WHITE SUPREMACY AND HIGHER EDUCATION;
THE ALABAMA HIGHER EDUCATION DESEGREGATION CASE
IHELG Monograph
92-12

Aldon Morris Northwestern University, Walter Allen University of California, Los Angeles, David Maurrasses Northwestern University, Derrick Gilbert University of California, Los Angeles

This manuscript is based on Aldon Morris' (Professor of Sociology and Chair, Northwestern University) and Walter Allen's (Professor Sociology, University of California, Los Angeles) testimony as expert witnesses for plaintiffs in the case Knight v. Alabama. David Maurrasses is in the doctoral program, Department of Sociology, Northwestern University. Derrick Gilbert is a sociology doctoral student at the University of California, Los Angeles. Please direct all inquiries to Walter Allen, 210 Haines Hall, UCLA, Los Angeles, CA 90024-1551, (310) 206-7107.

$5.00 c 1993 by Aldon Morris, Walter Allen, David Maurrasses, and Derrick Gilbert
University of Houston Law Center/Institute for Higher Education Law and Governance (IHELG)

The University of Houston Institute for Higher Education Law and Governance (IHELG) provides a unique service to colleges and universities worldwide. It has as its primary aim providing information and publications to colleges and universities related to the field of higher education law, and also has a broader mission to be a focal point for discussion and thoughtful analysis of higher education legal issues. IHELG provides information, research, and analysis for those involved in managing the higher education enterprise internationally through publications, conferences, and the maintenance of a database of individuals and institutions. IHELG is especially concerned with creating dialogue and cooperation among academic institutions in the United States, and also has interests in higher education in industrialized nations and those in the developing countries of the Third World.

The UHLC/IHELG works in a series of concentric circles. At the core of the enterprise is the analytic study of postsecondary institutions—with special emphasis on the legal issues that affect colleges and universities. The next ring of the circle is made up of affiliated scholars whose research is in law and higher education as a field of study. Many scholars from all over the world have either spent time in residence, or have participated in Institute activities. Finally, many others from governmental agencies and legislative staff concerned with higher education participate in the activities of the Center. All IHELG monographs are available to a wide audience, at low cost.

Programs and Resources

IHELG has as its purpose the stimulation of an international consciousness among higher education institutions concerning issues of higher education law and the provision of documentation and analysis relating to higher education development. The following activities form the core of the Institute’s activities:

Higher Education Law Library

Houston Roundtable on Higher Education Law

Houston Roundtable on Higher Education Finance

Publication series

Study opportunities

Conferences

Bibliographical and document service

Networking and commentary

Research projects funded internally or externally
The Alabama Higher Education Desegregation Case

On June 11, 1963, Alabama Governor George Wallace defiantly stood in the schoolhouse door at the University of Alabama in a vain attempt to block the entrance of two Black students. The steadfast goal of Vivian Malone and Jimmy Hood was to integrate the University of Alabama which had been racially segregated for 132 years. Wallace was instructed by federal troops to step aside and allow Malone and Hood to enroll at the University in compliance with a federal court order. The University of Alabama became officially integrated when Wallace obeyed the court order by removing himself from the door of the administration building. Yet, three decades later there is a legal and political storm blowing through Alabama centered on the question as to whether real desegregation has occurred in the state's colleges and universities. Moreover, this storm is not limited to Alabama. The same issues and legal challenges are evident across the South and in states where historically Black colleges and public universities exist.

The legal questions to be addressed revolve around the issue of whether these states continue to operate racially dual and inherently unequal systems of higher education in direct violation of federal law. The social policy dilemmas that arise have to do with appropriate strategies for eliminating continuing racial inequality in U.S. higher education. This article focuses on the case John Knight, Jr. et.al. v. the State of Alabama, et.al. and considers its legal, political and social
implications. The two senior authors of this paper were expert
witnesses in this case and helped to provide socio-historical and
empirical evidence in support of the plaintiffs. We draw on our
knowledge as participants in the case as well as on the wealth of
primary and secondary data sources generated by the case.

It should be kept in mind, however, that the Alabama case,
while unique in its particulars, mirrors the fundamental issues
raised by the host of other legal challenges to racially dual
systems of higher education in other states. For example, as we
write, the Supreme Court of the United States is hearing the
Mississippi case, Ayers v Allain. In this case, like the Alabama
case, the defendants are asking the Court to recognize that a
dual system of higher education has existed historically in
Mississippi and that it remains in place despite formal
desegregation dating back to the 1960s. In Mississippi it is
clear that the TWIs are better funded than the TBIs, have more
comprehensive missions, use entrance examinations to block Black
student admission and have overwhelmingly white faculties. The
Supreme Court will have to decide whether these realities mean
that Mississippi still has a dual system which discriminates
against African Americans and if so how best to change this
system. In 1987, a lower court ruled that the state of
Mississippi was in full compliance with the law because its
institutions of higher education are now race neutral and pursue
race neutral policies. What is clear is that the question
regarding the future of dual systems of higher education is a
national question which the Supreme Court must address and chart out an equitable course of action.

Educational Context and Background

Prior to the mid-1960s, Southern and border states operated de jure segregated systems of higher education. In such states the law required that whites and Blacks be educated in racially segregated schools. This legal requirement was as applicable to a Ph.D. student as it was to a young kindergartner. In addition to being required by Southern state statutes, racially segregated schools were also backed by the 1896 Plessy v. Ferguson ruling issued by the United States Supreme Court. That ruling maintained that racial segregation was constitutional as long as the segregated facilities were separate but equal. Thus, as a result of law and practice, colleges and universities throughout the South typically remained segregated for more than a century.

This dual system of higher education produced traditionally Black institutions (TBIs) and traditionally white institutions (TWIs) of higher learning. The 1954 Supreme Court ruling, Brown v. Board of Education overturned Plessy v. Ferguson and rendered the "separate but equal" logic supporting racially segregated universities obsolete. The Brown decision acknowledged what Black people always understood: racial segregation created and perpetuated conditions for Black people that were inherently unequal. With regards to higher education, the ultimate challenge of racial integration philosophy is to render the very
terms TBIs and TWIs anachronistic.¹

At this juncture, the dual system of higher education based on race is still firmly in place. TBIs remain overwhelmingly Black institutions with student bodies that are usually over 90% Black. Moreover, recently the governing boards and administrators of TBIs have become Black dominated. The majority of faculty members at TBIs are also Black. In terms of their history, current Black and white perceptions and substance, TBIs are essentially Black institutions of higher learning. Similarly TWIs are essentially white institutions of higher learning. White professors at TWIs usually constitute approximately 97% of the faculty. The student bodies of TWIs are overwhelmingly white as are their governing boards and administrative personnel.

Another reality is that these racially dual systems of higher education have been unequal since their inception. In each of the former de jure segregation states the premier flagship universities are TWIs. Indeed, the states' major white colleges and universities are generally more prestigious, have prodigiously larger budgets, attract higher-caliber research scholars, grant many more graduate degrees and enjoy more inclusive academic missions than do their Black counterparts. In point of fact, the Black colleges and universities operate in the shadows of the more prestigious, better funded and more powerful white institutions. This imbalance is one of the primary reasons

why white students avoid TBIs en masse. By the same token, significant numbers of well qualified African American students also choose, for similar reasons, not to attend TBIs.

It is this racially dual and unequal system of higher education that has been called into question by private plaintiffs and their attorneys, the Federal Government and courts, social scientists and legal scholars, as well as civil rights activists and concerned citizens. On the other hand, the defendants which usually include white colleges and universities, state governors, state commissions of higher education and state legislatures maintain that the state systems of higher education are not unequal along racial lines and that Black college administrators are themselves largely responsible for the current state of TBIs. In their view white colleges and universities have met all of their constitutional responsibilities by providing equal educational opportunities for both races. It is these radically different views of reality between plaintiffs and defendants that have generated major legal battles from lower states courts to the Supreme Court of the United States. The courts and the nation are left to wrestle with this major challenge to U.S. higher education.

Is the very existence of historically black colleges and universities unconstitutional given that they are racially identifiable institutions? Have traditionally white colleges and universities met their constitutional obligations by adopting what appear to be racially neutral policies? Should the legacy
of jure racial discrimination be ignored even though it has been crucial for over a century in shaping the academic missions and prestige hierarchies of institutions of higher learning? Is the logic of Brown v. the Board of Education applicable to institutions of higher learning given that unlike elementary and secondary schools, colleges and universities are not compulsory and that students should be able to exercise freedom of choice when selecting which of these institutions to attend? What in fact is a desegregated or segregated institution of higher learning? What are vestiges of past de jure segregation and how can they be accurately identified in the context of colleges and universities? What are appropriate remedies to racial inequalities in U.S. higher education? Finally, if institutional merger is judged to be a solution to accomplish integration should the white or the Black school be absorbed by the other?

The Adams Case

Social scientists and legal scholars (e.g., Bell, 1980; Blackwell, 1987; and Williams, 1988) have documented how fundamental the Adams v. Richardson case has proven to be in the fight to desegregate higher education in the United States. The Adams case, filed in 1970, by the NAACP Legal Defense and Education Fund, stands as a major link in the long chain of legal cases (e.g., Gaines, 1938; McLaurin, 1950; and Sweatt, 1950) that undermined the legal and social fiction that "separate but equal" institutions of higher education were constitutional.
The Adams case, like Brown v. the Board of Education, initiated a broad constitutional attack on the unequal dual system of higher education. This case was originally heard by Justice John H. Pratt, in the United States District Court for the District of Columbia. The suit charged that the Department of Health, Education and Welfare (HEW) and its Office of Civil Rights had "been derelict in their duty to enforce Title VI of the Civil Rights Act of 1964 because they had not taken appropriate action to end segregation in public educational institutions receiving federal funds (Adams v. Richardson 480 F.2nd 1159L (1973)." The suit targeted ten state-operated systems of higher education for their alleged violation of Title VI. The original states were Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, Pennsylvania, and Virginia. Moreover, between 1978 and 1979, Alabama, Delaware, Kentucky, Missouri, Ohio, South Carolina, Texas, and West Virginia had been added to the suit (Williams, 1988). Clearly then, the Adams case would have far ranging implications for higher education throughout the nation.

The Adams case was decided in favor of the plaintiffs. It is, therefore, important to understand just what the Adams ruling concluded. First, "in the field of higher education, the District Court found that between January 1969 and February 1970, HEW concluded that the States were operating segregated systems of higher education in violation of Title VI (Adams v. Richardson, p. 1164)." Second, the Adams case broke from earlier
suits which challenged segregation in an individual institution of higher learning. Rather it was decided in the Adams case that "the problems of integrating higher education must be dealt with in a state-wide rather than a school by school basis (Adams v. Richardson, p. 1164)." Third, specific enforcement procedures were adopted. HEW required each state to submit a desegregation plan within 120 days, and if an acceptable plan was not approved after an additional 180 days, HEW would initiate compliance procedures. In the final analysis, the responsibility for compliance rests upon the court (Adams v. Richardson p. 1165).

Finally, compliance meant something very specific. As Derrick Bell (1980) pointed out, full compliance with the Adams ruling meant that the states had to "create a unitary system out of the present socially unbalanced dual system, and to desegregate student enrollment, academic and non-academic personnel, and administrative and governing boards in each institution (p. 459)."

The possibility of such an approach raised a troublesome issue. Namely, the historically Black colleges could be prematurely eliminated without any educational vehicle remaining to accomplish the mission of TBIs. Thus Williams (1988, p. 141) noted that by the 1980s, the Adams ruling had resulted in "at least four TBI's... [enrolling] a majority of whites." She concluded that currently "the historically Black public colleges are threatened with gradual extinction; for, unfortunately, if the usual school desegregation pattern held true as students
enrollment shifts along racial lines, so too will the number of faculty and administration (p. 141).” Bell (1980) pointed to the same possibility when he agreed with Black educators that merger-type rulings could transform Black institutions into predominantly white ones that would basically serve the needs of the white community. Bell went on to argue that Black colleges "and those they serve were victims and not perpetrators of racial discrimination." He concluded that "black colleges were never responsible for the exclusion of whites, and requiring them to adhere to quotas designed to alter the all-white composition of schools that resisted Brown will constitute a racial quota of precisely the type condemned by five justices in Bakke" (p. 469).

