The Michigan Affirmative Action Cases

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The Michigan Affirmative Action Cases ***2022-11-18***

HAILEY EVELIN

My Beloved World
Landmark Law Cases & American

"I knew she'd be trouble." So quipped Antonin Scalia about Sonia Sotomayor at the Supreme Court's annual end-of-term party in 2010. It's usually the sort of

event one would expect from such a grand institution, with gentle parodies of the justices performed by their law clerks, but this year Sotomayor decided to shake it up—flooding the room with salsa music and coaxing her fellow justices to dance. It was little surprise in 2009 that President Barack Obama nominated a Hispanic judge to replace the retiring justice David Souter. The fact that there had never been a nominee to the nation's highest court from the nation's fastest growing minority had long been apparent. So the time was ripe—but how did it come to be Sonia Sotomayor? In Breaking In: The Rise of Sonia Sotomayor and the Politics of Justice, the veteran journalist Joan Biskupic answers that question. This is the story of how two forces providentially merged—the large ambitions of a talented Puerto Rican girl raised in the projects in the Bronx and the increasing political presence of Hispanics, from California to Texas, from Florida to the Northeast—resulting in a historical appointment. And this is not just a tale about breaking barriers as a Puerto Rican. It's about breaking barriers as a justice. Biskupic, the author of highly praised judicial biographies of Justice Antonin Scalia and Justice Sandra Day O'Connor, now pulls back the curtain on the Supreme Court

nomination process, revealing the networks Sotomayor built and the skills she cultivated to go where no Hispanic has gone before. We see other potential candidates edged out along the way. And we see how, in challenging tradition and expanding our idea of a justice (as well as expanding her public persona), Sotomayor has created tension within and without the court's marble halls. As a Supreme Court justice, Sotomayor has shared her personal story to an unprecedented degree. And that story—of a Latina who emerged from tough times in the projects not only to prevail but also to rise to the top—has even become fabric for some of her most passionate comments on matters before the Court. But there is yet more to know about the rise of Sonia Sotomayor. Breaking In offers the larger, untold story of the woman who has been called "the people's justice."

An Introduction to Constitutional Law New Press, The

In 2014 and 2015, students at dozens of colleges and universities held protests demanding increased representation of Black and Latino students and calling for a campus climate that was less hostile to students of color. Their activism recalled an earlier era: in the 1960s and 1970s, widespread campus protest by Black and Latino students contributed to the

development of affirmative action and open admissions policies. Yet in the decades since, affirmative action has become a magnet for conservative backlash and in many cases has been completely dismantled. In To Fulfill These Rights, Amaka Okechukwu offers a historically informed sociological account of the struggles over affirmative action and open admissions in higher education. Through case studies of policy retrenchment at public universities, she documents the protracted—but not always successful—rollback of inclusive policies in the context of shifting race and class politics. Okechukwu explores how conservative political actors, liberal administrators and legislators, and radical students have defined, challenged, and transformed the racial logics of colorblindness and diversity through political struggle. She highlights the voices and actions of the students fighting policy shifts in on-the-ground accounts of mobilization and activism, alongside incisive scrutiny of conservative tactics and messaging. To Fulfill These Rights provides a new analysis of the politics of higher education, centering the changing understandings and practices of race and class in the United States. It is timely and important reading at a moment when a right-wing Department of Justice and Supreme Court threaten the end

of affirmative action.
Race, Class, and Affirmative Action
Oxford University Press, USA
“A book that both taught me so much and also kept me on the edge of my seat. It is an invaluable text from a supremely talented writer.” —Clint Smith, author of How the Word is Passed The definitive history of the pervasiveness of racial inequality in American higher education America’s colleges and universities have a shameful secret: they have never given Black people a fair chance to succeed. From its inception, our higher education system was not built on equality or accessibility, but on educating—and prioritizing—white students. Black students have always been an afterthought. While governments and private donors funnel money into majority white schools, historically Black colleges and universities (HBCUs), and other institutions that have high enrollments of Black students, are struggling to survive, with state legislatures siphoning away federal funds that are legally owed to these schools. In The State Must Provide, Adam Harris reckons with the history of a higher education system that has systematically excluded Black people from its benefits. Harris weaves through the legal, social, and political obstacles erected to block equitable education in the United States, studying the Black

