



Which Better Promotes Educational Equity, Affirmative Action or Colorblindness - The Case of SFFA V. Harvard University (2019) as an Example

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Abstract. The SFFA v. Harvard case has once again raised the question of Affirmative Action’s “reverse discrimination” in higher education: a 2005 Princeton study [1] showed that Asian students needed to score 140 points more than white students, 270 points more than Hispanic students, and 450 points more than African-American students on the SAT in order to be placed in the same band. 270 more points than Hispanic students and 450 more points than African-American students in order to be placed in the same level bracket for comparison. This article uses the case of SFFA v. Harvard University (2019) to analyze which is better for educational equity, Affirmative Action or colorblindness. The desirability in colorblindness is used to optimize Affirmative Action using both literature research and historical research methods in the field of higher education.

Keywords: CRT · colorblindness · diversity rationale · Affirmative Action · education

1 Introduction

The need to increase educational equity is a real need in the U.S. In recent years, there have been more and more examples of suing colleges and universities for unfair admissions of students. In SFFA v. Harvard University, SFFA began filing lawsuits in 2014, accusing universities such as Harvard of allegedly discriminating against Asians by using ethnicity-based affirmative action to suppress Asian enrollment ratios on the basis of a diverse student body. This year, on Jan. 24, 2022, the Supreme Court announced that it had agreed to hear the appeal. The hearing of oral arguments at trial began in October of this year.

This has led many to believe that Affirmative Action is “reverse discrimination” in higher education. Major colleges and universities in the U.S. have begun to impose racial and gender quotas in order to “diversify”. Increasing enrollment quotas for African-Americans and Latinos means that quotas for Asians and whites need to be reduced. Therefore, it was criticized by the opponents as “Reverse Discrimination”. According to the information disclosed in this recent Harvard admissions lawsuit, from the students

who entered in 1996 (class of 2000) to the students who entered in 2013 (class of 2017), Asian students scored an average of 767 out of 800 on the SAT in every area, compared to 745 for white students, 718 for Hispanic students, and 704 for African-American students [2]. There is no doubt that for applicants with identical SAT scores, African-American students are much more likely to be admitted to Harvard than Asian students. Studies of admissions to some elite private universities have shown that for the same chance of being admitted, Asian students need a nearly perfect 1550 SAT score, white students need a 1410 score, and African-American students need only an 1100 score [3].

This research uses *SFFA v. Harvard University* (2019) to analyze which is better for educational equity, Affirmative Action or colorblindness. Also, this paper uses both documentary research method and historical research method.

The literature research method is a method of collecting, identifying, and organizing literature to develop a scientific understanding of facts through the study of literature. The research method is based on “WebofScience”, “Scopus”, “Springer”, “Affirmative-Action” and “AffirmativeAction”. The Chinese translations of “Affirmative Action”, “Affirmative Action”, “Affirmative Action”, and “Affirmative Action” are used as keywords in conjunction with Cross-searching with “higher education equity” and “college admissions”. The website of the U.S. Department of Education and the official websites of colleges and universities were used to collect the admissions systems and reports of each state and college in the United States. The official website of the U.S. Federal Supreme Court was used to obtain the litigation and case decisions caused by Affirmative Action in the field of higher education. Triangulation was also done using various newspapers, magazines, and other news media websites to confirm the credibility of the research data. This research aims describe the impact of Affirmative Action on college admissions, to understand the resistance to the implementation of the policy, and to analyze the reasons for it and its significance.

The historical research method is a method of studying past events in the order of historical development by examining historical data, also known as the longitudinal research method. The Affirmative Action and college admissions equity studied in this paper have experienced a large span of time and also exhibit a complete character of change. The use of a historical research approach is a necessary requirement for in-depth research.

By examining the history of the development of Affirmative Action’s impact on higher education enrollment, this paper looks for clues in the relationship of various events and analyzes the effects and deterrents of policies on affecting higher education enrollment. In this way, the author can improve the application of Affirmative Action in the admission of students to colleges and universities with colorblindness, promote equity in the distribution of educational resources, and alleviate racial conflicts.

2 Social Relations Behind

In terms of the social relations behind it, an unequal distribution of education among African-Americans, Hispanics, Asians, and Whites emerged. Espenshade, Thomas J., a professor at Princeton University, published *No Longer Separate, Not Yet Equal* in 2009 [4]. In the book there are statistics about the performance of American college

applicants: “Asian students who enter elite colleges and universities score on average 140 points higher on the SAT than white students, 270 points higher than Latino students, and 450 points higher than black students. And Asian students do not fare worse than other races on extracurricular activity indicators.”