In a similar vein the United States Court of Appeals, District of Columbia, addressed the status of Black colleges in light of the Adams case, "perhaps the most serious problem in this area is the lack of state-wide planning to provide more and better trained minority group doctors, lawyers, engineers and other professionals" (Adams v. Richardson, pp.1164-1165). The court went on to argue that state-wide higher education policy needed to take "into account the special problems of minority students and of Black colleges." The Court agreed that "these Black institutions currently fulfill a crucial need and will continue to play an important role in Black higher education" (Adams v. Richardson, pp. 1165). The survival of TBIs and their overall status will be at the heart of this article.
The Alabama Scene

In the state of Alabama there are currently fifteen public universities and one college that grant bachelor's degrees. Out of these sixteen institutions only two, Alabama State University (ASMU) and Alabama A & M (AAMU), are TBIs. Included in the remaining fourteen TWIs are the University of Alabama at Tuscaloosa (UA), University of Alabama at Birmingham (UAB), University of Alabama at Huntsville (UAH), Auburn University (AU), and Auburn University in Montgomery (AUM). It is instructive to selectively compare these five TWIs with the two TBIs in order to reveal essential differences between historically Black institutions and historically white ones.

The first noticeable difference is size; TWIs are significantly larger than TBIs. As can be seen in Table 1, all five TWIs have larger student enrollment than the two TBIs. AU's enrollment is more than four times the enrollment of AAMU or ASU.² Gross square feet is another indicator of institutional size. UAB, AU an UA are all much larger than AAMU or ASU. UAB and AU have 7,971,222 and 6,167,709 gross square feet respectively, whereas AAMU and ASU have only 1,327,209 and 1,034,815 gross square feet (ibid.). Financial resources are also unequally distributed between the TWIs and TBIs; UAB and AU receive approximately $80,000,000 more than AAMU and ASU.

Greater state funding of the TWIs can not be attributed to the

greater student enrollments at the TWIs. Per capita funding was derived by dividing state funding by total student enrollment. It can easily be seen that the TWIs also receive greater funding per student. Even though there is great variance in per capita funding among the TWIs, when one compares an averaged per capita funding for the TWIs with an averaged level for the TBIs, TWIs still receive far greater per capita funding than TBIs ($3,639 and $2,334, respectively). For the most part, TWIs have larger student enrollment, more gross square feet, greater state funding and higher per capita funding than TBIs.

<table>
<thead>
<tr>
<th>Institution</th>
<th>Student Enrollment</th>
<th>Gross Sq. Feet</th>
<th>State Funding</th>
<th>Per Capita Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>TWIs</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>UAB</td>
<td>15,356</td>
<td>7,971,222</td>
<td>$97,162,640</td>
<td>$6,327</td>
</tr>
<tr>
<td>AU</td>
<td>21,537</td>
<td>6,167,709</td>
<td>$93,525,621</td>
<td>$4,342</td>
</tr>
<tr>
<td>UA</td>
<td>19,794</td>
<td>5,961,720</td>
<td>$64,739,132</td>
<td>$3,270</td>
</tr>
<tr>
<td>UAH</td>
<td>8,139</td>
<td>1,327,209</td>
<td>$20,626,723</td>
<td>$2,534</td>
</tr>
<tr>
<td>AUM</td>
<td>6,261</td>
<td>1,034,815</td>
<td>$10,791,519</td>
<td>$1,723</td>
</tr>
<tr>
<td>TBIs</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AAMU</td>
<td>4,886</td>
<td></td>
<td>$11,148,533</td>
<td>$2,281</td>
</tr>
<tr>
<td>ASU</td>
<td>4,587</td>
<td></td>
<td>$10,958,253</td>
<td>$2,388</td>
</tr>
</tbody>
</table>

TABLE 1
A COMPARISON OF TWIS AND TBIS IN ALABAMA ON SELECTED CRITERIA

Types of institutional mission and institutional role are the most fundamental distinctions between institutions of higher
learning. The Alabama Commission on Higher Education (ACHE) defines an institution's mission as its overall purpose, how it sees itself philosophically, and its aspirations and hopes for what it may become" (ibid. p.40). The ACHE defines an institution's role in terms of the "programs it offers, its student clientele, and the relative emphasis it gives to instruction, research, and service" (ibid. p.40). When Alabama's TBIs are compared with selected TWIs the disparity is clear. The University of Alabama and Auburn University are the state's flagship institutions. As Alabama's most important institutions of higher learning, these institutions provide distinctive missions and roles. Both institutions are major research universities that play central roles in graduate training and in the awarding of advanced degrees, especially doctorates. Graduate work and the production of advanced degrees, specially the doctorate, are not at the core of the educational activities of AAMU and ASU.

As of 1986, ASU and AAMU had far more bachelor's programs than either master's or doctoral programs. In that year AAMU had 47 bachelor's programs while ASU had 27. By contrast AAMU had 31 master's programs while ASU had 15. But it is at the doctorate level where major research is involved that the profound institutional differences become manifest. Neither AAMU nor ASU had doctoral programs in 1986. In comparison, AU had 39 doctoral programs while UA had 25 and UAB 14. Moreover, UAH had 3 doctoral programs and even the University of South Alabama had 4
doctoral programs. Graduate research and training, particularly at the doctoral level, requires tremendous financial and technical resources. Institutions that establish and maintain graduate education programs are eligible for millions of dollars in federal, state and private funds. These institutions also pay faculty higher salaries and attract stronger faculty than do institutions primarily engaged in undergraduate and entry level graduate education. Predictably in 1985, "the faculty at the University of Alabama and Auburn University were paid an average of 28% more than faculty at ASU and AAMU (U.S. v. State of Alabama, 828 F2d 1532, p. 1537)."

Prestigious universities attract academically well prepared students in far greater numbers than do less prestigious institutions. The reputation of prestigious institutions coupled with their more plentiful material resources and educational options, attract students from higher socioeconomic backgrounds who have had the luxury of attending first-rate primary and secondary schools. Thus, grade point averages and ACT scores are substantially higher at the top five TWIs than at AAMU and ASU.

The plaintiffs nor the defendants in this case disagree over the fact that the TBIs are ranked lower in terms of their missions and roles compared to the top white institutions. In fact, a formal classification scheme, formulated by the ACHE, to rank Alabama higher education institutions attests to this fact. The highest rank, "Comprehensive Doctoral University," is shared
by the University of Alabama and Auburn University exclusively. The second rank, a "Doctoral University that is Urban with a Comprehensive Role in Selected Graduate and Professional Fields," includes only the University of Alabama Birmingham. The third tier is a "Doctoral University that is Urban with Specialized Graduate and Professional Roles." The University of Alabama Huntsville and the University of South Alabama occupy this tier. Universities that fail to fit the above rankings are assigned to a different category altogether. They are classified as "Master's-Level State Universities." This is the category where ASU and AAMU are found, along with six other PWIs. In summary, UA and AU are judged to be Alabama's flagship universities while UAB, UAH, and the University of Southern Alabama are considered to be important research universities. What these schools share in common is their history of being traditionally white. On the other hand, the two Black universities in the state are not classified as either doctoral or research institutions and must therefore, operate in the shadows of the state's white universities. As a consequence, these TBIs receive fewer resources and are less prestigious.

In comparing Alabama TBIs and TWIs, it is useful to examine the extent to which they are racially identifiable. The largest group of persons attending a college or university is, of course, its students. As of 1990, the student enrollment at ASU was over 97% Black while at AAMU, it was over 77% Black. In contrast, AU white student enrollment was slightly over 96%. UA was 91% white
while UAB was 85% white. Ninety-five percent of UAH students were white while at AUM 83.3% were white. Considered in terms of student enrollment, there can be no doubt that in the state of Alabama, all public colleges and universities are racially identifiable (Knight v. State of Alabama proposed findings of defendants, p. 11).

The faculty, administrators and governing boards of institutions of higher learning control those institutions and define their purpose. If these bodies are overwhelmingly of one race, then it suggests that the overall racial character of the institution is the same as these guiding entities. Faculty at the TWIs are overwhelmingly white. AUs faculty is 98% white while UA is approximately 97% white. In fact, "no traditionally white institution has a faculty more than 5% Black" (Knight v. Alabama Post Trial Proposed Findings vol. 2, p. 281). The faculties at the two TBIs are far less racially homogenous although they are still racially identifiable. For the 1987-88 academic year the faculty at both ASU and AAMU was 65% Black.

The picture at the administrative level is even more striking for the 1987-88 year. Two percent of AU's administrators were Black while 1% of UA's were Black. The corresponding numbers were UAB 5%, UAH 3%, and 0% for AUM. The percentages of white administrators at AAMU was 5% while whites constituted 17% at ASU. Similarly, the racial composition of the governing boards of Alabama colleges and universities is racially identifiable. In 1990 AU/AUM had 10 board members, only 1 was
Black. The University of Alabama system which includes UA, UAB, and UAH has 15 board members, only 3 were Black. Among the TBIs, 3 of 12 ASU board members are white and at AAMU 4 of 11 are white.

In assessing the overall racial status of higher education in the state of Alabama, two conclusions can be reached. First, it is clear that universities in this state can definitely be defined by race. This is true at all levels including student enrollments, the faculty, administrators, and trustee boards. However, ASU and AAMU have more racially diverse faculties and governing boards than do the TWIs. Secondly, it is equally clear that by comparison, the two TBIs are grossly disadvantaged relative to the top white TWIs. This inequality is evident across basic dimensions including academic prestige, budget allocations, institutional missions, degrees granted, faculty salaries, research activities and the academic preparedness of students. The basic question is how did this state of affairs come into existence? Did it the result from the natural evolution of educational institutions or is it the result of racial discrimination? The Knight plaintiffs argue for racial discrimination as the explanation and on this basis they seek remedies capable of achieving racial equality throughout the Alabama system of higher education.

*John F. Knight Jr., et. al. v. The State of Alabama et al.*

Impressive and voluminous data have been assembled to
support the plaintiffs' claim that the state of Alabama operates a dual, unequal system of higher education. They charge that the state has worked historically to keep African Americans at the bottom of the social order. (Plaintiffs Press Release 2/22/91, Knight v. the State of Alabama, Civil Action No. cv83-m-1676-5). The historical regime of Black subjugation depended heavily on segregation as a key mechanism. De jure segregation sought to insure during most of its reign that higher education was located exclusively in white colleges and universities. However, according to the Knight plaintiffs, the policy of white supremacy can be (and has been) pursued in the absence of de jure segregation. The ..."historical regime of segregation included many institutional policies and practices in addition to separation of the races that were designed to implement the state's policy of white supremacy throughout the system of public

---

3 The Knight plaintiffs and their attorneys maintain that the dual system of higher education in Alabama is a direct result of historical and contemporary racial discrimination. In fact, the unequivocal position of the Knight plaintiffs is that the unequal status of TBIs in Alabama as well as the limited presence of African Americans in TWIs is a direct result of an enduring Alabama state policy of maintaining white supremacy (Plaintiffs Press Release 2/22/91 Knight v. Alabama, Civil Action No. cv83-m-1676-5). The trial in which this argument has been systematically developed began on October 29, 1990 in the U.S. District Court for the Northern District of Alabama and did not conclude until April 16, 1991. The judge for this case was Harold Murphy of the Northern District of Georgia. Among the defendants were the State of Alabama, Governor Guy Hunt, white colleges and universities of Alabama including Auburn and the University of Alabama, and a number of state agencies associated with functions of higher education.
higher education (ibid)."4

There are myriad current structures of discrimination in Alabama's system of higher education. The first such mechanism is the exclusion of African Americans from or their underrepresentation on the governing boards, administrations, and faculty of the TWI's (ibid).5 The severe underrepresentation of Black students at all levels in TWIs and their low graduation rate constitute the second major mechanism of racial discrimination of higher education in Alabama.6 The third such mechanism involves the devaluation of African Americans, their history, values and culture. Such devaluation causes feelings of isolation, alienation, and low self-esteem for African Americans at TWIs, especially alongside the exaltation of Southern whites diametrically opposed to Black interests and aspirations. The

4This is a demanding and sophisticated argument, for it rests on the premise that the larger systems of white supremacy unleashed historical process designed to protect white domination even as that domination assumed different guises as it marched through time and space. Thus, for the plaintiffs "special attention has been given to identifying the racially invidious purposes of higher education policies still in effect (ibid)."

