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Affirmative Action in American Government Introductory Textbooks

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The history of affirmative action policy consists of a broad collection of executive orders, bureaucratic decisions, court cases, and state legislation designed to eliminate unlawful discrimination of applicants to educational programs or professional employment, to remedy the results of such prior discrimination, and to prevent discrimination in the future. Although targeted legislation has expanded protections beyond underrepresented racial and ethnic groups in education and employment to include women, people of a certain age, people with disabilities, and veterans, the actual policy intent of affirmative action remains a source of confusion for students, particularly when college textbooks define the topic within a race-only paradigm and without the inclusion of gender, age, disability or other protected categories. This study posits that the *Fisher v. University of Texas at Austin* cases can be useful for teaching college students about why affirmative action policy is still relevant for diversity and inclusion in higher education and beyond.

Keywords: Clinton Directive, Diversity, Intersectionality

INTRODUCTION

“Considerable deference is owed to a university in defining those intangible characteristics, like student body diversity, that are central to its identity and educational mission.”

—Justice Anthony Kennedy, *Fisher v. University of Texas at Austin*,
136 S.Ct. 2198, 2214_ (2016) (Majority Opinion)

The increase in racial incidents and racially-hostile environments made visible by students’ reactions, protests, and social media exposure of perceived “institutional unresponsiveness to pervasive issues of racial inequity” (Harper and Davis, 2016) on increasingly diverse college campuses, highlights the significant role that faculty members should play in classroom dialogues about race and racism. As faculty teaching at the college-level and surprised by the range of definitions and interpretations ascribed to affirmative action policy in American government introductory textbooks, the purpose of this study is to investigate the definitions of affirmative action policy in college textbooks.

The Supreme Court decision in *Fisher v. University of Texas at Austin* (2016) affirming higher education institutions’ right to use racial considerations in admissions policies is significant in that it reinforces the benefits of diversity as a societal value, and underscores the relevance and intent of affirmative action policy. Spanning more than a dozen presidential administrations, the history of affirmative action policy consists of a broad collection of executive orders, bureaucratic decisions, court cases, and state legislation designed to eliminate

unlawful discrimination of applicants to educational programs or professional employment, to remedy the results of such prior discrimination, and to prevent discrimination in the future. In an effort to expand opportunity for underrepresented groups that have been subject to institutionalized discrimination, President Clinton's 1995 directive -- "Mend It, Don't End It" -- outlined specific criteria for affirmative action policy, stating "any program must be eliminated or reformed if it creates a quota, creates a preference for unqualified individuals, creates reverse discrimination or continues even after its equal opportunity purposes have been achieved" (Beeman *et al.*, 2000, 99; Stephanopolous and Edley, 1995). After Clinton, the George W. Bush administration, seeking to dismantle affirmative action, filed -- to no avail -- two *amicus curiae* briefs with the Supreme Court regarding the use of race in admissions in two University of Michigan cases: *Gratz v. Bollinger* (2003) and *Grutter v. Bollinger* (2003), respectively. The Obama administration's Executive Order 13583 has not altered the 1995 Clinton directive, which to date remains the most explicit executive order on the policy. Targeted congressional legislation -- such as the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991 -- has expanded protections beyond underrepresented racial and ethnic groups in education and employment to include women, people of a certain age, people with disabilities, and veterans. However, teaching the intent of affirmative action policy remains a challenge because of its controversial nature, particularly when affirmative action debates are presented or distorted as a program created primarily to eliminate race discrimination absent the inclusion of gender, age, disability or other protected categories (Wallace and Allen, 2016; Beeman *et al.*, 2000). This is due, understandably, to the major cases that have challenged the use of race as the primary issue. This study posits that the *Fisher v. University of Texas at Austin* cases can be useful for teaching college students about why affirmative action policy is still relevant for diversity and inclusion in higher education and beyond.

BRIEF HISTORY OF MAJOR AFFIRMATIVE ACTION CASES

Views on affirmative action have long been associated with "reverse discrimination," quota systems, lowering of standards, and excessive or unnecessary federal interference in the internal policies and practices in areas of public education and employment. From the initial Supreme Court decision on its use in admissions policy in the *Regents of the University of California v. Bakke* (1978), the battle over ending affirmative action has been waged heavily in the federal courts, where judges have failed to agree on interpretations of basic legal precedents, resulting in "precariously...close split decisions" (Beeman *et al.*, 2000, 99). In the well-documented history of the *Bakke* decision, we know that the plaintiff, Allan Bakke, won on race discrimination; however, the Supreme Court, in a split decision, upheld the constitutionality of affirmative action but rejected the state's use of quotas and separate admissions for applicants from historically underrepresented backgrounds. In the nearly forty years since *Bakke*, federal courts, states, and universities became increasingly divided about affirmative action in higher education.

In 1996, some anti-affirmative action groups were successful in passing state referenda and a ballot initiative -- the 1996 California Civil Rights Initiative, Proposition 209 -- to ban the policy in college admissions, which led to efforts to place the issue on more state ballots, while in the twelve Circuit Courts of Appeals, four issued different opinions on the issue. The Fifth

and Eleventh Circuit Courts overruled *Bakke* and banned affirmative action, while the Sixth and Ninth Circuit Courts upheld the decision, forcing the Supreme Court to revisit the issue.

