

Burning Down the House: The Politics of Higher Education Policy

There is a story that blacksmiths tell. It seems that when the pioneers headed west from the territories, as they left a settlement behind, their final act was to set fire to their homes. When the blaze had cooled, the pioneers would sift through the ashes, and collect the nails to begin again.

INTRODUCTION

On July 20, 1995, in the culmination of twelve months of rising organizational and political economic conflict, the University of California (UC) Board of Regents voted 14–10 to end race and gender preferences in university admissions, and 15–10 to do so for employment and contracting.¹ The votes, having been delayed by a bomb threat, were taken at the end of more than twelve hours of deliberation. The Regents' votes on proposals SP-1 and SP-2 marked a historic reversal of nearly thirty years of UC affirmative action efforts, and made UC the first public university in America to eliminate the use of race and gender in admissions and employment. The Regents' actions were all the more remarkable coming from a university that, as the defendant in the landmark 1978 U.S. Supreme Court case *UC Regents v. Bakke*, had done much to preserve and codify existing national affirmative action policies in higher education.

The fall of affirmative action at UC challenged a number of prevalent understandings of the nature of policymaking and governance in higher education. An impressive array of institutional factions had urged the Regents to preserve UC's existing policies on affirmative action. Supporters included the president of the system, the university provost, all nine chancellors, representatives of the nine campus academic senates, representatives of all nine UC student associations, representatives of the system's major staff organizations, representatives of the university alumni association, and the faculty representatives to the Board of Regents.

There was also considerable support for UC's affirmative action policies beyond the campus borders. The Clinton White House and its Chief of Staff, Leon Panetta, showed considerable support, as did the California State Senate and Assembly Democratic caucuses and a number of elected state officials. They were joined by a significant cohort of organizations devoted to an end to discrimination and the redress of historical economic and social inequalities in America. The Reverend Jesse Jackson representing the Rainbow Coalition, the Reverend Cecil Williams and other church leaders, the NAACP, MALDEF, the ACLU, national student organizations, labor organizations including UPTE and AAUW, and such activist community organizations as the Grey Panthers all came to the defense of affirmative action at UC. Through a number of social and political actions, these groups worked to resist the effort to end affirmative action, and to link the struggle at UC to a broader struggle over access and equality.

Powerful forces were also arrayed in pursuit of an end to affirmative action at UC, including California Governor Pete Wilson, the State Assembly and Senate Republican caucuses, several candidates for the Republican presidential nomination, and a number of conservative legal foundations and interest groups. Despite nearly a year of public deliberation, a barrage of state and national attention directed at the Regents' deliberations, and the active involvement of the university's administrative leadership in the contest, the outcome came as a profound shock to institutional leaders at UC and across the country.²

That many in academe were surprised by the outcome of the affirmative action policy contest at UC points to the lack of theoretical and empirical work on contemporary university policymaking in a rapidly shifting political and economic context. Scholars of higher education have rarely addressed the role of public and private universities in broader state and national political contests, nor have they generally linked research on university policies to broader questions of race, gender, and power in the academy. As public universities increasingly become sites of contest over the allocation of scarce public resources, it is imperative to understand the uses of the university as an instrument in broader political contests, and the role of the State in the provision of public higher education.³

Intensified global economic competition has led to demands for increased contributions from higher education to state and federal economic development, and has also heightened the competition for access to both the most prestigious institutions and their most prestigious disciplines. At the same time, institutions are faced with competing demands for expanded access to higher education on the part of groups historically underrepresented in the academy, and for a broader distribution of the benefits of higher education throughout society.⁴ These essentially contradictory demands have

refocused attention on the importance of postsecondary policy as part of broader national and international policy contests, and have brought to the fore questions of institutional purpose and locus of control.

The contest over affirmative action policy at UC provides a particularly useful lens for understanding contemporary governance and policymaking. Since World War II, the University of California has been a highly salient site of conflict over public policies affecting academic research with military applications, the right to free speech and assembly on campuses, institutional investment practices, and admissions policies.⁵ Over the past two decades affirmative action policies have also played a pivotal role in state and national electoral and interest group contests,⁶ as these policies have been key factors in State efforts to redistribute access to postsecondary educational opportunity and the private and public benefits generated by higher levels of education.⁷ Another unique aspect of this case is that the intensity and personal character of this contest induced policymakers within and outside of the university to reveal their preferences in public.

