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Not Diverse, Just Black: Changing Diversity Frames and the Significance of Black Ethnicity in Racialized Educational Organizations

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Abstract

Not Diverse, Just Black: Changing Diversity Frames and the Significance of Black Ethnicity in Racialized Educational Organizations
By Michaela McMillian Jenkins

Black ethnic students, or Black immigrants, refugees, and their children, are overrepresented in elite higher education when compared to Black American students, or Black descendants of U.S. chattel slavery. Many scholars focus on culture as the primary mechanism responsible for the pattern. Instead, I focus on how organizations selectively incorporate ethnoracial groups to seem diverse. I ask two questions: How do the racial histories, demographics, and other racialized organizational characteristics, shape universities' diversity frames? How do these diversity frames incorporate and align with different Black ethnicities?

Through multi-method analysis of institutional influences, organizational characteristics, and the construction of Black ethnicity in the United States, I examined how Black ethnic overrepresentation in elite education is shaped by structural factors. I conducted a content analysis of Supreme Court cases deciding the legality of considering race in college admissions and found the presence of two frames of diversity, one cultural and one reparative. I then looked for these frames at two universities with different racializations, one predominantly and historically white, and one majority-minority with a significant Black population. I conducted participant observation of Black cultural organizations, ethnographic observation of university events related to race, interviews with multicultural affairs staff, and content analysis of the websites of each university. I found that the universities in my sample used the reparative and cultural frames, despite the cultural frame having more institutional support in the Supreme Court documents. University usage of these frames at times aligned with, and at times could not incorporate, both Black ethnics and Black Americans, depending on which frame they used and how they altered them to align with their organizational characteristics.

My findings suggest that ethnoracial hierarchies connect Black ethnic identities to cultural frames of diversity, focused on preparing majority actors for a globalizing world, rather than reparative frames of diversity, focused on including those historically excluded from these spaces like Black Americans. This work asserts the importance of structural explanations for even infracategorical differences.

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Chapter 1: Encountering Black Ethnicity in Educational Organizations

Introduction

This dissertation was born in a Black student union. Long before I knew I would go to graduate school, before I knew I had an ethnicity, I was a first year student at a liberal arts college in rural Ohio. It was one of those elite schools that could be the setting of a dark academia novel. Big gothic buildings. Tree lined gravel paths where students strolled at all hours of the day. Long gray winters where everything was muted by the snow. And, of course, many, many white students. My white classmates were from cities like San Francisco and Seattle, Boston and Columbus. They were upper class liberal elites who viewed those four years as an opportunity to retreat, like Thoreau, to a natural setting for their education. My Black classmates and I weren't quite the same. Just as smart, just as eager to learn, but more hesitant about learning in such a rural environment. Mostly middle to lower class, and typically the first to go to a school like this one, where tuition went over 60k before I graduated. To us, this rural environment was not relaxing, but foreign. It was the whitest place many of us had ever been. We were a part of the college community, but we knew we'd never blend in. Black students made up about 3% of the student body. In the sea of white snow and white bodies, we couldn't be missed.

Our isolation in this white environment made the few Black students on campus close. We knew each other almost *too* well. We became each other's roommates. We took classes together. We dated each other, and dumped each other, then dated each other again. Most of all, we ate and played cards and rested together in the lounge of the Black Student Union (BSU). It was a near sacred space, both to us and to the college as a whole. The lounge was dedicated to the organization as part of a list of demands during Black student protests in the late sixties and early seventies. In that room, on the third floor of the cafeteria, you could find a Black student at

almost any time of day. There, we took naps, watched *Scandal* and *Love and Hip Hop*, and most of all, argued, on the worn out brown leather couches replaced every five years or so after they gave up structural integrity from reckless student use. The arguments could be about anything. In fact, they were mostly about nothing. Drake vs. Kendrick. Whether someone was cheating at Uno (usually they were). At one point during my BSU presidency, I threatened to put a whiteboard on the wall dedicated to tracking how many days it'd been since we last argued about which city was better, New York or Chicago. I doubt we ever made it two weeks.

There are spaces like this on many college campuses. When American higher education integrated, Black students around the country began to shape their campuses by protesting, creating student groups, and demanding more Black faculty and students on campus (Patton 2006; Biondi 2012). Many Black studies programs, Black cultural centers, and Black cultural organizations (BCOs) were founded during this time, and many of these spaces still remain. They are an expected part of a diverse college campus, attractive even to white students (Stevens 2009; Warikoo 2016; Ford and Patterson 2019). I learned this when white parents would leave their admissions tours to ask me about our BSU, to wonder whether Black students had protested on campus lately, to see if I felt welcome there. Blackness was an expected part of the set dressing for their children's modern elite educations, there to make sure white students received a diverse education that prepared them for a globalizing marketplace (Mayorga-Gallo 2019). Eventually, I got a job in admissions, so I'd at least get paid for my work.

This is what Black campus life looks like at many colleges and universities, especially those that are elite and predominately white. But Blackness at these schools was also different from what I expected. My classmates were different from most Black people from the United States. Though overall from middle to lower class homes–I would not doubt that I came from

one of the most affluent families–many of them went to private or charter schools (see Jack 2019 for the common overlap between minority and low income students and elite secondary education). A significant number of my Black classmates were from Northern cities not that far from campus–Cleveland, Akron, Columbus–that the college had explicitly made connections to to increase diversity and 'give back' to those around them. The rest were from big Northern cities with significant Black populations–New York, Chicago, the Bay Area. Most unusually, though, at least half of them, if not more, were immigrants, refugees, or children of immigrants and refugees.

As a freshman from Columbia, South Carolina, this shocked me almost as much as the Northern cold or the presence of drive through liquor stores. Of course, I knew that Black people arrived in the United States via other countries. But when I thought of immigrants, I didn't think of Black people. In my mind, the majority of immigrants to the United States were Asian and Latine. After all, that was who the news showed when they talked about immigration. I knew Black people came from other places–my church had a pastor from Ivory Coast, I had a friend with a Jamaican father. And I'd seen pictures of Black people in countries like Colombia and Cuba. I knew these people existed in foreign countries, and even that some of them lived in the US. But in college, there was just barely a 50-50 split between descendants of US chattel slavery, which I call Black Americans in this research, and Black ethnic students, these children of immigrants and refugees. The idea that there were large numbers of Black people whose parents and grandparents came to this country from other places seemed out of touch with my understanding of the world. In small southern cities like mine, almost all Black people weren't 'from' anywhere. We'd always just been there. As I knew, my branches had been in the Carolinas and Alabama since they were brought to this country on slave ships. The same was

true for the vast majority of people I went to middle and high school with. I thought that was the case for almost all of the Black people in the country.

In that lounge, I discovered that there was an aspect of Blackness that I had not ever considered, and that that aspect was particularly present in elite educational spaces, especially in the American North. That aspect was ethnicity. Despite there not being very many Black students at the college, we didn't just have a Black Student Union. There was also an African Students' Association (ASA), and a group called Students of Caribbean Ancestry (SOCA). Some Black students only attended one of those organizations–some only attended BSU, and some attended none at all. Sometimes I would go to an ASA meeting. After all, I knew my ancestors were from Africa. But the things they talked about did not resonate with me. The jokes they told didn't seem to include me. I felt like an ally in that space. There were also tensions caused by the small number of Black students enrolled at our college. The year after I was admitted, the incoming class had a record low number of Black students. It became clear that there would not be enough Black students to serve on the board of three Black organizations. And so the ASA or SOCA took a break for a year or two. But the BSU never closed. As students, we knew the BSU held a specific importance to the college that other Black student groups didn't. It had an organizational history that was meaningful to us and to the administration. The BSU planned Black History Month with the Office of Diversity, Equity, and Inclusion every year. We had the official institutional space, while ASA and SOCA met in classrooms and student centers. I began to suspect that the experience of these groups wasn't just shaped by the members, but also by the educational organization we attended as a whole.

This new aspect of Blackness, ethnicity, was also something we argued about. I will confess here that I was a major part of these arguments, as I have always loved to talk. I did not

believe my peers when they told me they came from communities where almost everyone Black was a child of an immigrant. They told me that New York City, a place I associated with the kind of Black I was, a kind of Blackness I took pride in because it inspired the Harlem Renaissance, was mostly full of Black people who were West Indian and Afro Latine. They said that the best food made by Black people was jollof rice. To me, this could not stand. I responded with the magic of boiled peanuts. That Black actors we loved, like Chadwick Boseman and Danielle Brooks, were from South Carolina, like me. That where I was from, our grandparents and their grandparents and their grandparents before that were from nowhere in particular. That this was what it meant to be Black Student Union 'Black.' Because I did not know the term ethnicity, or rather, because I thought ethnicity was simply why white people sometimes said they were French or German when they knew neither of those languages and had never been to those places, I had a shorthand I used to describe the different 'Blacknesses' we debated. My peers born in Kenya and Ghana or to parents from Panama and Jamaica were 'special heritage Black.' And I, and my few Southern classmates or Black friends whose grandparents had arrived in Cleveland and California by way of Alabama and Mississippi, we were 'cotton picking Black.'

This inelegant language established, my peers and I could now bicker about the boundaries of Blackness more effectively. Could 'special heritage Blacks' say the n-word? Could 'cotton picking Blacks' wear kente cloth? If we had an African Students Association and a group for Students of Caribbean Ancestry, should I start a 'Cotton Pickers Student Union?' These were not serious conversations. But they were the attempts of a group of young people in the early stages of their liberal arts education to describe a sociological phenomena that had been present in elite American educational spaces for a few decades at this point. In *Black Ethnics*, which was published as I became a junior in high school, Christina Greer describes the tension that occurred

when the Black Student Union at her university changed its name to "the Pan-African Alliance" and an "African Student Organization" and "Caribbean Club" were founded (2013:2). The year I sent my college applications out, Candis Watts Smith described in the introduction of *Black Mosaic* that she was the first Black person "actually from the United States" one of her Caribbean classmates had ever become friends with (2014:1). The year I graduated from college, Tressie McMillian Cottom described in *Thick* the constant surprise people at our alma mater had when they discovered she was what they called "black-black" from North Carolina and not a "special negro" from the Caribbean or Africa (2019:143). At colleges and universities across the country, Black people were creating terms for these differences. They were drawing lines around experiences they had no words for. They were thinking sociologically.

Despite majoring in sociology and taking a few Africana Studies courses at that college, I did not learn much about Black variation in the United States as an undergraduate. I learned that, yes, the majority of Black people in the United States were not immigrants or children thereof, but descendants of enslaved people (Waters, Kasinitz, and Asad 2014). But I wanted to know more, and that pursuit of knowledge brought me to a doctoral program. Armed with institutional library access and my sociological imagination, I dedicated myself to gaining an academic understanding of the phenomenon I was familiar with. I learned that when we argued about whether collard greens or callaloo were better, we were arguing about Black ethnicity. I discovered that scholars have been writing about the different experiences of Black people based on their ethnicity since the 1920s. James Weldon Johnson, who I knew then as the writer of the Negro National Anthem, had written about the success of Caribbeans in New York city (1930). Famous Black conservative writer, Thomas Sowell, theorized about the success of Black immigrants as a way to argue that racism was over in the United States (1981). I learned that

since 1965 Black immigration to this country had been on the rise. In the 1970s, 1% of all Black people were foreign born, the highest it had ever been (Charles et al. 2022). In 2019, they made up 11.1% of Black America (Charles et al. 2022). While these numbers seem small, they represent a major change in the makeup of the Black population of the United States. But they are not large enough to explain *why* I went to school with so many Black ethnic students.

Beginning in the 1980s, the study of Black ethnicity blossomed in a subfield in sociology. Research from scholars in this field confirmed my suspicion that there were more Black ethnic students at my elite school than in most other Black spaces. In 1999, first and second-generation immigrants made up 13% of Black youth ages 18 and 19 and 27% of freshmen at 28 selective colleges and universities (Massey et al. 2007). In 2000, just 7% of the Black population was foreign born (Tamir 2021). In the Charles et al. study, Black ethnics were twice as likely to attend the top ten schools in the sample (2022). This was despite there being no major difference in SAT or GPA averages between the two groups. Without a clear academic explanation for the difference, scholars seemed to come to a common conclusion. Black descendants of recent immigration and refugee experiences were indeed overrepresented in elite higher education spaces. And the reason for their overrepresentation was *culture*. These Black people had a cultural advantage over Black Americans–Black ethnic cultures valued education more.

I want to pause here to unpack what I mean by culture, as it is a concept that can be understood in many ways. Broadly, culture is the beliefs, norms, symbols, and values people use in their daily lives (Peterson 1979). We use culture to make meaning of the world, to understand each other, and to try to accomplish our goals. Scholars using a cultural explanation for Black ethnic overrepresentation in higher education attribute their success to Black ethnic values. These values establish communal norms, or how they should behave in order to achieve the goals

they want. In this way we can understand how a broad sociological definition of culture functions to understand Black ethnic overrepresentation in higher education. I also emphasize a definition of culture specifically related to ethnicity. I borrow from Hall's theory of cultural identity to say that the culture being referred to here is:

> a sort of collective "one true self," hiding inside the many other, more superficial or artificially imposed "selves," which people with a shared history and ancestry hold in common. Within the terms of this definition, our cultural identities reflect the common historical experiences and shared cultural codes which provide us, as "one people," with stable, unchanging and continuous frames of reference and meaning, beneath the shifting divisions and vicissitudes of our actual history (Hall 1990:258).

This is a rather long definition, as most definitions of culture are in sociology. Let's take a moment to focus on the most important parts. What Hall refers to here is a set of tools and perspectives used to make meaning of daily life. In this definition of culture, Hall focuses on these tools being "collective," shared by people with common ancestry and history. The collective nature of these tools enable groups to understand each other more easily. What Hall calls "codes" sound mysterious or complex, but it may be more clear to think of them as collective references, such as an event that everyone in an area attended or a movie you and your siblings have seen many times. In this case, though, the collective being referred to is an ethnic collective, an ethnicity. Later in this chapter I'll further explain the complexities of ethnicity, but here I'll continue to rely on Hall, who defines ethnicity as a form of "difference grounded in cultural and religious features" typically associated with a shared ancestry (2000:110). In our conversation about culture and ethnicity, it might seem a bit circular to define ethnicity as being about culture. But these concepts are closely intertwined, as we'll later discuss.

Now that we understand some key terms, let's summarize what the academic literature I turned to said about Black ethnicity and patterns of educational attainment again. Research from the early 20th century used theories of cultural difference to explain the economic and

educational success of Black ethnics compared to Black natives (Johnson 1930; Reid 1939; McKay 1940). Most relevant to this research is the finding of Black ethnic overrepresentation in elite higher education when compared to their proportion of the Black population (Massey et al. 2007). This is particularly significant, given that Black Americans are the majority ethnic group in the United States (Waters et al. 2014). When theorizing about why this is, many scholars have suggested that Black ethnics have better cultures than Black Americans, and that they value education, work, and health more than their Black American peers. Put another way, Black ethnic people have good cultures; Black Americans have bad ones. This theory places blame for Black American socioeconomic disparity at the feet of Black American culture, rather than racism (Sowell 1981). Scholars argued that if foreign born Black people outperformed Black natives in any way, then these differences must stem from something other than racism (Hamilton 2019).

This conclusion was startling to me. How could it be that the vast majority of Black people in the United States simply came from bad cultures? How could the only Black people who do not have bad culture be a type of Black person I had only met ten or twenty times before I turned eighteen? How could being a typical Black person be so bad?

I will take a moment here to admit that I am not in all ways the typical Black person in the United States either. I am a third-generation college student. Both of my parents have multiple advanced degrees. My father is a physician. My mother has taught calculus, trigonometry, and statistics at community colleges my entire life. Even my maternal grandmother had a master's degree. My parents always told me–their job was work, and my job was school. And though my study of sociology taught me that my family's level of education was abnormal for Black people in the United States, my experiences told me that our valuing of education was

not. When I went to church, members of the congregation always asked me about my grades and expected to hear that I got all As, not As and Bs. My mother graduated from a historically Black college where Black women had been educated since the Reconstruction era, so my aunties were lawyers and judges and scientists. My community was made up of Black educators, working in and out of schools to tutor and support my peers and I. I had no doubt–my culture valued education. In many ways, I was a part of the group Charles et al. described in their book as *Young, Gifted, and Diverse* (2022). But my ethnicity, discovered late as it was, prevented me from being a part of the "diverse" Blackness that is expected to succeed in the United States. It is this contradiction between my personal experiences and the conclusions of other scholars that convinced me to take another look at higher education and Black ethnicity. I refused to consider Black cultural inferiority a sufficient explanation for what I had seen. I wondered if the main difference between my childhood experiences and my experiences in elite education was not *who* was there, but *where* we were.

Once I looked, I found that much of the research was conducted at schools that were more like my alma mater than the place where I grew up. Scholars studied elite northern schools with proportions of Black students much lower than the proportion of Black people in the United States, in states where larger percentages of the Black population were made up of Black immigrants (Tamir 2021, 2022). They often looked at the individuals within these schools without considering the histories, demographics, or administrations of the schools Black students exist within. I wanted to know the role that colleges and universities themselves might play in which Black students attend what schools.

This question seemed promising when I was initially developing and defending the proposal of this project. Soon after, it became even more important. In July 2023, as I started

collecting data, the Supreme Court decided *Students for Fair Admissions v. Harvard*, the latest of a series of cases about race and higher education beginning with separate but equal legislation. *Students for Fair Admissions v. Harvard* changed the way we think about race and higher education forever. It, in so many words (and over 200 pages), ended race-based affirmative action in the United States. Schools could no longer consider race as a plus in admissions. I had already planned to have a major part of this dissertation cover the racialized histories of the schools I selected–their racial makeup when they were founded, their integration experiences, and their current statements on diversity and inclusion. The shift from affirmative action to diversity based explanations for Black admission were central to my theorizing. But suddenly, every college and university in the country was reporting their dual commitments to following the new law of the land and maintaining diverse student bodies. The role of the law in creating circumstances around race and education, especially in college admissions, could not have been clearer. It is in this context that I developed a research project on the role of ethnicity in our thinking about Blackness, diversity, and education.

Dissertation Overview

In this dissertation, I connect parallel changes in the significance of Black people's ethnic identities and meanings of diversity in the United States. My findings suggest that the changing meaning of diversity creates ethnoracial hierarchies that connect Black ethnic identities to cultural frames of diversity, focused on preparing majority actors for a globalizing world, rather than reparative frames of diversity, focused on including those historically excluded from these spaces like Black Americans. These ties could be responsible for the disproportionate representation of Black ethnic students in elite educational spaces. This is a departure from much

of literature, which views ethnic differences themselves as the mechanism creating this pattern among Black people. Rather than asking Black ethnic students about the origins of their educational achievement, as much research does, I examine the educational systems that create these patterns.

I have two primary research questions that guided my inquiry. First, I asked how the racial histories and demographics, what I refer to as their racialization, of colleges and universities shape their diversity frames. The most recent and thorough data we have on Black ethnic variation in higher education comes from the National Longitudinal Survey of Freshman (NLSF), which surveyed freshman students at 28 colleges and universities, mostly elite, mostly Northern, and mostly predominantly white institutions (PWIs). To expand the field's understanding, I conducted my research at two universities in the American South, one PWI and one majority-minority. These schools have different racial histories, selectivity, and demographics than the schools included in the NLSF. Thus I examine these characteristics to see how these institutions frame diversity.

Secondly, I ask how these diversity frames incorporate and align with different Black ethnicities. To do this, I identified Black cultural organizations (BCOs) like Black Student Unions and African Student Associations at each school. These spaces are important because they support retention, identity formation, and success for Black students at colleges and universities (eg. Quaye and Harper 2007; Museus 2008; Kirby et al. 2020). But colleges and universities also use these groups to show the diversity of their student bodies and rely on them to throw events they can use to advertise diversity to prospective students (Ford and Patterson 2019). These student groups are unique because they are some of the few explicitly ethnically affiliated Black spaces on many college campuses. At some schools, the BSU is perceived or

utilized as a multiethnic Black space. But in the context of other BCOs, they often gain implicit Black American affiliation. The ethnic specificity of these groups can be broad or narrow. For example, at my alma mater, we had an African Students Association and a Students of Caribbean Ancestry group. But at schools with more Black students, they sometimes organize according to greater specificity, having East African Student Groups or groups for Nigerian students specifically.

By asking these two questions, I hope to gain a clearer understanding of educational organizations as locations that create ethnic disparities in Black attainment of higher education. However, this research does not attempt to determine specifically whether constructions of diversity are a dominant mechanism creating these patterns. To answer that question would require a level of quantitative data on ethnicity and Black student admissions that 1) colleges and universities do not typically collect and 2) would be difficult to attain. Rather, this research provides the tools to understand what is happening once students are already within the organization, and prompts us to think about how that might shape admissions.

Literature Review

Defining Ethnicity and Ethnic Terms

Before I further explain my research design and the theories that guided my research, I want to take a moment to explain the language I use when discussing Black ethnicity. Language around Black ethnicity is inconsistent both in the literature and in daily conversation. In this dissertation, I use the term "Black ethnic" to refer to Black people with known recent histories of immigration or refugee arrival to the United States. I borrow this term from Greer's book of the same name (2013). This term emphasizes the centrality of the concept of ethnicity to the

experiences of this group. Some scholars use the term Black immigrants to refer to this group. However, I prefer to avoid language around immigration, as a significant portion of Black ethnics in the United States are now second or even third generation citizens of the United States (Tamir 2021, 2022). Additionally, some Black ethnics arrived not through immigration, but through refugee status. Thus I avoid the use of the words "Black immigrant", unless the work I am citing uses this term in its language or I am solely referring to people who identify as Black who have immigrated to the United States.

I use the term "Black American" to refer to Black descendants of chattel slavery or those with no known recent history of immigration or refugee arrival to the United States. Historically, this group has been referred to by many terms, including "African American." Research from Watts Smith (2014)[1] finds that both Black Americans and Black ethnics identify with the term "African American." For this reason, I use the term Black American instead. This language also centers upon the centrality of time in America to the construction and experience of Black American ethnicity.

With this understanding of the terms I use to describe Black ethnicity, let's discuss why ethnicity is important to understanding inequality. Sociologists typically associate race with the realm of inequality. Bashi Treitler describes the typical assumption as such: "race is an *ascribed* set of character traits with which individuals and groups are labeled by others. Thus ethnicity is understood to be most often *asserted*, or *claimed*, by the individual or group" (2013:12). Historically, people have thought of race as a biological thing, related to genetics. However, most scholars now view race as socially constructed. Quoting from Hall:

> Conceptually, "race" is not a scientific category. The differences attributable to "race" within a population are as great as that between racially defined populations. "Race" is a

[1] For more information on this finding, see chapter 3 of Greer.

> political and social construct. It is the organizing discursive category around which a system of socioeconomic power, exploitation, and exclusion–i.e., racism–has been constructed…the problem is that the genetic level is not immediately visible. Hence, in this type of discourse, genetic differences…are "materialized" and can be "read off" in easily recognizable, visible signifiers of the body…such as skin color, physical characteristics of hair, features, …body type, etc., enabling them to function as discursive closure mechanisms in everyday situations" (Hall 2000:109-110).

Put simply, the visible nature of the differences we associate with race makes race seem real, as if it is occurring at the genetic level. By contrast, scholars often say we associate ethnicity less with physical characteristics and more with social and cultural characteristics. However, the association of ethnicity with the body was common in the past (see Ifatunji 2024, "The Problem of Ontological Overlaps"). These associations are stubborn, and continue to shape and complicate our understanding of race and ethnicity. I again return to Hall:

> Biological racism privileges markers like skin color. But those signifiers have always also been used, by discursive extension, to connote social and cultural differences. "Blackness" has functioned as a sign that people of African descent are closer to nature, and therefore more likely to be lazy, indolent, and lack the higher intellectual faculties; driven by emotion and feeling rather than reason; oversexualized; with low self-control and prone to violence, etc. Correspondingly, those who are stigmatized on ethnic grounds, because they are "culturally different" and therefore inferior, are often also characterized as physically different in significant ways (though not perhaps as visibly as [B]lacks), underpinned by sexual stereotypes which are correlated with the body …The biological referent is therefore never wholly absent from discourses of ethnicity, though it is more indirect. The more "ethnicity" matters, the more its characteristics are represented as relatively fixed; inherent within a group; transmitted from generation to generation, not just by culture and education but by biological inheritance; inscribed on the body…(Hall 2000:110).

Thus, race and ethnicity are co-constructed identities that have much to do with each other. For this reason, it can often be helpful to think of them as one related concept, an ethnoracial identity. Ifatunji speaks specifically about the common use of ethnoracial without clear definition (of which this author is certainly guilty) as a term meant to evoke notions of both race and ethnicity (2024). I follow in his definition of ethnoraciality:

> …the process of assigning racialized meanings to bodies and populations based on a varied set of physical and non-physical characteristics, to include skin color, hair texture, bone structure, language, religion, and/or nationality. (Ifatunji 2021:453).

This framework incorporates aspects that we typically associate with phenotypic and externally assigned notions of race (those associated with the body) and aspects that we typically call cultural into one combined concept. This combination is important, I argue, because people who are considered as being within the same ethnic group sometimes have racial differences, and people who are considered to be within the same racial group sometimes have ethnic differences.

Now understanding how race and ethnicity are interconnected, we can better understand why it is so strange that some groups are so associated with ethnicity while others are associated with race. The explanation for this involves an understanding that our society is constructed around race. Racialized social systems theory suggests that U.S. society is structured to "allocate differential economic, political, social, and even psychological rewards to groups along racial lines" (Bonilla-Silva 1997:474). Institutions, like the law and education, and organizations, like specific universities, function within society to allocate these rewards along racial lines. A clear example of this is the segregation of US schools prior to the passing of *Brown v. Board of Education*. In this era, US society made it easier for white students to receive economic, political, social, and psychological benefits through better schools and education. By contrast, students of color, particularly Native American and Black students, had a harder time reaching the same level of economic and political success. The educational institution rewarded some and withheld from others.

I argue that the racialized social system theory can be expanded from thinking strictly about race to broader notions of ethnoraciality. Thus people can be treated by others or, in the case of the ethnoracialized social system, rewarded or penalized because of their ethnoracial

identities. All ethnoracial groups are initially racialized, as in the United States a race is assigned to all groups, whether they identify with or embrace this racialization or not (Bashi Treitler 2013). If the ethnoracial group is able to perpetuate positive narratives about themselves that align with the dominant ethnoracial group at the top, they are rewarded with a more 'ethnic' identity (Bashi Treitler 2013).

> Ethnic project theory argues that many racialized groups (some immigrant, some native-born) launch similar campaigns for "racial uplift," but specific factors account for a group's success or failure in these efforts. A group's success is predicated on its ability to benefit from the marginalization initially designed to segregate the group and deny its members access to the socioeconomic opportunities and rewards that those at the top of the racial hierarchy are routinely granted. That is, groups that succeed take the racial structure as a given and primarily work to only change their place within it. (Bashi Treitler 2013:5).

Accepting the racial structure and attempting to raise one's place within it is not enough to gain the opportunity for ethnic distinction, however. A group must have a large enough population in the United States that they are understood as distinct, especially if they are visually similar to other ethnoracial groups; they must have a distinct identity that is easily named and recognizable to others outside of their ethnoracial group; and they must have narratives associated with themselves that are powerful and known to others (Bashi Treitler 2013). Only then can they have access to the resources associated with those at the top of the ethnoracial system. By inverse, groups that attempt to threaten the ethnoracial order or are foundational to an understanding of ethnoracial hierarchy are typically racialized (Bashi Treitler 2013). For this reason, I often use the phrase "racialized people" in this research. I use this term, rather than "people of color" or "minorities," because central to this research is the idea that some people are seen primarily through their racial identity.

In the next section, I suggest that increased ethnic heterogeneity in the Black population of the United States has changed how Blackness is thought of, constructed, and placed in

ethnoracial hierarchies. Put another way, I tell two stories of arrival to the United States and suggest that one group has had a story more easy to ethnicize.

Blackness(es) in America

It is perhaps easiest to understand the complexity of constructions of Blackness in the United States by telling two 'arrival' stories. To begin at any one particular date leaves out the important context that came before it, from the way European capitalism began to "exaggerate regional, subcultural, and dialectical differences into 'racial' ones" (Robinson 2020:26) to the foundational genocide and disposession of the people indigenous to the Americas (Fenelon 2016). However, the custom is now to start our first arrival story in 1619. In that year, the first known people from Africa arrived to the English colony, America (Kendi 2017). These initial twenty people were the first Black Americans, though they were not quite Black yet. Those newly arrived from Africa were sometimes referred to by their tribal or national origins, according, of course, to the extent that colonists recognized these designations (Robinson 2020:119). However, those born in the future United States were separated from their former contexts. Though within the colony, they were certainly not citizens thereof, nor of the mother country, England. Rather they were something new– 'negros', or in modern language, Black. I borrow from Hall in saying that Blackness here is more than a racial category. It is a "historical category, a political category, a cultural category" (Hall 1991:75). Blackness was a concept created by a white belief in the absence of both personhood and culture. As Robinson writes in *Black Marxism*: "The invention of the Negro proceed[ed] apace with the growth of slave labor…the more that Africans and their descendants assimilated cultural materials from colonial society, the less human they became in the minds of the colonists" (2020:119).

These Black non-citizens became a larger and larger part of the colony and then the young nation state. Scholars of slavery sometimes refer to the United States as a 'factory' of slaves, as significant numbers were born in the country than imported in (Morgan 2011). This was not a common dynamic; Caribbean and South American slave societies imported the vast majority of their slaves, as many died before reproduction due to the cruelty of conditions (Morgan 2011). This internal reproduction of slaves, in addition to the variety of ethnic, linguistic, and cultural influences imported Africans brought with them, influenced the way these enslaved people thought of themselves and lived. Scholars have debated the extent to which African cultural practices were able to be maintained by recently arrived slaves, how much the European cultures of slave masters and the white working class influenced enslaved people, the influence of indigenous American communities living near to and among enslaved people, and the ways in which these cultures may have interacted (Mintz and Price 1992; Baker 2010). What is evident is that some combination of these things created what has been recognized as a Black American culture. We see this culture in the negro spirituals Du Bois includes in *Souls of Black Folks* (1909), a foundational sociological text. As Mintz and Price write: "What slaves undeniably shared at the outset was their enslavement; all– or nearly all– else had to be created by them" (1992:27).

This arrival story is certainly the one most associated with Blackness in the United States. It has been retold many times, and different story tellers emphasize different aspects of the tale. What I emphasize here is the transformation of people from various cultures, languages, and nations, into one racial group through the process of enslavement. These Black people in the United States were considered property rather than members of the citizenry until the 1868 ratification of the Fourteenth Amendment, which provided citizenship to every person born or

naturalized to the United States. Despite their citizenship, concepts like the one-drop rule, which defined all people with one known Black ancestor as Black, and racist legal systems like Jim Crow and Black Codes (Haney-López 2006; Kendi 2017) fostered major segregation between Black Americans and citizens of European descent and other non-Black immigrants.

The second arrival story typically begins in 1965. Before this date, only small groups of people racialized as Black had voluntarily arrived in the United States beginning in the early 1900s, mostly from the Caribbean (Palmer 1995). The majority of these early immigrants were men recruited to work on the Panama Canal zone, who later settled in the United States when their work was finished (Palmer 1995). The 1924 passage of the Johnson-Reed Act and general xenophobia from U.S. immigration offices, however, stymied the subsequent flow of Black immigrants for decades (Hamilton 2019). Additionally, any Black person who immigrated to the United States before the 1960s had different experiences than European immigrants in terms of earning citizenship and experiencing immigration. Extensive segregation, small numbers of Black immigrants, and the way the country conceptualized race caused these voluntary immigrants to essentially blend into the Black American ethnicity. More than citizenship, ethnicity, or nationality, Blackness has been a "totalizing identity….applied to anyone of African descent" in the United States regardless of the racial dynamics of their home country (Bailey 2001 from Watts Smith and Greer 2019). For the first Black people in the United States, formerly enslaved or otherwise, their ethnic identities were essentially lost to the idea of Blackness (Waters et al. 2014; Watts Smith 2014; Nunnally 2010).

But in 1965, Black immigration to the United States boomed. The 1965 Hart-Cellar Act allowed for a much larger number of immigrants from the Western Hemisphere than the Eastern (Hamilton 2019). At this time British immigration policies were growing stricter, resulting in a

new flow of immigrants to the United States from the British Caribbean (Hamilton 2019). This growth was astronomical, with a 118 percent increase in Black immigrants from 1960 to 1970 (Hamilton 2019). In the 1980s, another group of immigrants began arriving in the United States—Black Africans. The passing of the Refugee Act of 1980 and the Immigration Reform and Control Act of 1986 facilitated the move of large numbers of Africans to the United States (Kent 2007 from Hamilton 2020). With these changes, the number of Black immigrants in the United States increased from 816,000 to 1.5 million from 1980 to 1989. The Immigration Act of 1990 provided further opportunities for immigrants from the Caribbean and Africa (Kent 2007). By 2005, there were almost three million foreign-born Black people in the United States (Kent 2007).

With this massive influx of foreign-born Black people, ethnicity rooted in a common national or cultural tradition could be preserved despite the dominance of racial identity for Black people in the United States. One tactic used to preserve ethnic identities were immigrant communities. Though Black immigrants constitute eight percent of Black people in the United States, in New York, Massachusetts, and Minnesota, Black immigrants are more than twenty percent of the total Black population (Watts Smith 2014). In Florida, Connecticut, Washington, and New Jersey, Black immigrants make up at least fifteen percent of the Black population (Watts Smith 2014). In some of these areas, Black immigration has been much more consistent than the national patterns mentioned previously. For example, in Florida, Afro-Latinos have been moving from the Caribbean and Latin American since the early 1900s (Watts Smith 2014; Mirabal 1998).

Black Ethnics and Ethnic Projects

The mass presence of Black ethnics and their current capacity to maintain ethnic identities has changed the way Blackness is thought of in the United States. Initial literature on ethnicity relied primarily on ideas of acculturation and assimilation to explain how immigrants became incorporated into the body politic and experienced economic and social success comparable to natives (Omi & Winant 2015; Waters 2014). Black Americans did not follow the incorporation theories that other immigrant groups, like Irish and Italians, used to achieve whiteness (Omi & Winant 2015). Thus, the literature suggested that these theories were incomplete or that Black people were deficient. Omi & Winant, however, highlight that these theories compared ethnic groups (Polish, Irish, Chinese, etc.) to a racial group, Black people (2015). This is particularly poignant when considering the differences found between Black ethnicities. Many scholars have suggested that Black ethnics do align with these traditional theories of assimilation, or at least ones that are slightly modified to account for their initial racial difference.

The dominant theory that accounts for the racialization of Black ethnics while still explaining the ethnic success is called segmented assimilation, which has been applied to the many ethnoracial groups who arrived to the United States in mass post 1965. This theory argues that it is not a matter of "whether the second generation [of Black ethnic immigrants] will assimilate to American society, but to what segment of that society it will assimilate" (Portes, Fernandez-Kelly, and Haller 2005:1000). These individuals can either assimilate into the white middle class, assimilate into the Black underclass, or maintain their ethnic identities and live in separated ethnic enclaves (Portes and Zhou 1993). For this research, it is important to note that the Black underclass referred to here has a Black American ethnicity. Bashi & McDaniel

theorized that new Black immigrants to the United States maintain ethnic differences that "may distinguish them from the general African American population" but that these ethnic differences decrease over time (1997:675). If members of the underclass are not Black American by ancestry, segmented assimilation theory states that they have been so racialized that they are indistinguishable from Black Americans. This theory has been critiqued for its ignoring of the Black (American) middle class (Neckerman, Carter, and Lee 1999) and its association of Blackness with the underclass. While I agree with these critiques, I also believe that segmented assimilation theory shows the truth of the tactics typically used by post-1965 arrivals to the United States. However, this is not best explained through assimilation theories, but through ethnic projects theory. As Bashi Treitler states, in order to escape negative racialization, these groups embrace the ethnoracial hierarchy and are rewarded by being able to move up by degrees (2013). As a result, they receive resources from the ethnoracial hierarchy.

What past scholars have labeled as evidence as Black ethnic cultural success, I describe as evidence of their separate status within the ethnoracial hierarchy from Black Americans. In order to understand how, I introduce the concept of racialized organizations. Within the ethnoracialized social system, racialized organizations sort resources to groups. Racialized organizations is the subtheory of racialized social systems theory which focuses on the meso level, or between structure and interactions (Ray 2019). These organizations are shaped by broader changes at the macro level (e.g., the move from segregation to integration) and shape smaller interactions (e.g., a Black and white child sharing lunch in the cafeteria). Within institutions like education, health care, and law, organizations like schools, hospitals, and jails respond to institutional changes in ways that directly reflect the lives of individuals. They may also work in reverse–repeated interactions within a racialized organization may cause change in

the ethnoracial structure. Thus the meso level is particularly important for understanding mechanisms of inequality (Meghji 2022).

These organizations are racialized because of their role in connecting rewards and penalties to racialized groups. When organizations exclude ethnoracial groups, treat ethnoracial groups differently, or are primarily run by certain ethnoracial groups, they distribute the goods and benefits of their institutions in ways that are significant (Meghji 2022; Ray 2019). For example, a historically Black college may have racial ideologies that differ from a college that did not admit Black students until the sixties. In a hospital without any doctors of color, the experiences of minoritized patients may not be taken seriously. In a school where Black students are more likely to be punished, the same action by a white student and a Black student might have different reactions. The racialized histories and presents of organizations shape how they think of race and who they choose to include. I will go into a deeper discussion of how this occurs in Chapter 4, where I present the results from my ethnographic research. For now, this understanding is sufficient for us to discuss how the literature suggests that Black ethnicities receive different resources from racialized organizations, and are thus being thought of or placed in the ethnoracial hierarchy differently.

There are decades of research that show Black ethnic success in economics and education when compared to Black natives. Black ethnics tend to have better health outcomes and economic circumstances than Black Americans (Bennet and Lutz 2009; Unnever 2016). Other studies suggest that Black ethnics find levels of economic and educational success that surpass Black natives within ten years of arriving in the United States (Corra and Borch 2014). Hamilton (2019) found that 36 percent of Black African immigrants have at least a college degree, compared to 20 percent of Black Americans and Black Caribbean immigrants. Unnever (2016)

showed that including foreign-born Blacks in the measures of college completion for Black people 25 or older raised the percentage of Black people who had completed college. Where other scholars have considered this evidence of their cultural distinction, I view this as them receiving resources due to their higher position in the ethnoracial hierarchy.

