June 30, 2023

Statement on the Supreme Court Decisions in *SFAI v. Harvard* and *SFAI v. UNC*

The Organization of American Historians decries the decisions of the U.S. Supreme Court in *Students for Fair Admissions, Inc. (SFAI) v. President and Fellows of Harvard* and *SFAI v. University of North Carolina* to disallow race-conscious admission practices at private and public institutions. For decades, such practices have served as a critical mechanism of access to higher education for historically excluded groups. With this decision the Court discarded forty years of precedent and rejected the reality that race continues to be a significant factor shaping educational access and attainment across the nation, twisting the intent of both the 14th amendment and the 1964 Civil Rights Act.

That intent of the framers of the 14th amendment was, as Justice Ketanji Brown Jackson asserted in the case hearings, not “a race-neutral or race-blind idea” but rather “trying to ensure that people who had been discriminated against … were actually brought equal to everyone else in society.” The Court’s majority decision, Justice Sonia Sotomayor wrote in her dissenting opinion, “cements a superficial rule of colorblindness as a constitutional principle in an endemically segregated society where race has always mattered and continues to matter.”

Historical racial and ethnic discrimination, especially in the context of access to high-performing schools and generational accumulation of economic and educational resources, continue to profoundly shape access in the modern higher education landscape and thus the society at large. For decades, initiatives taking into account individuals’ racial background as one factor in college admission decisions have been in place to address structural inequalities. As Justice Jackson penned in her dissent, “deeming race irrelevant in law does not make it so in life,” a fact inextricably understood, documented, and interpreted by historians.

By rejecting such proactive and reasonable efforts to achieve equality of access and nondiscrimination through “affirmative action”—a term first articulated by President John F. Kennedy in 1961—the decision by the conservative Court majority threatens to return higher education admissions practices to a time when systemic inequalities perpetuated structural barriers to access. These barriers to educational access in turn circumscribe diversity of backgrounds, perspectives, and life experiences in classrooms and student bodies, that then impact diversity across America’s professions, research fields, and leadership.

Diversity in all its forms has strengthened and enriched historical scholarship and the historical profession, from the rise of the new social history of the 1960s and 1970s to vibrant and still-expanding fields including Black, Latino, Indigenous, Asian American and Pacific Islander, gender, sexuality, and disability histories. It is through these multiple lenses and approaches to historical research and scholarship that the clarity and complexity of the American experiment emerges. Recent events have only underscored the urgent need for a new commitment to diversity in higher education so that the next generation of historians can continue to examine and teach the lessons of our nation’s past and of American democracy.
The mission of the Organization of American Historians is to promote excellence in the scholarship, reaching and presentation of American History, to encourage informed public discussion of and engagement with historical questions, and to encourage equitable treatment for all practitioners of history. The OAH remains committed in principle and action to fostering diversity within the organization and profession, and seeks a reaffirmation and recommitment to diversity efforts in higher education admissions that produce a critical pipeline for these efforts.

On Behalf of the OAH Executive Committee,

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