In 2003, the Court considered two cases from the University of Michigan. The first case, *Gratz v. Bollinger* (2003), challenged the university's undergraduate admissions policy and practice that used a point-based ranking system that automatically awarded 20 points (out of 150) to African American, Hispanic, and Native American applicants. The Supreme Court agreed with the plaintiffs, arguing that the point-based ranking system was tantamount to a quota system and lacked the necessary "individualized consideration," but had employed instead a "mechanical one" (*Gratz v. Bollinger*, 539 US 244). The second case, *Grutter v. Bollinger* (2003), dealt with the university's law school admission program, which was designed to achieve a "critical mass" of students from historically underrepresented backgrounds, by requiring admission officials to take "individualized consideration" of all aspects of an applicant's record (including his or her race and ethnicity) and the extent to which the applicant contributed to the university's goal of diversity in law school classes. In its decision, the Court upheld the law school program's policy. Writing for the majority, Justice O'Connor reaffirmed *Bakke*, declaring, "Today we endorse Justice Powell's view that student body diversity is a compelling state interest that can justify the use of race in university admissions" (*Grutter v. Bollinger*, 539 US 306). In fact, Justice Ginsberg even suggested that the affirmative action policy meets a compelling interest of states not only to achieve diversity in their universities, but also to remedy past and ongoing racism toward those groups that have been historically underrepresented (*Grutter*, 2003 (Ginsberg, J., Concurring)). Subsequently, in 2006, a state ballot initiative in Michigan was approved that prohibited the use of racial preferences by any state agency including colleges and universities, causing the University of Michigan to stop using affirmative action practices in admissions altogether. Two years later, a similar proposition was defeated in Colorado but approved in Nebraska.

In 2011, the Obama administration issued a statement, "Guidance on the Voluntary Use of Race to Achieve Diversity in Post-Secondary Education," as a joint initiative by the Civil Rights Division in the Department of Justice and the Office of Civil Rights in the Department of Education, which effectively revoked the Bush administration's discouragement of any use of race in admission decisions. The new guidelines state,

[p]ost-secondary institutions can voluntarily consider race to further the compelling interest of achieving diversity.... Ensuring that our nation's students are provided with learning environments comprised of students of diverse backgrounds is not just a lofty ideal. As the Supreme Court has recognized, the benefits of participating in diverse learning environments flow to an individual, his or her classmates, and the community as a whole. These benefits greatly contribute to the educational, economic, and civic life of this nation (US Department of Education, Office of Civil Rights, 2011).

Two years later, *Fisher v. University Texas at Austin* (2013) made its way to the Supreme Court. The case would be ruled on twice. In the first suit, the Supreme Court in a compromise upheld *Grutter*, but sent the case back to the Fifth Circuit Court of Appeals with instructions to apply strict scrutiny to the university's policy to determine the constitutionality of the university's use of race-sensitive admissions criteria (*Fisher v. University of Texas*, 2013). In 2016,

the *Fisher II* case returned to the Supreme Court to decide whether the lower courts had applied strict scrutiny to the university's admissions policy. Determining that the university had done so, it upheld the lower court's decision that the use of race in the admissions process is situated in a holistic admission policy that is narrowly tailored to meet its compelling interests (*Fisher v. University of Texas at Austin*, 2016). Although this decision has no impact on public colleges and universities in states that have banned the use of race-sensitive admissions procedures, the *Fisher* cases are important teaching tools for broadening students' understanding about the efficacy of federal policy aimed at leveling the playing field for *all* Americans. The arguments in these cases can foster constructive dialogue about race, gender, class, and other social identities in classroom discussions, despite heated and polar views about affirmative action, that are often prompted by what is written in the textbook.

In their study on affirmative action in American government introductory textbooks, Wallace and Allen (2016) found the majority of the textbooks de-emphasized affirmative action policy intent and leaned toward policy interpretation. In other words, the textbooks with the policy intent focus -- the "equality of opportunity" view -- challenged historical discrimination and racism and tended to debunk affirmative action myths and meritocracy, while textbooks with a policy interpretation focus -- the "equality of outcome" view -- usually presented affirmative action as "controversial," "race-based," or "morally wrong," rather than as a policy based on legal precedent with the objective aimed towards legal redress for historical injustices (12–15). Situated in this framework, this study samples the subset of textbooks used in a previous study by Wallace and Allen (2016) to conduct a content analysis on the definitions of affirmative action used in these college textbooks, following a review of previous studies on introductory textbooks as the logical place to explore affirmative action and the history of discrimination for targeted social groups in society.

PREVIOUS STUDIES ON INTRODUCTORY TEXTBOOKS

Previous studies posit the logical place to explore the nature and intent of affirmative action policy is in an introductory course that investigates the history of race, ethnicity, gender, and class stratification in society, and attempts to address past and continued discrimination against social groups. In political science, students will study the fundamental principles and values of the American political system. Although students "expect that their course materials are truthful, factual, unbiased, and without stereotypical depictions" (Eisenstein and Clark, 2013, 90), most of the major textbooks used in American government introductory courses mirror the discipline of political science, which typically studies institutions and elites as primary decision makers, and reinforces values that privilege the powerful or dominant over the subordinate or underrepresented groups (Artz and Murphy, 2000; Hardin *et al.*, 2006). Because textbooks are "instrument[s] that help instructors design their courses, provide uniform content, and provide the basis of class discussion" (Hardin *et al.*, 2006, 433), they are powerful indicators of what is legitimate knowledge and material in most courses. It is not taken as given that textbooks construct reality, by selecting and organizing knowledge by screening it. They provide selective access to ideas and information that are interpreted by students as natural or true (Apple and Christian-Smith, 1991; Sleeter and Grant, 1991; Hardin *et al.*, 2006). Students use knowledge learned from introductory textbooks in a particular field to interpret or reinforce information they receive later (Hogben and Waterman, 1997). The explicit messages received underscore cultural values through symbolic representations that confer legitimacy

on the dominant social groups while at the same time diminishing or ignoring other types of knowledge (Sleeter and Grant, 1991). More importantly, as Cassese *et al.* (2014) surmise, the lack of content on underrepresented groups can lead students of marginalized identities to

