

# Research Stands Trial

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The Supreme Court recently ruled, by a 5-4 majority, that racial diversity is indeed a compelling interest of higher education. Justice Sandra Day O'Connor supported this conclusion, stating in her June 23 opinion that such diversity "better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals."

The decision came after repeated attacks on numerous psychological studies defending affirmative action at the University of Michigan.

The university had offered impressive psychological research to the District Court in 2000, including work by Patricia Gurin, former psychology department chair and interim Literature, Science & Arts dean, and her colleagues who had been studying the effects of student diversity since 1990.

When Gurin was recruited as an expert witness, her team examined data from both their Michigan campus studies and a national study. They demonstrated that students on a culturally diverse campus, minority and non-minority alike, were "more intellectually engaged, showed greater growth over four years in active thinking, and had greater acceptance of difference as compatible with societal unity."

"I wanted to offer to the lawyers a reason why experience with diverse peers ought to have educational value for students," she said. "I helped them frame a rationale, not just whether, but why experience with diverse peers is educationally differential. I think lawyers should use social scientists for that purpose."

But the studies were challenged by an impressive array of opposition – conservative think tanks, nationwide interest groups, even the White House filed Supreme Court briefs supporting the white students who, after being denied admission, charged they were victims of reverse discrimination.

Neither of Gurin's primary attackers – Thomas Wood, executive director of the National Association of Scholars California affiliate, and Malcolm Sherman of the State University of New York at Albany – had ever done research in social psychology, inter-group relations, or education. "They came to this with no particular background about how higher education research is conducted," Gurin said. "They had one major point to make, and it was contrary to all of the research on how higher education institutions affect students."

The point in contention was that Gurin needed to prove that the percentage of minority students on a given campus has direct effects on its students. That number, she explains, is merely an institutional factor. "All higher education research shows that institutional factors operate through the experiences they foster for students," Gurin said. "It's the experiences that the students actually have that are related to outcomes."

Her data showed that a culturally diverse campus simply makes it possible for more students to actually interact with diverse students.

“[The defense] just couldn’t stand this,” she stated. “They constantly critiqued us for not showing that minority percentage itself has impact. Their first critique was absolutely wrong statistically. It was so ad hominem. They accused me of shifting focus away from the impact of minority percentage. They made all kinds of attributions about my motivation.”

But Gurin and fellow investigators received significant help in their struggle to discern the objective from the personal. In addition to the amicus briefs filed by leaders of industry, labor, academia and the military supporting the importance of diversity, a crucial brief defending Gurin’s research was filed jointly by the American Educational Research Association, the Association of American Colleges and Universities, and the American Association for Higher Education.

The supporting briefs were largely responsible for swaying O’Connor’s decisive fifth vote, said University of Michigan law professor and sociologist Richard Lempert, who wrote the law school’s affirmative action plans in 1967 and 1992, and testified about its 30 years of success. These were the briefs O’Connor cited in her written opinion.

“O’Conner seems to have been more influenced by the briefs from the generals and private industry than by any social science evidence,” Lempert said. “Harry Kalven, co-author of the classic work *The American Jury*, said 35 years ago that for social science knowledge to influence courts, it first had to become popular knowledge. I think work like that which [APS Fellow] Claude Steele and Pat Gurin have done has been very important in helping to shape popular understandings of how diversity plays out in academic settings.”

Before the lower court trials, Steele, of Stanford University, had been deposed for 10 hours about his research into why standardized tests contribute little to forecasting which students will succeed, primarily because all they test is “test-taking aptitude.”

“America has developed, in large part due to affirmative action, a multicultural authority structure in its institutions that almost no other society in the world has,” Steele said. “We don’t want to step back from that level of societal achievement, and that subtext built the foundation for this decision.”

But for Gurin, the real courtroom victory was that research made it into the hearts and minds of those on the bench. “This and many other cases have elevated the value of research evidence,” Gurin says. “Judges and law clerks are not trained to evaluate the validity of the research that they are presented.”

The Michigan lawsuits, she said, also demonstrated the important contribution of social scientists. “Attorneys should be ready to consider social science evidence in deciding how they are going to frame a case, even if they don’t use social scientists as expert witnesses.”

Steele said he is “heartened” by what he sees as courts’ willingness to hear the voice of social science.

“It’s a privilege and a very valuable role we play to inform that process,” he said. “We have taken up the diversity problem, not just as a policy issue, but as a real basic science issue.”

*Editor's Note: This article is a follow-up on "A Case for Psychological Science," which originally appeared in the May/June 2001 Observer.*