This contest also offers considerable insight into the nature of contemporary organizational decision making in higher education. Making sense of the Regents' votes entails reconsidering the role of bureaucratic rationality in decision making, the effect of institutional culture on administrative behavior, the concept of collegiality, the extent of faculty authority, and the limits on interest articulation. While each of those approaches to understanding higher education organizations has utility, they are not what define this case. Comprehending the outcome of the contest over affirmative action at UC requires an understanding of the university as a democratic political institution, as an institution with both symbolic and instrumental political value in broader contests for State power and authority. It is a way of understanding public universities that scholars of higher education organizations have rarely adopted.

This is also a story of race and gender. To understand the struggle for affirmative action at the University of California, one must understand the role of public higher education in the redress of racial and gender inequality in America and the ways in which interest groups coalesce politically around those issues. Fundamentally, this is a story of politics and power. It details the long-term efforts of political leaders in one of the nation's key political battlegrounds to gain control of an important public institution and to use that institution's policies on access as levers in broader political contests.

For researchers and scholars of the organization and governance of higher education, this case is ultimately a window into how we understand our own institutions. It offers both a powerful reminder of what is useful about existing models of organizational behavior in higher education, and a challenge to improve our understanding of the political dimension of

those models. The case reveals the influence of the university administrative leadership in the unfolding contest, the collegial, consensus-driven approach taken by the university faculty,⁸ the symbolic power of UC's historical commitment to access and affirmative action, and the influence of internal interests in the shaping of the contest. Yet taken together, these frameworks fail to explain the decision reached in this contest.

The decision-making contest over affirmative action at UC was decided both slowly, through nearly twenty years of political action on gubernatorial appointments to the Board of Regents and senate confirmation of those appointments, and all of a sudden in July 1995, by a 15-10 vote of the board. It was also decided both near at hand, by the unsuccessful efforts of the Office of the President to articulate the various interests weighing in on the contest, and at some distance, by the efforts of a powerful governor in the state capitol and his political allies across the country.

Each of these dichotomies serves as a useful reminder of the many ways we have conceptualized decision making in public higher education, and of the fundamental arena in which we have failed to conceptualize that process. The routine description of the mission of a public university encompasses teaching, research, and service, but very rarely addresses the larger role of a university as a political institution, and the political value of a university's mission. More often than not, we have treated political challenges to a university as unfortunate anomalies and have moved forward with existing theoretical lenses and frameworks intact.

The data from this case study suggest that a new framework is necessary for understanding contemporary higher education decision making. That we need new ways of conceptualizing the politics of higher education is due in large measure to a historical separation of political theory and the study of organizations.

UNDERSTANDING HIGHER EDUCATION ORGANIZATIONS

Understanding the politics of postsecondary organizational behavior has been an enduring challenge for researchers in higher education. While models of behavior in other types of organizations and institutions have been transformed over the past four decades by an infusion of research and theoretical perspectives grounded in political science (Weingast and Marshall, 1988; Wilson, 1973) and economics (Arrow, 1974; Stigler, 1971; Williamson, 1985), research on university organization and governance has generally utilized multidimensional models (MDMs) with little connection to contemporary political or economic theory (Berger and Milem, 2000; Pusser,

2003). This anomaly emerges from some key distinctions between the disciplines. Research in higher education has focused on the institutions themselves, complex organizations with myriad missions that are not easily illuminated by the rational modeling favored in contemporary economics and political science. Further, institutional decision making in higher education has been understood as a consensual process that often avoids the declaration of individual preferences central to political models of organizational behavior. In this case, the public, pitched battle over affirmative action at the University of California offers a rare opportunity to revisit our existing frameworks for understanding organization and governance in higher education (Pusser, 2001).

THE PREVALENT MODEL OF ORGANIZATIONAL BEHAVIOR IN HIGHER EDUCATION

The multidimensional model of organizational behavior is one of the key analytical frameworks in higher education research on organization and governance (Bensimon, 1989; Berger and Milem, 2000). Although the model varies in the number of elements incorporated and their relative importance, nearly all permutations incorporate the political dimension developed by J. Victor Baldrige (1971). Baldrige's political dimension has been recognized as one of the essential elements of MDMs (Berger and Milem, 2000) and as the analytical frame most in need of revision (Ordorika, 2003; Pusser, 2003). The political dimension of the MDMs can be traced to Baldrige's (1971) *Power and Conflict in the University*, a study of organizational contest at New York University during the student protests of the sixties. Baldrige presented decision-making dynamics through an interest-articulation model, one that portrayed organizational "authorities" who made decisions for the whole, and "partisans" who were affected by those decisions (Baldrige, 1971, p. 136). The authorities served as "boundary spanners," key actors who mediated, or articulated, between internal and external constituencies.