The belief in Black ethnic cultural superiority is an example of what Wallace calls "ethnic expectation," or the "dominant beliefs and routine, day-to-day estimations about what individuals in specific ethnic groups are capable of or likely to achieve" (2023:6). We see the belief in what ethnic groups are likely to achieve in Watts Smith's experience of being assumed to belong to one Black ethnic group and not another because of her academic rigor:

> I can recall quite clearly a time when a woman asked me, "Where are you from?" I replied, "My family lives in North Carolina"...She, in turn, asked, "No, where are you *from* from?" So I said, "Well, my parents are from Chicago, and my grandparents are from Mississippi." And then she said, "So you're telling me that you've managed to accomplish all that you have, and you have no immigrants in your family?" (2014:2).

While scholars of other racial groups, particularly Latinos and Asians, have studied the 'where are you really from' question as a tactic for racial identification or assertion of foreignness, for Black people in America, this question often is a prompt to share one's ethnicity, particularly that they are descended from Black people with immigrant histories, rather than slave histories. The ethnic expectations for Black people who answer 'where are you from' with states rather than nations are low, because there is a belief in a Black American apathy to education. With this assumption in mind, there is no need to look for explanations as to why there are ethnic differences in Black attainment of elite education. This is the true power and danger of culture–that "on their own, cultural explanations oversimplify…inherently complex phenomen[a]" (Wallace 2023:xix). This is especially dangerous because people often come to their ethnic expectations based on experiences rather than data. McMillian Cottom describes:

"As a Duke University professor once put it to me, "African students appreciate their educations," which I took to mean [B]lack ethnic students presumably cause fewer problems than regular [B]lacks" (2019:139). This is particularly interesting because ethnic expectations differ according to the spatial context ethnicities are constructed within. For example, in his book *The Culture Trap*, Derron Wallace uses the paradox of high U.S. American and low British ethnic expectations for the same group, Black Caribbeans, to display how history, structures, and culture shape whether or not Black children can succeed in education (2023).

Instead of relying upon ethnic expectations, I argue that we should look primarily toward structural explanations for these patterns. For example, Hamilton suggests that "selective immigration patterns" rather than cultural differences best explain the differences in present Black ethnic difference in outcomes (2019). Immigrants tend to move to areas dependent on immigrant labor or regions where other immigrants have already established systems of support (Bashi & McDonald 1997). Waters finds that Black immigrants hold different expectations of race relations that provide temporary success in America (2001). However, class and time spent in the United States shapes their capacity to maintain this perspective, and children of immigrants tend to fare much closer to Black natives than their parents (Waters 2001; Hamilton 2020). In Chapter 2, I will present other structural explanations for Black ethnic difference. But the theory that I believe best aligns with the case of elite higher education is selective inclusion.

Selective Inclusion

I frame the question of Black ethnic disparity in higher education as a question of selective inclusion. Selective inclusion is the idea that organizations are capable of admitting some non-dominant actors into their bodies, giving them access to the resources they distribute,

without threatening the structure as a whole (Berrey 2015). If there is too much evidence that the purpose of organizations is to selectively distribute resources away from subordinate classes, the structure can bend to allow some members of the subordinate class in. This bending, accepting some who the structure was not initially constructed to resource, is preferable to the structure breaking when too many subordinate actors identify, critique, and attempt to undermine the structure. Selective inclusion is a method of legitimizing the structure, of making the ideologies associated with the dominant structure seem true (Berrey 2015).

Let's think about this in the context of race. As discussed earlier, the racialized social structure seeks to distribute resources to those at the top of the racial hierarchy. In the United States, those at the top of the racial hierarchy are white. The racialized social structure uses frames like meritocracy, or the belief that those who succeed deserve it because of their hard work and intelligence, to legitimize the placement of whites at the top of the racialized social system. In a time period where the racialized social system had extremely rigid institutional blockers to resources, such as slavery, racist immigration policies, segregation, and other racially discriminatory projects, the lines between those who are resourced and those who are not were particularly rigid. But post the abolition of chattel slavery and the political uprisings of the Civil Rights Movement, there is a weakening of these institutional barriers. In order to appease the subordinately racialized, some people must be let in.

At first, I argue, these people are admitted through the rhetoric of reparation. In Chapter 3, I will discuss how the reparative frame developed alongside policies for affirmative action in higher education and the workplace. Those negatively racialized by the social system were intentionally excluded, but now, they must be intentionally included. The reparative frame is one way that racialized people have rejected the common belief that the racist history of the United

States is no longer relevant to racial outcomes today. The reparative frame centers the needs of the most marginalized, those who this nation has, since its inception, functioned to exclude. My research will suggest that these two foundational groups are Black Americans and Indigenous Americans. Affirmative action in the United States was developed to serve these groups, particularly Black Americans, who were the largest racialized group in the United States and the one most associated with educational exclusion (Graham 2002). For some time, the reparative frame was the dominant way organizations incorporated racialized people into their bodies. I argue that time, it worked to provide resources to those previously excluded.

But over time, the racialized social structure seeks to return to the level of prior control it had. Instead of using the same obvious institutional limitations and explicit racial rhetoric, the racialized social system converts to what Bonilla-Silva calls a "color-blind racist" ideology (2017). In a color-blind racial system, overt racism is considered a faux-pas and minimized as either entirely historical or no longer affecting racialized people. Bonilla-Silva writes: "Instead, Whites rationalize minorities' contemporary status as the product of market dynamics, naturally occurring phenomena, and…imputed cultural limitations" (2017:28). These beliefs are seemingly 'nonracial,' but in fact function to continue to limit resources to racialized groups. They function through practices like gerrymandering, unequal education, mass incarceration, and more.

Still, because these institutional roadblocks are explicitly non-racial, some are able to navigate them. Those at the top of the racial social system selectively allow members of the subordinate racial groups with certain characteristics access to the resources at the top of the hierarchy. These actors are not randomly included, but selected based upon their compatibility to the racialized social system (Thornhill 2015; Berrey 2015). These actors must embrace the same

ideologies and use the same frames as the dominant racialized group. In this way, the presence of those belonging to the subordinate racialized groups in elite spaces or with resources maintains the appearance of equality and race neutrality; if these racialized actors can make it, why can't everyone?

I argue that the disproportionate presence of Black ethnic individuals in elite higher education is an example of selective inclusion. In a color-blind world, it is not racism, but the pathological cultures of some racialized people, that causes all manner of unequal access and representation of racialized people in education. Bonilla-Silva calls this belief "cultural racism" (2017:119). As proof, ethnoracialized organizations can select racialized people who lean into ethnic identities or display cultural characteristics that can be ethnicized. In the field of higher education, I argue that this is done through what I call the cultural frame. This frame exists within the color-blind racism ideology as well as diversity ideologies (Mayorga-Gallo 2019). Utilized by both white actors in racialized organizations, such as the Supreme Court, and ethnoracialized actors through lobbying groups (Graham 2002) and ethnic projects (Bashi Treitler 2013), the cultural frame decentralizes race and racism while still attempting to access the benefits set aside for those historically denied rights. Groups with strong ethnic identities do this by presenting their differences as diverse, related to the globalizing marketplace (Millem 2003) and the diversifying country (Berrey 2015; Mayorga-Gallo 2019). Thus, ones ethnoracial identity is useful to institutions and organizations. In this way, selective inclusion through the cultural frame is an example of interest convergence, or the alignment of the interests of a dominant hegemonic class and a subordinate class (Bell 1980). In a world of increased globalization and at a time when the racial diversity of our nation is at an all time high, the

presence of racialized people can provide prestige (Ford and Patterson 2019) or legitimacy (Mayorga-Gallo 2019). As Berrey puts in *The Enigma of Diversity*:

> "Cultural value is placed on the so-called diverse people who are most easily incorporated into a setting and who enhance institutional objectives such as prestige, distinction, or profit making. Desirable diversity is routinely characterized as the representation of high status, upwardly mobile, or otherwise culturally appealing people of color and women" (2015:8).

Thus these ethnoracialized people are able to benefit despite not belonging to the dominant racial group. While this is positive for these individuals, this limited incorporation is not a solution to problems of inequality. Those who cannot construct their identities in cultural ways are not useful to the organization. Even if they could, then culture would no longer be what was selected upon; it is the limited access that makes selective inclusion compatible with the ethnoracial social system.

In this research, I examine how the shift from the dominance of the reparative frame to the dominance of the cultural frame occurred alongside the rise of Black immigration to the United States. I argue that the rise of the cultural frame made Black ethnic inclusion into elite higher education easier at the same time that legal attacks on affirmative action made Black American access to these spaces harder. Simultaneously, the color-blind racial ideology became dominant in the United States. These factors combined to make cultural racism against Black Americans particularly poignant while organizations still had access to ethnic Blacknesses to defend them from accusations of anti-Blackness. Though I focus on higher education as a location of these changes, I argue this timeline may also explain rising patterns of disproportionate Black ethnic representation in politics and economics.

Much research considers the role of race in educational outcomes, but ethnicity receives less frequent consideration because it exists "within-group[s]," not "between-group[s]" (Monk

2022:5). I argue that Black ethnic students are more easily accepted into new constructions of diversity because of their categorical atypicality. In Monk's (2022) infracategorical model of inequality, he argues that "members of stigmatized categories who are atypical in ways that …disconfirm negative stereotypes…of those in dominant categories are profoundly advantaged relative to other stigmatized category members (20). In this research, I apply the notion of categorical typicality to experiences of Blackness. As the vast majority of Black people in the United States are Black Americans, Black ethnics are atypical in a stigmatized category. Within an antiBlack society, their atypical nature may provide them privileges that lead to additional resources. Just as organizations construct race via "distribution of social, psychological, and material resources," I theorize that they construct and recognize ethnic difference in the same way (Ray 2019:29). In this way, I connect Black ethnic patterns of educational attainment to the same ethnoracialized hierarchies seen in Bonilla-Silva and Ray's work.

Though I argue that these organizations benefit from incorporating Black ethnic students over Black American students, I do not believe that the majority of organizations perceive Black ethnicity. That is to say, while I believe Black ethnic identity is valued over Black American identity, organizations rarely explicitly ask Black students about their ethnic identities. Rather, I argue that racialized organizations read cues of categories, or "various properties (or cues) associated with categories…and the mental representations, abstract ideas (i.e., concepts) and stereotypes triggered by these properties" to incorporate individuals into their bodies and grant them resources (Monk 2022:16). Thornhill (2015) argues that organizations seeking racial diversity specifically seek out people of color who they find "racially palatable, or not overly concerned with race" (1). The literature on Black ethnicity finds that Black ethnic students are less likely than Black American students to have negative opinions of campus climate (Griffin et

al. 2016). Additionally, I argue that racialized organizations similarly seek out people of color who play into frames of diversity that highlight the importance of cultural, rather than reparative responsibility. Griffin et al. found that Black first and second generation immigrants used broader cultural descriptions to describe diversity, while Black American students described diversity exclusively in terms of race (2016). I theorize Black ethnicity as a potential cue of racial palatability to racialized organizations.

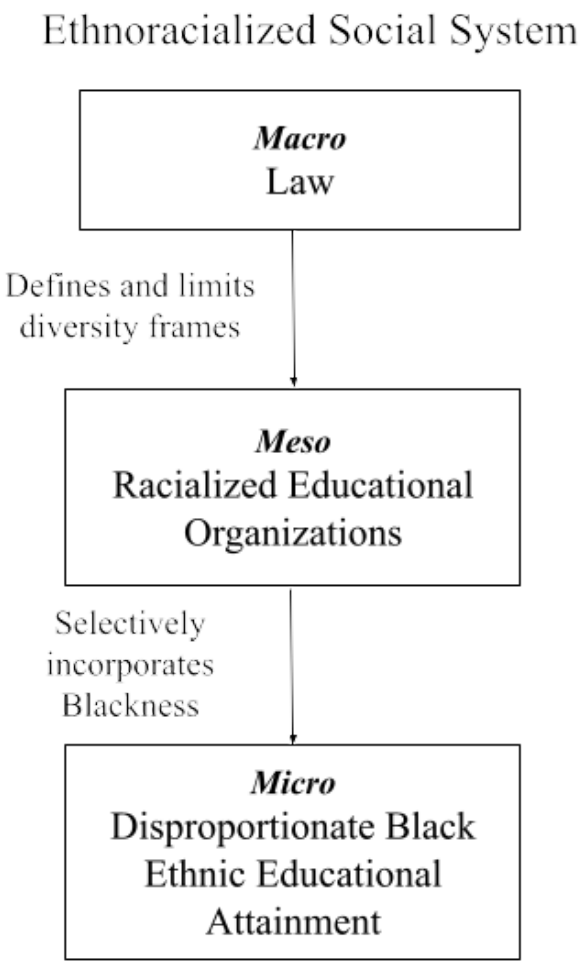
Research Design

My research thus seeks to understand how the pattern of disproportionate Black ethnic educational attainment is partially shaped by structural forces at the macro and meso level of the ethnoracial social system. I consider the law as an institution with power to define rhetorical discourses and place limits upon organizations. In this context, the law creates a framework through which race can and cannot be considered in higher education admissions. I understand these rhetorical limitations as "diversity frames."

Racialized organizations, like colleges and universities, are forced to operate within these limits. But these organizations are also agentic, able to determine how exactly they will use these frames. As colleges and universities attempt to continue to display themselves as diverse, the frames make it easier to incorporate some forms of Blackness into the organization without violating institutional guidelines or having to abandon their racialized organizational goal of

Figure 1: Research Design

providing resources to white actors. Through embracing cultural constructions of diversity, I



argue that these organizations selectively incorporate Black ethnic individuals, playing a major role in disproportionate Black ethnic educational attainment.

What follows is my attempt to create work that studies Black ethnicity while challenging racial structures and asserting the humanity of all Black peoples. I present three chapters, each focusing on a different space shaping our understanding of Black ethnicity. The first, "From Cultural Comparison to Critical Black Ethnic Studies," looks at the research that has previously been done on Black ethnicity. I outline the importance of thinking structurally and viewing what is typically perceived as 'difference' as inequality. I argue that current discourse around Black

ethnicity is more derived from ethnicity theories based upon white immigration than Critical Race Theories (CRT). This lineage may explain the absence of inequality in the field. I then develop a framework for critical Black ethnicity studies (CBES), I identify four necessary tasks for CBES–recognition of ethnic categories and identities as constructed and related to racial categories and identities; centering of the many historical-structural contexts Blackness exists within; rejection of anti-Black narratives and stereotypes, and; acceptance and production of work that elevates the diverse humanity of all Black peoples. This chapter provides the tools needed to understand how I think of ethnicity, how ethnicity interacts with Blackness, and my hopes for the future of work considering both.

Once we have a shared understanding of the way I consider Black ethnicity, I move on to consider what is happening at the macro level. My chapter, "Cultural and Reparative Frames and Diversity Rhetoric in U.S Law", presents the results of my analysis of seven Supreme Court cases that have shaped affirmative action law and the meaning of diversity in higher education. Specifically, this chapter analyzes the role of the state in creating shifting requirements for obtaining and assessing diversity. In these cases, I found a shift from an explicitly reparative frame of diversity to a cultural frame. I connect this shifting understanding of diversity to the shift in Black ethnic patterns of representation in higher education, following Massey et al.'s suggestion that the "sharp increase in [Black ethnic] representation among Black students at elite U.S. institutions" may be due to a field-wide shift from diversity as explicitly racial to diversity as broad (245:2007), which no research has engaged with critically. This analysis expands the typical division of discussion of race in higher education by looking infracategorically. Typical discussions of racial rhetoric in the law often think about how policies and rhetoric affect white people in one way and all non-white people in another way. I use Black variation to display how

legal rhetoric actually operates intraracially, using the presence of post 1965 immigrant groups, such as Black ethnics, in higher education to delegitimize affirmative action policies. Thus I expand from remedial and diversity as the primary divisions to "reparative" and "cultural." Following in Chapter 2's theorizing on ethnic difference as a tactic that draw similarities between the experiences white and non-white peoples, I argue that the broadening of difference in the cultural category excludes some people of color, mainly Black Americans and Native Americans.

Having established the frames handed down from institutions, I then examine organizations. Because the organizations are playing such a major role in this mechanism, I argue that it is important to consider whether this is happening at all educational organizations, or just the elite Northeastern ones most researched. For this reason, I conducted qualitative research at two southern, public, non-elite universities. In my final analytical chapter, "History, Demographics, and Belonging: Diversity Frames and Organizational Characteristics," I apply these two framings of diversity to data collected at two universities where I conducted participant observation, interviews, and content analysis. These universities have different racializations, or racial histories, demographics, and organizational characteristics. I examine how these differences in organizational characteristics shape their usage and construction of diversity frames. In this data, I find both universities utilizing both frames at different times, suggesting the power of historically dominant narratives around race and Blackness in the United States. I argue that the current shift from the reparative frame to the cultural frames causes educational organizations to make statements that agree with the cultural frame. However, through interviews with key actors in ethnoracial matters on each campus, especially multicultural affairs staff, and the events promoted and funded by the universities, I find that the frames they use for regular

decision-making often still reflect a reparative understanding of diversity. This contrast between external pressures and internal decision-making may speak to resistance to institutional change or the power of dominant narratives around race in the United States.

Following theories of racialized social systems, selective inclusivity, and infracategorical inequality, I question how educational organizations incorporate Black people and constructions of Blackness. While this research does not look at admissions, and thus cannot discuss how individuals are selected, I analyze aspects of schools' racial ideologies, including "frames, narratives, symbols, stereotypes, discursive styles, and particular vocabulary", (Doane 2017:977) as well as their organizational structures to understand what these organizations are designed to do, who they say they serve, and what this says about who and what they value.

Importance and Contributions of Work

This research has two primary impacts. First, it contributes to the growing field of Black ethnicity. Though the concept was foreign to me as an undergraduate, Black ethnicity is gaining political and policy significance. As the number of Black immigrants to the United States increases, so does the ethnic diversity of the Black population. Understanding the experiences and outcomes of these groups is important across social science. But in the study of inequality, understanding which individuals within a group succeed and which fail matters. Historically, differences in outcomes between Black ethnic groups have been attributed to cultural value. This research contributes to a small but growing field that suggests that organizations are as, if not more important, than cultural values in tracking outcomes. Placing racialized organizations within this conversation also centers the role of white organizations and anti-Blackness. Rather than seeing Black ethnic achievement patterns as the result of deficiencies in Black cultures,

Black failure to create solidarity, or some Black groups ability to ‘overcome’ racism, a racialized organizational perspective makes it clear that white institutions and gatekeepers determine who gets resources to help them succeed and who does not. The racial landscape Black people navigate in racialized organizations is not the result of their presence, but because of the racial histories and frames of organizations.

While I do not apologize for this research’s grounding in Blackness, this project is consequential to general questions and race and equity. Ethnic projects and the cultural frame are not exclusive practices of Black ethnic individuals. Nor does the shift from the reparative frame to the cultural frame only disadvantage Black Americans. Yet I focus on Black ethnicity for several reasons in the research. First, in the United States, the racialized social system functions with whiteness at the top and Blackness at the bottom. These racial constructions are bookends that ground understanding of all racial discourse in this country. Thus, understanding what happens around Blackness is foundational to understanding what is happening with race in the United States. Secondly, the rapid increase in Black immigration to the United States since 1965 has made Black ethnic projects potentially effective nationwide for the first time in U.S. history. As previously stated, prior to legal changes to the U.S. immigration system in 1965, such a critical mass of Black people with ethnic identities was not recognized in the United States. Thirdly, the selective incorporation of ethnic Blackness is notable distinctly because of the history of Blackness in the United States. Because Blackness has been constructed as homogenous, without culture or origin, the function of ethnicity in Blackness is of sociological interest. And finally, it seems that the difference between Black American and Black ethnic incorporation or use to the organization is particularly large. All of these factors make the focus on Blackness and the cultural frame particularly appropriate.

Chapter 2: From Cultural Comparison to Critical Black Ethnic Studies: Expanding Perspectives on Black Heterogeneity.

> But it is to the diversity, not the homogeneity, of Black experience that we must now give our undivided creative attention. - Stuart Hall, "What is This "Black" in Black Popular Culture?" (1992:92).

Social science literature in the United States often portrays Black people as a homogenous racial group with no ethnic distinctions. This framing was particularly present in early theories of race and ethnicity attempting to explain why Black people in the US lagged behind in economic and political measures when compared to European immigrant populations. Scholars like Omi and Winant (2015) critiqued the comparison of a Black people, a racial category, to ethnic groups of immigrants who temporarily experienced racialization, like the Irish and Italians. The unique racialization of Black people through the Transatlantic slave trade created a totalizing identity around Blackness in much of the world (Robinson 2020), but especially in the US, where slave codes enacted legal definitions of race like the one-drop rule and *partus sequitur ventrem*[2] (Kendi 2017). Despite changes to legal status, the totalizing racial identity of Black people in the US remains. While other racial groups on the US census are marked with ethnicities and nationalities that may belong to the listed racial group, Black is followed by a list of synonyms: "Black, African American, or Negro" (Bashi Treitler 2013:165).

In the 1920s, scholars began to consider the role of Black ethnic origins in the US. Early studies found differences in economic status and labor market outcomes between Black immigrants from the Caribbean, and Black descendants of chattel slavery, who I refer to as Black

[2] Partus sequitur ventrem refers to the legal policy that the enslavement status, and thus the legal race, of a child would follow the race of their mother in the antebellum South, particularly as cited in the Virginia legal codes of 1662. For deeper understanding of the consequences of this legal code, see Kendi 2017 and Morgan 2018.

Americans[3] in this work. Since 1960, Black immigration to the US has increased "by more than 2000%" (Hamilton 2020). As of 2022, one in five Black people in the US is an immigrant or a child of a Black immigrant (Tamir 2022). In certain states, like Florida, New York, and Minnesota, Black immigrants make up more than 20% of the total Black population (Watts Smith 2014). There is now greater consideration of the role of ethnicity and nativity in the experiences and achievements of Black people.

Present work on Black ethnicity mimics scholarship from the 1920s, explicitly or implicitly comparing the outcomes of Black immigrants and their descendants, which I refer to as Black ethnics, to each other or to Black Americans. Scholars have found that Black immigrants and their US born descendants surpass their Black American peers in economic success, educational attainment, and health measures (Hamilton 2020). The most common explanation for these differences in outcomes is Black ethnic cultural distinction. I define the lens of culture distinction as the belief that the behaviors and outcomes of an individual or a group are primarily or significantly attributable to the values, histories, and customs of their ethnic group. The scope of this frame is impossible to miss once noted in Black ethnicity literature. From early works on West Indian economic success framing them as the 'Black Jews' (Sowell 1981:219) to recent scholarship on Black ethnic overrepresentation in higher education, the cultural values of Black ethnics are central in studies of Black ethnicity. As we approach 60 years of significant Black immigration to the US, it is perhaps past time to consider whether the frames we use to understand Black ethnicity in the US are appropriate.

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[3] Because the defining feature of this population is their experiences with chattel slavery in the United States, the tendency to view this group as without ethnicity, and because of research suggesting that the term 'African American' is also commonly used to describe African immigrants to the United States and their descendants (Watts Smith 2014), I use the term 'Black Americans' in this work.

The purpose of this chapter is to provide another perspective to produce knowledge on the many peoples, cultures, and communities encompassed under the term "Black" in the US. I propose a series of elements I believe will develop a field of critical Black ethnicity studies (CBES). This frame aims to learn from previous studies of Blackness in the fields of race and ethnicity by 1) recognizing ethnic categories and identities as constructed and related to racial categories and identities; 2) centering the many historical-structural contexts Blackness exists within; 3) rejecting anti-Black narratives and stereotypes, and; 4) accepting and producing work that elevates the diverse humanity of all Black peoples.

To understand the contributions of this framework, I begin by defining ethnicity and specifying the terms I use to describe Black ethnicity in the US. I then review some of the ways ethnicity has been understood in the US, first broadly and then specifically in the context of Blackness. I highlight the primary theoretical approaches of works that consider Black ethnic difference, particularly the importance of culture and the absence of inequality. I connect these frames to the long history of studying Blackness, race, and ethnicity in the social sciences, particularly sociology, and highlight the strengths and weaknesses of these approaches to studying Black ethnicity. After outlining how the central tenets of critical Black ethnic studies can aid scholars in producing work that meets the needs of the diverse Black population, provide examples of work and theories and theories that I believe naturally align with CBES. Finally, I close by highlighting the necessity of engaging in a more critical lens in this current political and sociological moment and describe how this US focused project might be applicable to other spaces and helpful in understanding of Blackness globally.

Understanding Ethnicity Versus Nativity

In this paper, I refer to Black ethnicity, which I define as the ethnic identities carried by Black individuals. Ethnic identities are related to, not separate from, racial identities, as they often occur within racial groups. Ethnicities are typically associated with cultural traits, like food, language, and dress (Smedley 1993 from Bashi & McDaniel 1997). Though individuals may lean into these identities or have individual preferences for one identity over another (Waters 1990; Watts Smith 2014), ethnicities are generally not chosen. Rather, they are communally taught and socially constructed. As in the literature of Black ethnicity, I generally refer to these ethnicities according to broad terms, specifically African, Afro-Latine, Black American, and Caribbean. However, these are categories of ethnic identities. Within each are even more specific ethnic identities from tribes like Igbo, nationalities like Haitian, and terms that fall into neither, like Gullah.

Much of the research and work that discusses Black cultural heterogeneity focuses on nativity as the primary aspect of Black difference, referring to Black immigrants and their descendants up to the second or third generation as immigrants. There are several reasons for this–first, because of the unique racial history of the US, most Black individuals are not descendants of immigrants, but enslaved Africans brought to this country (Waters, Kasinitz, and Asad 2014). Secondly, because of the centrality of race for Black people's cultural identities, most data sets in the US do not include explicit measures of Black ethnicity. Despite this, in this research, I use the term "Black ethnics," rather than Black immigrants, to describe all Black people in the US with non-Black American ethnicities. This is a term used by many scholars (Greer 2013; Cottom 2019) which highlights how Black people of non-Black American ethnicities are often theorized as being the only Black people with ethnicities at all.

I believe being specific about ethnicity as the central area of study in analysis of differences between Black ethnics and Black Americans is important for several reasons. First, I believe describing Black ethnic populations as eternal immigrants causes conceptual and methodological imprecision. As the number of Black people with immigrant parents and grandparents or further known heritage outside the US but who were born in the US themselves increases, the necessity of clarity between this population and Black recent arrivals will increase. Additionally, referring to all Black people in the US with foreign origins in other countries as immigrants flattens the multiple paths to arrival. We should consider how changing immigration laws and shifting refugee and protected status positions increase Black ethnic populations in the US. Encouraging specificity helps clarify the heterogeneity of Black arrival experiences.

I also believe it is important for work in the US to push back against the totalizing nature of Blackness as an ethnoracial identity and insist that all Black people have ethnicities that can be used for analysis, not just different nativities and nations of origins. When we insist upon seeing ethnicity, we can then begin to think more broadly about what it is about ethnicity that may cause disparities in outcomes. Are there differences within Black American ethnicities? Francophone and Anglophone? Embracing the ethnicity framework allows for greater investigation into these different areas of identity. Though few surveys include rich ethnicity data for Black people (exceptions being the National Survey of American Life and the National Survey for Freshman Life), without using this variable, we will not be able to advocate for the importance of recording this data. Finally, I believe it is important to think through the lens of ethnicity because of ethnicity's explicit relationship to race. These related constructions provide a rich body of research with mistakes and strengths scholars can learn from.

Study of Ethnicity and Race

The purpose of this section is to unpack the evolution of theories of ethnicity as they relate to Blackness in the US. I do not seek to write a review of the literature. Perhaps the best summary of the development of theories of ethnicity comes from Omi and Winant's *Racial Formation in the US* (2015). Omi and Winant define the ethnicity paradigm of social science as "an approach to race that affords primacy to cultural variables" (2015:21). In this framing, race is primarily "conceptualized in terms of attitudes and beliefs, religion, language, 'lifestyle,' and group identification," rather than something that people are sorted into by external forces (2015:21). This perspective gained power as immigration from Europe to the US took off towards the beginning of the 20th century. Though some European immigrants were racialized as white, they seemed different from the white Anglo-Saxon Protestants mostly in power in the US. Understanding these newcomers as members of different ethnic groups provided a way to assign "identity and social status" to them within a framework where race did not neatly apply (Omi and Winant 2015). Put another way, ethnicity was used to create order and hierarchies within new demographic dynamics in the US.

This frame seemed radical at the time when contrasted to biological theories of race, which portrayed "racial inferiority as part of a natural order of human-kind" (Omi and Winant 2015:23). In the light of this clearly prejudiced belief, more objective cultural differences seemed more progressive. However, this framework did not explicitly threaten whiteness as the dominant and ideal racial group in the US. As Hall writes, "biological racism and cultural differentialism therefore constitute, not two different systems, but racism's two registers" (Hall 2000:110-111). Ethnicity theories centered assimilation into or toward whiteness as not only a positive but inevitable outcome for ethnic minorities in the US (Bashi Treitler 2013). For recently arrived

European immigrants, witnessing the status of Asians, Native Americans, and Black people, assimilation offered a desirable pathway into whiteness and away from racialization (Omi and Winant 2015).

It is important to emphasize the absence of Blackness from this framework. Immigration was the primary influence on ethnicity theories. Whiteness, even the secondary forms offered to early European immigrants, was "default" in these framings (Omi and Winant 2015:29). The indigenous status of Native Americans, the non-immigrant experience of the enslaved, and the generations of Asian and Latine immigrants providing cheap labor for the US west were not influential to ethnicity theories. Neither was racial conflict, which assimilation theorists like Robert Park and Gunnar Myrdal believed to be a temporary aberration that would resolve rather than a product of structural inequality (Myrdal (1944) 2017; Omi and Winant 2015). Even as European immigration slowed and scholars began to study Black people in the US, ethnicity theories still relied upon immigration frameworks, especially for Black migrants to the North (Omi and Winant 2015). In his study of Black life in the US, Myrdal suggested that despite white prejudice, Black people must reject their negative culture and assimilate into white cultural norms as immigrants did before them ((1944) 2017). Even when scholars let go of theories of total assimilation, as Glazer and Moynihan did in *Beyond the Melting Pot* (1970), the dominance of white culture and the absence of structural inequality remained. In fact, in this era, perceptions of Black responsibility for their subjugation in society began to increase. Compared to European immigrants, who within just a few generations assimilated into whiteness, Black people in the US were centuries behind models of incorporation. Rather than critiquing their theories, scholars of ethnicity argued that Black people needed to mimic white immigrants' fastidiousness and hard work to achieve their status (Glazer 1983).

Omi and Winant critique these ethnicity theories in three ways. First, they argue that scholars focused on differences in outcomes rather than circumstances and experiences. By ignoring the differing experiences of European voluntary immigrants and Black involuntary arrivals to the US, past scholars of ethnicity made a theoretical error they could only explain by suggesting that there was something wrong with Black people. Despite rejecting biological racism, their frameworks still centered Black inferiority–now cultural. Relatedly, Omi and Winant suggest that by basing their theories of ethnicity on European immigrants, they failed to consider whether their arrival to the US was typical. Instead, Omi and Winant argue that during the late 19th and 20th centuries there was a unique "economic capacity to absorb enormous numbers of immigrants" that shaped European immigrants' ease of incorporation (2015:45). If this is the case, there is another reason that Black people would not fit into frameworks based on European mass immigration. The circumstances of arrival were simply different.

Finally, Omi and Winant critique the comparison of Black people as a race to ethnic groups like the Irish or Poles. They argue that scholars of ethnicity made a methodological failure in not looking within racial groups because of the perception from the white majority that they were all the same. I diverge from Omi and Winant on this point. Though they believe that these scholars were comparing ethnic groups and racial groups, beginning in the 1920s, there were explicit comparisons of different Black ethnic groups (Domingo 1925; Reid 1939). Instead of Omi and Winant's argument of racial flattening, I argue that what was often perceived as a singular comparison of Blacks was referring explicitly to the majority Black American population of the US. This is particularly clear in works like the Moynihan Report, funded by the US government in 1965. By the time Moynihan was writing in 1965, much research praised Black Caribbeans migrants' success when compared to Black Americans (e.g., Tillery and

Chresfield 2012; Reid 1939; Haynes 1912; Domingo 1925; McKay 1940). In this text, Moynihan begins his diagnosis of Black (or as he calls it, 'Negro') pathology by comparing the structures of slavery in the US to structures in "the West Indies" (Glazer from Moynihan 1965 (2018)). Speaking directly to the experience of US American chattel slavery, I argue, automatically places Moynihan in conversation with an ethnic group and not a racial group. Put another way, American chattel slavery is a defining feature of Black American ethnic identity. Though this form of slavery did not select upon ethnicity, it created an ethnoracial category through its processes of racialization and stripping of tribal, national, and ethnic identities. When scholars like Sowell and Moynihan call American slavery the root of the problem of Black failure in the US, they are calling Black Americans a problem, not Black people as a whole (1965). Prior to the massive increase in Black immigration in 1965, this point may seem pedantic. However, I argue that the centrality of Black American ethnic denigration in ethnicity studies had a massive impact on studies of Black ethnicity.

Slavery plays a large role in denigrations of Black American culture. Sowell describes "foot-dragging, work-evading patterns," "duplicity," "ignorance" and "theft" as a "cultural legacy" still present among those descended from US slavery (1981:187). By contrast, Sowell describes West Indians as having experienced worse under slavery but being "more frugal, hard-working, and entrepreneurial" (1981:219). Sowell, for example, attributed Caribbean labor success when compared to Black Americans to a greater expectation for Caribbean slaves to grow their own food and their demographic dominance. Hamilton summarizes:

> Sowell (1975, 1978, 1981) argued that because of the unique aspects of these histories (i.e., different demographics, ability to escape bondage, autonomy), Caribbean slaves developed a cultural orientation that placed a relatively greater value on diligence, rational thinking, delayed gratification, and autonomous work. He posited that current-day disparities in labor market outcomes stem, at least in part, from these differences in culture and values. (2020:302).

Scholars often cite work like Sowell's without critique of the ahistorical and sweeping assumptions, especially when it comes from less controversial authors. But it is important to understand how this portrayal of slavery in America is ahistorical and often presented with bias. For example, both enslaved populations in the US and in the Caribbean were responsible for the agricultural labor that fueled their diets. Sowell claims otherwise based on a white antebellum writer's firsthand account. Sowell described Black Americans working their masters' fields as having a "lack of initiative," but praised West Indian slaves for "work[ing] perceptibly more energetically on their own plots of ground than on the land they worked for slave masters" (1981:200, 218). Both populations are showing resistance, but one is portrayed as positive and explanatory of future success, while the other is portrayed as negative as evidence of poor culture.

As studies of Black ethnicity became more common in the 1990s, many scholars followed in the footsteps of previous literature, particularly by focusing on outcomes rather than circumstances. The dominant theory that accounts for the racialization of Black ethnics while still explaining the ethnic success is called segmented assimilation, which has been applied to the many ethnoracial groups who arrived to the United States in mass post 1965. This theory argues that it is not a matter of "whether the second generation [of Black ethnic immigrants] will assimilate to American society, but to what segment of that society it will assimilate" (Portes, Fernandez-Kelly, and Haller 2005:1000). These individuals can either assimilate into the white middle class, assimilate into the Black underclass, or maintain their ethnic identities and live in separated ethnic enclaves (Portes and Zhou 1993). For this research, it is important to note that the Black underclass referred to here has a Black American ethnicity. Bashi & McDaniel theorized that new Black immigrants to the United States maintain ethnic differences that "may

distinguish them from the general African American population" but that these ethnic differences decrease over time (1997:675). If members of the underclass are not Black American by ancestry, segmented assimilation theory states that they have been so racialized that they are indistinguishable from Black Americans. This theory has been critiqued for its ignoring of the Black (American) middle class (Neckerman, Carter, and Lee 1999) and its association of Blackness with the underclass. This work is representative of two major patterns I perceive in the past literature of ethnicity and the present work on Black ethnicity. The first is the absence of structural inequality, and the second is the presence of cultural racism through cultural comparison.

Structural Inequality, Cultural Comparison and Cultural Racism

I argue that we can draw a line from early anti-Black and theoretically flawed practice of Black comparison to white ethnic groups to the current focus on cultural comparisons and absence of structure and inequality in studies of Black ethnicity. The lens inherited from these earlier studies is the focus on Black cultural inferiority, or anti-Black cultural racism. I define cultural racism as from Bonilla-Silva as the use of "culturally based arguments…to explain the standing of people of color in society" (Bonilla-Silva 2017:82). Bonilla-Silva presents cultural racism as one of the four tenets of color-blind racism, the way racism has evolved since Jim Crow to continue to create mechanisms that distribute resources to those at the top of the racial hierarchy and away from those at the bottom (Bonilla-Silva 2017. We see cultural racism in the way foundational studies of Black ethnicity from the 1990s "implicitly denie[d] [Black American] ethnicity, presenting Black immigrant ethnic identity in contrast to 'pathological' [Black American] practices and behaviors" (Pierre 2004:151). It is my belief that this tendency

derives from the pathologizing and decentering of Blackness, and specifically Black Americans, in ethnicity studies prior to 1990. Let us consider Omi and Winant's critiques of ethnicity theories to understand this argument. The focus on ethnicity as something distinct from race is present in many works that compare Black ethnic groups. They treat race as a variable that has been held constant and thus is not to be investigated in experiences of Black ethnicity. This lack of understanding of the relationship between race and ethnicity first creates a lack of critical interest in Blackness that leads to both methodological and theoretical issues (Ifatunji 2024; Bashi Treitler 2013; Hall 2000). But it also leaves space for thinking that perpetuates anti-Blackness. Many scholars have found that despite being Black themselves, Black ethnic individuals are often used as a model minority to "subsume racio-political dynamics under a potentially benign language of ethnic identity" (Pierre 2004:150; Greer 2014; Tillery and Chresfield 2012). Thus, scholars can make sweeping anti-Black comments about the lack of "rational thinking, delayed gratification, and autonomous work" (Hamilton 2020:302) in Black Americans without explicitly speaking of all Black people's inferiority. Though I do not claim that current work on Black ethnicity intentionally makes these claims, I do argue that the primary mechanism of consideration in the field, cultural comparison, perpetuates anti-Black beliefs.

Most of the current work on Black ethnicity compares outcomes or experiences of one Black ethnicity to that of some others. This practice of cultural comparison often looks at individuals' qualitative explanations for their own experiences in interviews or from survey data. While including multiple ethnic groups in a study and comparing them is by no means inherently problematic, the focus on cultural differences creates anti-Black patterns of cultural comparison that often mimic the beliefs of cultural racism (Bonilla-Silva 2017). The belief that cultural practices, especially what certain groups prioritize and value, is central to different outcomes is a

primary explanation found in historical explanations of Black failure to thrive. I cite many studies suggesting this as an explanation for differences in ethnic groups in the earlier sections of this paper. Rather than viewing difference as a finding in need of theoretical explanation or identified mechanisms, scholars often present these findings without analysis. It is all good and well to report Black ethnic overrepresentation in higher education, labor markets, and health outcomes, if that is what the data suggests. But presenting these findings as truly ethnocultural rather than deriving from ethnic preference and ethnoracialized systems leads to an understanding of the success of certain Black ethnic groups as being due to their higher cultures and the failure of other Black ethnic groups as being due to their pathology. Put another way, they present the consequences of mechanisms as mechanisms themselves. A participant's self reporting of increased valuation of education compared to other Black individuals cannot be left unanalyzed as a finding of research. Rather, these findings should be placed within a theoretical lens to interpret and investigate the consequences or origins of these explanations. The explanations themselves are data. Reporting results without placing them within the context of racialized structures helps perpetuate anti-Black rhetoric by perpetuating cultural racism. In the next section, I will expand on the importance of understanding this hierarchy and make clear the relevance of this theory of race to work on Black ethnicity. For now, I focus on understanding the danger of these culturally based arguments both in the literature of Black ethnicity and in present works.

