

Litigating Admissions

IN THE COURSE of a lawsuit initiated in 2014 alleging that Harvard College discriminates against Asian-American applicants, the plaintiff and the University outlined their arguments in court filings on June 15. The filings provide an expansive look into Harvard's normally shrouded admissions process—and expose sharply contrasting views about the propriety of a private institution's standards for composing its student body.

The plaintiff, Students for Fair Admissions (SFFA), presented its analysis of more than 90,000 admissions documents that the U.S. District Court in Boston compelled Harvard to share earlier this year, as well as information from depositions of admissions staff members and senior University officers. After statistical analysis, SFFA claimed in its filing that the “subjective” factors Harvard considers in evaluating applicants—personal qualities and an “overall” rating assigned to each student—disadvantage Asian-American applicants.

Harvard assigns applicants scores in five broad categories: academic, athletic, and extracurricular achievement, plus “personal qualities” and an “overall” rating, which is given once the reader of a file “steps back” and considers “all the factors” of an admission file. The personal rating includes assessments of such traits as whether a student has a “positive personality,” is “widely respected,” or has good “human qualities” (“likeability,” “courage,” and “grit”). Asian Americans, by SFFA's analysis, consistently receive the lowest score of any racial group on the “personal” rating, despite rating higher on average than any other racial group in the academic and extracurricular categories.

SFFA also filed as exhibits a series of studies dating back to 2013 conducted by Harvard's Office of Institutional Research (OIR) that concluded the College's practices produce “negative effects” for Asian-American applicants. The reports—which were shared with some of Harvard's top administrators but otherwise not disclosed to the public or discussed with other members of Harvard's staff—concluded, based on data over a 10-year period, that

- Asian-Americans would comprise 43 percent of the annual incoming class (more than double their current share) if Harvard relied on an admissions model that considered *only* academic factors; and
- “Asian high achievers have lower rates

HARVARD PORTRAIT



Durba Mitra

Three vintage Bollywood posters brighten Durba Mitra's basement office in Boylston Hall, each representing an archetype of the Indian woman: *Mughal-e-Azam*, a classic film about a Mughal courtesan's doomed romance; *Daasi*, about a low-caste woman; and *Dilwale Dulhania Le Jayenge*, depicting “the well-behaved housewife,” Mitra says. “So I have all of these ‘types’ of women.” Indian cinema is a personal interest for Mitra, an assistant professor of women, gender, and sexuality, but it also reflects her scholarly interest in gender in South Asia. As a graduate student at Emory, she remembers, “I thought I would write a history of prostitution in modern India. But I realized that to do that, I had to ask bigger questions. Why was a person considered a prostitute? When a woman is called a prostitute, she's often, in fact, not one.” Her first book considers, more narrowly, how prostitution is linked to ideas about social progress in modern India. Mitra views herself as “a historian, first and foremost,” and gender studies as a commitment “to foregrounding gender and sexuality as important analytical categories in *many* disciplines” where often “gender is seen as an aftereffect of ‘real’ politics.” Mitra saw gender from a young age, she says, perhaps the result of an upbringing that set her apart from her North Dakota peers. Her mother, an immigrant from India, raised two children alone while working and pursuing a Ph.D. “She not only pushed to be independent and intellectual, she also adhered to her own imagination of her culture. She wore a sari every day in Fargo in the '80s,” Mitra says. “People imagine the South Asian immigrant as a person who's constrained by family expectations. That was not my experience. My mom always wanted me to imagine different possibilities.” ~MARINA BOLOTNIKOVA

of admission.” (Applicants who scored a “1” or “2” on their academic rating—the highest scores on a 6-point scale—were admitted 12 percent of the time, versus 18 percent of the time for non-Asian applicants.)

A draft of another OIR report found that although “low income students clearly receive a ‘tip’ in the admissions process, our model also shows that the tip for [legacy, athletes, etc.] is larger. On the flip side, we see a negative effect for Asian applicants.” (The rate of admission for legacy applicants for the classes of 2014 to 2019 is 33 percent: five times that for non-legacy students, the filings show.) In its filing, the University maintained the OIR reports were “incomplete, preliminary, and based on limited inputs.”

In its own filings, Harvard was largely dismissive of SFFA’s claims, arguing that the plaintiff had cherry-picked variables from the six years of admissions data Harvard provided to the group during the legal discovery process. David Card, Class of 1950 professor of economics at the University of California, Berkeley, as Harvard’s expert witness, wrote that SFFA’s report “reveals a significant misunderstanding of Harvard’s

admissions process by focusing so much of [its] analysis on academic achievement” and accounted for other aspects of the “multi-dimensional evaluation Harvard employs” in “only a crude and limited way.” He noted that SFFA’s analysis omitted legacy and recruited-athlete admissions and other metrics Harvard considers (such as the rigor of an applicant’s high school, socioeconomic circumstances, and parental occupation). Card said his own analysis “shows that the purported ‘penalty against Asian Americans’ identified by [SFFA] does not actually exist.”

