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Meera E. Deo
Thomas Jefferson School of Law

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THE PROMISE OF *GRUTTER*: DIVERSE INTERACTIONS AT THE UNIVERSITY OF MICHIGAN LAW SCHOOL

*Meera E. Deo**

In Grutter v. Bollinger, *the U.S. Supreme Court upheld affirmative action at the University of Michigan Law School on the grounds of educational diversity. Yet the Court's assumption that admitting diverse students into law school would result in improved race relations, livelier classroom conversations, and better professional outcomes for students has never been empirically tested. This Article relies on survey and focus group data collected at the University of Michigan Law School campus itself in March 2010 to examine not only whether, but how diversity affects learning. The data indicate both that there are sufficient numbers of students of color on the University of Michigan Law School campus to yield diverse interactions and that positive interracial student exchanges are occurring. Nevertheless, the lively discussions drawing from this diversity anticipated by the* Grutter *Court are seldom taking place within the classroom, where they may be most important; by neglecting to foster "diversity discussions," law schools are failing to cultivate the academic and professional benefits associated with educational diversity. Only through classroom diversity can the promise of diversity envisioned by the* Grutter *Court be fully realized.*

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* Assistant Professor of Law, Thomas Jefferson School of Law (TJSL). This Article could not have been started or completed without the support of a number of groups and individuals. Many colleagues provided feedback that significantly shaped this Article into its current form; these individuals include: Kaimi Wenger, Kristi Bowman, Charles Daye, Jerry Kang, Gowri Ramachandran, Neil Gotanda, Rican Vue, and Rebecca Lee. I also thank Erwin Chemerinsky, Devon Carbado, and Rachel Moran for helpful suggestions and advice along the way, as well as Walter Allen, Charles Daye, Abigail Panter, and Linda Wightman for ongoing encouragement and inspiration through their leadership of the Educational Diversity Project. Chavella Pittman deserves special recognition for lending her SurveyMonkey expertise to this project. Harmony Rhoades provided a timely and useful STATA refresher seminar. I thank TJSL Dean Rudy Hasl for his support of diversity generally and of this research project specifically. Bryce Dodds and Natalie Ghayoumi provided outstanding research assistance. Early incarnations of this Article benefited from feedback received at the Society of American Law Teacher's (SALT) annual teaching conference in December 2010 and the TJSL Junior Faculty Workshop in February 2011. Finally, I thank the 505 University of Michigan Law School students who participated in the Perspectives on Diversity study, the cooperative administration at the University of Michigan Law School, and the University of Michigan Law School Diversity Task Force for helping with local logistics.

INTRODUCTION

In *Grutter v. Bollinger*, the United States Supreme Court made clear that "student body diversity is a compelling state interest that can justify using race in university admissions."[1] This historic decision resolved decades of doubt surrounding affirmative action programs by affirming their constitutionality. In *Grutter*, the Court determined that the University of Michigan Law School admission policy passed the two-pronged test of strict scrutiny,[2] the standard of review the Court has applied for the past half-century to Equal Protection challenges of racial policies.[3] Within its analysis, the Court cited both *amicus* briefs filed by business and military leaders and research studies lauding diversity in the classroom.[4]

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1. Grutter v. Bollinger, 539 U.S. 306, 308 (2003).

2. *Grutter*, 539 U.S. at 343 ("In summary, the Equal Protection Clause does not prohibit the Law School's narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body.").

3. *See* Korematsu v. United States, 323 U.S. 214 (1944). *See also* Gratz v. Bollinger, 539 U.S. 244 (2003); Regents of Univ. of Cal. v. Bakke, 438 U.S. 265 (1978); Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995) (overruling Metro Broad., Inc. v. F.C.C., 497 U.S. 547 (1990)).

4. *Grutter*, 539 U.S. at 330 ("In addition to the expert studies and reports entered into evidence at trial, numerous studies show that student body diversity promotes learning outcomes, and 'better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals.'") (quoting Brief of American Educ. Research Ass'n et al. as Amici Curiae Supporting Respondent at 2, *Grutter*, 539 U.S. 306 (2003) (No. 02-241) [hereinafter Brief of AERA]; *id.* at 330–31 ("[M]ajor American businesses have made clear that the skills needed in today's increasingly global marketplace can

Despite its decision to touch upon the benefits of educational diversity, the *Grutter* Court did not include much evidence to support its main conclusion regarding affirmative action: that it leads to an improved educational environment both on the campus generally and within the classroom specifically. The Court determined that race was an appropriate factor in distinguishing between qualified applicants because a racially diverse student body offers the potential for increased learning among all students. In making this finding, the Court seems to have assumed that the educational benefits possible through diversity would naturally flow once affirmative action was implemented or preserved—that by merely admitting a "critical mass"[5] of students of color, for example,[6] a school would reap the benefits of racial diversity. In reality this is not guaranteed; while the admission of a critical mass of students is a *necessary* element to achieving the benefits of diversity, it is by no means *sufficient*.

There is no dispute that having a critical mass of diverse students can help set the stage for an entire student body to share and learn from one another's unique perspectives and experiences. However, it is not clear that this same group of students, if left to their own devices, will broach the kinds of issues the *Grutter* Court presumed affirmative action would automatically advance. What role does interaction between students play in achieving the goals of diversity extolled by the *Grutter* Court? Are classroom discussions that draw on students' unique backgrounds and perspectives necessary to achieve the benefits the Court associated with diversity? Or is it sufficient for the student body to be diversified without actual interaction in the classroom or elsewhere? This Article suggests that achieving a diverse student body may be only the first step toward realizing the many benefits

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only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.") (citing Brief of 3M et al. as Amici Curiae in Support of Defendant-Appellants Seeking Reversal, *Grutter*, 539 U.S. 306 (2003) (No. 02-241) [hereinafter Brief of 3M], at 5, and Brief of General Motors Corp. as Amicus Curiae in Support of Respondents, *Grutter*, 539 U.S. 306 (2003) (No. 02-241)[hereinafter Brief of General Motors Corp.], at 3–4; *id.* at 331 ("What is more, high-ranking retired officers and civilian leaders of the United States military assert that, "[b]ased on [their] decades of experience," a "highly qualified, racially diverse officer corps . . . is essential to the military's ability to fulfill its principle mission to provide national security.") (quoting Consolidated Brief of Lt. Gen. Julius W. Becton, Jr., et al. as Amici Curiae in Support of Respondents, *Grutter*, 539 U.S. 306 (2003) (No. 02-241) [hereinafter Brief of Lt. Gen. Becton], at 5).

5. *Grutter* adopts the descriptions of critical mass provided in the District Court: (1) "'meaningful numbers' or 'meaningful representation' . . . that encourages underrepresented minorities to participate in class," *Grutter*, 539 U.S. at 318, and (2) "numbers such that underrepresented minority students do not feel isolated or like spokespeople for their race." *Id.* at 319. The same definition is applied in this Article.

6. *Grutter* focused on the intersection of affirmative action, diversity, and students of color mainly because it was the heart of the plaintiffs' Equal Protection claim; however, the Law School made clear that race was simply one factor among many that it considered when including diversity in its admissions decisions. *Id.* at 338.

associated with diversity; we must understand how exactly the benefits of diversity accrue to reap the full rewards we expect.

Though a few legal scholars have addressed diversity in law school[7] and others have explored the importance of context within the legal curriculum,[8] there has been no systematic, empirical study of how interaction among law students, either inside or outside of the classroom, may affect the expected benefits of diversity.[9] This study seeks to fill this gap in the research by examining how interaction among law students generally, and classroom conversations specifically, may contribute to expected benefits of diversity. The research combines a theoretical construct with an empirical analysis of quantitative and qualitative data. Additionally, it is unique in that it relies on data gathered at the University of Michigan Law School itself to investigate how and whether the conclusions drawn by the United States Supreme Court in *Grutter* are actually taking place on the campus that strove to uphold affirmative action based on diversity.

This study is particularly important in light of ongoing conversations regarding diversity in the state of Michigan. On November 7, 2006, the Michigan voters passed Proposal 2 which bans the use of race as a factor in state decisions regarding education, employment, and contracting.[10] A legal battle ensued, with a coalition of affirmative action defenders fighting to strike down the newly enacted law.[11] On July 1, 2011, a three-judge panel of the Sixth Circuit struck down Proposal 2, deeming it a form of political restructuring prohibited by the Equal Protection Clause.[12] While the Sixth Circuit opinion provides useful guidance on the issue, the controversy and debate may continue through court appeals and common conversations throughout the state and the nation. Thus, an examination of whether and how diversity may contribute to improved learning is especially timely. Because this study takes place on the Michigan Law School campus, it may be even more appropriate as we strive to understand the interplay of affirmative action, diversity, and student interactions.

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7. *See* discussion *infra* Part II.B.1.

8. *See* discussion *infra* Part II.B.2.

9. Although a few earlier empirical studies looked specifically at law school diversity and considered student interaction, none focused on this theme in particular or on the Court's exclusion of this topic from *Grutter*. *See, e.g.*, Meera E. Deo, Maria Woodruff & Rican Vue, *Paint by Number? How the Race and Gender of Law School Faculty Affect the First-Year Curriculum*, 29 CHICANA/O-LATINA/O L.J. 1 (2010); *see also* Meera E. Deo, Walter R. Allen, Abigail T. Panter, Charles Daye & Linda Wightman, *Struggles and Support: Diversity in U.S. Law Schools*, 23 NAT'L BLACK L.J. 71 (2010).

10. Tamar Lewin, *Michigan Rejects Affirmative Action and Backers Sue*, N.Y. TIMES, Nov. 9, 2006., *available at* www.nytimes.com/2006/11/09/us/politics/09michigan.html.

11. *Id.*

12. Coal. to Defend Affirmative Action v. Regents of the Univ. of Mich., 2011 WL 2600665, at *1 (6th Cir. July 1, 2011).

Part I of this Article provides an in-depth analysis of the discussion of diversity as a compelling state interest in *Grutter v. Bollinger*. It looks at the Court's reasoning for relying on the diversity rationale—namely, the expected benefits of diversity paired with the academic freedom given to institutions of higher learning to pursue those benefits through affirmative action. Part II then explores the gap in *Grutter*: a discussion of *how* the expected benefits of diversity will result from admitting a qualified pool of diverse applicants. The sparse legal scholarship that uses empirical analysis to study law school diversity is also summarized, as is the current research on the value of including social context in law school curricula. Because social scientists have given greater attention to the study of diverse interactions among students, a short review of relevant social science literature is included in this section as well. Part III introduces empirical data from a mixed-method study of diversity and the law school experience conducted at the University of Michigan Law School in March 2010. This section begins with an explanation of the data and methodology used for analysis. The subsequent presentation of findings starts with a discussion of diverse interactions among students generally, and then focuses on conversations vis-a-vis missed opportunities in the classroom, one important site for diverse interactions. Part III ends with an interpretation of the data that explains why classroom interactions may not be occurring. The Conclusion offers a brief synthesis of results and suggests ways in which schools can address the practical realities of getting a diverse student population to realize the learning goals traditionally associated with diversity.

I. UNDERSTANDING THE DIVERSITY RATIONALE IN *GRUTTER*

For decades, the Court has made clear that strict scrutiny is the appropriate analysis when race-based distinctions are challenged under the Equal Protection Clause.[13] To survive strict scrutiny, the policy at issue must serve a compelling state interest and be narrowly tailored to meet its goals.[14] While this is an exceptionally high standard to meet, the Court has clarified that strict scrutiny is not "strict in theory, but fatal in fact."[15] The articulated purpose of this high standard is to avoid the invidious discrimination that many people of color have faced in this country since its inception.[16]

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13. *See* Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995).

14. *Id.* at 227.

15. *Id.* at 237; *but see* Rachel F. Moran, *The Heirs of Brown: The Story of* Grutter v. Bollinger, *in* RACE LAW STORIES, 451, 455 (Rachel F. Moran & Devon W. Carbado eds., 2008) ("This demanding requirement [strict scrutiny] traditionally has meant that nearly all such classifications are deemed invalid.").

16. *See* Regents of Univ. of Cal. v. Bakke, 438 U.S. 265, 291–97 (1978). Some argue that because there was never a pattern of structural discrimination against Whites, Equal Protection challenges by White plaintiffs should perhaps face a lower standard of review.

Before *Grutter*, the Court had not considered the use of race in higher education admissions decisions since 1978, when it delivered the opinion in *Regents of the University of California v. Bakke*.[17] In that case, the Court was split: one group of Justices upheld the use of race in admissions at UC Davis Medical School, while another four Justices rejected it; additionally, Justice Powell offered a concurring opinion that struck down the policy at issue, while at the same time suggesting that an affirmative action policy modeled after the Harvard admissions plan would be constitutional.[18] Decades later, following a circuit split,[19] the Court granted certiorari in *Grutter*[20] in order to give a clear answer to the question of whether institutions of higher learning could rely on affirmative action to improve or maintain student body diversity.[21]

For the first time in years, the *Grutter* Court found that the race-conscious policy at issue survived strict scrutiny.[22] Much of the *Grutter* opinion focused on the second prong of the strict scrutiny analysis: whether the University of Michigan Law School admissions policy was narrowly tailored to meet its goal.[23] After an exhaustive discussion the Court held that the policy was narrowly tailored.[24]

The Court presented a much more succinct explication of the first prong: whether student body diversity in higher education is a compelling state interest.[25] In just a few short paragraphs, the Court discussed the ed-

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However, the Supreme Court has not seen fit to follow that line of reasoning and strict scrutiny is therefore applied equally to Equal Protection challenges by Whites and people of color; *see also* City of Richmond v. J.A. Croson Co., 488 U.S. 469, 495 (referencing JOHN HART ELY, DEMOCRACY AND DISTRUST 170 (1980)).

17. 438 U.S. 265 (1978).

18. *Id.*; *see also* Moran, *supra* note 15, at 454–55 (discussing the *Bakke* opinions in detail).

19. *See* Hopwood v. Texas, 78 F.3d 932 (5th Cir. 1996) (striking down affirmative action at the University of Texas-Austin); Smith v. University of Washington Law School, 233 F.3d 1188 (9th Cir. 2000) (following *Bakke* in holding that diversity is a compelling state interest).

20. 288 F.3d 732 (6th Cir. 2002), *cert. granted*, 537 U.S. 1043 (2002).

21. Grutter v. Bollinger, 539 U.S. 306, 322 (2003). ("We granted certiorari, 537 U.S. 1043 (2002), to resolve the disagreement among the Courts of Appeals on a question of national importance: Whether diversity is a compelling interest that can justify the narrowly tailored use of race in selecting applicants for admission to public universities."); *see also* Moran, *supra* note 15, at 451 ("Before the [*Grutter*] litigation began, the federal courts were deeply divided over the legitimacy of weighing race in deciding whether to offer applicants a seat in the entering class of a college or university.").

22. The last race-related Equal Protection challenge to survive strict scrutiny before *Grutter* was United States v. Paradise, 480 U.S. 149 (1987).

23. *Grutter*, 539 U.S. at 333–39.

24. *Id.* at 334.