Not only are Asian groups required to have higher admissions scores than other ethnic groups, they are even subject to prejudices such as “lack of creativity and critical thinking” by admissions officers. The most high-profile case is that of Harvard University, which was sued for discrimination against Asian students. According to a June 19 report in the *New York Times*, a group representing Asian American students analyzed the files of more than 160,000 students and filed a report in a lawsuit against Harvard University. According to the report, Harvard consistently rates Asian applicants lower than applicants of other ethnicities on character traits such as “positive personality,” goodwill, courage, kindness and “widely respected. The analysis, commissioned by the organization, which opposes all race-based admissions criteria, showed that Asian-American students scored higher than applicants of other ethnicities on test scores, grade points, and extracurricular activities, all admissions indicators. However, the analysis also found that Asian students’ personality scores significantly lowered their chances of admission.

3 History of Affirmative Action Implementation

The history of Affirmative Action implementation shows that Affirmative Action used to promote access to higher education for minorities and has contributed significantly in promoting educational equity.

Affirmative Action arose in the context of the civil rights movement of the 1950s and 1960s and was officially implemented in 1965. Affirmative Action was born out of Presidential Decree 10925 issued by John F. Kennedy, and has since evolved into a broad policy that calls for preferential treatment and greater opportunities for blacks and other minorities in employment and schooling, so that the situation of blacks and other minorities can be substantially improved. This was a revolutionary move in the history of the American civil rights movement. With the introduction of Affirmative Action, colleges and universities with a tradition of severe racial and gender discrimination began to introduce Affirmative Action into their admissions programs, taking into account the race or gender of applicants and giving priority to disadvantaged groups in admissions.

Affirmative Action is a fundamental national policy that affects all areas of the United States, and its implementation in higher education is significant in promoting equity in higher education. It addresses the inequities that exist across the United States and aims to eliminate long-standing discrimination and injustice. Over the decades, it has changed the predominantly white profile of college faculty tenure and mobility, and it has led to a significant number of minority and female students entering college.

3.1 Changes in Undergraduate Enrollment

As Fig. 1 shows, these two racial/ethnic groups experienced the fastest growth in enrollment, resulting in an increase in their total enrollment between 1976 and 2008:

Race/ethnicity	1976	1980	1990	2000	2003	2005	2008
Number enrolled							
Total	9,418,970	10,469,088	11,959,106	13,155,393	14,480,364	14,963,964	16,345,738
White	7,740,485	8,480,661	9,272,630	8,983,455	9,664,641	9,828,594	10,339,216
Black	943,355	1,018,840	1,147,220	1,548,893	1,838,043	1,955,356	2,269,284
Hispanic	352,893	433,075	724,561	1,351,025	1,579,783	1,733,555	2,103,524
Asian/Pacific Islander	169,291	248,711	500,486	845,545	922,749	971,353	1,117,865
American Indian/Alaska Native	69,729	77,900	95,474	138,506	157,821	160,404	175,552
Nonresident alien	143,217	209,901	218,735	287,969	317,327	314,702	360,297
Percentage distribution							
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
White	82.2	81.0	77.5	68.3	66.7	65.7	63.2
Black	10.0	9.7	9.6	11.8	12.7	13.1	13.9
Hispanic	3.7	4.1	6.1	10.3	10.9	11.6	12.9
Asian/Pacific Islander	1.8	2.4	4.2	6.4	6.4	6.5	6.8
American Indian Alaska Native	0.7	0.7	0.8	1.1	1.1	1.1	1.1
Nonresident alien	1.5	2.0	1.8	2.2	2.2	2.1	2.2

Fig. 1. Total number, total percentage distribution of undergraduate fall enrollment in degree-granting institutions, by race/ethnicity: Selected years, 1976–2008 [5]

Asians/Pacific Islanders from 2% to 7% and Hispanics from 4% to 13%. During this period, American Indian/Alaska enrollment was more than doubled, from 70,000 to 176,000. Black enrollment increased from 943,000 to 2,269,000, and their share of total enrollment increased from 10 percent to 14 percent. White enrollment also increased, but at the slowest rate of all races/ethnicities. Although White enrollment increased from 7,740,000 to 10,339,000, White enrollment, as a share of total enrollment, declined from 82% in 1976 to 63% in 2008.