5It is argued that this exclusion "is a manifestation of Alabama's historical policy of preventing Black persons from exercising authority or even significant influence over the education of white persons (ibid)." So important is this mechanism that the plaintiffs conclude "Black underrepresentation in positions of authority at TWI's is the main current mechanism of massive resistance at these schools (ibid)."

6The plaintiffs maintain that the TWIs deliberately constructed admission policies that exclude most African American students. Thus they claim, "The University of Alabama, Auburn, and other historically white universities disqualify over 75% of Black Alabama high school graduates seeking regular undergraduate admission, based on their ACT scores (ibid)."
fourth cornerstone mechanism that maintains white supremacy in Alabama's system of higher education is the restricted mission of Alabama's two Black universities. There are limited graduate and professional programs in the two TBIs, especially at the doctoral level. The establishment of branches of historically white colleges in Montgomery and Huntsville is the fifth discriminatory mechanism. This development has led to the "white haven" phenomenon, whereby local white students are provided the opportunity to attend the white school rather than choosing to be educated by Black people at TBIs. Additionally, these white branches unnecessarily duplicate courses and programs at TBIs. Unequal funding of TBIs is the final mechanism of current racial discrimination pervading Alabama higher education. The funding formula established by the Alabama Commission on Higher Education favors the TWIs while placing TBIs at a severe disadvantage. This is the case because the formula grants institutions classified as research universities more funds than those with restricted missions which includes both of Alabama's TBIs.

The plaintiffs argue that "by guarding their monopoly on Ph.D. and professional education, the white schools continue to perform their historical gatekeeping role for Alabama's system of white supremacy (Ibid)."

Thus, "these white school branches are important institutional mechanisms in the current strategy of massive resistance, and their continued duplication of programs that already are or ought to be offered at Alabama State and A & M perpetuates white supremacy, segregation, and their official stigma on the Black community (ibid)."

The funding formula is discriminatory also because it provides more money per students to institutions with large enrollments. Therefore, AAMU and ASU "who successfully undertake
In sum, white supremacy and racial discrimination in Alabama's system of higher education were not entirely dependent on de jure segregation. Both continue to be strongly entrenched and anchored in hidden mechanisms that ensure white rule. As the offspring of slavery and Jim Crow policies, these mechanisms perpetuate unequal opportunities in higher education. Massive resistance to Black empowerment in higher education throughout Alabama has endured for over a century and is pervasive during the post de jure era. Thus, the current unequal, dual system of higher education in Alabama represents nothing less than the triumph of white supremacy in higher education in the state.

The State of Alabama and defendants flatly reject the claim that they are in violation of the Equal Protection Clause of the Fourteen Amendment and Title VI of the 1964 Civil Rights Act because of racially discriminatory practices in higher education. They believe that the historic unequal, dual system of higher education in Alabama cannot be laid entirely at the doorstep of racial discrimination. They maintain that after

higher education of those less well-prepared Black and white students ineligible for admission to the white schools, actually lose state appropriations under the ACHE funding formula because of the smaller class sizes and longer matriculation period their students require to graduate (Ibid)."

10 The defendants admit that significant racial discrimination occurred during the regime of de jure segregation. Governor Guy Hunt and state officials concur that "state defendants acknowledge widespread racial discrimination existed" when public higher education in Alabama was segregated by race. These defendants go even further by acknowledging that "effects of widespread racial discrimination remain, in public higher education, and elsewhere" (State Defendants' Response to Plaintiffs proposed findings of Fact and Conclusion, Civil Action No. CV 83-M-1676-S, p.4).
de jure segregation, racial discrimination in higher education ceased, "the evidence shows that the defendants have indeed discontinued prior discriminatory practices and have implemented good-faith, race neutral policies and procedure with respect to all aspects of public higher education" (Memorandum of Law in Support of State Defendants' Motion For Involuntary Dismissal, Civil Action No. CV 83-M-1676-S,p. 9-10).

The state and defendants also argue that desegregation in higher education differs from elementary and secondary school desegregation. The defendants believe that they have met the lesser standard of demonstration of good faith, race neutral policies (as opposed to the more stringent standard of elimination of discrimination "root and branch.""11 The state's former de jure college and universities now admit Black students, hire Black faculty, allow Blacks to serve on their boards and hire Black administrators. However it remains to be explained why there are so few Black students, faculty members, administrators and board members at the former de jure institutions. Does the underrepresentation of Black students at TWIs result from individual student choice and the inferior elementary and

11The 1954 Brown v. the Board of Education decision called for root and branch elimination of racial discrimination in public schools. In contrast to the Brown ruling, the defendants argue that they "have no duty to tear public higher education limb from limb in a vain attempt to eliminate the effects of prior discrimination root and branch." They conclude that "the Constitution and Title VI do not require the state to sacrifice public higher education in an attempt to undo the effects of racial discrimination that pervaded our National Society" (State Defendants p. 6-7).
secondary education? While the defendants concede that Black student representation at TWIs is generally very low, they attribute this underrepresentation to student choice,..."students tend to choose a college whose difficulty level is commensurate with their own ability" (Defendant Auburn University's Proposed Findings of Fact and Conclusions of Law, p. 14). 12

Regardless of the reasons for the differences the defendants maintain that Alabama's TWIs are as open for qualified Black students as they are for qualified white students and that the defendants are, therefore, blameless for the low numbers of Black students attending TWIs. Likewise, the defendants argue that the underrepresentation of Black faculty and administrators at the state's TWIs is a problem but not one of their own making. The defendant's claim that Alabama's TWIs are doing their level best to recruit Black faculty, but that the qualified Black pool is too low to yield dramatic results especially given the national

12 Thus large numbers of Black high school students in Alabama choose not to attend TWIs because they do not have the ability to compete in those schools. The defendants argue that the "better prepared black students tend to select predominantly white colleges as their first choice because they perceive them to be accessible" (ibid. p. 15). For the defendants it is standardized test scores that accurately measure student ability. In their view the ACT and other test scores are used in Alabama, as they are in the nation, to objectively determine ability and not for purposes of racial discrimination. They also point out that the grade point average (GPA) of Black students in the state is lower than that of white students. Therefore, lower Black test scores and GPAs are the barriers preventing large numbers of Black students from attending TWIs, not racially discriminatory admission policies.
competition for such faculty. Black underrepresentation at the administrative level is also viewed by the defendants as a skills and qualifications problem rather than a racial problem. In short, when it comes to accounting for severe Black underrepresentation at all levels at TWIs the defendants argue that it is the abilities and qualifications of Black people that are the root cause. Indeed, for them the TWIs are racially neutral and engage in good-faith measures to attract Blacks at all levels.

Similarly, the defendants argue that the different missions of the two TBIs versus the top TWIs cannot be attributed to

13 They maintain that Black faculty representation at the state's TWIs is not different from the national scene because "the representation of blacks nationwide on the full-time faculty of public research universities is less than two percent..." (Ibid., p.98). In short, the underrepresentation of Black faculty at TWIs is a "qualified pool problem" rather than an outcome of racial discrimination.

14 The defendants do not deny that every TWI in Alabama has never had a Black president. They don't deny that it is highly unlikely to find any Black provosts, deans and department chairs at Alabama's TWIs. But they argue that such individuals are likely to be recruited from the ranks of the faculty where so few Blacks are to be found. They also don't deny that the governing boards of Alabama's TWIs are overwhelmingly white. However, it is more difficult for the defendants to explain this outcome because members of the board of TWIs are not required to hold Ph.D.s or to have been a member of the faculty. It is interesting that the defendants focus very little time on explaining why so few board members of TWIs are Black. When an explanation is offered the main culprit continues to be the claim that Blacks are not qualified for such appointments. It is the governor who appoints individuals to the governing boards. The current Governor of Alabama, Guy Hunt, has made forty-one such appointments but in no case did he appoint more than one Black to the board of the TWIs while for both TBIs he appointed more than one white person. According to the defendants, "Governor Hunt has made his appointment on the basis of ability and qualifications" (Proposed Findings of Fact-- Statewide Issues Submitted by Defendants State of Alabama, p.32).
racial discrimination. The defendants do not deny inequality in missions and role between the top TWIs and the TBIs, however, in the classification of "Alabama's public senior institutions according to role, ACHE acted in accordance with sound education practices used throughout the nation" (Ibid., p.56).\textsuperscript{15} The missions of the state's institutions of higher learning evolved in a race neutral manner driven by educational concerns not a policy of white supremacy. This logic maintains that the top TWIs earned their superior missions and deserve the prestige and resources they command. Moreover, their conclusion is that the missions of the two TBIs should not be enhanced to flagship status because such enhancement would be educationally unwise and economically detrimental.

The defendants argue that the two TBIs are not underfunded in comparisons to the TWIs, "It is to be expected that expenses at graduate and professional level institutions will be higher per student than at comprehensive universities" (Defendant Auburn University's Proposed Findings of Fact and Conclusion of Law, p.45). They argue that the funding formula which favors the top TWIs was objectively generated, absent racial considerations.

Employing similar logic, the defendants defend the white branches of Alabama's flagship universities that were built

\textsuperscript{15}By educationally sound practice they mean that every state must rank its colleges and universities in terms of missions because of limited state funds. In their words, "role differentiation is necessary because most states cannot afford to fund every institution at a level that would allow it to offer high-quality programs in all disciplines and at all degree levels" (Ibid., p.40).
across town from the two TBIs. They argue that these branches
tap unmet educational needs and that they do not unnecessarily
duplicate the courses offered by the TBIs. Further, they
maintain that white students don't attend TBIs, because these
schools closely identify with Black culture, history, heritage,
and strong commitments to Black leadership and Black control
(ibid.).

The defendants maintain that the institutional character of
the TWIs has no negative impact on Black students. According to
them, Black students are welcomed at TWIs and that those
institutions incorporate both Black and white interests and
culture. The defendants deny the claim that the lack of Black
faculty, board members, administrators and the small percentage
of Black students translate into the TWIs being essentially white
institutions. They disagree with the view that the total
exclusion of Black people from the TWIs for over a century has
meant that the very foundation and substance of these
institutions have been rooted in and shaped by white interests
and culture. To accept this view would mean that the TWIs would
have to undergo an institutional transformation in order to treat
Black people equitably. For the defendants all that is needed
for Blacks to feel welcome and to be treated fairly by the TWIs
is that these institutions operate in a race neutral manner. In
their view this state of affairs at the TWIs have been achieved.
Thus the Auburn defendants maintain that "those [Black students]
who did not do well academically or who had negative social
experiences were not the victims of any policy or practice of AU. Rather, their negative experiences were caused by the same factors that many white students suffer from, such as homesickness on a large campus, difficulty in adjusting to campus life and overemphasis on social aspects of college" (Defendants Auburn University's Proposed Findings of Fact and Conclusion of Law, p.86). In short, for the defendants the present institutional character of Alabama's TWIs should remain as is because it has no adverse impact on Black people.16

16The defendants also maintain that the plaintiff's suit lacks merit for two specific but related legal factors. First, they maintain that there is no statewide system of higher education in Alabama. From their perspective each college and university in Alabama is independent and autonomous in terms of governance, finance, curriculum and administration and that each institution receives its own independent federal funds (Ibid., p.8). From a strict legal sense the defendants are arguing that the lawsuit of the plaintiff is in error because it "failed to comply with the program specificity requirement of Title VI when [it] treated the various institutions of public higher education in Alabama as part of a single system" (828 Federal Reporter, 2d Series, p.1546). In this light the program specificity requirement would mean that the plaintiffs would have to identify the particular program or activity receiving federal funds that is engaging in racial discrimination. Thus, the defendants claim that the statewide approach of the plaintiffs is inconsistent with the program specificity requirement given the autonomous nature of the institutions of higher learning in Alabama.