The evolution of racism away from biological claims and towards cultural claims creates space for "ethnic strategies of distinction" within racial groups (Grosfoguel 2004:330). Bashi Treitler's theory of ethnic projects serves as a way to consider how groups use the ethnoracial hierarchies of their society and racial thinking to move their ethnic groups closer to the top. In

her work *The Ethnic Project*, Bashi Treitler outlines how ethnic groups attempt to move up the ethnoracial hierarchy by creating distance between those groups at the bottom and drawing similarities between themselves and those at the top (2013). Notably, groups that succeed in lifting themselves do not critique the hierarchy, but solely work to change their position within it (2013:5). A primary method for changing a group's position is to change the narratives associated with them. Asserting that an ethnic group values education or is hardworking or not likely to attribute their life circumstances to racism both creates positive associations with this group but also turns blame away from structural explanations.

When scholars use participants' statements of cultural values as explanations for success, they contribute to the association of culture with that ethnic group, reinforcing ethnic projects and ignoring structural inequality. The field is more interested in questions of identity and perception than it is in material circumstances. This interest is not apolitical. To view ethnicity as the realm of cultural legitimacy and personal responsibility is to perpetuate the beliefs of cultural racism and continue the anti-Black arguments made by social scientists in the past. In order to move forward, I suggest a centering of structure and inequality.

Absence of Structure and Inequality

If cultural comparison is no longer an appropriate lens for studying Black ethnic difference, than what is? I argue that we can once again turn to the literature for understanding. Omi and Winant frame the failure of scholars to consider the specific differences in circumstances between Black people in the US and white immigrants to the US as an issue of focusing on outcomes rather than circumstances (2015). I believe another helpful way to consider this problem in past and present literature is the absence of structural factors from

research. In early comparisons of Black people in the US to European immigrants, there was no acknowledgment of the structural dehumanizing, legal differentiation both during slavery and afterward, and *dujour* discrimination that shaped different outcomes. Though most work on Black ethnicity acknowledges racism, I argue there is a lack of understanding about structural inequalities that form around ethnicity in the majority of work.

In the conclusion of his work, *Ethnic America*, Sowell writes "[c]ultures are not 'superior' or 'inferior.' They are better or worse adapted to a particular set of circumstances" (1981:285). Despite this claim, Sowell spends no time in this text addressing the structural circumstances in the US that might cause some groups' cultures to seem less 'adapted' than others. I argue that the focus on differences in culture obscures structure and inequality from studies and ethnicity. In his work "What is This 'Black' in Black Popular Culture," Stuart Hall writes that "America has always had a series of ethnicities, and consequently, the construction of ethnic hierarchies has always defined its cultural politics" (1992:84). These ethnic hierarchies Hall refers to were present in the sorting of recent European immigrants to the US, with some standing more proximal to whiteness while others. I argue that we must be able to acknowledge the presence of ethnic hierarchies within different contexts in order to move forward in the study of Black ethnicity.

To provide context for the importance of understanding hierarchies in addressing structural inequalities in Black ethnicity, I borrow from racialized social systems theory. Racialized social systems theory discusses how "economic, political, social, and ideological levels are partially structured by the placement of actors in racial categories or race" (Bonilla-Silva 1997:469). I first state that, just as racialized social systems theory suggests that the specifics of racial hierarchies differ from context to context, especially when considering

different nation states, I argue that ethnic hierarchies are location specific. This is because the constructions and meaning of ethnic difference are created by the histories of different spaces. In places where there are longer histories of Black immigration, like Florida and New York, hierarchical structures may become hyper specific to the histories of migration and Blackness in those spaces. But I argue, in the broader US, that the general ethnoracial hierarchy places Black Americans on the bottom. Bashi Treitler determines Black Americans' position at the bottom of the racial hierarchy partially due to the repeated distancing taken by other ethnoracial groups from Black Americans. She cites how groups that successfully moved up the ethnoracial hierarchy penalized individuals that intermarried and worked with Black Americans (2013). Groups that did not merge into whiteness but successfully separated themselves from Blackness appealed to Black American inferiority and difference. Using historical and sociological evidence, Bashi highlights how distancing always moves from Black American identity toward WASP identity in the US.

Cultural distancing plays a large role in moving up and down the ethnoracial hierarchy. Bonilla-Silva and Bonachi write:

> It is not possible to abstract norms or cultural values from the context in which they exist and assign them causal status without serious confounding causes and effects…Rather, such behaviors take place in definite social contexts marked by inequality and structured along racial lines. To think otherwise and attempt to explain these outcomes by lack of social capital, culture of poverty, or another mechanism that obfuscates structural inequalities is to seriously minimize the impact of racism (2001:125).

Through this lens, the ability to access resources is not just racialized but ethnoracialized. People who are otherwise not at the top of the racial hierarchy can leverage their ethnicity as a way to access resources. This is possible because of the comfort we as a society have with associating culture and ethnicity that we (rightfully) lack for race (Pierre 2004). Associating culture with success is another way to suggest meritocracy and hide the structural mechanisms that cause

inequality. Those who are able to access resources are automatically associated with having good values, appropriate priorities, and wise behaviors–with having a good culture. This continues even when those not at the top of the racial hierarchy access these goods. Those who distribute resources will extend them to those outside of the racial majority to further reinforce the meritocracy of their systems–if some are able to access, it must not be an unequal system. We see this in the model minority myth as traditionally applied to Asian Americans, particularly middle and upper class East Asians, and as it continues to expand into application toward Black immigrants, especially Black Africans.

What we see is the strategic use of ethnicity to distance from the ontological stigmatization of Blackness. However, this usage is only available to some–those who can advocate for their humanity through signs that appeal to whiteness such as language, food, and other signs of culture. Foreignness, in the current globalizing market, where a multicultural business is associated with one more able to gather profit through capitalism in more parts of the world, is a potential avenue for power for Black people–but only outside of the societies in which they are the defining population, and specifically, the bottom, of the ethnoracial structure.

This usefulness in providing ‘evidence’ of humanity through culture is twofold. First, as previously stated, it provides opportunities for utility or pleasure to white actors (Mayorga-Gallo 2019; Collins 2011). A white corporation can enjoy the benefits of being perceived as liberal for having actors from many backgrounds, speaking many languages and looking many different ways. But the call to culture specifically is useful because it also provides the cudgel with which they can reify the racial structure as a whole. Culture’s association with actions and nature allows white actors a useful tool to explain the differences between which minoritized people are allowed to succeed and which are not. It is Black Americans' lack of self discipline says the

white managers in Waters. It is Black ethnics belief in hard work, participants report and scholars publish. It is anything but inequality.

No matter the position of racially minoritized ethnic groups within the ethnoracial hierarchy, it is the white actors that create the hierarchy to suit their racial interests. With their dominant position, they create:

> stratification…based simply on the notion of scales and the recognition of an ego-centered level of "people who are just like us" versus those more select and those more vulgar. In such systems, cultural differences, whatever they are, grade into each other…most systems of stratification allow, or indeed entail, mobility based on evaluation by the scales that define the hierarchy (Barth 1969:22 from Monk 2022).

Placing white actors and organizations that are racialized as white within the conversation around Black ethnicity allows for an explanation of difference in outcomes that is not based in cultural deficits. It also continues in the footsteps of well cited but theoretically underexplored findings from foundational works of Black ethnicity, like Waters' 1999 finding of white managerial preference for Black ethnic employees over Black Americans. Examining this structural finding gives an avenue for considering what it is that white managers perceive as different between Black Americans and Black ethnics in the workplace. An example of this is Ifatunji's article "White Managers, Ethnoracism, and the Production of Black Ethnic Labor Market Disparities," which takes Waters' finding of white managerial preference for Black ethnic works and determines that reported labor quality and racial attitudes do not explain the income benefit of having a white manager for Afro Caribbeans compared to Black Americans (2022). With his findings, Ifatunji theorizes on what it is that white managers are using to distinguish between Black ethnic and Black Americans in the workplace, including "non-physical or ethnic cues" leading to "ethnoracialization," an intersectional formation between race, ethnicity, and nativity,

or an ethnoracial assemblage (2022:453). Here, Ifatunji displays how analyzing structural findings provides clues for future theoretical directions.

A Critical Study of Black Ethnicity

The current comfort with associating ethnic identities with values and behaviors emulates the historical tendency to make sweeping prescriptions about the capacity and behaviors of individuals based on their race. Even when scholars are careful to not abuse notions of culture, they often, as Bonilla-Silva & Baiocchi state, "minimiz[e] the effects of racial stratification…by portraying the effects of poverty as the causes of poverty," (2001:123) favoring cultural explanations over structural explanations. My contention is that the study of Black ethnicity typically leans upon tropes of cultural distinctiveness that derive from anti-Blackness rather than considering how different ethnic groups are constructed and resourced through ethnoracialized structures. The field of Black ethnicity is missing a consideration of systems and anti-Blackness as determinants of differences in economic, educational, and health outcomes. In order to improve work in the field, I suggest a turn toward the empirically and theoretically complex work done in the field of Critical Race Theory (CRT). As CRT is concerned with how race is constructed by US legal systems, I believe a critical study of Black ethnicity should be concerned with how Black ethnicity is constructed by structures and narratives that shape individuals and groups. As CRT encourages us to think critically about the origins and presence of racism in our societies, I hope that CBES can be a guide to understand the presence and origins of ethnoracism. Particularly, I borrow from four central tenets of CRT: that racism is ordinary, that racism serves important purposes in our society, that race and races are constructed and

relational, and that identities are not additive but intersectional (Delgado & Stefancic from Meghji 2022:9-11).

I put forward four necessary tasks for critical work on Black ethnicity–1) recognizing ethnic categories and identities as constructed and related to racial categories and identities; 2) centering the many historical-structural contexts Blackness exists within; 3) rejecting anti-Black narratives and stereotypes, and; 4) accepting and producing work that elevates the diverse humanity of all Black peoples. As I unpack the importance of each of these attributes, I review established theories by other scholars that may aid in centering these attributes in future work.

Construction of Categories

It is important to recognize that ethnicity is constructed because the illusion that ethnicity is a natural identity allows inequality on the grounds of ethnicity to hide in post racial rhetoric. By understanding ethnicity as constructed and related to the construction of race, we can see it as worthy of critical examination. To essentialize ethnicity as scholars once essentialized race "dehistoricizes difference, mistaking what is historical and cultural for what is natural, biological, and genetic" (Hall 1992:91). Being Igbo or Nigerian or West African is no more real than being Black. Treating ethnic identities as real even as scholarship recognizes the construction of race only serves to reify racial thinking. As Bashi-Treitler writes:

> "...ethnic systems of human interactions do not stand apart from racial systems. Even though ethnicity is theorized to be the basis of a self-asserting identity and culture that recalls a group's heritage, ethnicity is also a social construction. In ethnic systems some heritages are lauded and others are deemphasized. Ethnicity itself is created within a racial context…" (2013:176).

It is perhaps easy to emphasize the importance of ethnicity in places where ethnicity is a more central axis of division in society, especially societies perceived as racially homogenous.

However, ethnicity often upholds the narratives and histories behind race in the US. In 'post racial' America, we supposedly know that race is simply a phenotypical difference that we have assigned meaning. However, ethnicity is allowed to continue to be a real source of difference. Of course, people eat different things, wear different clothes, and conceptualize the world differently. But ethnicity is used for more than just celebrations of culture. It can be weaponized to naturalize hierarchies. It is used to explain who succeeds and who fails. Understanding how these factors change across history allows us to understand the constant evolving construction of ethnic groups. With this power, we must recognize who is behind associations with ethnicities and how these associations shape the world around us.

To centralize the construction of race and ethnicity in their work, scholars should provide definitions about who they are studying and think critically about the narratives put forward about those groups. If participants describe 'valuing education' as a part of their culture, rather than taking that as simply fact, we should either ask participants or pose in our discussions–is valuing education a traditional part of how this ethnic group thinks of themselves? Is it a common way outsiders think of them? What evidence do members of this ethnic group turn to in order to explain how and why they value education? What groups are typically associated with valuing education and which are not? Are there implicit comparisons being made in putting forth this belief? How can we measure truly valuing education? All of these questions may not be answered in one work, or ever, but considering them as truly worth research, analysis, and theorizing are central aspects of a critical understanding of Black ethnicity.

Centrality of History and Structure

With this understanding of ethnicity as constructed, scholars can then consider how ethnicity and Blackness are constructed within the specific historical and sociological contexts they work within. Ethnic hierarchies are not stable globally. As Hall writes, "Blackness as a political identity in the light of the understanding of any identity is always complexly composed, always historically constructed. It is never in the same place but always positional." (1991:78). People who are perceived as being of the same ethnic or racial group in the US may not be portrayed that way in Vietnam. Broad ethnic categories like West Indian may have stronger meaning in places where West Indians are a minority, but serve as a default in the West Indies. Centering the history, demographics, and racial hierarchies of a specific location is important because the status of ethnoracial groups shifts from location to location. In the US, West Africans have the most successful Black ethnic outcomes. However, in Europe, West Africans fall towards the bottom of the ethnoracial hierarchy and Black Americans have significantly more privilege. Work that does not contextualize location fails to capture the full picture theoretically or methodologically.

One explanation for the centrality of place in ethnoracial hierarchies is Grosfoguel's theory of racialized ethnicities. He writes:

> "...it is important to look at the totality of the migration process of each migrant group in its historical-structural complexity…in order to understand why some groups have a more positive racial/ethnic identity in the eyes of the host population…Where are they coming from and why? When did they arrive…What are the relations between the host society and the country of origin? What is the history and political economy of the region in which they settled…What is the context of reception…How do the narratives of the nation in the host society affect the migrants' identity and/or racialization processes?" (2004:318)

Grosfoguel specifically focuses on the 'colonial situations' between groups and their host nations. Specifically, he looks to the length of a groups' traditional colonial or neo-colonial

relationship with their host nation to understand how they are constructed within this context. People incorporated by empire or with a long history of colonial status within the nation state are best understood as "colonial/racialized subjects," while those without direct colonial/imperial relationships but similar stereotypes and discrimination are framed as "colonial immigrants" (2004:321). Those who face initial discrimination but soon have access "to the mainstream of US society" he frames as "immigrants" (2004:322). With this three part framing, Grosfoguel is able to theorize about why those with shorter amounts of time in the US sometimes outpace those with longer amounts of time in labor markets–during the long colonial or indirect colonial and imperial periods, stubborn constructions of colonial/racialized subjects are created that continue to shape how they are viewed today (2004:326). Immigrants, and even some colonial immigrants, however, have the capacity to create distance and new associations that separate them from colonized/racialized subjects.

I believe this theory has particular relevance for analyses of hierarchies of Black ethnicity in the US. Two of the most stigmatized groups in Black US populations are Black Americans and Haitians (Clerge 2019). The connection for Black Americans of slavery fits into the category of "colonial/racialized subjects," those who were incorporated through the colonial process of the US (Grosfoguel 2004:321). Haitians, rather, fall into the framework of "colonial immigrants," those who suffer similarly to colonial subjects despite not explicitly belonging to a colony. (Grosfoguel 2004:321). Haiti has long been of interest to the US, with its unique status as the first free Black colony and its geographic proximity to the US (Johnson 2016). Scholars could use aspects of colonial and historical framework to examine how different stereotypes and narratives of Black ethnic groups have been created for different groups, as Johnson does in her consideration of how Blackness and ethnic status interacted in three cases of racially motivated

violence against Black immigrants to the US (2016). Using this historically grounded framework, Johnson provides a more complicated understanding of when these immigrant communities leaned into intraracial coalitions and when they separated while they protested against anti-Black violence.

Through this frame we can also understand why the same ethnic groups can be constructed in entirely different ways in different spaces. Derron Wallace's expert text *The Culture Trap* (2023) analyzes how Black Caribbeans are towards the top of the Black hierarchy in the US and at the bottom of the Black hierarchy in the United Kingdom. Specifically, Wallace looks to the history of education in the Caribbean, the relationship between colony and explicit (British) and implicit (US) empire, and the experiences of Black Caribbean children to understand the contradictions in two countries' ethnoracial framings of the same group. This work is an expert example of critical Black ethnic studies because of the centering of structure, context, and history in analysis of cultural conversations.

Future critical Black ethnic work should consider their own national, regional, local, and organizational histories with the ethnic groups they study. When did certain groups arrive in certain spaces? How were they racialized and ethnicized at the time of arrival? How are they racialized and ethnicized now? How can comparison of the same group in different spaces or at different levels of analysis help us understand patterns of outcomes or notions of identification? What does the variable construction of these groups tell us about the societies they exist within?

Rejection of anti-Blackness

Perhaps the most important attribute of critical Black ethnic studies is the rejection of anti-Black narratives and stereotypes in all work. What is most concerning about scholarship on

race and ethnicity is that work that claims to study Blackness with theoretical and methodological rigor often reproduces anti-Black stereotypes. The tendency for scholarship to find itself repeatedly in the position of denigrating Black people and perpetuating anti-Blackness is because of the centrality of anti-Blackness not only to our global structures, but to our education. As Sylvia Wynter expertly describes in "No Humans Involved: An Open Letter to My Colleagues:

> Woodson then used his analysis…to argue that the demotivated and inferior intellectual performance of Black students, as a category, should be sought in the same source from which the deep-seated anti-Black phobia shared in by White students…both were to be seen as psycho-social responses that were regularly induced by the systemic nature of the cognitive distortions with respect to the North American, as well as to the human past and present, that were everywhere present…These distortions, he went on, served an extra-cognitive function…inducing the White students to believe that their ancestors had done everything worth doing in both the past, and at the same time, to induce the Black students to believe that their ancestors had done nothing worth doing …Woodson's "epistemological break" at this juncture was to see that the function of these White/Black misrepresentations was that of differentially motivating the respective categories of White and Black, in order to ensure the stable replication of the invariant relation of dominance/subordination between the two social categories… (1994:9).

Scholarship on race repeatedly finds itself perpetuating narratives of the inferiority of Black people, especially those in any context most associated with Blackness, because this is the purpose of anti-Blackness. That we find this theme reappearing in scholarship should not surprise us. Instead, it should remind us to consider the ever evolving nature of race and racism as natural to its construction, and reaffirm our commitment to creating work that fights against anti-Blackness in all of its forms.

This paper highlights how this has occurred in past works on ethnicity especially. Studies of ethnicity have a particular capacity to reproduce anti-Blackness because they often discuss the results of racialization and racism without directly acknowledging race. Ethnicity is a shield that allows us to distance ourselves from the messy and uncomfortable parts of race. We would never

say that Black people are less hardworking than white people, but scholars do publish work that says that some Black ethnicities are more hardworking than others. That separations are being made within the category of Blackness, to bring up some and denigrate others, does not mean that anti-Blackness does not factor into these works. Work on Black ethnicity must not seek to simply shift the harms of anti-Blackness away from one ethnic group and onto another, but to destroy anti-Blackness as a legitimate form of harm in the lives of all Black people. We can look to the study of race for examples of how this occurs in the reporting of findings. As Bonilla-Silva and Baiocchi write:

> Sociologists routinely fail to explain that the "race effect" presented in their findings is the outcome of "racism" or "racial stratification." This leads their audiences to interpret "race effect" findings as embodying truly racial effects. (2001:125)

Similarly, scholars of Black ethnicity present findings about differential outcomes among Black ethnic groups as truly ethnocultural rather than deriving from ethnic preference and ethnoracialized systems. This leads to an understanding of the success as due to higher cultures and failure as due to their pathology. A participant's self-reporting of increased valuation of education compared to other Black individuals cannot be left unanalyzed as a finding of research. Rather, these findings should be placed within a theoretical lens to interpret and investigate the consequences or origins of these explanations. Reporting results without placing them within the context of racialized structures helps perpetuate anti-Black rhetoric.

There is no capacity for some Black ethnic groups to be entirely free of anti-Blackness without all groups being free. Even where there are differences in treatment, the violence often associated with anti-Blackness, especially in societies built upon slavery like the US and Brazil (Smith 2016) and the stereotypes that come with them are often the first scripts non-Black actors use, not perceiving ethnic difference (Johnson 2016). Even if this was not the case, critical Black

ethnic work believes that Black liberation and equality cannot be achieved by embracing the ethnoracial hierarchy and attempting to make it work for certain individuals or groups. Rather critical Black ethnic work must dedicate itself to not perpetuating anti-Blackness.

Acceptance of Black Diversity

I believe that the easiest way to ensure a dedication to ending anti-Blackness is to truly embrace the diversity of Black peoples globally in their many forms. In critical Black ethnicity, this is of course focused on ethnicity, but there also must be an acknowledgment of the other identities that shape Black experiences. As Hall states:

> …it is to the diversity, not the homogeneity, of Black experience that we must now give our undivided creative attention. This is not simply to appreciate the historical and experiential differences within and between…but also to recognize the other kinds of difference that place, position, and locate Black people. The point is not simply that, since our racial differences do not constitute all of us, we are always different, negotiating different kinds of differences…It is also that these antagonisms refuse to be neatly aligned; they are simply not reducible to one another; they refuse to coalesce around a single axis of differentiation. We are always in negotiation, not with a single set of oppositions that place us always in the same relation to others, but with a series of different positionalities…that is the most difficult thing about this proliferation of the field of identities and antagonisms: they are often dislocating in relation to one another. (1992:92)

That there are differences in the experiences of Black people who share spaces and societies should not surprise us. In fact, the field of Black ethnicity is based around a logical fallacy of comparison–that in comparing two Black ethnic groups, we are holding Blackness ‘constant’ as a variable and able to view something true beneath it. There is no constant Blackness to be able to be seen beyond, nor is there a true Black experience to capture empirically. The experiences of Blackness are varied because Blackness is not one singular capturable thing. It is shaped by gender and class, by sexuality and sex, and yes, by nationality, nativity, ethnicity, and more.

Scholars should lean upon theories that encourage them to look within Blackness as a category rather than attempt to determine how to factor out Blackness in experiences and outcomes. Suggestions for this include intersectionality, of course, but also Ellis Monk's infracategorical model of inequality and Carbado and Gulati's theories of intra-racial discrimination. Scholars of Black ethnicity should learn from work on colorism, which often deal with intraracial considerations. What Hall refers to as "powerful mobilizing identity of the Black experience" is still valuable and worth understanding, but it cannot be considered fully without recognizing that Blackness is "always complexly composed" (1991:78).

Conclusion

In order to get beyond persistent ethnic disparities among Black populations, we must first take account of anti-Blackness and the ways that it manifests in differential treatment of Black ethnic groups dependent on societal context. I urge scholarship to move beyond studying to symptom of ethnoracial disparities without investigating the disease of anti-Blackness.

The theoretical prescriptions I make in this chapter may seem to only benefit certain ethnic groups while not giving credit and validity to the advances of others. I do not intend to state that certain individuals do not work hard, make good choices, or value positive attributes more than other individuals. However, I do suggest that in sociology, it is not considered methodologically nor theoretically sound to believe that significant patterns among groups, especially ethnoracial groups, is entirely attributable to the hard work, good choices, and positive cultural traits of some when compared to others. Scholarship that uses, or even leaves space for the implication of these explanations, is always of use to hegemonic structures rather than empirically or theoretically objective.

In order to understand how this lens does not simply serve to benefit some and separate other individuals from their achievements, I encourage scholars to understand how this lens of Black ethnic research travels from societal context to societal context more effectively than narratives of personal responsibility and cultural superiority. This scholarship focuses primarily on the US, partially because of the subjectivity and scholarly interests of the author, and partially because of the framing of a scholarship of 'Black ethnicity' being in some ways a rather Western notion. (Studies based in other countries, due to their demographics and histories, might view Black heterogeneity best as tribal difference, citizenship status, or nationality). However, this lens travels beyond the studies examined in this sample. Understanding the construction of ethnoracial hierarchies in France, for example, reveals how Black Americans are presented as more metropolitan and capable due to cultural and economic statuses derived from proximity to US American empire, while French people of African immigration are denigrated because of their colonial origins. Blackness and Black ethnicity are constructed differently in France, and therefore understandings of Black ethnic or heterogeneity will need to be understood differently. What is consistent, however, is the role that ethnoracial construction and local structures play in which Black groups are considered culturally superior to others.

I do not claim to be the first person to make many of these points. In writing this chapter, in fact, what I found most fascinating was not the lack of critical work on Black ethnicity but the absence of citations from foundational scholars who make the same critiques that I do. From Stuart Hall's essays on culture and ethnicity (1991; 1992; 2000) to Monk's theory of intracategorical inequality (2022), I was surprised to realize that decades of Black scholars and scholars of Blackness have written critically about the role of culture in the future of Blackness. Still, I felt that their works were not shaping current scholarship. I offer this chapter as an

introduction to some of these authors' perspectives and a tool to examine our own work, in hopes of producing scholarship that critically examines Black ethnicity and produces work that moves us towards greater equity.

Chapter 3: Cultural and Reparative Frames and Diversity Rhetoric in U.S Law

Introduction

Since its implementation, scholars have studied affirmative action policies in the United States (e.g., Berrey 2011; Bowen & Bok 2018; Chang 2003 et al.; Feinberg 1998; Graham 2002; Lipson 2011; Massey et al. 2005). Many scholars agree that the initial implementation of affirmative action policies, both in higher education and employment, were based around "remedial racial justice" (Berrey 2015:29). In 1961, President Kennedy signed Executive Order 10925, calling for contractors to take "affirmative action" to ensure that employees of government contractors were not discriminated against according to "race, creed, color, or national origin." Soon after, in response to organizing and activism during the Civil Rights Movement, Congress passed the 1964 Civil Rights Act, which stated in Title VI: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (U.S. Congress 1964). The Civil Rights Act also created the Equal Employment Opportunity Commision, which denied government contracts to discriminatory businesses. Though the form of discrimination was not specified to one particular race, the historical context of the passing of these laws made it clear that they were prompted by concern with Black Americans (Graham 2002).

Despite this explicit impetus, the federal government still had to outline who else deserved the protections and advantages provided through affirmative action. Through political lobbying and group advocacy, the EEOC was required to keep track of employment for five different groups, called "Negro, Spanish-American, Oriental, American Indian, and White" (Graham 2002:137). White data was collected to compare the other groups against. The other

groups were selected on the basis that they were "economically or culturally disadvantaged individuals" who had experienced a history of discrimination in the United States (Graham 2002:139). The nature of this discrimination was not overly considered by the government nor delineated by ethnoracial group. It continued from the baseline of Black disadvantage. Graham writes:

> "Although the paradigmatic disadvantaged minority group was indisputably, in the 1950s parlance, the Negro American, there was no implication that civil rights remedies could differ for [B]lacks, Hispanics, Asians, or American Indians. As John Skrentny observed, "[G]overnment officials operated within a policy paradigm that led to the mostly unreflective equation of the histories and sociologies of different groups." …the government officials making these decisions from the beginning privileged the rights claims of African-Americans. This privileged claim was politically crucial, yet paradoxically, it gave African-Americans no legal advantages over other minorities. …Historically, the assumption of African-American primacy seemed self-evident. Politically, it provided the moral power behind the breakthrough legislation of 1964-1965. Subsequently, it also provided the rationale for adopting race-conscious remedies under affirmative action…*But it coexisted uneasily with the assumption that all official minorities were equally disadvantaged and were entitled to the same remedies in civil rights enforcement.*" (2002:141-142, italics my own).

This contradiction between the foundational nature of Black disadvantage to the creation of affirmative action and the unconsidered addition of other racial groups to the policy is particularly interesting in the context of what affirmative action policy looks like today. Supreme Court cases have questioned the constitutionality of considering race when Title VI prevents exclusion from benefits on the basis of "race, color, or national origin" (U.S. Congress 1964), the legitimacy of remedial repair as a motivation for affirmative action, and the preference for diversity over affirmative action. The way we discuss race in higher education has changed. Despite this, affirmative action is often still associated with Black people, to the point of some (possibly disingenuously) being concerned about the stigma of affirmative action for Black people (*Students for Fair Admissions 2023*, Thomas Concurrence).

In this chapter, I investigate how the law has justified the explicit consideration of race in higher education. Particularly, I ask how rhetoric around race in higher education is tied to different constructions of Blackness. Through coding a sample of Supreme Court cases litigating affirmative action, I find the centrality of two frames that defend considerations of race in higher education–the reparative frame and the cultural frame. By frames, I mean the perspectives and concepts that are "imbedded in individual minds (brains), as well as in collective memories and histories, and [help] people make sense out of their everyday situations" (Feagin 2020:18). While both of these frames can be used to defend considerations of race in higher education, they use different rhetoric to suggest why and how this should be done. I particularly argue that these frames speak to different constructions of Blackness. Specifically, I argue that the dominance of the cultural frame over the reparative frame in conversations about race in education is a major mechanism creating disproportionate representation of Black ethnic students in higher education. The dominance of this frame is seen through the rhetoric in the Supreme Court cases included in the corpus.

While many scholars have examined the constructions of diversity in legal decisions and broader rhetoric, they often focus on how these frames benefit white people and harm people of color as a whole (exceptions include Massey et al. 2007; Park, Hernández, & Lee 2024). This research considers how conversations about race and education are based in understandings of Black inclusion and exclusion from the nation state as a whole. I find that while the reparative frame is the original way affirmative action was framed, the cultural frame took dominance in the mid-eighties. I then argue that the cultural frame most benefits Black ethnics, or Black people with immigrant histories, while the reparative frame benefits Black Americans, or descendants of American chattel slavery in the United States. With these frames in mind, I suggest that the shift

from the dominance of the reparative frame to the dominance of the cultural frame is partially responsible for the disproportionate representation of Black ethnics in elite higher education.

In this chapter, I will first examine how the question of who is diverse brought me to the question of constructions of Blackness and notions of racial difference in higher education. Next, I will describe my sample and methods. I then introduce the reparative and cultural frame, and highlight the presence of these frames in the sample. I close with a discussion of the consequences of the absence of constructions of Blackness from this conversation.

Affirmative Action and Diversity

Affirmative action and diversity are separate, but often confused, concepts related to race and higher education. For the purpose of this chapter, I define affirmative action as a set of policies that seek to intentionally include members of stigmatized social groups, whether by gender, race, or experience, into institutions where they have been historically excluded. In the United States, this usually involves the placing of people of color, particularly Black people, Latines, and Native Americans, and gender minorities, usually women, into industries or educational institutions where they are underrepresented. I define diversity as the presence of a heterogeneous representation of people according to broad social characteristics within an institution. Typically, this refers to heterogeneous representation of ethnic and racial groups, but as I will discuss in this chapter, the social characteristics that can provide 'diversity' depends largely on who uses the term. Many scholars have noted that diversity is often used as a euphemism, intentionally left undefined for maximum appeal, or unclear to audiences as they studied constructions and rhetoric of diversity (e.g., Ahmed 2007; Bell 2003; Bell & Hartmann 2007; Berrey 2015; Ford and Patterson 2019; Moore and Bell 2011).

Though initially, the law was primarily concerned with affirmative action, diversity has become a more central concept in discussing race in higher education. The notion that diversity is the primary goal of affirmative action is taken up by some to make affirmative action less controversial, but also less radical (Moore & Bell 2011). This is because diversity can exist within a colorblind subframe, without mentions of structural inequality or racism, where affirmative action cannot (Moore & Bell 2011; Bonilla-Silva 2017). At times, this push for diversity is intended to protect affirmative action from those who would be interested in dismantling these policies (Berrey 2015). But at other times, the shift from affirmative action to diversity is meant to provide the benefits of affirmative action to those not disadvantaged by the racial structure or to assert progressive values without actually having racial representation (Embrick 2011).

While the studies previously described contribute a robust understanding of the role of neoliberalism and whiteness in the construction of diversity and legal standing of affirmative action, most obscure the ways these laws differentially treat and apply to different racialized groups (exceptions include Park, Hernández, & Lee 2024). They especially do not look within these racialized groups to see how different definitions of diversity treat different ethnoracial groups. I find the absence of intraracial examination particularly interesting in the context of the growing field of Black ethnicity, which typically uses micro level examinations of culture to explain the disproportionate representation of Black ethnics in elite higher education. The oldest exception to this pattern is work by Massey et al. based upon the National Longitudinal Survey of Freshman (NLSF), a nationally representative data set housed at the Office of Population Research at Princeton University. This data was collected through multiple years of surveying freshman students at 28 colleges and universities, mostly elite, and mostly white. However, the

scholars involved in developing the survey collected significant data on Black students as well, including their ethnic identities. At the time of writing, NLSF is one of two data sets with robust measures of Black ethnicity and a substantial mass of Black participants in the data set. Thus, its usefulness to the field as a whole and to my research in particular cannot be understated.

In their article analyzing NLSF findings around Black ethnicity, Massey et al. open with an astute identification of the potential role of diversity in creating patterns of ethnic representation in higher education. They write:

> "...the deliberate recruitment of African Americans into America's top colleges and universities was justified to make up for generations of past exclusion. Soon, however, Latinos, Asians, women, and the disabled took note of the success of the civil rights movement and appropriated the tactics and rhetoric of African Americans to make their own demands for inclusion (Skrentny 2002). This broadening of the scope of civil rights coincided with a remarkable upsurge in immigration from Asia and Latin America, and *over time the moral justification for affirmative action shifted subtly from restitution for a legacy of racism to the representation of diversity for its own sake* (Graham 2002). The emphasis on diversity rather than restitution naturally worked to the benefit of second-generation immigrants from Asia and Latin America, who came to comprise a large and growing share of Asian and Latino minority students on campus (Kao and Thompson 2003). *In a way that was at first unappreciated, however, the new emphasis on diversity also benefited blacks of immigrant origin and similarly led to a sharp increase in their representation among African Americans at elite institutions.* Whereas the presence of second-generation Latinos and Asians on college campuses to a large extent reflected the demographic composition of their respective populations, black immigrants were overrepresented relative to their share in the African-American population." [italics mine, 2007:244-245]

Despite the centrality of this article to studies of Black ethnic patterns in higher education, no one I found had tackled this structural explanation for Black ethnic overrepresentation in higher education. If something about the construction of diversity made incorporation of Black ethnics easier than incorporation of Black Americans, then years of research explicitly or implicitly suggesting Black American cultural pathology would be undermined. With this framework in

mind, I began my research where Massey et al. suggested I start–legal cases of affirmative action.

As Berrey notes, "law is discourse defining" (2011:10). By examining this institution of law, I begin my understanding of the basic tools colleges and universities have to consider race in higher education. I also borrow from foundational CRT scholars, who examined how "the US legal system was continuing to reproduce racial inequality in the supposed era of 'civil rights'" (Meghji 2022:7). In their examinations of the legal system's protection of whiteness (Harris 1993), capacity to benefit whiteness while granting the requests of people of color (Bell 1980), and usage of laws intended to prevent discrimination to discriminate (Crenshaw 1988), critical race theorists displayed how the law functions within the racialized social system. This connection is particularly important in the study of race and education, where universities are influenced by their peers (Lipson 2007) and history (Green 2004) to shape their policies and student bodies in ways that survive legal investigation (Berrey 2011). As Moore expertly describes: "while law itself is fundamentally discursive and ideological, it operates as the primary mechanism of the racialized state coercively enforcing the racial structure both through actual physical coercion and as the hegemonic moral voice of state authority" (2020:1952). Because of this fundamental role, I examined Supreme Court cases in this research.

Methods

I conducted coding of seven Supreme Court cases to examine how these works framed diversity and how their decisions changed the legality of affirmative action. I selected these cases based on their centrality to laws and changes in affirmative action in higher education. *Bakke*, *Gratz*, *Grutter*, *Fisher I* and *Fisher II* have been analyzed for their impacts on policy and

admissions (see Berrey 2015; Warikoo 2016). I added *Students for Fair Admissions* because it is the newest case and has received significant attention in the media. My total corpus is described in Table 1. I coded and analyzed these texts in MAXQDA using iterative coding and abductive analysis (Tavory and Timmermans 2014). I read initially with what I knew about Black ethnic difference in higher education in mind, and highlighted moments that stood out as surprising, unique, or particularly poignant. I then returned to the texts over and over, creating frameworks by understanding what these justices commonly connected and what they ignored in their arguments. My question of these documents was how has the legal system in the United States justified the importance of racial representation in higher education?

In addition to this deeper analysis, I used the Word Explorer tool in MAXQDA to gather descriptive statistics about the usage of certain terms in this corpus. These terms were selected for their centrality to my broader research on the role of Black ethnicities in constructions of diversity and educational access, their perceived frequency or importance as I analyzed and read. Some terms were phrases, such as "color blind/colorblind." Some were single words, like "faith." Others were fragments that Word Explorer can use to search for multiple terms beginning with these letters, such as "rac*," which would identify usages of words such as "race, racial, racism, and racist." The Word Explorer tool counts frequency of occurrence, what documents the words or fragments most frequently appear in, the phrases these words most commonly appear in, the codes most frequently applied to these terms, and the context these words are most frequently in. I used this tool to investigate some central concepts of my research at a deeper level.

Table 1: *Corpus*		
Court Case	Year	Contains
Brown v. Board of Education	1954	Syllabus, Opinion of the Court (Warren)
Regents of University of California v. Bakke 438. US 265	1978	Syllabus, Opinion of the Court (Powell), Opinion (Powell), Dissents (Marshall, White, Blackmun, & Justices Brennan, White, Marshall, & Blackmun, Jointly)
Grutter v. Bollinger 539 US 306	2003	Syllabus, Opinion of the Court (O'Connor), Opinions (Scalia & Thomas), Dissents (Ginsburg, Rehnquist, Kennedy)
Gratz v. Bollinger 539 US 244	2003	Syllabus, Opinion of the Court (Rehnquist), Concurrences (O'Connor, Thomas), Dissents (Stevens, Souter, Ginsburg)
Fisher v. University of Texas 570 US 297	2013	Syllabus, Opinion of the Court (Kennedy), Concurrences (Scalia, Thomas), Dissent (Ginsburg)
Fisher v. University of Texas 579 US	2016	Syllabus, Opinion of the Court (Kennedy), Dissents (Alito, Thomas)
Students for Fair Admissions, Inc v. President and Fellows of Harvard College, 600 US	2023	Syllabus, Opinion of the Court (Roberts), Concurrences (Thomas, Gorsuch), Dissents (Sotomayor, Jackson)

While conducting this research, I read almost two hundred thousand words of federal law and became familiar with the components of a Supreme Court case. I define these components here briefly to aid in interpretation of Table 1 and the coming findings and discussion. All Supreme Court cases provide a syllabus, or a summary of the issue the case considers, relevant factors the Court considered, and the decision of the Court. Other fundamental factors such as the dates of argument, decision, and often the previous courts that have litigated the issue (if applicable) are typically included. Syllabi provide the best overview for understanding the court

case at a glance. From there, each case provides the opinion of the Court, written by one justice who ruled with the majority. In Table 1, the justice who wrote the opinion is listed in parenthesis after the opinion of the Court. Every case includes the opinion of the Court and a syllabus, but some include further opinions, dissents, and concurrences. These are responses from justices, either individually or in collaboration, to the decision the Court has made, the arguments made by parties, and the legal and historical precedents that brought them here. If not representative of the majority or expanding upon aspects of the opinion of the Court, these are generally not legally binding. However, these opinions from justices tend to reappear in future cases on the same topic, and sometimes even have unexpected impacts. Concurrences are opinions that agree with the decision of the Court, and dissents are those that disagree with the opinion of the Court.