3.2 Changes in Graduate Enrollment

As Fig. 2 shows, during this period, Asian/Pacific Islander enrollment increased sixfold, from 29,000 to 185,000 students. In 2008, Hispanic graduate enrollment was more than five times the 1976 enrollment, increasing from 31,000 to 169,000 students. In addition, the number of Black graduate students increased from 90,000 in 1976 to 315,000 in 2008. During this period, each of these racial/ethnic groups increased their share of total enrollment. For example, total graduate enrollment increased from 6 percent to 12 percent for Blacks, from 2 percent to 6 percent for Hispanics, and from 2 percent to 7 percent for Asians/Pacific Islanders. 28 American Indian/Alaska Native graduate enrollment more than doubled from 6,400 to 17,700 students. While the number of white graduate students increased from 1,336,000 to 1,750,000, the white share of total enrollment declined from 85% to 64% between 1976 and 2008.

Race/ethnicity	1976	1980	1990	2000	2003	2005	2008
Number enrolled							
Total	1,566,644	1,617,720	1,859,531	2,156,896	2,431,117	2,523,511	2,737,076
White	1,335,646	1,352,351	1,449,830	1,478,644	1,616,272	1,666,846	1,749,565
Black	89,670	87,910	99,819	181,425	230,342	259,205	315,194
Hispanic	30,897	38,642	57,888	110,781	136,488	148,420	169,364
Asian/Pacific Islander	28,587	37,735	71,954	132,679	152,834	163,029	184,932
American Indian/ Alaska Native	6,381	6,003	7,319	12,644	14,825	15,899	17,737
Nonresident alien	75,463	95,079	172,721	240,723	280,356	270,112	300,284
Percentage distribution							
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
White	85.3	83.6	78.0	68.6	66.5	66.1	63.9
Black	5.7	5.4	5.4	8.4	9.5	10.3	11.5
Hispanic	2.0	2.4	3.1	5.1	5.6	5.9	6.2
Asian/Pacific Islander	1.8	2.3	3.9	6.2	6.3	6.5	6.8
American Indian/ Alaska Native	0.4	0.4	0.4	0.6	0.6	0.6	0.6
Nonresident alien	4.8	5.9	9.3	11.2	11.5	10.7	11.0

Fig. 2. Total number, total percentage distribution of graduate (postbaccalaureate) fall enrollment in degree-granting institutions, by race/ethnicity: Selected years, 1976–2008 [5]

4 Colorblindness Proposal

Even the conservative justices who support Affirmative Action argue that the affirmative action movement's application in higher education today is no more than a stopgap measure, a temporary one that is difficult to justify jurisprudentially. For example, in that 2003 University of Michigan Law School admissions case, Justice O'Connor, a frequent swing vote, said that Affirmative Action has a 25-year time limit, after which time period the policy of colorblindness should be adopted [6]. In fact, as Justice Thomas said in his dissenting opinion in that case, if a policy is unjust after 25 years, it is also unjust now, and continuing such a policy would do nothing more than prolong the injustice for 25 years.

4.1 Changes in Admissions Ratios by Ethnicity After Implementation of Colorblindness Policy and Repeal of Affirmative Action

A study published by Princeton University scholars Thomas Espenshade and Chang Chung pointed out that if Affirmative Action were abolished, African-American and Hispanic admission rates at Ivy League schools would be reduced by two-thirds and half, respectively, with only a 0.5% increase in white admission rates, but a significant increase in Asian admission rates from 18% to 23% [7].

The University of California at Berkeley abolished Affirmative Action in 1997 and implemented the principle of "race neutrality". According to publicly available data from Berkeley, over the past 20 years, the percentage of Asian students at the university

has increased from 25% in 1989 to 45% in 2012, with a corresponding decline in the number of Latino students since 2005. Similarly, California Polytechnic State College sells admissions entirely on merit. The percentage of Asian students increased from about 20% in 1990 to nearly 40% in 2011.