This claim also has vast sociological and political implications. If the dual unequal system of higher education in Alabama stems from a statewide, indeed region wide policy of white supremacy, then their must exist at least statewide cooperation to implement such a policy. Thus the defendants argue that no such white supremacy policy exist given the autonomous and independent nature of the state colleges and universities. If the approach of the defendants were to prevail it would nullify the logic of the Adam case which calls for statewide dismantlement of dual systems of higher education. That is, the defendants in this suit argue that "the analysis of whether the duty to desegregate has been fulfilled must be made on a defendant-by-defendant basis" (Defendants Auburn University's Conclusion of Law, p.8). Thus the plaintiffs should not prevail argue the defendants, because their
The plaintiffs and defendants are locked into a monumental battle over the racial nature of higher education in the state of Alabama. For the plaintiffs, historical and contemporary white supremacy fuels the engine which drives the dual unequal system of higher education in the state. For the defendants racial discrimination in the state's system of higher education collapsed with the fall of de jure segregation. This prior form of racial discrimination, they argue, has been replaced by a neutral system that is dedicated to racial equality in higher education. Moreover, the defendants claim that the TWIs are claim lie outside the scope of Title VI.

Second, the defendants argue that the plaintiffs' claims fall outside of the scope of the Equal Protection Clause of the Fourteenth Amendment. Here the defendants are attempting to sidestep a real substantive problem. That is, they maintain that even if TBIs have been discriminated against relative to TWIs the defendants are not guilty of violating the Constitution because the Equal Protection Clause applies to citizens not institutions. In this regard institutional inequities are fundamentally different from constitutional inequities (Memorandum of Law in Support of State Defendants' Motion for Involuntary Dismissal, p.13). If this logic were to prevail it would render historical comparisons between TBIs and TWIs as well as institutional analysis irrelevant. Yet such comparisons and analyses may be crucial to establishing whether the dual unequal system of higher education in Alabama is a result of a statewide historical policy of white supremacy and Black subordination. This recognition appears to lie at the root of the defendant's claim that:

"comparisons between formerly all-black institutions and formerly all-white institutions are irrelevant to the Court's analysis of whether the defendants have fulfilled their obligation to desegregate, provided the defendant institutions are accessible to the plaintiff class on a non-racial basis and provided that the allocation of financial resources by the state to the various institutions does not artificially inhibit a potential student's ability to attend the institution of his choice" (Defendant Auburn Conclusion of Law, p.4).

Thus the defendants are more comfortable focussing on questions of student access rather than institutional inequality linked to historical racial domination.
vigorously engaged in good faith measures to ensure that Blacks have equal access to these institutions that totally excluded them for more than a century. Both the plaintiffs and defendants are relying on the United States Constitution and the courts to validate their diametrically opposed views of reality. But this is not the first time that an Alabama Court has had to rule on this conflict over reality.

A Court Ruling That Was Overturned

The Alabama higher education system was added to the ten other states named in the original Adams case. In January 1981, the U.S. Department of Education concluded that there remained vestiges of a prior, racially dual system of higher education in Alabama in violation of Title VI of the 1964 Civil Rights Act. In response, the state was obligated to develop in conjunction with the Department of Education plans to dismantle the statewide dual system of higher education. In fact, the State of Alabama never produced an actual plan to desegregate the state higher education system. Clarence Thomas, then Assistant Secretary for Civil Rights in the Department of Education, recalled the magnitude of the lack of cooperation by the state of Alabama:

"Normally what happens is that a governor puts together a task force involving all the institutions which takes a look at all these things [racially discriminatory practices], compares them, works out a plan among the institutions, and then we go on from there. This did
not occur in the state of Alabama" (Thomas deposition 11/1/1984).

In July 1983, the United States filed a complaint with the Department of Justice charging that Alabama had established and maintained a racially dual system of higher education prior to 1953 and that subsequently they have "continued to pursue policies and practices that have resulted in a public higher education system in which the institutions' student bodies, faculties, and governing boards are still substantially segregated by race" (828 F. 2d 1532 (11th Cir. 1987 pp. 1534-1535).

The United States District Court of Middle Alabama ruled in the case Lee v. Macon County that Alabama's junior colleges and trade schools were segregated by race. The court "recognized as a fact of life in Alabama that where a traditionally white school was available in the same geographic area, white students would not attend traditionally black schools" (Brief of plaintiffs -Intervenors- -Appellees Knight, et. al. p. 12). Therefore, the court ruled that the facilities and curriculum of the Black junior colleges had to be upgraded in order to attract both white students Black students. Further capital outlays for projects at junior colleges were enjoined "until [the] 'Negro' junior college had been transformed into a fully desegregated two-year institution and was equal in physical facilities and curriculum to predominantly white junior college[s]" (Lee v. Macon County

Shortly after this ruling, the Alabama State Teachers Association (ASTA) and Black students and alumni of ASU filed a lawsuit in the United States District Court M. D. Alabama, N. D. to prevent AU's plan to locate a branch in Montgomery. They argued that AU's branch campus would represent a haven for white students and therefore prevent all-Black ASU from becoming desegregated. This new branch would also consume state funds that could be used to enhance the Black college (see Alabama State Teachers Association v. Alabama Public Sch. and Col. Ave. 289 F Supp. 784 (1968)). The plaintiffs in the ASTA case lost, thus the way was cleared for the creation of AUM.

At the time the United States complained to the Department of Justice about Alabama's dual system of higher education, a group of Black plaintiffs in Montgomery led by John F. Knight, Jr. filed a suit which claimed that the presence of branches of predominantly white universities in Montgomery (AUM and TSIM) prevented the State from carrying "out its duty to dismantle the dual system of higher education in Alabama" (U.S. v. State of Alabama, 828 F 2D 1532 (11th Civ. 1987, p. 1535). Since these white branches siphoned resources from ASU, duplicated its programs, and enabled white students to attend TWIs rather than the century-old ASU, the suit demanded that the two white branches merge into ASU.

The stage was now set for a major constitutional and political showdown between the plaintiff and defendants over the
very nature of higher education in Alabama. The stakes were high, the plaintiffs wanted nothing less than a basic transformation of the state's entire system of higher education. Such a transformation could only become a reality if all the institutions of higher learning in the state ceased to be identifiable by race in terms of their faculties, student bodies, and governing boards. Further, the systematic, historical patterns whereby the two TBIs were deprived of comparable resources and facilities would have to be reversed. Finally, the white branches in Montgomery and Huntsville would be required to merge under the TBIs. In 1983, Alabama's African American community sought to use the United States Constitution and national federal legislation to destroy the state's dual unequal system of higher education. Then, as always, Black people sought to gain equality by challenging the nation to abide by the supreme ideals and national laws whites themselves formulated and ratified.\(^{17}\)

\(^{17}\)In 1983, the plaintiffs went to court armed with the rights spelled out in the Fourteenth Amendment and Title VI. They hoped that the dual system of higher education would be blown asunder once these rights were granted to them by a Federal Court. This was reasonable for the Equal Protection Clause of the Constitution declared:

"All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." (The U.S. Constitution Amendment XIV [1868] p. XCIX).

This was the constitutional clause millions of Black people thought
A Black Judge, U. W. Clemons, Jr., was randomly selected to hear the case, fate appeared to favor the plaintiffs. Judge Clemons enjoyed the reputation of being a champion for racial equality. The 1985 trial lasted for an entire month. Extensive evidence was presented and the witnesses ranged from unknown college students to former Alabama Governor George Wallace. On December 9, 1985 the court ruled in favor of the plaintiffs. The court concluded that the state had not dismantled the dual system would enfranchise them following their endurance of over two centuries of wretched slavery. It was the clause that Black Alabamians hoped would provide them with advanced education over a century later.

But by 1983 African American clearly understood that the Fourteenth Amendment did not prevent their disenfranchisement not had it enabled them to bypass Jim Crow rule which kept them imprisoned in slave like conditions for three-quarters of a century. Nevertheless, by 1983 the Alabama plaintiffs knew that they and their contemporaries had organized and initiated a monumental force—the modern Civil Rights Movement—that transformed America in important respects. Indeed, the civil rights movement overthrew de jure segregation and generated national legislation which prohibited racial discrimination in specific terms.

In particular, it was the Civil Rights Movement that brought the 1964 Civil Rights Bill into existence. Title VI of this legislation provided the crucial leverage for desegregation suits for its states:

"No persons in the United States shall, on the ground of race, color, or National origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance". (Section 601 of the statute 42 U.S.C. 2000d).

Title VI addressed a fundamental condition which had played a key historical role in the oppression of African Americans. Namely, Blacks paid taxes for important goods and services that were largely available only to whites because of racial discrimination. Title VI made it clear that tax revenues collected on a nondiscriminatory basis had to benefit American citizens on the same basis. Title VI was especially relevant for systems of higher education for colleges and universities rely heavily on federal funds to finance their educational activities.
of higher education" (828 Federal Reporter, 2d Series p. 1536).
In the view of the court this was true because the student bodies, faculties, and governing boards of Alabama's institutions of higher learning were racially identifiable. Also, the establishment of branches of TWIs in close proximity to the two TBIs impeded the efforts of the latter to attract white students and these branches unnecessarily duplicated the courses and programs of the TBIs. Furthermore, the historic and contemporary distribution of funding and program offerings disadvantaged the TBIs sealing their fate as second-class Black institutions. The court agreed with the plaintiffs that both historic and contemporary practices of the state were responsible for the racially dual system of higher education in Alabama.

Judge Clemons' court went beyond identifying the unequal dual system of higher education. Indeed, the court "ordered the State, the Governor, the Alabama Commission on Higher Education, and the Alabama Public School and College Authority to submit a remedial plan consistent with its findings to 'eliminate all vestiges of the dual system'" (828 Federal Reporter, 2d Series p. 1536). For the plaintiffs it appeared as if a federal court had reached a decision that would culminate in the dismantling of a racially unequal system that had reigned supreme for over a century.

The defendants also understood the implications of the ruling and sought to overturn it in a court of appeals. The defendants appealed the ruling on the grounds that Judge Clemons
should be disqualified\textsuperscript{18}, that the United States failed to comply with the program specificity requirement of Title VI\textsuperscript{19} and that the United States did not have statutory authority to bring suit under the Fourteenth Amendment\textsuperscript{20}.

\textsuperscript{18}Auburn University had attempted to disqualify Judge Clemons from presiding over the case in 1983 without success. However, after Clemons' ruling in 1985 the defendants were able to disqualify Clemons in Appeals court on two counts. First, it was ruled that while Clemons was a member of the state legislature he "actively participated in the very events and shaped the very facts that are at issue in this suit" and that he therefore "was in part examining his own handwork" (Ibid pp. 1544-1545). Second, it was ruled that Judge Clemons evaluated evidence which he had special extrajudicial knowledge because he gained that knowledge when he served as an attorney of record for the Lee v. Macon County Board of Education where some of the same facts and theories were at issue. Therefore, the Eleventh Circuit disqualified Judge Clemons arguing that "we consider the future of higher education in Alabama too important to be decided under a cloud" (Ibid p. 1546).

\textsuperscript{19}This appeal court also agreed that the plaintiffs had failed to satisfy the program specificity requirement of Title VI. In this view such specificity was not attained because the plaintiffs "treated the various institutions of public higher education in Alabama as part of a single system" (Ibid p. 1546). The court concluded that the plaintiffs had to "specify which programs and activities within the defendants institutions receive federal funds or how these particular programs and activities are discriminatory." (Ibid p. 1549). This ruling could potentially undermine the plaintiffs claim that the entire state system is the proper target through which to attack unequal higher education in the state. Thus, the Court of Appeals concluded "under this procedure each program receives its own 'day in court'" (Ibid p. 1551).

\textsuperscript{20}The Appeals Court also agreed with the defendants that institutional rights were not covered by the Equal Protection Clause of the United States Constitution. In this view the Equal Protection Clause protects the right of individuals not those of institutions. However, the court maintained that the Knight intervenors were entitled to take action under the Fourteenth Amendment because they were "asserting their own rights as individuals who suffered racial discrimination by virtue of attending or working at an unequal, segregative institution of public higher education" (Ibid p. 1551). Even though the plaintiffs were allowed to bring action, the ruling that questions of institutional parity were not applicable under the Fourteenth
The Eleventh Circuit Court's reversal decision, based on the disqualification of Judge Clemons and the ruling regarding the specificity requirement for Title VI claims, made the current Knight case necessary. Given that historical evidence constitutes a core pillar of the current Knight case, it is essential that we now examine the historical origins of Alabama's dual system of higher education.

