occurred when colleges were banned from using race in admission decisions and shows the pub-

lic and individual dividends of affirmative action. This success has been accompanied, however, by mounting controversy and legal threats, which I document. I explain the controversy surrounding race-based admissions—specifically, the issues of justice and preference, the creaming of already advantaged individuals, and academic mismatch. I review the relevant Supreme Court cases and focus on the guidelines of the recent Fisher decision. This chapter not only covers the history of race-conscious admission but also helps to sharpen the race and class controversy by highlighting some of the evidence for why race may still need to be considered in the admission process.

The wave of dissent against race-conscious admissions policies in higher education is more complex, I argue, than media headlines suggest. In chapter 3, I delve into what has been feeding the growing frustration with race-based affirmative action by analyzing the changing American economic and social landscape and postsecondary system over the past several decades. Several forces have made it very difficult for a talented high school senior from an underprivileged background to obtain an education from one of the best colleges in the country. These economic, social, and academic forces include rising income inequality, declining mobility, and escalating tuition costs. These forces have converged to sharply increase the competition for admission to selective colleges, leading to a widening class divide and growing segmentation in American higher education. The evidence in this chapter clarifies the rising appeal of class-based affirmative action in the public eye.

How have elite institutions in the United States reacted to these dramatic social, economic, and academic shifts? I focus in chapter 4 on the answers to this question, which represent an important piece of the puzzle. I show that elite institutions, while claiming to have opened the gates to students from all walks of life, have focused mainly on enhancing racial and ethnic diversity. Consequently, underprivileged applicants are falling behind, since they are competing not just with other meritorious students but also with alumni children, students from high-performing private high schools, children of foreign-born dignitaries, and those with special, unusual, athletic, or artistic talents. In the absence of consideration of other types of disadvantage, socio-economic diversity at the country's top colleges has declined. This chapter concludes that selective colleges have largely ignored the increasing class stratification in America. In hindsight, this appears to be a historic mistake on their part, one that may bring about the total prohibition of race and ethnic-

ity as criteria in admissions. But the schools are not the only culprits. Despite its mandate to focus on “broad diversity,” the Supreme Court has never been specific about what broad diversity is and how to achieve it. At a time of rising class and income inequality, which has been accentuated by the Great Recession, the misalignment between the broad diversity rationale and the narrowly defined practice of affirmative action has fed the frustration with race-conscious admissions and accelerated the search for race-neutral methods of promoting diversity, mobility, and equal opportunity in higher education.

Moving from race to class in affirmative action is not a simple proposition, however, as is explored in part III. Chapter 5 describes the conceptual and practical frameworks of class-based affirmative action, the different class-based policy options, and the dilemmas involved in shifting from racial to class considerations. Here I also explain the implications of focusing only on socioeconomic differences while ignoring structural ones—such as living in a poor community or attending a low-quality high school. However, even taking personal and structural economic disadvantages into account may pose problems that undermine the feasibility of class-based affirmative action and the representation of underrepresented minorities at elite campuses.

Chapter 6 discusses Israel’s current voluntary class-based regime, thereby bringing the theoretical discussion into the practical sphere. The chapter begins by describing the main contours of inequality in Israeli society. Over the past several decades, Israel, like the United States, has been plagued by rising economic inequality, declining social and economic mobility, and persistent ethnic inequality. As in this country, the rising competition in Israel for entry into the most selective universities prompted the need for affirmative action policy that could widen the path to these schools, especially to their most prestigious and lucrative departments. In this chapter, I describe in detail the unique affirmative action program that the most selective Israeli universities implemented in the mid-2000s.

Both chapters in part IV deal with feasibility and diversity dividends. Chapter 7 focuses on the diversity dividends of Israel’s class-based regime, juxtaposing the results with the potential dividends of a hypothetical program of ethnic-based affirmative action. Through simulation, I replace the actual beneficiaries of class-based affirmative action with the students who

would have been eligible for ethnicity-based admissions and estimate the impact on admission to higher education institutions of an affirmative action policy that gives preference to ethnic minorities. I gauge which model of affirmative action—race-based or class-based—produces higher levels of broad diversity within elite Israeli universities along geographic, economic, and demographic lines.

The answers are not entirely straightforward. A race-based affirmative action program, as expected, would generate a much higher level of ethnic diversity in the top Israeli universities than the current race-neutral program does. Moreover, owing to the high level of residential segregation in Israel, the race-based model would enhance certain types of geographic diversity. Race-based affirmative action would also strengthen the academic standards of the elite universities (although the opposite would be the case if the policy targeted only Arabs). The effect of race-based affirmative action on socioeconomic diversity, however, would be rather limited. Interestingly, and in contrast to the race-based model, the class-based program does not excel at promoting one particular type of diversity. Rather, its hybrid and multidimensional design targets several aspects of disadvantage simultaneously, with the result that its diversity effects are more widespread. In addition to its effect on spatial diversity, the class-based program enhances the representation in elite universities of ethnic minorities, new immigrants, poor individuals, and individuals from poor localities.