25. In addition, the focus of this section of the *Grutter* opinion was on *amicus* briefs rather than expert testimony. *See* Moran, *supra* note 15, at 479 ("[Justice O'Connor's majority opinion in *Grutter*] mentioned the expert testimony and other research [on

ucational benefits of diversity presented by the Law School defendants and numerous *amici*.[26]

The Court began this discussion by noting that the concept of diversity as a compelling state interest stems from the First Amendment freedom of "educational autonomy."[27] This autonomy means that an institution of higher education can determine for itself how to best serve the mission of its school; that the Court will accept that diversity is important to the school if it asserts, in good faith, that this is so; and that therefore the University of Michigan Law School has the freedom to promote diversity since it is "at the heart of the Law School's proper institutional mission."[28] Many, including Justice Thomas in his dissent, see this deference to the Law School as unprecedented and "inconsistent with the very concept of 'strict scrutiny.'"[29] Nevertheless, the Court deferred to the University of Michigan Law School to determine on its own how best to craft an optimal student body. The Law School asserted that diversity was important to its educational mission, and because there was no "showing to the contrary"[30] the Court accepted in "good faith" that this was true.[31]

The Court then stated that the benefits of diversity "are substantial," endorsing some of the University of Michigan Law School's rationales.[32] For example, the Court favorably referenced a section of the *Grutter* District Court opinion stating that diversity "promotes 'cross-racial understanding,' helps to break down racial stereotypes, and 'enables [students] to better

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educational diversity] in passing, but she was clearly "focusing on amicus briefs filed on Michigan's behalf by major corporations and a group of retired military generals.").

26. *See Grutter*, 539 U.S. at 328–30; Brief of American Law Deans Ass'n as Amicus Curiae in Support of Respondents, *Grutter*, 539 U.S. 306 (2003) (No. 02-241); Brief of the Ariz. State Univ. Coll. of Law as Amicus Curiae Supporting Respondents, *Grutter*, 539 U.S. 306 (2003) (No. 02-241); Brief of the Harvard Black Law Students Ass'n et al. as Amici Curiae Supporting Respondents, *Grutter*, 539 U.S. 306 (2003) (No. 02-241); Brief of Howard Univ. as Amicus Curiae in Support of Respondents, *Grutter*, 539 U.S. 306 (2003) (No. 02-241); Brief of the Soc'y of American Law Teachers as Amicus Curiae in Support of Respondents, *Grutter*, 539 U.S. 306 (2003) (No. 02-241); Brief of the Univ. of Mich. Asian Pac. American Law Students Ass'n et al. as Amici Curiae in Support of Respondents, *Grutter*, 539 U.S. 306 (2003) (No. 02-241).

27. *Grutter*, 539 U.S. at 329 (citing Regents of Univ. Cal. v. Bakke, 438 U.S. 265, 312 (1978)); *see also* Moran, *supra* note 15, at 479 ("[Justice O'Connor] found that Michigan was well within the scope of its educational autonomy in seeking a diverse student body.").

28. *Grutter*, 539 U.S. at 329 (citing *Bakke*, 438 U.S. at 312).

29. *Id.* at 350 (Thomas, J., dissenting). In fact, others argue that while courts generally give deference to schools in their ability to make decisions regarding their students, this may be less likely when race is at issue. *See, e.g.*, Preston C. Green, Julie F. Mead, & Joseph O. Oluwole, *Parents Involved, School Assignment Plans, and the Equal Protection Clause: The Case for Special Constitutional Rules*, 76:2 BROOK. L. REV. 503 (2011).

30. *Grutter*, 539 U.S. at 329 (quoting *Bakke*, 438 U.S. at 318–19).

31. *Id.* at 329.

32. *Id.* at 330.

understand persons of different races.'"[33] The Court also agreed that "'classroom discussion is livelier, more spirited, and simply more enlightening and interesting' when the students have 'the greatest possible variety of backgrounds.'"[34]

In addition to the vigorous challenge of affirmative action by the plaintiffs, and a strenuous defense by both the University of Michigan Law School and a number of Intervening-Defendants,[35] the *Grutter* Court also received the greatest number of *amicus* briefs filed to date in the United States Supreme Court.[36] The vast majority of *amici* filed briefs urging the Court to uphold affirmative action.[37] These briefs provided additional documentation and research regarding educational diversity,[38] some of which the Court favorably cited in support of its determination that edu-

33. *Id.* (citing Petition for Writ of Certiorari, *Grutter*, 539 U.S. 306 (2003) (No. 02-241), at 246a).

34. *Id.* (citing Petition for Writ of Certiorari, *Grutter*, 539 U.S. 306 (2003) (No. 02-241), at 246a, 244a).

35. Student and community intervenors joined the lawsuit to defend affirmative action on grounds of equality and justice rather than rely on the Law School's more traditional defense of diversity as a compelling state interest. *See* Moran, *supra* note 15, at 460–62 (the intervenors planned to "raise fundamental questions of equality" in their support of affirmative action and also "insisted that *Brown* [*v. Board of Education*] was a resounding call to rectify past racial injustice by overcoming the vestiges of subordination and stratification"). While the intervenors mobilized massive support for affirmative action and spent days during the *Grutter* bench trial presenting testimony regarding ongoing racial injustice, LSAT bias, hostile environment in law school, the likely resegregation of education without affirmative action, and other issues of equality, they were increasingly marginalized by the courts and other parties and virtually ignored in the final Supreme Court opinion. *See id.* at 471–85. The author herself was a named Intervening-Defendant in *Grutter*.

36. PAUL M. COLLINS, JR., FRIENDS OF THE SUPREME COURT: INTEREST GROUPS AND JUDICIAL DECISION MAKING 110 (2008) ("[I]n Grutter, 83 amicus briefs were filed supporting the liberal position, compared with only 19 supporting the conservative side of the debate."); *see, e.g.*, Brief Amici Curiae of the Ctr. for Equal Opportunity et al. in Support of Petitioner, *Grutter*, 539 U.S. 306 (2003) (No. 02-241); Brief for the NAACP Legal Def. et al. as Amici Curiae in Support of Respondents, *Grutter*, 539 U.S. 306 (2003) (No. 02-241); Brief of American Law Deans Ass'n as Amicus Curiae in Support of Respondents, *supra*, note 26; Brief of the Asian American Legal Found. as Amicus Curiae in Support of Petitioners, *Grutter*, 539 U.S. 306 (2003) (No. 02-241); Brief of the Cato Inst. as Amicus Curiae in Support of Petitioners, *Grutter*, 539 U.S. 306 (2003) (No. 02-241); Brief of the Soc'y of American Law Teachers as Amicus Curiae in Support of Respondents, *supra*, note 26; *see also* Marcia Coyle, *Amicus Briefs are Ammo for Supreme Court Gun Case*, NAT'L L.J., Mar. 10, 2008, *available at* http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=900005560643&slreturn=1&hbxlogin=1 (stating that the number of amicus briefs filed in the U.S. Supreme Court in the University of Michigan affirmative action cases was the record to date); Neal Devins, *Explaining* Grutter v. Bollinger, 152 U. PA. L. REV. 347 (2003).

37. Eighty-three of 102 amicus briefs supported the University of Michigan Law School and affirmative action. *See* Devins, *supra* note 36, at 366.

38. *See, e.g.*, Brief of the Harvard Black Law Students Ass'n et al. as Amici Curiae Supporting Respondents, *supra* note 26; Brief of AERA, *supra* note 4, at 2; Brief for Respondents Kimberly James et al., *Grutter*, 539 U.S. 306 (2003) (No. 02-241).

cational diversity is a compelling state interest.[39] For example, the Court noted that "numerous studies" indicate the ways in which diversity may improve "learning outcomes" for students.[40] It also referenced volumes of education research documenting the ways in which diversity "better prepares students for an increasingly diverse workforce and society."[41]

In addition to favorably referencing the education scholars' *amicus* briefs, the Court also relied on perspectives shared by the business community. Specifically, the Court referenced briefs filed by business leaders who explained how "the skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints."[42]

Arguably, the Court reserved its greatest deference for an *amicus* brief submitted by "high-ranking retired officers and civilian leaders of the United States military."[43] In relying on these military leaders' assertion that a national security interest demands the maintenance of diversification of the officers corps through affirmative action,[44] the Court was able to—at least by inference—rely on more than academic freedom to support educational diversity. The Court stated that it was willing to make the leap between the need for elite military personnel diversity for national security reasons and the need for educational diversity for academic freedom.[45]

The Court did not offer much commentary on the dozens of research studies it cited or on the personal experiences shared in many *amicus* briefs.[46] Instead, it simply stated that there were a voluminous

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39. *Grutter*, 539 U.S. at 330 ("The Law School's claim of a compelling interest is further bolstered by its *amici*, who point to the educational benefits that flow from student body diversity.").

40. *Id.* (quoting Brief of AERA, *supra* note 4, at 2); *see also* WILLIAM G. BOWEN & DEREK CURTIS BOK, THE SHAPE OF THE RIVER: LONG-TERM CONSEQUENCES OF CONSIDERING RACE IN COLLEGE AND UNIVERSITY ADMISSIONS 86–90 (1998) (study on the impact of diversity on learning outcomes); CIVIL RIGHTS PROJECT (HARVARD UNIV.), DIVERSITY CHALLENGED: EVIDENCE ON THE IMPACT OF AFFIRMATIVE ACTION *passim* (G. Orfield & M. Kurlaender eds., 2001) (studies on the effect of diversity on learning in college); COMPELLING INTEREST: EXAMINING THE EVIDENCE ON RACIAL DYNAMICS IN COLLEGES AND UNIVERSITIES (Mitchell J. Chang, Daria Witt, James Jones & Kenji Hakuta eds., 2003).

41. *Grutter*, 539 U.S. at 330.

42. *Id.* at 330–31 (citing Brief of 3M, *supra* note 4, at 5 and Brief of General Motors Corp, *supra* note 4, at 3–4).

43. *Id.*; *see also* Moran, *supra* note 15, at 486 ("[T]he law school enjoyed a substantial boost from a brief filed by a group of retired military generals.").

44. *Grutter*, 539 U.S. at 331 (quoting Brief of Lt. Gen. Becton, *supra* note 4, at 5.)

45. *Id.* ("We agree that '[i]t requires only a small step from this analysis to conclude that our country's other most selective institutions must remain both diverse and selective.' ").

46. *See* Brief of the Univ. of Mich. Asian Pac. American Law Students Ass'n et al. as Amici Curiae in Support of Respondents, *supra* note 26; Brief of Lt. Gen. Becton, *supra*

number of briefs submitted in support of educational diversity, and offered a brief summary of some of the arguments it may have found most relevant or compelling.[47]

The Court did provide its own opinion on the importance of education in contemporary society, beginning with its longstanding belief in the "overriding importance of [education as a vehicle for] preparing students for work and citizenship."[48] The Court then declared the importance of opportunity and access to public education for people from all walks of life, regardless of race.[49] It also mentioned the unique position of law schools, which "represent the training ground" for future leaders.[50] Tying these concepts together, the Court stated that law schools must be open to "talented and qualified individuals of every race and ethnicity, so that all . . . may participate in the educational institutions that provide the training and education necessary to succeed in America."[51]

In summary, the Court began a discussion of diversity in *Grutter* with a clear deference based on academic freedom. It supplemented this with perspectives from *amicus* briefs that supported educational diversity, recognized the importance of diversity in the business world, and documented the need to preserve the national security interest through diversity in leadership. Ending with its own view on the importance of maintaining opportunity and access for people from all backgrounds, the Court then concluded that diversity was a compelling state interest.

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note 4; Brief of Amici Curiae, The N.M. Hispanic Bar Ass'n et al. in Support of the Respondents, *Grutter*, 539 U.S. 306 (2003) (No. 02-241).

47. *Grutter*, 539 U.S. at 330–32.

48. *Id.* at 331. This is again emphasized in the recent 6th Circuit opinion striking down the ban on affirmative action in the state of Michigan. Coal. to Defend Affirmative Action v. Regents of the Univ. of Mich., 2011 WL 2600665, at *5 (6th Cir. July 1, 2011).

49. *Grutter*, 539 U.S. at 330–32. ("[T]he diffusion of knowledge and opportunity through public institutions of higher education must be accessible to all individuals regardless of race or ethnicity."). While the Court asserts the importance of educational access within the context of supporting diversity as a compelling state interest, these two concepts can be seen as distinct. The focus in this short section on "opportunity" and "access" is more related to equality and distributive principles rather than a strict reliance on diversity. Interestingly, these arguments have more in common with those that UC Davis unsuccessfully asserted as compelling state interests in *Bakke*, rather than with diversity itself. *See* Regents of Univ. of Cal. v. Bakke, 438 U.S. 265, 307 (1978) (asserting as a compelling interest ensuring specific percentages of racial representation); *id.* at 307–09 (asserting as a compelling interest the amelioration or elimination of the effects of identified discrimination); *id.* at 310–11 (asserting as a compelling interest the need in serving disadvantaged communities).

50. *Grutter*, 539 U.S. at 332 ("Moreover, universities, and in particular, law schools, represent the training ground for a large number of our Nation's leaders.") (citing Sweatt v. Painter, 339 U.S. 629, 634 (1950)).

51. *Id.* at 332–33.

II. THE NEXUS BETWEEN DIVERSITY IN NUMBERS AND DIVERSE INTERACTIONS

A. *The Gap in the* Grutter *Analysis*

After considering both the Court's designation of educational diversity as a compelling state interest and its reasons for that designation, a discussion of *how* admitting a diverse group of applicants leads to the educational benefits expected seems missing from *Grutter*. Even assuming the appropriate recruitment and retention mechanisms are in place to garner a representative yield of students from admission to enrollment,[52] it remains unclear how the enrollment of diverse students would lead, automatically, to the desired results. Simply admitting students of color in raw numbers (even numbers sufficient to constitute a welcoming atmosphere for those students) is no guarantee that the interactions and classroom conversations the *Grutter* Court anticipated will actually take place.

Imagine, for example, an ideal law school classroom as envisioned by the Supreme Court: it consists of students from a multitude of racial and ethnic backgrounds, as well as a varied mix of people with geographic diversity, different genders and sexual orientations, musical talents, and life experiences. If these students sit next to each other in the classroom discussing the legal topic at hand—yet remain completely mute as to the ways in which their own experiences illuminate that material—will these conversations be any "livelier" or "more enlightening" than those taking place in any other classroom? How could a mute but diverse classroom lead to cross-racial understanding? More likely, students need to draw from and discuss their unique experiences and perspectives for optimal learning to ensue.

In *Grutter*, the parties spent a great deal of time presenting evidence of how variations in the admissions policy would result in changes to the raw numbers of enrollees. The questions were (1) whether students of color could be admitted to the University of Michigan Law School in part because of their race or ethnic background, and (2) how large a part this "diversity" could play in their admission.[53] However, both the parties and the Court remained silent on the matter of how diversity

52. In fact, admitting a large number of qualified applicants of color may not actually result in enrolling a critical mass of students of color. *See* ANDREA GUERRERO, SILENCE AT BOALT HALL: THE DISMANTLING OF AFFIRMATIVE ACTION 105, 113 (2002). A number of external factors (for example, financial aid, perceived campus climate, and personal and family motivation) help determine which students choose schools to which they receive admission. For instance, in the first year that UC Berkeley's Boalt Hall School of Law operated without the inclusion of race as one factor in admissions following Proposition 209, fourteen Black students were admitted though none chose to enroll (the lone Black student was a student who had deferred from the previous admission cycle). *Id.* at 113–14.

53. *Grutter*, 539 U.S. at 318–21.

would lead to the many benefits that the various experts and *amici* extolled. Again, the Court did assert that educational diversity's benefits are " 'important and laudable,' because 'classroom discussion is livelier, more spirited, and simply more enlightening and interesting' when the students have 'the greatest possible variety of backgrounds.' "[54] But that conclusion was based on an unspoken assumption that allowing for diversity in admissions would generate cross-racial understanding and, with it, a more robust and nuanced understanding of legal issues.

This Article contends that the admission of a diverse class alone is not sufficient; there must also be some cross-racial interaction between the students for educational benefits to flow. The problem is that neither the *Grutter* opinion nor existing research studies provide specifics as to where and how these meaningful interactions should take place: whether in the classroom, elsewhere on campus, or off-campus in study groups, during extracurricular activities, or through informal socializing. These questions and hypotheses are central to reaching the conclusion that diversity leads to better learning, though the *Grutter* Court was curiously silent in this regard.

