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Broken Promises

Kaaryn Gustafson†

My graduate career at Berkeley began in 1992. Early in that year, I received a phone call from a professor in the Jurisprudence and Social Policy program telling me that the admissions committee was favorably considering my application to the program, but that they had some questions for me. The professor asked me whether I was serious about academic life or whether I was attracted to Berkeley just because it was a politically lively campus. “We just want to make sure you won’t be spending your time marching around campus.”

This I found to be a puzzling comment. There was nothing in the documents I had submitted, and little in my background, to suggest that I would be someone who would be politically active or the least bit radical. I assured the professor that I intended to pursue academics seriously, that I was not the marching type.

After a bit of hemming and hawing, the professor then mentioned that the department actually had no other African Americans and that there was only one woman on faculty in the department. He assured me, however, that the department was trying to attract more minorities and White women as both students and faculty. With the promise that I would not be the last, or the sole, African American in the department, I decided on Berkeley for graduate school. My entering class included two other African Americans; I hoped that we would be a critical mass, drawing more students of color to our department.

Soon after arriving at Berkeley, I discovered that faculty hiring was a sore spot with both faculty and students. I learned that Boalt Hall had been the site of some ugly tenure battles fought by stellar female faculty members. I also learned about—and learned from—students who were “frozen out” by Boalt faculty as a result of their political activity around faculty diversity.

I spent my first few years at Berkeley being the typical (non-marching) graduate student. During that time, I watched the other two African Americans in my department leave the program for greener pas-

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tures. I also watched many of the minorities and White women who were professors at Boalt drift away to other schools. At this point I wasn't yet marching, but I was spending more time in meetings with the Coalition for a Diversified Faculty, where we came up with strategies to attract exceptional and diverse faculty, broaden the topics of study offered at Boalt, and address concerns about pedagogy.

Throughout all of this concern with faculty diversity, I never thought I would have to worry about student diversity. All at once, however, affirmative action policies seemed to be called into question both inside and outside the law school. The outside rhetoric was distant enough to be manageable; things were a bit more harsh inside. In December of 1994, as exams began, a number of first-year law students from underrepresented racialized groups received hate mail. The day that first-year grades were to be released students again received horrible notes, attacking the students with racial epithets, saying that they would not be at Boalt without affirmative action, and telling them that they were not welcome. Rather than focusing on minority students as the objects of hateful White supremacy and psychological violence, debates around Boalt Hall immediately turned to the abstract principles that might justify or contradict the use of affirmative action policies.

Things only got worse from there. On July 20, 1995, the Regents of the University of California banned the use of "race, religion, sex, color, ethnicity, or national origin as a criteria for admission"¹ A year later, fifty-four percent of California's voters approved Proposition 209,² a measure that claims to ban so-called racial preferences. The Boalt Hall admissions applications distributed in the Fall of 1995 excluded the racial/ethnic self-identification information that had been included in the past. As a token gesture, the personal essay was expanded from two to four pages. Targeted recruitment of underrepresented minorities ceased.³ An internal study conducted by a Boalt professor, using the 1995 applicant pool and using LSAT scores and undergraduate grade point averages as the sole indicators of admission, predicted that Boalt's graduating class of 2000 would experience an 80% drop in minority admittees and that the class would include only eight to twelve members of underrepresented minority groups.⁴

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1. University of California Board of Regents, Resolution SP-1 (adopted July 20, 1995).
 2. CAL. CONST. art. I, § 31; see William Claiborne, *Californians Sue to Block Proposition 209*, WASH. POST, Nov. 7, 1996, at A41. Proposition 209 was ironically titled "The California Civil Rights Initiative."
 3. Underrepresented minority groups previously tracked by the University of California included African Americans, Native Americans, Chicanos, and Latinos. Generally, the University has kept few statistics on Asian Pacific American sub-groups—such as Filipinos, Vietnamese, and Cambodians—though the dismantling of affirmative action policies has also had a detrimental effect on the representation of members of these groups in Boalt Hall's first-year class.
 4. See Memorandum from Professor Andrea Peterson, Member of Admissions Policy Committee, to Boalt Hall Faculty, Attachment # 1 (Apr. 9, 1996) (on file with author).

These predictions were accurate. This year's first-year class at Boalt includes no Native Americans, only one African American, and only fourteen Chicano/Latinos. Moreover, the African-American student and half of the Latino students had deferred admission from the previous year.

Although I knew these results were coming, I was still shocked when I heard the numbers. That shock was combined with disappointment, anger, frustration, and sadness. Beyond the fact that Berkeley was failing to fulfill its promise that my generation of minority students would be followed by yet another, was the fact that most of the faculty and administrators, and even many of the students on campus, simply remained idle—disengaged from the moral battle to define the common good, wilfully ignorant of the practical social effects of affirmative action's end, and contributing to a vast field of paralyzing indifference.

I woke up on the first day of school this year with knots in my stomach. I was numb when I left my house, and on the verge of tears when I arrived at school. The noontime rally, where scores of alumni came back to Boalt to declare their commitment to diversity, raised me up slightly out of my funk. On the second day of school, however, when seventy students showed up to the first meeting of the Coalition for a Diverse Faculty/Student Body, I was provided a sense of hope. As the number of members rose to 120 over the next couple weeks, I was heartened.

We students at Boalt sit at the center of a huge controversy, and many have decided to confront the issues. The members of this year's first-year class are forced to think about what it means to be part of a re-segregated environment, to think about what it means in terms of their education and in terms of their futures. Boalt students in general are working in coalition, seeking solutions to the problems facing the school and the California legal profession while also working through the experiential differences and the prejudices that divide us. We are examining the question of what merit is and how it should be measured.

We are engaging in even more important debates. We are discussing the purpose of higher education—both for individuals and society. As part of this discussion, we are asking what role education plays in the functioning of democratic values and participation; whether higher education is simply a service that should go to the highest bidder, an investment with both risks and payoffs; whether higher education is crucial to an individual's self-development and self-discovery; and whether access to higher education is not just a route to new opportunities, but also a source of hope and motivation for those members of society who are not born into social privileges. I hope more students will start grappling with these issues, and that they can do so in settings where individuals from subordinate social groups are present.

In the intervening years since I first arrived at Berkeley, I have become a law student. Breaking my promise to my graduate department, I

have also become a marcher. As a result of Berkeley's broken promise to me, I have become a student organizer, a manifesto drafter, an alumni agitator, a media maven, and a master of the Rolodex. I have grown tired. I have missed the luxuries of being a student and only a student.

What I have gained in the last few years, however, is much more important than what I might have learned by just poring over books and articles in the library. I am putting theory to practice. Moreover, I am bringing what I have learned to my writing, to my teaching, and to my perspective on the world.