Supreme Court poised to end racial preferences in university admissions

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29 January 2022

On Monday, the Supreme Court of the United States granted review of two consolidated cases concerning racial preferences in college admissions, for which the court will likely hear oral arguments this October.

Commentators have widely expected that the first case—*Students for Fair Admissions v. President and Fellows of Harvard*—would end up at the Supreme Court. In that case, the plaintiffs are a group of Asian Americans and whites who argued that the Ivy League school's remarkably stable acceptance rate of African Americans and Latinos over decades could not have been accomplished without an illegal quota system. The plaintiffs lost in the trial court and in the First Circuit Court of Appeals.

While prevailing at trial and on appeal, Harvard came out of court with considerable egg on its institutional face. The litigation uncovered internal admissions emails and memoranda depicting a culture of anti-Asian sentiment. While African American and Hispanic applicants scored well for intangible "leadership" qualities, notes on the applications of Asian Americans wallowed in racial stereotypes, describing otherwise qualified candidates as "quiet/shy; science/math oriented." One evaluator described an Asian applicant derisively "he's quiet and, of course, wants to be a doctor."

The Harvard trial also underscored the fact that applicants from wealthy backgrounds cruised into the school in huge numbers while qualified candidates of all ethnic backgrounds vigorously compete for a handful of seats.

The second case also has the SFFA as plaintiff, but this time against an elite public institution: the University of North Carolina at Chapel Hill. While the facts of the case are similar, the UNC case raises the legal issue of whether the US Constitution's Equal Protection Clause prohibits the consideration of race in admissions decisions, an issue that is absent from the Harvard case, which concerns Title IV of the Civil Rights Act of 1964.

Procedurally, the Supreme Court made the highly unusual move of skipping over the Court of Appeals and putting the UNC case directly on the high court's docket. This fast-tracking has happened only 14 times since February 2019 and prior to that, not a single time for 14 years. Given the composition of the Supreme Court, the move indicates a haste to overrule precedents allowing for some consideration of race in university admission—whether in private or public universities.

There is no genuinely progressive force on either side in these cases.

Racial preference—in university admission, employment, and now, alarmingly, in healthcare—rests on the unstated premise of scarcity. There are only so many spots at great universities, only so many professional posts, good jobs, vaccines, etc. That is what is meant by references to equality of opportunity, of equal access to this and that privilege. Socialists reject this scarcity premise with contempt, in contrast to both the Democratic and Republican wings of the ruling class.

A broader historical review of the Democratic party's turn to identity politics is beyond the scope of this article. But briefly put, the former party of slavery and secession took on a new role in the 20th century: that of diverting popular movements into safe, bourgeois political channels. For a period, the Democratic Party championed limited social reforms such as the New Deal and the Great Society. As the post-war economic boom gave way to stagflation and class war, the party—with the help of phony socialists like Michael Harrington—turned ever further from economic populism and sought instead to build an electoral base among women and minorities of the upper middle class. While the policy behind this shift was more budget-friendly—it was easier to advance a relative handful of people in select groups than the entire working class—the political right cynically seized the

mantle of equal treatment under the law.

On the other side of the cases, the Students for Fair Admissions is a pet project of American Enterprise Institute fellow Edward Blum, who funded the legal attack on the Voting Rights Act in the case *Shelby County v. Holder*. The result of that 2013 Supreme Court decision was the end of the preclearance provision of the VRA which allowed state legislators to devise voter repression schemes with a free hand. Changes in voter procedures—eliminating Sunday voting, requiring valid photo ID at the polls—target likely Democratic voters: youth and African Americans, and low-income people of all races.

The social forces behind the SFFA could care less about the unequal treatment of Asian Americans. Elements around the Republican party first cultivated the Wuhan lab lie and whipped up an atmosphere of suspicion and hostility to Asian Americans with violent repercussions. Nor would these forces hesitate for an instant to use nuclear weapons to annihilate the entire Peoples Republic of China, should the opportunity arise.

While the Democratic Party and the section of the bourgeoisie it speaks for believe that racial quotas in the military command, corporate America, academia and in the higher-paid professions adds a bit of social stability to a grotesquely unequal society, the Republican faction is unconcerned with stability in the conventional sense. Instead, the party of Trump offers itself as men of violence who will crush opposition, including rising working-class militancy, by force.

In this context of unprecedented crisis, the right-wing dominated Supreme Court is poised to end racial preferences in university admissions—not as part of a general advance of democratic rights—but as a sop for the racialist militia forces that increasingly comprise the popular base of the Republican Party.