Interestingly, the University of Michigan Law School and other respondents in the case were similarly silent about how exactly a diverse mix of students would improve learning.[55] It is unclear whether all involved simply assumed that affirmative action would automatically create engaging classroom conversations, or whether this assumption went unexplained for other reasons. Perhaps some recognized that focusing separately on the benefits of admitting, enrolling, and interacting with a diverse student body would overwhelm the already complicated issue of whether the Court could find educational diversity to be a compelling state interest. Whatever the reason, the parties involved in *Grutter* all but ignored the practical question of how diversity within a student body would create the expected interactional benefits of learning. Scholars, however, have been considering this issue for many years.

B. *Legal Scholarship on Diversity*

Legal scholars have recently intensified research regarding the significance of diversity in law school. While many have weighed in on the broad issue of educational diversity, few studies have included empirical

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54. *Id.* at 330.

55. The Law School did include expert opinions citing research studies that found, in general, educational benefits would flow from admitting a diverse student body. *See* Brief for Respondents, Grutter v. Bollinger, 539 U.S. 306 (2003) (No. 02-241); *see also*, Brief of AERA, *supra* note 4; Brief of Mass. Inst. of Tech., et al. as Amici Curiae in Support of Respondents, Grutter v. Bollinger, 539 U.S. 306 (2003) (No. 02-241); Brief of American Psychological Ass'n as Amicus Curiae in Support of Respondents, Grutter v. Bollinger, 539 U.S. 306 (2003) (No. 02-241) (asserting the importance of cross-racial interaction).

research or looked specifically at interactions between law students.[56] This section examines the few empirical research studies that have directly examined law school diversity (most of which consist of case studies of particular schools), as well as other work that has explored the importance of including social context within the law school curriculum. While few scholars have directly connected empirical analyses with the social context literature, this Article links the two through an empirical examination of the inclusion of broader social context—specifically of race, gender, and sexual orientation—in the law school classroom.

1. Empirical Scholarship on Law School Diversity

A decade ago, then-Professor at UC Berkeley's Boalt Hall and now Dean of UCLA Law School Rachel Moran conducted a survey of her law school student body that examined the law school experience generally and diversity specifically.[57] She paid particular attention to the inclusion of social context in the classroom and found that the law school curriculum "largely ignored" issues of race and gender.[58] Moreover, students who made efforts to initiate these conversations were considered "activists" instead of "intellectuals" and were otherwise informally punished.[59] In fact, without a meaningful presence of women of color (either among the student body or on the faculty), many marginalized students felt isolated and disengaged from the learning process.[60]

A study published the following year looked specifically at diversity at the University of Michigan Law School.[61] That study examined the experience of students of color, who described the campus environment as one "characterized by racial separation, racial conflict and racial misunderstanding."[62] The result was disengagement from the learning process among those students in a manner that paralleled Moran's findings of

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56. Legal scholars also debate issues of diversity in the employment context. *See* Rebecca Lee, *Core Diversity*, 19(2) TEMP. POL. & CIV. RTS. L. REV. 477 (2010) (discussing distinct though related conversations regarding surface and "core" diversity ideals in the workplace).

57. Rachel F. Moran, *Diversity and its Discontents: The End of Affirmative Action at Boalt Hall*, 88 CALIF. L. REV. 2241, 2283–85 (2000).

58. *Id.*

59. *Id.* Interestingly, it did not seem to occur to many that students could be both activists and intellectuals!

60. *Id.* at 2268–69.

61. Walter A. Allen & Daniel G. Solórzano, *Affirmative Action, Educational Equity and Campus Racial Climate: A Case Study of the University of Michigan Law School*, 12 BERKELEY LA RAZA L.J. 237 (2001).

62. *Id.* at 300. *See also* DERRICK BELL, FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM 129 (1992)("Most contemporary black students ... encounter color-based discrimination in many subtle and debilitating forms, and suffer [hurtful] slights and disparaging assumptions about their abilities.").

isolation and alienation.[63] In that Michigan study, one African American female law student reported, "I think in law school more than anywhere else, I have never felt so isolated. And I'm not the only one."[64]

Other recent research has generated considerable debate regarding whether the performance gap between White students and students of color is based on the culture of law school, as many earlier studies suggest, or on the "academic mismatch" between particular students of color and elite law school institutions that may be beyond the scope of their abilities or preparation.[65] Richard Sander concludes that Black students would perform better and be better prepared to pass the Bar if they attended less elite law schools, which he suggests may be more geared toward their particular academic abilities than the elite institutions that they are able to attend through affirmative action.[66] His research infers that affirmative action admits unqualified students of color not only at the expense of those who were rejected but to the detriment of the very students admitted through race-conscious admissions.[67] These students of color, he believes, are set up to fail in terms of their academic outcomes, their Bar passage rates, and their career prospects.[68] A number of scholars have taken Sander to task for using questionable analytical methods that may have led to imprecise or faulty conclusions.[69] Yet his research has also drawn considerable support and continues to push the debate regarding affirmative action and the quality of education for law students.[70]

Another recent article synthesized empirical research from various law schools to examine the educational benefits of diversity.[71] The author summarized studies showing that students of color participate in law school at much lower levels than their White classmates.[72] Some refuse to participate at all, which the author sees as a decision to "choose silence as

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63. *Compare* Moran, *supra* note 57, at 2269 *with* Allen & Solórzano, *supra* note 61, at 286.

64. Allen & Solórzano, *supra* note 61, at 287.

65. Richard Sander, *A Systematic Analysis of Affirmative Action in American Law Schools*, 57 STAN. L. REV. 367, 370 (2004).

66. *See id.* at 449–54.

67. *Id.* at 447, 478.

68. *See id.* at 426–67.

69. *See* Moran, *supra* note 15, at 491; *see also* David L. Chambers, Timothy T. Clydesdale, William C. Kidder & Richard O. Lempert, *The Real Impact of Affirmative Action in American Law Schools: An Empirical Critique of Richard Sander's Study*, 57 STAN. L. REV 1855 (2004).

70. For example, the U.S. Commission on Civil Rights recently relied on Sander's research "as a basis for questioning accreditation standards" for law schools. *See* Moran, *supra* note 15, at 493.

71. *See* Carole J. Buckner, *Realizing* Grutter v. Bollinger*'s "Compelling Educational Benefits of Diversity" — Transforming Aspirational Rhetoric Into Experience*, 72 UMKC L. REV. 877 (2004).

72. *Id.* at 877–78, 886–87.

a way of protecting themselves from a hostile environment in and out of the classroom."[73] The lack of engagement of underrepresented or marginalized students in the classroom may be tied directly to feelings of isolation and alienation.[74] The author suggests that the disengagement of students of color, based on classroom environments focused primarily on White students, could be a cause of higher attrition rates and lower academic outcomes for these particular students.[75] In fact, there may be serious learning consequences for all students. The article suggests that the "robust exchange of ideas," proffered as one of the main educational benefits of diversity in *Grutter*, is heavily dependent on interactions among students—especially classroom exchanges—not simply their co-existence on campus.[76] To reap the maximum benefits from educational diversity, students from diverse backgrounds must engage in "meaningful interaction" that is both frequent and of a high quality.[77]

The University of California, Davis was the site of another empirical study examining diversity among the student body.[78] Though that law school is often considered to be "A Kinder, Gentler Law School" (as referenced in the title of the article), in fact the findings mirror those of other research indicating that students of color and other disempowered students have law school experiences that differ dramatically from those of their more mainstream peers.[79] The study found that students of color begin law school expecting that the environment is considered challenging for all students and may be even more taxing for them, especially at institutions without a critical mass of students from their own background.[80] In fact, students of color may be especially likely to experience hostility on the law school campus.[81] Because law school culture largely caters to White males, students of color and women are often particularly marginalized.[82]

Another group of researchers conducted an empirical research study of race, gender, and ethnicity in legal education at the University of Florida.[83] The quantitative data collected on that campus "reaffirms the existence of differential experience and an inegalitarian culture in legal

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73. *Id.* at 888.

74. *Id.*

75. *Id.* at 886.

76. *Id.*

77. *Id.* at 779–80.

78. Celestial S.D. Cassman & Lisa R. Pruitt, *A Kinder, Gentler Law School? Race, Ethnicity, Gender, and Legal Education at King Hall*, 38 U.C. DAVIS L. REV. 1209 (2005).

79. *Id.* at 1245.

80. *Id.* at 1283.

81. *See id.* at 1280.

82. *See id.* at 1269.

83. Nancy E. Dowd et al., *Diversity Matters: Race, Gender, and Ethnicity in Legal Education*, 15 U. FLA. J.L. & PUB. POL'Y 11 (2003).

education."[84] The authors found that many law students perceive a White male norm on their campuses, such that White males are the primary focus of classroom attention and legal knowledge.[85] Additionally, the study makes clear that "a significant majority of students" on the University of Florida Law School campus appreciate diversity of race and gender.[86] When discussing the specific benefits of diversity from the students' perspectives, the authors emphasize how diversity is especially useful in classroom conversations, in part because students from different backgrounds offer different viewpoints that may help with problem solving.[87] Overall, results from that study mirror other empirical research on law school diversity in finding that "race, ethnicity, and gender significantly affect students' experience of legal education."[88]

The authors note how "[c]lassroom culture" and teaching methods are received differently by people from different backgrounds.[89] They therefore suggest that faculty modify pedagogy such that a greater number of students are comfortable being actively involved in the learning process.[90] In fact, more inclusive classroom conversations may lead not only to improved "learning opportunities and outcomes" for underrepresented students, but could benefit the entire class since everyone would be exposed to a broader range of ideas through broader student input.[91] The study finds that an essential component of an engaging law school classroom is the inclusion of social context, and specifically of context that is race- and gender-inclusive.[92] To the extent that faculty members are uncomfortable with facilitating these often challenging conversations regarding race, gender, and other sensitive topics, the authors suggest that administration introduce diversity training "to unearth both conscious and unconscious prejudices that serve as barriers" for well-meaning faculty members to fully engage with all students.[93]

In fact, some faculty members may be more adept at initiating and facilitating classroom conversations about these particular issues. A recent empirical study utilizing a national data set of law student experiences with diversity examines how the race and gender of law school faculty affect the content and quality of teaching.[94] Although faculty of color and female faculty are significantly underrepresented among law faculty, espe-

84. *Id.* at 16.
85. *Id.* at 27.
86. *Id.* at 16.
87. *Id.* at 25–26.
88. *Id.* at 34.
89. *Id.*
90. *Id.* at 39.
91. *See id.* at 39–42.
92. *Id.* at 41.
93. *Id.* at 43.
94. Deo, Woodruff & Vue, *supra* note 9.

cially in more secure tenured positions,[95] these individuals are more likely to engage in conversations regarding race and gender than their White male counterparts.[96] The study found that students overwhelmingly support inclusion of these conversations in the classroom, as they tend to improve learning.[97] The study also found that some professors are so insensitive with regard to racial or gender issues that they contribute to the hostile environment facing their most marginalized students.[98]

2. Legal Scholarship on Inclusion of Context in Classroom Discussions

In addition to recent empirical research on diversity, legal scholars have also written about the ways in which including context—be it race, gender, or even class, culture, or history—may lead to better learning outcomes for the entire study body.[99] For instance, in their article *Diversity in Legal Education: a Broader View, A Deeper Commitment*, Cruz Reynoso and Cory Amron suggest a comprehensive approach to achieving and benefitting from diversity in legal education.[100] They emphasize that the quality of the interactions between diverse groups and individuals is especially important in fostering a supportive educational environment for students, faculty, and staff.[101] Unfortunately, the "barriers that exist in society at large" tend to follow students of color and women students onto the law school campus.[102] These marginalized students are less likely to participate in class and more likely to feel alienated by the culture of law school.[103] An increase in raw numbers may not necessarily translate into an improved environment; women, for instance, continue to feel marginalized in law school despite enrolling in numbers roughly equal to men.[104] Their disengagement may be due to their perspective often being discouraged and

95. *Id.* at 9 tbl.1.

96. *Id.* at 36–37.

97. *Id.* at 37.

98. *Id.* at 33–36.

99. For instance, Foundation Press has been publishing the Law Stories Series, which includes various volumes incorporating the rich social context or "stories" regarding particular cases in specific areas of law. *See, e.g.*, CIVIL PROCEDURE STORIES (Kevin M. Clermont ed., 2004); TORTS STORIES (Robert L. Rabin & Stephen D. Sugarman eds. 2003).

100. Cruz Reynoso & Cory Amron, *Diversity in Legal Education: a Broader View, A Deeper Commitment*, 52 J. LEGAL EDUC. 491, 492 (2002).

101. *Id.*

102. *Id.* at 496.

103. *Id.*

104. *Id.* at 491 ("Even with women enrolled in numbers nearly equal to men, for example, women continue to report encountering a hostile environment once they enter law school.").

devalued in the classroom.[105] Rather than focus purely on admitting a diverse group of students, the authors suggest that administrators strive to "create a learning environment in which diversity thrives," as most schools are failing at this endeavor today.[106] Especially because diversity positively affects the educational environment,[107] these two goals should be viewed as "complementary rather than competing virtues."[108] Additionally, diversity may prepare students to become effective "corporate counselors and deal makers" as well as "culturally competent leaders."[109] Ultimately, the authors also suggest a shift in pedagogy, such that faculty incorporate issues of diversity into the curriculum so as to encourage full participation and active learning from all students.[110]

The need for race, gender, and other issues often associated with diversity to be integrated into the law school curriculum is echoed by other legal scholars as well. Okianer Christian Dark suggests that providing a broad social context when examining black letter law helps better prepare students for the diversity they will encounter as lawyers in the ever-globalizing profession.[111] She suggests that inclusion of these concepts in the classroom "will strengthen and expand a student's intellectual capacity" in addition to making students more understanding of various viewpoints and perspectives.[112] Additionally, though some students and faculty members may be uncomfortable discussing sensitive issues in class,[113] the author argues for the importance of doing so not only in courses that are specifically related to race or gender (such as Civil Rights) but also in core, Bar-tested, or more mainstream classes (such as Tax) that many tend to see as divorced from such issues.[114]

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105. *Id.* at 496 ("When women do participate, the study showed, they are less often recognized for their contributions, and their comments are more likely to be devalued.").

106. *Id.* at 492. ("Inviting a diverse group into an unyielding institution will not advance the goal of diversity, even if all those invited make an appearance. The quality of the interactions that these women and minority students, faculty, and administrators experience once inside is as much a part of achieving diversity as ushering them through the door.").

107. *Id.* at 498 ("Diversity has a strong positive impact on educational experience.").

108. *Id.* at 500.

109. *Id.* at 505.

110. *Id.* at 503 ("A law school that truly institutionalized diversity's values would more naturally foster pedagogical and curricular innovation.").

111. Okianer Christian Dark, *Incorporating Issues of Race, Gender, Class, Sexual Orientation, and Disability into Law School Teaching*, 32 WILLAMETTE L. REV. 541, 575 (1996).

112. *Id.* at 544 ("An analysis of legal materials with an explicit consideration of diversity issues will strengthen and expand a student's intellectual capacity, as well as his or her capacity for passion and compassion.").

113. *Id.* at 557–60.

114. *Id.* at 573 ("Diversity issues can be raised across the law school curriculum . . . .").