**Historical Underpinnings of Alabama's Dual System of Higher Education.**

The historical record Alabama's racially based, unequal, dual system of higher education has been an important cog in the machinery of Black subjugation. The architects of white supremacy understood clearly that "when you control a man's thinking you do not have to worry about his actions. You do not have to tell him not to stand here or go yonder. He will find his 'proper place' and will stay in it" (Woodson 1990). Whites in Alabama developed the segregated dual system of education as a means to subordinate Blacks by controlling their thoughts and actions. The state's white controlled Black schools "mis-educated" Blacks by restricting them to curricula and experiences related to the performance of menial tasks and the adoption of subservient attitudes. By contrast, white students were provided opportunities, attitudes and education consistent

---

Amendment could potentially undermine the overall attack against the unequal dual system of higher education.
with their status as members of the state's dominant racial group (Anderson, 1988).

Throughout American history Black people have protested and revolted in pursuit of their liberation (Harding, 1983; Morris, forthcoming). Therefore Black people refused to quietly accept Jim Crow higher education. Like slave churches and slave cabins before them, TBIs became vehicles of protest. Thus, not only did Black students have to be segregated from the empowering education taught whites, but it was also necessary that whites scrupulously control Black institutions. The key mechanisms of control exercised by whites over Black institutions of higher learning were governance, mission and funding.

One year after Nat Turner's bloody 1831 rebellion in Virginia, the legislature of Alabama, "...enacted a statute making it a crime to instruct any black person, free or slave, in the arts of reading and writing" (Post-Trial Proposed Findings of Facts and Conclusions of Law, jointly submitted by the Knight and Sims plaintiffs et al Volume I, p. 42). After the overthrow of slavery, agitation by former slaves made it increasingly difficult for whites to deny them access to formal education. From Reconstruction through the turn of the twentieth century, official white supremacy rooted in a Jim Crow social order was established. The possibility of Blacks attending white colleges and universities was systematically foreclosed, thus giving rise to Alabama's dual system of higher education. Blacks were allowed to build their own educational institutions. Although
the state provided little or no funding for Black education, as Alabama's two TBIs grew so did the role of white governance (Anderson, 1988).

Blacks originally founded (1867) Alabama State University as the Lincoln School at Marion, Alabama. During ASUs early years the first two principals, the first president and the majority of teachers were white. Local whites were not pleased that the school's governing board was all Black. Subsequently whites removed the Black board and replaced it with an all white one in exchange for public funds so desperately needed then to keep the institution afloat.

Eventually whites demanded that the Black school be removed from Marion. The state legislature agreed and passed legislation to create "The Alabama Colored People's University" to be located in Montgomery. The promise of white control was necessary for white Montgomerians to agree to have a Black university in its midst. A member of the all white board promised:

"The absolute control of the Trustee over the institution ought to convince anyone that it could never become a hot bed of rudeness and insult. Education controlled and directed by our own people will repress not merely the expression but thought... and produce on the contrary, politeness, good will, respect for authority and good deportment" (ibid, p. 101).
Therefore prior to the turn of the twentieth century, both ASU and AAMU were under the control of white boards. The trustee boards of both schools were abolished in 1919 and governance was turned over to the Alabama State Board of Education (SBE). This transference of governance insured a continuation of white rule over both ASU and AAMU. White governance and control enforced the Jim Crow social order by defining and dictating the parameters of acceptable behavior for administrators, faculty and students of ASU and AAMU.

From the very beginning the issue was whether the mission of TBIs would be to reinforce white supremacy or to encourage African Americans to develop an intellectual orientation diametrically opposed to white domination and Black subjugation. Alabama's white power structure wanted TBIs that would teach African Americans, even those with college educations, how to serve white people and how to respect and bow to white authority. And so it was that Alabama's state power structure imposed the types of missions on to TBIs that was consistent with this world view.

At the outset Black Alabamians envisioned TBIs as legitimate institutions of higher learning. Thus they fought tenaciously to make ASU the equal of the University of Alabama and AAMU the counterpart of Auburn University. Both TBIs were to educate Black citizens to become politicians, lawyers, scientists, doctors and major decision makers in all spheres of American life. The Alabama legislature declared that ASU was "to provide
for the liberal education of the colored race in the same manner as is already provided for the education of the white race in our universities and colleges" (Ibid p. 79). Whites objected to ASUs stress on liberal arts and classical training, believing that a classical liberal education would encourage Blacks to desire citizenship, equality, equal rights and to become assertive (Ibid pp. 53-54).

White Montgomerians wanted assurances that the Black school would be an industrial school not a university. The Alabama Supreme Court provided the legal rationale when it ruled in the Elsberry v. Seay case (1887) that the establishment of a Black university would violate the 1875 Alabama Constitution which prohibited universities from being supported by public funds. As a result the state of Alabama transformed the proposed "colored university" into a normal school whose mission was to provide industrial education. Alabama State was to serve the interest of white supremacy not the aspirations of ex-slaves who yearned to be truly free and empowered.

AAMU met the same fate as did ASU. Although AAMU's first president was the former slave, William H. Councill, AAMU could not escape white domination. The institution which opened in 1875 as the Huntsville Normal School was governed by an all-white board. It began as a normal school but also offered liberal arts courses. However, by 1883 AAMU became an industrial school. Initially Councill's philosophy emphasized cooperation with the white power structure as a viable strategy to develop and sustain
his school. By the late 1890s Councill's philosophy turned radical. He began to advocate that Black people should return to Africa. At the same time he attempted to change the mission of the school from industrial to liberal education because "he had lost hope in the promises of white America" (Ibid, p. 94).

White control of the missions of Alabama's two TBIs from the very beginning constitutes one of the most fundamental pillars of Alabama's unequal dual systems of higher education. Once white supremacists were able to dictate these missions they achieved a major victory. Black colleges and universities were to teach African Americans how to become seamstresses, wheelwrighters, carpenters, field workers and manual laborers rather than professionally-trained societal decision-makers. The "normal school/industrial model" was designed to produce manual laborers who would not become discontented with their station in life as unskilled and semi-skilled laborers. This mission strategy "meant that the HBUs should be restricted to junior college programs. And it has always meant they should not offer... professional and graduate programs, particularly Ph.D. programs" (Ibid, p. 194). This reality is still true in the last decade of the twentieth century but its foundation was poured in concrete one hundred years ago.

Finally, those who control the financial levers of an institution of higher learning can determine the nature of its governance and its mission. The white government of the state of Alabama, along with white foundations and the Federal government,
have controlled the finances of ASU and AAMU historically.\(^{21}\)
Another example from AAMU's history makes the point more strongly. Through the Morrill Act, Congress made millions of
dollars available to each state to establish land grant colleges.
The state of Alabama designated all-white Auburn as its land
grant institution in 1872, enabling it to receive "the entire
income from Alabama's share of the Morrill Land Grant Act,
240,000 acres ($20,280 annually, a sum approximating the amount
that the state provided the University of Alabama)" (Ibid, p.75).
AAMU was designated Alabama's Black land grant college almost a
decade later following the Second Morrill Act in 1890 which
stipulated that a state had to provide a Black school with money
if the state had racially segregated schools.\(^{22}\)

\(^{21}\)When ASU's predecessor, the Lincoln school, needed state funds to survive, this is when the state made such funding contingent upon the collapse of the all-Black board. Indeed, the State Board of Education "finally appropriated funds for the Lincoln school only after it had appointed an all-white board of commissioners to govern it. The old board of Black trustees was inactivated when they realized that white governance was the necessary condition for survival" (Ibid, p. 59). This was the beginning of white governance of Alabama's TBIs, and it was financially derived.

What transpired at AAMU in the late 1880s is an example of how white financial leverage determined the missions of the TBIs. As discussed earlier Councill, the Black president of AAMU, adopted the industrial model. But more was behind this than educational philosophy. Therefore, "while Councill believed that Blacks primarily needed literacy education, he had turned to industrial training, 1883 to 1893, to get money from the Peabody, Slater, and Morrill Funds to keep his school open" (Ibid, p. 95).

\(^{22}\)However, once again "At AAMU...Councill also hoped to provide his students with a truly academic education, but once his school was designated the black land grant college for Alabama, he had no choice but to conform AAMU's curriculum to the industrial education model in order to obtain funding" (Ibid, p. 137).
The funding history of the institutions of higher learning in Alabama is literally one of huge disparities between TBIs and TWIs. It is a history that greatly favored the TWIs when issues of governance and mission of the TBIs were not in question. But when those issues were center stage, the TBIs had to yield to the wishes of white supremacists or drown financially. Indeed, white governance, control of missions and funding were the triple interlocking mechanisms that gave rise to Alabama's dual unequal system of higher education.

On the white side of the tracks, Blacks had no control or input. Indeed, Blacks were not allowed to attend TWIs as students, nor could they be on their faculties or governing boards. Such behavior was strictly prohibited by state law for over a century. In fact, Governor Wallace testified that as late as the 1960s the state of Alabama had a policy prohibiting Black people from teaching white students. He recalled the policy and stated "but that was a mistake I made" (Wallace Trial Testimony 1985, p. 545), although he had backed this policy with state police power. Therefore Alabama's TWIs evolved devoid of any substantive Black input. Therefore, it is hard to escape the conclusions of the Knight plaintiffs:

Since Alabama became a state, it has maintained through a variety of historical circumstances a steadfast policy of imposing white control over the public education of black people. This racially motivated policy was crucial to the regime of white supremacy for
two purposes: (1) to make sure the content, values and styles of blacks' education prepared them for subordinate roles in society, and (2) to ensure that white persons would never be force to submit to the authority of black persons" (Knight v. state of Alabama, p. 7).

Walls that Shattered but Failed to Crumble

Whites in Alabama used state power, violence, intimidation and the law to exclude African Americans from TWIs. Black people never completely acquiesced in their press for expanded opportunities in higher education; they continued to struggle on all fronts. The Black struggle for opportunity and equality exploded in several intense confrontations during the late 1950s and early 1960s. Young Black students seeking their birthright, access to college education from Alabama's TWIs, were met by violent white mobs, defiant white boards of trustees, and Governor Wallace himself who declared before the nation, "segregation now, segregation tomorrow and segregation forever".

Aughterine Lucy and Polly Myers applied for admission to the graduate school of the University of Alabama in 1952. Unaware of their racial identity, admission officers admitted these two Black women. Efforts to reverse their admission were complicated by the Supreme Court's ruling that Blacks were entitled to equal
graduate programs. Lucy and Myers were informed by UA's all white board of trustees that the program of study they desired was available at all-black Tuskegee Institute or Alabama State University. They were therefore not to attend UA. The women sued to contest this decision. Three years later (1955), the U.S. District Court ruled that Lucy, Myers and other qualified Blacks had a right to attend the university. UA appealed the decision to the U.S. Supreme Court and lost. Nevertheless, UA continued to deny admission to the students. Myers was pressured to withdraw her application based on details about her private life. In the spirit of Rosa Parks, Atherine Lucy refused to yield her claim. The judge ordered the University of Alabama officials to admit Lucy commencing February 3, 1956. What followed revealed the depth of white resistance to Blacks attending TWIs, or for that matter to seeking their

---

23In 1938 the United States Supreme Court ruled in the Missouri ex rel. Gaines v. Canada case "that segregated states had to provide equal undergraduate and graduate programs for their black citizens" (Knight et al post-trial proposed Findings of Facts and Conclusions of Law, vol. I p. 174). In a desperate response to the Gaines's decision, the state of Alabama allowed its two TBIs to develop skeletal graduate programs in education. The hope was that these "graduate programs" would satisfy the "separate but equal" requirement of the law.

Alabama officials employed several strategies to prevent Black enrollment in TWI graduate programs. First where possible, Black applicants were notified that similar courses were available at TBIs. When this was not remotely possible, Black applicants were encouraged to attend college outside the state of Alabama. Therefore, "the state decided to pay its black citizens seeking graduate and professional degrees, as well as baccalaureate degrees not available at Alabama State and A & M, the difference between tuition charged by out-of-state universities and tuition at the white universities in Alabama" (Press Release by Plaintiffs John Knight et al, 2/22/91, p. 17).
constitutional rights.

