

Ravi ([00:01](#)):

All right, Cory, welcome to the podcast.

Cory ([00:03](#)):

Thanks for having me.

Ravi ([00:04](#)):

Well, Cory, let's start with the most basic of questions. What is affirmative action and how widespread is the practice today in America?

Cory ([00:12](#)):

So, affirmative action is actually a term that came back in the 60s to refer to policies that were intended to eliminate discrimination and open opportunities for minorities. But it's today been used as a term to refer more specifically to the consideration of race and racial preferences. So there's something sometimes called. But basically there policies that give consideration to race and potentially advantages to people of certain racial groups. And so right now, these policies are used at a lot of elite universities. Not every college uses this, but schools such as Harvard, a lot of big name state universities, consider race in their admissions policies in order to get the racial balance of their class to look a certain way.

Ravi ([01:06](#)):

And the Supreme Court has heard many cases over our lifetime, challenging the practice of affirmative action in this country. Before we get to the current case that you've been involved in, what do those challenges look like? What kind of constitutional arguments are they are plaintiffs alleging? And how has the court come down on the question of affirmative action until today?

Cory ([01:34](#)):

So the challenges that have been brought against these policies have been under the equal protection clause of the constitution, as well as title six, which is a statute that Congress passed as part of the civil rights movement. And so remember in Brown versus Board of Education, the Supreme Court said that racial discrimination is incompatible with our Constitution's guarantee of equality. And after that Brown decision, there were policies that were enacted that sought to provide greater opportunities for minority students and not just through eliminating barriers and discrimination, but also through explicit consideration of trying to increase the number of minorities. And so those policies then led to some lawsuits. Some of the big ones that have been to the Supreme Court include the Bakki case at the University of California. That case involved the medical school, where there's a certain amount of class seats that were set aside for students of particular racial groups.

Cory ([02:33](#)):

In that case, the Supreme Court said you couldn't do that. They called it a quota and quotas are unconstitutional. Then, in 2003, you had a couple of Supreme Court cases from the university of Michigan, one involving the law school and one involving the college admissions process. In the college process, that's the Gratz case. The Supreme Court considered a policy where they gave certain points to students depending on what their race was. So if you belonged to one of these underrepresented minority groups, you got a specific number of points in the consideration of your application and overall

evaluation of your application. The Supreme Court said that was a mechanical use of race and that's also unconstitutional race discrimination.

Cory ([03:16](#)):

But then they also, in the Grutter case, said that there may be some amount of race that can be considered. And so in that case involving a law school, the law school claimed that it was using a holistic admissions process, where they were looking at the student's entire background, their life circumstances, and trying to get them to know them as an individual. And one of those factors is race and that race can be used in.

Cory ([03:42](#)):

That holistic admissions process. But the Grutter case was also in many ways, internally self-contradictory. It claimed that the purpose of using race was to increase diversity on the campus to allow students to have a different student body, students of different races. And that would enhance the educational benefits of the university. It said with respect to past discrimination, it actually has to be a court finding of past discrimination that was specifically being remedied by the policy. And so they didn't sanction the law school's policy on background, but it was on its diversity rationale. But at the same time, the majority opinion in that case also said, "We can't be using race forever. There's serious constitutional problems with that." And they expect that in 25 years, race would no longer be necessary in the admissions process.

Cory ([04:32](#)):

And so you could see the internal tension there. On the one hand, they allowed the policy, but if it was a full embrace of the diversity rationale, the court theoretically could have allowed race to be considered indefinitely forever. But they weren't comfortable with that. So they put those limitations on it.

Cory ([04:48](#)):

So then there's the University of Texas case, Fisher versus the University of Texas. And in 2016, the Supreme Court said that the university of Texas's consideration of race was within what Grutter allowed. At the same time, in conclusion, the court noted that again, they weren't saying race can always be used indefinitely. These policies have to be considered and reconsidered. And there has to be a constant evaluation of whether there's race-neutral ways to achieve whatever diversity objectives the school might have. And so in that case, by a narrow margin, the court allowed the University of Texas to consider using race.

Cory ([05:25](#)):

And that brings us to the most recent challenges, which is against Harvard and the University of North Carolina. And so the Harvard lawsuit was filed in 2014. It was put on pause while the Fisher case was being considered by the Supreme Court. But then it kind of reactivated after Fisher came down and said that every university has to be evaluating the circumstances year after year to make sure it's complying with the law.