Critical Race Theorists have long emphasized the importance of context in understanding the law, and have documented the many ways it tends to be excluded. For instance, Patricia Williams, who herself felt largely "invisible," "silenced," and "isolated" in law school, has written at length about the ways in which race and gender context have crucial significance, especially for students of color and female students.[115] She recognizes the distinction between inclusion of these issues (which may make for better teaching and learning) and inclusion with sensitivity (without which inclusion may prove to be detrimental).[116] Devon Carbado and Mitu Gulati also discuss various theoretical aspects of the affirmative action debate, stating that diversity can be especially important in educational settings, such as the law school classroom.[117] People from different racial or ethnic groups "have different experiences and thus view the world differently;" when they are encouraged to communicate in the classroom, all students learn from these various perspectives by drawing from individual life experiences.[118]

In addition to these articles focusing on social context and law school pedagogy, a recent book co-edited by Rachel Moran and Devon Carbado directly explores the importance of broader racial context within law.[119] *Race Law Stories* utilizes an interdisciplinary approach to understanding the racial context for particular cases, or the general social context for cases explicitly about race.[120] While the book begins with the question, "Do we need a race law canon?," the authors respond by explaining how one has been missing precisely because many fail to recognize the importance of exploring or including racial context when studying law.[121] Their hope is that their scholarship and other similar work can help combat the "marginalization of race in law school curricula."[122]

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115. *See* PATRICIA WILLIAMS, ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR 55 (1991) ("My abiding recollection of being a student at Harvard Law School is the sense of being invisible;" "Perhaps there were others who felt what I felt. Perhaps we were all aliens, all silenced by the dense atmosphere. Thinking that made me feel, ironically, less isolated.").

116. *See id.*

117. Devon W. Carbado & Mitu Gulati, *What Exactly is Racial Diversity?*, 91 CAL. L. REV. 1149, 1158–60 (2003) (reviewing ANDREA GUERRERO, SILENCE AT BOALT HALL: THE DISMANTLING OF AFFIRMATIVE ACTION (2002)) ("Racial diversity shapes the content of discussions, especially in educational settings;" "People with diverse backgrounds help facilitate such debate and shape the terms on which issues are discussed by drawing on their experiences and contributing their unique viewpoints.").

118. *Id.* at 1159.

119. *See* RACE LAW STORIES, *supra* note 15.

120. *See id.* at 3–4.

121. *Id.* at 1.

122. *See id.* at 2 ("In this sense, the absence of a stable race law canon has been reflected not only in the marginalization of race in law school curricula, but also in the very texts designed, at least in part, to instantiate a canon on race and the law.").

Thus, while the book directly discusses specific cases, the message of how racial context permeates throughout substantive areas of law is relevant to law school pedagogy more generally.

As discussed above, a handful of empirical research studies and other scholarly works have examined law school diversity generally and the particular importance of including social context within the curriculum specifically. However, legal scholarship is virtually silent on the issue of diverse interactions, or the ways in which diversity in numbers can translate into the improved learning outcomes that many—including the *Grutter* Court—expect. We must turn, then, to social science literature in order to fully appreciate and understand various dimensions of diversity and the ways in which a diverse student body may contribute to diverse interactions and improved classroom learning.

C. *Scholarship on Interaction*

While the parties, the *Grutter* Court, and the legal arena in general have been largely silent on this issue, other fields of study have been considering how diversity among students may lead to improved learning and professional outcomes for decades. In fact, recent years have seen increased concentration on the importance of diverse interactions and classroom conversations.[123] Researchers in the fields of psychology, education, and sociology in particular have provided useful scholarship examining interactions among people in diverse environments, dissatisfied with the simple assumption that a diverse mix of people results in a better environment. "Several studies point to the importance of school or classroom context in promoting positive social relations among white and non-white students."[124] The focus in many of these scholarly works has been on considering the interactions among students and how these interactions may lead to an improved education for all.

In the social science literature, three interrelated concepts often define the term "diversity:" (1) structural diversity, (2) interactional diversity, and (3) classroom diversity.[125] Structural diversity refers to "numerical rep-

123. *See, e.g.*, Patricia Gurin, *The Compelling Need for Diversity in Higher Education: Expert Report of Patricia Gurin*, 5 MICH. J. RACE & L. 363 (1999).

124. Maureen T. Hallinan, *Diversity Effects on Student Outcomes: Social Science Evidence*, 59 OHIO ST. L.J. 733, 746 (1998).

125. In fact, in the expert report she submitted to the *Grutter* Court in support of affirmative action, UCLA Professor of Education Patricia Gurin discussed distinctions between "structural diversity," "classroom diversity," and "informal interactional diversity," though they were ignored by the Court. Gurin, *supra* note 123, at 376–77; *see also* Gary R. Pike and George D. Kuh, *Relationships among Structural Diversity, Informal Peer Interaction, and Perception of the Campus Environment*, 29 REV. OF HIGHER EDUC. 425, 426 (2006).

resentation of individuals with diverse backgrounds."[126] In other words, when a law school is allowed to take account of race in making admissions determinations or otherwise discovers a way to have students of color enroll in meaningful numbers, this may lead to greater structural diversity within the student body as students of color are present in significant raw numbers. However, the presence of these students on campus does not automatically translate into their having meaningful interaction with people from different backgrounds. Once there is structural diversity, there is the *opportunity* for interaction; however, numerical representation of people from various racial and ethnic backgrounds does not necessarily result in meaningful interactions between them. There seems to be some intermediate step, which is the heart of what this Article explores.

The second and related concept, interactional diversity, occurs when students take advantage of "the opportunity to interact with students from diverse backgrounds in the broad, campus environment."[127] Interactional diversity specifically deals with the "frequency and quality of interaction with diverse peers," indicating that students are doing more than simply sitting next to one another.[128] Examples that have been studied in the past include friendship groups[129] as well as whether individuals spend time dining, dating, studying, or otherwise interacting with people from different racial groups.[130] When considering whether, how, and how much students interact, this Article draws directly from the concept of interactional diversity.

Finally, classroom diversity refers specifically to the site and content of interactions between diverse students, with a focus on the benefit of enhanced educational opportunities.[131] Classroom diversity speaks to the experience of "learning about diverse people . . . and gaining experience with diverse peers in the classroom."[132] Ideally, classrooms will be supportive environments where students can interact as equals and feel comfortable sharing their unique perspectives and experiences; these

126. Deo, Woodruff & Vue, *supra* note 9, at 7–8 n.21 (citing SYLVIA HURTADO, JEFFREY F. MILEM, ALMA R. CLAYTON-PEDERSEN, & WALTER R. ALLEN, ENACTING DIVERSE LEARNING ENVIRONMENTS: IMPROVING THE CLIMATE FOR RACIAL/ETHNIC DIVERSITY IN HIGHER EDUCATION (1999)).

127. Gurin, *supra* note 123, at 376.

128. *See* Deo, Woodruff & Vue, *supra* note 9, at 4 n.21.

129. Anthony Lising Antonio, *The Role of Interracial Interaction in the Development of Leadership Skills and Cultural Knowledge and Understanding*, 42 RES. IN HIGHER EDUC. 593 (2001).

130. Uma Madure Jayakumar, *Can Higher Education Meet the Needs of an Increasingly Diverse and Global Society? Campus Diversity and Cross-Cultural Workforce Competencies*, 78 HARVARD EDUC. REV. 615 (2008).

131. Patricia Gurin, Eric L. Dey, Sylvia Hurtado & Gerald Gurin, *Diversity and Higher Education: Theory and Impact on Educational Outcomes*, 72(3) HARVARD EDUC. REV. 330, 333 (2002).

132. *Id.*

kinds of exchanges lead to better and more engaged learning for all students.[133] Classroom diversity, the possibility of exchanges between diverse people within the classroom environment, and the resulting benefits for all students are the main focuses of this Article.

Social scientists suggest that structural diversity—the raw numbers of diverse students—is necessary, but not sufficient, to produce optimal learning outcomes.[134] The phrase "learning outcomes" refers to critical thinking, intellectual engagement, motivation, and other academic skills; learning outcomes are outcome measures commonly used to determine whether diversity in the student body has actual, meaningful results.[135] To achieve these benefits of diversity, the actual experiences of students matter most.[136]

Half a century ago, psychologist Gordon Allport was already considering the correlation between diverse interactions and improved outcomes. His explication of "contact theory" asserts that "intergroup contact typically leads to improved relationships between persons who differ by race and ethnicity."[137] To achieve actual benefits from diversity, according to this theory, an institution would need not only the structural

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133. In fact, the quality of the interaction matters a great deal, with scholars agreeing that positive interactions where individuals interact as equals in a mutually respectful environment are ideal. *See* Gregory M. Herek, *Myths about Sexual Orientation: A Lawyer's Guide to Social Science Research*, 1 L. & SEXUALITY REV. 133, 171 (1991) ("Empirical research with other minority groups has shown that inter-group contact often reduces prejudice in the majority group when the contact meets several conditions: When it is encouraged by the institution in which it occurs, makes shared goals salient, and fosters inter-group cooperation; when the contact is ongoing and intimate rather than brief and superficial; and when members of the two groups are of equal status and share important values."); *see also* Hallinan, *supra* note 124, at 746 ("In general, the desegregation studies indicate that students in racially and ethnically mixed schools will have positive attitudes and establish positive social ties with students from other racial and ethnic groups under certain conditions. These conditions include a school climate supportive of cross-racial and cross-ethnic social interactions and structural and organizational features of the school that permit and encourage social interactions.").

134. Gurin considers both learning and democracy as outcome measures in her empirical research studies of diversity. *See* Gurin, Dey, Hurtado & Gurin, *supra* note 132, at 332–33. In fact, a number of other outcome measures are considered when referencing diversity, including developmental (perspective-taking), social (cultural/racial awareness), and psychological (perceptions of campus racial climate and satisfaction).

135. *See id.*; *see also* Mitchell J. Chang, Nida Denson, Victor Sáenz & Kimberly Misa, *The Educational Benefits of Sustaining Cross-Racial Interaction among Undergraduates*, 77 J. OF HIGHER EDUC. 430 (2006); Mitchell J. Chang, *Does Racial Diversity Matter? The Educational Impact of a Racially Diverse Undergraduate Population*, 40 J.C. STUDENT DEV. 377 (1999) (finding that socializing across race and discussing racial/ethnic issues positively affects retention, intellectual confidence, social self-confidence, and satisfaction with college).

136. *See* Deo, Woodruff & Vue, *supra* note 9.

137. Hallinan, *supra* note 124, at 751 (citing GORDON W. ALLPORT, THE NATURE OF PREJUDICE (1954)).

diversity discussed above, but also interracial interaction.[138] In fact, diverse interactions—whether inside or outside of the classroom—have been shown to exert significant influence in teaching cross-cultural lessons to diverse groups of students.[139] For instance, the improved academic experiences reported by medical students in one study relate directly to their personal cross-cultural interactions with peers.[140] Studies of the workforce also indicate that interactional diversity can have long-term benefits in the competencies of White employees.[141]

Thus, structural diversity is only the first step in achieving educational benefits from diversity; real results depend on interactional and classroom diversity. Some experts who submitted testimony in *Grutter* did emphasize this. For instance, Professor of Psychology and Women's Studies Patricia Gurin drew the following conclusion from her studies of diverse learning environments:

> Structural diversity is essential but, by itself, usually not sufficient to produce substantial benefits; in addition to being together on the same campus, students from diverse backgrounds must also learn about each other in the courses that they take and in informal interaction outside of the classroom.[142]

In other words, law schools must indeed have policies in place that admit and enroll students of color onto their campuses in meaningful numbers. But without interaction between students from different backgrounds in the classroom and elsewhere on campus, schools are falling short of their full potential to optimize learning for all students. If students from particular racial or ethnic backgrounds form exclusive groups for socializing in the cafeteria or studying, this will likely result in little interaction between students who together form a diverse student body.[143]

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138. ALLPORT, *supra* note 137, at 276–79.

139. See RICHARD J. LIGHT, MAKING THE MOST OF COLLEGE: STUDENTS SPEAK THEIR MINDS 131–36 (2001).

140. Dean K. Whitla et al., *Educational Benefits of Diversity in Medical School: A Survey of Students*, 78 ACADEMIC MED. 460, 465 (2003).

141. Jayakumar, *supra* note 130, at 643.

142. *See* Gurin, *supra* note 123, at 377. Note that Gurin's research generated both support and criticism among fellow social scientists. *See* Moran, *supra* note 15, at 465 (citing methodological and other critiques of Gurin's research, as well as supporters defending it as valid and reliable).

143. Many students of color create and join race/ethnic-specific student organizations in order to be around others from similar backgrounds and draw on the supportive environment that these groups provide. *See* Deo, Allen, Panter, Daye & Wightman, *supra* note 9; Portia Y.T. Hamlar, *Minority Tokenism in American Law Schools*, 26 How. L.J. 443 (1983). Especially when people are underrepresented in their scholarly environments, they often congregate in order to create their own safe space as a "counter space" or buffer from the broader community. *See* Daniel Solórzano, Walter R. Allen & Grace Carroll,

Without such interactions, students miss out on the "key links that allow[] structural diversity to yield desirable pedagogical outcomes."[144] The next section considers whether and where these interactions may be happening for students at the University of Michigan Law School.

III. AN EMPIRICAL ANALYSIS OF DIVERSE INTERACTIONS AT THE UNIVERSITY OF MICHIGAN LAW SCHOOL

A. *Empirical Research Data & Methodology*

The data for this Article come from the Perspectives on Diversity study (POD), a survey and focus group study involving over 500 research subjects who were all enrolled as J.D. or L.L.M. students at the University of Michigan Law School during the 2009–2010 academic year.[145] Thus, the assumptions explicit in the *Grutter* opinion are tested using data collected at the same law school that defended the affirmative action policy at issue in *Grutter*, and with the vast majority of students admitted under the policy that *Grutter* upheld.[146] All enrolled law students were invited to participate in the study through an invitation sent to each student's unique email address via the online data collection tool SurveyMonkey. In addition, students were sent a web link whereby they could input their email address and complete the survey on a website instead of clicking on the email link sent to them. All responses were kept confidential and anonymous. Students were given the option of entering their email address to be considered in a raffle drawing for an iPod Shuffle and iTunes gift cards. The survey was live online during the month of March 2010.

The survey study included five general domains:

Keeping Race in Place: Racial Microaggressions and Campus Racial Climate at the University of California, Berkeley, 23 CHICANO-LATINO L. REV. 15 (2002); Allen & Solórzano, *supra* note 61; BEVERLY DANIEL TATUM, "WHY ARE ALL THE BLACK KIDS SITTING TOGETHER IN THE CAFETERIA?" AND OTHER CONVERSATIONS ABOUT RACE (2003).

144. Moran, *supra* note 15, at 464 (citing Gurin, *supra* note 123).

145. The mixed-method data collection and analysis utilized in this study was specifically chosen to provide a holistic assessment of diversity and the law school experience at the University of Michigan Law School. This methodology grows out of and is adapted from the one used by the Educational Diversity Project, a national, longitudinal mixed-method study of diversity and the American law school experience. *See* THE EDUCATIONAL DIVERSITY PROJECT, http://www.unc.edu/edp (last visited Feb. 26, 2011). As a previous researcher on the Educational Diversity Project, the author is indebted to the lead investigators of that study for originating the research design merging survey and focus group data that is used again in this study.

146. Note that roughly half of the Michigan Law School class of 2012 (who were first-year law students at the time of this study) were admitted, following the passage of Proposal 2, under a race-blind admissions system. *See* Email from University of Michigan Law School Dean Sarah Zearfoss regarding admissions following Proposal 2 (on file with author).

