

## Paying Up for History

It sounds all well and good to enact policies that make amends for historical wrongs, but a closer examination brings up questions about which wrongs and how far back to look.

Consider the case of Students for Fair Admissions (SFFA) v. Harvard, a lawsuit against Harvard College in the USA for allegedly using racial discrimination in its admissions processes; led by the activist Edward Blum, the suit is being brought on behalf of Asian Americans<sup>1</sup>. The interesting thing is that, even if some of the claims are true, Harvard is defending its policies as part of a wider affirmative action push for diversity. Affirmative action refers to active effort in promoting the causes and needs of groups like certain races and genders. While policies that provide preferences to these groups are mostly concerned with their futures, part of it also involves compensation. African Americans and women are examples of groups receiving affirmative action for discrimination they suffered in history.

This concept of equity over equality has been gaining traction in the Western world, but it still faces moral challenges when ethnic groups like the Asian Americans or even innocent (and completely uninvolved with segregation or misogyny) European Americans become disadvantaged. With unequal standards unavoidable as part of an affirmative action push on admissions diversity, some groups benefit while others must face greater challenges to be accepted into a university. However, the political philosopher Robert Nozick argued that if, in principle, a country could compensate the people who suffered under its system and still be better off, the country should do that. Essentially, he would say that, since injustice has been pervasive in various forms throughout history, the only way to morally justify a system is for it to do work in correcting those harms through compensation<sup>2</sup>. In terms of the university admissions, this hinges on the fact that the harm of a Harvard College rejection is likely not on the same scale as the systemic sexism or racism in the USA's past.

However, in a way, Nozick's argument proves too much, because he had only been talking about compensation for being annexed into a country – for example, the subjugation of Native Americans by early European settlers in America. But as many critics point out, there is little to be said about why society should only be compensating for the specific harms of annexation or racism and sexism, when in reality a strong case can be made on behalf of just about every group, who have all suffered harms in some way or another. For example, in World War II, up to 120,000 Japanese Americans were interned in detention camps due to racist fears about their loyalty, ruining Japanese lives and ending many of their academic careers<sup>3</sup>. Surely, then, these Asian Americans, allegedly disadvantaged in Blum's lawsuit against Harvard, should be deserving of affirmative action too.

Compensation and affirmative action would be meaningless if applied to everyone, but it seems that the injustices they seek to fix can be traced all the way to the beginning of history.

## Discussion Questions

1. *What do you think about Harvard University's argument that affirmative action, despite moral qualms, brightens up campus life through diversity?*<sup>4</sup>
  2. *If affirmative action were to be applied, what would be the best way to decide what historical wrongs to compensate for and which time periods to include?*
  3. *The ethical case for affirmative action has two prongs: a deontological backward-looking one (eg, Nozick: the oppressed deserve compensation) and a utilitarian future-oriented one (eg, Harvard's belief that affirmative action has positive consequences for society). Do you agree with either argument? Why/why not?*
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<sup>1</sup>Lawyers' Committee for Civil Rights Under Law. (2018). *Students for Fair Admissions (SFFA) v. Harvard*. <https://www.lawyerscommittee.org/students-for-fair-admissions-sffa-v-harvard/>

<sup>2</sup>Nozick, R. (1974). *Anarchy, state, and utopia*. Basil Blackwell.

<sup>3</sup>National Archives. (2017, April 10). *Japanese relocation during World War II*. National Archives. <https://www.archives.gov/education/lessons/japanese-relocation>

<sup>4</sup>Harvard University. (2021). *Harvard admissions lawsuit*. <https://www.harvard.edu/admissionscase/lawsuit/>