Opinion
NCR Voices
Harvard University graduates are seen May 26, 2022, in Cambridge, Massachusetts. (CNS/Reu

Harvard University graduates are seen May 26, 2022, in Cambridge, Massachusetts. (CNS/Reuters/Brian Snyder)



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The debates and discussions that accompany U.S. Supreme Court decisions in the last weeks of June are usually interesting. This year, however, education was featured in two big decisions and in each, the discussions grew more interesting as they deepened, which doesn't always happen in our fast-paced, social media-driven culture.

The debate about affirmative action displays precisely the manner in which societal and intellectual elites dominate and distort the nation's politics and culture. The first days after the court decided to overturn the affirmative action programs at Harvard and the University of North Carolina, most commentators trotted out the same arguments they had beforehand, concluding the ruling was a victory for equality or a disaster for equality.

Then, Richard Arum and Mitchell Stevens explained in The New York Times that affirmative action "mattered very little for the majority of American college students." That is because most college students (56%) attend a school that admits three-quarters of its applicants. Only 6% of students attend a school with an acceptance rate less than 25%. And, it is at these latter, elite schools that the competition for attendance is intense and where affirmative action made a difference.

The Times' survey concluded that "Yes, the decision will likely dramatically reduce the racial diversity of incoming classes at highly selective institutions like Harvard, Stanford and the University of North Carolina." I wonder if that is true. Plenty of Black students will make it into the Ivys without affirmative action. After the 1978 *Bakke* decision, strictly limiting affirmative action, minority enrollments declined, but that was only 14 years after the Civil Rights Act. A lot has changed since then, even though more needs to change.

Let us set aside the highly debatable question of whether an undergraduate education at one of these elite schools is particularly good. There is no doubt you will make social connections that will serve you the rest of your life if you are lucky enough to get in. Making sure access is fair, therefore, is a matter of justice, which is why I would have sided with the liberals on the court, even though the legal arguments are well balanced.

Still, I can't help thinking the time and energy of those concerned about justice might be better spent. As Arum and Stevens write, "The current opportunity to bring racial equity to American higher education lies in a collective re-commitment to the quality and success of more accessible institutions."

The debate about affirmative action, also, led to a long overdue look at the system of legacy admissions, which is a kind of affirmative action for rich, well-connected kids. It is the opposite of Georgetown University's laudable attempt to come to terms with its legacy of complicity in slavery by helping the descendants of the slaves the school sold to bolster its finances. Legacy admissions are anti-democratic and anti-meritocratic. They represent a kind of misplaced intergenerational solidarity.

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I recall speaking some years ago with a neighbor about legacy admissions. She and her family attended a small, liberal arts college in Maine and had for generations. Such family traditions are lovely, and I suspect that, like affirmative action, it is only at the elite schools that legacy admissions are problematic. But if the choice is family traditions on the one hand and a more just system on the other, justice should win every time.

Finally, the affirmative action discussion has kindled another long overdue discussion about the very idea of meritocracy and its claims to create a more just societal order. At The New Yorker, Louis Menand writes that "data suggest that higher education is not doing much to close the income gap, and that it may be helping to reproduce a class system that has grown dangerously fractured." He adds:

> In the nineteen-fifties and sixties, the college wage premium was small or nonexistent. Americans did not have to go to college to enjoy a middle-class standard of living. And the income of Americans who did get a degree, even the most well-remunerated ones, was not exorbitantly greater than the income of the average worker. By 1980, though, it was clear that the economy was changing. The middle class was getting hollowed out, its less advantaged members taking service jobs that reduced their income relative to the top earners'.

Menand does not, however, place all the blame for this, or even most of the blame, at the feet of higher education. "The problem is not that some citizens are lawyers and some work in Amazon fulfillment centers," he writes. "It's that the economy is structured to allow the former class of worker to soak up most of the national wealth." And he usefully pokes holes in some of the leading anti-meritocracy arguments too.

It is easy to see how these issues overlap with the other Supreme Court decision affecting higher education, *Biden* v. *Nebraska* in which the court tossed out Biden's college loan forgiveness program. Their decision said nothing about the merits of the policy, only that it needed to go through Congress.

The conversation that ensued, however, showed the inability of Democratic Party operatives to see beyond their class instincts to their party's interest. As Doug

Sosnik argued in April, educational attainment "is increasingly the best predictor of how Americans will vote, and for whom." Making non-college voters pay off the debt owed by voters with college degrees, even though people with college degrees are likely to make significantly more money over the course of their lives, is a recipe for electoral suicide.

It is never dull at the end of a U.S. Supreme Court term. This year, however, so many of the decisions touched on fundamental sociocultural issues that deserve subtle and thorough treatment. Those issues usually turn quickly into a culture war sparring match, in which the arguments are aimed at fundraising for special interest groups, but this year some interesting debates were begun. Wouldn't it be nice if those more thoughtful debates continue and prosper?