1. Demographic questions (i.e., race, sex, date of birth, year in school);
2. Background questions (i.e., whether a parent had been born outside of the U.S., whether a language other than English had been spoken in the home);
3. Questions on interaction with diverse groups of people in college and law school (*see infra* Appendix B, POD Survey Questions 11 and 12);
4. Questions on law school generally (i.e., sources of support, membership in organizations, law school debt, law school GPA); and
5. Attitudinal questions about law school (i.e., agree/disagree with statements regarding diversity of the curriculum, levels of diversity at the law school, etc.)

A total of 505 students completed the survey portion of the study, including 370 students who responded to the email invitations and 135 who completed the survey online through the common weblink. This represents 47% of the University of Michigan Law School student body.[147]

Approximately 53% of the survey participants were female, which roughly parallels the enrollment at the University of Michigan Law School[148] (see Table 1). The racial and ethnic background of survey participants includes roughly 70% White students, 7% Black students, 4% Latinos, 16% Asian/Pacific Islanders (API), 2% Native Americans, and 3% who identified as some other racial or ethnic group (see Table 2). Participants ranged from first-year to third-year students, as well as joint degree students and others spending more than three years in school, with about 38% beginning law school in 2009,[149] 37% beginning in 2008, and 22% beginning in 2007 (see Table 3).

147. The total number of students enrolled at the University of Michigan Law School for the academic year 2009–2010 was 1,087. Since 505 of these students participated in the POD study the response rate is 46.5%. University of Michigan Law School statistics were obtained from the administration and are on file with the author.

148. The University of Michigan Law School provides diversity statistics on its website for its student body according to expected graduation date. *See infra* Appendix A, Tables 11–12 for comparative purposes.

149. Again, roughly half of this cohort of students was admitted under a race-blind system as required by Proposal 2.

TABLE 1
SURVEY RESPONDENTS BY SEX. PERSPECTIVES ON DIVERSITY STUDY, 2010 (N=502)

	Sex		
	Male	*Female*	**TOTAL**
N	237	264	501
%	47.31%	52.69%	100.00%

TABLE 2
SURVEY RESPONDENTS BY RACE. PERSPECTIVES ON DIVERSITY STUDY, 2010 (N=502)

Race		TOTAL
Black	N	33
	%	6.57%
Asian/Pacific Islander	N	79
	%	15.94%
Latino	N	19
	%	3.78%
Native American	N	8
	%	1.59%
White	N	349
	%	69.52%
Other	N	14
	%	2.79%
Total	N	502
	%	100.00%

TABLE 3
SURVEY RESPONDENTS BY YEAR BEGAN LAW SCHOOL. PERSPECTIVES ON DIVERSITY STUDY, 2010 (N=502)

	Year Respondent Began Law School					
	<2006	2006	2007	2008	2009	**TOTAL**
N	6	12	112	184	188	502
%	1.20%	2.39%	22.31%	36.65%	37.45%	100.00%

The Perspectives on Diversity study also includes a qualitative component. While quantitative data (i.e., survey responses) can provide broad commentary on trends and preferences, qualitative data (i.e., interview and focus group) transcripts can be more informative for understanding more nuanced details.[150] Thus, all students who participated in the survey por-

150. *See* JOHN CRESWELL, RESEARCH DESIGN: QUALITATIVE & QUANTITATIVE APPROACHES 203–25 (Vicki Knight et al. eds., 3d ed. 2009); *see also* ROBERT EMERSON, CONTEMPORARY FIELD RESEARCH PERSPECTIVES AND FORMULATIONS vii–viii (2d ed. 2001).

tion of the study were invited to join one of the many focus groups held over two days at the University of Michigan Law School campus in Ann Arbor, Michigan, by indicating their availability and contact information on the survey itself. Ninety-seven students participated in the qualitative component of the study. All focus groups consisted of between one and five students and took about forty minutes to complete. Students were assigned pseudonyms and committed to keep focus group discussions confidential. Thus, no names used in this research are actual names of students. Each participant was given a $5 Starbucks card as a small token of appreciation for participating in the focus group.

Approximately 66% of the focus group participants were female (see Table 4). The participants included 56% White students, 12% Black students, 6% Latinos, 25% APIs, and 1% Native American (see Table 5). The students were 39% first year students, 35% second years, and 26% third years (see Table 6).

Though a 47% response rate is at the higher end of empirical studies of law schools, it is nevertheless a potential limitation of this study.[151] As mentioned earlier, invitations to participate were carefully worded to solicit the participation of students from all walks of life and with varying perspectives on diversity; because all enrolled students were invited to complete the survey and partake in focus group sessions, there was no sampling bias in terms of who was selected to participate in the research. In addition, weekly reminders that the study was available online were sent by the University of Michigan Law School Student Body Government, rather than by any particular student organization or entity, in order to emphasize that the study was formal, scientific, and unbiased in perspective. Nevertheless, as roughly half of the student body did not respond, those individuals may have divergent viewpoints from those who did, and so cannot be said to be definitively represented by the study. The concern regarding selection bias is somewhat minimized by the broad representation of political and other perspectives that participants were comfortable sharing during both survey completion and focus group sessions.[152] This research study received IRB approval from Western IRB.[153]

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151. For instance, Moran's study of University of California Berkeley Boalt Hall received a 35% response rate. Moran, *supra* note 57, at 2273. Similarly, Dowd, Nunn & Pendergast's study of the University of Florida Levin College of Law received only a 20% response rate. Dowd, Nunn & Pendergast, *supra* note 83, at 24. The highest response rate of a law school empirical study may be Cassman & Pruitt's study of King Hall at the University of California at Davis, which received at 55% response rate. Cassman & Pruitt, *supra* note 78, at 1237.

152. For example, students who self-identified as "conservative," "Libertarian," and members of the Federalist Society all participated in the study, indicating that not only "liberal" students interested in preserving or promoting diversity chose to respond.

153. Certification on file with the author.

TABLE 4
FOCUS GROUP PARTICIPANTS BY SEX. PERSPECTIVES ON DIVERSITY STUDY, 2010 (N = 97)

	Sex		
	Male	*Female*	**TOTAL**
N	33	64	97
%	34.02%	65.98%	100.00%

TABLE 5
FOCUS GROUP PARTICIPANTS BY RACE. PERSPECTIVES ON DIVERSITY STUDY, 2010 (N = 97)

Race		TOTAL
Black	N	12
	%	12.37%
Asian/Pacific Islander	N	24
	%	24.74%
Latino	N	6
	%	6.19%
Native American	N	1
	%	1.03%
White	N	54
	%	55.67%
Total	N	97
	%	100.00%

TABLE 6
FOCUS GROUP PARTICIPANTS BY YEAR BEGAN LAW SCHOOL. PERSPECTIVES ON DIVERSITY STUDY, 2010 (N = 97)

	Year Respondent Began Law School					
	<2006	2006	2007	2008	2009	**TOTAL**
N	0	0	25	34	38	97
%	0%	0%	25.77%	35.05%	39.18%	100.00%

As mentioned above, this mixed-method study involves both quantitative and qualitative data collection and analysis.[154] The quantitative analysis reports results of responses to the online survey. Analyses presented in this section include cross-tabulations of the quantitative data using STATA software, a data analysis tool commonly used among social scientists to conduct statistical analyses. Cross-tabulations are a simple way of identifying, organizing, and presenting broad patterns in quantitative

154. Relevant questions from the Perspectives on Diversity survey instrument and focus group protocol are reproduced *infra* at Appendix B.

data—for example, the percentage of students from a particular race/ethnic background who value conversations regarding issues of diversity in the classroom.[155]

The qualitative analysis presented here draws on results of data collected during focus group sessions. Qualitative analyses were conducted using ATLAS.ti software, a data analysis tool commonly used for analyzing focus group and interview studies. All data were coded using emerging theme analysis, whereby the data were coded according to categories and themes revealed by the data.[156] Thus, familiarity with the data led to the creation of the coding scheme and the analyses presented.

B. *Diverse Interactions Generally*

The Perspectives on Diversity study evaluates interactional diversity first through analysis of a series of survey questions asking students to rank their level of interaction with other students from various backgrounds.[157] Analysis shows that students have high levels of interaction with their classmates (see Table 7). In fact, if we consider the effect of race on interaction, we see that students have high levels of interaction with peers from their same racial or ethnic background, as well as with students from different backgrounds.[158] Most respondents have at least some interaction with students from backgrounds that are different from their own, though many have higher levels of contact with people from their own racial or ethnic group.[159] For instance, while respondents from all backgrounds report that they interact with Black students, and Black students themselves report that they interact with all others, Black students also report higher levels of interaction with their same-race peers.[160] Many students report limited interaction with Native American students, perhaps based on the fact that there are so few Native Americans on the University of Michigan Law School campus.[161] On the other hand, respondents have very high levels of interaction with White students, with a full 92% of the sample

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155. *See infra* Table 9.

156. BARNEY G. GLASER & ANSELM L. STRAUSS, DISCOVERY OF GROUNDED THEORY: STRATEGIES FOR QUALITATIVE RESEARCH (Transaction Publishers 1967); *see also* Emerson, *supra* note 150, at 291–95.

157. *See infra* Appendix B, POD Survey Question 11.

158. *See infra* Appendix A for tables related to interaction by specific race.

159. *Id.*

160. *See infra* Appendix A, Table 13 (showing levels of interaction with Black students by race).

161. *See infra* Appendix A, Table 11 (showing University of Michigan Law School student population data indicating that Native American students comprise only 2% of the student body population). Seven Native American students are included in the POD sample. See *infra* Appendix A, Table 16 for levels of interaction with Native American students by race.

reporting "a lot" of contact with this population. In fact, students from all race/ethnic groups report high levels of interaction with White students.[162] At least 94% of participants from each race report having "a lot" or "some" contact with White students, though 6% of Black, API, and Latino students and 2% of White students report having "not much" interaction with them.[163] This again may reflect the number of students in this population, as White students represent the majority of the Michigan Law School student population.[164] Thus, while structural diversity may not lead inevitably to interactional diversity, it seems, at least at the University of Michigan Law School, that students are indeed interacting with diverse peers.

TABLE 7
LEVEL OF INTERACTION WITH TOTAL POPULATION, BY RACE.
PERSPECTIVES ON DIVERSITY STUDY, 2010

Race		Level of Interaction				TOTAL
		A Lot	*Some*	*Not Much*	*None*	
Black	N	85	232	138	18	473
	%	17.97%	49.05%	29.18%	3.81%	100.00%
Asian/Pacific Islander	N	216	212	37	4	469
	%	46.06%	45.20%	7.89%	0.85%	100.00%
Latino	N	68	181	185	39	473
	%	14.38%	38.27%	39.11%	8.25%	100.00%
Native American	N	16	85	191	173	465
	%	3.44%	18.28%	41.08%	37.20%	100.00%
White	N	438	27	6	1	472
	%	92.80%	5.72%	1.27%	0.21%	100.00%
Other	N	46	130	137	52	365
	%	12.60%	35.62%	37.53%	14.25%	100.00%

In addition to the frequency of interaction, the character of the interactions is especially relevant when considering the benefits of diversity.[165] If students had a high number of *negative* interactions with students from different backgrounds, few would likely benefit from educational diversity in spite of frequent contact. In fact, at the University of Michigan Law School a large majority of respondents from all racial

162. *See infra* Appendix A, Table 17 (showing levels of interactions with White students by race).

163. *Id.*

164. *See infra* Appendix A, Table 11 (showing University of Michigan Law School student population data by race, indicating that White students comprise 61% of the student population).

165. *See* Herek, *supra* note 133, at 143–48 (addressing the importance of individuals interacting as equals in mutually respectful environments).

and ethnic backgrounds report "very friendly" or "sociable" interactions with other students (see Table 8). Few students characterize their diverse interactions as "distant," and even fewer report "hostile" interactions with diverse peers.[166]

If we look specifically by group, we see that students from all race/ethnic backgrounds get along well with their peers. For instance, roughly 95% of respondents from all racial and ethnic groups indicate that they have "sociable" or "very friendly" interactions with Black students.[167] Students report similarly positive interactions with API peers, with only 4% of the student population reporting "distant" or "hostile" interactions with this group. While 7% of respondents from all racial and ethnic groups report distant interactions with Latino students, this may be the result of Latinos comprising only 4% of the student body.[168] The small numbers and percentages of Native American students on campus probably explain why 14% of Michigan Law School students characterize their interactions with Native Americans as "distant."[169] Overall, students have positive, friendly interactions with peers from diverse backgrounds.

TABLE 8
CHARACTERIZATION OF INTERACTIONS WITH TOTAL POPULATION, BY RACE. PERSPECTIVES ON DIVERSITY STUDY, 2010

		Characterization of Interactions				
Race		*Very Friendly*	*Sociable*	*Distant*	*Hostile*	TOTAL
Black	N	242	200	25	0	467
	%	51.82%	42.83%	5.35%	0.00%	100.00%
Asian/Pacific Islander	N	275	175	19	2	471
	%	58.39%	37.15%	4.03%	0.42%	100.00%
Latino	N	221	207	32	0	460
	%	48.04%	45.00%	6.96%	0.00%	100.00%
Native American	N	170	179	55	1	405
	%	41.98%	44.20%	13.58%	0.25%	100.00%
White	N	304	152	13	0	469
	%	64.82%	32.41%	2.77%	0.00%	100.00%
Other	N	150	162	16	2	330
	%	45.45%	49.09%	4.85%	0.61%	100.00%

166. Only two students indicate hostile interactions with API and Other students, and one student indicates hostile interactions with Native American students. No other hostile interactions are indicated. *See infra* Appendix A, Table 8.

167. The exception here is Native American students, though even the vast majority of these students (86%) also report positive interactions. *See infra* Appendix A, Table 8.

168. *See infra* Appendix A, Table 11.

169. Native Americans comprise only 2% of the University of Michigan Law School student body. *See infra* Appendix A, Table 11.

What do these summary statistics tell us? To some extent, the Supreme Court may have been correct that a diverse student body would lead to interaction between students from different backgrounds. In fact, without enrollment of students of color in somewhat significant numbers, there could be no opportunity for diverse interaction. Drawing from the social science literature discussed above, we see that there seems to be sufficient structural diversity (raw numbers of students of color) for interactional diversity to be occurring. Yet, what may be *necessary* for cross-racial understanding and improved classroom conversations, as found by the *Grutter* Court to flow from structural diversity,[170] may not be *sufficient* to lead to these results. Even if there is significant interactional diversity, it may not be happening in the classroom or may not lead to the expected lively conversations and improved learning through reliance on diverse perspectives. If we focus on classroom diversity, it is unclear whether the structural diversity and interactional diversity that are apparent at the University of Michigan Law School are leading to the expected benefits in the classroom.

The quantitative data show that not only are a great number of diverse interactions occurring, but these interactions are overwhelmingly positive as reported by students from different racial and ethnic backgrounds. What is not clear from the data discussed so far is where exactly these interactions occur. Students could be interacting with their peers in the classroom, elsewhere on campus, or at off-campus activities or events. On the one hand, this may seem irrelevant, so long as positive diverse interactions are happening. Yet, the main purpose of affirmative action according to *Grutter* is to promote educational diversity in order to create stimulating classroom discussions that then dismantle stereotypes, lead to increased cross-racial understanding, and craft better professionals in our globalized society.[171] Legal scholars have made clear that context is supremely relevant in explaining the law, and that a sharing of narratives involving personal experiences can make abstract legal theories more accessible to students from a wide variety of backgrounds.[172] Classroom diversity, defined above as the specific exchanges occurring during class time that lead to students "learning about diverse people . . . and gaining experience with diverse peers in the classroom," is also the third dimension of diversity that many scholars consider when examining the education

170. *See supra* text accompanying notes 32–34 (citing Grutter v. Bollinger, 539 U.S. 306, 330 (2006)) (explaining that the *Grutter* Court expected that " 'classroom discussion is livelier, more spirited, and simply more enlightening and interesting' when the students have 'the greatest possible variety of backgrounds.' ").