THE SFFA LAWSUIT, Harvard’s lawyers wrote, is but “the latest salvo by ideological opponents of the consideration of race in university admissions,” drawing attention to the fact that Edward Blum—who chairs SFFA—has organized other challenges to race-conscious admissions, most recently *Fisher v. University of Texas at Austin* (see harvardmag.com/fishercase-16). In that case, finally decided in 2016, the Supreme Court ruled against the plaintiff, a white woman, who alleged that she was rejected from the school based on her race.

While the ruling itself was narrow in

scope, the Court did mandate that college affirmative-action programs must be narrowly tailored to accomplish a specific goal, and universities must prove that race-neutral alternatives to their policies are not feasible. Given the history of litigation over the use of race in admissions, Harvard’s prominent role in defending affirmative action to enroll diverse classes, and the pending change in the composition of the Supreme Court following the retirement of Justice Anthony M. Kennedy, LL.B. ’61 (he was the swing vote in *Fisher*), Blum’s pursuit of the SFFA litigation is the next high-profile suit in which the state of race-conscious admissions practices might be challenged.

Harvard has argued that a number of race-neutral alternatives proposed by another of SFFA’s experts—Century Foundation senior fellow Richard Kahlenberg ’85, J.D. ’89, who calls for prioritizing economic background in admissions (see “Harvard’s Class Gap,” May-June 2017, page 35)—are either infeasible or would not achieve the institution’s goals, in some cases leading to a significant decline in the population of African-American and Hispanic undergraduates. Among Kahlenberg’s proposals were reducing or eliminating preferences for legacies, children of donors, and relatives of faculty and staff; increasing preferences for socioeconomic diversity in admissions; and eliminating the early-action admissions option.

Julie Reuben, Warren professor of the history of American education, said the case represents a “serious threat” to the future of affirmative action, but cautioned that concerns about the ability of universities to consider race when making admissions decisions should not prevent them from assessing their practices to ensure they are not discriminatory. “[F]rom what I understand about this behavior and how most admissions work, these types of personality measures have been disadvantageous for Asian Americans,” she said. “And that’s an important thing to acknowledge, and that’s an important thing to address.”

Natasha Warikoo, an associate professor of education who has written extensively on diversity in higher education, said she worries that a conversation about discrimination against Asian Americans in admissions is being conflated with a conversation about the benefits of affirmative action. She sees race-conscious admissions as a lever to obtain more diverse classrooms and to address historical legacies of oppression. “There are

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very good reasons for why we would want to give underrepresented minorities a leg up in college admissions,” she explained. “In a sort of legal framework, it fosters a diverse learning environment. If people are really going to be educated, they have to have exposure to different perspectives, so you need a quorum of underrepresented minorities on campus.” College admissions, she said, is fundamentally an “unfair” process that reflects the realities of inequality in the country, and race-conscious admissions policies are “one small mechanism” to address racial inequality. “It is very hard,” Warikoo added, “to come up with something race-neutral that addresses race.”

The SFFA case is scheduled to go to trial in October. The University, signifying the importance it assigns to the issues, accompanied its June 15 filings with a website summarizing its side of the case and providing supporting materials: <https://projects.iq.harvard.edu/diverse-education>. For more complete reports, see harvardmag.com/admissionsdocs-18 and harvardmag.com/sffa-filing-18. ~BRANDON J. DIXON

Thinking about Space

IN A SEMINAR ROOM on the fifth floor of the Graduate School of Design’s Gund Hall, instructor in architecture Lisa Haber-Thomson is looking over a 3-D rendering of a tall and skinny apartment complex comprised of bright red, off-kilter stacked cubes and extremely steep staircases. “Walk us through it,” Haber-Thomson says to her student. “Do a check with yourself to make sure the circulation isn’t awkward. Imagine entering this room, and how you’d move through that space.”

Haber-Thomson’s class is seated around the big table in the middle of the classroom shared by the College’s two architecture studio courses. Every surface is covered with materials: scraps of museum board and cardstock, partially built models, box-cutters and rulers. The room contains four televisions, a projector screen, cables strung this way and that along the ceiling, numerous rolling whiteboards with orange and green markers only, rolling tables and rolling chairs. Everything here rolls.

