

US Supreme Court majority abolishes racial preferences in university admission

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On Thursday, the corrupt far-right majority on the US Supreme Court issued a decision effectively abolishing racial preferences in university admissions. By a 6-3 vote, the court held that racial preferences in the admissions process at Harvard University and the University of North Carolina, also known as “affirmative action,” violated the constitutional right of “equal protection” as well as a federal statute that prohibits racial discrimination by recipients of federal funding.

The decision overturns decades of deliberate national policy, with far-reaching implications across numerous institutions and professions. While most students attend colleges and universities with little or no selectiveness in terms of admissions, the most disruptive effects of the decision will be concentrated in the most elite institutions, where dozens or even hundreds of applicants often compete for the privilege of a single spot.

Contrary to the way the decision has been portrayed in the American media—equating it with the infamous *Dobbs* decision last year abolishing the right to abortion—the issue in the cases decided Thursday was not whether to improve the overall quality of education or broaden access to it for millions of students. Instead, the dispute was over the methods for allocating the privilege of obtaining a quality higher education within the existing framework, which remains unchanged.

Affirmative action policies have been bitterly litigated by rival factions of the American ruling class for decades, resulting in splintered Supreme Court decisions that until recently have narrowly permitted racial preferences. In the most recent case, the Biden administration, the justices aligned with the Democratic Party, and the universities defended affirmative action. But the new majority of far-right and Republican-aligned justices, including three appointed by the fascistic ex-president Donald Trump, took the opportunity to transform what had previously been the subject of angry dissents into the supreme law of the land.

An extraordinary five hours of oral arguments were devoted to the case in November. By the end of those arguments, the 6-3 decision against affirmative action was all but assured. The seven-month delay as well as the extraordinary length of the decision (237 pages split among six different opinions) testify to the bitterness of the disagreements over terminating an entrenched decades-old policy.

“Amicus” or “friend of court” briefs were submitted in the case by groups representing substantial swaths of the American academic, corporate, government, and military elite. Many of these groups expressly defended affirmative action as a key institution in the “pipeline” for selecting and grooming the next generation of the elite, and ultimately for ensuring the long-term stability of the capitalist social order. They feared that flipping the tables on this well-established practice could have far-reaching and destabilizing implications.

These fears were articulated in the principal dissenting opinion filed by justice Sonia Sotomayor. Defending affirmative action, she wrote, “History teaches that racial diversity is a national security imperative.”

Quoting from the Biden administration’s brief in support of affirmative

action, Sotomayor expressly tied the policy of affirmative action to the war plans of the American government: “Based on ‘lessons from decades of battlefield experience,’ it has been the ‘longstanding military judgment’ across administrations that racial diversity ‘is essential to achieving a mission-ready’ military and to ensuring the Nation’s ‘ability to compete, deter, and win in today’s increasingly complex global security environment.’”

Indeed, during the oral arguments in November, the Biden administration’s solicitor general made this argument with an implicit reference to the phenomenon of “fragging” during the Vietnam War, when a pattern emerged of black conscripts killing their white officers.

Taking up this argument, Sotomayor wrote, “During the Vietnam War, for example, lack of racial diversity threatened the integrity and performance of the Nation’s military because it fueled perceptions of racial/ethnic minorities serving as ‘cannon fodder’ for white military leaders.”

Sotomayor warned of “the costly result” of eliminating affirmative action, again quoting the Biden administration brief. “‘The Nation’s military strength and readiness depend on a pipeline of officers who are both highly qualified and racially diverse—and who have been educated in diverse environments that prepare them to lead increasingly diverse forces.’ That is true not just at the military service academies but ‘at civilian universities, including Harvard, that host Reserve Officers’ Training Corps (ROTC) programs and educate students who go on to become officers.’”

Extending these rationales from military officers to the business elite, Sotomayor cited a brief filed on behalf of “Major American Business Enterprises” that argued that “a diverse workforce improves business performance.”

“A college degree, particularly from an elite institution, carries with it the benefit of powerful networks and the opportunity for socioeconomic mobility,” she acknowledged. “Admission to college is therefore often the entry ticket to top jobs in workplaces where important decisions are made.”

In so many words, the dissenting justices opposed the abolition of affirmative action on the grounds that it would undermine the illusion of social mobility as well as the perceived legitimacy of the American government, military, financial institutions, and the capitalist social order.

As for the far-right Supreme Court majority, their decision to abolish affirmative action is based on a number of no less cynical calculations. Alongside fascistic figures like former Trump aide Steven Bannon, the far-right wing of the American political establishment senses that identity politics enjoys weak popular support, and seeks to exploit decades of accumulated grievances resulting from the application of racial preferences.

The cases that were decided Thursday were brought by an organization called the “Students For Fair Admissions” (SFFA), which is associated with right-wing legal activist Edward Blum, who has previously been

behind legal attacks on the Voting Rights Act.