Lucy was denied dormitory space and dining hall privileges. She was harassed and physically assaulted by white mobs. The board’s response was to suspend Lucy (supposedly for her safety), eventually she was permanently expelled. The Alabama Federal judge colluded with Alabama style white supremacy when he held that the board of trustees had acted properly in both suspending and permanently expelling Lucy.

After Lucy's departure, UA became all-white again but Black people kept knocking at its segregated doors. Between 1956 and 1963 "the University of Alabama refused over 300 applications for admission by black students. Most of these applications were withdrawn as a result of the Board of Trustees' new strategy of intimidating the black applicants with private and state investigators" (John Knight et al Press Release, 2/22/91, p. 22). In 1963 this strategy would fail, when once again African American students were admitted to UA.

By 1963, the Civil Rights Movement had come of age; the Montgomery bus boycott was a success, student sit-ins had desegregated lunch counters across the South, freedom riders challenged segregated interstate transportation and James Meridith desegregated the University of Mississippi. Early in that year, Martin Luther King Jr. and thousands of African Americans forced Bull Connor and the Birmingham white power structure to begin dismantling the Jim Crow social order. In August 1963, 250,000 people marched on Washington, demanding
equal rights for Black Americans. The time was propitious for challenges to racial segregation and racial discrimination in Alabama, across the south and across the nation.

Black students applied for admission at both the main campus of UA and its extension center in Huntsville. Forced with a court order, the University board decided to admit an African American to both campuses (United States v. State of Alabama 628 F supp. 1137, p. 1142). George Wallace, as Governor and chairman of UA's board, then took his infamous stand, attempting to prevent the entrance of African Americans into UA. Governor Wallace chose to place state power between Black students and their constitutional right to enter segregated classrooms of UA because he believed that "racial integration would reduce the pure white race to mongrel complexity" (ibid, p. 1142).

When Wallace took his stand, the whole world was watching. African Americans and their supporters were not only watching, but also calculating the level and type of social protest necessary to make this nation "do the right thing" on the race question. President Kennedy decided to cast his fortune with Black people and the forces of change. He federalized Alabama's National Guard and ordered them to enforce the court ruling. On June 11, 1963, Vivian Malone and Jimmy Hood, escorted by Federal Marshalls, pushed past Wallace into the history books.

Auburn University, under court order, admitted Harold

---

24 Vivian Malone, Sandy English and Jimmy Hood applied for admission at the main campus. Marvin Carrol and Dave McGlathery sought admission at Huntsville.
Franklin, its first Black student in 1964. During the mid-to-late 1960s, most of Alabama's other TWIs began to admit their first Black students. Some did so in response to court orders, while others simply accepted the inevitable tide. Significantly, AAMU admitted its first white student in 1967, while ASU did likewise in 1968. No lawsuits, riots or federal marshalls accompanied the admission of white students to ASU and AAMU. Why not? The answer is simple, only Alabama's state policy and the decisions of the Black schools' all-white governance boards prevented whites from attending the TBIs. Blacks had long championed the idea of desegregated higher education, what they lacked until the 1960s was the power to achieve this goal in either TBIs or TWIs.

In academia, desegregation means more than the mere presence of a few Black people. It means the substantial desegregation of faculties, administrators, curricula, values and students. Ideally, universities should foster exchanges between diverse groups, cultures, races, social classes and world views. From this clash of diverse ideas and viewpoints should come truth unadulterated and in its multiple forms. The courageous acts of African American students in the early 1960s only shattered the formal walls of segregation at Alabama TWIs; vast portions of their racially segregated structures were left largely untouched. To make the point more forcefully, we remind that in 1990, a quarter century after desegregation, Auburn University had only eleven Black faculty out of one thousand. Moreover, only one of
twelve members on AUs board was Black. There were no African Americans in upper level administration and AUs Black student population was less than four percent. White power, dominance and control remains solidly in place at Auburn. There are more African Americans at UA, however the substantive reality is essentially the same.

The University of Alabama's board has three Black members; whites constitute a solid majority with twelve seats. Black faculty members number twenty-five out of over 800 total faculty on this sprawling campus. Additionally, only 9% of UAs students are Black, in an state that is over 26% Black. Although located in Birmingham (60% Black), 15% of UAB students and less than 3% of UAB faculty is Black. At UAH, only eight of over 250 faculty are Black.

The overall situation remains largely the same at Alabama's other TWIs. Although TWIs in the state vary by prestige, mission, size, location, funding, academic programs and white student characteristics, there is one constant; white control is thoroughly entrenched at every level. While Blacks may have breached the segregated walls of higher education in Alabama, the all-white power structures directing the vast educational apparatus beyond those walls remains strong and uncompromising. The days when Blacks could be denied access to Alabama's public universities on de jure grounds are certainly past. Yet, when the period since Atherine Lucy's enrollment at UA is examined, there is an eerie sense that insidious mechanisms designed to
perpetuate racial inequality in higher education continue to function. There are strong indications that Black students who attend TWIs and TBIs in Alabama and nationally, are disadvantaged compared to white students. To examine this premise we now assess the experiences of African American college students in both TWIs and TBIs in Alabama and across the nation.

**Trends and Patterns in Black Higher Education**

The year 1992 marks the thirty-eighth anniversary of the 1954 Supreme Court decision Brown v. the Topeka Board of Education and the twenty-seventh anniversary of the 1965 U. S. Congress Higher Education Act. The Supreme Court's epic decision outlawed segregation in public schools with implications for all other institutions in the society that received public dollars. The U.S. Congress decided subsequently to aggressively foster equal opportunity in the nation's colleges and universities through a program of systematic funding and regulatory guidelines. Together, this landmark legal decision and equally landmark policy enactment merged to significantly alter the higher education experience for a generation of African Americans.

What has been the practical result of judicial rulings and congressional laws for Black access to U. S. higher education? Since 1960 the number of Black students enrolled in college has doubled, as of 1988 there were 1,130,000 African Americans enrolled in postsecondary institutions across the United States.
Roughly 55% of these students were enrolled in four-year institutions. The remaining disproportionate 45% (compared to 35% for whites) were enrolled in two-year community colleges where their hopes for transferring to and completing B.A. degrees at four-year institutions were exceedingly slim (American Council on Education, 1991). It is also important to note that 20% (230,758) of all African Americans attending college in 1988 were enrolled at historically Black institutions. This figure represents a dramatic shift from 1960 when 75% of African Americans enrolled in college attended historically Black institutions.

The observed shifts in the demographics of Black higher education on the national level have been reflected in the state of Alabama. As recently as twenty-five years ago legal statutes insured that no African American was permitted to attend the University of Alabama, Auburn University or other white institutions of higher learning in Alabama. Law, custom and practice determined without exception that Black Alabamians who were interested in attending college in their home state would only have the option of attending Alabama State University, Alabama A & M University or one of the privately controlled historically Black colleges or universities. Today, the pattern has shifted such that now nearly 60% of all Blacks who attend college in Alabama are enrolled in one of the state's predominantly white institutions (Plaintiffs and Defendants Post-Trial Findings, 1991: p. 270). Significantly, where Black
students are enrolled in Alabama's predominantly white universities or colleges, they are usually a minute minority of the population, exceeding 5% of total enrollment only on a few, select campuses. Thus at the University of Alabama--Birmingham Black students are 16% of the total enrollment and they are 9% of total enrollment at the University of Alabama--Tuscaloosa. In no instance does Black enrollment on white campuses match, or even closely approximate, the proportion Blacks are of the state's total population (26%) or of the particular cities where the universities are located, e.g., Blacks are 60% of the total population in Birmingham.

Equally significant is the fact that for the first time in U.S. history, Black students nationally are more likely to matriculate at, and to earn degrees from, predominantly white colleges than at historically Black institutions. In 1984, 59% of all baccalaureate degrees earned by African American students were awarded by predominantly white institutions (Deskins, 1991). This fact signalled a statistical change of epic proportions contrasted with 1960 when an estimated 85% of all bachelor's degrees awarded African American students were conferred by historically Black institutions (Blackwell, 1987). Currently Black colleges and universities account for about 40% of all Black students who graduate with B. A. degrees in a given year (Allen, Epps and Haniff, 1991).

The predominant race of the institution awarding bachelor's degrees to Black students is important. However in 1989, 58,016
B.A. degrees were awarded to African Americans; this number represents a significant decline from the 59,122 B.A.'s awarded to Black students in 1976. An historic high of 60,673 B.A. degrees were awarded to Black students in 1981 (Carter and Wilson, 1991). Declining bachelor's degree attainment by African American students is generally troublesome. It becomes even more problematic when we recognize that the observed losses are largely attributable to the declining number of B. A. degrees earned by Black males (American Council on Education, 1991).

Another important and related trend for the period is represented by the observed increase in African American enrollment at historically Black colleges and universities. As noted above, the overall proportion of African American college students who attend historically Black colleges has declined since 1960. In the shorter time frame since the mid-1980s, Black student enrollment on these campuses has increased considerably (American Council on Education, 1991). Between 1986 and 1989, enrollment on historically Black campuses grew from 177,000 to 200,000. This 10% gain far surpassed the 4.4% gain in Black enrollments on predominantly white college campuses.

The evidence nationally, and in Alabama, of growing Black student enrollment at historically Black colleges and universities demonstrates unequivocally the continuing importance of these schools to the higher education of African Americans. Despite observed gains in Black enrollment and graduation at white institutions in Alabama, the state's Black institutions of
higher learning continue to serve a disproportionate 40% of all Black Alabamians who attend college in their home state. Moreover, these same historically Black institutions account for an equally disproportionate 45% of all Black B. A. degree recipients in the state (Plaintiffs and Defendants Post-Trial Findings, 1991: p. 599-603).

Clearly the demographic face of Black higher education in our society has been transformed in ways that are both profound and fundamental. Changes in the society's legal restrictions and in the social norms and attitudes regarding race have redefined educational experiences for the overwhelming majority of Black college students. By and large African Americans who attend college in this era, find themselves attending predominantly white institutions. Given this fact it becomes important to ask cogent questions. What has been the quality and results of the educational experience for Black students who attend predominantly white colleges and universities? What does the case Knight v. Alabama tell us about how far Blacks have come down the road toward educational equality and how far do we yet have to go? What has been the experience of Black students who attend white colleges and universities, whose fundamental orientation has never taken into account the needs and interests of Black people? How well will these graduates communicate with their African American constituency? What nature of leadership and service will they render for those who have historically depended on the "Talented Tenth" to foster and advance their
African American Student Experiences on Historically Black and on Predominantly White College Campuses

The three decades since 1960 were a time of tumultuous change in race relations in America. Over the period key institutions in the society were involved in major efforts to eliminate and compensate the centuries of wrongs inflicted on African Americans. Education was seen as a primary lever for solving problems associated with racial inequality. In this connection, considerable emphasis was placed on increasing Black access to higher education. One outcome of these efforts was the observed overall gains in Black college enrollment and graduation. The favorable response by colleges and universities to the push for Black equality occurred in an environment of unusually supportive circumstances. Public support for higher education was high and colleges and universities experienced a period of seemingly boundless expansion. Moreover, the national commitment to racial equality in education was firm.

Without doubt the progress won by African Americans nationally and in Alabama in the arena of higher education has been hard fought. Efforts to open previously closed doors were resisted by individuals and by institutions dedicated to the maintenance of a status quo characterized by white dominance and Black subjugation. Interestingly historically Black colleges and universities have played key roles in the struggle for Black
educational enfranchisement. On the one hand, these schools provided and continue to provide, guaranteed access for sizeable numbers of Black students to higher education. On the other hand, the students and graduates of these institutions joined the struggle for Black educational equity, participating in mass demonstrations during the Civil Rights Movement era, arguing court cases as attorneys on behalf of plaintiffs challenging the racially dual system of higher education as well as in numerous other roles.

At this point, three decades later, both the country's mood on racial issues and the situation in higher education have changed drastically. The nation's moral response to Black inequality has softened, tempered by premature notions that the problems have been solved, resentment by whites of Black advances, by societal ambivalence about equality of educational opportunity and by the persistent problems associated with economic decline. Higher education itself has moved from a period of optimistic horizons with adequate funding and unbridled expansion to one of retrenchment and financial shortages. As a consequence, the commitment of universities and colleges to enrolling and graduating Black students has diminished. In many respects the nation's colleges and universities seemed, in light of the spectacular gains of the 1960s and 1970s, to have declared a victory in the war on Black educational inequality. Time has proven this declaration of victory to have been premature.