...view their own interests as uninteresting and falling outside of the mainstream...[because they themselves] are particularly attuned to these kinds of messages, tending to internalize stereotypes that are reinforced in both their academic and social experiences (267).

Studies of introductory textbooks across various fields find weak or virtually absent discussion of social class, disability, the intersections of gender and race (Sleeter and Grant, 1991), and participation in the political process by all racial, ethnic groups, and women (Prestage, 1994). One study found racial biases in the portrayal of poverty and “race coding” via media images (Clawson, 2003; Clawson and Kegler, 2000; Clawson and Trice, 2000). Another study identified a tendency to “ghettoize” and marginalize particular racial, ethnic groups, and women into one or two chapters (Stone, 1996). Foster (1999) found the use of “mention(ing)” -- the phenomenon where a textbook will add content on racial, ethnic groups in a sidebar or focus box, without incorporating the information into the central message of the text. Sleeter and Grant (1991) saw a disregard for the complexities within the social groups or involving interactions among them. Textbooks in business and economics were found to have minimal discussion on the social economy and its effect on social groups (Myers and Stocks, 2010).

Recent studies of American government introductory textbooks, in particular, have called for the need to broaden coverage beyond the “Civil Rights” chapters: to address stereotypical images or depictions of African Americans (Wallace and Allen, 2008; Allen and Wallace, 2010); the misrepresentation and underrepresentation of Asian Pacific Americans (Takeda, 2015 and 2016); the superficial and biased representation of Native Americans (Ashley and Jarratt-Ziemski, 1999) and Latinos (Lavariega Monforti and McGlynn, 2010); religious perceptions and portrayal of people of faith (Eisenstein and Clark, 2013); and the need to “mainstream” and make visible the “hidden curriculum” on gender content in introductory-level textbooks (Cassese and Bos, 2013; Cassese *et al.*, 2014) beyond the almost exclusive focus on “white middle-class women” (Olivo, 2012, 131) to include the intersectionality of gender, race, ethnicity, and class. Cassese and Bos (2013, 217) observe:

Various social categories like race, gender, and sexual orientation are typically lumped together in a rather generic nod to [one’s underrepresented] status. [In this respect,] race, ethnicity, and gender are employed simply as descriptive categories, rather than theorized or employed as analytic categories.

Moreover, discussions of race discrimination tend to begin after the Civil War and end with the affirmative action debate, which either follows the discussion on the African Americans or occurs at the end of that chapter (Wallace and Clayton, 2009). Subsequently, Wallace and Clayton (2009) found that content on affirmative action is usually presented as a dichotomous relationship between equal opportunity (equality of opportunity) versus equal outcome (equality of results). This is meaningful because in texts where affirmative action follows directly from the historical narrative on African American political involvement, it is most often

portrayed as a policy that is used to eliminate discrimination against mostly African Americans. Typically, much of the topic focus is on the controversy over the elimination of race barriers, with the in-text discussion often highlighting the dilemma of “reverse discrimination” toward White males. Expanding on studies by Beeman *et al.* (2000), Wallace and Clayton (2009), and Wallace and Allen (2016), the study examines the definitions used in American government introductory textbooks to explain what the policy is or how to view it. The goal is not to challenge how textbook authors choose to define the policy, but to raise awareness about how such definitions might influence what is learned about the purpose and relevance of the affirmative action in higher education, and the need to move the focus beyond race to be more inclusive.

METHOD

The sample includes the same subset of thirty-two circulating American government introductory textbooks’ national editions, published from 2004 to 2014 by nine of the leading publishers in American government textbooks that were used in a previous study by Wallace and Allen (2016). This content analysis is limited to the definitions, but takes into account the context of the discussions to see how it aligns with Wallace and Allen’s (2016) findings that characterized the discussions as leaning toward policy intent versus policy interpretation. The findings are reported below.

DISCUSSION

Table 1 is a summary of the affirmative action cases cited in this sample of American government introductory textbooks that were used to define the parameters of the affirmative action policy. Note that *Adarand Constructors v. Peña* (1995), the *Regents of the University of California v. Bakke* (1978), *Grutter v. Bollinger* (2003) and *Gratz v. Bollinger* (2003) had the highest number of references at 12, 30 and 28, respectively.

Because affirmative action is mostly litigated on the question of race discrimination, most of the cases in the textbook sample focus on race rather than on other protected categories, including the *Hopwood v. Texas* (1996), *Grutter v. Bollinger* (2003), *Gratz v. Bollinger* (2003), and the *Fisher v. University of Texas at Austin* (2013 and 2016) cases. However, in each of these cases, all the lead petitioners were white middle-class women, which introduces a unique opportunity to discourse about the intersectionality of race, gender, and class. Also, it raises important questions about how textbooks present affirmative action policy when more than one protected class applies, as well as the need to explore the complexity of judicial precedent reasoning given the intersections of race, gender, and other social categories (discussed below).