Findings

Racial Frames

I borrow the language of frames from Feagin's The White Racial Frame (2020). Frames are the perspectives and concepts that are:

> "imbedded in individual minds (brains), as well as in collective memories and histories, and [help] people make sense out of their everyday situations. People…have numerous frames for understanding and interpreting social life in their minds, and their frames vary in complexity from specific micro-level framing of situations to a broad framing of society" (Feagin 2020:18).

Racial frames are one of many components of racial ideologies, which are "used by actors to explain and justify (dominant race) or challenge (subordinate race or races) the racial status quo" (Bonilla-Silva 2017:15). Within ideologies, frames contain multifaceted aspects of stories, beliefs, and symbols, including "prejudices, ideologies, images, interpretations and narratives, emotions, and reactions to language accents, as well as racialized inclinations to discriminate"

(Feagin 2020:11). Frames are like a map that are used to guide people down the "set paths for interpreting information" while maintaining the ideologies they are within. Typically, frames that are used to uphold dominance are called just frames, while frames that seek to undermine dominant structures are considered counter-frames (Feagin 2020:198). Within either of these can exist subframes, focusing on specific aspects used to uphold the frame (Feagin 2020). Frames can be used by individuals, organizations, or institutions to challenge or uphold racial ideologies. Scholars have used the idea of frames to describe beliefs about the racial structure (Feagin 2020) and diversity (Moore and Bell 2011; Mayorga-Gallo 2019). For example, Feagin argues the white racial frame "rationalizes and structures the racial interactions, inequalities, and other racial patterns in an array of societal settings" (2020:5). This frame is maintained through adaptation and inheritance through the years, becoming so effective as to seem to be "taken-for-granted 'common sense' for those who hold to them," used "in routinized or half-conscious ways" (2020:21).

Feagin, in the white racial frame, paints a picture of a dominant white racial ideology that the majority of whites are indoctrinated into and accept, in contrast to counterframes held by Americans of color. While the dominance of the white racial frame amongst whites cannot be understated, this frame is also powerful amongst some people of color, particularly when it is not directed at their specific racial or ethnic identity. Park, Hernández, and Lee outline the acceptance of white neoliberal rhetoric about affirmative action amongst Asian Americans as a way for them to present themselves as ideal US citizens (2024). And as Robinson outlines in *Black Movements in America*, there have always been variations in approaches to Black political cultures, shaped by class stratification, geographic variation, and different historical relationships to power and oppression (1997).

Thus I follow these scholars and expand Feagin's work to examine two subframes used to justify the inclusion of racialized people in higher education and how these frames are used by different Black ethnic groups. One, the reparative frame, belongs to the resistance counterframe, or "the explicit anti-oppression counter-frames of Americans of color" (Feagin 2020:198). The other, the cultural frame, exists within what Mayorga-Gallo calls the diversity ideology, or in this framework, the diversity frame (2019).

Table 2: *Frames*

	Reparative	**Cultural**
Motivation	Justice	Difference
Focus	Exclusion from institutions and rights on the basis of race motivates current explicit inclusion today	The benefits of multiple perspectives, experiences, and backgrounds
Aligns With	Affirmative Action	Diversity
Argument for Affirmative Action	Those who were intentionally excluded should be included with as much intention	A variety of opinions and perspectives on any issue benefits the whole
Argument against Affirmative Action	-	Race is not a unique form of diversity
Argument for Diversity	Those who were excluded tend to come from particular ethnoracial and/or class backgrounds, so including people from those backgrounds will aid in repairing what is owed	There are benefits of including people from multiple backgrounds, including geographic, etc, for the state, market, and institution
Who Benefits	Those previously excluded	Institutions
Thinks Primarily In	Racial Terms	Ethnic Terms
Related Approaches		Abstract Liberalism, Color-blindness

The Reparative Frame

The reparative frame uses narratives of past exclusion to justify the explicit inclusion of racialized people in higher education. Belonging to the broader resistance counterframe (Feagin 2020), the reparative frame is one of many tools used by racialized people, especially, as I will expand upon, Black Americans, to reject the notion of the irrelevance of the history of racial exclusion in the United States. Related to theories such as racial colonial capitalism (Robinson 2020), Black democratic social culture (Robinson 1997), the white racial frame (Feagin 2020), racial realism (Bell 1992), and critical race theories (Meghji 2022), the reparative frame is an explicit counterframe, centering the experiences of those most marginalized in its concerns. Rather than presenting American history as one made of striving towards justice or education as a meritocracy, the reparative frame highlights the many advantages given to non-racialized people, from the material benefits white students got from better schooling during segregation to the psychological wages (Harris 1993) of not experiencing racism. This stance is in direct opposition to the white racial frame's focus on shrouding, or "attempts to conceal much of the injustice of a systemically racist reality" (Feagin 2020:173).

Because the reparative frame recognizes common themes of inequality in US history, it is able to clearly see the consequences of this injustice in the modern day. Thus, the reparative frame views the explicit inclusion of racialized people in higher education as something that is owed to them, as reparations. If people were intentionally excluded, the reparative frame says, then their inclusion must be just as intentional. The nature of these exclusions can be broad, from the foundational genocide and subjugation of Native Americans in this country to recent discrimination against people from Middle Eastern backgrounds. But the primary act of exclusion the reparative frame speaks to is discrimination against Black people in the United

States. In discussions of race and education in the United States, this refers especially to slavery, racial segregation, and differential treatment of Black students pre-*Brown v. Board of Education*. These exclusions and others like it that occurred under Jim Crow are the primary concern of the courts, as the decision that separate but equal was a valid approach was their decision. Thus, the narratives of segregation, Jim Crow, and slavery are directly tied to US considerations of who was excluded in the past and the lasting effects of those exclusions.

The centrality of Blackness to this frame is not coincidental. The reparative frame is grounded in an understanding of the racial structure of the United States, and that structure primarily functions to uplift white Americans and denigrate Black people (Feagin 2020:5). Once again taking its lead from history, the reparative frame acknowledges that policies that seek to remediate harm done to Black people in the United States typically benefit other racialized groups. For example, the arguments in *Brown v. Board of Education* did not argue for the selective inclusion of Black students into white schools or notions of whiteness, as prior cases of Chinese, Mexican, and Native American integration did (Martinez-Cola 2022). Instead, the courts knew that the integration of Black people into public education would require the inclusion of all racialized people. Thus, foundational civil rights laws in this country are often based on their treatment or effect on Black people in the United States, no matter how other groups may benefit from them (for further explanation of the centrality of this concept in U.S. policy, see Graham 2002). Laws and policies put into place with reparative logic must function in a way that allows for Black people to benefit. The consequences of these benefits on those who do not receive them is secondary, if considered at all.

Within this focus on Blackness, I argue that the reparative frame particularly seeks inclusion of Black Americans. This nuance may seem small, but is important for the coming

comparison to the cultural frame. The nature of this focus on Black Americans is two fold, and in some ways circular. First, Black Americans are of central concern to the reparative frame because of its historical grounding. The Black population of the United States, even to this day, is majority Black American. This was even more true prior to 1965, when outside of anomalies like New York and Florida (Wright Austin 2019), Black immigration was too low for most immigrants to maintain separate ethnic identities. Thus the acts of discrimination and inclusion of concern to the reparative frame were primarily occurring to Black Americans or those racialized as Black Americans. Secondly, these same acts of discrimination, particularly slavery, are foundational references, or categorical cues (Monk 2022) for Black American ethnic identity. As previously stated, segregation, Jim Crow, and slavery are directly tied to US considerations of who was excluded in the past. These events are typically associated with Black Americans. It is partially for this reason that I use the term reparative to refer to this frame. It is aligned, in many ways, with current movements and considerations of policies for Black American reparations.

Because of its focus on reparations, the reparative frame is more focused on affirmative action than diversity. Affirmative action is a tangible policy, while diversity is a broader and more nebulous concept with multiple potential policies for implementation. Affirmative action, I argue, was first developed through the logic of the reparative frame, and thus they naturally align with each other. Affirmative action was originally concerned with benefits for those previously excluded. Despite later arguments that attempt to apply the cultural frame to affirmative action, affirmative action is not concerned with those who were not previously excluded from institutions and rights.

Though primarily concerned with affirmative action, the reparative frame also can function alongside some calls for diversity. Its definition of diversity and the reason for it,

however, is quite narrow compared to the cultural frame. The reparative frame argues that those who were included tend to come from particular ethnoracial backgrounds, and so inclusion of those from these backgrounds will aid in including those previously excluded. However, any advocacy for diversity outside of this construction is beyond the interests of the reparative frame. By contrast, the cultural frame is primarily concerned with diversity.

The Cultural Frame

The cultural frame suggests that the variety of cultures racialized people come from produce different perspectives on daily life. Racial difference is primarily understood as a variation of cultural practice and perspective, rather than an aspect of a racial structure that reproduces inequality (Mayorga-Gallo 2019:1792). The cultural frame justifies the conscious inclusion of racialized people in higher education through the benefits a variety of perspectives provides to the institution itself and especially the dominant groups within organizations. The frame then argues that the inclusion of these different perspectives into any institution or organization, in this case, colleges and universities, can provide tangible benefits such as better decision making, validation of the system, and preparation for greater globalization. These are, perhaps, not fundamentally negative things. But the fundamental difference from the reparative frame is that they are primarily concerned with benefits to institutions, not to the racialized people within them. The presence of racialized people with an institution is a commodity (Mayorga-Gallo 2019) that can be used to present an organization as progressive (Berrey 2015), ready for global challenges (Millem 2003), or elite (Ford and Patterson 2019).

Because of this orientation, the cultural frame lives within what Mayorga-Gallo calls “the white-centering logic of diversity ideology” (2019). Where this ideology considers inequality, it

primarily is concerned with "exclusion as the cause of racial inequity and fair representation as the solution" (Mayorga-Gallo 2019:1793). Contrasting the reparative frame, however, the cultural frame does not believe racial exclusion is of unique concern. Race is only to be considered because it is a form of difference, and all differences are of equal interest to the cultural frame, "whether they are structurally contingent or not" (Mayorga-Gallo 2019:1795). Other forms of cultural difference like economic, geographic, religious, even activity based experiences can be discussed in the exact same way as race. For example, cases in the corpus discuss the inclusion of student athletes or people who have moved from one state to another as types of diverse experiences that can provide institutional benefits. The broadening of concern from explicit racial exclusion to difference was not a solely malicious move to provide benefits to institutions. Rather, this broadening occurred simultaneously with the post-civil rights movement expansion of other identity based movements (Graham 2002; Skrentny 2002).

I argue that this understanding of race aligns best with notions of ethnic difference found in studies of immigration. The cultural perspectives this frame highlights often overlap with aspects coming from being from another nation. For example, the cultural frame argues that speaking a different language, having specific cultural foods or dress, or having an experience in another country, provide perspectives that can benefit the educational institution as a whole. These are aspects of culture that overlap more with notions of ethnicity rather than notions of race. Of particular note is how these constructions exclude Black American descendants of slaves. These markers of global difference either are perceived to not exist for Black Americans–e.g., unique dress, specific language–or are stigmatized when they are recognized–e.g., cultural foods, African American Vernacular English. Put another way, culture is able to be defined in ways that exclude Black Americans (Wallace 2023). By comparison,

other immigrant descended groups are able to fit into these constructions of difference, including Black ethnics.

The cultural frame is able to be aligned to a greater number of groups than the reparative frame because of its broad definition of difference and primary concern with institutional benefits. Following this notion of difference rather than justice, the cultural frame is much more concerned with diversity than affirmative action. The 'cultural' of the cultural frame is the same 'cultural' in multiculturalism, which highlights "cultural and performative definitions of social categories" (Collins 2011:518). It is also the same 'cultural' as cultural pluralism, which "explicitly recognizes ethnic differences and venerates those differences as meaningful cultural attributes" (Berrey 2015:32). This intellectual frame has often been attached to associations of some having 'bad cultures' or cultural issues being the root of inequality (Berrey 2015). The breadth involved with this cultural frame thus allows for the consideration of different racialized groups and the stigmatization of some within these groups.

With the detachment of the cultural from inequality, this frame has the capacity to argue for and against structural racism. In fact, in the corpus, the cultural frame is used to argue for and against affirmative action. Arguments for affirmative action using the cultural frame argue that because race is one of many dynamics that can shape an individual's perspective, it should be included. Though it may not be the only form of difference that can provide a variety of perspectives, it is the only one being debated for the legitimacy of its inclusion in the Supreme Court. That is to say, no one is arguing whether schools may intentionally admit students for their athletic prowess (at least, not yet). Thus defenders of affirmative action using the cultural frame typically do not argue a particular importance of race. Rather, they argue against its targeting. Those against affirmative action use the cultural frame to highlight the lack of

explanation for the uniqueness of race. After all, if many forms of difference can provide benefits, what is so special about this one? The cultural frame can also be used to highlight a variety of ethnic or cultural variety in groups outside those supposedly favored by affirmative action. This is particularly the case when the frame is applied to Asian and white students.

In the next section of this chapter, I highlight the presence of the reparative and cultural frames as I go through each case, explaining how it changed the law about affirmative action and shifted the conversation from a reparative frame to a cultural frame. I also highlight where Black ethnicity and different constructions of Blackness are related to each frame. The purpose of this section is not to detail the full legal nuance or history of these cases, or of affirmative action, as this has been done expertly by others (e.g. Witt and Shin 2003). Rather I focus on the constructions of race, frames used, and arguments made.

Brown v. Board of Education, 1954 and the Birth of the Reparative Frame

I start with *Brown v. Board of Education* because it marks a change in the baseline expectations of race and education in the United States. Prior to the decision of this case, the law of the land was separate but equal, decided in *Plessy v. Ferguson*. *Brown v. Board of Education* makes several important notes to keep in mind as we continue to discuss race and education in the United States. The first is that it recognizes both the dominance of the Fourteenth Amendment and the impossibility of making the decision about whether or not to integrate schools based on the intentions of those who wrote the Fourteenth Amendment. In the United States, for better or worse, the intentions of law writers have often played a major role in how they should be implemented, regardless of the limitations of those writers. In this case, however, the Court decides that:

> "In approaching this problem, we cannot turn the clock back to 1868, when the Amendment was adopted, or even to 1896, when Plessy v. Ferguson was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws" (*Brown v. Board of Education* 1954, Opinion of the Court).

There are several moments in the conversation about race and education where the question of the role of the past and the intentions therein will be debated. This starting moment of change in *Brown v. Board of Education* is thus a significant moment where the Court decides they do have the capacity to make the decision on their own. Secondly, the Court highlights that there are "qualities which are incapable of objective measurement but which make for greatness in" education (*Brown v. Board of Education 1954*, Opinion of the Court). Thus, the Court can, and indeed must, take into account factors beyond basic notions of equality. It is not enough to measure the quantity of books in 'colored' schools and in white schools, or even the condition that those books are in.

It is perhaps obvious, but must be stated, that the rhetoric being considered in *Brown v. Board of Education* best aligns with the reparative frame. Though it does not go as far as to explicitly mention the role of the subjugation of Black people through chattel slavery and Jim Crow, the Court is clear that their decision about the injustice of separate and equal is based in concern for Black students, not both Black and white students. They write:

> Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law, for the policy of separating the races is usually interpreted as denoting the inferiority of the negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to [retard] the educational and mental development of negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system (*Brown v Board of Education 1954*, Opinion, edited included in original).

The effects of this integration on white students is not in the scope of this case. I argue that is because the Court here uses the reparative frame, more concerned with the Black students they perceived as having been wronged than the institutions overall. And the Black students in this case are, whether in actuality or only in framing, Black Americans, defined by their relationship with the Fourteenth Amendment, slavery, and Jim Crow. In 1954 when *Brown v. Board* was decided, non-enslaved foreign born had never made up even one percent of the Black population of the United States (Charles et al. 2022). The dominant construction of Blackness in the United States aligned with Black American ethnicity.

University of California v. Bakke, 1978 and the Birth of the Cultural Frame

University of California v. Bakke, then, is where the reparative frame is first joined by the cultural frame in the Supreme Court. In 1973, the medical school of University of California, Davis was sued by Allan Bakke, who claimed that the reservation of specific seats for minority students was discrimination. This case was the first significant questioning of affirmative action for higher education in the Supreme Court, and the justices were quite divided on what mattered most about the case constitutionally. Was University of California, Davis' motivation to increase representation of minorities in medical school sufficiently just to allow for what some viewed as 'positive discrimination'? Was the method University of California, Davis used to try to achieve this goal appropriate? In the end, judges split, with four using the reparative frame to defend affirmative action and four claiming that it was a simple violation of Title VI of the Civil Rights Act of 1964.

The legal consequence of this case is the question of strict scrutiny, or the high bar that must be passed in order for race to be actively considered by organizations that receive federal

funds. The purpose of strict scrutiny is to prevent discrimination against racial groups. Congress, in passing the Civil Rights Act, believed the easiest way to enforce this was to prohibit the active consideration of race, typically called "suspect classification" (*University of California v. Bakke 1978*, Joint Opinion), or limitation of rights, unless there is a particularly compelling reason. These compelling reasons must "must serve important governmental objectives, and must be substantially related to achievement of those objectives." (*University of California v. Bakke 1978*, Joint Opinion). The four objectives the medical school of the University of California, Davis listed were:

> "(i) "reducing the historic deficit of traditionally disfavored minorities in medical schools and in the medical profession,"...(ii) countering the effects of societal discrimination;...(iii) increasing the number of physicians who will practice in communities currently underserved; and (iv) obtaining the educational benefits that flow from an ethnically diverse student body" (*University of California v. Bakke 1978*, Powell, partially quoting from the University of California, Davis' materials).

In this case, the Court begins to debate if compelling state interests alone are sufficient to allow any form of racial classification, and if so, what state interests. Particularly, the Court here asks if the remedying of past discrimination is a sufficiently compelling reason.

Justices Brennan, White, Marshall, and Blackmun spoke on behalf of the reparative frame. They make 4 primary points that align with this frame to argue for the continued validity of past discrimination as a reason to consider race in higher education. First, they place slavery as the central nature of the question they consider. Second, they highlight that the intentions of past laws was not to create a requirement of color-blindness but to prevent considerations of race that would lead to discrimination. Third, they define discrimination in such a way that is historically grounded, and thus does not view the exclusion of white people from the benefits of affirmative action as discrimination. And finally, they argue that there is no need for a specific institution to have committed discrimination in order for them to be invested in reparative

admissions. They open their joint opinion, a partial concurrence, or agreement, and a partial dissent, with these words:

> Government may take race into account when it acts not to demean or insult any racial group, but to remedy disadvantages cast on minorities by past racial prejudice, at least when appropriate findings have been made by judicial, legislative, or administrative bodies with competence to act in this area (*University of California v. Bakke 1978*, Joint Opinion).

This opening clearly speaks to the reparative frame in its focus on “remedy[ing] disadvantages" and “past racial prejudice” (*University of California v. Bakke 1978*, Joint Opinion). They argue that not only do they stand for this interpretation of the law, but that the other justices disagreement is not about the legality of remedying disadvantage, but whether this particular approach to affirmative action is legal. Thus, though Alan Bakke is ordered to be admitted to medical school, they hold that the university and others like it may establish “race-conscious programs” in the future (*University of California v. Bakke 1978*, Joint Opinion). These Justices are clear that the disadvantages they seek to remedy are those most related to Black Americans, specifically descendants of slavery. They write:

> Our Nation was founded on the principle that "all Men are created equal." Yet candor requires acknowledgment that the Framers of our Constitution, to forge the 13 Colonies into one Nation, openly compromised this principle of equality with its antithesis: slavery. The consequences of this compromise are well known, and have aptly been called our "American Dilemma." (*University of California v. Bakke 1978*, Joint Opinion)

This framing of the central issue of concern not only to the case of race and education, but also to America’s problems general, being slavery, speaks to the centrality of the Black American experience in this question. They further their emphasis of this point by referring to *Brown v. Board of Education* and the repeated cases determining the extent of integration schools had to pursue that followed. These are Black American contexts, even as they affected members of other races (for more, Martinez-Cola 2022).

They further argued that neither Congress in the passing of the Civil Rights Act nor the courts had ever insisted “that the Constitution must be colorblind” (*University of California v. Bakke 1978*, Joint Opinion). These reparative justices argue that conscious consideration of race in programs and in determining the legality of the burden of affirmative action is appropriate. Following this logic, they find that the purpose of the suspectness in racial categorization is not a particular evil in seeing race, but the potential of that categorization to do harm. Thus, they argue that white people, in the United States, do not meet the grounds for protection met by the burden of strict scrutiny. They write:

> Nor do whites, as a class, have any of the "traditional indicia of suspectness: the class is not saddled with such disabilities, or subjected to such a history of purposeful unequal treatment, or relegated to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process." (*University of California v. Bakke 1978*, Joint Opinion)

These justices examine the possibility of discrimination against whites in the context of their history in the United States and the intention of the laws. The medical school puts forward as the reason for their program the underrepresentation of minorities in the medical field. The reparative justices hold that this is a compelling reason for the state:

> Thus, our cases under Title VII of the Civil Rights Act have held that, in order to achieve minority participation in previously segregated areas of public life, Congress may require or authorize preferential treatment for those likely disadvantaged by societal racial discrimination…These decisions compel the conclusion that States also may adopt race-conscious programs designed to overcome substantial, chronic minority underrepresentation where there is reason to believe that the evil addressed is a product of past racial discrimination. (*University of California v. Bakke 1978*, Joint Opinion)

Thus the reparative justices argue that the context in which the Civil Rights Act and the Fourteenth Amendment were passed and the intentions of the affirmative action program at University of California Davis make the intentional consideration of race in their admissions appropriate.

These four justices put forward a clear argument for affirmative action in higher education following the logics of the intentions of Black integration in the Fourteenth Amendment and Civil Rights act. Had they been the majority, their opinion would have become an official decision of the Court, and thus future cases against affirmative action policies would have a much higher burden to reach the Supreme Court. However, a group of four other justices argue that University of California Davis violated the Civil Rights Act. If they held the majority, it is likely that affirmative action as we understand it would have died at this point in 1978. There was a stalemate in the Court that was broken by the introduction of the cultural frame by Justice Powell's opinion.

Justice Powell partially agrees with the justices that argue that University of California has violated the Civil Rights Act. However, he partially agrees with the reparative justices that considerations of race in higher education can be justified and constitutional. Powell even agrees in the centrality of slavery, a Black American cue, to the laws being used to make this decision: The Court's initial view of the Fourteenth Amendment was that its "one pervading purpose" was "the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly-made freeman and citizen from the oppressions of those who had formerly exercised dominion over him."(*University of California v. Bakke 1978*, Powell Opinion). However, he departs from the reparative justices in believing that the history of the United States is relevant in not being concerned about the exclusion of what he calls "white Anglo-Saxon Protestants" from affirmative action (*University of California v. Bakke 1978*, Powell Opinion). In fact, he speaks to the increase of minority immigrants to the United States as a source for the decreasing power of whiteness in the United States. Through this logic, Powell argues:

> By that time, it was no longer possible to peg the guarantees of the Fourteenth Amendment to the struggle for equality of one racial minority…the United States had become a Nation of minorities. Each had to struggle–and, to some extent, struggles still –to overcome the prejudices not of a monolithic majority, but of a "majority" composed of various minority groups...As the Nation filled with the stock of many lands, the reach of the Clause was gradually extended to all ethnic groups seeking protection from official discrimination. *See Strauder v. West Virginia,* 100 U. S. 303, 100 U. S. 308 (1880) (Celtic Irishmen)...; *Yick Wo v. Hopkins,* 118 U. S. 356 (1886) (Chinese); *Truax v. Raich,* 239 U. S. 33, 239 U. S. 41 (1915) (Austrian resident aliens); *Korematsu, supra,* (Japanese); *Hernandez v. Texas,* 347 U. S. 475 (1954) (Mexican-Americans). The guarantees of equal protection, said the Court in *Yick Wo,* "are universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality; and the equal protection of the laws is a pledge of the protection of equal laws."... Although many of the Framers of the Fourteenth Amendment conceived of its primary function as bridging the vast distance between members of the Negro race and the white "majority," *Slaughter-House Cases, supra,* the Amendment itself was framed in universal terms, without reference to color, ethnic origin, or condition of prior servitude. As this Court recently remarked in interpreting the 1866 Civil Rights Act to extend to claims of racial discrimination against white persons,"the 39th Congress was intent upon establishing in the federal law a broader principle than would have been necessary simply to meet the particular and immediate plight of the newly freed Negro slaves." (*University of California v. Bakke 1978*, Powell Opinion)

Powell paints the diversifying of America through immigration regardless of race, comparing the experiences of the Irish and Austrians to the Chinese, Japanese, and Mexicans. All of these groups, Powell argues, were not explicitly considered under the original scale of the Fourteenth Amendment. But in Powell's opinion, their presence in the United States expanded the promises of the Fourteenth Amendment to all, including white nonimmigrants. In this approach, Powell also establishes the cultural frame's preference for ethnic thinking over racial thinking. In his further concern with discrimination against white people in the United States, he writes:

> …the white "majority" itself is composed of various minority groups, most of which can lay claim to a history of prior discrimination at the hands of the State…Not all of these groups can receive preferential treatment and corresponding judicial tolerance of distinctions drawn in terms of race and nationality, for then the only "majority" left would be a new minority of white Anglo-Saxon Protestants. There is no principled basis for deciding which groups would merit "heightened judicial solicitude" and which would not.

> courts would be asked to evaluate the extent of the prejudice and consequent harm suffered by various minority groups. Those whose societal injury is thought to exceed some arbitrary level of tolerability then would be entitled to preferential classifications at the expense of individuals belonging to other groups. (*University of California v. Bakke 1978*, Powell Opinion)

Through this framework, Powell views white people in the United States as potential victims of discrimination in affirmative action policies. He follows the legal precedent of Komeratsu, the Court case that justified the internment of Japanese Americans, that there are compelling legal reasons for the consideration of race in policies, but that the reason and the implementation must be equally appropriate. For example, the internment of Japanese Americans during World War Two was an extreme policy, but the courts justified this action by saying that the national security of the United States was a supremely compelling motivation. By contrast, they find that:

> Although…the goals of integrating the medical profession and increasing the number of physicians willing to serve members of minority groups were compelling state interests,...the special admissions program was not the least intrusive means of achieving those goals (*University of California v. Bakke 1978*, Powell Opinion).

Essentially, Powell argues that the positive intentions of the medical school are not sufficient reason to consider race in the way they did. Outside of the strongest reasons, Powell aligns with the justices against affirmative action that "[d]istinctions between citizens solely because of their ancestry are, by their very nature, odious to a free people whose institutions are founded upon the doctrine of equality." (*University of California v. Bakke 1978*, Powell Opinion). In fact, Powell argues that in applying this policy, “the most 'discrete and insular' of whites . . . will be called upon to bear the immediate, direct costs of benign discrimination." (*University of California v. Bakke 1978*, Powell Opinion). Put another way, Powell argues that the reparative framework potentially punishes white Americans too much to be legal. He writes:

> the purpose of helping certain groups whom the faculty of the Davis Medical School perceived as victims of "societal discrimination" does not justify a classification that

> imposes disadvantages upon persons like respondent, who bear no responsibility for whatever harm the beneficiaries of the special admissions program are thought to have suffered (*University of California v. Bakke 1978*, Powell Opinion).

Despite this fear of white discrimination, Justice Powell did not fully rule that considerations of race in higher education were illegal. Instead, Powell suggests that the issue is with the specific justifications and implementation of the Davis medical school admissions plan. He argues that the specific narrow focus on race does discriminate, but, as future courts will claim over and over again, race can be considered as one characteristic of many in admissions. Thus, of the four justifications provided by University of California Davis, Justice Powell suggests that only one is compelling: "obtaining the educational benefits that flow from an ethnically diverse student body." (*University of California v. Bakke 1978*, Powell Opinion) This focus is the beginning of the cultural frame for justifying the consideration of race in higher education. Powell argues that racial diversity can provide educational benefits that the university and the government. However, Powell argues that other forms of diversity can also provide benefits:

> …the argument misconceives the nature of the state interest that would justify consideration of race or ethnic background. It is not an interest in simple ethnic diversity, in which a specified percentage of the student body is in effect guaranteed to be members of selected ethnic groups, with the remaining percentage an undifferentiated aggregation of students. The diversity that furthers a compelling state interest encompasses a far broader array of qualifications and characteristics, of which racial or ethnic origin is but a single, though important, element. Petitioner's special admissions program, focused solely on ethnic diversity, would hinder, rather than further, attainment of genuine diversity (*University of California v. Bakke 1978*, Powell Opinion).

Powell's belief that racial or ethnic diversity is not "genuine diversity" is central to the cultural frame. Genuine diversity in his eyes is made up of variation of many kinds. He specifically highlights the language used in a Harvard brochure to speak to his ideals for genuine diversity:

> "the race of an applicant may tip the balance in his favor just as geographic origin or a life spent on a farm may tip the balance in other candidates' cases. A farm boy from Idaho can bring something to Harvard College that a Bostonian cannot offer. Similarly, a

> black student can usually bring something that a white person cannot offer. . . . In Harvard College admissions, the Committee has not set target quotas for the number of blacks, or of musicians, football players, physicists or Californians to be admitted in a given year. . . . But that awareness [of the necessity of including more than a token number of black students] does not mean that the Committee sets a minimum number of blacks or of people from west of the Mississippi who are to be admitted. It means only that, in choosing among thousands of applicants who are not only 'admissible' academically but have other strong qualities, the Committee, with a number of criteria in mind, pays some attention to distribution among many types and categories of students" (*University of California v. Bakke 1978*, Powell Opinion).

This broadening of diversity is the basis of the cultural frame. Through this perspective, affirmative action is not illegal, but it is certainly narrowed. The sole justifiable purpose for the consideration of race in affirmative action becomes the benefits to the broader institution. This means any language from a university that suggests an attempt to make up for past racial discrimination becomes suspect under the eyes of the Court. They can be considered, but the standard for the legality of these motivations becomes quite high. On the other hand, the benefits of diversity for all becomes the accepted reason for the consideration of race in education.

Just as Powell argues that white students may not be discriminated against through affirmative action, he also suggests that Black students cannot benefit beyond a certain degree. In his praise for the 'Harvard Plan,' he writes:

> The file of a particular black applicant may be examined for his potential contribution to diversity without the factor of race being decisive when compared, for example, with that of an applicant identified as an Italian-American if the latter is thought to exhibit qualities more likely to promote beneficial educational pluralism. Such qualities could include exceptional personal talents, unique work or service experience, leadership potential, maturity, demonstrated compassion, a history of overcoming disadvantage, ability to communicate with the poor, or other qualifications deemed important. In short, an admissions program operated in this way is flexible enough to consider all pertinent elements of diversity in light of the particular qualifications of each applicant, and to place them on the same footing for consideration, although not necessarily according them the same weight. (*University of California v. Bakke 1978*, Powell Opinion)

Race may be considered but it is dangerous for it to be decisive.

At the time of Regents of the University of California v. Bakke, the Powell opinion was by no means a binding instruction to the courts. However, the literature and the future actions of the Court show that it would quickly become the predominant logic of the Court with regards to whether the reason for considering race was compelling. Thus the cultural frame took over discourse of affirmative action.

Gratz v. Bollinger, 2003 and Grutter v. Bollinger, 2003

In 2003, two suits were brought against the University of Michigan, one to their undergraduate admissions (*Gratz*), and one to their law school (*Grutter*). These cases were tests of how schools could structure their affirmative action policies under the rules set by *Bakke*. The Court discusses the *Gratz* and *Grutter* decisions together, therefore, I will present them both here and outline their usages of the reparative and cultural frames together. In the undergraduate program, students were given points for different characteristics, such as "high school grades, standardized test scores, high school quality, curriculum strength, geography, alumni relationships, leadership, and race" (*Gratz v. Bollinger, 2003*, Opinion of the Court). These points were added together, and if above a certain quantity, students were qualified to be admitted. In this system, students were given 20 points for belonging to "underrepresented minorities," defined here as "African Americans, Hispanics, and Native Americans" (*Gratz v. Bollinger, 2003* Syllabus). Through the way these groups are framed as having histories of discrimination in the United States, I understand "African-Americans" as referenced here to refer to Black Americans. The University of Michigan admitted "virtually every qualified applicant" belonging to these racial categories (*Gratz v. Bollinger, 2003* Syllabus). However, the petitioners, Jennifer Gratz and Patrick Hamacher, were white Michigan residents who, despite being qualified according to the

points metric, were not admitted. They argued that they were discriminated against by this system because it either functioned too similarly to a quota and/or did not sufficiently consider race as only one aspect as an individual's identity.

As mentioned previously, post *Bakke*, discussions of race typically focused on the cultural frame, using the benefits of diversity to the institution and diversity as something provided by individuals to justify the explicit inclusion of racialized people in higher education. *Gratz* follows this logic, with the majority of justices deciding that the University of Michigan's usage of race to make admissions decisions was not sufficiently "narrowly tailored to achieve respondents' asserted interest in diversity" (*Gratz v. Bollinger, 2003* Opinion of the Court). Narrow tailoring, in the eyes of the Court, is the practice of designing the selection process in such a way that it achieves whatever goals the institution states while limiting potential harm to others. In this case, the University of Michigan attempts to achieve the goal of the educational benefits of diversity. The majority decision of the Court was that the system of automatically applying points based on being an underrepresented minority was not sufficiently narrowly tailored because it did not allow true "individualized consideration" (*Gratz v. Bollinger, 2003* Opinion of the Court) of each applicant. The majority justices argue that despite Powell's assertion that "a university need not "necessarily accor[d]" all diversity factors "the same weight," (From *Gratz v. Bollinger, 2003* Opinion of the Court, quoting from Powell Opinion in *University of California v. Bakke 1978*) the twenty points afforded for being an underrepresented minority were too high in comparison to the points available for other factors, such as "leadership and service, personal achievement, and geographic diversity (*Gratz v. Bollinger, 2003* Opinion of the Court). However, the Court did not explicitly take issue with the other two factors that could grant an applicant twenty points "attendance at a predominantly minority or

disadvantaged high school; or recruitment for athletics" (*Gratz v. Bollinger, 2003*, O'Connor Opinion).

In the law school admissions program, discussed in *Grutter*, race is also used as a factor in admissions. However, the review available at the law school is less regimented and more "flexible," primarily due to the lower number of applicants to the law school in comparison to the undergraduate program (*Grutter v. Bollinger, 2003* Syllabus). The law school outlines that their goal is to enroll "a "critical mass" of underrepresented minority students," but they also define diversity broadly and do "not restrict the types of diversity contributions eligible for "substantial weight," (*Grutter v. Bollinger, 2003* Syllabus). The petitioner, Barbara Grutter, was a white in-state applicant to the law school who was rejected with a 3.8 GPA and 161 LSAT score. She alleged she had been discriminated against on the basis of her race because the law school took a view of diversity that provided "minority groups a significantly greater chance of admission" without a sufficient compelling interest (*Grutter v. Bollinger, 2003* Syllabus). In this case, the majority justices found that the law school did not discriminate because the program was narrowly tailored. The capacity for individual review enabled the university, in the majority opinion, to limit the harm of race consideration while meeting its goals of a "critical mass" of underrepresented minority students (*Grutter v. Bollinger, 2003* Syllabus). Specifically, the majority justices argue that narrow tailoring does not require the school to consider "every conceivable race-neutral alternative" to utilize race conscious admissions, as long as no harm is done (*Grutter v. Bollinger, 2003* Syllabus)

In *Gratz* and *Grutter*, the Court outlines how the cultural frame can be used to argue for and against consideration of race in higher education admissions. Within the cultural frame's concern for the benefits of diversity for everyone, amorphous and individual consideration of

race, as in *Grutter*, is permissible. However, a measurable benefit provided solely to racialized parties, as in the points system outlined in *Gratz*, is not. The majority actors of the Court justify this by arguing that the absence of a racial quota "does not, by itself, satisfy the requirement of individualized consideration" of the role of race for applicants (*Grutter v. Bollinger, 2003* Opinion of the Court). There must be sufficient flexibility, as in the *Grutter* plan, to ensure that "each applicant is evaluated as an individual and not in a way that makes an applicant's race or ethnicity the defining feature of his or her application" (*Grutter v. Bollinger, 2003* Opinion of the Court).

Following Powell's concern with discrimination against white people, the Court praises the law school for their policy's capacity to "select nonminority applicants who have greater potential to enhance student body diversity over underrepresented minority applicants" (*Grutter v. Bollinger, 2003* Opinion of the Court). Similarly, they argue that the points system of the undergraduate program "unduly burden[s] individuals who are not members of the favored racial and ethnic groups" (*Grutter v. Bollinger, 2003* Decision of the Court). Under this frame of race, despite the history of racial discrimination in the United States, it is "African-Americans, Hispanics, and Native Americans" who are favored by the university (*Gratz v. Bollinger, 2003* Opinion of the Court). This is the opposite view of the reparative frame, which considers preference for admitting students from these backgrounds, especially Black Americans, a way to undo the institution's past and present favoring of students without histories of discrimination.