Americans who fought their way to an education, pivotal Supreme Court cases like Plessy v. Ferguson and Brown v. Board of Education, and the government's role in creating and upholding a segregated education system. He explores the role that Civil War–era legislation intended to bring agricultural education to the masses had in creating the HBCUs that have played such a major part in educating Black students when other state and private institutions refused to accept them. The State Must Provide is the definitive chronicle of higher education's failed attempts at equality and the long road still in front of us to remedy centuries of racial discrimination—and poses a daring solution to help solve the underfunding of HBCUs. Told through a vivid cast of characters, The State Must Provide examines what happened before and after schools were supposedly integrated in the twentieth century, and why higher education remains broken to this day.

The Affirmative Action Puzzle

Columbia University Press

A "searching and emotionally intimate memoir" (The New York Times) told with a candor never before undertaken by a sitting Justice. This "powerful defense of empathy" (The Washington Post) is destined to become a classic of self-invention and self-

discovery. The first Hispanic and third woman appointed to the United States Supreme Court, Sonia Sotomayor has become an instant American icon. In this story of human triumph that “hums with hope and exhilaration” (NPR), she recounts her life from a Bronx housing project to the federal bench, a journey that offers an inspiring testament to her own extraordinary determination and the power of believing in oneself. Here is the story of a precarious childhood, with an alcoholic father (who would die when she was nine) and a devoted but overburdened mother, and of the refuge a little girl took from the turmoil at home with her passionately spirited paternal grandmother. But it was when she was diagnosed with juvenile diabetes that the precocious Sonia recognized she must ultimately depend on herself. She would learn to give herself the insulin shots she needed to survive and soon imagined a path to a different life. With only television characters for her professional role models, and little understanding of what was involved, she determined to become a lawyer, a dream that would sustain her on an unlikely course, from valedictorian of her high school class to the highest honors at Princeton, Yale Law School, the New York County District Attorney’s office, private practice, and

appointment to the Federal District Court before the age of forty. Along the way we see how she was shaped by her invaluable mentors, a failed marriage, and the modern version of extended family she has created from cherished friends and their children. Through her still-astonished eyes, America's infinite possibilities are envisioned anew in this warm and honest book.

Answering the Call

Pantheon

When federal courts have analyzed and addressed "affirmative action" in higher education, they have done so in two distinct but related senses, both under the Fourteenth Amendment's guarantee of "equal protection." The first has its roots in the original sense of "affirmative action: " the mandatory use of race by public education systems to eliminate the remnants of state-imposed racial segregation. Because state-sanctioned race segregation in public education violates the Fourteenth Amendment's Equal Protection Clause, in certain cases involving a state's formerly de jure segregated public university system, a state's consideration of race in its higher education policies and practices may be an affirmative obligation. As the U.S. Supreme Court explained in its consequential 1992 decision United States v. Fordice, equal protection may require states that formerly maintained de jure

segregated university systems to consider race for the purpose of eliminating all vestiges of their prior "dual" systems. Drawing upon its precedent addressing racially segregated public schools in the K-12 context, the Court established a three-part legal standard in Fordice for evaluating the sufficiency and effectiveness of a state's efforts in "dismantl[ing]" its formerly de jure segregated public university system. To that remedial end, mandatory race-conscious measures-in this de jure context-are not limited to admissions. Instead, remedies may also address policies and practices relating to academic programs, institutional missions, funding, and other aspects of public university operations. Outside this de jure context, "affirmative action" has come to refer to a different category of race-conscious policies. These involve what the Court at one time called the "benign" use of racial classifications-voluntary measures designed not to remedy past de jure discrimination, but to help racial minorities overcome the effects of their earlier exclusion. And for institutions of higher education, the Court has addressed one type of affirmative action policy in particular: the use of race as a factor in admissions decisions, a practice now widely observed by both public and private