In a similar vein, chapter 8 reports the results of simulations that I conducted using data on American students. The approach is similar in logic to the Israeli simulations, but the direction is reversed: I replace the beneficiaries of racial and ethnic affirmative action at elite schools in the United States with students who would have been eligible for various prototypes of class-based affirmative action, including one similar to the Israeli program. (In reality, the latter are rejected and attend less-selective four-year schools.) These simulations show that, with one exception, the academic selectivity of elite institutions would not be jeopardized if affirmative action shifted from race to class; that exception would be a class-based policy that targets multiple disadvantages. Targeting students with as many disadvantages as possible is fair and politically correct, but given that elite institutions are likely to admit only the highest-achieving among this group, the diversifying potential of

such a policy would be limited by the short supply from which to draw extremely disadvantaged high-achieving students.

I then compare the diversity dividends of the class-based models with those generated by the actual race-based programs in place. As in the Israeli case, the results of the simulations are not straightforward. On the one hand, the student bodies of elite colleges would be substantially less diverse racially and ethnically under all types of class-based affirmative action relative to current race-based policy. On the other hand, admissions that target the socioeconomically underprivileged could boost the socioeconomic diversity at these bastions of privilege. Perhaps the best route for generating broad diversity would be a race-within-class model. The level of racial and ethnic diversity generated by nesting race preferences within class-based affirmative action policy approaches the current level, while also benefiting underprivileged nonminority applicants. The price of this outcome is the abandonment of race-neutrality.

Together, the findings of chapters 7 and 8 lead to a firm conclusion: there is no magic bullet solution to the issue of diversity at elite institutions. Neither race-based nor class-based models by themselves can generate broad diversity. Doing so would require a hybrid program that embedded, for example, the consideration of race within class-based affirmative action.

The two chapters of part V examine the mobility dividends of affirmative action policies in college admissions. Chapter 9 brings us back to Israel: using other statistical models, I show the implications for students' prospects of an edge in admission to an elite institution. The results show that such an edge allows Israeli applicants from disadvantaged backgrounds, including Arabs and Mizrahi Jews and those from poor localities and failing schools, to improve their chances at the admission stage of getting access not only to elite institutions but also to more competitive, profitable, and career-oriented majors within them. They maintain this edge until degree attainment and graduate from fields of study that are more rigorous, prestigious, and lucrative, on average, compared to their counterparts who did not make the cutoff for the program's eligibility.

Chapter 10 examines the effect of the affirmative action edge in admission on its beneficiaries in the United States and its contribution to their social and economic mobility. I show that blacks and Hispanic freshmen who benefit from race-based affirmative action at elite schools are better integrated on

campus, both academically and socially, than their counterparts at less-selective schools. Having more contact with faculty and peers contributes to their ability to navigate the hurdles in the first year of college. They are more likely than their counterparts to move on to the second year and, eventually, to graduate. Like the beneficiaries of class-based affirmative action in Israel, they translate the edge in admission to academic credentials. The findings in both cases indicate that affirmative action at elite colleges and universities is a vehicle for mobility for disenfranchised students, whether they are racial and ethnic minorities or socioeconomically disadvantaged. None would be better off without an edge in admissions.

Together, the findings of chapters 9 and 10 lead to a firm conclusion: in both Israel and the United States, students who benefit from either race- or class-based affirmative action are not better off attending less prestigious schools.

In the concluding part VI, “Insights from a Comparative Outlook,” chapter 11 summarizes the main findings of the comparative investigation regarding the mobility and diversity dividends of different types of affirmative action policy. I use these insights to revisit the key issues plaguing the debate about whether to switch from race-based to class-based considerations in American college admissions. One such issue is the politics surrounding the goal of broad diversity, whose ambiguity continues to stymie efforts to effectively reform affirmative action policy. Another issue is whether college admissions should be race-neutral or race-conscious. This chapter also weighs the broad-diversity implications of a reform that would eliminate legacies and other preferences. I reflect on more practical questions as well, such as whether affirmative action policy should aim to avoid creaming, whether a hybrid design is preferable to a rigid prototype, and, finally, whether to base eligibility on group affiliation or individual traits.

The public debate about affirmative action in U.S. higher education tends to involve many vehement claims about what is right and just and about what should and what can work. Glaringly missing from the discussion are evidence-based assessments of the effectiveness, feasibility, and implications of reforming affirmative action policy in college admissions—namely, of shifting the focus from race to class. These assessments are desperately needed at this stage, and this book is devoted to making them.

By focusing on two countries, the United States and Israel, and on two types of affirmative action policy, race-based and class-based, this investigation tries to answer some of the most pressing questions regarding the shift from race to class in affirmative action. While the United States and Israel have embarked on different affirmative action pathways, the dilemmas on both sides of the Atlantic are similar. Both types of policy, whether race- or class-based, raise questions about diversity outcomes, mobility dividends, academic selectivity, implementation, and feasibility.

This study shows that both the class-based and the race-based roads promote equal opportunity, social mobility, and diversity, but that they do so in different ways, achieving different outcomes. Class-based affirmative action is a solid alternative to race-conscious admissions policies, but lamentably, it is not a problem-free, superior alternative. Whether American colleges and universities decide to keep race-based affirmative action in place or switch to class-based affirmative action, they must be realistic about what each policy can and cannot accomplish.