Despite the majority in *Gratz* and many justices in *Grutter* using the cultural frame, some justices critique this frame while advocating for explicitly affirmative action through a reparative frame. Justice Souter, for example, departs from the majority of the Court and argues that the points system in the undergraduate program is not unconstitutional, but simply explicit. He

critiques the notion that the subtlety of the *Grutter* program's ability to place minoritized students in higher education makes it more narrowly tailored than the *Gratz* program's explicitness. The justice compares the admissions policy in *Gratz* to the percentage plans praised by the majority justices for their race-neutral capacity to create diversity:

> "…it seems especially unfair to treat the candor of the admissions plan as an Achilles' heel…"percentage plans" are just as race conscious as the point scheme (and fairly so), but they get their racially diverse results without saying directly what they are doing or why they are doing it. In contrast, Michigan states its purpose directly and, if this were a doubtful case for me, I would be tempted to give Michigan an extra point of its own for its frankness. Equal protection cannot become an exercise in which the winners are the ones who hide the ball." (*Gratz v. Bollinger, 2003* Souter Opinion)

Justice Souter argues that the Court is not basing its decisions on whether or not a program is narrowly tailored, but whether it can sufficiently hide its goal of including racialized minorities in the student body in rhetoric about broader diversity or policies that do not explicitly mention race. Justice Ginsburg concurs, astutely speculating on the future of racial consideration in higher education under the cultural frame:

> "One can reasonably anticipate, therefore, that colleges and universities will seek to maintain their minority enrollment-and the networks and opportunities thereby opened to minority graduates-whether or not they can do so in full candor through adoption of affirmative action plans of the kind here at issue. Without recourse to such plans, institutions of higher education may resort to camouflage. For example, schools may encourage applicants to write of their cultural traditions in the essays they submit, or to indicate whether English is their second language. Seeking to improve their chances for admission, applicants may highlight the minority group associations to which they belong, or the Hispanic surnames of their mothers or grandparents. In turn, teachers' recommendations may emphasize who a student is as much as what he or she has accomplished." (*Grutter v. Bollinger, 2003* Ginsburg Dissent).

Ginsburg here describes the practice of hinting at what social scientists think of as "cues" of racial or ethnic categorization (Monk 2022). In a legal environment where schools are able to explicitly say that they seek to include people from certain racial groups in their student body,

applicants may turn to descriptions of the languages they speak, foods they eat, or traditions they participate in to cue institutions to their race. As stated in the discussion of the cultural frame, these are constructions of difference that are less accessible to Black Americans. In the coming discussion of the decisions of the Court in the *Fisher* cases and finally *Students for Fair Admissions v. Harvard*, I will return to this prediction by Ginsburg to consider its accuracy.

Before leaving *Gratz* and *Grutter*, it is important to note an idea that will return in later cases, particularly *Students for Fair Admissions v. Harvard*. While discussing the policies of the law school, the Court praises three points–their broad definition of diversity, the lack of harm for non-minority applicants, and the law school's assertion that " it would like nothing better than to find a race-neutral admissions formula and will terminate its use of racial preferences as soon as practicable" (*Grutter v. Bollinger, 2003* Opinion of the Court). This was not a totally new consideration for the conversation about race in higher education. In previous cases, justices argued about how long would be appropriate for schools to continue to consider race at all, especially without the justification of directly addressing some harm. In fact, one of Powell's primary arguments for not legitimating the consideration of past discrimination as justification for considering race is that it was "an amorphous concept of injury that may be ageless in its reach into the past" without end (*University of California v. Bakke 1978*, Powell Opinion). The Court closed Grutter with an estimate that would become important in future cases:

> The Court expects that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today. (*Grutter v. Bollinger, 2003* Opinion of the Court)

To be clear, the Court did not include any particular reason why schools in 2028 would have no more need to consider race in higher education. Justice Thomas suggests that they were simply attempting to push the problem down the road, and perhaps so. What is clear is that this focus on

there being a necessary end for the consideration of race in higher education was so important to the Court that they anticipated only 25 years for the future of these programs. As I write 21 years later, this prediction has been interpreted as instruction.

Fisher v. University of Texas, 2013 & Fisher v. University of Texas, 2016

The next cases included in the corpus involve the same parties, three years apart. Abigail Fisher, a white Texas resident, was not admitted to the University of Texas and claimed that racial discrimination was the cause. The state of Texas implemented a Top Ten Percent Plan, which admitted all students from the top ten percent of any Texas high school to the Texas public school of their choice. These students made up a significant portion of the incoming class of the University of Texas each year. The remaining spots underwent a more traditional admissions review, where race was considered as a part of the admissions. Fisher claimed that this consideration violated her rights. The Supreme Court had to decide if the University of Texas' claim that their plan was based in the previously legitimized compelling interest in diversity and narrowly tailored was sufficient, or if further examination was required.

Following the pattern of increasing strictness around considerations of race in higher education admissions, the Court determined that the school's claim of utilizing the standards of the Court was not sufficient for them to avoid a full investigation of the legality of the approach. Put another way, simply repeating the claims of the cultural frame to justify consideration of race would not protect schools from being sued and investigated. As Justice Kennedy outlined, the burden was on the university to "prove that the means chosen by the University to attain diversity are narrowly tailored to that goal" (*Fisher v. University of Texas*, *2013* Opinion of the Court). Additionally, the strictness of the definition of narrow tailoring was increased. Kennedy

claimed that "narrow tailoring also requires that the reviewing Court verify that it is 'necessary' for a university to use race to achieve the educational benefits of diversity" (*Fisher v. University of Texas*, *2013* Opinion of the Court). This was a departure from previous cases, which gave "deference to the [u]niversity's experience and expertise about its educational mission" and allowed schools to claim the necessity of racial diversity without outside critique (*Fisher v. University of Texas*, *2013* Opinion of the Court). *Fisher v. University of Texas*, *2013* changed this process by no longer assuming the validity of the consideration of race simply because schools claimed the compelling interest of diversity. Kennedy writes that "Grutter did not hold that good faith would forgive an impermissible consideration of race. It must be remembered that "the mere recitation of a 'benign' or legitimate purpose for a racial classification is entitled to little or no weight" (*Fisher v. University of Texas*, *2013*, Opinion of the Court). Thus, despite the University of Texas parroting the very cultural frame the Court had defined as acceptable, they had to further prove that *how* they sought to receive the benefits of diversity was acceptable to the Court. The opinion of the Court stated:

> It is at all times the University's obligation to demonstrate, and the Judiciary's obligation to determine, that admissions processes "ensure that each applicant is evaluated as an individual and not in a way that makes an applicant's race or ethnicity the defining feature of his or her application." Id., at 337. Narrow tailoring also requires a reviewing court to verify that it is "necessary" for the university to use race to achieve the educational benefits of diversity. Bakke, supra, at 305. The reviewing court must ultimately be satisfied that no workable race-neutral alternatives would produce the educational benefits of diversity. (*Fisher v. University of Texas*, *2013*, Opinion of the Court)

The potential danger of considering race was increased in this case. Despite the Court outlining this 'acceptable' usage of the consideration of race, they now had to prove that even that narrow usage was necessary.

The Court's logic for this increased burden for the university was the inherent danger of considering race. Justice Thomas outlined his belief in this danger in his claim that there may be no 'benign' way to consider race in higher education:

> '[B]enign' carries with it no independent meaning, but reflects only acceptance of the current generation's conclusion that a politically acceptable burden, imposed on particular citizens on the basis of race, is reasonable." See Metro Broadcasting...It is for this reason that the Court has repeatedly held that strict scrutiny applies to all racial classifications, regardless of whether the government has benevolent motives. (*Fisher v. University of Texas*, *2013*, Thomas Concurrence).

This concern with the presence of race at all in higher education is once again tied to the Court's refusal to recognize the reparative frame of affirmative action as justified. Thomas, in his concurrence with the *Fisher I* decision, reiterates the baffling but clear stance of the Court, outlined in the U.S. government's defense of Japanese internment: "[p]ressing public necessity may sometimes justify the existence of [racial discrimination]; racial antagonism never can" (*Fisher v. University of Texas*, *2013*, Thomas Concurrence, Thomas' edits of *Korematsu 1944*).

Thus the University of Texas and Abigail Fisher returned to the Supreme Court to investigate the actual plan Fisher claimed discriminated against her. In this case, the University of Texas clearly outlined their goals for considering race. The university believes that admitting a "critical mass" of racialized students will aid them in "ending stereotypes, promoting "cross-racial understanding," preparing students for "an increasingly diverse workforce and society," and cultivating leaders with "legitimacy in the eyes of the citizenry" (*Fisher v. University of Texas, 2016*, Opinion of the Court). Fisher claims that the school's interest in a critical mass is equivalent to a quota. Additionally, she argues that the University of Texas must either prove that a race neutral program could not meet these goals, or highlight a specific percentage at which these goals will be met and after which race will not be considered.

In 2016, the Supreme Court decided *Fisher II* on the side of the University of Texas. The Court argued that an interest in a critical mass of representation for the 25% of students not admitted through the Texas Top Ten Percent plan was not equivalent to a quota, and in fact that Fisher's insistence that after a certain percentage is reached race no longer be considered would be a quota. They also argue that the goals of the University of Texas are "sufficiently measurable to permit judicial scrutiny of the policies adopted to reach them" (*Fisher v. University of Texas, 2016*, Opinion of the Court). These goals, the Court claims, are both legitimate and sufficiently measurable in their impact on the likelihood of a student's admission. The University of Texas plan involved individual review of applicants for their academic achievement as their "personal achievement index," which involved consideration of:

> required essays, (2) reviews any supplemental information the applicant submits (letters of recommendation, resumes, an additional optional essay, writing samples, artwork, etc.), and (3) evaluates the applicant's potential contributions to the University's student body based on the applicant's leadership experience, extracurricular activities, awards/honors, community service, and other "special circumstances." "Special circumstances" include the socioeconomic status of the applicant's family, the socioeconomic status of the applicant's school, the applicant's family responsibilities, whether the applicant lives in a single-parent home, the applicant's SAT score in relation to the average SAT score at the applicant's school, the language spoken at the applicant's home, and, finally, the applicant's race. (*Fisher v. University of Texas, 2016*, Kennedy Opinion)

Thus race in this system is included in one place and in the scope of individual review. Though a number is associated with the personal achievement index, the number is not directly related to race, avoiding the points based prohibition of *Gratz*. And the reader who calculates the personal achievement score, knowing the applicant's race, is not the same person determining whether or not the student is admitted, as a different officer makes that decision. Thus, the Court determined that "race is but a "factor of a factor of a factor" in the holistic-review calculus," just as they prefer (*Fisher v. University of Texas, 2016*, Kennedy Opinion). Kennedy writes that the

infinitesimal impact of race in admissions in the Texas system is the "hallmark of narrow tailoring" (*Fisher v. University of Texas, 2016*, Kennedy Opinion).

The goals that the University of Texas claims to be using racial diversity to achieve align directly with the cultural frame, as they describe benefits that are primarily derided to the institution rather than the racialized individual. Particularly, the interest in preparing students for "an increasingly diverse workforce and society," and cultivating leaders with "legitimacy in the eyes of the citizenry" are evidence of an expansion of the cultural frame from being considered with benefits to the educational organization to benefits to the state and capitalism (*Fisher v. University of Texas, 2016*, Kennedy Opinion). The Court is quite taken with this expanded scope of benefits, as it expands the scope of the benefits of racial diversity in higher education toward the interest in state benefits that were the original definition of "compelling interests" in *Korematsu 1944*.

The *Fisher* cases leave affirmative action on seemingly unclear ground. The Court affirms in one case the right of the government to become intimately familiar with the admissions process of all schools receiving government funding if they consider race and that consideration's legitimacy is ever questioned. Though they defend the University of Texas program in *Fisher II*, they primarily praise it for how few racialized students it actually admits, and how it prioritizes benefits to the state in those admissions. Affirmative action is defended, but only as it remains perhaps ineffective. Still, this narrowing through the cultural frame is not the end of the narrative of affirmative action.

Students for Fair Admissions v. President and Fellows of Harvard College, 2023

The most recent, though perhaps not final, affirmative action case the Court has decided was brought by Students for Fair Admissions (hereafter referred to as SFFA) against Harvard University and the University of North Carolina's undergraduate admissions programs. SFFA sued on the basis of these schools discriminating against Asian Americans specifically. This is a significant difference from previous cases, which primarily considered the effect of affirmative action policies on white Americans. Though the cases were brought against both schools together, the Harvard case became the deciding instance. In many ways, the *SFFA v. Harvard* case is unique in that it does not critique affirmative action from a new perspective, as other cases. Instead, it broadly presented the consideration of race as generally unconstitutional in higher education.

The Court, despite the lack of new grounds to consider the question from, took up the case, and agreed that this consideration was indeed unconstitutional. Despite the repeated narrowing of affirmative action policies and the arguable alignment of Harvard and the University of North Carolina with previous cases, the Court argues three points that make their programs illegal:

> …the Court has permitted race-based college admissions only within the confines of narrow restrictions: such admissions programs must comply with strict scrutiny, may never use race as a stereotype or negative, and must—at some point—end. Respondents' admissions systems fail each of these criteria and must therefore be invalidated under the Equal Protection Clause of the Fourteenth Amendment. (*SFFA v. Harvard, 2023* Opinion of the Court)

Despite arguing since *Bakke* that diversity itself has compelling interests that justify strict scrutiny, the Court now argues that there is no clarity in the way that these schools assess these goals. The Court writes:

> the interests that respondents view as compelling cannot be subjected to meaningful judicial review. Those interests include training future leaders, acquiring new knowledge based on diverse outlooks, promoting a robust marketplace of ideas, and preparing engaged and productive citizens. While these are commendable goals, they are not sufficiently coherent for purposes of strict scrutiny. It is unclear how courts are supposed to measure any of these goals, or if they could, to know when they have been reached so that racial preferences can end (*SFFA v. Harvard, 2023* Opinion of the Court).

These are quite similar goals to the ones approved just seven years prior in *Fisher II*. While a more liberal Court was content to approve these goals at that time, the more conservative Court here critiques these goals for their immeasurability. In the context of this decision, it is also worthwhile to return to the decision of the Court in *Brown v. Board of Education*, where they stated that there are "qualities which are incapable of objective measurement but which make for greatness in" education (*Brown v. Board of Education 1954,* Opinion of the Court). The Court here departs from this assertion to dismantle the traditional 'compelling benefits' of the consideration of race.

It is not that the Court does not find them compelling at this point, but that the Court is now primarily concerned with the briefly mentioned line closing the *Grutter* decision–the capacity of these goals to be measured so they can end. In their present consideration of *Grutter*, they portray this comment in this way:

> "[e]nshrining a permanent justification for racial preferences would offend" the Constitution's unambiguous guarantee of equal protection, the Court expressed its expectation that, in 25 years, "the use of racial preferences will no longer be necessary to further the interest approved today. (*SFFA v. Harvard, 2023* Opinion of the Court)

In *SFFA v. Harvard*, the Court takes this prediction about the future of race in the United States as an instruction. The majority of justices hold that there is no clear plan for the Harvard and North Carolina admission programs to stop considering race, and that even if they did intend to

end their consideration when their goals are met, the metrics they suggest to use are either ineffective or illegal. Representing the decision of the majority, Roberts writes:

> Respondents suggest that the end of race-based admissions programs will occur once meaningful representation and diversity are achieved on college campuses. Such measures of success amount to little more than comparing the racial breakdown of the incoming class and comparing it to some other metric, such as the racial makeup of the previous incoming class or the population in general, to see whether some proportional goal has been reached. The problem with this approach is well established: "[O]utright racial balancing" is "patently unconstitutional" (*SFFA v. Harvard, 2023* Opinion of the Court)

The majority of the Court alleges that using the presence of a certain percentage of racialized groups in higher education as a sign that affirmative action is no longer needed is the same thing as including quotas of those groups through admissions. Following the history of the Court praising the subtlety of discrete inclusion of race in decision making, the Court bans plain consideration of the presence of racial diversity as a way to measure the effectiveness of an admission program.

Outside of issues with justifying and measuring racial diversity in higher education, the Court also suggests that the way higher education thinks about race is inappropriate. First, they argue that the racial categories they use are too broad to measure anything. For example:

> To achieve the educational benefits of diversity, respondents measure the racial composition of their classes using racial categories that are plainly overbroad (expressing, for example, no concern whether South Asian or East Asian students are adequately represented as "Asian"); arbitrary or undefined (the use of the category "Hispanic"); or underinclusive (no category at all for Middle Eastern students). The unclear connection between the goals that respondents seek and the means they employ preclude courts from meaningfully scrutinizing respondents' admissions programs (*SFFA v. Harvard, 2023* Opinion of the Court).

The Court alleges that there is a methodological problem in Harvard's argument about the usage of racial representation to receive diversity. If the categories cannot adequately measure the vast diverse perspectives Harvard alleges come from race, then how can the Court measure the

effectiveness of these concepts? Relatedly, the Court argues that what these schools are actually measuring instead is a fundamental belief they have about race, what they call "the offensive and demeaning assumption that [students] of a particular race, because of their race, think alike" (*SFFA v. Harvard, 2023* Opinion of the Court). The combination of these two issues of operationalization with the role of race in higher education lead to Justice Roberts to critique:

> Indeed, the use of these opaque racial categories undermines, instead of promotes, respondents' goals. By focusing on underrepresentation, respondents would apparently prefer a class with 15% of students from Mexico over a class with 10% of students from several Latin American countries, simply because the former contains more Hispanic students than the latter. Yet "[i]t is hard to understand how a plan that could allow these results can be viewed as being concerned with achieving enrollment that is 'broadly diverse' (*SFFA v. Harvard, 2023* Roberts Opinion).

In the discussion I will outline further how these critiques are a direct result of the Court's reliance upon the cultural frame. Here, I will move on to how the majority justices say race can be used in the future of higher education. The Court, despite stricting the role of race as a group concept for schools to measure and consider in itself, argue that "nothing…should be construed as prohibiting universities from considering an applicant's discussion of how race affected his or her life, be it through discrimination, inspiration, or otherwise" (*SFFA v. Harvard, 2023* Roberts Opinion). This consideration, however, must focus entirely on the individual. Roberts further explains:

> A benefit to a student who overcame racial discrimination, for example, must be tied to that student's courage and determination. Or a benefit to a student whose heritage or culture motivated him or her to assume a leadership role or attain a particular goal must be tied to that student's unique ability to contribute to the university. In other words, the student must be treated based on his or her experiences as an individual—not on the basis of race. (*SFFA v. Harvard, 2023* Roberts Opinion)

Through this approach, race is truly just one of the many types of diversity outlined in Powell, no more significant in the Court's understanding of society than geography or tendency towards

athletics. In this way, the cultural frame, despite failing to defend the consideration of race, still reigned in the majority decision.

I will move forward to how the cultural frame and reparative frame are used to defend affirmative action by the minority justices who dissented from the Court's decision. Justices Sotomayor and Kagan ruled on the side of Harvard, and Justice Jackson, who abstained due to her affiliation with Harvard University, wrote dissents with Sotomayor using both the cultural and reparative frames to defend affirmative action. The primary argument of the cultural frame in this defense was that the Court "singl[ed] out race," therefore:

> impos[ing] a special burden on racial minorities for whom race is a crucial component of their identity. Holistic admissions require "truly individualized consideration" of the whole person. Id., at 334. Yet, "by foreclosing racial considerations, colorblindness denies those who racially self-identify the full expression of their identity" and treats "racial identity as inferior" among all "other forms of social identity." (*SFFA v. Harvard, 2023* Sotomayor Dissent)

This defense does not speak to the ways that race is different from the "other forms of social identity" the Court does allow. Instead, it argues that the Court discriminates against this identity by preventing its usage along with others in "holistic admissions" (*SFFA v. Harvard, 2023* Sotomayor Dissent). Similarly to the justices in Fisher II, in fact, Sotomayor highlights the already small role that race plays in admissions as a defense:

> Indeed, Harvard's admissions process is so competitive and the use of race is so limited and flexible that, as "SFFA's own expert's analysis" showed, "Harvard rejects more than two-thirds of Hispanic applicants and slightly less than half of all African-American applicants who are among the top 10% most academically promising applicants" (*SFFA v. Harvard, 2023* Sotomayor Dissent).

Even as these justices defend the consideration of race, they fall into the same pattern of the many justices in centralizing this cultural frame of the role of race. Justice Jackson praises the University of North Carolina's broad notion of diversity, which includes "socioeconomic status,

first-generation college status . . . political beliefs, religious beliefs . . . diversity of thoughts, experiences, ideas, and talents" (*SFFA v. Harvard, 2023* Jackson Dissent) Justice Sotomayor even aligns the importance of affirmative action with the neoliberal concerns for the state, highlighting the necessity of "public servants educated in diverse environments who can "identify, understand, and respond to perspectives" in "our increasingly diverse communities," "a diverse workforce [that] improves business performance, better serves a diverse consumer marketplace, and strengthens the overall American economy," and even the imperial power of the military:

> Indeed, history teaches that racial diversity is a national security imperative. During the Vietnam War, for example, lack of racial diversity "threatened the integrity and performance of the Nation's military" because it fueled "perceptions of racial/ethnic minorities serving as 'cannon fodder' for white military leaders."...Based on "lessons from decades of battlefield experience," it has been the "longstanding military judgment" across administrations that racial diversity "is essential to achieving a mission-ready" military and to ensuring the Nation's "ability to compete, deter, and win in today's increasingly complex global security environment" (*SFFA v. Harvard, 2023* Sotomayor Dissent).

Despite the conservative justices using the cultural frame to dismantle affirmative action, liberal justices still insist upon using the same frame to defend it.

In other places, however, Justices Sotomayor and Jackson use the reparative frame explicitly to dissent against the Court's decision. For example Justice Sotomayor responds to Robert's notion that "*Bakke*'s recognition that Black Americans can offer different perspectives than white people amounts to a "stereotype" by saying that:

> It is not a stereotype to acknowledge the basic truth that young people's experiences are shaded by a societal structure where race matters. Acknowledging that there is something special about a student of color who graduates valedictorian from a predominantly white school is not a stereotype. Nor is it a stereotype to acknowledge that race imposes certain burdens on students of color that it does not impose on white students. (*SFFA v. Harvard, 2023* Sotomayor Dissent).

Here, Sotomayor highlights that race is indeed different from other forms of identity. It shapes society and the experiences of the racialized differently than participating in sports or being an only child shapes ones' life. Sotomayor further suggests that the Court is well aware of this difference, which is why it claims to still allow for the consideration of race:

> In a single paragraph at the end of its lengthy opinion, the Court suggests that "nothing" in today's opinion prohibits universities from considering a student's essay that explains "how race affected [that student's] life."...This supposed recognition that universities can, in some situations, consider race in application essays is nothing but an attempt to put lipstick on a pig. The Court's opinion circumscribes universities' ability to consider race in any form by meticulously gutting respondents' asserted diversity interests…Yet, because the Court cannot escape the inevitable truth that race matters in students' lives, it announces a false promise to save face and appear attuned to reality. No one is fooled. (*SFFA v. Harvard, 2023* Sotomayor Dissent).

After drawing similarities between race and other aspects of "social identity," Sotomayor shifts to arguing that it is different, and that even the conservative justices are aware of this difference.

In their reparative defenses, Justices Sotomayor and Jackson also critique the conservative justice's notion that racial categorization in and of itself is harmful to racialized people as well as ahistorical. Sotomayor writes:

> Today, the Court concludes that indifference to race is the only constitutionally permissible means to achieve racial equality in college admissions. That interpretation of the Fourteenth Amendment is not only contrary to precedent and the entire teachings of our history…, but is also grounded in the illusion that racial inequality was a problem of a different generation. (*SFFA v. Harvard, 2023* Sotomayor Dissent).

As this case suggests that the consideration of race in higher education violates the Equal Protection clause of the Fourteenth Amendment, this is a particularly adept critique of the cultural frame aligning with color-blind racism (Bonilla-Silva 2017). Though the Fourteenth Amendment did not mention specific races, the historical context of its passing makes clear that the law was not based on the principle of racial indifference but rather the end of racial discrimination. The justices also center the importance of continuing to consider the history of

exclusion in current admissions, despite the conservative justices' certainty that the relevance of these events is long overdue. Justice Jackson writes:

> Given the lengthy history of state-sponsored race-based preferences in America, to say that anyone is now victimized if a college considers whether that legacy of discrimination has unequally advantaged its applicants fails to acknowledge the well- documented "intergenerational transmission of inequality" that still plagues our citizenry. (*SFFA v. Harvard, 2023* Jackson Dissent).

They continue to be grounded in this history, despite other justice's dismissal of these ideas. Even as affirmative action as we know it comes to an end, the arguments of the reparative frame are consistent from the beginning. To highlight this, I end this section with Justice Jackson's astute affirmation of this point, which will bring us into a discussion of the findings:

> …our predecessors on this Court invalidated Congress's attempt to enforce the Reconstruction Amendments via the Civil Rights Act of 1875, lecturing that "there must be some stage . . . when [Black Americans] tak[e] the rank of a mere citizen, and ceas[e] to be the special favorite of the laws."...But Justice Harlan knew better. He responded: "What the nation, through Congress, has sought to accomplish in reference to [Black people] is—what had already been done in every State of the Union for the white race—to secure and protect rights belonging to them as freemen and citizens; nothing more. (*SFFA v. Harvard, 2023* Jackson Dissent).

Rhetorical Overview

Blackness is ever present in the Court's conversations of race and higher education. In the corpus analyzed for this chapter, words beginning with "africa," words beginning with "negr," and the word Black occur more than any other racial terms combined. The only group mentioned near as often is white. But the type of Blackness discussed is quite specific. Of all the occurrences of words beginning with "africa" in this sample, only two refer to the continent. Of those, one highlights the unclear racial classification of North Africans. All others refer to African-American, a term which, particularly in the context of the time period when the majority

of the cases in the corpus were written, primarily referred to Black descendents of US chattel slavery. The phrase "West Indian" occurs once; "Nigeria" is mentioned twice, and is the only African nation/ethnicity mentioned by name. No Caribbean nations or ethnicities are mentioned, and in fact, words beginning with "carib" are entirely absent. By contrast, words associated with Black American ethnic identity, such as "slavery," "segregation," and "Jim Crow" are mentioned over three hundred times.

Table 3: Occurrences in Corpus

Broad Racial Terms		**Black Ethnicity Terms**		**Ethnic Terms**	
"black"	327	"nigeria*"	2	"immig*"	13
"negr*"	153	"west india*"	1	"ethnic*"	206
"africa*"	125	"carib*"	0	without "rac*"	12
Blackness Total	605	*Black Ethnic Total*[4]	4	"cultur*"	21
"white"	258	"segrega*"	179	"divers*"	624
"latin*/hispan*"	169	"slav*"[5]	102	without "rac*"	488
"asia*"	122	"Jim Crow"	26		
"native"	23	*Black American Total*	307		
"india*"	15				

The Court also frequently uses rhetoric that focuses on difference without race, as the cultural frame can. The most prominent of these, perhaps unsurprisingly, is the frequent occurrences of words that begin with "divers*," such as diversity. Even when terms such as "racial diversity" are removed from the count, diversity is used more than any terms cuing for

[4] This count includes not just the words included in the column above but also the single use of "black immigrant."

[5]This search was cleaned to include only words referring to slavery, such as "slave," and exclude terms such as "slavic."

Black American ethnic identity. This shows the centrality of this concept to the Court. Words beginning with "ethnic" are used frequently, but mostly in combination with race, such as in the phrase "racial and ethnic diversity."

Discussion

I look at this level of rhetoric in the corpus to attempt to understand who the Court is referring to when they refer to race in higher education. And the vast majority of the time, they are referring to Black people, specifically Black people who have a history with segregation from schools and descending from slavery. Graham's *Collision Course* (2002) also outlines that the history of affirmative action was developed based upon Black Americans in the United States. How then, if Black Americans are the primary group discussed in these policies, do I argue that they are least served by previous versions of affirmative action after *Bakke*? To answer this question, I return to an excerpt that I opened this chapter with:

> "…the government officials making these decisions from the beginning privileged the rights claims of African-Americans. This privileged claim was politically crucial, yet paradoxically, it gave African-Americans no legal advantages over other minorities. …Historically, the assumption of African-American primacy seemed self-evident. Politically, it provided the moral power behind the breakthrough legislation of 1964-1965. Subsequently, it also provided the rationale for adopting race-conscious remedies under affirmative action…*But it coexisted uneasily with the assumption that all official minorities were equally disadvantaged and were entitled to the same remedies in civil rights enforcement.*" (2002:141-142, italics my own).

The Court, I argue, is just now starting to understand, even after the massive quantity of ink that has been used discussing Blackness is this corpus, that there is no logic in basing affirmative action policies on anything other than the historic and present exclusion of Black Americans from education and full citizenship in the United States. I am specific about referring to Black Americans and not Black people as a whole here, partially because of the established reasons in

the previous chapter. But also, beginning with *Fisher I* and continuing into *SFFA*, the Court used the focus on race defined as culture and the presence of Black ethnic diversity, particularly the presence of Black ethnics, in the United States, to dismantle affirmative action through the cultural frame.

The Cultural Frame and the End of Affirmative Action

Up until this point, except to explain the impacts and decisions of the court cases included in the corpus, I have focused mostly on how the content of these cases utilize the cultural and reparative frames. In this discussion, however, I take a moment to consider how critiques of these frames by justices looking to dismantle affirmative action, particularly critiques of the cultural frame, help us understand these arguments and their impact on our present. I think this is particularly important because I argue that the cultural frame, despite being the basis through which affirmative action was defended for 45 years, always held within it the materials for the defeat for affirmative action. By refusing to hold its ground, by being based in a breadth of perspectives rather than narrowing itself to defend a particular position, it in many ways argued for no one. Its perspective that every form of difference is worth considering is, simultaneously, an argument that no form of difference is significant enough to consider, particularly one as controversial as race. I argue that the continual presence of the cultural frame, amongst both defenses and attacks on the consideration of race in higher education, shows the danger of relying on the cultural frame for the future of thinking about racial difference in many arenas.

I begin here with the *Students for Fair Admissions v. Harvard* case because it is incredibly grounded in the history of the cultural frame in the Supreme Court. Because Powell

and the majority justices found the reparative frame to be uncompelling in *Bakke*, the Court does not have to address that approach except to say that it is unconstitutional. In their address of the cultural frame, however, the Court is quite clear that the goals, despite their approval of them for 45 years at that point, were too "amorphous" to be considered compelling (Fisher II, Decision). The amorphousness of the cultural frame is part and parcel of its goal of serving everyone. The struggles of serving everyone are well highlighted in the development of affirmative action outlined by Graham in *Collision Course*.

> In 1970, a U.S. Civil Rights Commission report stated that the EEOC had set its priorities on African-Americans, Hispanics, and women. Politically, these priorities made sense, responding as they did to EEOC complaint patterns and to pressures from mobilized black, Chicano, and feminist groups. But accumulating evidence of Asian socioeconomic success confounded the model of nonwhite, protected-class minorities, with its presumption of group disadvantage… In 1978, when Congress in the Small Business Investment Act provided a statutory basis for the SBA's 8(a) program, the law omitted Asian-Americans from the list of minorities (blacks, Hispanics, and Native Americans) considered presumptively "socially and economically disadvantaged." Responding to this omission, Asian-American groups hammered the SBA, which within a year reinstated them among the presumptively eligible groups. Yet there was something bizarre about awarding taxpayer-subsidized business grants and loans to members of the country's top income strata on the grounds that all members of the group were presumed to be socially disadvantaged." (144-145).

This narrative highlights the role of two important factors that have shaped legislation on affirmative action in the United States–the appearance of equality and group lobbying. Repeatedly, the cultural frame has folded to the appearance of discrimination. The absence of the benefit of admissions to white individuals in *Bakke, Gratz, Grutter,* and *Fisher I/II* and the accusation of discrimination against Asian Americans in *SFFA* were concerns with the appearance of equality, not genuine equity. And the cultural frame must address all of these concerns, because of its primary conceptual and operational issue with regards to race and difference. Without grounding in some meaningful standard other than 'difference,' the cultural

frame cannot effectively explain the difference between these groups, and without this explanation, cannot defend affirmative action policies or diversity as a compelling interest. This is particularly true in the context of the power of group lobbying, as seen both in the explanation from Graham (2002) and in *SFFA*. Students for Fair Admissions is a lobbying group that solicits narratives of rejection from colleges and universities from students and parents. Without a strong logic prepared to respond to these groups, the cultural frame was without grounds to defend the policies it had once justified.

Black Ethnicity and the End of Affirmative Action

By contrast, the reparative frame can directly address differences between equal treatment and equity. To understand how, I turn to Justice Thomas' attempt to articulate the difference between his understanding of the passing of the Fourteenth Amendment and the justices using the reparative frame. The reparative justices argue that the Fourteenth Amendment and the Freedman's laws that accompanied it demonstrate the precedence of the law considering race for the good of those previously exploited. Justice Thomas argues that the law is an example of "undo[ing] the effects of past discrimination in [a way] that do[es] not involve classification by race" (*SFFA v. Harvard, 2023* Thomas Concurrence). Thomas writes:

> That Act established the Freedmen's Bureau to issue "provisions, clothing, and fuel . . . needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children…" Importantly, however, the Acts applied to freedmen (and refugees), a formally race-neutral category, not blacks writ large. And, because "not all blacks in the United States were former slaves," " 'freedman' " was a decidedly under-inclusive proxy for race (*SFFA v. Harvard, 2023* Thomas Concurrence).

Here Thomas highlights that freedman is an experiential category, not a racial one. In 1860, before the law Thomas references was passed, there were 488,070 free Black people in the

United States compared to 3,953,760 enslaved (Introduction to the US Census 1860:ix). The point placed here by Thomas is that, no matter how large the overlap between the category "Black" and the category formerly enslaved, they were separate concepts. He writes:

> These laws—even if targeting race as such—likely were also constitutionally permissible examples of Government action "undo[ing] the effects of past discrimination in [a way] that do[es] not involve classification by race," even though they had "a racially disproportionate impact…" In that way, "[r]ace-based government measures during the 1860's and 1870's to remedy state-enforced slavery were . . . not inconsistent with the colorblind Constitution" (*SFFA v. Harvard, 2023* Thomas Concurrence).

Following this argument, Thomas is able to highlight the true fragility of how this logic continues to higher education today:

> A black person from rural Alabama surely has different experiences than a black person from Manhattan or a black first-generation immigrant from Nigeria, in the same way that a white person from rural Vermont has a different perspective than a white person from Houston, Texas. (*SFFA v. Harvard, 2023* Thomas Concurrence).

Here the cultural frame is used to make the experience of being slave descended, as being a "[B]lack person from rural Alabama" certainly implies, seem equivalent to a geographical difference (*SFFA v. Harvard, 2023* Thomas Concurrence). The cultural frame, which the Court is relying upon, views these all as experiences that provide different perspectives to the educational institution. But the reparative frame views just one of these parties as being owed inclusion into higher education because of their exclusion. Thus, the multiple experiences of Blackness, immigrant descended and descendant of the enslaved, under the cultural frame create an idea that race is too broad to be significantly considered in higher education. However, through the reparative frame, it highlights the centrality of the experience of exclusion to the policy of affirmative action.

I argue that this is one of several times the Court uses the significant presence of Black ethnic individuals in the United States today to argue against race based considerations in higher education. Take, for example, Gorsuch's concurrence to *SFFA*:

> "…Black or African American" covers everyone from a descendant of enslaved persons who grew up poor in the rural South, to a first-generation child of wealthy Nigerian immigrants, to a Black-identifying applicant with multiracial ancestry whose family lives in a typical American suburb. (*SFFA v. Harvard, 2023* Gorsuch Concurrence).

This frame is even applied once to notions of ethnic diversity among Latines in the United States:

> "…respondents would apparently prefer a class with 15% of students from Mexico over a class with 10% of students from several Latin American countries, simply because the former contains more Hispanic students than the latter. Yet "[i]t is hard to understand how a plan that could allow these results can be viewed as being concerned with achieving enrollment that is 'broadly diverse.'" (*SFFA v. Harvard, 2023* Roberts Opinion)

This usage of ethnic diversity to speak to a greater variety than racial diversity directly aligns with the amorphous notions of cultural diversity that the Court critiques in *SFFA*. But it also speaks to a less threatening form of inclusion to individual educational institutions and the United States as a whole.

What the cultural frame had to lean upon without a strong logic to defend itself is the capacity to be easily attached to other frames. The cultural frame, for example, was easily connected to concern with the state and labor by both universities and judges. The broadening of the benefits of the cultural frame from the educational institution to the state and capitalism as a whole is indicative of a connection between the notion of the multicultural state and racial colonial capitalism. The presence of immigrants and immigrant descendants from different racial groups within the settler colony can be used to further goals of imperialism, hegemony, and maintenance of the settler colony (Saranillio 2013). As Saranillio writes, "an intricate arrangement of power relations that helped diverse non-White settlers to see their interests as

aligned with the formation of a liberal settler state" (2013: 282). The Court aligns with this ideology when they highlight a preference for a great variety of ethnic backgrounds, both within those incorporated into whiteness (Powell's concern for the Irish and Austrians in *Bakke*) and the racialized, because of the benefits they provide in the workforce, military, and state (*SFFA v. Harvard, 2023* Sotomayor Dissent).

By contrast, the logic of the reparative argument is incompatible with benefits to the state. Though primarily concerned with the considerations of Black descendents of slavery, this frame can also apply to the harm done to the indigenous people of the Americas. Though the incorporation of Black Americans to the nation state and liberal policies can certainly further the goals of the neoliberal racial colonial state and empire, the reparative frame is not an explicitly integrationist frame. What is owed to those excluded can take many forms. For example, the robust funding and continued support of historically Black colleges and universities (HBCUs) aligns well with the reparative frame. The reparative frame is concerned with the inclusion of racialized people in higher education, not necessarily in white higher education institutions. But despite this functional flexibility, the reparative frame is logically rigid. It is this rigidness that makes it so effective at advocating for the interests of those previously excluded. It is also this rigidness that made it unappealing to the Courts in *Bakke*.

Limitations and Future Research

The law of this country is a rich source of data. In this analysis, I limited myself to just a few cases for clarity, brevity, and their relevance to my broader research question. However, further research of this topic would further elucidate the nuances of the cultural and reparative frames as well as their history and usage by the Court. For example, I coded best examples of

rhetoric aligning with the cultural or reparative frames, but time would not allow for complex analysis of the relationships between concepts or words used by the Court, such as equality or intention, and their usages of these frames. Further analysis could consider broad partisan identification, ethnoracial identities, or education histories of the justices and their usage of the reparative and cultural frames. Future studies could also expand the scope of this research to the labor market, the other frequent domain of affirmative action litigation in the United States. Are the reparative and cultural frames constructed similarly, or even relevant in those cases? How are peripheral concepts to the construction of these frames, such as concerns for the globalizing economy and national security, foundational in discourse about labor markets and employment? I believe these frames have a rich theoretical and analytical future.

In the next chapter, I examine how the reparative and cultural frames function outside of the legal area in the era post *Students for Fair Admissions v. Harvard*, on two university campuses. But before we get grounded in the work that these frames do in the real world, let's think about the way race and education could be different had the Court made different decisions.

Conclusion

We cannot go back in time. There is a concept commonly used in the social sciences called path dependency (Mahoney and Schensul 2009[6]). Imagine three doors, labeled A, B, and C. You may enter through one of these doors, but only one. And once you enter through one, you only have the doors that lie beyond that one to choose from. Perhaps you would have preferred the option that lay behind door C. Perhaps the option that lay behind door C was where you

[6] I evoke the concept of path dependence primarily for purposes of effective storytelling. For a more academic understanding, consider the overview by Mahoney and Schensul.

wanted to go in the first place. But if you chose to walk through door A, the options behind C will never be available to you.