colleges and universities. The federal courts have come to subject these voluntary race-conscious policies-"affirmative action" in its perhaps more familiar sense-to a particularly searching form of review known as strict scrutiny. And even though this heightened judicial scrutiny has long been regarded as strict in theory but fatal in fact, the Court's review of race-conscious admissions policies in higher education has proved a notable exception, with the Court having twice upheld universities' use of race as one of many factors considered when assembling their incoming classes. The Court has long grappled with this seeming tension-between the strictness of its scrutiny and its approval of race-conscious admissions policies-beginning with its landmark 1978 decision in Regents of the University of California v. Bakke through its 2016 decision in Fisher v. University of Texas. Though the Equal Protection Clause generally concerns public universities and their constitutional obligations under the Fourteenth Amendment, federal statutory law also plays a role in ensuring equal protection in higher education. To that end, Title VI of the Civil Rights Act of 1964 prohibits recipients of federal funding-including private colleges and universities-from, at a minimum,

discriminating against students and applicants in a manner that would violate the Equal Protection Clause. Federal agencies, including the Departments of Justice and Education, investigate and administratively enforce institutions' compliance with Title VI.

In Defense Of Affirmative Action

CQ Press

Few issues seem able to polarise the nation as easily as affirmative action. The question of how, even whether, to rectify past discrimination in jobs, schools, and law against women and minorities is a perpetually vexing one. While some call for a quota system to set minimum percentages and numbers for minority positions, others say qualifications should take precedence over race when hiring an employee, admitting a student, or enforcing a law. Civil rights groups claim that specific quotas are often the only way to make up for systemic racism; those opposing such actions cite 'reverse racism' affecting whites. Recent federal, state, and local cases have challenged several affirmative action programs, particularly those involving school admissions. Decisions in Texas and Michigan, for example have struck down the use of racial standards in choosing which applicants to admit to universities. Bills have been introduced to eliminate affirmative

action programs in many state legislatures, though there are some who want to 'mend, not end' affirmative action. Because this most crucial issue of race relations shows no signs of disappearing, the analysis in this book takes on added importance. Taking a look at affirmative action from a legal standpoint, the book addresses and assesses the history, current status, and future of affirmative action initiatives and programs. Such a study is much-needed in gathering information about a raging national debate.
The State Must Provide
Praeger
Affirmative Action recounts the fascinating history of a civil rights provision considered vital to protecting and promoting equality, but still bitterly contested in the courts—and in the court of public opinion.
Encyclopedia Of First Amendment Set
Vintage
Why is affirmative action under attack? What were the policys original purposes, and have they been achieved? What are the arguments being arrayed against it? Andfor all stakeholders concerned about equity and diversity on campus whats the way forward, politically, legally and practically? This book engages all these issues.
Creating Constitutional Change Russell Sage Foundation
Even as lawsuits challenging its

admissions policies made their way through the courts, the University of Michigan carried the torch for affirmative action in higher education. In June 2003, the Supreme Court vindicated UM's position on affirmative action when it ruled that race may be used as a factor for universities in their admissions programs, thus confirming what the UM had argued all along: diversity in the classroom translates to a beneficial and wide-ranging social value. With the green light given to the law school's admissions policies, Defending Diversity validates the positive benefits gained by students in a diverse educational setting. Written by prominent University of Michigan faculty, Defending Diversity is a timely response to the court's ruling. Providing factual background, historical setting, and the psychosocial implications of affirmative action, the book illuminates the many benefits of a diverse higher educational setting -- including preparing students to be full participants in a pluralistic democracy -- and demonstrates why affirmative action is necessary to achieve that diversity. Defending Diversity is a significant contribution to the ongoing discussion on affirmative action in higher education. Perhaps more important, it is a valuable record of the history, events,

arguments, and issues surrounding the original lawsuits and the Supreme Court's subsequent ruling, and helps reclaim the debate from those forces opposed to affirmative action. Patricia Gurin is Professor Emerita, Department of Psychology, University of Michigan. Jeffrey S. Lehman, former Dean of the University of Michigan Law School, is President of Cornell University. Earl Lewis is Dean of Rackham Graduate School, University of Michigan.