Affirmative Action Definitions

In this content analysis of the affirmative action definitions used in the sample (see Appendix B), the evidence supports findings by Wallace and Allen (2016) that affirmative action discussions tend to lean toward policy interpretation as opposed to policy intent, and are virtually absent of any mention of the 1995 Clinton directive. Interestingly, in the sample, only 13 percent (4 out of 32) of the textbooks mentioned the 1995 Clinton “mend, not end” directive, indicating a sensitivity toward further integrating American society (see Berman and Murphy, 2007; Ginsberg *et al.*, 2013; Lowi *et al.*, 2013; Miroff *et al.*, 2007). Given the dates of publication in the sample, it was assumed there would be more mentions of this executive order.

TABLE 1. AFFIRMATIVE ACTION CASES IN AMERICAN GOVERNMENT INTRODUCTORY TEXTBOOKS

Summary of Federal Cases Cited (N=32) (Listed Alphabetically)	Number of Citations
<i>Adarand Constructors v. Peña</i> (1995)	12
<i>Board of Regents of the University of California v. Bakke</i> (1978)	30
<i>Brown v. Board of Education of Topeka, Kansas</i> (1954)	1
<i>City of Richmond v. Croson</i> (1989)	8
<i>Firefighters Local Union v. Stotts</i> (1984)	2
<i>Fisher v. University of Texas at Austin</i> (2013 and 2016) ^a	6
<i>Fullilove v. Klutnick</i> (1980)	2
<i>Hopwood v. State of Texas</i> (1996) ^a	9
<i>Independent Federation of Flight Attendants v. Zipes</i> (1989)	1
<i>Johnson v. Transportation Agency of Santa Clara County</i> (1987) ^b	3
<i>Korematsu v. United States</i> (1944)	1
<i>Lorance v. AT&T Technologies</i> (1989)	1
<i>Martin v. Wilks</i> (1989)	1
The Public School Cases: <i>Meredith v. Jefferson County</i> (2007) and <i>Parents Involved v. Seattle Schools</i> (2007)	1
The Michigan Cases ^a : <i>Grutter v. Bollinger</i> (2003) and <i>Gratz v. Bollinger</i> (2003)	28
<i>Miller v. Johnson</i> (1995)	1
<i>Missouri v. Jenkins</i> (1990)	1
<i>Patterson v. McLean Credit Union</i> (1989)	1
<i>Ricci v. DeStefano</i> (2009)	3
<i>St. Mary's Honor Center v. Hicks</i> (1993)	1
<i>United States v. Paradise</i> (1987)	2
<i>United Steelworkers, AFL-CIO v. Weber</i> (1979) - Also referred to as <i>Kaiser Aluminum and Chemical Corp. v. Weber</i> (1979)	8
<i>Wards Cove Packing v. Antonio</i> (1989)	4
<i>Wygant v. Jackson Board of Education</i> (1986)	1

Note: Given the publication dates used in the sample (2004–2014), fewer textbooks include the *Fisher v. University of Texas at Austin* cases. Also, in addition to federal cases, twenty textbooks highlighted state referenda/initiatives seeking to ban race in college admissions in AZ, CA, CO, FL, GA, LA, MI, MS, NE, NJ, OK, TX, and WA.

^a The plaintiffs in these cases were white women; however, the issue of discrimination is most often associated with race rather than sex discrimination. In fact, only one textbook by Bond *et al.* (2006) cites this case as prohibition against race and sex discrimination.

^b Each time this case is mentioned it is associated with sex discrimination.

Wallace and Allen (2016) found some correlation between the myriad terms or phrases used to define affirmative action targeted populations that could influence the emphasis on policy intent or policy interpretation. The evidence in Table 2 comports with these same findings.

TABLE 2. SUMMARY OF AFFIRMATIVE ACTION DEFINITIONS CATEGORIZED BY TARGETED GROUP

Textbook Definitions	Number of Textbooks	Percentage of Textbooks
The 1995 Clinton Directive	4	13%
No Protected Classes Defined	6	19%
Protected Classes Defined	6	19%
Race Association	20	63%
Race/Gender Association	14	43%
Gender Association ^a	3	10%

Note: Percentages are derived from the number of mentions within the textbooks in the sample.

^a The case is *Johnson v. Transportation Agency of Santa Clara County*, 1997.480 U.S. 616.

Analyzing the definitions only, the findings revealed 19 percent (6 out of 32) of the textbooks in the sample offered basic definitions without reference to any targeted population until the text discussion ensues. For example, two textbooks defined affirmative action as “[p]rograms, laws, or practices designed to remedy past discriminatory hiring practices, government contracting, and school admissions” (Dautrich and Yalof, 2009, 137), or “[s]teps taken by colleges, universities, and private employers to remedy the effects of past discrimination in admissions, employment, and promotions” (Tannahill, 2006, 116). Two other textbooks did not mention the targeted population. They referred to affirmation action as “a controversial tool for increasing diversity and reducing inequality in education and employment” (Shea *et al.*, 2007, 204), or “programs, policies or actions to establish goals and timetables to achieve equality of results” (Dye and Zeigler, 2006, 421), which could insinuate a quota system. In fact, when defining the concept via discussion in the texts, a majority of the arguments dwelt upon the creation of a quota, a preference for unqualified individuals, or reverse discrimination (Wallace and Allen, 2016, 9).