The same is true for the history of race in higher education in the United States. We will never know what this country would look like if Justice Powell or any of the majority justices had sided with the reparative justices in *Bakke*. We will never know what our schools would look like if *Plessy v. Ferguson* had not decided that segregated education was acceptable. We will never know what this country would be like if the founding fathers had meant all when they said all men are created equal. We will never know what Blackness would mean to us today if the British had decided to prohibit the import of Africans to the American colonies beginning in 1619. We live, as a nation and a world, in the aftermath of those actions. They brought us to slavery, to the Civil War, to the Reconstruction, to Jim Crow, to segregation, and integration, and affirmative action, and to its end. It brought us to a world where the consideration of race is dangerous for schools, and yet where students expect diversity. This is a difficult place for schools to be. In the next chapter, I consider what it is like on the ground in this educational landscape. But before we go there, I want to pause and imagine what could have been.

As we continue to imagine our futures, particularly as we dream of what could be, I encourage us to ask whether what we imagine aligns with a cultural utopia or a reparative utopia. Are we worlds we imagine diverse because it aids the greater good in amorphous goals or aligns with our aesthetic notions of progressiveness? Or are those harmed by systems implemented centuries ago and policies in effect today present in that world because it no longer harms them? Can we tell the difference?

Chapter 4: History, Demographics, and Belonging: Diversity Frames and Organizational Characteristics

Introduction

Despite the importance of the Supreme Court, the world does not function exactly according to federal law. Though schools take great care to follow the law so as to not be sued, affirmative action cases are about who gets admitted to colleges and universities, not how these colleges and universities think about and discuss race once students are on campus. Because of this, it is important to pair Chapter 3's analysis of the law with an understanding of what things look like on the ground. How do the reparative and cultural frames function in educational organizations? How do they shape treatment of Black American and Black ethnic students? And how is this uniquely done in schools with specific regional and racial histories?

In order to answer these questions, I conducted what I think of as two small ethnographies. I embedded myself in the parts of two universities that deal with and think about race. I spoke with multicultural affairs staff and attended events they put on. I ask members of Black cultural organizations (BCOs) who they turned to for assistance, what parts of the institution they felt were for them, and which they felt excluded from. I collected and analyzed public facing statements from the universities to see how they presented their histories and identities. I then utilized my field notes from my time at the two universities, interviews with multicultural affairs staff on these campuses, and the materials these universities created to see how they aligned with these frames. In these spaces, I found the reparative and cultural frame both alive and well, though not always where I expected to see them.

My findings sometimes align with the field's notions of how recent changes to the law shape universities notions of race and diversity. But, they also contrasted, and these moments

actually had much to do with Black ethnicity. I found that despite the dominance of the cultural frame of diversity in higher education, the schools in my study sometimes maintained organizational spaces and rhetoric that suggested a use of the reparative frame. Put another way, despite the many changes in affirmative action law and the way the government believes diversity should function, on the ground there was a mix of old and new, particularly around Black American identities. Why?

I suggest the answer resides in understanding the role of organizational characteristics such as racialization, history, demographics, region, and rank. The universities I researched are different from those at the forefront of the national conversation around affirmative actions. Data sets like the NLSF and media outlets like the New York Times (Confessore 2024) focus on highly elite institutions, typically in the American Northeast and Midwest, who predominantly serve white wealthy students. I intentionally selected very different schools–two universities in the American South, one majority white, and one predominately Black. These schools are less selective than schools like Harvard, Michigan, and University of California, which have all had to defend their affirmative action policies at the Supreme Court. They are public schools that typically serve their region more than their nation, and admit students more similar to your average American college student. Research from Hirschman and Berrey (2017) also shows that status, like university rank, and sector, or whether a school is public or private, play a role in how educational organizations use race in admissions. For this reason, I turned to these institutions rather than those typically studied, and found different results than those typically reported.

Because of their regionality, history, and state funded status, the universities in my study have different relationships with Blackness than those typically studied. As previously stated, one of my organizations is majority minority, though not a traditionally historical Black college

or university (HBCU). Instead, this university is majority Black because it exists within a city with a strong Black history and a state with considerable Black ethnic variation. The other university is predominately white and was built upon the grounds of a plantation. This school's relationship to slavery is still a topic of conversation and very evident on campus. I argue that these educational organizations have specific relationships not just with Blackness broadly, but with Black American history, that shape the way they think about diversity and race in education, despite national trends otherwise. In my observations, interviews, and analysis, I find the role of organizational and local history to play a major role in when these institutions use the reparative frame versus the cultural frame. My data suggests that work attempting to understand racial patterns in higher education must understand colleges and universities as racialized organizations. In order to understand ethnoracial patterns such as the disproportionate presence of Black ethnics in higher education, we must consider the work that organizations do, the work that they claim to do, and how they are influenced by external forces and peer organizations.

Much research has considered how changes in the legality of affirmative action policies affects college admissions (e.g. Bowen and Bok 2018) and multicultural affairs personnel (Garces and Cogburn 2015; Glasener, Martell, and Posselt 2019). Particularly relevant to this research is how these changes change the tactics colleges and universities use to consider race in daily work, as found in Garces and Cogburn (2015). Scholars find that how organizations frame an issue shapes the policies and practices they use to address said issue (Glasener et al. 2019). Researchers have also considered how effective the tactics organizations use to implement diversity are and found that increased "accountability, authority, and expertise" lead to increased diversity (Kalev, Dobbin, and Kelly 2006). My research follows in the footsteps of work from Warikoo and Deckman (2014) and Marichal (2009) in asking how different diversity frames are

present and function in higher education. I merge this research with the study of racialized organizations to ask how the racialization of the university, specifically its racial history and current demographics, shape its usage of the cultural and reparative diversity frames? I also focus specifically on how different Black ethnic groups fit within these frames. As I introduced the frames in the last chapter, we understand the cultural frame better aligning with narratives of Black ethnic identity and the reparative frame better aligning with Black American identity. But in this chapter I want to look deeper into the consequences of not fitting into the frame being used by the institution. Thus I also consider how different constructions of Blackness experience these diversity frames.

Literature Review

Racialized Organizations

Universities are more than just places to learn and grow. These are organizations with boards, missions, and endowments in the millions (Musselin 2021). By looking beyond the surface level, we can see how organizations like universities play a role in creating and disrupting inequality in the United States. As discussed in Chapter 1, within racialized social systems theory, society is organized to provide resources to some and deny resources to others according to where they fall along an ethnoracial hierarchy (Bonilla-Silva 1997). One way that this is done is through organizations, like colleges and universities, workplaces, and hospitals. While scholars discuss large concepts that affect the way societies act, think, and live, such as my work on the rhetoric of diversity in the law, most people do not interact with these broad macro level concepts. Instead, they interact with the organizations that distribute resources and regulate behavior according to these rules. Organizations are the places where individuals

interact with the laws and rules that determine who has access to material goods, such as medicine, or social goods, such as a college degree.

In the past, scholars of organizations have sometimes ignored the importance of race. However, as Ray writes, understanding organizations as part of the racialized social system paints a "more realistic picture of organizational formation, hierarchies, and processes" (2019:27). By understanding how race affects the creation, regulation, and behavior of organizations, we can identify mechanisms of inequality that might otherwise be difficult to understand. To illustrate this concept, let's think about how understanding colleges and universities as organizations with resources to distribute explains why the conversation about race and affirmative action has been so contentious in the United States. Since our nation's founding, there have been exceptionally high rates of schooling in the United States when compared to its international peers (Bok 2013). However, not everyone can attend college, and certainly not everyone can attend the most selective organizations, such as those typically whose affirmative action policies typically reach the Supreme Court. But attending college has a clear benefit–a college degree is a credential that is required to access certain jobs (Brown 2001; Ray 2019). Thus a college degree is a resource that a college or university, working as an educational organization, can distribute to individuals. The state, through the institution of the law, determines who colleges and universities can distribute this resource to. During segregation, racialized individuals could not access this resource. Limiting access to this resource made it easier for those belonging to the dominant group, white people, to succeed in the labor force. The limitation of this resource to white people essentially created a "credential" out of whiteness itself (Harris 1993). However, with the passing of *Brown v. Board of Education* and the integration of schools, the number of people who had access to this resource increased.

Additionally, the state, responding to the demands of activists and lobbyists, made a particular pathway to try to increase numbers of racialized people in higher education (Graham 2002). Ray writes that:

> "Affirmative action policies recognize the credential of Whiteness and attempt to alter the nearly taken-for-granted link between Whiteness and organizational incorporation. Strong affirmative action policies implicitly acknowledge that Whiteness is connected to organizational resources through hiring and admissions procedures" (2019:42).

However, the dominant group, white people, still want to receive the majority of college degrees to maintain their dominance, especially as college admissions become more competitive (Berrey 2011). Thus, they petition the state through lawsuits to expand the pathway set aside for racialized people so that they can utilize it as well. Through a racialized organizational view of affirmative action, we can get a better understanding of why there is so much legislation over college admissions and race.

In the past, it was easier to see how educational organizations were racialized. A school that did not admit anyone but white people was clearly racialized as white. In the United States, we even understand the continued role of racialized educational organizations such as HBCUs. But despite the integration of most educational organizations, the racialization, or racial characteristics such as history, demographics, and frames of a college or university, still shape how they behave today. In order to understand how, we must first remember to not view whiteness as the absence of race, or a default identity, but a dominant racial identity that shapes the way people think, act, and live. The white actors who created white educational organizations used the white racial frame (Feagin 2020) to define who belongs, what knowledge matters, and how these spaces should spend their money (Bonilla-Silva and Peoples 2022). Colleges and universities were foundational parts of the colonial project of the United States, and often

benefited directly from Indigenous American genocide and theft as well as the enslavement of Black Americans (see Bonilla-Silva and Peoples 2022; Wilder 2013). These histories continue to shape organizations. In the modern day, individuals utilize the white racial frame to conduct the daily work of colleges and universities (Diamond and Lewis 2022). In the modern day, these organizations teach primarily white curricula, enroll mostly white students, hire mostly white faculty, and teach and house students in buildings named for white people (Bonilla-Silva and Peoples 2022). Thus, despite the presence of racialized people as staff, faculty, or students at a college or university, they are often still racialized organizations (Diamond and Lewis 2022).

A college's use of the diversity frames outlined in Chapter 3 may seem to contrast the perception of organizational whiteness. However, Ray describes how white organizations appear to profess "formal commitments to equity, access, and inclusion from policies and practices that reinforce, or at least do not challenge, existing racial hierarchies" (2019:42). Organizations attempt this through "decoupling," or the creating distance between "existing organizational routines and policies adopted to placate external constituencies" (quoting from Ray 2019:42; Meyer and Rowan 1977). Thus, many white organizations profess reparative or cultural diversity frames while continuing to focus on providing credentials to white actors and benefiting themselves (Embrick 2011). The "external constituencies" Ray (2019) mentions may be the state, if organizations are trying to prove that they are not discriminating against racialized individuals. But they can also be attempting to attract potential students. Research shows that racial diversity is associated with perceptions of prestige and academic rigor (Stevens 2009; Ford and Patterson 2019; Hirshman and Berrey 2017). Thus colleges and universities often attempt to represent themselves as diverse, regardless of the actual number of racialized students at their institution by playing with numbers (Ford and Patterson 2019) or advertising with images that

are more diverse than the student body (Pippert, Essenburg, and Matchett 2013). Other external actors shaping educational organizational behavior include the organizations that determine their rank (Sauder and Espeland 2009) and antidiscrimination specialists or DEI consultants (Kelly and Dobbin 1998).

However colleges and universities are portraying themselves, scholars of organizations using neoinstitutional theory suggest that what organizations do "cannot be reduced to aggregations of direct consequences of individuals' attributes or motives" (Powell and DiMaggio 1991:9). Rather it is the result of a broader 'field,' made up of both external and internal actors (Powell and DiMaggio 1991). Within these fields, institutions often become more similar, or experience isomorphism, when they are all subject to similar pressures, mimic each other to attempt to reach similar goals, or are influenced by overlap and interaction (Powell and DiMaggio 1991; Lipson 2007). This literature helps us understand how diversity became such a powerful and commonplace concept in higher education.

Methods

University Sites

The study of Black ethnicity in higher education is often done at elite educational spaces. For example, Charles et al., in their recent publication on Black ethnicity in higher education, describe their sample as "the new Black elite" (2022). I was interested in examining institutions that were less elite, where a larger proportion of the Black population was receiving their education. Additionally, I was interested in how the geographic region where Black students are receiving their education might shape who attends their universities and the racial frames utilized at these institutions. For this reason, I selected two institutions in the American South. I also

knew I was interested in how the racial identity of the institution and the demographics of the student body would shape my findings.

I created lists of all universities within one hundred and fifty miles of my address that met my selectiveness criteria. I then searched the websites of these colleges and universities to create lists of Black cultural organizations (BCOs) on each campus. In order to be considered for research, each school had to have at least two BCOs on one physical campus. In addition to having to have two BCOs on one campus, majority white schools had to have one BCO with a Black American identity and one with a Black ethnic identity. I excluded all schools from my lists that did not meet these qualifications. I also excluded all schools included in the National Longitudinal Survey of Freshman (NLSF), which I sought to compare my research to. The list of schools was obtained through registering for access to the NLSF data through the Office of Population Research at Princeton University.

I then reached out to the student executive board of the BCOs I identified at each university, going in order of preference for my research. Aspects that affected my preference were proximity to my home institution, my familiarity with the institution, and distinctiveness from the NLSF sample. Initial contact was made either through the official emails publicly listed on university websites or through the direct messages of official public BCO instagrams. Once I received confirmation of interest from one BCO at an university, I focused in on that university, hoping to gain confirmation of interest from another BCO at the same university. After gaining confirmation of interest and willingness to participate from BCOs, I reached out to the research office at that institution for permission to conduct research on campus. I made contact with an BCO at a historically Black college and/or university (HBCU), but they were unwilling to participate in research. I initially sought to conduct my research at three universities–one

historically white and currently predominately white; one historically white and currently majority minority; and one historically Black and currently majority Black. Because of this, I moved forward with two schools in the sample.

Comparing the Universities to Each Other and NLSF

Table 1: Comparing Universities to NLSF Sample			
	Center City University	Hilltop University	Average NLSF
Location	Urban South	Rural South	5 Mid Atlantic, 8 Midwest, 9 Northeast, 4 South, 2 West
Rank Average (2022)[7]	155.5		26.82
Public or Private	Public	Public	23 Private, 5 Public
Acceptance Rate	66.8%	43%	19.13%
Percent Black	39%	5.72%	8.1% (Without HBCU: 5.91%)

Comparing Descriptive Statistics

In preparation for my qualitative research, I gathered basic data on some quantitative characteristics of each university. For standardization of measures, I used DataUSA.io's university reports, which are made through aggregation of public data sets submitted to the US government. I used DataUSA.io to gather rank according to US News and World Report, enrollment, acceptance rate, and percent Black for each school in 2022. In addition to gathering this data for the two schools where I conducted qualitative analysis, I gathered this data for the

[7] I present these numbers as averages as giving the specific ranking for any institution would allow for their identification. Additionally, these names are pseudonyms.

schools in the NLSF study. Characteristics of these institutions are listed in Table 1. Because of my desire to study less selective institutions, the NLSF schools have higher rank and low acceptance rates than the schools in my study. I will introduce these universities here, before outlining the methodologies I utilized and sharing what data I found at each site.

Center City University: The Future of Public Education

Center City University (CCU) is a public university with their flagship campus in the center of a major Southern city. Center City is a school with a student body of more than fifty thousand students, over half of which are full time undergraduates pursuing bachelors degrees. For those not in the know, it might be hard to tell when you leave campus and enter the city. On campus housing sits right next to standard apartments. Many students commute to campus via the city train, bus, or car, while for others, the city is and always has been their home.

Despite being a traditional public university and not a historically Black college, Center City is a majority minority institution. Around 40% of their students were Black as of 2022, and the university identifies as a "Predominantly Black Institution" (Data USA IO). The next largest group is white students with about 20%, Asians with 13%, and Hispanics with 5%. These racial demographics reflect the representation of the city Center City resides in, which has a long Black history and diverse ethnosuburbs. You can feel this racial diversity almost anywhere you go on campus. The sorts of images some schools are desperate to capture, featuring students of many skin tones laughing together, or students walking to class together, one in a hijab and another in a crop top, are common sights at Center City. The school embraces their identity as a diverse institution, and thus has some unique organization characteristics.

These changes happened fast. Like many other Southern colleges and universities, the first Black students integrated Center City in the early 1960s. Prior to that date, Center City had a very similar history to many schools, primarily educating white elite men. The shift from this historical white past to this predominantly Black future makes Center City an interesting place to consider how history and demographics shape constructions of Blackness and diversity today.

Hilltop University: The Classic Southern PWI

Hilltop University (HU) is a predominantly white land grant university in the rural South with over twenty five thousand graduate and undergraduate students. In many ways, it resembles what people might imagine when they hear the words 'Southern university.' There are your traditional majors, but also a strong agriculture program. Greek life and football are huge on campus. I intentionally did my ethnography during the spring of 2024, as to not encounter the massive traffic on gameday or the decreased availability of students that occurs throughout the fall. It also has more controversial Southern characteristics. Hilltop, despite being in a state with a significant Black population and history, is what Bonilla-Silva might call an "unbearabl[y] white" institution (Bonilla-Silva & Peoples 2022). The university sits on the grounds of a former plantation, which is preserved and still used as a museum to this day. The names of slave owners, both those associated with the plantation and others from across the school's history, are present on buildings, scholarships, and professorships.

In some ways, Hilltop's history is typical of a white Southern institution. But Hilltop is whiter than many Southern schools, especially compared to the Blackness of the state it's in. In 2022, the school was 70% white, 7% Latine, and 6% Black. During the same year, the state was 25.6% Black. The whiteness of Hilltop is well known in the state. This whiteness is attributed to

different things. Geography could play a role, as Hilltop is in the whitest county in the state. Academic rigor could be another, as Hilltop is the most selective university in the state, with only a private liberal arts college having a greater academic reputation. But the history of Hilltop certainly plays a role as well. The students, faculty, and staff I spoke to all spoke about Hilltop's reputation as an incredibly white place. It is in the context of this whiteness that I investigated meanings of diversity and constructions of Blackness on Hilltop's campus.

Participant Observation

My research on each campus began with reaching out to what I call Black cultural organizations (BCOs). These groups, like African Student Associations, Black Student Unions, and Jamaican Cultural Clubs, are places where Black ethnicity is often particularly salient on campuses. Because of this, they seemed an ideal place to begin my research. I reached out to the student executive boards of all BCOs on each campus, which I identified through lists of student organizations on university websites. I described my research to them and asked for permission to observe their meetings. As part of my research grant from American Sociological Association Doctoral Dissertation Research Improvement Grants, I offered to contribute to the budget for each organization. I answered questions they had about the scope of my research and particularly conveyed how their identity would be protected in work based on this research. After receiving permission from the executive board of at least one BCO on each campus, I let the research office at each institution know I was conducting research. I also gave consent forms to the executive boards of each BCO and collected them once the students understood and signed the forms. The BCO leaders then introduced me to their members at large meetings so they would

know I was collecting data. I ended up spending a semester at each university, focusing on two BCOs at each.

I observed meetings, events, and casual downtime with executive board and organization members over the course of a semester. This looked different each time. During one observation, I helped the executive board set up for a Homecoming Tailgate by providing a dish, holding down tents when the wind got strong, and letting them use my crockpot for cheese dip. In another, board members asked me where I thought their organization could improve. I attended play practices, trivia nights, and planning sessions. During interactions, when appropriate, I took notes. After each observation, I took field notes with a template, recording what I felt was significant about the interaction, questions I had, and themes I felt appearing in my research.

I also conducted observation of general campus events. I spent hours on each campus, attending culture days and talks put on for Martin Luther King Jr. day. Even when not explicitly collecting data, for instance, when grabbing a bite to eat before a meeting or traveling across campus, I was constantly taking in the environment and informing my research. This more ethnographic methodology was not done consistently enough to be included in my analysis, but enmeshing myself within the context of these organizations allowed me to develop a deeper understanding of my observations. As a result of my thorough data collection, I gathered diverse types of data during participant observation. For example, I also gathered photos when appropriate. I took screenshots of emails and Instagram posts on public pages associated with university offices or BCOs I'd connected with. All data was then uploaded into MAXQDA and coded using abductive analysis (Tavory and Timmermans 2014). Using this data-driven approach, I iteratively coded each document, picture, and audio file. This allowed the patterns and themes to emerge, adapt and refine as I closely examined how diversity and Blackness were

constructed and framed. This process occurred concurrently with research and continued after my observations ended.

This chapter focuses mostly on the results of the observation outside of BCOs. The results of the BCO observation will be considered in future work. My observation of these groups prompted me to gain a deeper understanding of why they turned to certain spaces and individuals, and to consider how they were either aligning with or rejecting university diversity frames.

Content Analysis

In addition to my participant observation analysis, I collected public facing materials from the websites, newspapers, and instagrams of each university. I sought out materials related to diversity, race, institutional history, and the BCOs I observed. I began on the university websites, and collected the text of pages related to my research, such as mission statements that describe valuing diversity, strategic plans that sought to increase or maintain minority enrollment, and multicultural program webpages. Each web page's text was considered a separate document for the sample. Gathered text was stored and analyzed in MAXQDA. I first coded and analyzed these texts using iterative coding and abductive analysis (Tavory and Timmermans 2014). I also applied observation codes to the materials I gathered from websites, and vis versa. Once the data was sufficiently coded with themes present in the data, I coded for the diversity frames previously defined in Chapter 3. I also initially coded each university's materials separately. Once individual codes were established for each university, I applied these codes to the other university in the sample to compare frequencies and themes. I intentionally

sought out similarities and differences between the way each university discussed race and diversity or institutional identity.

In addition to close coding, I used the Word Explorer and Word Frequencies tools in MAXQDA to gather descriptive statistics about the usage of certain terms in each university's corpus. Word Explorer allowed me to search for frequency of specific terms in a university's materials. Word Frequencies allowed me to gather a list of most used terms across the corpuses. The data for each university was stored in a separate document set so that I could compare what terms occurred most frequently at each organization and differences in most used terms.

To maintain the anonymity of the universities in this research, I do not cite the specific web pages. Additionally, where possible, rather than quoting large blocks of text that might lead directly to university materials or web pages, I often cite the terms used rather than the exact phrases they exist within. For example, rather than giving the exact name of a division, I highlight the terms in their name in alphabetical order. After establishing this alphabetical naming, I adopt it as a formal name for the rest of the references to that office. As an example, I describe an office with a name featuring terms such as "Accessibility," "Belonging," "Community," and "Engagement." I then refer to this as "the Accessibility, Belonging, Community, and Engagement Office." I take great strides to attempt the balance of presenting the nuances of my data and the importance of protection of participants and institutions.

Interviews

While not the primary focus of my research, I was able to conduct eight interviews with executive board members of BCOs (4), multicultural affairs staff (3), and faculty (1) across both institutions. The division of these interviews across the two universities is outlined in Table 2.

This sample, while small, was selected not to be representative of opinions on diversity frames or racial ideologies at the universities as a whole, but rather to confirm and expand upon findings from participant observation. Potential interviewees were either identified based upon their position on the executive board of an organization or through their official position as a part of an office related to multicultural affairs at their university. Though this was not a requirement for their participation, all participants were Black.

These interviews were semi structured and lasted anywhere from forty five minutes to an hour and a half. The majority were in person, though one was conducted over Zoom. I developed and utilized an interview guide based upon the themes that emerged from my participant observation but the semi structured interview format allowed me to adapt my lines of inquiry based upon the experiences and expertise of my participants. Central topics were campus history, opinions of diversity, and Black interethnic interaction. Participants filled out detailed consent forms, which I went over with each participant at the beginning of each interview. Signed consent forms were collected at the end of the interviews and were kept in a secure location with multiple security measures in place to protect their identities.

Table 2: Interviewee Data

	Center City University	Hilltop University
Executive Board Members	3	1
Faculty	0	1
Multicultural Affairs staff	1	2
Total	4	4

This chapter will mostly feature quotes from multicultural affairs staff. These institutional actors with expertise in race have particular power over how universities function to deal with

race on the day to day (Garces and Cogburn 2015). The contributions of these key informants was therefore invaluable in this research. Because of the small number of these participants and the small number of people working in multicultural affairs at each institution, I do not provide rigorous demographic information to protect the privacy of those who agreed to participate in this study. They are solely identified by their institution and a pseudonym. Pseudonyms were chosen by the author.

Positionality

Aspects of my identity absolutely shaped my interactions with the BCOs and faculty and staff at Center City University and Hilltop University. As a Black woman who is racially unambiguous, I was able to blend in at many events, especially when those events were about race, culture, and/or diversity. I was also able to blend in at student events, as I was not significantly older than the undergraduates. This was particularly the case at Center City, which serves many non-traditional undergraduates. I made sure to always introduce myself as a researcher and a graduate student of a separate university when meeting new people, but I was likely assumed to be a member of the community in moments when I was unable to introduce myself. When I did, the regional prestige of my institution also gave me legitimacy that graduate students from other institutions may not have had access to. I tried to be responsible with my position and my association with Emory. Sometimes participants or observees asked me for assistance with applying to graduate school or finding jobs at Emory, and while I was happy to do so, I always made sure to express that I held little institutional power at Emory and could not guarantee any results.

My Blackness also made building rapport with my participants and interviewees rather easy. Interviews with students, faculty, and staff often included use of slang and African American Vernacular English. When this was done, I typically responded in kind, particularly when discussing race and Blackness. I maintain this language in my quotes to respect the voices of my participants and because it reflects the nature of the conversations held in majority Black spaces on these campuses. As an undergraduate, Black cultural organizations were a major part of my social life, and so I was able to relate to the experiences of the students using these spaces. This was even true, to a certain extent, in BCOs associated with Black ethnic identities, as at my undergraduate institution a significant proportion of Black students were Black ethnic. Because of this background, I was often able to discuss the experiences I shared with my participants.

Finally, the Southerness of these institutions mattered for my research, and my identity as a Southerner made my experiences on these campuses easier. I was not shocked by the presence of plantations on campus, and I did not prompt Black participants to express their experiences with these spaces as traumatic. I was familiar with the state laws affecting these universities and controversies that happened on campus. Most of my participants were from the South, many of them from the same states as the universities they were in. I lived in one of these states and had lived in the other, and so we were able to share experiences. All of these factors built rapport and affected what data I collected and how I interpreted it.

Findings

I will first consider my findings according to university and frame. I will highlight how Hilltop and then Center City utilize the cultural frame in the materials and rhetoric. I will then consider how these universities utilize the reparative frame. Then, I show similarities between

how the use of reparative and cultural frames cause Black ethnic students to be associated with cultural foreignness, not reparation on both campuses. I will also note the centrality of Black staff at each institution to shaping what the universities did, no matter what frames they used to describe what they do.

The Cultural Frame at Hilltop

With the cultural frame having been more dominant in legal rhetoric around race and higher education, one might expect to see it present at the universities in my study. It most certainly was. Though using different language, both City Center University and Hilltop University's public facing materials and multicultural affairs staff presented the cultural frame as a part of the schools' racial ideologies. This was most evident on the university websites. Both universities had offices associated with broad notions of difference. At Hilltop, this office's name featured "Accessibility," "Belonging," "Community," and "Engagement." Interestingly, just before I arrived and conducted participant observation at Hilltop, the university adopted this new name, replacing an old identity based around "Equity" and "Inclusion." This change followed a general pattern of universities avoiding language that could be perceived as politically charged in the aftermath of the *Students for Fair Admissions* decision and national calls against critical race theory. The university advertised this change five months after the *Students for Fair Admissions* decision, and describes the change as a move from the "narrowly focused" concepts of inclusion and equity to "broader" work the university was interested in doing. This shift is very much in line with the shift from reparative to cultural frames in legal rhetoric. This belief was also reflected in my interviews with staff who worked under this division:

> Yeah, sometimes, especially in this anti-DEI landscape…recently that there is this pressure for us to really be a multicultural center and serve underrepresented students,

> whatever that interpretation is. So that can be women in stem, it can be, yeah, it could be ability, it could be race, it can be gender, whatever it is (Erica).

The new Accessibility, Belonging, Community, and Engagement Office at Hilltop listed goals of "building positive connections," "fostering a sense of community," encouraging people to "engage with…varying perspectives," and promoting "inclusive excellence." These goals mostly focused on either positive feelings amongst the collective, such as "building meaningful relationships that strengthen the bonds within our diverse campus community," or highlighted the benefits of diversity to academic rigor or individual preparedness, such as the focus on "inclusive excellence." As a part of this goal, the Office had within it several subdivisions–an outreach office that sought to "create a college-going culture" among low income, minority youth in poorer parts of the state; an office focused on accessibility, primarily through the lens of disability and technology access; a research center charged with "advanc[ing] diversity and inclusion scholarship"; and, a traditional "multicultural" office.

The multicultural office was a major part of anything having to do with race at Hilltop. As Erica, who worked in the office said: "...as a multicultural center, people see us as a one-stop shop of affinity space as well as educational [space]. And if it's anything DEI, they're like, let's just throw [Erica] on the committee." This dual role of education and student space was reflected in the mission of the center, to be a place "that cultivates intellectually vibrant and socially just communities." In addition to serving this broader community goal, the center was charged with "advocat[ing] for the needs of all students," "enhance[ing] the intercultural competence of… students," and "provid[ing] engaging experiential learning opportunities." This placed a lot of responsibility on the multicultural center to do many types of work. The multicultural center ran LGBT services, women's history month, "interfaith" programming, as well as serving ethnic and

racial minorities. staff felt that they were mostly on their own to serve these many ‘diverse’ communities:

> Michaela (Interviewer): …if you could change something about the way that Black students experience [Hilltop] or the way that [Hilltop] approaches ideas of diversity, what are things that you would want to see change or be added or be different, if anything?
>
> Aaliyah (Interviewee): I wish that some of the things that we did in our office wasn't solely put on us. I wish it was a university wide thing… I think that would be helpful because it would take a lot of the pressure off of us, because I think we're doing good work, but I feel like our reach could be much further if it was more of an ‘all hands on deck’ type of thing.

The broad scope of the multicultural office’s responsibilities can be seen in the many events they put on each year. The multicultural office at Hilltop recognized five“heritage,” “awareness,” or “history” months: “Native American Heritage,” “Hispanic and Latinx Heritage,” “Black History,” “Asian Pacific Islander Desi Awareness,” and “Women’s History.” They planned and ran multiple programs for each of these months, as well as planning the university’s recognition of Pride, “National Coming Out Week,” and Martin Luther King Jr. Day. Employees of the office at Hilltop said that the breadth of these responsibilities were part of an effort to think about diversity as “intersectional,” encompassing many identities:

> And so we celebrate Martin Luther King Junior throughout a week in January. And so I do all of that programming. I do our [global culture] festival programming…I oversee all of those to make sure because we're an intersectional multicultural center. And so [we’re] seeing our students’ identities throughout those different lenses and making sure that we are taking an intersectional look at those. (Erica)

Another conversation echoed this point.

> Michaela (Interviewer): If you could, sort of summarize what diversity or DEI work means to you?
>
> Aaliyah: For me personally, what it means is everyone, no matter race, socioeconomic status, gender, no matter however you identify, having a seat at the table. And not only having a seat at the table, but making sure that your voice can be heard, and that you can be a changemaker within your community for the betterment of everyone.

These were broad notions of diversity reflected in the institutional materials online and in the events and experiences I witnessed on campus.

The Accessibility, Belonging, Community, and Engagement Office also featured three key events as a part of their central structure–a conference for Black and Latino men, a women's conference, and a global culture festival. During my time at Hilltop, I was able to attend their global culture festival. This was a massive event, well advertised by the university, which "symbolize[d] Hilltop's commitment to celebrating identities and cultures from around the world." This event featured a "global showcase" of music and "culturally-based foods" for university and community members to participate in. The focus on diverse cultures was obvious even before entering the building:

> When I arrived, there were flags draped across the stairs leading to the basketball arena where the festival was being held. I could identify a few: Italy, Nigeria, Nepal, Palestine, USA, India, Brazil, China, Jamaica. Even from outside, I could hear music playing over the speakers. It changed through the event, first afrobeats, then a song you might hear in a Bollywood movie. All around were people dressed in what I would call "cultural attire." Kente cloth tops and pants, embroidered Palestinian thobes, and outfits I could not identify the origin of but stood out as 'international,' associated with elsewhere, were just as common as the Hilltop t-shirts and shorts commonly worn on campus (Field note).

There was a clear association between "global" and race. Despite the presence of flags belonging to majority white nations like Italy and the United States, the tables inside were all manned by racialized people.

> The inside of the arena featured typical fold out tables covered in thin plastic and paper tablecloths in bright colors. On top of this sat foil trays full of ten types of rice, stewed meats, noodles, intricately folded sweets, and cookies painted in the colors of the flags hung up over the photos of the Hilltop basketball team. These items were all for sale, as indicated by menus decorated with outlines of Africa or ornate hand fans and QR codes. Behind each set of tables were so many students of color! Some of them were probably community members, maybe family, and I saw some graduate students. But many of them were clearly Hilltop undergrads, and no matter who they were specifically, they were associated with Hilltop. This was as many people of color as I'd seen my entire time

> at Hilltop. Where were they when I walked around campus? Were they a part of the Hilltop community when they weren't celebrating "global" identities? (Field note).

Despite the emphasis on diversity, many white people were there as well. There were many families, either relatives of students and faculty, or community members, with children coloring pages run by Hilltop students who were manning the event as a part of clubs or for volunteering hours. After a while, the speakers turned off, and a steel drum band identified as the "Hilltop Steel Drum Band' began to perform, all wearing polos in the Hilltop colors. They were an entirely white group. As I wrote in my field note, "the global culture represented [didn't] necessarily have to belong to the people representing it."

This event was clearly well received, and able to be enjoyed by many different types of Hilltop community members. Perhaps this is the main benefit of the broad cultural frame. But not all groups were able to participate in the same way, as I noted when I came across a table without a flag.

> On my first round walking through the arena, I saw a table much smaller than most of the others, with foods that looked more familiar to me. There were Hawaiian rolls and baked beans like I'd see at my family barbecues. There were no particular cues indicated by the decorations–just blue and Black tablecloths. Two Black adults stood behind the table, setting up condiments and cups of a dark purple drink. I thought about the table as I walked around again, and sat down in the corner to jot down a few questions I wanted to ask the people at the table. I then walked back to the table and explained who I was and my research briefly. I asked them, is this the "Black American table?" They said it was, and I sort of wanted to laugh, but I also felt so uncomfortable. It was such a different table than the others, so much less grand. The people at the table were in t-shirts and shorts, not 'cultural wear.' I asked them to tell me everything they were serving, and they did: mashed potatoes, baked beans, fried chicken, rolls, and grape kool aid. There was also ketchup and hot sauce on the table. I thanked them for telling me and asked if I could take a picture for my field notes and they agreed. I offered to buy a cup of kool aid, it was only a dollar, I didn't have any cash, and they didn't want me to venmo a dollar, so they gave it to me. As I took several more laps of the arena, I looked over at that table. I never saw anyone else stop there. (Field note)

The participants at this table were community members not associated with a particular club, as some others were. But their cultural display was not quite as easily incorporated into the idea of multicultural global fun as the white students playing steel drums or even the grand Nigerian stand, run by a group of Nigerian graduate students. In the next section of the findings, I will return to the ways that Black American culture and identities were present at Hilltop. But first, I will turn to the cultural frame at Center City University.

The Cultural Frame at Center City University

Like Hilltop, the cultural frame was clearly present at Center City. Their university values describe the importance of "diversity" and "inclusion," and an appreciation of "the dignity and value of all people and perspectives through honorable conduct based on engagement, fairness, access, equity, and civility." Where only the multicultural affairs office and the broader office they belonged to at Hilltop had mottos about diversity, these statements were ever present at Center City. In fact, pages with these mottos and asserting the importance of inclusion often led to each other in a loop, leaving me confused as to whether I had already collected these materials for my data set. This was partially because the university's strategic plan linked to offices and divisions, which often linked back to the strategic plan again.

While this setup was at times confusing, it made the connection between these different branches of the university evident. For example, there was an element of the strategic plan advertising the importance of "belonging," "identity," and "placemaking" for the future of Center City. By centering these concepts, the university hoped to "celebrate, value, and honor the cultures and communities that comprise [Center City]." As a part of this plan, they created a subdivision for "community," "culture," and "inclusion." The site said this division "serves all

students through programs and services that focus on [CCU's] strategic goals" and by creating "programs and services reflect the cultures, backgrounds, identities, and experiences of our students, their families, and the people with whom our students will engage in their careers and communities." The forms of difference emphasized under the "Community, Culture, and Inclusion" division were quite broad and focused on an individual's identities. For example, the site claimed the division:

> "supports the ways all students experience their own sense of their identities and how they interact with people who share their identities along with those who hold identities different from their own. Students may hold multiple identities that can include but are not limited to racial identities, ethnicities, gender and sexuality, faith and spirituality, nationality and citizenship, and other affiliations and communities of commonality, such as first-generation college students, adult and parenting students, military-connected students, and more."

The goals of this approach often overlapped with neoliberal concepts such as individual rights and preparation for a globalizing world. For example, on this page they described CCU as a space for "highlighting our common connections and intersections while upholding the free expression rights of each individual" and preparing "students [to] contribute to the marketplace of ideas" and "for lifelong learning & global citizenship." In fact, CCU explicitly lists "pluralism" as a primary value that can create a more academically rigorous environment:

> We promote diversity by cultivating an inclusive community in which myriad identities, perspectives, ideas and beliefs contribute to academic rigor, self-exploration and an understanding of others. We encourage students to broaden their views, to be open to new experiences and to apply their education toward addressing social, political, economic and environmental challenges confronting our communities.

Through this frame, diversity is not about justice or race, but a tool that can make students ready for the workplace by "increasing their cultural competence and intercultural engagement."

Interviews with staff in multicultural affairs at CCU believed that the university intentionally moved to define diversity beyond race:

> Yeah, I think the general consensus, when universities in general speak about diversity, I think we automatically go to 'racially diverse,' in terms of how diverse the student body is or the faculty is or the staff is. And we often go to the racial demographics first. I mean, how can you not? Again, it's sort of…race sort of permeates everything that our society does. And so I understand why we do that, and that's important. But I think I look at it also in terms of not just the racial demographics, but we look at gender, we look at different majors, we look at all types of things, the diversity of the programs and services that we offer, things of that nature. So is there a variety? Is there a mix? Is there inclusivity in those things? (Demetrius).