5 Using Colorblindness Policies to Improve Affirmative Action in Higher Education

5.1 Granting Preferences Based on Family Income Rather Than Race

Children with high family income, regardless of their race, are born to enjoy better educational resources than children with low family income, and have more shortcuts when learning. If preferential treatment is given solely on the basis of ethnicity, it will reduce the opportunities for children from poor families in some ethnic groups to cross social strata. The purpose of Affirmative Action was originally to help the bottom of the African-American community, but the beneficiaries were the middle and top of the African-American community, because they were more likely to get the opportunity to enter the university, which created a new privileged class and new inequality among the African-American community. Moreover, Affirmative Action has given many people the opportunity to take advantage of opportunities, and they try to become members of the preferential treatment group [8]. In addition, the reverse discrimination caused by Affirmative Action is only to replace the old inequality with the new inequality, which makes white people angry and deeply feel that they have become victims, and further aggravate the relationship between different races [9]. When granting preferential policies, colleges and universities should specifically examine the family income of applicants, rather than simply give preferential conditions based on race.

5.2 Preferences are Given on the Basis of Educational Level in the Region Rather Than Race

Preferential conditions should be given based on the educational level of the region rather than race. In the specific operation, these schools did not fully consider the specific situation of the educational level of the regions where the applicants from ethnic minorities and other ethnic groups are located, such as the level of teaching facilities, the level of teachers and the level of educational funds in the regions where they are located. The implementation of preferential policies covering specific ethnic groups in the United States obviously lacks scientific consideration. This will not only weaken the policy dividend of applicants in remote areas with extremely poor educational resources in the region, but also give specific ethnic groups in large cities with good educational resources a “free ride” opportunity. Therefore, when implementing the quota system policy of the affirmative action movement, the social and economic development of different regions and the educational level of the regions where all ethnic applicants are located should be comprehensively investigated, and the applicants in poor areas and remote areas with poor educational conditions that really need preferential care should be given certain preferential conditions.

If we blindly give preferential policies to education as blacks and Hispanics. This will cause these two groups to strengthen this identity tag and form a solid interest group. If ethnic identity can gain additional benefits, they will increasingly strengthen the identity label of ethnic identity. As long as we emphasize the identity tag, we can get policy benefits, so these African-Americans and Latinos are not willing to integrate into the mainstream white society. On the other hand, the white people as the main body feel that their interests have been damaged, and they hate African and Hispanic people even more. Racial discrimination and internal contradictions are getting deeper and deeper. Everyone thinks that others have robbed their cake, which will lead to the antagonism of the people at the bottom.

6 Conclusion

The application of Affirmative Action to higher education should be optimized, for example, by identifying and separating students based on family income and educational attainment in their region, rather than simply by race. This would oversimplify the issue of educational equity and would benefit African-Americans and Hispanics who have excellent educational resources and disadvantaged families, while denying help to Americans of all colors who really need it.

At the same time, these policy preferences should only be a stopgap measure. In the end, in order to reach the goal of educational equity, we should still solve the problem of unequal educational resources before they enter the university, rather than playing a role in the final distribution.

References

1. Thomas J. Espenshade, Chang Y. Chung. The Opportunity Cost of Admission Preferences at Elite Universities [J]. *Social Science Quarterly*.2005, 86(2).293–305. <https://doi.org/10.1111/j.0038-4941.2005.00303.x>.
2. <https://www.thecrimson.com/article/2018/10/22/asian-american-admit-sat-scores>.
3. Espenshade, Thomas J., Chang Y. Chung, and Joan L. Walling. 2004. "Admission Preferences for Minority Students, Athletes, and Legacies at Elite Universities," *Social Science Quarterly* 85(5): 1422–1446. Espenshade, Thomas J., and Alexandria Walton Radford. 2009. *No Longer Separate, Not Yet Equal: Race and Class in Elite College Admission and Campus Life*. Princeton, NJ: Princeton University Press.
4. Espenshade, Thomas J., and Alexandria Walton Radford. 2009. *No Longer Separate, Not Yet Equal: Race and Class in Elite College Admission and Campus Life*. Princeton, NJ: Princeton University Press.
5. https://nces.ed.gov/pubs2010/2010015/indicator6_24.asp
6. *Grutter v. Bollinger*, 539 U.S. 306 (2003).
7. Thomas J. Espenshade, Chang Y. Chung. The Opportunity Cost of Admission Preferences at Elite Universities [J] *Social Science Quarterly*.2005,86(2).293–305.
8. Sowell, Thomas. 2004. *Affirmative Action Around the World: An Empirical Study*. New Haven: Yale University Press.
9. Lynch, Fredric R. 1991. *Invisible Victims: White Males and the Crisis of Affirmative Action*. Praeger: New York.

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