Roughly the same amount of textbooks (19 percent or 6 out of 32) used broadly defined phrases to identify the targeted population as: “members of certain groups” (1 textbook), “previously underrepresented groups” or “underutilized categories of workers” (2 textbooks), or “specified groups” (3 textbooks). Only one textbook author defines affirmative action as “a policy of creating opportunity for members of certain groups as a substantive remedy for past discrimination” (Barbour *et al.*, 2014, 191). In the definitions where race and gender are not mentioned specifically, the contextual meanings refer to “making *special efforts*...to provide access to educational and employment opportunities” (Ginsberg *et al.*, 2013, 190; Lowi *et al.*, 2013, 149; Spitzer *et al.*, 2006, 105) (*italics supplied*), which implies race or gender as the targeted population. Similar language was used for recruiting, hiring, training, or promoting historically-marginalized groups in terms of “intentional efforts” (Harrison *et al.*, 2009, 198) or “direct, positive steps” (Morone and Kersh, 2013, 198). One textbook author wrote that affirmative action “sometimes involves setting aside positions (known as quotas)” (Morone and Kersh, 2013, 198).

The majority (63 percent or 20 out of 32) of the textbooks clearly characterized affirmative action in association with race -- almost exclusively -- within conflated or convoluted phraseology like “traditionally,” “previously,” or “historically disadvantaged groups” (9 textbooks) to “minority” or undefined “minorities” (11 textbooks). Although one textbook author identified the targeted population as “women, minorities, and other traditionally disadvantaged groups” (Patterson, 2005, 167), and another in-text discussion identified the disadvantaged as “Af-

rican Americans, Hispanics, Native Americans, and women” (Janda *et al.*, 2005, 114), the discussions on affirmative action were presented mainly through a racial dichotomy. Another textbook author presented a racially-biased definition of affirmative action as “[p]rograms that attempt to improve the chances of minority applicants for jobs, housing, employment, or education by giving them a ‘boost’ relative to white applicants with similar qualifications” (Berman and Murphy, 2007, 510). Like Wallace and Allen (2016), it was observed, generally, that the definitions that used “disadvantaged” or “minority-status” tended to lean toward policy interpretation rather than policy intent; and, these particular policy interpretations insinuated a quota system at play when combined with terms like “special attention,” “special consideration,” “special efforts,” “special recruitment,” the use of “numerical quotas” to “compensate” or give “compensatory treatment,” “preferences,” “preferential treatment” for “victims” in order to “achieve equality of result” (9–10).

Less than half (43 percent or 14 out of 32) of the textbooks explicitly included references in their definitions to “women” alone (11 textbooks); others mentioned “race- or gender-based groups” (1 textbook), “racial minorities or women” (2 textbooks), “racial or sexual bias” (1 textbook), “specified racial, ethnic and sexual groups” (1 textbook), or “women, minority groups and the disabled” (1 textbook). Thus, the relevance of gender as a protected category did not necessarily translate into the contextual affirmative action discussions. Only three textbooks presented informative discussions on how affirmative action policy was expanded to include women under Johnson’s 1965 Executive Order (Janda *et al.*, 2005, 535; Miroff *et al.*, 2007, 508), how the women’s movement benefitted from the policy (Dautrich and Yalof, 2009, 137), or how the policy impacts women in the workplace (Jillson, 2013, 462). Despite these inclusions, the evidence supports Beeman *et al.* (2000) finding that “women generally have been excluded or marginalized in theoretical explanations about affirmative action” (109), which further underscore the need to investigate how the intersectionality of race, ethnicity, gender, class, and other social categories operate within institutional systems of power and privilege.

Intersectionality

Given increasing calls to “mainstream” gender content into introductory-level textbooks and to understand the importance of intersectionality as a theoretical framework that analyzes the relationship between various social categories and how these categories of race, ethnicity, gender, and class operate within institutional systems of power (Collins, 1990; Cassese and Bos, 2013; Olivo 2012, 131), with respect to discussions on gender discrimination, the findings revealed only 10 percent (3 of the 32) of the textbooks examine sex discrimination by highlighting federal court cases that dealt exclusively with this issue (see Edwards, 2006; Kernell and Jacobson, 2006; Miroff *et al.*, 2007). However, this paucity of evidence lends credence to Beeman *et al.*’s (2000) discovery that although the number of discrimination cases filed with the Equal Employment Opportunity Commission (EEOC) involving sex discrimination has dramatically increased, the policy is still “commonly portrayed and perceived as a ‘blacks only’ program and the inclusion of women is often relegated to a ‘footnote’” (104).

It is important to understand how unique social categories that are typically lumped together to describe one’s “minority status” are important theoretic and analytic categories as well (Cassese and Bos, 2013, 217). The lack of focus on intersectionality fails to educate the majority of students that women, generally, are covered by affirmative action programs and that White middle-class women, in particular, are major beneficiaries of affirmative action

programs (Beeman *et al.*, 2000). An intersectional perspective not only recognizes the politics surrounding race and gender, but brings the much-needed emphasis on social class into the discussion. The inclusion of an intersectionality theoretical framework can explain the Pincus (1996) study, which found that while the majority of women supported affirmative action, the majority of White women disapproved of affirmative action for racial and ethnic groups. This finding supports the need for understanding how “modern racism literature [is] critical in explaining much of the [policy] debate, particularly since racial resentment against African Americans is the strongest predictor of white opposition to affirmative action” (Beeman *et al.*, 2000, 109; Wallace and Allen, 2016).