Although much is made of real and imputed differences
between students at historically Black and predominantly white universities, few empirical studies have been done. The comparison of Black students across the two college environments is more often based on conjecture than on fact. At root in many of these comparisons is the assumption that predominantly white campuses are superior environments for Black student educational development. Empirical evidence does not necessarily support this view. Interestingly, the case Knight v. Alabama, has compiled some of the most extensive data available which systematically compares historically Black and predominantly white colleges and universities. Given the importance of social science data to support legal arguments, the litigants marshalled voluminous social science evidence to reinforce their arguments. The result is a valuable social science data resource and record about Black higher education in Alabama and across the United States. These findings also have implications that extend across time, illuminating the past and forecasting the future.

Generally speaking, African American college students differ from their white peers in several important ways. The parents of Black students are typically urban, have fewer years of education, earn less per year and work at lower status jobs than is true for their white peers (Nettles, 1988; Blackwell, 1982). How Black students fare in college is also related to the racial proportions on the campus where they attend.

African American students who attend predominantly white campuses are at a severe disadvantage compared to their white
peers. Black students on these campuses have higher drop-out rates, lower academic achievement levels, are less likely to enroll in advanced degree programs and experience far more problems (Allen, Epps and Haniff, 1991; Fleming, 1984; Nettles, 1988 and Thomas, 1981). In spite of these disadvantages, Black college students have education and career aspirations that are comparable to those of white students. However, white college students are more likely to attain their school and career goals. College academic performance for Black students on predominantly white campuses is also lower for African American students.

On predominantly white college campuses, Black students apparently experience more social-psychological and adjustment problems than do whites. Some of these problems (e.g., anxiety, stress) are common to all students; others are specific to the situation of being Black and an underrepresented, discriminated minority on the largely white campus, e.g., alienation, isolation, racial harassment (Allen, Epps and Haniff, 1991).

Black students' academic and interpersonal problems on predominantly white campuses are often compounded by the school's failure to provide adequate academic remediation and/or support. Moreover, many of the predominantly white campuses are characterized by environments that Black students experience as hostile and rejecting (Allen, 1987). Despite the obstacles many Black students on predominantly white campuses are able to develop strategies and to make the necessary adjustments to achieve academic success (Fleming, 1984).
On historically Black campuses African American students have lower family socioeconomic status and weaker high school academic records than peer students, of either race, who attend predominantly white institutions. By comparison the parents of Black students who attend historically Black colleges and universities earn less money, have lower educational attainment, hold lower status jobs and are more often separated or divorced (Allen, Epps and Haniff, 1991). Consistent with these economic discrepancies, students who attend historically Black colleges and universities score lower on standardized tests and have lower high school grades (Nettles, 1988).

When comparing the psycho-social development of African American students on Black campuses to that on white campuses, studies reveal an advantage for students attending historically Black schools. Gurin and Epps (1975) found that Black students who attend Black colleges possess positive self-image, strong racial pride and high career goals. Recently Fleming (1984) compared Black students in the two environments and found that those on Black campuses exhibited better, more positive psycho-social adjustment.

Comparisons of African Americans who attend predominantly white and historically Black institutions requires that we recognize the "special mission" of Black colleges. In large measure historically Black colleges enroll students who would not likely be able to attend college, due to social, financial and academic barriers. These schools emphasize developmental
instruction, the ability to diagnose and correct student academic weakness (Gurin and Epps, 1975). Historically Black colleges and universities have proven adept in the challenging task of enrolling students who are educationally under-prepared and financially disadvantaged and then facilitating these students' academic development. The effectiveness of these schools' approach is demonstrated by the ability of their graduates to compete successfully in predominantly white graduate/professional schools and in the society's wider work arena.

In sum, research evidence indicates that African American students who attend historically Black colleges and universities are disadvantaged compared by economic terms than are students of both races who attend predominantly white schools. However, African American students attending historically Black colleges and universities exhibit more positive psycho-social adjustment, more significant academic gains and greater cultural awareness/commitment. It would seem that in general the "fit" between student and college context is more favorable on historically Black than on predominantly white campuses.

Knight v. Alabama: Black Students in Alabama Higher Education

Black students in Alabama institutions of higher learning, both those that are historically Black and those that are traditionally white, share many issues in common with Black college students across the country. Voluminous evidence from the trial reveal striking parallels between the state scene and
the national scene as regards Black higher education.

Traditionally White Institutions

Black students who attend traditionally white institutions in Alabama reported extreme feelings of isolation and alienation. Many linked such feelings to the fact of Black students' scarce numbers on these campuses. One Auburn University student testified that on enrolling at the school, "...she didn't like it because I didn't see other blacks on the campus. I believe I had one other black in my biology class and we kind of hooked together and we were basically friends from that point on. And other than that, I didn't know anyone." (Plaintiffs and Defendants Post Trial Findings, 1991: p. 272). This type of experience was repeated again and again by Black Alabama college students who attended traditionally white institutions and who were called to testify in the case.

The sparse numbers of Black students who attend Alabama's traditionally white institutions is largely a function of admissions policies that discriminate against Black students. The University of Alabama has adopted an algebraic formula based on American College Test Scores (ACT) and high school grades that effectively disqualifies from admission 72% of all Black college test takers and college aspirants in the state (Plaintiffs and Defendants Post-Trial Findings, 1991: p. 266). The effect of such procedures across Alabama's traditionally white universities is to deny the vast majority of Black students access. Moreover,
these students are penalized on two counts, one because of earlier educational disadvantages that presaged their poor performance on the ACT. On the second score these Black students are penalized by the misapplication of standardized tests, since these merely measure a student's exposure to date. Standardized tests do not effectively measure the many other factors which combine to determine whether a student is a good prospect, e.g., motivation, ability to master new material, creativity, capacity for hard work, etc. (Allen, Epps and Haniff, 1991).

Where Black students in Alabama's traditionally white institutions are the extreme minority, they suffer both inside and outside the academic halls. Inside the classroom Black students report that both white faculty and white students communicate low regard for their academic ability. Several Black students testified about white faculty attitudes and comments which indicated reduced academic expectations. One student attending Auburn University testified "...about telling a white professor that she thought should be making and 'A' in the course only to have the teacher tell her to be satisfied with a 'B' (Plaintiff and Defendant's Post-Trial Findings, 1991: p. 344)."

Another Black student on the University of Alabama–Huntsville campus testified that "He felt that he was treated differently in his classes on the basis of his race and felt that his grades were affected adversely because of it....Specifically, [he] felt that he was graded more harshly than his white counterparts in a chemistry lab even though his work was equal or better (Ibid,
In similar vein, a Black University of Alabama-Tuscaloosa communications student was advised by a white faculty member that "...if she sought a career in the print media, she would be an embarrassment to the University of Alabama." The faculty member went on to counsel the student to give up college and to pursue either a vocational career or clerical work (Ibid, 1991: p.345).

Black people and Black culture are further devalued by the general curriculum of traditionally white institutions. Most of the schools offer little in the way of a systematic academic program to address African American literature, culture, history and social organization. Where such courses are available, rarely do they satisfy core curriculum requirements, i.e., require that the majority of students take them in order to graduate. Books about the Black experience are also difficult to find in these college's book stores or at the college library. Ultimately, the academic environment degrades and devalues African Americans by assigning their experience, history and life little importance. We are treated as if we were invisible and the many important contributions Black people have made to the advancement of Alabama, this country and the world are ignored (Ibid.).

Outside the classroom Alabama Black students who attend traditionally white campuses feel similarly assaulted and demeaned. One classic example is provided by the "Old South Day" celebration and parade on the Auburn University campus. This
"Festive" event celebrates the antebellum South, a period when Blacks were enslaved and brutalized, going to the insensitive extreme of hiring Black children to walk behind trucks in "costume." Repeated protests and complaints by Black students against this painful spectacle have been ignored or have not been taken seriously by college administrators. Similarly on Auburn University's, and on other traditionally white campuses across the state, the Confederate battle flag is routinely displayed. This practice continues despite vigorous and continuing protest by Black students. The Black students are insulted, threatened and outraged by these flags which originated in defense of a regime and historical period characterized by the enforced subjugation and degradation of Black people (Ibid, p. 366-367).

Black students attending traditionally white institutions also pointed to the absence of institutional supports, in terms of programs and policies, aimed at facilitating their social adjustment and academic success. Few of these institutions had made serious commitments in terms of developing extensive academic remediation or tutorial programs to assist Black students. Instead these students were left to flounder on their own seeking solutions. Often with the result being reflected in the extremely high drop-out rates for Black students on white campuses, compared to Black students on Black campuses or to white students. Some of these colleges lacked even the rudiments of special programs to recruit and retain Black students (Ibid, p. 587-598).
Scarce or nonexistent financial aid resources was yet another serious problem which detracted from the educational experience for Black students on Alabama's traditionally white campuses. The problems encountered by Black students and their relative inability to resolve all these problems was further exacerbated by the inadequate numbers and training of counselors. Few counselors are assigned to serve the specialized, extensive needs of Black students. Of those assigned, fewer still had experience or were trained to address the specific needs of Black students. Without doubt the paucity of support services for Black students at white institutions was related to the extreme underrepresentation of Blacks among these schools' staff and management employees. Only 15% of the professional or management staff in the University of Alabama- Huntsville's student affairs division are Black (Ibid,p. 357).

In short, Black students who attend Alabama's traditionally white institutions find themselves in environments that are at best indifferent to their welfare but often as not are actively hostile. It is under these stressful environments, characterized by racial antagonism and institutional neglect that Black students at white schools must attempt to complete their educations. Beyond the already burdensome problems that any college student must confront in his or her daily life and the quest for the Grail, come these race specific problems. Beyond the regular, pressing academic deadlines, beyond the chore of locating satisfactory housing, beyond the need to juggle work and
school commitments, and beyond the mounting pressures, these students face an additional gargantuan burden—the problem of racism. Racism and race discrimination permeate—indeed dominate—the daily existence of Black students on traditionally white college campuses in Alabama.

**Historically Black Universities**

The two historically Black public universities in the Alabama system of higher education, Alabama State University and Alabama A & M University, have long histories of serving the state's Black community. From their inception these schools have been specific, effective responses to the state's systematic attempts to deny equal opportunity for higher education to its Black citizens. For much of the century, these schools represented the Black community's only public higher education option. Over time, as barriers to Black matriculation at traditionally white institutions were forced down by court dictates and federal legislation, these schools have continued to play a disproportionately important role in the higher education of Blacks in Alabama. Currently over 40% of Alabama's population of Black college students attends one of these institutions. It is important to note that any of these enrolled students were among the 72% of all Black Alabama high school graduates who were disqualified by admissions requirements from attending traditionally white institutions in the state (Ibid, p. 409-410).
The two historically Black universities in Alabama have maintained close ties and connections with the state's Black community. Alumni and students are intricately and intimately involved with key institutions in the Black community such as schools, churches, businesses and fraternal orders. As a result these historically Black schools have helped to establish, maintain and shape the foundations for the life, history and culture of the entire Alabama community of African Americans. Many in the state's Black middle and professional class were educated at one of these institutions. Others of this elite group of Black professionals have children who are currently attending or who graduated from Alabama State University or from Alabama A & M University. The critical role played by Alabama's historically Black universities cannot be duplicated or supplanted by traditionally white institutions. Historically Black schools have an organic connection and intimacy with the Black community that traditionally white institutions cannot approximate (Ibid, p.600).

Alabama's historically Black institutions, given their history and current patterns, offer uniquely beneficial educational environments for Black students. These institutions perform a special mission related to state higher education desegregation goals. For one thing using the accepted standard, i.e., that 5 to 20% of institution be from a non-majority group, these schools represent the only truly desegregated institutions in the Alabama state system of higher education. Operating at
two levels, the institutional and the student, these schools offer unique promise for advancing the cause of racial equality in higher education in the state.