A Black and White Case Oxford University Press

A rich, multifaceted history of affirmative action from the Civil Rights Act of 1866 through today’s tumultuous times From acclaimed legal historian, author of a biography of Louis Brandeis (“Remarkable” —Anthony Lewis, The New York Review of Books, “Definitive”—Jeffrey Rosen, The New Republic) and Dissent and the Supreme Court (“Riveting”—Dahlia Lithwick, The New York Times Book Review), a history of affirmative action from its beginning with the Civil Rights Act of 1866 to the first use of the term in 1935 with the enactment of the National Labor Relations Act (the Wagner Act) to 1961 and John F. Kennedy’s Executive Order 10925, mandating that federal contractors take “affirmative action” to ensure that there be no discrimination by

“race, creed, color, or national origin” down to today’s American society. Melvin Urofsky explores affirmative action in relation to sex, gender, and education and shows that nearly every public university in the country has at one time or another instituted some form of affirmative action plan--some successful, others not. Urofsky traces the evolution of affirmative action through labor and the struggle for racial equality, writing of World War I and the exodus that began when some six million African Americans moved northward between 1910 and 1960, one of the greatest internal migrations in the country’s history. He describes how Harry Truman, after becoming president in 1945, fought for Roosevelt’s Fair Employment Practice Act and, surprising everyone, appointed a distinguished panel to serve as the President’s Commission on Civil Rights, as well as appointing the first black judge on a federal appeals court in 1948 and, by executive order later that year, ordering full racial integration in the armed forces. In this important, ambitious, far-reaching book, Urofsky writes about the affirmative action cases decided by the Supreme Court: cases that either upheld or struck down particular plans that affected both governmental and private entities. We come to fully

understand the societal impact of affirmative action: how and why it has helped, and inflamed, people of all walks of life; how it has evolved; and how, and why, it is still needed.

The Price of Admission (Updated Edition)
Stylus Publishing, LLC.
NATIONAL BESTSELLER • “A fire-breathing, righteous attack on the culture of superprivilege.”—Michael Wolff, author of the #1 New York Times bestseller Fire and Fury, in the New York Times Book Review NOW WITH NEW REPORTING ON OPERATION VARSITY BLUES In this explosive and prescient book, based on three years of investigative reporting, Pulitzer Prize winner Daniel Golden shatters the myth of an American meritocracy. Naming names, along with grades and test scores, Golden lays bare a corrupt system in which middle-class and working-class whites and Asian Americans are routinely passed over in favor of wealthy white students with lesser credentials—children of alumni, big donors, and celebrities. He reveals how a family donation got Jared Kushner into Harvard, and how colleges comply with Title IX by giving scholarships to rich women in “patrician sports” like horseback riding and crew. With a riveting new chapter on Operation Varsity Blues, based on original reporting, The Price of Admission is a must-read—not only for parents and students with a personal stake in

college admissions but also for those disturbed by the growing divide between ordinary and privileged Americans. Praise for The Price of Admission “A disturbing exposé of the influence that wealth and power still exert on admission to the nation’s most prestigious universities.”—The Washington Post “Deserves to become a classic.”—The Economist

The History of Michigan Law

University of Michigan Press

What is the real story behind the fight over affirmative action at colleges? Veteran journalist Peter Schmidt exposes truths that will outrage readers and forever transform the debate. He reveals how: * colleges use affirmative action to mask how much they cater to the country club crowd and to solicit support from the big corporations they steer minority students toward; * conservatives have used opposition to affirmative action to advance a broader agenda that includes gutting government programs that help level the playing field; * selective colleges reward families for shielding their children from contact with other races and classes and help perpetuate societal discrimination by favoring applicants from expensive private schools or public schools in exclusive communities; * racial tensions like those witnessed at Duke University, the

University of Michigan, and scores of other campuses in recent decades are a direct result of college admissions policies; * affirmative-action preferences for women and minorities may have survived recent court challenges, but in much of the nation they are unlikely to survive the forces of democracy; and * regardless of what happens with affirmative action, African Americans are going to be denied equal access to colleges for many decades to come unless American society undergoes revolutionary change. This is a startling, brave, and thoroughly researched book that will ignite a national debate on class and education for years to come.