Over time, scholars of organizations and higher education have revised the political frame to turn attention to external context, agenda control, interest groups, and legitimate authority in the higher education decision-making process, yet, until quite recently, research in higher education has treated institutional organization and governance as a largely endogenous process.⁹ As a result, there is relatively little that a political theorist would recognize in the contemporary political model for research on higher education organizations.

POLITICAL THEORY AND ORGANIZATION STUDIES

The separation of political theory from the study of organizations has been particularly problematic for the evolution of a political theory of higher education.¹⁰ Terry Moe (1991) has suggested that this differentiation is due to the historical structure of the study of public administration. Since the early part of the twentieth century, administration and politics have been treated as quite separate entities in the study of public sector institutions. Over time, the study of effective administration and organization became the domain of organizational theorists, while political scientists turned attention to the dynamics of Congress and the executive branch.¹¹

More recently, an emerging perspective in political science research in the United States, the positive theory of institutions (PTI), has turned attention to institutions as instruments in a broader political process. PTI has been applied to research on the organization and governance of public institutions, combining elements of political and economic theory to address the structuring of political institutions for partisan gain. Moving beyond its original application to regulatory agencies, congressional committees, and bureaucratic structures, the PTI model has been usefully applied to the study of the organization and governance of the elementary-secondary system and to specific structures and processes within postsecondary institutions.¹²

Positive theories have emerged from work on social choice. Kenneth Arrow and other social choice theorists pointed out that although majority rule policymaking is unstable and leaves a great deal undetermined, the political process and political institutions are relatively stable. PTI offered an explanation: the structure of political institutions brought stability to majority rule decision making and offered a mechanism for successfully implementing gains from those decisions. The exercise of public authority through majority rule voting demanded particular structures and processes to ensure that political bargains and contracts could be enforced under conditions of uncertainty. That is, few individuals or interest groups would “contract” to allow a majority rule body to decide gains or losses on a particular issue. Since in a democratic process many policy decisions are made in precisely this fashion, interest groups have an increased incentive to organize such political institutions as legislatures and governing boards in order to make it more difficult to overturn status quo bargains.¹³

The new economics of organization proved a quite useful component of PTI, as it added insights from economic theory, particularly agency theory and transaction cost economics, to the analysis of the structural form of political institutions. Principal-agent contracts between individuals are a staple of modern life, and within the PTI framework the relationship between institutions, state legislatures, and state universities, for example, is conceptualized as a principal-agent problem.¹⁴

POSITIVE THEORIES OF INSTITUTIONS AND HIGHER EDUCATION

Initial applications of positive theories of institutions to postsecondary governance have conceptualized the university as a site of struggle between competing interest groups within the institution and have focused on efforts to build institutional structures, such as the tenure system, that help enforce bargains.¹⁵ Like J. Victor Baldrige's early work and the subsequent application of the political frame of multidimensional models of organizational behavior, PTI has until quite recently been applied only to the endogenous articulation process in higher education. While useful, this approach does not go far enough.

A political theory of higher education decision making needs to encompass more than external interest pressure on the internal formulation of institutional policy. It also needs to account for a far more exogenous process, the efforts of external actors and interest groups who intervene in postsecondary policy struggles to gain influence over public benefits and to use public institutions as instruments in a broader political process.

The central elements of external efforts to gain influence over any political institutions are delineated in the PTI model. These factors include efforts to control the agenda for organizational action; ex ante legislative design of institutional governance structures; personal relationships between policy actors apart from any formal relationships; and the control of the allocation of costs and benefits from institutional policy.¹⁶

PUBLIC HIGHER EDUCATION INSTITUTIONS AS POLITICAL INSTITUTIONS

Developing a contemporary political theory of higher education entails conceptualizing public higher education institutions as political institutions, entities that control significant public resources, possess the authority to allocate public costs and benefits, implement policies with significant political salience such as conditions of labor or standards of credentialing, and that stand as particularly visible sites of public contest. A number of researchers have argued that these conditions describe public higher education institutions in the United States, that public higher education institutions are political institutions, and that higher education can be seen as a key commodity in its own right.¹⁷ Consequently, the postsecondary policy formation process may be characterized as an interest group struggle for that commodity value.