In the Harvard case in particular, a number of documents came to light in the course of the litigation that were highly embarrassing for the university, exposing the capricious manner in which students from some backgrounds were assigned high “leadership” scores.

While affirmative action was ostensibly aimed at the elimination of racial prejudice, in practice the distribution of racial preferences frequently involved the direct application of such prejudices, such as students from Asian backgrounds being arbitrarily given low scores for “personality” in order to make room for students from other backgrounds.

In the decades during which affirmative action became more and more entrenched, a whole rotten cottage industry emerged that was dedicated to assisting students with navigating these arbitrary preferences, such as advising students on how to appear “less Asian” in their applications.

As it relates to the extremely sensitive issue of the military in particular, it is noteworthy that the Supreme Court decision carves out “military academies” from the direct impact of the ruling, adding that the “opinion does not address the issue, in light of the potentially distinct interests that military academies may present.”

The conflict over affirmative action in the Supreme Court is a facet of broader conflicts within the American political establishment that have also been reflected in the controversies between the New York Times’ 1619 Project and the Trump administration’s “1776 Report” and over “critical race theory.”

Denouncing the “superficial rule of colorblindness as a constitutional principle,” Sotomayor’s dissent described America as an “endemically segregated society.” Justice Ketanji Brown Jackson, who formerly sat on the Board of Overseers of Harvard, wrote separately that the US “has never been colorblind.” The implication is that America is a society that has always been divided by race, that will be divided along racial lines for the foreseeable future, and within which a system of allocating privileges based on race will necessarily play a more or less permanent role.

By attacking the Democratic Party where they sense it is weakest, the far-right seeks to win support for its own fascistic policies, as well as to establish a platform for anti-democratic legal rulings in the future.

The attempt by the far-right Supreme Court majority to posture as paragons of “equality” lacks any credibility whatsoever. On Friday, just one day after the decision abolishing affirmative action, the Supreme Court majority sided with a Christian fundamentalist bigot who refused to design a website for a gay couple. Invoking religious “freedom,” the decision recalls the infamous legal decisions from the Jim Crow period that upheld the “freedom” of restaurant owners to refuse to serve food to black people. The same day, the Supreme Court blocked a federal student loan forgiveness plan, preventing hundreds of thousands of former students from escaping crushing debt that many will never be able to repay.

Earlier this month, by a vote of 8 to 1, the Supreme Court issued a far-reaching attack on the right to strike, opening the door for employers to file lawsuits against striking workers for “damages” resulting from a strike. Sotomayor, who authored the principal dissent in Thursday’s affirmative action ruling, joined the right-wing majority in that decision.

The current Supreme Court, stacked with unelected far-right justices, is embroiled in a historically unprecedented corruption scandal that undermines the legitimacy of any of its purported decisions. Numerous justices have been exposed accepting undisclosed “gifts,” including from people and entities with definite political agendas and even pecuniary interests in pending court cases.

The most egregious offender, Clarence Thomas, has refused to step down even after being caught accepting large “gifts” from Harlan Crow, a billionaire anti-communist zealot whose hobbies include collecting Nazi artifacts. Clarence Thomas’s wife, Virginia “Ginni” Thomas, was a key Trump operative during the time the January 6, 2021 coup was being

planned.

The abolition of affirmative action by the Supreme Court on Thursday brings to a close a whole era during which racial preferences constituted a major component of state policy in the US. Originating in the Nixon years alongside the slogan of “black capitalism,” affirmative action was increasingly embraced by the Democratic Party in the subsequent decades as the party turned away from the last vestiges of a program of social reform, replacing it with a concentration on various forms of “identity.”

It is a matter of objective historical fact that these policies benefited only a narrow and privileged layer of minorities, while social inequality increased and wages and living conditions steadily declined across the board.

More than two decades ago the *World Socialist Web Site* published a statement, “Affirmative action and the right to education: a socialist response,” which rejected a choice between the advocates of racial preferences and their right-wing detractors.

“A genuine improvement of the state of education in the United States requires massive public investment in primary, secondary and tertiary education,” the statement concluded. “Grade schools must be supplied with the funds necessary to provide a quality education to all. Teachers must be paid more, class sizes reduced, school buildings improved, and their surrounding neighborhoods renovated. Remedial college classes must be made available to all who have suffered from the decay of primary schooling. Quality education at all levels should be provided, free of cost and as a basic democratic right, to anyone who wants it, regardless of race or gender. In relation to higher education, this approach involves a policy of open admissions.”

Thursday’s decision makes a fight for this perspective even more urgent. The American government is currently funneling enormous sums of money into the proxy war in Ukraine and into preparations for a third world war, which must inevitably translate into even more sharp attacks on the resources and social conditions necessary for high-quality education of the youth.

The fight for the right to education must be rooted in the interests of the *entire* working class internationally, including people of all races and backgrounds, in opposition to all of the factions of the ruling class of each country, their cynical divide-and-conquer strategies, and their war plans.



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