Affirmative Action and Equal Protection in Higher Education

Crown

Through much of the 1990s, a newly hatched snake wreaked political havoc in the South. When North Carolina gained a seat in Congress following the 1990 census, it sought to rectify a long-standing failure to represent African American voters by creating, under federal pressure, two "majority-minority" voting districts. One of these snaked along Interstate 85 for nearly two hundred miles—not much wider than the road itself in some places—and was ridiculed by many as one of the least compact legislative districts ever proposed. From 1993 to 2001,

three intertwined cases went before the Supreme Court that decided how far a state could go in establishing voting districts along racial lines. Noted Supreme Court biographer Tinsley Yarbrough examines these closely linked landmark cases to show how the Court addressed the constitutionality of redistricting within the volatile contexts of civil rights and partisan politics. A suit was first filed by Duke University law professor Robinson Everett, a liberal who loathed discrimination but considered racially motivated redistricting a clear violation of the Fourteenth Amendment's equal protection clause. Yarbrough tells how Everett enlisted associates as plaintiffs and went on to win two Supreme Court victories in Shaw v. Reno (1993) and Shaw v. Hunt (1996)—both by 5-4 decisions. Following the creation of another "flawed" redistricting plan, he rounded up a new set of plaintiffs to take the battle back to the Supreme Court. But this time, in Easley v. Cromartie—on the swing vote of Justice Sandra Day O'Connor—the 5-4 vote went against him. Yarbrough shows the significant impact these cases have had on election law and the fascinating interplay of law, politics, and human conflict that the dispute generated. Drawing heavily on court records and on interviews with attorneys on both sides

of the litigation, he relates a complex and intriguing tale about these protracted struggles. His cogent and balanced analysis considers whether the state legislature was wrong in using race as a measure for establishing the new district, or whether it was simply engaging in the time-honored practice of gerrymandering to ensure political balance. Race and Redistricting spotlights efforts to "racially engineer" voting districts in an effort to achieve fair representation. By examining one state's efforts to confront such dilemmas, it helps readers better understand future disputes over race and politics, as well as the ongoing debates over our "color-blind" constitution.

The Bakke Case

HarperCollins

The debate over affirmative action has raged for over four decades, with little give on either side. Most agree that it began as noble effort to jump-start racial integration; many believe it devolved into a patently unfair system of quotas and concealment. Now, with the Supreme Court set to rule on a case that could sharply curtail the use of racial preferences in American universities, law professor Richard Sander and legal journalist Stuart Taylor offer a definitive account of what affirmative action has become, showing that while the objective is laudable, the effects

have been anything but. Sander and Taylor have long admired affirmative action's original goals, but after many years of studying racial preferences, they have reached a controversial but undeniable conclusion: that preferences hurt underrepresented minorities far more than they help them. At the heart of affirmative action's failure is a simple phenomenon called mismatch. Using dramatic new data and numerous interviews with affected former students and university officials of color, the authors show how racial preferences often put students in competition with far better-prepared classmates, dooming many to fall so far behind that they can never catch up. Mismatch largely explains why, even though black applicants are more likely to enter college than whites with similar backgrounds, they are far less likely to finish; why there are so few black and Hispanic professionals with science and engineering degrees and doctorates; why black law graduates fail bar exams at four times the rate of whites; and why universities accept relatively affluent minorities over working class and poor people of all races. Sander and Taylor believe it is possible to achieve the goal of racial equality in higher education, but they argue that alternative policies -- such as full public disclosure of all

preferential admission policies, a focused commitment to improving socioeconomic diversity on campuses, outreach to minority communities, and a renewed focus on K-12 schooling -- will go farther in achieving that goal than preferences, while also allowing applicants to make informed decisions. Bold, controversial, and deeply researched, Mismatch calls for a renewed examination of this most divisive of social programs -- and for reforms that will help realize the ultimate goal of racial equality.

