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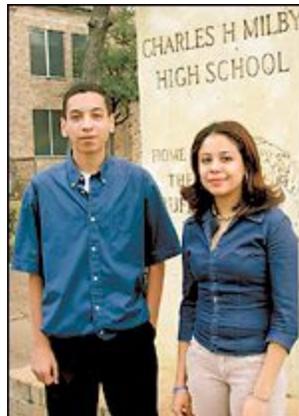
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Affirmative action, Texas style, stirs criticism

By [Kris Axtman](#) | Staff writer of *The Christian Science Monitor*

HOUSTON – Her mother teases her with nicknames of "bookworm" and "nerd," but the teasing is filled with pride for her oldest daughter. Even though Diana Medina initially struggled in school and cried every night when the family first crossed the Rio Grande, she soon learned English, made the Honor Roll, and is now third in her class.

Juan Maldonado's parents also came from Mexico, but before he was born. Growing up in Houston, he has long planned to aid astronauts from inside NASA's Mission Control. "I don't want to just sit around watching the TV. I have goals," he says, "dreams."



CREAM OF THE CROP:
Juan Maldonado and Diana Medina, seniors at Milby High School, won automatic admission to the Texas universities of their choice.
KRIS AXTMAN

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Diana and Juan are two of the most accomplished students in their senior class at Houston's Milby High School, with 4.45 and 4.26 grade-point averages, respectively. This fall, Diana will attend either Texas A&M University or Rice. Juan will go to the University of Houston. But neither believes a premier state college would have been an option without Texas's top 10 percent plan, which became law in 1998.

The plan is simple: Students finishing in the top 10 percent of their graduating classes - from public or private schools - earn automatic admission to the Texas university of their choice. It's the state's response to a 1996 appeals-court ruling that banned affirmative action in a case known as Hopwood v. Texas.

The issue has gained renewed attention since the US Supreme Court agreed to hear two lawsuits challenging the University of Michigan's admission policies, which give minority students a leg up at both the undergraduate and law-school levels. In a White House press conference, President Bush denounced what he called "quota systems" and formally opposed Michigan's admission policies in a legal brief to the court. At that same news conference, he hailed percentage plans - like those in California, Florida, and Texas - as a way to bring diversity to campuses without using race. Later this month, the Bush administration is expected to ask the Supreme Court to participate in April 1 oral arguments.

'There isn't any magic bullet'

But academics who have studied the percentage plans say they're less successful than race-based admissions - and certainly would not work in states with smaller minority populations. Today, The Civil Rights Program at Harvard

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University releases two studies on the plans in California, Florida, and Texas - arguing, in each case, that they are not effective alternatives to race-conscious affirmative action and, indeed, that their limited success is due mainly to race-conscious outreach.

"[The 10 percent plan is] better than nothing, but it's much worse than considering race," says Douglas Laycock, a professor at the University of Texas law school who helped defend his school's previous admissions policy in front of the Fifth Circuit Court of Appeals. "Everybody wants a magic bullet that increases diversity without considering race. Well, there isn't any magic bullet."

Indeed, ever since the Supreme Court in 1978 ruled that colleges and universities could consider race as one factor in admissions policies, states have been struggling with how to do so. Many states have voted to ban affirmative-action admission policies altogether, while others have attacked them in court.

And with federal appeals courts coming down on either side, states such as Texas have tried to find alternative ways to bolster diversity. Many contend such plans are having limited impact - or aren't working at all.

Behind the statistics

Another recent study of the Texas plan found that minority-student enrollment at both the University of Texas and Texas A&M University fell sharply after the ban on affirmative action.

The study, entitled "Closing the Gap? Admissions & Enrollments at the Texas Public Flagships Before and After Affirmative Action" was released just days after Bush touted his home state's percentage plan.

Piloted by a Princeton sociologist, the study purports that the 10-percent plan has failed to sustain minority enrollment at flagship state universities. According to the research, African-American students made up 2.4 percent of the Texas A&M enrollees after the Hopwood ruling, down from 3.7 percent before the ruling. And Hispanics made up 9.2 percent of A&M enrollees after Hopwood, down from 12.6 percent before.

At the University of Texas, African-American students made

up 3.3 percent of the enrollees after the Hopwood ruling, down from 4 percent before the ruling. And Hispanics made up 13.7 percent of UT enrollees after Hopwood, down from 15.8 percent before.

"The top 10 percent plan is not producing the ethnic and racial composition that the affirmative-action plan produced, and the numbers are big enough to really be noticeable," says Kevin Leicht, a sociology professor at the University of Iowa in Iowa City and a coauthor of the study.

Those numbers are especially troubling given that Texas is fast becoming a majority-minority state. In fact, say opponents of the percentage plan, the only reason it works at all is that Texas still has segregated high schools. At Milby High School, for instance, 95 percent of students are Hispanic - guaranteeing that the majority who qualify for the top 10 percent plan will be Hispanic.

But Michael Olivas, a law professor at the University of Houston and an architect of the 10 percent plan, still defends it. "The plan is not perfect, but we made the best of what we had," he says, adding that his numbers show a gradual return to pre-Hopwood percentages. "All the evidence in right now suggests that these kids are doing well, staying in school, and graduating at the same rates as the kids admitted under affirmative action." But even Mr. Olivas worries that simply returning to pre-Hopwood percentages is not good enough and doesn't take into account the huge explosion in certain minority populations.

For their part, Diana and Juan say they don't believe race should be a factor in getting into college, that admission should be based on "how smart you are," says Diana, "not what color you are." But both believe that they are at a disadvantage because of their race and socioeconomic status. For instance, wealthier schools can provide students with things like SAT prep materials - a sore point among many at Milby. Diana's SAT score was 1050 out of a possible 1600 and Juan's was 1030 - neither strong enough to land them at a flagship university.

But under the top 10 percent plan, both are guaranteed a spot. Now, they say nervously, comes the hard part.

How the plans work

- California: Top 4 percent of graduating students from public and private high schools win automatic acceptance to a University of California campus - but not necessarily the school of their choice.
- Florida: Top 20 percent of graduating public-school students win automatic acceptance to a state institution - not necessarily the one of their choice.
- Texas: Top 10 percent of graduating students from public and private high schools win automatic acceptance to the public Texas university of their choice.

Source: The Civil Rights Project at Harvard University