Additionally, understanding the intersection of race, ethnicity, gender, and class relative to affirmative action can highlight the significant yet vulnerable positions of those whose intersectional identities make them invisible in policy debates. To illustrate, as Beeman *et al.* (2000) surmised:

The issue of invisibility of women of color complicates the presentation of affirmative action further. Women of color have argued that employers have discriminated against them based on both their race and their gender. Indeed, while women of color have asked for affirmative action protection as a category, the court has denied their request. Bell (1992: 888) has observed, for example, that “black women fall quite literally into a ‘no man’s’ and ‘no woman’s’ land in race and sex discrimination law.” Hence, while some social theorists have argued against dichotomizing race and gender, affirmative action policy has done so. [As a result,] African American women are discussed in the context of “double jeopardy”, “twofer” or “double statistic” claims of affirmative action hiring [which does] not address the significance of women of color in relation to affirmative action policy (107) [or the real consequences of both race and gender discrimination].

What is found in this review of American government introductory textbooks is that most of the textbooks mentioned federal court cases where race, gender, and class were relevant distinct, analytic categories given the lead plaintiffs. Yet, the *Fisher* cases could be used to highlight the complexity of intersectional identities of the plaintiff, Abigail N. Fisher, a White middle-class female, in spite of her supporters -- primarily anti-affirmative opponents -- who worked hard to make her a symbol of “racial victimization” in modern America by framing her narrative in the context of “quintessential meritocracy,” absent her gender identity:

[Abigail] worked hard, received good grades, and rounded out her high school years with an array of extracurricular activities... [She] was the daughter of suburban Sugar Land, Texas, played the cello and dreamed of carrying on the family tradition by joining her sister and father among the ranks of University of Texas at Austin alumni. But she was cheated by the University of Texas at Austin because she was White.... [It] was never mentioned that [she] failed to graduate in the top 10 percent of her class, which claimed 92 percent of the

in-state spots for UT Austin and that [she] simply did not make the cut due to her grade point average (3.59), SAT score (1180 out of 1600) [which would have placed her below 84% of the summer-program students at UT Austin in 2008] and her “personal achievement index” -- a culmination of extracurricular activities, “special circumstances,” socioeconomic status and race.... [and] although some students with lower grades and test scores than [hers] were offered “provisional admission,” this amounted to only five, who were Black or Latino, and 42 Whites. In fact, [it was] never even acknowledged [that] the 168 Black and Latino students grades as good as or better than Fisher’s who were also denied entry... [Also] left unsaid is the fact that Fisher turned down a standard UT offer under which she could have gone to the university her sophomore year if she earned a 3.2 GPA at another university school in her freshmen year (Hannah-Jones, *ProPublica*, 2013).

More importantly, the absence of details about her full background can be misleading, distorting the facts about how UT used race and ethnicity in admissions as part of a holistic policy. More importantly, it demonstrates how White middle-class women can negate their own race and class privileges when discussions are racially-dichotomized and gender is neutralized.

Admittedly, this analysis of the inclusiveness and intersectionality goes no further than the previous studies on women in American government introductory textbooks conducted by Olivo (2012) and Cassese and Bos (2013), who found that not only is there tremendous variability in the frequency with which women are mentioned, but that the limited content is marginalized in the civil rights chapters and accompanied by little discussion about women’s political behavior (Cassese and Bos, 2013, 219–20; Wallace and Allen, 2008). However, there is evidence that incorporating intersectionality can help us analyze differences *within* social categories as well. For example, it illuminates the class dimension of affirmative action as utilized in legacy admissions, which are not based on qualified or meritocratic measures, yet go unchallenged in textbook discussions.

Benign Affirmative Action and Legacy Admissions

We know that legacy admissions--the admission of children or relatives of alumni benefactors -- often go unchallenged by opponents of affirmative action and in textbook discussions. Previous studies revealed that legacy students have a three times greater chance of admission to prestigious universities than nonlegacy students, even when “they were *less* qualified than non-legacy students” (Pincus, 1996, 103; Larew, 2008). In fact, a study of Harvard admissions found that the marginally qualified legacies outnumbered the total of Black, Mexican-American, Native American, and Puerto Rican enrollees altogether (Larew, 2008). However, this preferential treatment is viewed as perfectly legal because it benefits White middle- and upper-income individuals and no one is “outraged” (Pincus, 1996, 103; Larew, 2008). Although legacy admissions do not fit a protected class that has to meet the strict scrutiny standard, it was applicable in the *Fisher* cases due to Fisher’s assumption that she should gain admittance based on alumni ties. To illustrate, one textbook author used a sidebar “mention” to analyze evidence on “Who Benefits from Affirmative Action: Perception vs. Reality” with respect to

race and class; however, the author focused on the increasing enrollment of African Americans at elite universities, emphasizing the rise in foreign-born African or Caribbean immigrants as opposed to native-born African Americans (Sidlow and Henschen, 2006, 123). Despite this mishap, it was an attempt to broaden the discussion beyond historical race discrimination. Likewise, the *Fisher* cases can be used to highlight more nuanced discussions about race, gender, class, and other social identities that help to explain access to higher education, resulting in the persistently widening socioeconomic gaps for different social groups in the United States.