171. *See supra* notes 49–55 and accompanying text (providing textual analysis of *Grutter*).

172. *See* Deo, Woodruff & Vue, *supra* note 9; *see also* Dark, *supra* note 111; Moran, *supra* note 15.

context.[173] Therefore, it is relevant to examine classroom conversations specifically. If these conversations do not take place in the classroom, in spite of the necessary structural diversity being in place, it is useful to determine the causes and effects of their exclusion and some possible remedies.

C. *Diversity Discussions*

This section speaks directly to "diversity discussions," which refer to classroom conversations regarding race, gender, and/or sexual orientation.[174] Conversations on these topics may occur spontaneously in the law school classroom when discussing particular cases or issues that are especially relevant to the topic areas (i.e., sentencing guidelines, rape laws, civil rights). However, these conversations may seem highly relevant to particular students in other legal contexts as well—even contexts in which others do not see "diversity discussions" as important or useful.[175] Nevertheless, as legal scholarship by Critical Race Theorists and others who work in this area has shown, social context may help students understand complex issues of law by making them come alive through personal experiences.[176]

1. Support for Diversity Discussions

Before a discussion of the empirical data regarding the occurrence of diversity discussions on the University of Michigan Law School campus, this Article includes a short section on whether students support the inclusion of these conversations. As is clear from Table 9, a large majority of respondents indicate that they support inclusion of diversity discussions in the classroom. Roughly three-quarters of students from all racial and ethnic backgrounds (89% of White respondents, 82% of Latino respondents, 78% of API respondents, 77% of Other respondents, 75% of Native American respondents, and 73% of Black respondents) agree that they themselves are supportive "when faculty include discussions of race, gender, or sexual orientation in the classroom." While some students (12% of the total) express their indifference to the inclusion of these conversations, very few (under 4%) state that they do not support their inclusion in class.[177]

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173. *See* Gurin, Dey, Hurtado & Gurin, *supra* note 131, at 333.

174. *See* Deo, Allen, Panter, Daye & Wightman, *supra* note 9, at 3.

175. *See* Dark, *supra* note 111.

176. *See* Deo, Woodruff & Vue, *supra* note 9; Dark, *supra* note 111; Moran, *supra* note 15.

177. Note that while 25% of Native American students and 25% of Other students do not support the inclusion of diversity discussions in class, these percentages account for only five respondents total.

TABLE 9
LEVEL OF PERSONAL SUPPORT FOR DIVERSITY DISCUSSIONS, BY RACE. PERSPECTIVES ON DIVERSITY STUDY, 2010 (N=441)

Race		Level of Agreement					Total
		Strongly Agree	*Agree*	*Neither*	*Disagree*	*Strongly Disagree*	
Black	N	14	8	7	0	1	30
	%	46.67%	26.67%	23.33%	0.00%	3.33%	100.00%
Asian/Pacific Islander	N	27	25	12	1	1	66
	%	40.91%	37.88%	18.18%	1.52%	1.52%	100.00%
Latino	N	8	6	3	0	0	17
	%	47.06%	35.29%	17.65%	0.00%	0.00%	100.00%
Native American	N	3	3	0	0	2	8
	%	37.50%	37.50%	0.00%	0.00%	25.00%	100.00%
White	N	165	102	33	5	3	308
	%	53.57%	33.12%	10.71%	1.62%	0.97%	100.00%
Other	N	6	3	0	2	1	12
	%	50.00%	25.00%	0.00%	16.67%	8.33%	100.00%
Total	N	223	147	55	8	8	441
	%	50.57%	33.33%	12.47%	1.81%	1.81%	100.00%

In addition to reporting on their personal support for including these conversations in class, survey participants also indicated whether they believed their peers supported inclusion of diversity discussions (see Table 10). Interestingly, respondents believed their peers were not as supportive as they themselves were, with 82% of Latino respondents, 75% of Other respondents, 75% of White respondents, 68% of API respondents, 50% of Native American respondents, and only 43% of Black respondents reporting that they believe "[m]ost of my classmates are supportive when faculty include discussions of race, gender, or sexual orientation in the classroom."

TABLE 10
BELIEF IN PEER SUPPORT FOR DIVERSITY DISCUSSIONS, BY RACE.
PERSPECTIVES ON DIVERSITY STUDY, 2010 (N=437)

Race		Level of Agreement					TOTAL
		Strongly Agree	*Agree*	*Neither*	*Disagree*	*Strongly Disagree*	
Black	N	2	11	14	1	2	30
	%	6.67%	36.67%	46.67%	3.33%	6.67%	100.00%
Asian/Pacific Islander	N	10	34	11	6	4	65
	%	15.38%	52.31%	17.19%	9.23%	6.15%	100.00%
Latino	N	4	10	3	0	0	17
	%	23.53%	58.82%	17.65%	0.00%	0.00%	100.00%
Native American	N	0	4	1	3	0	8
	%	0.00%	50.00%	12.50%	37.50%	0.00%	100.00%
White	N	65	163	63	10	4	305
	%	21.31%	53.44%	20.66%	3.28%	1.31%	100.00%
Other	N	3	6	2	1	0	12
	%	25.00%	50.00%	16.67%	8.33%	0.00%	100.00%
Total	N	84	228	94	21	10	437
	%	19.22%	52.17%	21.51%	4.81%	2.29%	100.00%

2. Educational Benefits of Diversity Discussions

Three main themes emerge from the data regarding the benefits of diversity discussions on learning outcomes. These relate specifically to the ideas put forward in *Grutter* and elsewhere that a) greater structural diversity leads to increased classroom diversity and improved learning; b) classroom diversity results in open minds and engaging classroom conversations; and c) more structural diversity leads to greater participation and less tokenism. Each of these themes is discussed below, using actual quotes from law students who participated in the focus group portion of the study to highlight results of the qualitative data analysis.[178]

a. *Greater Diversity Leads to Greater Learning*

One overarching theme that emerges from the data is that students strongly believe that increased diversity leads to improved learning in the classroom. Many students in the sample discuss ways in which diversity of background and experience leads to additional viewpoints and perspectives being voiced in the classroom. Additionally, when students include examples from their own lives in detailing their perspectives, these contributions go a long way in making abstract legal theories more concrete and

178. As a reminder, all names of research subjects used in this study are pseudonyms, in order to protect the confidentiality of participants.

accessible, as earlier research on law school curricula suggests.[179] For instance, Wilfred[180] is an API man who says, "I think one of the advantages that I've noticed especially in classroom discussions is that you really do get a lot of different viewpoints from people who've had experiences that you didn't have." He notes that this is especially important "in a law school setting," where students can actually benefit from classroom diversity through classroom interaction and conversation. Lisa, a White female, echoes this observation and applies it, noting how her own learning would be limited if she were studying by herself or with others from the same background. In fact, she wishes there were more diversity as she very much values when others share their own perspective; otherwise she would see things only from her own limited perspective. Lisa says:

> Classroom discussion would be way better [with more diversity]. For me, coming from a [more mainstream] background, there are so many things that I do not even think about. They're in the front of somebody else's mind because it's something they experienced or something they're concerned about. I wouldn't even think about it but I'd like to be thinking about it. I need somebody to show me other things to be concerned with and to be aware of.

This kind of response substantiates the studies indicating that more diverse conversations in the classroom may better prepare students to deal with global clients and colleagues in the future.[181] A Black female student, Raven, provides a concrete example of how this can happen in the classroom. She suggests that because Black and White students may have different experiences with the police and different attitudes or approaches based on this background, they may see issues of Criminal Law differently. Raven notes the following:

> We had an example in our Criminal Law class where [a White student] mentioned, "I don't understand why the Black man would be concerned about the police officer stopping him. I don't have a problem with a police officer stopping me." And I'm thinking, "Probably you don't get shot when the police officer stops you."

This quote highlights Carbado & Gulati's point that students of color as well as others interested in contributing to diversity discussions "help facilitate such debate and shape the terms on which issues are discussed by

179. *See* Deo, Woodruff & Vue, *supra* note 9, at 90; Dark, *supra* note 111, at 553–554; Moran, *supra* note 15, at 464.

180. Note again that all names of student research participants that are presented in this Article are pseudonyms.

181. *See* Dark, *supra* note 111, at 553–54.

drawing on their experiences and contributing their unique viewpoints," even while specifically allowing for difference within a particular identity group.[182]

It is important to make clear here that the purpose of including diverse perspectives in law school is not necessarily to change minds; rather, it is to expose people to varied perspectives so that they may learn better and become more effective lawyers than those who can only analyze issues from one viewpoint. Since so much of the law requires the ability to look at problems from multiple angles, in order to fully understand different experiences and assumptions, it may be especially important to include diversity in the legal classroom. Josh, a White male, makes this point directly. Hearing other perspectives has not necessarily changed his mind much, but it allows him to see things from different viewpoints and therefore understand legal issues better. Josh says:

> I can't say that my mind in key issues has been changed a lot, but there has [sic] been a lot of times where people who grew up from a different background made comments and argued different sides of the issue that previously my thoughts were along the lines of, "How could anyone think otherwise?" And then to see someone from the different background approach it from a different angle! I can't say it changed my mind but it helped me understand the different viewpoints better. They are just as valid as mine.

Thus, diversity of background is often a proxy for diversity of perspective and experience. Especially as race, gender, and sexual orientation continue to be salient features of American life, these immutable identity characteristics continue to have significant effects on attitudes and opinions.[183] When these are expressed in the classroom, better learning ensues.

b. *Diversity Leads to Open Minds and Engaging Conversations*

A related point deals with the ways in which exposure to varying perspectives in the classroom not only improves learning, but opens minds. Colin, a White male student, says that if there were more diversity, "people would question their own views about privilege, [and] that upper middle-class, White, straight, male is the default and everything else is a disadvantage. When you are surrounded by people that are very diverse there is no default." It is obviously not just "upper middle-class, White, straight, males" who stand to benefit; students from all backgrounds can

182. *See* Carbado & Gulati, *supra* note 117, at 1160.

183. Bell, *supra* note 57; *see also* EDUARDO BONILLA-SILVA, RACISM WITHOUT RACISTS: COLOR-BLIND RACISM AND THE PERSISTENCE OF RACIAL INEQUALITY IN THE UNITED STATES 1–4 (2003).

become more open-minded when exposed to different viewpoints. For instance, a Black woman named Sharice talks distinctly about the ways in which she has become more open-minded while learning from classmates from different backgrounds than herself who express themselves in the classroom. Sharice says, "I know being here has opened my eyes up to see the experiences of other groups. I think it's important in remembering those experiences in addition to yours when you go to classes. You see a bigger picture rather than looking at things in one way." This response supports legal scholarship indicating that students who experience diversity discussions appreciate how the law becomes clearer with the inclusion of broader social context.[184]

Additionally, students mention that classroom conversations that incorporate diverse perspectives are better than those from just one viewpoint because they are personal and related to reality. Hanna, a Latina, thinks that if students from diverse backgrounds felt comfortable participating in class, it is "obvious" that classes would be "more interesting and engaging" in addition to bringing up "different concepts." Unfortunately, she does not see much participation from many students of color. As a Latina student named Teresa notes, a connection to a person's history and reality also make the conversations livelier; Teresa says, "[E]veryone has a story, and everyone brings that to the table. Regardless of whether we are talking about something personal or not, [this story] affects how you think about everything and how you view different laws and how you view different doctrines." Teresa's observation ties directly to *Race Law Stories*[185] and the rest of the Law Stories Series books that seek to highlight the "stories," or context, surrounding seminal cases in various areas of the law;[186] it also illuminates the *Grutter* Court's expectation that diversity should lead to "livelier, more spirited" classroom conversations.[187]

Of course, as other legal scholars have noted, students of color, other disempowered students, and all of those interested in including social context in the curriculum also need the support and encouragement of faculty to engage in diversity discussions.[188] An API female student named Maria agrees that conversations would be "interesting and engaging" if there were more classroom diversity; however, she goes a step further by making clear that a demographic change in the student body would have to be accompanied by "an environment that was receptive to differing

184. *See* Deo, Woodruff & Vue, *supra* note 9, at 30–33; *see also* Dark, *supra* note 111, at 544–52; Moran, *supra* note 15, at 464.

185. See RACE LAW STORIES, *supra* note 15.

186. *See, e.g.* CIVIL PROCEDURE STORIES, *supra* note 99; PROPERTY STORIES (Gerald Korngold & Andrew P. Morriss, eds., 2004); TORTS STORIES, *supra* note 99.

187. Grutter v. Bollinger, 539 U.S. 306, 330 (2003) (citing Petition for Writ of Certiorari, *Grutter*, 539 U.S. 306 (2003) (No. 02-241), at 246a, 244a).

188. *See* Moran, *supra* note 57, at 2284; *see also* Dowd, Nunn & Pendergast, *supra* note 83, at 44–47.

viewpoints including professors being more receptive."[189] Having this sort of classroom atmosphere would make it "a lot easier to engage. You would learn things outside of the rote text of the cases. You'd learn more about application." Thus, we see how open-mindedness continues, fully circling back to improved learning.

c. *More Diversity Means More Comfort Participating, Plus Less Tokenism*

Students of color are often less comfortable in law school than their White peers, simply based on predominantly White institutions that cater to the historical norm of White, male students.[190] Some White students recognize that the White-normed environment of law school may silence other perspectives. For instance, a White male student named Victor says,

> I think there are a lot of things that probably go unsaid. I'm in Criminal Law and Constitutional Law right now and I think especially in those types of classes there is a lot that doesn't get said just because the majority of the class is coming from a very similar type of background.

With the majority sharing that similar background, it may be especially challenging for students of color to speak up, as other legal scholarship has indicated.[191] A White female student named Patty, who self-identifies as a "conservative" member of the Federalist Society, agrees that the lack of diversity may make it less comfortable for students of color to feel comfortable expressing their views in class. She specifically notes how greater diversity may lead to greater participation from students of color who would then feel more support and encouragement to add their voices to the conversation. Patty thinks that added diversity at the University of Michigan Law School would result in more perspectives being shared, not only because the added numbers of students of color would mean more people who could share their views, but also because underrepresented students would "get a little bit more comfort voicing responses that might be not quite as acceptable or not quite as mainstream because you perceive yourself as having other supporters in the room." In other words, feeling support from others from a similar background could encourage

189. Scholars agree that students must feel that the sharing of their diverse perspectives is welcome and that they are interacting as equals to achieve optimal benefits from interactional or classroom diversity. *See* Gurin, Dey, Hurtado & Gurin, *supra* note 132, at 333; Hurtado, Milem, Clayton-Pedersen, & Allen, *supra* note 126, at 52–54.

190. *See* Allen & Solórzano, *supra* note 61; Dowd, Nunn & Pendergast, *supra* note 83; Cassman & Pruitt, *supra* note 78; Buckner, *supra* note 71.

191. *See* Dowd, Nunn & Pendergast, *supra* note 83, at 27; Cassman & Pruitt, *supra* note 78, at 1223.

participation from students who are currently underrepresented and marginalized.