The two courses—Haber-Thomson’s “Connections,” and “Transformations,” taught by assistant professor of architecture Megan Panzano—aim to give ar-

Yesterday’s News

From the pages of the *Harvard Alumni Bulletin* and *Harvard Magazine*

1923 The *Bulletin* notes, without comment, a report in *The Harvard Crimson* that the Ku Klux Klan has an organization at Harvard, and the first step toward a Harvard branch was taken two years earlier.

1938 The Graduate School of Public Administration (forerunner of the Kennedy School) opens its first regular session with 15 students, 10 of them veterans of federal government service.

1953 Harvard’s new president, Nathan Marsh Pusey, has visited football practice twice during his walks around the University, part of a self-imposed refresher course during which, he says, he is “finding things I did not know existed.”

1963 The 1962-63 Treasurer’s Report indicates that Harvard’s expenses, for the first time, approximate \$100 million.

part to speed up operations at Widener Library’s circulation desk.

1968 The University Barbershop on the corner of Mass. Ave. and Plympton Street has closed after more than 80 years of service. Co-owner Allen Moloney, son of the founder, laments that most Harvardians are shunning the shears in favor of more substantial decoration for the gray matter below.

1973 A gift from the Andrew H. Mellon Foundation establishes Harvard’s first professorship in African history; Kenneth O. Dike is named the first incumbent.

1978 President Bok announces that the CIA has chosen to ignore a request that all government agencies reveal any contracts, covert operations, and consulting agreements with Harvard personnel. University guidelines urge community members to avoid participation in intelligence operations.

Bursar’s cards are replaced by plastic student identification cards, in

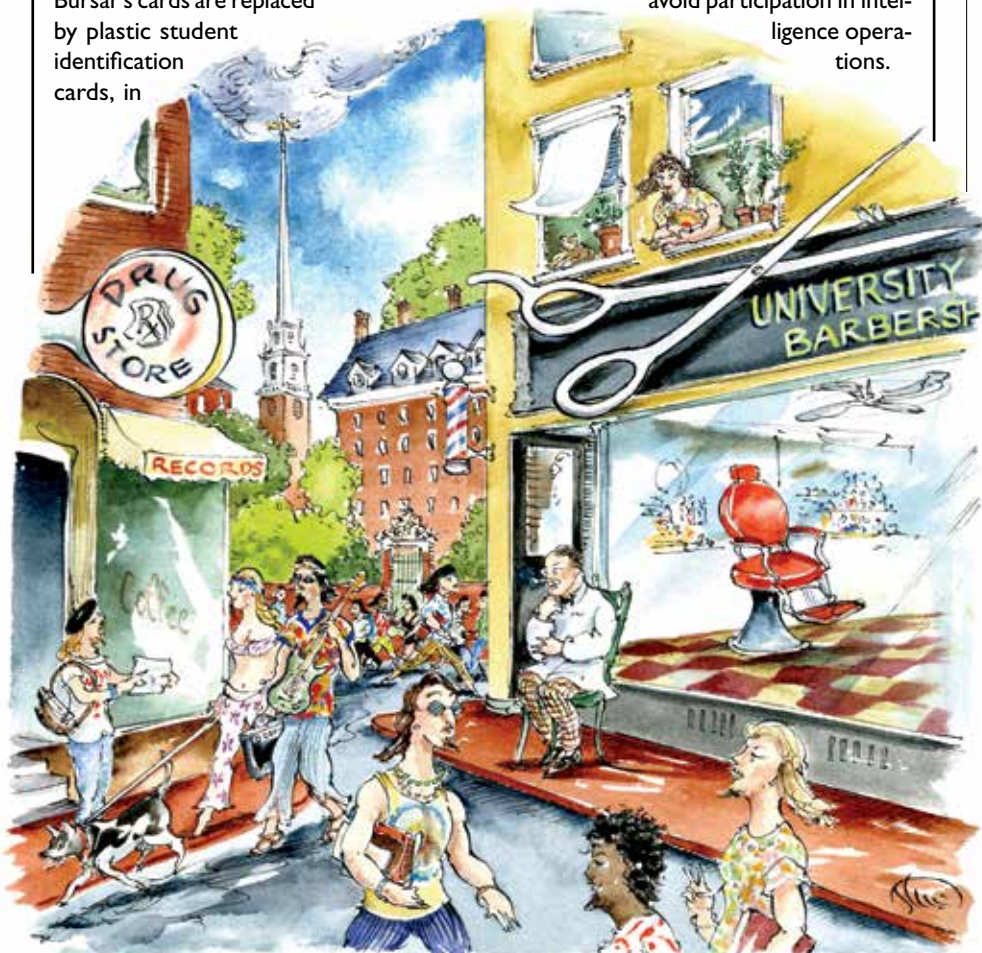


Illustration by Mark Steele