CONCLUSION

We know that American government introductory textbooks transmit declarative knowledge about our political system, play an important role in political socialization, and promote political participation among students; however, explicit messages about democratic norms are undermined by implicit messages students receive regarding legitimate policy responses to eliminate historical, institutional, and structural barriers affecting underrepresented or marginalized groups (Cassese *et al.*, 2014). In fact, such messages can run counter to efforts to increase cultural awareness and inclusiveness on college campuses. The findings extend Wallace and Clayton (2009), and support Beeman *et al.* (2000) and Wallace and Allen's (2016) analyses on the topic. This study examines how affirmative action is defined and how the topic is discussed in American government introductory textbooks. The findings agree with and support previous studies, suggesting that contextual debates are incomplete and misleading without understanding and incorporating an intersectional approach that interrogates the complexities in and among the protected classes. Notably, the purpose of introductory textbooks is to generally survey topics within respective disciplines, focusing broadly on themes and major consensus in research, which explains their cursory examinations. However, this study supports evidence that definitions of affirmative action can include discussions, albeit brief, about all protected classes, which could lessen confusion about or resentment toward the policy as well as help faculty facilitate classroom discussions that are more inclusive. The *Fisher* cases could be a start.

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APPENDIX A

American Government Textbooks Used in the Study

1. Barbour, Christine and Gerald C. Wright with Matthew J. Streb and Michael R. Wolf. 2014. *Keeping the Republic: Power and Citizenship in American Politics*. 6th Edition. Washington, DC: CQ Press.
2. Bardes, Barbara, Mack Shelley, and Steffen Schmidt. 2006. *American Government and Politics Today*. 2006-2007 Edition. Belmont, CA: Thomson Higher Education, 2006 (2006-2007 Brief Edition).
3. Berman, Larry, and Bruce Allen Murphy. 2007. *Approaching Democracy*. 5th Edition. New York: Pearson Prentice Hall.
4. Bond, Jon R., Kevin B. Smith, and Richard A. Watson. 2006. *The Promise and Performance of American Democracy*. 7th Edition. Belmont, CA: Thomson Learning.
5. Dautrich, Kenneth, and David A. Yalof. 2009. *American Government: Historical, Popular and Global Perspectives*. Alternate Edition. Belmont, CA: Wadsworth.
6. Dye, Thomas, and Harmon Zeigler. 2006. *The Irony of Democracy: An Uncommon Introduction to American Politics*. 13th Edition, Belmont, CA: Thomson Wadsworth.
7. Dye, Thomas. 2005. *Politics in America*. 6th Edition. New York: Pearson Prentice Hall.
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9. Fiorina, Morris, Paul Peterson, and Stephen Voss. 2005. *America's New Democracy*. 4th Edition. New York: Pearson Education.
10. Ginsberg, Benjamin, Theodore J. Lowi, and Margaret Weir. 2013. *We the People*. 9th Edition Shorter. New York: WW Norton.
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20. McClain, Paula D., and Steven C. Tauber. 2014. *American Government in Black and White*. 2nd Edition. New York, NY: Oxford University Press.
21. Miroff, Bruce, Raymond Seidelman, and Todd Swanstrom. 2007. *The Democratic Debate: An Introduction to American Politics*. 4th Edition. New York: Houghton Mifflin.
22. Morone, James A., and Rogan Kersh. 2013. *By the People: Debating American Government*. 1st Editon. New York, NY: Oxford University Press.
23. O'Connor, Karen, Larry Sabato, Stefan Haag, and Gary Keith. 2006. *American Government: Continuity and Change*. 8th Edition. New York: Pearson Longman.
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25. Shea, Daniel M., Joanne Connor Green, and Christopher E. Smith. 2007. *Living Democracy* (National Edition). Upper Saddle River, NJ: Pearson and Prentice Hall.
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27. Spitzer, Robert J., Benjamin Ginsberg, Theodore J. Lowi, and Margaret Weir. 2006. *Essentials of American Politics*. 2nd Edition. New York, NY: WW Norton.
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31. Welch, Susan, John Gruhl, John Comer, and Susan Rigdon. 2014. *American Government*. 14th Editions. Belmont, CA: Wadsworth.
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Textbook publishers with number of editions in sample: Best Value Textbooks (1); CQ Press (2); Cambridge Press (1); Houghton Mifflin (3); McGraw Hill (3); Oxford University Press (2); Pearson Group includes: Pearson Education, Inc; Pearson/Longman; Pearson/Prentice Hall and Prentice Hall (9); Thomson Group includes: Thomson Higher Education; Thomson Learning; Thomson/Wadsworth and Wadsworth (8); WW Norton (3).