Using diversity as a way to refer to anything from race and gender to the variety of academic majors students pursue is part of the cultural frame's focus on difference rather than inequality. Even in spaces where a focus on inequality seems logical, the use of the cultural frame causes the university to go broad. For example, in response to increased attention on police brutality facing Black Americans, CCU put together a task force that focused on "racial equality." In their description of the motivation for the founding of the task force, "the senseless deaths of George Floyd and Ahmaud Arbery, in addition to those of Breonna Taylor, Rayshard Brooks and countless other Black Americans," they are comfortable centering Blackness. However, each of their goals is unwilling to limit the focus of the task force to Blackness. Their first goal is " [i]dentifying how [Center City], using our curriculum, teaching, research, community outreach and global activities, can address and reduce systemic racism and police violence against Black people and other underrepresented groups." While police brutality certainly affects racialized groups other than Black people, the use of the term "underrepresented" rather than 'affected' or 'discriminated against' provides a potential non-racial, non-justice based inclusion of others in the task force focus.

The multicultural center at CCU, like the one at HU, is responsible for many forms of representation and identity. This is similarly represented with the large amount of programming recognizing different forms of identity. The multicultural center puts on events for "Asian-Pacific

Islander-Desi/American Heritage Month," "Black History Month," "Caribbean-American Heritage Month," several days of events for "Juneteenth" "Latinx Heritage Month," "LGBTQ+ History Month," "LGBTQ+ Pride Month," "Martin Luther King, Jr. Commemoration," which lasts two weeks, "Native American/American Indian Heritage Month," and "Women's HERstory Month." This programming is near constant and continues during the summer, as many students enroll in summer curriculum at CCU. And, like the multicultural office at Hilltop, the responsibility for this programming mostly relied upon the staff working in "community," "culture," and "inclusion:"

> Michaela (Interviewer): So is Black History Month primarily this department's project? Do you all do the primary planning for Black History Month?
>
> Demetrius (Interviewee): Yeah, we do. And that is, I don't know, in a sense sort of a double edged sword in my opinion. Just because, I mean, often times cultural centers or spaces are tasked with being the sole 'proprietors' or 'owners' of Black History Month. or whether it's [a] Multicultural Center that's doing LGBTQ History Month or [CCU's office for Latino students] doing Hispanic Heritage Month, things of that nature. So on the one hand, yes, it makes sense because we are the curators of that knowledge …but also, we shouldn't, I don't think as a university, be the sole responsibility or burden, if you will, of these spaces to do that. So if this is a 'celebration' of, or this is an 'acknowledgement' of, that's all of our jobs as a university community to celebrate that and to do that together. And so what we've tried to do in creating [this office] is to truly make it a campus-wide effort.

At first glance, I assumed the multicultural center at Center City, like its peer at Hilltop, must be overwhelmed. However, there are aspects of the reparative frame present on campus that make the realities of the two offices different.

The Reparative Frame at Center City

Within Center City's broader focus on "community," "culture," and "inclusion," the school was also able to specifically focus on particular needs for racialized students. Separate from the multicultural center, but still under the division of "community," "culture," and

"inclusion," Center City had an office for Black Student Life. While rhetoric about this space on the website was clear to share that all students were welcome, as it would be illegal to do otherwise, the allocation of separate resources specifically for Black students suggested a continuing presence of the reparative frame. The goals of this office sometimes reflected a cultural frame ("cultural enrichment, racial awareness, ethnicity, diversity, leadership training and organizational development") and sometimes recognized a reparative frame. For example, they specifically focused on "quality services and programs related to the retention, progression and graduation of African Americans attending [Center City] by providing resources and advocating for their academic success, degree attainment, co-curricular involvement." These are concerns about what benefits Black students, not about how Black students and other racialized groups can provide racial diversity and thus benefits to the institution.

Demetrius, who once worked under Black Student Life and now worked for the division of community, culture, and inclusion, said that the retention of a space focused on Blackness was essential, even as the university expanded their notions of diversity:

> …we're very careful because what we did not want to do when we created [the community, culture, and inclusion division], and we let leadership know when they created [the community, culture, and inclusion division]…that we didn't want to lose the identity focus in [Black Student Life]. We didn't want to lose the identity focus of our Latinx students, or those in the multicultural center either. And so while we are a collaborative unit, we all still have very specific mission focused things that we do to serve all of our student populations. And so we've been very unapologetic about that, and I think that's kind of what makes us this unique sort of model.

Demetrius described the importance of a Black student space to administrators as they restructured the way they thought of race and difference. By advocating for the maintenance of certain race specific spaces, CCU was able to create a team of people running the many things that fell under "multicultural" programming that was twice the size of the team at HU. Though

the CCU team served many more students due to the size of their student bodies, they had more resources and staff to do so. In fact, Demetrius specifically rejected the model seen at Hilltop:

> …I think sometimes, well, often times…where you see sort of these multicultural centers…often times those are all under one sort of umbrella, like, office. There's a multicultural center, and within the multicultural center you have Black students, you have a wing for Latinx students, you have a wing for Asian students, international students, et cetera. At [Center City], it's kind of unique that we have multiple little mini centers, if you will, of identity focus spaces. And so I think we're unique in that aspect…because like you said, most of the time they're all kind of grouped together and everybody is just kind of utilizing the same resources, oftentimes underfunded, under-resourced, understaffed. But to see that [Center City] was intentional in making investment in these spaces, I think has been encouraging, at least for me and our staff that does this type of work.

Their advocacy for this approach included a special recognition of the history of Blackness at the institution and the demographics around Blackness at CCU today:

> And so [the Black Student Life office] was really a real staple in [Center City], sort of the culture of [Center City] in terms of what it provided, particularly in those times in the 90s and early 2000s for Black students. The demographics of this campus looked very different. Socially, culture, it was just very different historically. We know that [Center City] was not a very diverse campus. It was a predominantly or historically white institution, started for white men…And so to see what [Black Student Life] served as for those students in those days there when there were protests in the early 90's and they had a home base where Black students could feel affirmed and all of those things. [Black Student Life] played a huge part in that…why we still have this space and the reason why we have a lot of the programs and services that are offered here at [Center City] because of the things that these students did back in the 90s.
>
> … it's like how could you not though, at a school…when you look at the demographics of the university and in terms of who we graduate, who we retain, and how could you not? It makes sense. (Demetrius)

Despite this history of whiteness, everyone from the administration to students knew that Blackness was an important part of Center City's identity. Center City's identity as a majority minority institution was painted everywhere on the university website. On the about page, Center City described itself as "among the most diverse colleges and universities in the U.S." and

"annually graduat[ing] more African American students than any other public or nonprofit higher-education institution." Its evidence for diversity was the large number of Black students enrolled at the university. In the context of these demographics, the university was able to use the reparative frame in certain places without much effort. As Demetrius put it, "when you look at the demographics of the university…how could you not?"

In this context, the university, despite sometimes using the cultural frame to describe diversity as good for the university, often focused on their role of ensuring success for diverse students. For example, in their university mission statement, Center City describes themselves as "prioritizes student success [by] ensuring that students from all backgrounds graduate at high rates." Rather than focusing on diversity benefiting white students or the institution as a whole, the university discussed how concepts associated with diversity, such as "inclusion," can support success for racialized students: "When students feel a sense of belonging and inclusion it can positively impact their retention, progress, graduation, future success in their chosen professions, and their contributions and service to their families and communities." These were more concrete ideas that the university measured and in comparison to cultural goals like making sure diversity contributes to "self-exploration and an understanding of others." Demetrius drew a line between these sorts of goals and the work of the Black Student Life office, saying they avoided "whitewashing or watering down the programs and services that are currently being offered in those spaces." This clear division between "whitewash[ed]" diversity and the work focused on racialized student retention, access, and success made clear that despite the presence of the cultural frame, the reparative frame was alive and well at Center City University.

The Reparative Frame at Hilltop University

At Center City, the high racial diversity, both of Black students and of low income students served by the institution, made it possible to use the reparative frame to discuss diversity. However, despite having a much smaller Black population, Hilltop was also able to utilize the reparative frame at times. This often was clear in places where Hilltop used what Monk calls "cues" of Blackness (2022), rather than addressing race directly. Though these moments were more subtle than Center City's bold diverse identity, they often were clear to Black students. For example, despite the broad diversity responsibilities of the multicultural center, the center was named for the first Black students who integrated Hilltop in the 1960s. The presence of these alum in the name of the center placed the framework of considering race at Hilltop within the reference of its Black and white history. Staff who worked at Hilltop's multicultural center said that they mostly served Black students, despite them being one of the smallest racial groups on campus.

> So most of *our* students [referring to the center] are Black students. We have a charge to support all multicultural students, but it has been the reputation of the [multicultural] Center. And some folks feel some type of way that we support Black students and they feel like we only support Black students, but everybody is welcome here. I think that because of the identities that we share, that they see us and they don't see us in a lot of spaces. And so Black students naturally flock to the [multicultural] Center…I feel like with our Black students, they find the [multicultural] Center home and for our other multicultural students, they find it as a resource like, I'm going to pop in and get whatever I need and I'm going to go, I don't necessarily need to live here or be here all the time. And I will say most of the time when I'm talking about students, I'm talking about our Black students. (Erica)

This cue was a way for Hilltop to have Black spaces without them being explicitly Black. While avoiding explicitly Blackness is certainly not reparative, in the context of the threats to the reparative frame, it was a compromise that the staff at Hilltop were conscious of and tried to navigate carefully:

> But then I also sometimes am very grateful that I feel like administration as a whole really just allows us to do our little programs over here and serve our little black students. [We both laugh.] And that's okay because ain't nobody else going to do it. And so as long as we don't raise too much ruckus, y'all can do whatever y'all want to over there. And I appreciate that. I'm not going to say that we not ever going to raise no ruckus, but also if I can make sure a student got a meal plan for the rest of the semester and can finish, that's a win for me...There is pressure, especially in this anti-DEI landscape. But then there's also this support of, because I mean, I will get emails from the president's office that will be like, this student reached out to the president, we want y'all to meet with him just because they need to find community. I was like, okay, cool. And it is because [they're] a black student that they connected us, we won't have nothing else in common. And I'm like, okay, cool. So y'all recognize. (Erica).

Erica noticed that despite the pressures to not be too Black where the public could see, the students the administration referred showed her that they were just as aware as she was that the multicultural center's job was to assist Black students, to provide something to them that students with 'cultural' identities didn't need.

Why does this incredibly white institution understand the role of the reparative frame, however quietly? My observations, content analysis, and interviews suggested that the history of Hilltop played a major role in how they used the reparative frame. It was impossible to tell the story of Hilltop University without telling the story of slavery and Black exploitation. This was even present on the university website. It only took two clicks from the main page, one on the "About Hilltop" link and another to the "History" tab to see that Hilltop was founded on a former plantation and was all white until the 1960s. With another click, visitors can view the plantation, currently a museum with a recommended five dollar donation to tour. On these pages, Hilltop walks the line between telling a narrative of the old South with their invitation to "come visit [Hilltop]'s beautiful historic properties" and their page listing every known person enslaved at the institution. In the context of "increased activism by African-American students and

their supporters, with a series of demonstrations calling for improvement in the University climate for diversity and inclusion," it is clear that more than just simple calls for "community" and "belonging" are sometimes needed. On these pages, the university calls for "restorative justice," and "assist[ing] the local descendant communities on projects that uplift the communities and address persistent inequalities." These are explicitly reparative actions, literally involving putting the university's resources, such as access to special collections and historical knowledge, in the hands of Black community members, to aid in genealogy and local oral histories.

Table 3: Most Frequent Relevant Terms

Hilltop Materials (Identity)		**Hilltop Materials (History)**	
community	186	(plantation name)	217
woman	123	enslave/slave	189
inclusion	94	cemetery	115
lgbt	88	plantation	109
black	73	african	80
(first Black student's last name)[8]	50	die	79
diversity	50	burial	70

However, these reparative actions and rhetoric don't often reach Black students at Hilltop. In fact, when comparing materials Hilltop puts out about its history to materials about their current identity, there seems to be almost no overlap. Excluding words explicitly related to education and administration (e.g., Hilltop, university, student, staff, committee) there is no overlap between the terms most frequently used in documents coded as referring to Hilltop's

[8] The specific names of the student, plantation, and are excluded from this chapter for institutional anonymity.

present identity and their history, as shown in Table 3. This is particularly interesting considering Hilltop describes itself as being particularly guided by its history. For example, the Board of Trustees of Hilltop describes itself as "honor[ing] the intent of [the plantation owner's] will" and "honor[ing] our military heritage." The main website features a biography of the founder and plantation owner. The plantation website even outlines the known history of enslaved people and Black convicted workers employed to build dorms and halls at Hilltop. People who donate more than one million dollars to Hilltop are inducted into a society named for the plantation on campus. History is everywhere at Hilltop, and students and multicultural affairs staff are well aware of and affected by this history.

> And when I first got to [Hilltop,] I was on the phone with [a friend] and he was with his mom. He was like, 'oh yeah, I forgot to say [Erica] got a job at [Hilltop]'. And his mom was like, 'they let you work at [Hilltop?]' And I was like, 'huh?' And she was like, 'what you doing at [Hilltop?]' I was like, I'm '[working at] the multicultural center'…And she was like, 'they let black people do anything but cook and clean at [Hilltop?]'. And I was like, 'yeah'…And she was like, 'it can't be too many of y'all up there that's not cooking and cleaning.' I was like, 'you ain't lying.' And that's the reputation that it has across the state. (Erica).

The reputation of continued racism and anti-Blackness at Hilltop made people, including students and staff at Hilltop, believe that it was not a place for them. This was reflected in the low Black enrollment and issues with Black retention at the school:

> Aaliyah (Interviewee): Yes. Right now here at [Hilltop], our Latinx population is at about seven going on eight percent, and our Black population is like five [percent].
>
> Michaela (Interviewer): So not that different.
>
> Aaliyah: But it's [Latinx enrollment] growing though…The Black population of students is going down. It used to sit more at a six going on seven, and it's ticked down to five…
>
> Michaela: Why do you or [Hilltop], whoever, think that is? Why do you think those numbers are going down?
>
> Aaliyah: …a lot of students are gravitating towards universities that they think they might feel more welcome to. [Hilltop] doesn't have necessarily the best history in our state. I feel like [Hilltop] is trying to do their best to own up to what [Hilltop] as a university

> used to be. Explaining their history, but also saying we no longer value those things. But yeah, I think it's a matter of just numbers and then what people historically know about [Hilltop] and then just the things that's been happening socially around the world.

Aaliyah describes Hilltop as trying to contextualize and clarify its relationship to its history. While my research certainly saw that work being done, with signs around campus describing the plantation and that certain buildings were constructed using prison labor, it was not enough to make Black students feel like they were not on a plantation. This was worsened by the white rurality of the larger Hilltop environment, as Hilltop was in the whitest county in the state.

> …And so I think that the geographical location, being secluded, because we in the middle of nowhere for real, being secluded and being in this…this very white area, it's like even if you are a Black person that is here, you a 'good one' of them, you [are still] different from everybody else. And so I definitely think that location wise, it's just [Hilltop] is a, we still that plantation for sure. And it's real. Sometimes I have to wrestle in my head of how am I working here? Am I perpetuating what [the founder] wanted by even allowing students to find home here? And I have decided that I'm not, that I'm making him roll over and turn in his grave, but I also recognize that it can be uncomfortable for a lot of students to be here. And some of them are only here because [Hilltop] was the one that gave 'em the most money, or because they mama made them basically. (Erica).

The history and location continued to make Hilltop feel like a plantation, and without a consistent embrace of reparation that felt politically charged to the university, students and staff were not certain if Hilltop was rejecting this feeling.

In this way, the location and history of Hilltop made the stakes of their relationship with Blackness and Black community members quite high. However, they also made Blackness a central part of the way Hilltop thought of diversity. Erica, in thinking about the Blackness of the multicultural center, attributed this to Hilltop's southerness: "maybe it's because of the historical context of just being in the South where we see a lot of things as Black and white. We really focus on the black part…" The type of Blackness being thought of here was quite clearly a

reparative notion of Blackness, not associated with cultural benefits to the institution but with reparation.

Rhetorical Overview

Table 4: Occurrences at Hilltop (History Documents)

Broad Racial Terms		**Black Ethnicity Terms**		**Ethnic Terms**	
"black"	20	"nigeria*"	0	"immig*"	1
"negr*"	6	"west india*"	0	"ethnic*"	0
"africa*"	121	"carib*"	0	without "rac*"	0
Blackness Total	147	*Black Ethnic Total*	0	"cultur*"	6
"white"	22	"segrega*"	9	"divers*"	3
"latin*/hispan*"	0	"slav*"	239	without "rac*"	3
"asia*"	0	"Jim Crow"	3		
"native"	2	*Black American Total*	251		
"india*"	1				
Other Races Total	23				
"rac*"	12				

This focus on an American concept of Blackness was seen in the most frequent terms used in the history (displayed in Table 4) and identity (displayed in Table 5) coded data found on Hilltop's website. In the documents outlining Hilltop's history, Blackness was mentioned frequently, as were terms that were cues of Black American identity. Because the history discussed mostly took place before 1970, it is unsurprising that terms associated with ethnoracial groups mostly in the United States due to immigration, particularly, Black ethnics, were

unmentioned in the history focused pages. By contrast, other races, particularly Latinos, were mentioned much more frequently on pages about Hilltop's current identity. In these materials, there is no trend of Black ethnicity being specified, though ethnic terms are frequently mentioned in the sample. Also of note is the high frequency of words such as "culture" and "diversity" in the identity data at Hilltop, particularly when compared to the low presence of these words in the history data.

Table 5: Occurrences at Hilltop (Identity Documents)					
Broad Racial Terms		**Black Ethnicity Terms**		**Ethnic Terms**	
"black"	73	"nigeria*"	0	"immig*"	2
"negr*"	1	"west india*"	0	"ethnic*"	4
"africa*"	14	"carib*"	1	without "rac*"	4
Blackness Total	89	*Black Ethnic Total*	1	"cultur*"	50
"white"	1	"segrega*"	0	"divers*"	71
"latin*/hispan*"	83	"slav*"	1	without "rac*"	71
"asia*"	13	"Jim Crow"	0		
"native"	17	*Black American Total*	1		
"india*"[9]	5				
Other Races Total	109				
"rac*"	9				

A count of keywords related to race, ethnicity, Blackness, and Black ethnicity at Center City University presents similarities and differences (seen in Table 6). As in the identity

[9] In this sample, words beginning with "india" referred both to the Asian national and ethnic identity and to the phrase "American Indian"

materials at Hilltop, there are frequent uses of words associated with Blackness as a racial concept and references to other racial categories. However, there is also a great variety and

Table 6: Occurrences at Center City					
Broad Racial Terms		**Black Ethnicity Terms**		**Ethnic Terms**	
"black"	50	"nigeria*"	0	"immig*"	3
"negr*"	1	"ghana*"	9	"ethnic*"	9
"africa*"[10]	40	"ethiopia*"	17	without "rac*"	5
Blackness Total	91	"eritrea*"	17	"cultur*"	168
"white"	0	"habesha"	3	"divers*"	46
"latin*/hispan*"	34	"west india*"	1	without "rac*"	46
"asia*"	42	"carib*"	18		
"native"	21	*Black Ethnic Total*	59		
"india*"[11]	18	"segrega*"	1		
Other Races Total	115	"slav*"	0		
"rac*"	13	"Jim Crow"	0		
		Black American Total	1		

presence of Black ethnic terms in the sample. These include Black ethnic identities not previously mentioned in any other samples or corpuses, particularly the mention of East African nations (Ethiopia and Eritrea) and ethnicities/tribal affiliations (Habesha). Additionally, there are references to Ghana, only the second West African nation mentioned in Supreme Court and university materials, and West Indian and Caribbean identities, also mostly unseen in Supreme

[10] Uses of words beginning with "africa" in this sample refer to Africa as a continent and political entity (n=7), uses of the term "African American" that code for Black American ethnicity or as a synonym for Black (n=29), and direct references to African ethnicities and nationalities (n=4). The references to African ethnicities and nationalities are included in the count for "Black ethnic total."

[11] 11 uses of the words beginning with "india" referred to "American Indians." 6 referred to the Asian ethnicity and nationality. 1 was used in "West Indian."

Court and Hilltop materials. This paints a picture of a much more ethnically diverse Black population at Center City, which my observations and field notes confirm. At Center City, there were many BCOs dedicated to specific national and ethnic Black identities, and most of the usages in this table come from references to these groups. Table 6 and Table 7 also show a high occurrence of terms that cue notions of ethnic difference or broader notions of difference, such as "culture," "heritage," and "identity." There were also terms suggesting unity, like "community" and "inclusion." These words are associated with the cultural frame. There were also uses of terms that might cue for the reparative frame, such as "provide," mostly considering what the university provided to students through programming and resources. However, some of these referred to what diversity "provided" for the university and student educations.

Table 7: Most Frequent Relevant Terms

Center City Materials			
culture/cultural	168	black	50
community	148	inclusion	46
heritage	53	diversity	46
provide	53	identity	40

There are variations in the centrality of Black ethnicity to the materials the universities put forward. Despite both Center City and Hilltop using the cultural frame in many of their materials, Black ethnicity was a major theme for one (Center City) and not for the other (Hilltop). I sought to further understand how these frames might shape organizational understanding of Black ethnicity. Interviews with multicultural affairs staff on both campuses revealed that their embrace of the reparative frame sometimes caused distance between their offices and Black ethnic students and student organizations.

Black Ethnicity and the Reparative Frame on Campus

For example, when I asked Aaliyah and Erica about what Black cultural organizations tended to be close to multicultural center staff and utilize the space and resources at Hilltop, they described groups with Black American identities: the "NAACP," Hilltop's "Black Student Union," and Black groups on campus with political interests. When I asked about Black ethnicity and BCOs with Black ethnic identities, they associated the role of caring for those students and those identities with other offices:

> Michaela (Interviewer): So there is an African Students' Association here. Do you feel like they're very connected with…the [multicultural center]?
>
> Erica: I don't. It is interesting. I don't think as the [multicultural center] that we do a great job of even serving international students. And so I think that our African students or our students that, even if they're first generation African, they still find more community with our African students, they got their own thing going on...I think that when our first gen African students come interact with our department or in our events, they are operating as Black students. That ethnicity doesn't necessarily come up in the space, but then ethnicity is at the forefront when they are within their African Student Association or Nigerian Student Association. And so there's been some interesting conversations that we've had About Blackness and how that shows up within our students of different ethnicities, particularly our African students and some of our Afro Latino students.

Similarly, the Black Student Life center at CCU also was distant from Black ethnic BCOs on campus. Demetrius seemed aware of this distance, but not certain of exactly how to solve it.

> I think one of the things that we could definitely do a better job at across our division and particularly in our space, is connecting with other African students who may not identify as African-American, but they are African. And sometimes there's tension between American students and African students, even if we're all Black, but sometimes there are just cultural differences and challenges there. And I think that we could do a better job in connecting and engaging those students more… I don't think it's intentional. I think that sometimes those student organizations will either have more of a sort of international focus and so they'll interface a bit more with the global study abroad or international offices more so than our office. And I don't know what those barriers could be. And I think that's one of the goals and things that I have in mind, just to see what that is about

> and how can we break down some of those silos and barriers because again, we're all Black. We want to support them just as much as we're supporting all of our other students.

On both campuses, the reparative framing of their multicultural center caused Black ethnic students and Black ethnic identity to be incompatible with the priorities of these spaces. Instead they were perceived as being the responsibility of offices that worked with international students, despite many of these students having been born in the United States. Interestingly, at least at Center City, this was less of an issue for Caribbean American Black students.

> Michaela (Interviewer): …the Caribbean Students Association. Is it sort of the same thing for them?
>
> Demetrius (Interviewee): Yeah, I think with [the Caribbean Student group] though, I think there seems to be a bit more symmetry, if I'm taking a guess at it. At least just from what I see with students and just how they interact. I think they, students, find at least the students that come into this space, I feel like they find more synergies and intersections of identity in sort of their Caribbean ethnicity and their Blackness in this space. And so I find that, I don't say they have an easier time, but they seem to connect better.

This chapter focuses more on the diversity frames these institutions used than Black ethnicity. However, I include these findings and further outline their importance in the discussion, and the presence of different ethnicities of Black students can sometimes serve as signs of what diversity frame an institution or organization is using.

Centrality of Black Staff

Though this research mostly focuses on organizations and the meso-level, it was clear that the individual staff who were a part of multicultural centers played a massive role in which frame their offices, and sometimes the institution as a whole, implemented to think about race and diversity. Despite the constant presence of double talk and euphemisms, these staff members were clear about what their expectations were:

> …I think that [Hilltop] is afraid of Black spaces in general. I think that that has always been a thing…they are so afraid of, what, this anti DEI legislation, and anytime people think about DEI, they think about Black folks and serving Black folks and making things right for Black folks. And so I definitely, in that sense, feel pressure. (Erica)

There were concrete pressures for these staff, as they had massive workloads and often were solely responsible for the events and rhetoric that were the cornerstones of the universities' notions of diversity. This was especially true at Hilltop, where the "unbearable whiteness" (Bonilla-Silva & Peoples 2022) put more pressure on these events.

> …when I think about DEI, I think about some of the efforts that we do. I absolutely believe that some of the things that we do for the institution are absolutely performative. Our MLK thing, we- lovely programming, it's a great thing. It looks good on the university to have these speakers here and to do all this service in the name of Martin Luther King. And we can take some photos of black students serving alongside white students. Our [global culture] festival, great event. And if you're in town, you should definitely come…But then I also recognize that we go back and–not ignore–but we don't serve our international students. And so for me, when I think about DEI, in that sense, it's the performative… (Erica).

Despite these institutional pressures and the frames they were being given to work within, Black staff often pushed back and used reparative frames to explain why they did the work they did. Regardless of the universities' concerns for how diversity benefited them, they were more concerned with benefitting Black students:

> …But also, DEI, for me personally, is making sure that students, particularly marginalized students, have the resources they need to succeed at this institution. And so whether that, again, is scholarship money or housing or whatever it is, or a meal plan. But making sure that if they wanted to come here, that they feel like they belong here, they can stay here and they can graduate here successfully. And not just graduate barely, but graduate and know what the next step is. And I think for me personally, that's the DEI that I take. It's what are we doing to make sure that marginalized students have the same experience or have an equitable experience to our mainstream students that [Hilltop] really don't have to sell because those students belong (Erica).

Often times they moved beyond diversity at all and thought critically about reparative work in its original meaning–reparations:

> And so for me, I'm not personally a fan of the word [diversity,] and personally a fan of the celebration of it in a sense, because to me, diversity doesn't move the needle. In my opinion! I think we have to get more towards inclusivity and equity, that type of work. I think institutions, most of them that are sort of minority serving institutions, I would say they do a pretty good job at diversity. It's just numbers. You're just counting like, okay, do we have X amount of this? Do we have X amount of that? Whatever, but is that moving the needle? So if we can get more to equity and inclusion, I think those things move the needle a bit more. And which is why I think some folk are resistant to utilizing even that terminology because they know that that's what moves the needle. Nobody's afraid of diversity. Maybe they were once upon a time, but not now. Everybody says diversity. It's just like, okay, what does that mean? What does that look like? And so for me, it doesn't mean a whole lot in my opinion. That's just my personal view on it. (Demetrius).

These staff were also aware of the outside pressures on the university. However, they tried to protect the work they did from these pressures and maintain clear ideas of what motivated them to enter this work:

> And so yes, we know that there are political things at play, often times out of beyond our control. And so what I try to do as a leader is maintain, keep the main thing…while also just being very intentional about what we are and what we do. And being unapologetic. Sometimes folks are scared to say Black, or scared to say white. Call a thing a thing. It is what it is. It is 2023. And so in my opinion, that's how things that are problematic become even more pervasive because we don't name it, we don't put a face on it, we don't put a thing on it. And then it becomes this amorphous sort of concept like, 'well, we don't know what racism is, or we don't know what whatever is, or we don't know what privilege is and we don't know what systemic all this stuff.' And it's just like, because you're afraid to name it, that's why start there and let's call a thing a thing, and then let's be real about the work that we're doing. Because if we're not going to do that, then we're doing ourselves and our students a disservice. (Demetrius)

> I love student interaction. I believe that as a multicultural center, we are here for the students and that this should be a space that is theirs. And so at any given time, there is a student in my office, probably three, and whether I'm in there or not, they're in there. And so also just dealing with the emergencies that come into the space. And the emergencies can range from, I haven't eaten the whole weekend because I don't have no monies for groceries and I also don't have a meal plan, so can you give me lunch? And trying to figure out how to not only buy a meal for right now, but make sure that they get sustainable meals for the rest of the semester. And things like that to 'my boyfriend broke up with me over the weekend and I can't go to class because I'm just not feeling it'. And so making sure that students get the resources that they need that way. Or the emergency

> of, 'I just failed this test' and making sure that they have those resources. And so at any given time, there are probably students in the space that have some sort of emergency, whether we think it's an emergency or not, they got something that's going on. (Erica).

By putting students first, above the institutional mission or the political obfuscation the state required, Black staff were able to support students, particularly Black students, on campus.

Discussion

Organizational Characteristics and Usage of the Frames

In the chapter, I seek to understand how organizational characteristics related to race, such as history and demographics, shape the usage of the cultural and reparative frames for these two universities. In my data, I found that both universities, despite their organizational differences, utilized both frames. However, the implementation of these frames varied. I find that the plethora of racial and ethnic diversity at Center City made their usage of the cultural and reparative frames seem to align with their institutional identity rather easily. Diversity was not a concept decoupled from the organization, but central to their identity. This centrality was found both in their history, as seen in Demetrius' references to past protests creating offices and departments still seen on campus today, but also in their demographics–who they educated, served, and felt they were accountable to. This notion of organizational accountability suggests a usage of the reparative frame. The idea that the organization owes something to the students follows with the history of exclusion at Center City. Despite their current racially diverse identity and student body, they were still once a white organization, solely benefiting members of the dominant racial group. However, they also express accountability through their current demographics, as seen in Demetrius' quote: "when you look at the demographics of the

university…how could you not?" Thus both the demographics and the history of Center City prompt them to utilize a reparative frame.

Hilltop's history also shapes their usage of the reparative frame. The explicitness and centrality of anti-Blackness to their organizational history places them in an awkward relationship with the notion of the reparative frame. Their acknowledgement of this history and goals of contributing to Black community projects suggests a reparative relationship with race. However, the absence of the reparative frame from their identity materials make these efforts largely examples of racial symbols with "more abstract value than pragmatic utility" (Tichavakunda 2021:317). Though Blackness is central in their history, it is only present in symbols in their identity. This symbolic usage of the reparative frame suggests that even rhetoric based in reparation can be co-opted and neutralized by white organizations.

The only actual reparative frames that we see at Hilltop are those utilized by Black actors in multicultural affairs. Because the university has essentially made race a responsibility of this office and no other part, they are able to provide resources to students excluded from the dominant identity and the white history of the organization. These students are mostly Black. In some ways, it seems the university expects them to behave this way, as they send Black students to the multicultural office when they need assistance. Hilltop understands that it is a "plantation" surrounded by whiteness and relies upon the multicultural office to serve Black students, while it serves the majority. While this is an example of the power individual actors can access within racialized organizations, these actors cannot shift the function of these organizations on their own. It also suggests that usage of the reparative frame is not always revolutionary, particularly when aligned with diversity.

Can Diversity Be Reparative?

In my analysis of the data collected at these two universities, I coded certain language and policies as reparative, even as they functioned primarily through a focus on diversity. However, in Chapter 3, I emphasize that diversity is not the priority of the reparative frame, but the placement of those previously wronged within the institution. How, then, do I think of diversity as sometimes reparative here?

As briefly mentioned in my discussion of the reparative frame, "[t]he reparative frame argues that those who were included tend to come from particular ethnoracial backgrounds, and so inclusion of those from these backgrounds will aid in including those previously excluded." Therefore racial diversity, in the sense of the significant presence of some racialized people within the organization, can be a sign of reparation. What is most important to the reparative frame is who these racialized people are–if they are the same ones that were previously excluded, or of the same groups they were previously excluded–and whether they are receiving resources from the organization or providing that organization with the "commodity" (Mayorga-Gallo 2019) of their diversity. It is important to be able to look within the word "diversity" and consider what exactly organizations are saying with this language, because in many ways, it is the language that they are pressured from outside forces like the law and experts (Kelly and Dobbin 1998), their peers, and actors within the organization (Berrey 2011) to use. Diversity can certainly be empty, or intentionally, vague, and the literature suggests that it was intentionally weaponized to be so (Collins 2011; Bell and Hartmann 2007). But organizations and individuals within the organization can also attempt to utilize reparative understandings of diversity by attaching to the concepts such as equality, history, and justice (Ahmed 2007). Herring and Henderson describe this as "critical diversity" (2011). However, they continue to appeal to the

organization, highlighting how "diversity is institutionally beneficial" (Herring and Henderson 2011:1). I argue that the reparative frame does not utilize this argument, and thus use the term 'reparative diversity.'

I argue that in this data, Center City utilizes reparative diversity in their Black Student Life office. Even as this space expresses cultural goals such as "cultural enrichment, racial awareness, ethnicity, [and] diversity," they primarily provide resources to a population historically excluded from higher education, Black Americans. We see this focus in Demetrius' description of not having to share "the same resources" with offices focused on serving all races or ethnicities, the centrality of protest to the office's birth and continued existence, and the insistence upon naming racism in the work that they do. Another cue of the reparative frame is the relative absence of Black ethnic individuals from this office, despite the office undergoing a name change in the 2010s from "African-American" to "Black" student life. Though they, and in fact all students, have access to the resources of this space, the way the office presents itself does not cue to ethnic and cultural identities. Thus in this space, when they are present, they are primarily existing as "Black," a racial identity, and the ethnic implications of Black Americanness that come with that identity in the United States.

Expectations of Diversity and the Cultural Frame

Despite the presence of the reparative frame in this data, in many ways, the cultural frame appears in these findings in the same way that it does in my analysis of the law. At both Center City and Hilltop diversity is commonly framed as being about having a variety of perspectives. The events centered around diversity at Hilltop focus on culture and difference. They are opportunities for white people to experience new exciting cuisines or learn about places far from

them (Mayorga-Gallo 2019). The materials produced by Hilltop paint the institution as a "family" and a "community" able to incorporate all kinds of differences. However, the primary purpose of these differences is to present Hilltop as a place where white people can learn about the world. Both Hilltop, through their "inclusive excellence" concept, and Center City, by centering how "myriad identities, perspectives, ideas and beliefs contribute to academic rigor," promote the cultural frame's concept of diversity benefiting the academic standards of the institution. Marichal calls this an "excellence frame" in higher education, which more explicitly makes the connection between diversity and rigor. This approach legitimizes the notion of diversity benefiting the institution by educating majority students.

Center City also uses the cultural frame to think about race and difference on campus. Diversity is mostly separate from the idea of race, and the university prides itself on being able to think about the many identities students have. Despite having this in common with Hilltop, Center City's usage of the cultural frame seems more reflective of this being the standard way colleges and universities talk about difference. They utilize the cultural frame alongside the reparative frame, describing what diversity provides the university and what the university provides to students in return. While this data analysis did not assess the effectiveness of resource distribution of these universities, this dual usage of the cultural and reparative frames may suggest organizational decoupling where the organization continues reparative work while espousing cultural values.

Black Ethnicity and Belonging in the Frames

> The enemy had to be what we called 'multiculturalism.' Because multiculturalism was precisely what I called previously 'the exotic.' The exotica of difference. Nobody would talk about racism, but they were perfectly prepared to have 'International Evenings," when we would all come and cook our native dishes, sing our native songs, and appear in

> our own native costume. It is true that some people, some ethnic minorities in Britain, do have indigenous, very beautiful indigenous forms of dress. I didn't. I had to rummage in the dressing-up box to find mine. (Hall 1991:77)

I open this section of the discussion with this quote because it was echoed in my data collection so clearly. The presence of the festival at Hilltop and the "International Evenings" for Hall are examples of the cultural frame allowing for unthreatening spaces to enjoy "the exotica of difference" (1991:77). But despite providing no threat to those ethnic groups that can fit within the cultural frame, these spaces often provide intense discomfort and confusion for those racialized groups that do not belong. We see this in both my discomfort and the lack of 'cultural displays' at the Black American table at Hilltop's cultural festival. To represent Black American identity, which these individuals wanted desperately to do at this festival, they had to "rummage in the dressing-up box" and present something that the exotica would accept (Hall 1991:77). However, the disconnect between the joyous terms of the cultural frame and the ways Black American cultural products have been stigmatized creates discomfort in a space that is supposed to be about joy. How can outsiders see the fried chicken at the Black American cultural table and not wonder if it is inappropriate to partake, given the stereotypes about Blackness and the food? When left to consider the choices available to them for drinks representing the culture, how did the table organizers come to decide to bring grape kool aid, a drink beloved by many Black Americans that they are sometimes mocked for enjoying. This is an example of how not fitting into the breadth of the cultural frame can cause harm, if only psychological. There is a feeling of discomfort, or not belonging, when you do not fit into the box marked 'culture.' That feeling can be exacerbated when the box is constantly describing itself as "inclusive," and yet you do not belong. My findings, at certain moments, show the potential heightened harm of the cultural

frame. It is one thing to be excluded from spaces that mark themselves with whiteness, as much of the rest of Hilltop does. It is another to be excluded from the joyous celebration of diversity.

Examples of Black ethnic disconnect from the reparative frame are also shown in my sample. Black ethnic students and organizations, especially those associated with African identities, seemed to not be able to mesh easily with the frame of the reparative frame. The multicultural affairs staff in my interviews noticed this distance, but did not seem to understand quite how to best bridge the divide. At both universities, the spaces that were most aligned with Blackness assumed that Black ethnic students ethnic needs were being served elsewhere. Only if they were comfortable with seeing themselves through the majority construction of Blackness were these spaces for them. This disconnect with the reparative frame is more complex to fully understand the consequences of. In one sense, the dominant nature of the cultural frame, I theorize, makes Black ethnic incorporation into racialized organizations easier. This is the mechanism I identify for disproportionate Black ethnic representation in elite higher education. On the other hand, the incompatibility with the reparative frame creates distance. How Black students responded to these frames is outside the scope of this chapter, but certainly important for future research.

Conclusion

Center City University and Hilltop University are very different institutions. Despite this, at both times utilized the cultural and reparative frames to think about race and higher education. The racial history and demographics may narrow the approaches a school has to utilize the cultural and reparative frames. But in my sample, neither a majority white demographic, a majority minority demographic, or a white history limited the capacity of a school to utilize the

cultural and reparative form in some way. However, the usage of these frames differed from what I saw in my analysis of Supreme Court documents. This suggests that organizational behavior and structure play a potentially significant role in shaping these frames. What does this mean for future research? There is room to question the generalizability of these frames to understanding how universities think of race and higher education. It seems there are avenues, despite the changes in the law, for schools to do work through the reparative frame. But it also seems that framing is not enough to shift the power of organizational racialization. These findings confirm my belief that more research on diversity, Black ethnicity, and inequality are needed in the field of organizations.

