**Headline:** Supreme Court Preserves College Preferences for Wealthy Whites

**Teaser:** In its recent ruling on affirmative action in college admissions, the Supreme Court’s conservative justices squarely came down on the side of race and class-based preferences—for wealthy whites.

By Sonali Kolhatkar

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**[Article Body:]**

The United States Supreme Court’s recent [ruling](https://www.documentcloud.org/documents/23864004-students-for-fair-admissions-inc-v-president-and-fellows-of-harvard-college) striking down race as a factor in college and university admissions was in response to a case brought by a conservative organization claiming that Asian Americans are harmed by preferences for people of other nonwhite races. The case, which focused on Harvard University and the University of North Carolina’s affirmative action policies, used Asian students as a wedge against Black, Latino, Indigenous, and other communities of color. More importantly, it left preferences for wealthy white students intact.

Justice Clarence Thomas, writing on behalf of the majority that voted in favor of ending affirmative action, said in response to Justice Ketanji Brown Jackson’s dissenting opinion, “How, for example, would Justice Jackson explain the need for race-based preferences to the Chinese student who has worked hard his whole life, only to be denied college admission in part because of his skin color?”

His concern for Chinese students would be touching were it not for the fact that, according to the New York Times, Thomas “was admitted to Yale Law School under an explicit affirmative action plan with the goal of having blacks and other minority members make up about 10 percent of the entering class.” Further, Thomas said in a [1983](https://www.nytimes.com/1991/07/14/us/on-thomas-s-climb-ambivalence-about-issue-of-affirmative-action.html) speech, that affirmative action policies were of “paramount importance.” He added that “But for them, God only knows where I would be today… These laws and their proper application are all that stand between the first 17 years of my life and the second 17 years.” He has significantly changed his tune since then.

Janelle Wong, a professor of American studies at the University of Maryland, College Park, told [NBC](https://www.nbcnews.com/news/asian-america/experts-say-framing-affirmative-action-anti-asian-bias-dangerous-rcna13544) that the right uses fake concerns about Asian students to promote their goal of undermining racial equity policies, saying, “They weaponize concerns about anti-Asian attacks and violence against other minorities.” Wong added, “This is an old tactic in white supremacy’s playbook and should not be allowed to succeed.”

In using Asians to undermine the policies that offer equity-based redress for racially marginalized groups, Thomas and his conservative colleagues—the rest of whom are all white—left intact a crucial method from which wealthy white people benefit: so-called legacy admissions.

Journalist Michael Harriot put it this way on [Twitter](https://twitter.com/michaelharriot/status/1674424753929732106?s=20), “The Court struck down Affirmative Action For everyone except WHITE PEOPLE.”

By that, he meant that conservative Supreme Court justices did not restrict preferences for the children of alumni, employees, donors, and other similarly well-connected, privileged people.

Former president [George W. Bush](https://www.huffpost.com/entry/how-george-w-bush-benefit_b_5814680) is a classic example of how legacy admissions are effectively a form of affirmative action for whites. How else would a mediocre student like him be admitted to Yale University? But because his father and grandfather were both Yale alumni, Bush was basically a [nepo baby](https://www.counterpunch.org/2023/01/06/nepo-babies-and-the-myth-of-the-meritocracy/). Legacy admissions give people like him a leg-up in ensuring that generational wealth, privilege, and power remain in the family.

The origins of legacy admissions lie in antisemitism. According to a book by Jerome Karabel written nearly two decades ago, *The Chosen: The Hidden History of Admission and Exclusion at Harvard, Yale, and Princeton*, legacy admissions were a way to reduce the number of Jewish Americans who were increasingly academically qualified to win admission but who did not fit into the white Anglo-Saxon Protestant tradition that such schools uplifted. So, elite universities changed the goal posts, ensuring that family ties gave mediocre, but well-connected, Protestant whites an edge.

That preferential treatment continues today, reinforcing white supremacy. For example, according to one Ivy League college [admissions consultation firm](https://admissionsight.com/harvard-legacy-acceptance-rate/#:~:text=It%20is%20estimated%20that%20anywhere,family%20with%20a%20legacy%20status.) Admission Sight, legacy admissions are a way for universities to deepen “their economic and community-building contributions.” Such euphemistic language obscures the fact that the ugly practice of legacy admissions is in fact a race-based affirmative action policy—for wealthy whites—a community that needs no affirmation given the white supremacist society in which it flourishes.

[Admission Sight](https://admissionsight.com/harvard-legacy-acceptance-rate/#:~:text=It%20is%20estimated%20that%20anywhere,family%20with%20a%20legacy%20status.) also admitted that “According to the released Harvard legacy acceptance rate, more than 36 percent of the students in the Harvard Class of 2022 are descendants of previous Harvard students.” Those who cannot claim their parents attended Harvard, since 2015, “had a five times lower chance of being accepted than those who came from a Harvard family.”