Affirmative Action

Sarah Crichton Books

In 2006, Michigan voters banned affirmative action preferences in public contracting, education, and employment. The Michigan Civil Rights Initiative (MCRI) vote was preceded by years of campaigning, legal maneuvers, media coverage, and public debate. Ending Racial Preferences: The Michigan Story relates what happened from the vantage point of Toward A Fair Michigan (TAFM), a nonprofit organization that provided a civic forum for the discussion of preferences. The book offers a timely 'inside look' into how TAFM fostered dialogue by emphasizing education over indoctrination, reason over rhetoric, and civil debate over protest. Ending Racial Preferences opens with a review of the campaigns for and against similar initiatives in California,

Florida, Washington, and the city of Houston. The book then delivers an in-depth historical account of the MCRIDfrom its inception in 2003 through the first year following its passage in 2006. Readers are invited to decide for themselves whether affirmative action preferences are good for America. Carol M. Allen reproduces the remarks delivered at a TAFM debate, along with a compilation of pro and con responses by 14 experts to 50 questions about preferences. This book will be of interest to those working in the fields of public policy and state politics.

The Michigan Affirmative Action Cases Bloomberg Press

With a journalist's eye for detail, Robert Zelnick looks at Justice Sandra Day O'Connor's key role in the controversial University of Michigan affirmative action cases of 2003, providing key background information, detailed descriptions of daily arguments, and an evaluation of the final rulings.

The Death of Affirmative Action?

Oxford University Press on Demand

Affirmative action in US college admissions have inspired fierce debate and several US Supreme Court cases. In this significant study, leading US professors J. Scott Carter and Cameron D. Lippard provide an in-depth examination of the issue using sociological, policy and legal perspectives to

frame both pro- and anti-affirmative action arguments, within past and present Supreme Court cases. With affirmative action policy under constant attack, this is an urgent addition not only to explain the state of this policy but also to further deconstruct the current state of race and racism in American society.

Naked Racial Preference Ohio University Press
The College Entrance Examination Board and the Educational Testing Service claim that the SAT helps colleges select students, helps college-bound students select appropriate institutions, and furthers equality of opportunity. But does it really? Drawing on three national surveys and on hundreds of studies conducted by colleges, the authors refute the justifications the College Board and the ETS give for requiring high school students to take the SAT. They show that the test neither helps colleges and universities improve their admissions decisions nor helps applicants choose schools at which they will be successful. They outline the adverse effect the SAT has on students from nonwhite and low-income backgrounds. They also question the ability of the College Board and the ETS to monitor themselves adequately. The authors do not, however, recommend abolishing either college admissions testing or the College

Board and the ETS. Rather, they propose dropping the SAT and relying on such already available measures as students' high school coursework and grades, and they raise the possibility that new achievement tests that measure the mastery of high school courses could be developed to replace the SAT.

Swing Dance

University of Virginia Press

In recent years American colleges and universities have become the locus of impassioned debates about race-conscious social policies, as conflicting theories clash over the ways to distribute the advantages of higher education in a fair and just manner. Just below the surface of these policy debates lies a complex tangle of ideologies, histories, grievances, and emotions that interfere with a rational analysis of the issues involved. As never before, the need for empirical research on the significance of race in American society seems essential to solving the manifest problems of this highly politicized and emotionally charged aspect of American higher education. The research evidence presented in this book has a direct relevance to those court cases that challenge race-conscious admission policies of colleges and universities. Though many questions still need to be addressed by future research, the empirical data collected to date makes it clear that

affirmative action policies do work and are still very much needed in American higher education. This book also provides a framework for examining the evidence pertaining to issues of fairness, merit, and the benefits of diversity in an effort to assist courts and the public in organizing beliefs about race and opportunity.

Affirmative Action and Racial Preference
Landmark Law Cases & American
Examines the law and politics surrounding the Bakee case; a case claiming reverse discrimnation, considered by many as the most important civil rights decision since the end of segregation.