Chapter 5: Ethnicity, Infracategorical Inequality, and Organizations: Considering the Future of the Study of Blackness

> " Eventually I decided that asking me to be something other than black, exchanging black for being a person of color was anything but well-meaning. Finally, for now, I have decided on being as black-black as I can be. It is my protest. If you think that I am intelligent and ambitious and reasoned and formidable, if you think one good thing about me at all, then I insist that you reconcile that with me just being regular black-black. " - Tressie McMillian Cottom from *Thick* (2019:151).

> "In that moment, the enemy was ethnicity. The enemy had to be what we called 'multiculturalism.' Because multiculturalism was precisely what I called previously 'the exotic.' The exotica of different. Nobody would talk about racism, but they were perfectly prepared to have 'International Evenings," when we would all come and cook our native dishes, sing our native songs, and appear in our own native costume. It is true that some people, some ethnic minorities in Britain, do have indigenous, very beautiful indigenous forms of dress. I didn't. I had to rummage in the dressing-up box to find mine. I have been deracinated for four hundred years. The last thing I am going to do is dress up in some native Jamaican costume and appear in the spectacle of multiculturalism" - Stuart Hall from "Old and New Identities, Old and New Ethnicities" (1991:77).

There is something strange about discovering you have an ethnicity at the age of 18. For all the totalizing identity of Blackness can, and has, been harmful for Black people, by the time I entered college, it was familiar to me. Black was the gospel music, charismatic expression, and historical grounding of my religious upbringing. It was the fish fry college graduation party, singing the Stevie Wonder or gospel version of the happy birthday song, family reunion cookout way we celebrated the good times. It was the protest history from slave revolt to Civil Rights to Black Lives matter, the three hour funeral service, the Kendrick Lamar *Alright* of how we responded in the bad times. Black was what Stuart Hall describes in "Old and New Identities, Old and New Ethnicities":

> We said, "You have spent five, six, seven hundred years elaborating the symbolism through which black is a negative factor. Now I don't want another term. I want that term, the negative one, that's the one I want. I want a piece of that action. I want to take it out of the way in which it has been articulated in religious discourse, in ethnographic discourse, in visual discourse. I want to pluck it out of its articulation and rearticulate it in a new way" (1991:75).

I loved that Black. It was home to me. And it included, or at least I thought it did, so many big beautiful cultures. I saw the Black of the book of African Folk Tales I read as a kid as my Black. Shirley Chisolm and June Jordan and Barack Obama were all my Black too. When I thought of my cultural clothing, I thought of dashikis and kente cloth headwraps. When I learned about the Haitian revolution, I thought, look at what my people have done.

But when I went to college I suddenly was presented with the idea that those second set of Blacknesses were someone else's. They were Black ethnic, and because of that distinction, they were not accessible to me. The Black I was left with was slavery Black. It was gang violence Black. It was 'does bad in school, sags its pants, disrespects its elders, commits crime, goes to jail, gets lectured to vote or we'll take your rights, why can't they be like all the other minorities' Black. It was the old Black, the type of Black that McMillian Cottom says in *Thick*, "is over" (2019:127). It was the Black the Du Bois knows is a problem (1909). Not "special Black," but "basic Black" (Cottom 2019:132). Not diverse, like the future. Just Black, like the past.

In many ways I found that much of what I had associated with positive representations of Blackness in my childhood were being placed into another box marked ethnicity. I came to understand the way people I thought of as my people viewed me. When reading perceptions of Black Americans from West Indians in *Ethnic Identities* (Waters 1999) and *The New Noir* (Clerge 2019), I felt a shame about my form of Blackness that white people had not been able to make me feel for quite some time. Looking back, I attribute this shame and confusion for my

obsession with Black ethnicity. It is why I could not stop wondering about what a 'Cotton Picker Student Union' would look like as an undergraduate. It is why I came to graduate school.

As sociology insists it is time to move beyond the "Black and white binary," as America frantically debates what the politics of the new majority minority nation will be like, as colleges and universities present themselves as diverse spaces that are preparing students for the future, they are often presenting a picture of a future that does not include Black people like me. Maybe there's nothing wrong with that. Maybe we had our time to shine. But the way the ethnoracial hierarchy functions in the United States, the type of Black I am will always be with us. It is an almost indigenized feature of the United States. We are a type of Black that is always attached to this country. No matter the eagerness to leave us behind, to solve the "Negro Problem," the "American Dilemma," (Moynihan 2018 (1965); Myrdal 2017) we remain.

My study of Black ethnicity suggests that the focus on Black ethnicity in elite spaces is the next way America is trying to solve the 'Black' problem. As the number of Black people with immigrant histories continues to rise in the United States, there is an opportunity for a recognizable ethnic project (Bashi Treitler 2013). Some Black people can take an off ramp away from being just boring, basic, problematic Black. All they have to do is present themselves as culturally distinct. Focus on their uplift, rather than dismantling the ethnoracial hierarchy. Distance themselves from the Black American underclass. With their success, America will be able to pat itself on the back. We'll have more Black CEOs and presidents. Black people will continue to be alumni of Ivy League schools. But it will not be because of racial progress, but because of a reorientation of the ethnoracial hierarchy. This reorientation will be good for some people who are Black. But it will not bring justice to Black people. I believe that much of the study of Black ethnicity in the social sciences has brought us closer to this potential future. By

focusing on culture as a primary mechanism for Black ethnic distinction, scholars have participated in the Black ethnic project. Just as past scholarship perpetuated lies of Black biological inferiority, we have given culture of poverty and Black cultural pathology narratives a second life. This is not a celebration of a new under considered form of Blackness, but an evolution of the same anti-Blackness that has always been present in our society and our scholarship.

This dissertation follows in the footsteps of scholars from many disciplines to display how the focus on culture obscures structural mechanisms evolving to Black heterogeneity in the United States. Rather than focusing on the successes of one group or the failures of another, work from Waters in *Black Identities* (1999), Hamilton in *Immigration and the Remaking of Black America* (2019), Wallace in *The Culture Trap* (2023), Bashi Treitler in *The Ethnic Project* (2013), and Ifatunji (2016, 2017, 2021, 2024), Pierre (2004), and Monk (2022) highlights how structures evolve to continue to distribute resources unevenly along axes we associate with culture rather than inequality. These scholars and I highlight the role of institutions such as immigration and education policies and organizations like universities and workplaces in patterns of Black ethnic education and employment. I specifically look at education because of the disproportionate emphasis on Black ethnicities in this space. A 2004 New York Times article showed the tension experienced in Black spaces on these elite campuses by describing the ethnic disparity amongst Black alumni at Harvard (Rimer & Arenson). Professors, alum, and students alike struggled to articulate the discomfort around Black ethnicity or express what the implications of ethnic inequality in Black education might be (Rimer & Arenson 2004). Twenty years later, we must provide better answers for this dynamic than the conceptual thinness of cultural difference.

I put forward another answer. I hope that this dissertation has demonstrated how increased Black immigration to the United States allowed for ethnicity to become legible within Blackness. Though past theories of assimilation have attempted to factor Blackness into typical ethnic frames, Blackness in that context was typically viewed solely racially. Beginning in certain locations in the 20s, and nationwide post 1965, Black ethnic individuals have been able to create ethnic enclaves and put forward ethnic narratives that preserve their identity separate from the dominant US association of Blackness with chattel slavery. This ethnic association gives them choices in the ethnoracial hierarchy not available to Black Americans, who scholars think of as a racial underclass, serving as the foundational other of the ethnoracial hierarchy. In order to legitimize the difference between these two groups, scholars describe Black ethnics as culturally superior to Black Americans. However, the assertion of cultural superiority obscures structural factors that selectively include only certain Black ethnics into elite spaces and the United States as a whole. In this dissertation, I focus on selective inclusion into education. I contextualize the finding of Black ethnic overrepresentation in elite educational spaces with the ways that these spaces receive organizational pressure to present cultural diversity. The cultural diversity frame aligns with Black ethnics' ability to put forward tangible, unthreatening notions of difference, such as cultural dress, language, and foods. Black Americans, with the stigmas associated with their cultural products, do not align with this frame. Rather, they align with a past frame of reparative inclusion, based on their past exclusion from educational spaces due to first slavery and then Jim Crow. While affirmative action was initially developed through this reparative frame, US law was petitioned by both white actors and ethnoracialized people who did not align with the reparative frame to move into the cultural frame. This transition occurred at the same time as Black ethnic representation in the United States rose. Thus I assert the

connection between the cultural frame and Black ethnic overrepresentation, pushing back against theories that instead focus on cultural differences. Through my study of the literature in Chapter 2, my legal analysis in Chapter 3, and my qualitative research on universities campuses in Chapter 4, I have attempted to present evidence of the power role of organizations and institutions in our understanding of Black ethnic difference. In my investigation of the racialization and diversity frames of educational organizations, I found evidence that much of the rhetoric about diversity actually serves whiteness. This is even true when ethnoracial groups such as Black ethnics are used as rhetorical tools to suggest inclusion.

Thus it is not even necessarily a lack of solidarity between Black Americans and Black ethnics that creates this dynamic, but the necessity of some level of diversity to legitimize our ethnoracial social system. Black ethnics are not evil geniuses moving to the top of an ethnoracial hierarchy on the back of Black Americans. Their ethnic identities are a rhetorical tool furthering the white supremacy of the same systems that functioned to exclude Blackness in 1619. Centering the role of whiteness in this phenomena in many ways eased the pain I felt at understanding my position in the ethnoracial hierarchy. I understand the desire of white people to attempt to maintain control over this country. It is why I was not surprised that, in the final week of writing this dissertation, Donald Trump was elected to his second term as president. Whiteness works to maintain power however it can. This process of attempting to incorporate different forms of Blackness is just another way of doing so. By understanding this as another iteration of white supremacy, I was able to reassert my pride in my "just Black-ness." As the quotes from Cottom and Hall that open this chapter suggest, there is power and pride in the refusal to contort the history of Black American identity into a palatable ethnic story. Perhaps this is a coping mechanism, since this ethnic option seems like it may never be available to me.

Even so, I am grateful to have learned about the function of ethnicity in equality. I come from generations of people who have been a problem for America. As long as America continues to prioritize the work of white supremacy, I would not have it any other way.

Limitations

There are many limitations to this work. As stated in the introduction, despite my interest with the mechanisms creating Black ethnic overrepresentation in elite educational organizations, this work cannot say that the dynamics I saw on the ground at Center City and Hilltop universities are happening at elite universities like those in the NLSF sample. I cannot even say that the dynamics at Center City and Hilltop are causing these institutions to admit Black students of different ethnicities at different rates. The matter of admissions is well outside my scope. I look forward to the possibility of being able to access information about who colleges admit, but the recent passing of *Students for Fair Admissions v. Harvard* created an environment where the stakes of collecting admissions data about race and Blackness were quite high. No school I know would allow a graduate student access to their admissions data in this context, and frankly, I cannot blame them. Additionally, most schools do not collect data related to Black ethnicity. In fact, few surveys do. The US Census will only effectively collect Black ethnicity data for the first time in 2030. Perhaps the rise of Black ethnic heterogeneity in the United States will prompt other organizations to collect robust data on Black ethnicity, and if so, I look forward to the opportunity to use that data to further my study of the role of structure in constructions of Black ethnicity. For now, I make no claims of generalizability. I simply can make comments about what I observed and how that might encourage others to ask new questions in the future.

Another limitation of this work is the binary way I presented Black ethnicity in this research. As much as I have highlighted the importance of Black heterogeneity, I have also presented these categories as rather homogenous. Black American is not one type of Blackness, but many. It includes Gullah and Creole cultures. I suspect that within the Black American ethnic category, with the millions of people it contains, there are groups that perhaps can present themselves as more cultural, more ethnic than others. Research has also shown that not all Black ethnics have as much capacity to benefit from ethnic projects. This is particularly true of Haitians (for more, see Clerge 2019). Treating these categories binarily was useful for initial theorizing and presenting this issue as clearly as I could. I am quite interested in conducting and reading work that looks within these broader categories to understand how specific groups operate in specific contexts. Similarly, I hope to see more work that examines how ethnoracial hierarchies function differently in different countries with different dominant definitions of Blackness. Wallace's work in *The Culture Trap* already suggests that the ways ethnic expectations and ethnic groups are constructed in the United Kingdom differ from those in the United States. I am unsure of the effectiveness of this framing in nations that are not striving toward some image of multiculturalism. Though diversity seems ever present in the Western world, it is not the only way white supremacy is responding to increased globalization and migration.

In many ways this work does not present suggestions to organizations on the best way to serve Black American and Black ethnic students. This work is more engaged in the critique of how organizations function, not a critique of the organizations I conducted research at. The reparative nor cultural frames are suggestions of best practices but descriptions of present approaches used in the spaces I observed.

Implications and Future Work

Black ethnicity walks a strange line in the United States. It is both antithetical to the traditional perception of Blackness as homogenizing, and thus difficult for some to perceive, and clearly utilized as a form of stratification in certain spaces. Somehow it is not present enough for non-Black people to always notice, but tangible enough to create the clear patterns found in one hundred years of academic study. I believe it is important for there to be more public discussion of Black ethnicity outside of academic spaces, because Black people are becoming aware and organizing around ethnicities in ways that sometimes perpetuate harm. With the rise of Black xenophobic groups like ADOS and the reliance on anti-Black explanations for Black ethnic differences, rigorous conversations about Black ethnicity that are legible to the public are needed. Our academic work can shape future understandings of Blackness for our nation and the world at large.

Similarly, I believe there is a need for a deconstruction of diversity, multiculturalism, and the idea of a coalition of 'people of color' in our nation. When we look forward to, or theorize about a majority-minority future in the United States, we must consider that what is good for some racialized groups may not be good for others. There is a difference between the lobbying, organizing, and incorporation that an ethnoracial group does to better its own life chances and the presence of an ethnoracial group representing threats to ethnoracial hierarchy and white supremacy. I believe this work serves as a critical questioning of what it means when ethnoracialized people are present in organizations typically associated with whiteness. We must be able to ask if incorporation into white spaces is the ultimate symbol of racial progress, the goal that we seek. If so, what does that say about the continued power of whiteness in an ethnoracially diverse society? Should the priority of ethnoracialized people be inclusion into the

whitest spaces of society? Or should it be a deconstruction of the systems that cause the resources that we need to be easiest to obtain in white spaces?

I would hope future work thinks critically about what types of Blackness are present in their samples, their thinking, and their biases. I hope that when interviewers hear participants say "my culture values education," they ask "what does that mean to you? How do you know? What cultures do not value education?" I hope they ask it at least to themselves, if not to their participants. I hope that organizations that have excluded descendants of slaves are not simply satisfied with the inclusion of Black people without that history as their responsibility. What I want more than anything is for our associations of Blackness to be liberative for all Black people. This matters when it comes to class, region, gender, sexuality, ability, religion, all the identities that people hold dear and the structures through which resources are distributed or withheld from them. Put simply, I hope this work encourages people to think intersectionally about Blackness and infracategorically about difference.

Finally, I hope somewhere in the world, at every hour of the day, there are people in a BSU, or an ASA, or any place where Black people feel safe to come together and are able to create their own worlds. I hope they are arguing about the most and least important things in the world every time they gather. I hope their arguments help them understand the world a little bit better, make it a place where they want to live, a place they can be proud of. I hope when their arguments bring them to big questions they cannot answer, they are able to turn to scholarship that takes them seriously, that seeks to empower them, that helps them see clearly, that does not profit upon turning them against one another. I hope to be the sort of scholar who writes that work, and helps them implement its findings in our world.

Works Cited

Ahmed, Sara. 2007. "The Language of Diversity." *Ethnic and Racial Studies* 30(2):235-256.

Baker, Lee D. 2010. *Anthropology and the Racial Politics of Culture*. Durham, NC: Duke University Press.

Bashi Treitler, Vilna. 2013. *The Ethnic Project: Transforming Racial Fiction into Ethnic Factions*. Stanford, California: Stanford University Press.

Bashi, Vilna, and Antonio Mcdaniel. 1997. "A Theory of Immigration And Racial Stratification." *Journal of Black Studies* 27(5):668–82. doi: 10.1177/002193479702700505.

Bell, Derrick. 1980. "Brown v. Board of Education and the Interest-Convergence Dilemma" *Harvard Law Review* 93(3):518-533.

Bell, Derrick. 1992. "Racial Realism." *Connecticut Law Review* 24(2):363-379.

Bell, Derrick. 2003. "Diversity's Distractions." *Columbia Law Review* 103(6):1622-1633.

Bell, Joyce M., and Douglas Hartmann. 2007. "Diversity in Everyday Discourse: The Cultural Ambiguities and Consequences of 'Happy Talk.'" *American Sociological Review* 72(6):895–914

Berrey, Ellen. 2011. "Why Diversity Became Orthodox in Higher Education, and How it Changed the Meaning of Race on Campus." *Critical Sociology* 37(5):573-596.

Berrey, Ellen. 2015. *The Enigma of Diversity*. Chicago, IL: University of Chicago Press.

Biondi, Martha. 2012. *The Black Revolution on Campus*. Berkeley and Los Angeles, CA: University of California Press.

Bok, Derek. 2013. *Higher Education in America*. Princeton, NJ: Princeton University Press.

Bonilla-Silva, Eduardo. 1997. "Rethinking Racism: Toward a Structural Interpretation." *American Sociological Review* 62(3):465. doi: 10.2307/2657316.

Bonilla-Silva, Eduardo, and Gianpaolo Baiocchi. 2001. "Anything but Racism: How Sociologists Limit the Significance of Racism." *Race and Society* 4(2):117–31. doi: 10.1016/s1090-9524(03)00004-4.

Bonilla-Silva, Eduardo. 2017. *Racism Without Racists: Color-Blind Racism and the Persistence of Racial Inequality in the United States*. 5th ed. Lanham, MD: Rowman & Littlefield Publishers.

Bonilla-Silva, Eduardo and Crystal E. Peoples. 2022. "Historically White Colleges and Universities: The Unbearable Whiteness of(Most) Colleges and Universities in America." *American Behavioral Scientist* 66(11):1490-1504.

Brown v. Board of Education, 347 U. S. 483 (1954).

Brown, David K. 2001. "The Social Sources of Educational Credentialism: Status Cultures, Labor Markets, and Organizations." *Sociology of Education* 74:19.

Bowen, William G. and Derek Bok. 2018. *The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions*. Princeton, NJ: Princeton University Press.

Chang, Mitchell J., Daria Witt, James Jones, and Kenji Hakuta eds. 2003. *Compelling Interest: Examining the Evidence on Racial Dynamics in Colleges and Universities.* Stanford, CA: Stanford University Press.

Charles, Camille Z., Rory Kramer, Douglass S. Massey, and Kimberly C. Torres. 2022. *Young, Gifted, and Diverse*. Princeton, NJ: Princeton University Press.

Clerge, Orly. 2019. *The New Noir: Race, Identity, & Diaspora in Black Suburbia*. Oakland, CA: University of California Press.

Collins, Sharon. 2011. "From Affirmative Action to Diversity: Erasing Inequality from Organizational Responsibility." *Critical Sociology* 37(5): 517–520.

Confessore, Nicholas. 2024. "The University of Michigan Doubled Down on D.E.I. What Went Wrong?," *New York Times,* October 16. https://www.nytimes.com/2024/10/16/magazine/dei-university-michigan.html.

Cottom, Tressie McMillian. 2019. *Thick: And Other Essays*. New York, NY: The New Press.

Crenshaw, Kimberle. 1988. "Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law" *Harvard Law Review* 101(7):1331-1387.

Diamond, John B., and Amanda E. Lewis. 2022. "Opportunity Hoarding and the Maintenance of 'White' Educational Space." *American Behavioral Scientist* 66(11):1470–89.

Domingo, W. A. 1925. "Gift of the Black tropics" pg 341-349 in *The New Negro: An Interpretation*, edited by Alain Locke. New York, NY: Simon & Schuster.

Du Bois, W.E.B. 1909. *The Souls of Black Folk*. Sixth Edition. Chicago, IL: A.C. McClurg & Co.

Embrick, David G. 2011. "The Diversity Ideology in the Business World: A New Oppression for a New Age." *Critical Sociology* 37(5):541-556.

Exec. Order No. 10925, 26 FR 1977. https://archives.federalregister.gov/issue_slice/1961/3/8/1975-1980.pdf.

Feagin, Joe R. 2020 *The White Racial Frame*. New York, NY: Routledge.

Fenelon, James V. 2016. "Critique of Glenn on Settler Colonialism and Bonilla-Silva on Critical Race Analysis from Indigenous Perspectives." *Sociology of Race and Ethnicity* 2(2):237–42.

Feinberg, Walter. 1998. *On Higher Ground: Education and the Case for Affirmative Action*. New York, NY: Teachers College Press.

Fisher v. University of Texas. at Austin, 570 U. S. 297 (2013).

Fisher v. University of Texas. at Austin, 579 U. S. 365 (2016).

Ford, Karly Sarita and Ashley N. Patterson. 2019. "'Cosmetic Diversity': University Websites and the Transformation of Race Categories." *Journal of Diversity in Higher Education* 12(2):99-114.

Garces, Liliana M., and Courtney D. Cogburn. 2015. "Beyond Declines in Student Body Diversity." *American Educational Research Journal* 52(5):828–60.

Glasener, Kristen M., Christian A. Martell, and Julie R. Posselt. 2019. "Framing Diversity: Examining the Place of Race in Institutional Policy and Practice Post-Affirmative Action." *Journal of Diversity in Higher Education* 12(1):3–16.

Glazer, Nathan. 1983. *Ethnic Dilemmas: 1964-1982*. Cambridge, Mass: Harvard University Press.

Glazer, Nathan, and Daniel P. Moynihan. 1970. *Beyond the Melting Pot: The Negroes, Puerto Ricans, Jews, Italians, and Irish of New York City*. 2d ed. Cambridge: M.I.T. Press.

Graham, Hugh D. 2002. *Collision Course: The Strange Convergence of Affirmative Action and Immigration Policy in America*. New York, NY: Oxford University Press.

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

Green, Denise O. 2004. "Fighting the Battle for Racial Diversity: A Case Study of Michigan's Institutional Responses to Gratz and Grutter." *Educational Policy* 18(5): 733-751.

Greer, Christina M. 2013. *Black Ethnics: Race, Immigration, and the Pursuit of the American Dream*. New York, NY: Oxford University Press.

Griffin, Kimberly A., Emil L. Cunningham, and Chrystal A. George Mwangi. 2016. "Title of Article." *Journal of Diversity in Higher Education* 9(1):34-49.

Grosfoguel, Ramón. 2004. "Race and Ethnicity or Racialized Ethnicities?" *Ethnicities* 4(3):315–36.

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

Hall, Stuart. 1990. "Cultural Identity and Diaspora." 257-271 in *Selected Writings on Race and Difference*. edited by Paul Gilroy and Ruth Wilson Gilmore. Durham, NC: Duke University Press.

Hall, Stuart. 1991. "Old and New Identities, Old and New Ethnicities." 63-82 in *Identity and Diaspora*. edited by D. Morley, C. Hall, and B. Schwarz. Durham, NC: Duke University Press.

Hall, Stuart. 1992. "What is This 'Black' in Black Popular Culture." 83-94 in *Identity and Diaspora*. edited by D. Morley, C. Hall, and B. Schwarz. Durham, NC: Duke University Press.

Hall, Stuart. 2000. "The Multicultural Question." 95-133 in *Identity and Diaspora*. edited by D. Morley, C. Hall, and B. Schwarz. Durham, NC: Duke University Press.

Hall, Stuart. 2019. *Identity and Diaspora*. edited by D. Morley, C. Hall, and B. Schwarz. Durham, NC: Duke University Press.

Harris, Cheryl I. 1993. "Whiteness as Property." *Harvard Law Review* 106(8):1707-1791.

Hamilton, Tod G. 2019. *Immigration and the Remaking of Black America*. New York, NY: Russell Sage Foundation.

Hamilton, Tod G. 2020. “Black Immigrants and the Changing Portrait of Black America.” *Annual Review of Sociology* 46(1):295–313.

Haney-López, Ian. 2006. *White By Law: The Legal Construction of Race*. New York, NY: NEw York University Press.

Haynes, George E. 1912. *The Negro at Work in New York City: A Study in Economic Progress*. New York, NY: Columbia University Press.

Herring, Cedric, and Loren Henderson. 2012. “From Affirmative Action to Diversity: Toward a Critical Diversity Perspective.” *Critical Sociology* 38(5):629–43.

Hirschman, Daniel, and Ellen Berrey. 2017. “The Partial Deinstitutionalization of Affirmative Action in U.S. Higher Education, 1988 to 2014.” *Sociological Science* 4:449–68.

Ifatunji, Mosi A. 2024. “Toward an Ethnoracial Ontology for the Study of Race and Ethnicity: The Case of African Americans and Black Immigrants in the United States” *Sociology of Race and Ethnicity* 10(3):301-318.

Ifatunji, Mosi A. 2021. “White Managers, Ethnoracism, and the Production of Black Ethnic Labor Market Disparities.” *Sociological Perspectives* 65(3):437–60.

Ifatunji, Mosi A. 2017. “Labor Market Disparities Between African Americans and Afro Caribbeans: Reexamining the Role of Immigrant Selectivity.” *Sociological Forum* 32(3):522–43.

Ifatunji, Mosi A. 2016. “A Test of the Afro Caribbean Model Minority Hypothesis.” *Du Bois Review: Social Science Research on Race* 13(1):109–38.

Jack, Anthony A. 2019. *The Privileged Poor: How Elite Colleges Are Failing Disadvantaged Students*. Cambridge, MA: Harvard University Press.

Johnson, James W. 1930. *Black Manhattan*. New York, NY: Knopf Press.

Johnson, Violet Showers. 2016. “When Blackness Stings: African and Afro-Caribbean Immigrants, Race, and Racism in Late Twentieth-Century America.” *Journal of American Ethnic History* 36(1):31–62.

Kalev, Alexandra, Frank Dobbin, and Erin Kelly. 2006. “Best Practices or Best Guesses? Assessing the Efficacy of Corporate Affirmative Action and Diversity Policies.” *American Sociological Review* 71(4):589–617.

Kelly, Erin, and Frank Dobbin. 1998. “How Affirmative Action Became Diversity Management: Employer Response to Antidiscrimination Law, 1961 to 1996.” *American Behavioral Scientist* 41(7):960–84.

Kendi, Ibram X. 2017. *Stamped from the Beginning: The Definitive History of Racist Ideas in America*. First trade paperback edition. New York: Bold Type Books.

Kent, Mary Mederios (2007). “Immigration and America’s Black Population.” *Population Bulletin* 62(4):3-16.

Kirby, Teri A., Joshua A. Tabak, Maria Ilac, and Sapna Cheryan. 2020. “The Symbolic Value of Ethnic Spaces.” *Social Psychological and Personality Science* 11(7):867–78.

Lipson, Daniel N. 2007. “Embracing Diversity: The Institutionalization of Affirmative Action as Diversity Management at UC-Berkeley, UT-Austin, and UW-Madison.” *Law & Social Inquiry* 32(4): 985–1026.

Lipson, Daniel N. 2011. “The Resilience of Affirmative Action in the 1980s: Innovation, Isomorphism, and Institutionalization in University Admissions.” *Political Research Quarterly* 64(1):132-144.

Mahoney, James and Daniel Schensul. 2009. “Historical Context and Path Dependence” Pp. 454-471 in *The Oxford Handbook of Contextual Political Analysis*., edited by Robert Goodin and Charles Tilly. Oxford, UK: Oxford University Press.

Marichal, Jose. 2009. “Frame Evolution: A New Approach to Understanding Changes in Diversity Reforms at Public Universities in the United States.” *The Social Science Journal* 46(1):171–91.

Martinez-Cola, Marisela. 2022. *The Bricks Before Brown*. Athens, GA: University of Georgia Press.

Massey, Douglas S., Camille Z. Charles, Garvey Lundy, and Mary J. Fischer. 2006. *The Source of the River: The Social Origins of Freshmen at America's Selective Colleges and Universities*. Princeton, NJ: Princeton University Press.

Massey, Douglas S., Margarita Mooney, Kimberly C. Torres, and Camille Z. Charles. 2007. “Black Immigrants and Black Natives Attending Selective Colleges and Universities in the United States.” *American Journal of Education* 113(2):243–71.

Mayorga-Gallo, Sarah. 2019. “The White-Centering Logic of Diversity Ideology” *American Behavioral Scientist* 63(13):1789-1809.

McCleary-Gaddy, Asia T., and Carol T. Miller. 2017. “Preference for Second-Generation African Immigrants Over Native-Born Black Americans: A College Admission Simulation.” *Basic and Applied Social Psychology* 40(1):1–12.

McKay, Claude. 1940. *Harlem: Negro Metropolis*. New York, NY: Dutton Press.

Meghji, Ali. 2022. *The Racialized Social System Critical Race Theory as Social Theory*. Cambridge, UK: Polity Press.

Meyer, John W., and Brian Rowan. 1977. “Institutionalized Organizations: Formal Structure as Myth and Ceremony.” *American Journal of Sociology* 83(2):340–63.

Millem, Jeffrey. 2003. "The Educational Benefits of Diversity: Evidence from Multiple Sectors" Pp. 127-169 in *Compelling Interest: Examining the Evidence on Racial Dynamics in Colleges and Universities.*, edited by Mitchell Chang, Daria Witt, James Jones, and Kenji Hakuta. Stanford, CA: Stanford University Press.

Mintz, Sidney W. and Richard Price. 1992. *The Birth of African-American Culture*. Boston, MA: Beacon Press.

Mirabal, Nancy R. 1998. “Telling Silences and Making Community: Afro-Cubans and African-Americans in Ybor City and Tampa, 1899-1915.” *In Between Race and Empire: African-Americans and Cubans before the Cuban Revolution*, edited by Lisa Brock and Digna Casteñada Fuertes, Philadelphia, PA: Temple University Press.

Monk, Ellis P. 2022. “Inequality without Groups: Contemporary Theories of Categories, Intersectional Typicality, and the Disaggregation of Difference.” *Sociological Theory* 40(1):3–27.

Moore, Wendy Leo. 2020. “The Mechanisms of White Space(s).” *American Behavioral Scientist* 64(14):1946–60.

Moore, Wendy L. and Joyce M. Bell. 2011. “Maneuvers of Whiteness: ‘Diversity’ as a Mechanism of Retrenchment in the Affirmative Action Discourse.” *Critical Sociology* 37(5):597 –613.

Morgan, Jennifer L. 2011. *Laboring Women: Reproduction and Gender in New World Slavery*. Philadelphia, PA: University of Pennsylvania Press.

Morgan, Jennifer L. 2018. “Partus sequitur ventrem: Law, Race, and Reproduction in Colonial Slavery.” *small axe* 22(1):1-17.

Moynihan, Daniel P. 2018 (1965). *Moynihan Report: The Negro Family - the Case For National Action*. New York, NY.: Cosimo Reports.

Museus, Samuel D. 2008. “The Role of Ethnic Student Organizations in Fostering African American and Asian American Students’ Cultural Adjustment and Membership at Predominantly White Institutions.” *Journal of College Student Development* 49(6):568–86.

Musselin, Christine. 2021. “University Governance in Meso and Macro Perspectives.” *Annual Review of Sociology* 47(1):1–21.

Myrdal, Gunnar. 2017. *An American Dilemma: The Negro Problem and Modern Democracy*. Abingdon, UK: Routledge, Taylor & Francis Group.

Neckerman, Kathryn M., Prudence Carter, and Jennifer Lee. 1999. “Segmented Assimilation and Minority Cultures of Mobility.” *Ethnic and Racial Studies* 22(6):945–65.

Nunnally, Shayla C. 2010. “Linking Blackness or Ethnic Othering: African Americans’ Diasporic Linked Fate with West Indian and African Peoples in the United States.” *Du Bois Review: Social Science Research on Race* 7(2):335-355.

Omi, Michael, and Howard Winant. 2015. *Racial Formation in the United States*. New York, NY: Routledge.

Palmer, Ransford. 1995. *Pilgrims from the Sun: West Indian Migration to America*. New York, NY: Twayne.

Patton, Lori D. 2006. “Black Culture Centers: Still Central to Student Learning.” *About Campus* 11(2):2–8.

Park, Eujin, Gabrielle Orum Hernández and Stacey J Lee. 2024. “Asian Americans and the battle against Affirmative Action: opposition to race-based admissions as neoliberal racial subjectivity performance.” *Race Ethnicity and Education* 7(4):474-494.

Peterson, Richard A. 1979. “Revitalizing the Culture Concept.” *Annual Review of Sociology* 5(1):137-166.

Pierre, Jemima. 2004. “Black Immigrants in the US and the ‘Cultural Narratives’ of Ethnicity.” *Identities* 11(2):141–70.

Pippert, Timothy D., Laura J. Essenburg, and Edward J. Matchett. 2013. “We've got minorities, yes we do: visual representations of racial and ethnic diversity in college recruitment materials” *Journal of Marketing for Higher Education* 23(2):258-282.

Portes, Alejandro, and Min Zhou. 1993. “The New Second Generation: Segmented Assimilation and Its Variants.” *The Annals of the American Academy of Political and Social Science* 530(1):74–96.

Portes, Alejandro, Patricia Fernández-Kelly, and William Haller. 2005. “Segmented Assimilation on the Ground: The New Second Generation in Early Adulthood.” *Ethnic and Racial Studies* 28(6):1000–1040.

Powell, Walter W. and Paul DiMaggio. 1991. *The New Institutionalism in Organizational Analysis*. Chicago, IL: University of Chicago Press.

Quaye, Stephen John, and Shaun R. Harper. 2007. “Student Organizations as Venues for Black Identity Expression and Development among African American Male Student Leaders.” *Journal of College Student Development* 48(2):127–44.

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

Reid, Ira D. 1939. *Negro Immigrant: His Background, Characteristics and Social Adjustment, 1899-1937*. New York, NY: Columbia University Press.

Robinson, Cedric. 1997. *Black Movements in America*. New York, NY: Routledge.

Robinson, Cedric. 2020. *Black Marxism: The Making of the Black Radical Tradition. Revised and updated third edition*. Chapel Hill, NC: University of North Carolina Press.

Saranillio, Dean I. 2013. "Why Asian settler colonialism matters: a thoughtpiece on critiques, debates, and Indigenous difference." *Settler Colonial Studies* 3(3-4):280-294.

Sauder, Michael and Wendy N. Espeland. 2009. “The Discipline of Rankings: Tight Coupling and Organizational Change” *American Sociological Review* 74(1):63-82.

Skrentny, John D. 2002. *The Minority Rights Revolution*. Cambridge, MA: Harvard University Press.

Smith, Candis Watts. 2014. *Black Mosaic: The Politics of Black Pan-Ethnic Diversity*. New York, NY: New York University Press.

Smith, Christen A. 2016. *Afro-Paradise: Blackness, Violence, and Performance in Brazil*. Urbana-Chicago, IL: University of Illinois Press.

Sowell, Thomas. 1981. *Ethnic America: A History*. New York, NY: Basic Books.

Stevens, Mitchell L. 2009. *Creating a Class: College Admissions and the Education of Elites*. Cambridge, MA: Harvard University Press.

Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U. S. 181 (2023).

Tamir, Christine. 2021. “The Growing Diversity of Black America.” Pew Research Center.

Tamir, Christine. 2022. “Key Findings about Black Immigrants in the U.S.” Pew Research Center.

Tavoy, Iddo and Stefan Timmermans. 2014. *Abductive Analysis: Theorizing Qualitative Research*. Chicago, IL: University of Chicago Press.

Tichavakunda, Antar A. 2021. “A Critical Race Analysis of University Acts of Racial ‘Redress’: The Limited Potential of Racial Symbols.” *Educational Policy* 35(2):304–22.

Tillery, Alvin Bernard, and Michell Chresfield. 2012. “Model Blacks or ‘Ras the Exhorter.’” *Journal of Black Studies* 43(5):545–70.

U.S. Census Bureau. 1860. Introduction Part 1 (1860a-02). iiv-liv. https://www.census.gov/library/publications/1864/dec/1860a.html

U.S. Congress. House of Representatives. Civil Rights Act of 1964. H.R. 7152 88th Congress, 1964. (https://www.congress.gov/bill/88th-congress/house-bill/7152/text).

U.S. Const. amend. XIV, § 2.

Wallace, Derron O. 2023. *The Culture Trap: Ethnic Expectations and Unequal Schooling for Black Youth*. New York, NY: Oxford University Press.

Warikoo, Natasha. 2016. *The Diversity Bargain : and Other Dilemmas of Race, Admissions, and Meritocracy at Elite Universities*. Chicago, IL: University of Chicago Press.

Warikoo, Natasha K., and Sherry L. Deckman. 2014. "Beyond the Numbers: Institutional Influences on Experiences With Diversity on Elite College Campuses." *Sociological Forum* 29(4):959–81.

Waters, Mary C. 1990. *Ethnic Options: Choosing Identities in America*. Berkeley, CA: University of California Press.

Waters, Mary C. 1999. *Black Identities: West Indian Immigrant Dreams and American Realities*. New York, NY: Russell Sage Foundation.

Waters, Mary C., Philip Kasinitz, and Asad L. Asad. 2014. "Immigrants and African Americans." *Annual Review of Sociology*, 40(1):369-390.

Watts Smith, Candis. 2014. *Black Mosaic: The Politics of Black Pan-Ethnic Diversity*. New York, NY: NYU Press.

Watts Smith, Candis and Christina M. Greer. 2019. *Black Politics in Transition: Immigration, Suburbanization, and Gentrification*. New York, NY: Routledge.

Wilder, Craig S. 2013. *Ebony and Ivy: Race, Slavery, and the Troubled History of America's Universities*. New York, NY: Bloomsbury Publishing Inc.

Windscheid, Leon, Bowes-Sperry, Lynn, Kidder, Deborah L., Cheung, Ho K., Morner, Michele., & Lievens, Filip. 2016. Actions speak louder than words: Outsiders' perceptions of diversity mixed messages. *Journal of Applied Psychology* 101(9):1329 –1341.

Witt, Daria and Clara Shin. 2003. "Appendix A: Historical Summary of Affirmative Action" Pp. 185-201 in *Compelling Interest: Examining the Evidence on Racial Dynamics in Colleges and Universities.* Stanford, CA: Stanford University Press., edited by Mitchell Chang, Daria Witt, James Jones, and Kenji Hakuta. Stanford, CA: Stanford University Press.

Wright Austin, Sharon D. 2019. The Caribbeanization of Black Politics: Race, Group Conscious, and Political Participation in America. Albany, NY: SUNY Press.

Wynter, Sylvia. 1994. "No Humans Involved: An Open Letter to My Colleagues." *Forum N.H.I* 1(1).