APPENDIX B

Affirmative Action Definitions in American Government Introductory Textbooks

Textbook Authors	As Defined IN CHAPTER(S) OR GLOSSARY.
Barbour <i>et al.</i>	A policy of creating opportunities for members of certain groups as a substantive remedy for past discrimination (191).
Bardes <i>et al.</i>	A policy in educational admissions or job hiring that gives special attention or compensatory treatment to traditionally disadvantaged groups in an effort to overcome present effects of past discrimination (172).
Berman and Murphy	Programs that attempt to improve the chances of minority applicants for jobs, housing, employment, or education by giving them a “boost” relative to white applicants with similar qualifications (510).
Bond <i>et al.</i>	Any program, whether enacted by a government or by a private organization, whose goal is to overcome the results of past unequal treatment of minorities and/or women by giving members of these groups preferential treatment in admission, hiring, promotions, or other aspects of life (135).
Daurich and Yalof	Programs, laws, or practices designed to remedy past discriminatory hiring practices, government contracting, and school admissions (137).
Dye and Zeigler	No formal definition, but implied to mean “programs, policies or actions to establish goals and timetables to achieve equality of results” (421).
Dye	Any program, whether enacted by a government or by a private organization, whose goal is to overcome the results of past unequal treatment of minorities and/or women by giving members of these groups preferential treatment in admission, hiring, promotions, or other aspects of life (550).
Edwards <i>et al.</i>	A policy designed to give special attention to or compensatory treatment of members of some previously disadvantaged group (154).
Fiorina <i>et al.</i>	Programs designed to enhance opportunities for race- or gender-based groups that have suffered discrimination in the past (114).
Ginsberg <i>et al.</i>	Government policies or programs that seek to redress past injustices against specified groups by making special efforts to provide members of these groups with access to educational and employment opportunities (190).
Harrison <i>et al.</i>	In the employment arena, intentional efforts to recruit, hire, train, and promote underutilized categories of workers (women and minority men); in higher education, intentional efforts to diversify the student body (198).
Janda <i>et al.</i>	Any of a wide range of programs, from special recruitment efforts to numerical quotas, aimed at expanding opportunities for women, minority groups and the disabled (538).

Jillson	Policies and actions designed to make up for the effects of past discrimination by giving preferences today to specified racial, ethnic, and sexual groups (449).
Katznelson <i>et al.</i>	No formal definition is given in the glossary or in-text (209).
Kernell and Jacobson	Policies or programs designed to expand opportunities for minorities and women and usually requiring that an organization take measures to increase the number or proportion of minorities and women in its membership or employment (Glossary); The policy requires any employment or government agencies that have practiced discrimination to compensate minorities and women by giving them special consideration in their selection for employment and education (Chapter definition, 141).
Landy and Milkis	Government policies or programs that attempt to address past practices of discrimination of historically disadvantaged groups by making special efforts to provide members of these groups with access to educational and employment opportunities (538).
Losco and Baker	Programs that attempt to provide members of disadvantaged groups enhanced opportunities to secure jobs, promotions, and admission to educational institutions (105).
Lowi <i>et al.</i>	A policy or program designed to redress historic injustices committed against specific groups by making special efforts to provide members of these groups with access to educational and employment opportunities (Glossary); Compensatory action to overcome the consequences of past discrimination and to encourage greater diversity (Chapter definition, 149).
Magleby <i>et al.</i>	Remedial action designed to overcome the effects of past discrimination against minorities and women (Glossary); Programs... designed to provide special help to people who have been disadvantaged due to their group memberships (Chapter definition, 432).
McClain and Tauber	Corrective policies that attempt to help racial and ethnic minorities (as well as women) achieve equality in education in the workforce by providing them with advantages in college admission, hiring, promotion, and the awarding of contracts (142).
Miroff <i>et al.</i>	Positive steps taken to award educational opportunities or jobs to racial minorities or women because these groups have been the victims of prior discrimination (507).
Morone and Kersh	Direct, positive steps to recruit members of previously underrepresented groups into schools, colleges, and jobs; sometimes involves setting aside positions (known as quotas) (197).
O'Connor <i>et al.</i>	Policies designed to give special attention or compensatory treatment to members of a previously disadvantaged group (229).
Patterson	A term that refers to programs designed to ensure that women, minorities, and other traditionally disadvantaged groups have full and equal opportunities in employment, education, and other areas of life (167).
Shea <i>et al.</i>	A controversial tool for increasing diversity and reducing inequality in education and employment (204).
Sidlow and Henschen	A policy calling for the establishment of programs that give special consideration, in jobs and college admissions, to members of groups that have been discriminated against in the past (120).
Spitzer <i>et al.</i>	Government policies or programs that seek to address past injustices against specified groups by making special efforts to provide members of these groups with access to educational and employment opportunities (105).
Stephenson <i>et al.</i>	Positive steps taken by public or private institutions to overcome the remaining effects of racial or sexual bias. Affirmative Action programs attempt to achieve equality of result (90).
Tannahill	Steps taken by colleges, universities, and private employers to remedy the effects of past discrimination in admissions, employment, and promotions (Same definition given in four different chapters, 116, 160, 460, 538).
Volkomer	Programs created by the government and private organizations that are designed to provide greater opportunities for women, African Americans, and other minority groups who have been victims of past discrimination (Glossary, p. 409); Affirmative

	action refers to a variety of policies and programs that seek to advance the position of minorities and women (Chapter definition, 320).
Welch <i>et al.</i>	A policy in job hiring or university admissions that gives special consideration to members of traditionally disadvantaged groups (Glossary, 565).
Wilson and Dilulio	Programs designed to increase minority participation in some institutions (business, schools, labor unions, or government agencies) by taking positive steps to appoint more minority-group members (140).