Students of color affirm the important role that a critical mass of students of color could play.[192] Hari, an API male student, says that "the idea that you need a sufficient body of minority students so that people don't feel alienated is an important thing." Students of color make clear that their comfort level would increase along with an increase in diversity among the student body. Jim, an API student, says specifically that "wanting to have racial diversity comes down to comfort or a sense of ease." He himself would prefer more diversity at the University of Michigan Law School partly because "in situations where there is more racial diversity, it's easier to talk about race because it's not as much of a White power dynamic overriding everything." Unfortunately, he says that the "White power dynamic" is "constantly in the background [here]." If there were more diversity, Jim "would feel more comfortable walking around the halls and not feeling quite as different" from the mainstream (White) students he feels make up the majority of the student body.[193]

Perhaps part of being comfortable relates to feeling recognized and respected as an individual rather than being seen as a proxy for others from the same race, gender, or sexual orientation. Sebastian, a Native American student, says that if there were more diversity "there would be definitely more minority viewpoints coming out." However, because there are so few students of color, from his perspective, many "don't want to feel like [] the spokesperson for [their] race [or] gender." Rather than being able to express themselves as individuals, students instead feel they will be seen as spokespeople for those who share their background. When that happens, Sebastian says, "[y]ou don't feel as comfortable expressing your views because you feel like whenever you start talking, you just have this label." Thus, in spite of sufficient structural diversity (e.g., raw numbers of students of color), there may not be the necessary classroom diversity to achieve the cross-racial understanding and lively conversations the *Grutter* Court envisioned.[194] According to an API student named Deven, added diversity could improve not only "the quality of conversa-

192. Testimony from *Grutter* itself spoke to the definition and importance of enrolling a "critical mass" of students of color in order to reap full benefits from student body diversity. For instance, the Court mentions that the University of Michigan Law School defined diversity "by reference to the educational benefits that diversity is designed to produce." *Grutter*, 539 U.S. at 330. In addition, the Court favorably referred to one particular expert and his explanation of critical mass as follows: "[Kent] Syverud's testimony indicated that when a critical mass of underrepresented minority students is present, racial stereotypes lose their force because nonminority students learn there is no 'minority viewpoint' but rather a variety of viewpoints among minority students." *Id.* at 319–20.

193. In fact, White students do make up the majority of the University of Michigan Law School student body, at 61% of the total (*see infra* Appendix A, Table 11 for student population by race).

194. *See supra* note 170 and accompanying text.

tions but also the quantity." She continues, "Yes, there are people that are willing to speak up and express minority views, but I think that people hesitate either because it's a lot of work or they don't want to be attacked or because they don't want to be labeled. I think [those concerns] are definitely legitimate." When a student feels s/he is seen as a spokesperson rather than an individual, this can negatively affect learning for *all* students, especially as classmates fail to recognize the diversity of thought within a group.[195] Raven, a Black female student, brings this point up directly, saying that with added diversity "we would be blessed with being able to see the diverse perspectives within minority groups. All Black people don't think the same way. All Asian people don't think the same way." Again, we see how increased diversity could lead to better learning. Also apparent is the inference that the structural and interactional diversity that exist on the University of Michigan Law School campus may not translate into classroom diversity. This point is discussed directly in the next section.

D. *Missed Opportunities*

While diversity discussions—classroom conversations about race, gender, or sexual orientation—can be included when covering virtually any topic, there are some obvious cases when their exclusion truly represents a missed opportunity.[196] As discussed above, this exclusion may be especially problematic for students who share and value these characteristics as central to their own sense of identity, since ignoring these perspectives may alienate such students from law school learning.[197] "Thus, when professors ignore these subjects, gloss over them, or discredit discussions in these areas, professors may make law school that much more removed from the reality of the lives of [marginalized] students."[198]

The data from the Perspectives on Diversity survey collected at the University of Michigan Law School echo and expand on the few empirical research studies at other law schools that indicate the need for—and current lack of—diversity discussions in class;[199] this section also draws on

195. *See* Carbado & Gulati, *supra* note 117, at 1157–58.

196. *See* Dark, *supra* note 111, at 573; Veryl Victoria Miles, *Raising Issues of Property, Wealth and Inequality in the Law School: Contracts & Commercial Law School Courses*, 34 IND. L. REV. 1365 (2001); Symposium, *The Intersection of Race, Corporate Law, and Economic Development*, 77 ST. JOHN'S L. REV. 901 (2003); Cheryl L. Wade, *Racial Discrimination and the Relationship Between the Directorial Duty of Care and Corporate Disclosure*, 63 U. PITT. L. REV. 389 (2002).

197. See Moran, *supra* note 57, at 2283–85 (explaining that marginalized students who want to include their perspectives in classroom conversations often feel silenced when racial discrimination and other sensitive topics are ignored in the classroom).

198. Deo, Woodruff & Vue, *supra* note 9, at 11.

199. *See* discussion *supra* Part II.B.1.

legal scholars who have emphasized the importance of including social context in order to fully understand the law.[200] The data analysis and presentation is organized thematically. A number of students provide examples of missed opportunities for diversity discussions. A sample of these are presented first. Further analyses of the data reveal two main causes and two main effects that result from the exclusion of diversity discussions in class. Discussion of causes and effects follow the initial examples. Causes include that some faculty (and students) are a) uninterested in discussing issues of race, ethnicity, gender, or sexual orientation in the classroom, and b) uncomfortable facilitating or participating in these discussions. The two main effects of the exclusion of such discussions are that there may be a) negative effects on student learning overall, and b) additional disengagement from the educational environment by marginalized students who are frustrated when issues central to their experience and identity are ignored.

1. Examples of Missed Opportunities

Students report that there are a number of missed opportunities for inclusion of diversity discussions in the classroom. As a White student named Sofia says, "I can think of a lot more missed opportunities than I can frank discussions" about race/ethnicity, gender, or sexual orientation. Some professors assign material in which these issues are directly relevant, but then gloss over or ignore them in class. For instance, an API female student named Maria notes that although her Criminal Law class discussed *People v. Superior Court (Du)*,[201] the conversation did not touch on the racial context involving the shooting of fifteen–year–old African American student LaTasha Harlins by Korean liquor store owner Soon Ja Du. Since "there was no discourse about race" in the classroom discussion of the case, Maria wonders, "[H]ow much does that cut out about the context of what happened, the history of what went on? It totally limits your educational experience." Far from including the racial context in a case seemingly not about race, most scholars and especially the media and public saw this particular case as explicitly about race.[202] A White student named Tyrus similarly notes that he has "one little story that I always tell

200. *See* discussion *supra* Part II.B.2.

201. 7 Cal. Rptr. 2d 177 (1992).

202. Robert S. Chang, *Rock Climbing with the Gotandas*, 13 J. GENDER RACE & JUST. 321 (2010); Lisa C. Ikemoto, *Traces of the Master Narrative in the Story of African American/Korean American Conflict: How We Constructed "Los Angeles"*, 66 S. CAL. L. REV. 1581 (1993); Reginald Leamon Robinson, *"The Other Against Itself": Deconstructing the Violent Discourse between Korean and African Americans*, 67 S. CAL. L. REV. 15, 85–94 (1993); Andrea Ford, *Videotape Shows Teen Being Shot After Fight: Killing: Trial opens for Korean grocer who is accused in the slaying of a 15-year-old black girl at a South-Central store*, L.A. TIMES Oct. 1, 1991, http://articles.latimes.com/1991-10-01/local/me-3692_1_black-girl.

when people ask me about law school." He says that in one class, they discussed a particular case without including the context whatsoever—though it was crucially important to understanding the case itself:

> TYRUS: [B]asically a man named H. Newton gets into a confrontation with the police, wrestles the gun away, and shoots the police officer and ended up getting off at temporary insanity. It's Huey Newton! There is a reason that the cop pulled that car and shot at it and it's not because he is a criminal and yet that was never brought up in the entire class. This wasn't about a temporary insanity thing. This was about racial relations in Los Angeles.
>
> FACILITATOR: They didn't mention the Black Panther Party?
>
> TYRUS: No! It could have been Jay Smith. It could have been anyone. And apparently a lot of my classmates [didn't know the context].

We see, then, specific examples of how social context may be essential to understanding particular cases, and how its exclusion can create confusion or misunderstanding of the law.[203]

2. Cause: Reasons for Missed Opportunities

There are two main reasons these conversations about race, ethnicity, gender, and sexual orientation seem to be excluded: general disinterest in these types of conversations, and a discomfort with facilitating or participating in discussions regarding what are often sensitive topics. First, many students attribute the omission to the professors' (and some students') focus on the black letter law to the exclusion of topics they may consider irrelevant or incidental. Maryam, an API student, says that because one of her professors "got caught up in her slides," she did not have room for much discussion. Maryam states that her professor's focus was "to get through the legal standards because it's on my PowerPoint slide," resulting in "a lot of missed opportunities" for the class in terms of understanding the broader social context of what they were learning. A Latina named Teresa notes that many students in her class were initially excited about potential conversations regarding "hot topics" in Constitutional Law, though ultimately the professor stifled those discussions. Teresa says:

> Con Law has a lot of opportunities for a lot of different discussions on a lot of controversial topics and a lot of people would be really excited about those days in class. [But] he didn't allow

203. This echoes research by other legal scholars. *See* Moran, *supra* note 15, at 490–96; Williams, *supra* note 115; Carbado & Gulati, *supra* note 117.

> for any discussions at all. It was awkward and the whole class thought it was awkward. Because when you think about going to law school you think about debates like *Roe v. Wade*, and we had the most boring discussions about *Roe v. Wade*.[204]

Sometimes even when professors encourage participation and initiate conversations of diversity issues, some students may not be interested in sharing their perspectives or learning from others' perspectives. A White student named Josh recalls such an incident in his Transnational Law class: "My teacher is asking, 'Is there anyone that has strong feelings about gender rights? They can respond.' And there is like dead silence, you could hear crickets . . . . "

A White student named Thomas notes that often professors foster an environment where they ask questions and students answer, but there are no opportunities to take the discussion beyond the Socratic Method.[205] Thomas says:

> A lot of classes—for pedagogical reasons, I won't say it's to silence discussion—but some classes, professors simply don't ask what their feelings are on certain issues. As an opinionated Libertarian, I love having the opportunity to express my views, [though] there are a significant number of classes where students simply aren't given the opportunity to express themselves.

Others recognize that these missed opportunities may be due more to a discomfort among faculty and students who find it too challenging to discuss sensitive issues involving race, ethnicity, gender, or sexual orientation. A Black female student named Jada states this observation directly, saying, "I think there's always been this uncomfortableness when it comes to issues of sexuality, or gender, or race."

Thus, the dual causes of a lack of interest and discomfort coupled with the structure of the law school classroom make diversity discussions uncommon, and missed opportunities the norm.[206]

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204. 410 U.S. 113 (1975).

205. The Socratic Method is a standard law school teaching technique whereby the professor calls on one student at a time rather than accepting volunteers; that student is then forced to participate and often answer set questions, as well as follow-up questions. *See* Martha C. Nussbaum, *Cultivating Humanity in Legal Education*, 70 U. CHI. L. REV. 265, 272–73 (2003); *see also* Robert P. Schuwerk, *The Law Professor as Fiduciary: What Duties Do We Owe to Our Students*, 45 S. TEX. L. REV. 753, 769 (2004).

206. For more on diversity discussions and potential causes for their exclusion, which may relate to the background of faculty leading discussions, *see generally* Deo, Woodruff & Vue, *supra* note 9.

3. Effect: Results of Missed Opportunities

A number of students lament the lack of diversity discussions in the classroom; their exclusion may lead to missed learning opportunities for all students and additional disengagement for more marginalized ones. Jerome, a Black male student, appreciates that a diversity of background and experience may create an optimal learning environment, but only if students are encouraged to share their perspectives. Instead, in his experience, people from diverse backgrounds simply sit together in class but miss the opportunity to share their unique perspectives on the law. He wonders, "[W]hat's the purpose of having all of these individuals from different backgrounds if we don't apply it in our classroom and see how it affects other people individually and allow individuals to express a viewpoint that maybe the professor doesn't have personally?" Jerome's observation directly makes the point that structural diversity does not lead automatically to the classroom diversity envisioned by the *Grutter* Court.[207]

Students also emphasize what legal scholars have recently been noting: neglecting social context may lead to an incomplete understanding of the practical application of the law, and related policy implications.[208] For instance, a White student named Karen notes that while she appreciates the theoretical conversations that took place in her Criminal Law class, she did not emerge with a clear picture of how the criminal justice system works in real life. This is especially important to her as someone who, in her own words, hopes to "change the law to make it actually work better." Karen continues, "I still have a lot of questions about the reality of how Criminal Law works in the real world and it would be nice to have had more discussions on who were actually prosecuted and who is actually committing crime and why." Raven, a Black woman, notes that ignoring issues of race may also mean ignoring policy implications of certain laws. She distinctly recalls the day her Contracts class discussed *Williams v. Walker-Thomas*[209] and how including the context could have led to better learning. Raven says:

> I remember sitting there thinking, "I know this woman's Black. We all know this woman's Black from the way the opinion was written." I just thought there was such an opportunity for a policy discussion to take place, you know, what judgment is the court making on this woman as a welfare mother? As a Black welfare mother buying the stereo? What consequences will such contracts have on uneducated people across racial lines?

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207. *See* Grutter v. Bollinger, 539 U.S. 306, 330 (2002).

208. *See* Carbado & Gulati, *supra* note 117, 1152–54; Moran, *supra* note 15; Williams, *supra* note 115.

209. 350 F.2d 445 (D.C. Cir. 1965).

Tammy, a Black student, notes that she was "really angry" when her Constitutional Law class covered *Plessy v. Ferguson*[210] "because we talked about all the Constitutional issues [but] we never talked about what the social ramifications were." This omission left Tammy "so frustrated" because in addition to talking about constitutionality, she was hoping the class would discuss "how this decision pretty much said that Black people are property and we were not able to get past that until 1965."

As Tammy's quote demonstrates, the exclusion of diversity discussions may have more serious consequences for students of color and individuals from other underrepresented or disempowered groups, as many such students report feelings of exclusion and alienation that could be intensified by the exclusion of their perspectives from the classroom.[211] The isolation these students feel may be compounded because they are sometimes expected to bring up diversity discussions themselves, rather than the professor doing so. As Maryam, an API student, says, "My professors, there have been opportunities where they haven't said, 'How does race play into this?', but maybe they just expect you to talk about it." Therefore, as an API student named Hari articulates, "it falls on the shoulders sometimes of students that care about these issues to bring those topics up." Otherwise, these issues and conversations will not be included in the classroom at all.

Yet, many students are hesitant to repeatedly bring up diversity discussions in class. For one, as Moran's study indicates, students fear their classmates will see them as less intellectual if they insist on discussing the social context of particular cases, especially when the professor does not encourage it.[212] An API student named Nancy notes that "the frustration" of being the one to bring up diversity discussions "is that it's perceived at this law school at least that you're not really intellectual, or that you're not addressing the legal arguments," if you also include the broader social context.

In addition, initiation and participation in these conversations can be emotionally challenging for students from underrepresented and disempowered groups. For instance, a White lesbian student named Shawn is especially hurt by the narrow-minded focus on Christianity in the rare instances when sexual orientation is included in the classroom. While her classmates may see these as purely academic conversations, they are personal to her and therefore more challenging to endure when insensitive comments are made. Shawn says:

> I feel like a lot of times in the LGBT issues, it's framed in the context of, "Should these people have rights at all?" I feel like

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210. 163 U.S. 537 (1896).

211. These findings parallel a number of other studies of law school learning; *see* Allen & Solórzano, *supra* note 61, at 287; Cassman & Pruitt, *supra* note 78, at 1269.

212. Moran, *supra* note 57, at 2268–69.

> most of the conversations that have been around sexual orientation at school take that very strict view and it's just assumed Christianity is the only way to look at it and never challenge whether or not that may be hurtful to people in the room.