There is a significant limitation on prevalent models of higher education decision making that must also be addressed in order to build an effective

political theory of higher education. Positive theories in political science rely on pluralist¹⁸ assumptions about the governance of public institutions. The pluralist, “common good” assumption suggests that the political system allows for representative expression of the general will. PTI and interest articulation models have conceptualized decision making as an essentially pluralist process, as they examine, for example, the role of political parties in state and national policymaking. While that is one aspect of political contest, there are many levels of access to a given decision process, and many groups that do not necessarily have meaningful representation. The ways in which their interests are brought to the attention of decision makers and the ways in which the disenfranchised shape public policy contests are unlikely to be made clear under pluralist frameworks. To get beyond the limitation of pluralist processes requires an analysis of the role of political institutions within theories of the State.¹⁹

A STATE THEORETICAL VIEW OF HIGHER EDUCATION

A class view of the State suggested that the State is an instrument for perpetuating and reproducing dominant formations. Subsequently a variety of State theoretical perspectives emerged, including Antonio Gramsci’s (1971) vision of hegemony as key to understanding class conflict and contest. Gramsci’s work brought attention to the role of the State and its institutions, including education, as sites of contest. Bowles and Gintis (1976, 1990) presented a rather static, reproductivist view of the function of the education system, arguing that “the educational system, basically, neither adds to nor subtracts from the degree of inequality and repression originating in the economic sphere. Rather, it reproduces and legitimates a preexisting pattern in the process of training and stratifying the work force” (1976, p. 265). Resistance theorists challenged the reproductivist view by restoring a strong degree of agency to the process. Resistance theory suggests that schools are contested sites characterized by structural and ideological contradictions and student resistance, where subordinate cultures both reproduce and resist the dominant formations.²⁰ A number of researchers have extended this proposition to suggest that the education system holds the potential for equalization and democratization as well.²¹

Carnoy and Levin (1985) argued that contests over the provision of education can be seen as one part of a broader societal conflict rooted in the inequalities of income, access, opportunity, and power. Labaree (1997) conceptualizes the conflict pointed to by Carnoy and Levin as an essentially political dynamic. Labaree characterizes the tension as one between democratic politics (public rights) and markets (private rights) and suggests that

these inherently contradictory forces have been expressed as three essential and competing educational goals: democratic equality, social efficiency, and social mobility. He suggests, "In an important way, all three of these goals are political, in that all are efforts to establish the purposes and functions of an essential social institution."²²

The role of the State itself in civil society has been widely debated.²³ Building on Weber's insights on institutions, Mann proposed that State interest is expressed through State political institutions, which in turn constrain future struggles. As Mann puts it, "States are essentially sites in which dynamic social relations become authoritatively institutionalized, they readily lend themselves to a kind of 'political lag' theory. States institutionalize present social conflicts, but institutionalized historical conflicts then exert considerable power over new conflicts." Within this process, the creation and control of public institutions is essential. Mann concludes, "Degrees of success in achieving political goals, including the enactment of social legislation, depend on the relative opportunities that existing political institutions offer to the group or movement in question, and simultaneously deny to its opponents and competitors."²⁴

THEORIES OF THE STATE AND HIGHER EDUCATION RESEARCH

A problematic aspect of research on higher education policymaking is that very little work has invoked State theoretical standpoints. As Wirt and Kirst suggested nearly thirty years ago, scholars of the State and scholars of the school have been "temporarily separated brethren."²⁵ That "temporary" separation has continued to the present day. As noted, research in higher education has generally been based in pluralist paradigms that conceptualize the university as distinct from the State, and that conceive of the State as a political actor operating independent of higher education institutions (Rhoades, 1992). This rather limited view of the role of higher education in a social welfare context also significantly constrains research on the role of postsecondary institutions as political institutions and sites of contest. Perhaps the foremost exception to the general treatment of the State in higher education is the work of Sheila Slaughter, individually and in collaborations.²⁶

In her pioneering work on academic freedom and the state, Slaughter (1988) traced the growth of higher education as both outcome and catalyst for the larger growth of the American State in the post-World War II era. Following Carnoy and Levin's conceptualization of these tensions in education institutions generally, Slaughter (1988) concluded that "it may be necessary to conceive of the State and higher education as engaged in multiple and sometimes conflicting functions simultaneously. For example, the State and higher

education are both the subject and object of struggle. They are arenas of conflict in which various groups try to win ideological hegemony, yet at the same time they are resources for members of contending groups intent on political mobilization in external arenas” (p. 245).