There is another entry point for wealth and privilege if legacy admissions don’t apply—bribery. In a court case stemming from the [college admissions scandal](https://www.nytimes.com/news-event/college-admissions-scandal) that broke in 2019, it was revealed that the [University of Southern California](https://www.insidehighered.com/admissions/article/2019/09/09/southern-california-admissions-were-determined-donations-parent) was willing to consider applicants whose families offered large donations to the school. These “special interest” or “VIP” donors received preferential treatment. Even the University of California, a state university system, has been found to give [preferential treatment to wealthy whites](https://laist.com/news/college-admissions-uc-donors-bias-audit). A state audit found that at least 64 people, most of them wealthy and white, were admitted in recent years to UC schools solely because of their family connections and donations.

Whites have even used affirmative action policies intended for racial minorities whenever possible to access higher education, seeking to game the system by using genetic testing.

A 2006 [New York Times story](https://www.nytimes.com/2006/04/12/us/seeking-ancestry-in-dna-ties-uncovered-by-tests.html) quoted the white father of adopted twins gleefully touting that newly available DNA tests showed his white-passing sons were “9 percent Native American and 11 percent northern African.” The man admitted that the birth parents of the twins were white, but that “you can bet that any advantage we can take we will.”

But when a white woman named [Nicole Katchur](https://www.insidehighered.com/admissions/article/2019/01/28/lawsuit-raises-questions-about-dna-testing-race-and-admissions) was told that she ought to take a genetic test to see if nonwhite ancestry could help her win admission, instead of calling out admissions officers for encouraging white people to game a system intended to promote racial equity, Katchur instead sued to end affirmative action. Rather than seeing her whiteness as a built-in advantage, she blamed policies that helped people of color obtain a level playing field. That same logic informed the 2016 lawsuit against affirmative action brought by another white woman, [Abigail Fisher](https://www.propublica.org/article/a-colorblind-constitution-what-abigail-fishers-affirmative-action-case-is-r), in Texas. Indeed white women, who have been the biggest beneficiaries of affirmative action policies in college admissions, have also led the charge to [dismantle those policies](https://www.vox.com/2016/5/25/11682950/fisher-supreme-court-white-women-affirmative-action).

The Supreme Court’s latest ruling on affirmative action doesn’t end race-based preference. It further entrenches white supremacist preferences.

The good news is that while one of the Supreme Court’s conservative justices, Neil Gorsuch, disagreed with his liberal colleague, Justice Sonia Sotomayor, on ending race-based admissions for nonwhite students, he [agreed](https://www.thecrimson.com/article/2023/6/30/legacy-scrutiny-sffa-harvard/) with her that legacy admissions had to end as well.

The ruling has also spurred President Joe Biden to go on the offensive. In a speech responding to the ruling, [he said](https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/06/29/remarks-by-president-biden-on-the-supreme-courts-decision-on-affirmative-action/), “Today, I’m directing the Department of Education to analyze what practices help build… more inclusive and diverse student bodies and what practices hold that back, practices like legacy admissions and other systems that expand privilege instead of opportunity.”

Democratic Senator Jeff Merkley of Oregon told [MarketWatch](https://www.marketwatch.com/story/as-supreme-court-strikes-down-affirmative-action-the-push-to-end-legacy-admissions-may-gain-momentum-bd10d17a), “The longstanding use of legacy and donor preferences in admissions has unfairly elevated children of donors and alumni—who may be excellent students and well-qualified, but are the last people who need an extra leg up in the complicated and competitive college admissions process.” He explained that a policy like legacy admissions, “creates an unlevel playing field for students without those built-in advantages, especially minority and first-generation students.”

To that end, Merkley and Democratic Representative Jamaal Bowman of New York recently introduced the [Fair College Admissions for Students Act](https://bowman.house.gov/_cache/files/d/7/d7815334-ad63-4695-892f-971ce0e970b6/FF0A1BC853733354D9923E7150D03989.fair-college-admissions-for-students-one-page-summary.pdf), which would end preferential treatment for applications from wealthy, privileged families.

Whether or not the bill moves in Congress, the fact remains that college admissions are biased—toward wealthy white Americans. Those [conservatives](https://www.foxnews.com/media/constitution-guru-praises-scotus-outlawing-affirmative-action-every-one-of-us-is-fundamentally-equal) celebrating the end of affirmative action have exposed yet again how their real agenda is to ensure that white wealth continues to benefit from unfair advantages.