On the institutional level, Alabama's historically Black universities operate to provide alternative access to higher education for Black students. At the student level, these schools prepare Black students to function in both the dominant white world and in their own culture (Plaintiffs and Defendants, 1991: p. 600). In the latter regard, Black institutions place greater emphasis on "value-added" curricula and instruction. This is to say that the course offerings and pedagogical style at historically Black schools tend to de-emphasize "wash-out" or "survival of the fittest" educational models more common on traditionally white campuses. Such "human sacrifice" models tend to gauge educational excellence in terms of the numbers of students who fail rather than the number who succeed. The better academic programs and institutions are thereby judged to be those who eliminate the largest number of aspirants.

In contrast to such an approach, Black institutions have long traditions of diagnostic evaluation of students to establish points of strength and weakness. This is then followed up by remediation aimed at correcting or eliminating areas of weakness in a student's educational preparation. The effectiveness of such an approach is demonstrated by the success of Black students who graduate Black institutions to pursue graduate or professional degrees at white schools. We need only be reminded
that a mere 4 or 5 years earlier few of these students would have been considered eligible for admission as undergraduates at these traditionally white institutions (Plaintiffs and Defendants Post-Trial Findings, 1991: p. 405). The effective intervention of historically Black institutions in these students lives was the determining factor between academic success and failure. For many of them, it was the difference between lives ensnared in poverty and lives bright with the expectation of economic prosperity.

In short, historically Black institutions provide Alabama's Black college students with culturally rich, supportive environments designed and committed to insuring their maximum academic growth and development. However, due to limited resources these schools are often restricted in their ability to fulfill their special missions. Years of discriminatory funding patterns at the state level has left a legacy of severe deprivation. These schools are disadvantaged in terms of physical plant, academic programming, research facilities, research productivity, academic strength and national reputation. In addition, these schools face the additional challenge of educating a student population which itself was the victim of substantial deprivation in terms of the early years of educational opportunity. Despite these far-reaching impediments, these institutions continue to provide a unique and valuable service to the state of Alabama. The continued presence and contributions of Alabama State University and Alabama A & M
University will be required into the foreseeable future if there is to be any hope of achieving educational parity between the races in Alabama.

An important prospect offered by the outcome of Knight v. Alabama is the identification of optimal models for the higher education of African American students. The careful review of the strengths and weaknesses of both predominantly white and historically Black institutions of higher learning should yield many important lessons. Ideally we would learn how the best of the historically Black institutions could be joined with the best of the predominantly white institutions to create transformed educational environments that allow for the maximal development of Black---and white---students. Under the optimal circumstance, African American students should not be forced to choose between one environment that offers effective pedagogical approaches and respect of their cultural heritage and another environment that offers rich physical facilities and extensive academic programs. The ideal pattern would be one where both traits are combined in the same institution. What Knight offers, perhaps for the first time ever, is the opportunity to outline an approach that creates a hybrid of the most favorable characteristics of Black and white postsecondary institutions and in the process furthers Black progress down the road toward educational equity.

**Conclusions and Implications**

After this journey through the creation and development of
Alabama's dual system of higher education, an inevitable question arises: What is to be made of all this and are there any solutions? First, it is important for the nation to recognize the existence of a racially dual and unequal system of education. This paper, examines the origins and operation of this system in Alabama. The realities of this unequal system of higher education are evident in other Southern states, as well, e.g., Mississippi, Louisiana, and Tennessee. Even in states across the nation where these issues are not being raised by legal challenges or hot debate, the evidence of Black educational inequality is clear. Therefore we must resist the lure to write all this off as merely a Southern problem, for in fact this is a national problem. The Federal Government, through its historical allocation of educational funds, through its historical propensity to wink at racist social arrangements and through its historical acceptance (if not advocacy) of the philosophy of Black subjugation, shares great responsibility for the creation of the unequal system of higher education. The courts are also deeply implicated in the formation and maintenance of this unequal system since the U.S. Supreme Court provided legitimacy for the Jim Crow social order in its 1896 Plessy v. Ferguson ruling. Finally, it is a national problem because African American citizens have paid, and continue to pay, a horrendous price for this country's refusal to grant them equal opportunities in education and employment.

The historical arrangement of educating Blacks and whites in
separate institutions within the same nation has its roots and purpose in a deeply racist context. This system developed in a society that was committed to oppressing African Americans and locking them into a permanent subjugated caste status. The dual system of education arose during Reconstruction as one of the answers to the vexing white dilemma of what to do with former slaves who were no longer required by law to submit to white people or to work without remuneration. White America, at this historical juncture, no longer had ready access to a free Black workforce on whose back it could build a great empire. It is clear too that African Americans, at that point in time, wanted total liberation and rights to self-determination consistent with democratic principles. They recognized that access to higher education was crucial for free, productive citizens in a great democracy (Anderson, 1988). They also understood America's profound obligation (and its stubborn resistance) to make educational opportunities available to Black people.

The South responded to this obligation by extending the social caste system or "Jim Crow" to the educational arena. African Americans were barred from all of "their" colleges and universities. When Blacks continued to demand access to higher education, the South reluctantly conceded by allowing the creation of Negro colleges. Whites insisted, however, on deciding the type and content of education that these schools would be allowed to offer. The consensus was that Blacks should only learn practical knowledge and skills that would make them
useful to white society. The Negro schools would produce laborers and craftsmen content to work in subservient positions. Whites left little to chance in pursuit of this goal, thus white-controlled Negro schools were established. These institutions were made inherently unequal by limiting their autonomy, missions and resources. The dual system of unequal higher education was NO accident, it served its purpose throughout the Jim Crow period and continues to function in similar manner as we approach the twenty first century.

The Knight case has produced vaults of historical and contemporary evidence to lay bare the existence of an unequal dual system of higher education in Alabama. When examined with clear, sober, objective eyes, this system looks remarkably like that founded during the Reconstruction period. The TBIs are still nearly completely Black and they are emasculated through underfunding and lack of autonomy. The TWIs have changed slightly, but they continue to be overwhelmingly white, and solidly white-controlled. The white schools remain vastly superior in terms of resources, course offerings, mission, and prestige. The white schools grant professional and doctoral degrees while the Black schools are largely restricted to undergraduate training. Thus the white schools provide the type of education that produces leaders of society, while Black schools provide the type of education that produces functionaries who are expected follow their mostly white superior's orders. Alabama's current dual system of higher education resembles that
which emerged during Reconstruction because it is essentially unchanged from that time.

It would be ludicrous and irresponsible to view the current missions, prestige hierarchies, governance structures, and funding patterns of Alabama's institutions of higher education as results of a naturally-occurring order. The dual system of education did not evolve because of sound educational policies, rather, it was engineered by human hands to function as a powerful device for empowering one racial group while subjugating another. To accept the fiction that this dual system, in all of its manifestations, "just happened" would be to legitimize the racist handiwork of previous generations of whites who deliberately conceived and constructed the racially biased, dual, unequal system of higher education.

It is difficult to substantiate an argument that Alabama's TWIs are no longer segregated, that they are equally accessible to white and Blacks. Blacks constitute less than 5% of the governing boards, faculties, administrators, and student bodies of these institutions. When then Assistant Secretary of Education Clarence Thomas reflected on Alabama's dual system of higher education, he concluded:

"I...don't know at what point a workforce becomes integrated, but I can tell you when there is the inexorable zero, it is not integrated,...and that is what we are approaching here. At the white institutions, you are approaching the point where the
Black students are at the inexorable zero. I may have to fall back on what the Supreme Court Justice said, that he knows pornography when he sees it and this is damn well it" (Thomas, Deposition, 1984).

Even when several hundred Black students attend a TWI with many thousands of white students, they often find themselves in situations where their numbers approach the inexorable zero point. Many have never been taught by a Black professor. They have never witnessed a situation where someone of their race is president, provost, dean or departmental chair. These Black students are often alone when they walk across campus and witness hundreds of white students marching to a football game behind the Confederate flag - a flag which flew over an enslaved people a little more than a century ago.

These realities leave African Americans at TWIs feeling as if they are aliens in their own country. These are the factors that disempower young African Americans who dare to attend TWIs. At this point in our history, the idea of desegregation needs to be reexamined from top to bottom. One thing is clear: for most African Americans, desegregation has not occurred when a few Black students are admitted and a trickle of Black faculty are hired. Nor are Black people educationally empowered by simply being able to sit next to a few white students or to hear a white professor's lecture. True desegregation occurs when African Americans actually share equally in the governance, life and instructional activities of a college or university. Real
desegregation is predicated on the sizeable presence of African American students at TWIs. Substantial numbers are required if racial desegregation is to empower instead of demoralize Black students. It is precisely for this reason that a thorough study of racial diversity at TWIs concluded:

"Creating a hospitable campus environment requires going beyond the announcement of good intentions and uplifting principles...Research has shown that 'multi-cultural campuses' (Campuses with 30 percent or more minority enrollment) are most conducive to the success of minority students...the fact remains that if there is only a handful of minority students, faculty, and administrators, they are much more likely to feel isolated" (Green, 1989 American Council on Education).

There are no TWIs in Alabama that come anywhere close to having this critical mass of Black students.

It is insufficient to attribute the underrepresentation of Blacks at every level of the TWIs to the small pool of Black Ph.D.'s or to low test scores and poor academic preparation, or to societal racial discrimination and Black poverty. This position ignores the active historical role played by Alabama's TWIs in designing and producing exactly this outcome. It is a cruel paradox to blame African Americans for an outcome that was determined by the decisions and actions of whites. It should never be forgotten that for over a century African Americans' tax dollars helped to support these TWIs where Black people were not
allowed to attend. The advocates of reverse discrimination and the opponents of affirmative action wish to ignore these facts. TWIs, the State of Alabama and this society share an obligation to correct these historic wrongs.

What then should come of the Knight case? First, it is clear that ASU and AAMU should be maintained and enhanced. There simply is no TWI in the state capable of accomplishing the vital missions of these two institutions. Despite their meager resources and oppressive white control, these institutions have been amazingly successful at providing a quality undergraduate education for generations of Black Alabamians and Blacks across the nation. Second, ASU and AAMU should be provided the funding and support that would enable them to become flagship institutions capable of providing Blacks and whites with the kind of educational experience conducive for the development of societal leaders. Had there been no racial discrimination or the resulting dual system of education, these institutions might very well have become Alabama's current flagship institutions.

We realize that to achieve these goals a great deal of money will be required. Where will this money come from in these stringent economic times? Given its vital importance, this goal warrants extreme action. It may very well prove necessary to eliminate (or merge under ASU or AAMU) AUM and UAH or even Auburn University. In this manner, resources could be freed up and redirected to enable the Black schools to achieve the status of desegregated flagship institutions. We are clear on the gravity
of this position. However, we are also clear about the gravity of a century of Black oppression and racial discrimination in higher education in the state of Alabama. The real question is whether America can ignore this past and current form of undemocratic oppression and yet still be considered the shining symbol of democracy. What Eastern Europe and other countries teach us is that the deep seated oppression of a people cannot stand forever.

The courts will play a crucial role in determining what is to happen with America's dual system of education. We believe the courts should come to grips with institutional inequality. For it is institutions that largely determine the fate of Americans, and it was the institutional behavior of the state and the TWIs that were largely responsible for Alabama's unequal dual system of education. If the Courts fail to direct their analyses and wisdom squarely on the institutional nature of these dual systems of education then they fail to confront the real nature of the beast. The political, economic, and social data generated by the Knight plaintiffs makes it clear that a complex system---the state, state organs, and the TWIs---was and is responsible for the dual system of higher education in Alabama. If the courts fail to recognize and address this nexus, then they will perpetuate the racist legacy.

This nation and its courts must now ponder the future of America's dual, unequal system of education. They will be required to decide whether to protect the legacy of Atherine
Lucy or that of George Wallace. We only know that if Lucy's legacy is not protected by a democracy, then God help us all.
REFERENCES


Organizational Analysis." Ann Arbor, MI: Program on Conflict Management Alternatives (paper #21).


Knight plaintiffs. "Memorandum Brief Opposing Defendants' Rule 41 Motions to Dismiss." from United States of America v. the State of Alabama et. al.


Knight plaintiffs and Boards of Trustees for Alabama A & M University and Alabama State University. "Proposed findings of Fact and Conclusions of Law - Volumes I, II and III." from John F. Knight et. al. v. the State of Alabama et. al.