Taken together, State theoretical perspectives effectively challenge endogenous models of higher education governance, as they suggest that powerful external forces, operating within a context of historical developments and conditions, shape political action and decision making at the institutional level.

RESEARCH DESIGN AND DATA

Two fundamental strands of data collection were used in this research. The first entailed building a historical record of this case using archival records and documents from the Bancroft Library of the University of California, the Office of the Secretary of the Regents of the University of California, and the UC Office of the President. Primary source documents included minutes of meetings of the Regents, documents and reports produced for the Regents during the period under study, as well as system-wide and campus-based reports and publications. These institutional documents were supplemented by state level data, including material from the Office of the Governor, legislative hearing transcripts and reports from members of the legislature, as well as such national data as Office of Civil Rights investigative summaries relating to the University of California, and Federal Court rulings. Another key portion of the documentation of this case was the transcription of the entire Regents’ meeting of July 20, 1995. That transcript, compiled from nearly twelve hours of audio and videotape, is a verbatim record of the Regents’ deliberations on the day of their votes to eliminate affirmative action.

The second avenue of data collection centered on semi-structured interviews with individuals central to the decision making contest. Those interviewed included individual Regents of the University, administrators on the individual campuses and in the Office of the President, state policymakers, students, representatives of the UC staff associations, alumni representatives to the Board of Regents, faculty Senate representatives to the board, and community activists. These interviews were transcribed, coded, and analyzed for linkages to the core analytical categories framing the study of this case (Strauss and Corbin, 1994). The presentation of this case includes a range of voices, perspectives, and data sources in order to illuminate the individual and institutional processes of education, negotiation and decision making that shaped the contest.

THE UNIVERSITY OF CALIFORNIA

Chartered in 1868, the University of California was created as a public land grant university and is administered under the authority of a constitutionally empowered Board of Regents. At the time of the Regents' deliberations over affirmative action in 1994-95, the university consisted of nine campuses: Berkeley, Davis, Irvine, Los Angeles, Riverside, San Diego, San Francisco, Santa Barbara, and Santa Cruz. Eight of the campuses provided broad undergraduate, graduate, and professional education, while UC San Francisco has been dedicated to the health sciences. A tenth campus, the University of California at Merced, is expected to open in 2004.

The University of California is one of the most complex postsecondary enterprises in the world, encompassing the ten campuses, a number of academic medical centers, research institutes, and national laboratories operated under contract with the federal government. National Science Foundation data indicate that at the time of the votes on affirmative action in 1995, five UC campuses (Berkeley, Los Angeles, San Diego, San Francisco, and Davis) ranked among the top 25 universities nationally for total research and development revenues. At that time, three UC campuses (Berkeley, Los Angeles, and San Diego) were members of the Association of American Universities, and UC had more academic programs ranked among the top 10 in the nation than any other public or private institution. The university had a total budget for 1994/95 of nearly \$10 million. A measure of the centrality of the university to the state of California is that UC received over \$2 billion in appropriations from the state for fiscal year 1995. Enrollment for fall 1994 was over 150,000 students with roughly one-quarter of those graduate and professional students.²⁷ The university is based in an equally large and diverse state. The total population of California in 1995 was over 32 million, with some 45% of the population White, 35% Hispanic, 12% Asian/Pacific Islander, and 6% Black.²⁸ California has the largest state economy in the nation, accounting for nearly 12% of the national GDP, and UC has long played a key role in the economic development of the state.²⁹

The prominence of the University of California, its central role in the political economy of the nation's most populous state, and the prolonged public character of the challenge to affirmative action provide a unique insight into the contemporary politics of postsecondary organization and governance. The making of postsecondary policy is a dynamic, path-dependent process, one that is best understood in light of historical formations and precedents. For that reason, the struggle over affirmative action has its roots in the founding of the university, and it is there that the analysis of the case appropriately begins.