Sofia, a White female student, agrees that speaking up is hard to do, not only for her, but for many of her female peers because it exacts a personal toll. She says that many people "who would feel confident to speak" are not comfortable doing so "because they don't want to be 'that girl' every day." She herself occasionally does bring up social context in the classroom, though it comes at an emotional cost that is difficult to sustain long-term. Sofia continues, "[H]onestly, I don't have the emotional reserve to be 'that girl' every day, and I think my friends and colleagues feel the same way. It's hard to be 'that voice' all the time."

CONCLUSION: IMPROVING INTERACTIONS

While *Grutter* extols the virtues of diversity, the examples provided by the Court make clear that the classroom is expected to be an exciting and engaging site for diverse interaction. However, survey and focus group data from the University of Michigan Law School itself indicate that this may not be the case. The initial preservation of affirmative action in *Grutter* may have allowed for existing structural diversity in the form of meaningful numbers of students of color. Sufficient structural diversity seems to have been present in spite of Proposal 2 and the subsequent ban on affirmative action affecting admissions decisions for some participants in this study.[213]

Again, while affirmative action or other means may be necessary to attain meaningful numbers of students of color, this may not be sufficient to attain optimal learning outcomes. In other words, the admission and enrollment of raw numbers of these students of color does not seem to lead automatically to the educational benefits that the *Grutter* expected, namely diverse interactions on campus generally and in the classroom specifically.

Though there is no guarantee that structural diversity will lead to interactional diversity, quantitative data indicate that there are frequent student interactions between students from different backgrounds on the University of Michigan Law School campus. In addition, students from the same racial or ethnic backgrounds also interact quite a lot with their same-race peers. Furthermore, interactions among students from different racial and ethnic backgrounds are overwhelmingly positive, with the few "distant" relationships occurring primarily with students from racial and ethnic groups that have very limited numbers on campus. When we

213. *See* Allen & Solórzano, *supra* note 61, 299–300.

examine where these exchanges occur, however, it seems they are not taking place in the classroom.

White students and students of color alike report their appreciation for the inclusion of diversity discussions in the classroom. Interestingly, students seem to underestimate their peers' support for diversity discussions. Perhaps because of this and other concerns, there seems to be very little diverse interaction within the classroom and a number of missed opportunities for diversity discussions. The reasons for these missed opportunities include that some faculty members and students may be either uninterested or unprepared to facilitate conversations about sensitive topics involving race, ethnicity, gender, and sexual orientation. The result is a narrow or limited understanding of the law for students in general and increased disengagement for already marginalized students.

The Supreme Court in *Grutter* assumed that the structural diversity anticipated from allowing schools to continue using race as a factor in admissions would inevitably translate into interactional and classroom diversity on campuses that retained affirmative action. However, data from this study show that these assumptions are not fully warranted as structural diversity may be only the first step. Though there was sufficient structural diversity to create interactional diversity during the 2009–2010 academic school year at the University of Michigan Law School, meaningful exchanges rarely occurred within the classroom. Though the University of Michigan cannot necessarily be generalized to represent all law schools or even other diverse, public institutions of higher education, we can infer some commonalities and consider suggestions for improving interactional and classroom diversity at law schools around the country.

The Perspectives on Diversity data presented in this Article indicate that if educational benefits are to flow from a diverse student body, they must flow from the interaction between students, not simply from their co-existence as silent classmates in a classroom. Diversity discussions in particular seem most likely to yield the types of conversations wherein students could lend their personal experience and background to fruitful exchanges, where they can learn from one another to break down stereotypes, and where they can have lively conversations about the law. The focus of this Article on diversity discussions is therefore to highlight clear opportunities to engage in these conversations, as well as to point out their general exclusion from the classroom context.

Perhaps because the University of Michigan Law School defended affirmative action before the Supreme Court in *Grutter* and again recently after passage of Proposal 2, one would think that it would similarly seek to promote classroom conversations about diversity, or at least conversations that draw on the diverse perspectives of students. A supportive administration will find that—as the Court itself assumed, and as the data presented in this Article confirm—more lively and engaging conversations occur when diversity discussions are included in the classroom. Additionally, the

inclusion of diversity discussions creates conditions for improved student learning; abstract legal concepts are tied directly to concrete examples drawn from personal experiences, leading to open-minded and engaging conversations.

Recent scholarship has made clear that the legal curriculum could benefit from the inclusion of social context, and specifically from the inclusion of race and gender perspectives.[214] If institutions of higher learning are truly interested in reaping the full benefits of structural diversity, they should consider how best to facilitate interactional and classroom diversity. One obvious site of institutional control is the classroom, at least in the sense that a faculty member is the main authority figure in the front of the room. Yet, the frequent and positive interactions that students report do not seem to be occurring in the classroom. A campus climate that supports diversity discussions could go a long way in encouraging faculty members who are interested in engaging in such discussions to do so. Perhaps this law school and others similarly committed to the goals of diversity can do more to encourage professors to include diversity discussions in class. One possibility that would demonstrate institutional support for diversity discussions would be to include a question on teaching evaluations that asks whether faculty members include social context when teaching law.

Of course, before they can effectively facilitate conversations regarding race, gender, or sexual orientation, professors would need to be comfortable discussing these sensitive topics in the classroom setting. Previous research has documented the ways in which the background of faculty members may contribute to their own interest and effectiveness at including diversity discussions in class.[215] In fact, many faculty members, along with anyone interested in more effectively communicating with people from diverse backgrounds, could benefit from workshops or training sessions designed to help facilitate diversity discussions. Workshops could focus on how to include topics that appeal to a broad range of students, facilitating discussions on sensitive topic areas, and creating a climate strongly supportive of diversity discussions. All of these efforts could go far in encouraging more and continued use of diversity discussions in the classroom. Of course, including questions on faculty evaluations that ask students to provide input on professors' ability to effectively facilitate these sensitive topics could also encourage individuals to make efforts to improve in this area.

Once faculty members initiate these conversations, students from a variety of backgrounds may feel more comfortable lending their own

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214. *See* Dark, *supra* note 111; Deo, Woodruff & Vue, *supra* note 9; Moran, *supra* note 15; Reynoso & Amron, *supra* note 100.

215. *See* Deo, Woodruff, & Vue, *supra* note 9, at 36–38 (finding that race/ethnicity, gender, and perhaps sexual orientation and previous experience may affect faculty members' interest and ability to effectively facilitate diversity discussions).

voices in support of diversity discussions. Students of color, women students, those who identify as lesbian, bisexual, gay, or transgender, and other margnialized students would likely feel less tokenism—more like their individual perspectives are appreciated, and less like their voice speaks for a group. This inclusion would likely lead to more positive educational engagement for students from all backgrounds. Of course, one main benefit would be improved learning for all students, as they collectively would realize the many educational benefits of diversity anticipated by *Grutter*.

APPENDIX A

TABLE 11
UNIVERSITY OF MICHIGAN LAW SCHOOL DIVERSITY STATISTICS BY GRADUATING CLASS AND RACE

Race	Expected Graduation Year			Average
	2012	*2011*	*2010*	
Black	5%	4%	6%	5%
Asian/Pacific Islander	13%	12%	12%	12%
Latino	4%	4%	5%	4%
Native American	2%	1%	2%	2%
White	61%	66%	57%	61%
Other	Not Reported	Not Reported	Not Reported	Not Reported
Unidentified	15%	13%	18%	15%
Total	100%	100%	100%	100%

TABLE 12
UNIVERSITY OF MICHIGAN LAW SCHOOL DIVERSITY STATISTICS BY GRADUATING CLASS AND SEX

Sex	Expected Graduation Year			Average
	2012	*2011*	*2010*	
Male	55%	57%	55%	56%
Female	45%	43%	45%	44%
Total	100%	100%	100%	100%

TABLE 13
LEVEL OF INTERACTION WITH BLACK STUDENTS, BY RACE.
PERSPECTIVES ON DIVERSITY STUDY, 2010 (N=472)

Race		Level of Interaction				TOTAL
		A Lot	*Some*	*Not Much*	*None*	
Black	N	20	11	1	0	32
	%	62.50%	34.38%	3.13%	0.00%	100.00%
Asian/Pacific Islander	N	9	25	32	4	70
	%	12.86%	35.71%	45.71%	5.71%	100.00%
Latino	N	5	12	1	0	18
	%	27.78%	66.67%	5.56%	0.00%	100.00%
Native American	N	1	4	3	0	8
	%	12.50%	50.00%	37.50%	0.00%	100.00%
White	N	48	171	99	14	332
	%	14.46%	51.51%	29.82%	4.22%	100.00%
Other	N	2	8	2	0	12
	%	16.67%	66.67%	16.67%	0.00%	100.00%
Total	N	85	231	138	18	472
	%	18.01%	48.94%	29.24%	3.81%	100.00%

TABLE 14
LEVEL OF INTERACTION WITH API STUDENTS, BY RACE.
PERSPECTIVES ON DIVERSITY STUDY, 2010 (N=468)

Race		Level of Interaction				TOTAL
		A Lot	*Some*	*Not Much*	*None*	
Black	N	13	8	7	0	28
	%	46.43%	28.57%	25.00%	0.00%	100.00%
Asian/Pacific Islander	N	38	29	3	0	70
	%	54.29%	41.43%	4.29%	0.00%	100.00%
Latino	N	7	9	1	1	18
	%	38.89%	50.00%	5.56%	5.56%	100.00%
Native American	N	2	6	0	0	8
	%	25.00%	75.00%	0.00%	0.00%	100.00%
White	N	153	150	26	3	332
	%	46.08%	45.18%	7.83%	0.90%	100.00%
Other	N	2	10	0	0	12
	%	16.67%	83.33%	0.00%	0.00%	100.00%
Total	N	215	212	37	4	468
	%	45.94%	45.30%	7.91%	0.85%	100.00%

TABLE 15
LEVEL OF INTERACTION WITH LATINO STUDENTS, BY RACE.
PERSPECTIVES ON DIVERSITY STUDY, 2010 (N=472)

Race		Level of Interaction				TOTAL
		A lot	*Some*	*Not Much*	*None*	
Black	N	5	8	17	2	32
	%	15.63%	25.00%	53.13%	6.25%	100.00%
Asian/Pacific Islander	N	6	24	26	14	70
	%	8.57%	34.29%	37.14%	20.20%	100.00%
Latino	N	6	6	6	0	18
	%	33.33%	33.33%	33.33%	0.00%	100.00%
Native American	N	0	3	4	1	8
	%	0.00%	37.50%	50.00%	12.50%	100.00%
White	N	49	133	129	21	332
	%	14.76%	40.06%	38.86%	6.33%	100.00%
Other	N	2	6	3	1	12
	%	16.67%	50.00%	25.00%	8.33%	100.00%
Total	N	68	180	185	39	472
	%	14.41%	38.14%	39.19%	8.26%	100.00%

TABLE 16
LEVEL OF INTERACTION WITH NATIVE AMERICAN STUDENTS, BY RACE.
PERSPECTIVES ON DIVERSITY STUDY, 2010 (N=464)

Race		Level of Interaction				TOTAL
		A Lot	*Some*	*Not Much*	*None*	
Black	N	1	7	12	11	31
	%	3.23%	22.58%	38.71%	35.48%	100.00%
Asian/Pacific Islander	N	3	8	27	31	69
	%	4.35%	11.59%	39.13%	44.93%	100.00%
Latino	N	0	5	8	5	18
	%	0.00%	27.78%	44.44%	27.78%	100.00%
Native American	N	1	4	3	0	8
	%	12.50%	50.00%	37.50%	0.00%	100.00%
White	N	10	58	136	122	326
	%	3.07%	17.79%	41.72%	37.42%	100.00%
Other	N	1	3	4	4	12
	%	8.33%	25.00%	33.33%	33.33%	100.00%
Total	N	16	85	190	173	464
	%	3.45%	18.32%	40.95%	37.28%	100.00%

TABLE 17
LEVEL OF INTERACTION WITH WHITE STUDENTS, BY RACE.
PERSPECTIVES ON DIVERSITY STUDY, 2010 (N=471)

Race		Level of Interaction				TOTAL
		A Lot	*Some*	*Not Much*	*None*	
Black	N	28	3	1	0	32
	%	87.50%	9.38%	3.13%	0.00%	100.00%
Asian/Pacific Islander	N	58	11	1	0	70
	%	82.86%	15.71%	1.43%	0.00%	100.00%
Latino	N	16	1	1	0	18
	%	88.89%	5.56%	5.56%	0.00%	100.00%
Native American	N	7	1%	0	0	8
	%	87.50%	12.50	0.00%	0.00%	100.00%
White	N	318	9	3	1	331
	%	96.07%	2.72%	0.91%	0.30%	100.00%
Other	N	10	2	0	0	12
	%	83.33%	16.67%	0.00%	0.00%	100.00%
Total	N	437	27	6	1	471
	%	92.78%	5.73%	1.27%	0.21%	100.00%

APPENDIX B

The following questions were included in the Perspectives on Diversity survey instrument and analyzed for this Article:

POD SURVEY QUESTION 11

In law school, how much interaction on campus do you have with . . .

[Circle one for each question]

		A lot	Some	Not much	None
a	Asian American students?	4	3	2	1
b.	Hispanic/Latino students?	4	3	2	1
c.	African American students?	4	3	2	1
d.	Native American students?	4	3	2	1
e.	White students?	4	3	2	1
f.	Other race/ethnicity students?	4	3	2	1

POD SURVEY QUESTION 12

On the law school campus, how would you characterize your interactions with . . .

[Circle one for each question.]

		Very friendly	Sociable	Distant	Hostile
a.	Asian American students?	4	3	2	1
b.	Hispanic/Latino students?	4	3	2	1
c.	African American students?	4	3	2	1
d.	Native American students?	4	3	2	1
e.	White students?	4	3	2	1
f.	Other race/ethnicity students?	4	3	2	1

POD SURVEY QUESTION 25

To what extent do you agree or disagree with the following statements about law School?

[Circle one for each question.]

		Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree
a.	Overall, my law school experience has been positive.	5	4	3	2	1
b.	The most difficult thing about law school is the class work.	5	4	3	2	1
c.	I am supportive when faculty include discussions of race, gender, or sexual orientation in the classroom.	5	4	3	2	1
d.	Law school is much easier than I expected.	5	4	3	2	1
e.	My law school campus is as diverse as I expected it to be.	5	4	3	2	1
f.	I am satisfied with the variety of academic subjects/course selection offered at my law school.	5	4	3	2	1
g.	Almost all of my classmates are open-minded and respect opinions that are different from their own.	5	4	3	2	1
h.	I would prefer that there were more diversity at my law school.	5	4	3	2	1
i.	I would prefer that there were less diversity at my law school.	5	4	3	2	1
j.	I would recommend my law school to people of the same racial/ethnic background and gender as myself.	5	4	3	2	1
k.	My law professors welcome students who challenge their views.	5	4	3	2	1
l.	Most of my classmates are supportive when faculty include discussions of race, gender, or sexual orientation in the classroom	5	4	3	2	1
m.	The campus climate at my law school is one that supports diversity.	5	4	3	2	1

The following questions were included in the Perspectives on Diversity focus group protocol and analyzed for this Article:

POD FOCUS GROUP QUESTION 9

"What, if anything, do you think would be different about your law school classes if they were more diverse? Less diverse?"

POD FOCUS GROUP QUESTION 12

Can you share some examples of classroom discussions regarding race, ethnicity, gender, sexual orientation, or socioeconomic status?

POD FOCUS GROUP PROTOCOL QUESTION 13

Can you think of any missed opportunities for these types of [diversity] discussions in class? A few cases that may be relevant include: *People v. Goetz*, *Roe v. Wade*, *Plessy v. Ferguson*, *Loving v. Virginia*, *Brown v. Board of Education*, *Grutter v. Bollinger*, and *Lawrence v. Texas*.