Cory ([05:46](#)):

And so in that case, what was different from previous cases is that the plaintiffs, as an organization, students for fair admissions, but the individuals who were members of that organization who were raising these claims were Asian-American. And so they were arguing that Harvard discriminated against Asian applicants to the point where it was harder to get in as an Asian than even a white student. And they pointed to these statistics of what the class composition looked like year after year for a roughly two decade period, the racial composition was identical. There weren't variations. And after the discovery process in the case, and so Harvard was forced to turn over some of the relevant evidence that it had, it came out that Harvard had done its own internal investigation into the question of whether Asians were disadvantaged and found some pretty damaging evidence in that it showed that if race wasn't considered, there'd be more Asian students. And there were other factors as well that decrease the number of Asian students.

Cory ([06:43](#)):

They actually found that if it was academics only, Asian students would be over 40% of the student body. And once you add in legacy, donor preferences, athletic preferences, and then other factors as well, then ultimately race, it would decrease the number to about 17 to 18%.

Cory ([07:00](#)):

And so the argument presented in the case, and I think that the evidence shows, is that Asians were being treated even worse than white students, even though if you were looking at someone as an individual, you'd be looking at whether they were disadvantaged, whether they come from an immigrant background, they spoke two languages ...

Cory ([07:17](#)):

I think a lot of these students who are being discriminated against by Harvard felt that their race and their ethnicity and their life story, if anything, should be a positive in a holistic process. And yet, what the numbers are showing is that Harvard more or less was looking at the final outcome of how many Asians might be the student body. And if there were going to be too many, then they wouldn't be able to achieve the kind of racial balance they wanted. And so they put a cap on the number of Asians.

Ravi ([07:44](#)):

And so if I'm hearing you correctly, the result of using race and admissions cuts in half, or even more than that, the amount of Asian Americans who are attending Harvard, according to what you said. You said it would be like 17, 18% to 40%. If race wasn't taken into account, is that right?

Cory ([08:06](#)):

Well, there were other factors such as athletics and legacy preferences, like children of donors, children of alumni. So-

Ravi ([08:12](#)):

I see.

Cory ([08:12](#)):

... after all of the factors, so that the two were the academics only, and then the final outcome. In between there, they looked at a number of factors and what the effects were. So it wasn't just the explicit consideration of race that reduced the number of Asians. There was also this personal rating, which according to Harvard, that's supposed to be a race-neutral evaluation process. They just look at your personal characteristics. It's very amorphous. Things like our personality, your current-

Ravi ([08:39](#)):

Subjective, right? Yeah.

Cory ([08:43](#)):

Exactly. And your character traits, your personality, your disposition. And they found that Asians, when the personal rating was applied, actually decreased the number of Asians who would get in. And that's different from the extracurriculars, which they considered separately. Asians actually did better than white students on the extracurriculars, perhaps because they know that it's so hard to get it as an Asian student.

Cory ([09:06](#)):

But when you apply the personal ratings, Asians suffered the most. And also African-Americana did the best among the most competitive applicants. African-American students did very well on the personal rating, which gives rise to the inference that even though Harvard claims that the personal rating step comes before the racial consideration, that actually the personal rating also is another way for them to consider race, to further amplify the overall consideration of race and to get to the results they want.

Cory ([09:33](#)):

And the plaintiffs argued, even if you take them at their word and that the personal rating is race-neutral as they claim, it's supposed to be, and then perhaps that gives rise to questions of implicit bias. If the person thinks they're being race-neutral, but actually the results, year after year, show that Asians are disadvantaged, then maybe there's something wrong in the evaluators' eyes. And perhaps, students who come from immigrant backgrounds who spoke two languages at home, maybe they're going to be a little less confident or a little less outgoing because they've struggled to fit in and things like that.

Cory ([10:06](#)):

Of course, I think the evidence shows that they probably were secretly using race in that part of the consideration. But I think there's also questions of just in this holistic process overall, how do you eliminate bias? How do you eliminate differences in culture, right? If Asian culture looks a little different than Western culture, right? How do you make sure you're not disadvantaging a student based on whatever biases the evaluator has?

Ravi ([10:32](#)):

Yeah. I'm so curious about this. In part of the discovery, did they interview admissions officers yet? Or did this either come out in Harvard's internal review that you've been able to now access, or have you been able yet to interview the admissions officers to find out, is it the implicit bias or are they being pressured or are the incentives lining up in ways to preference certain racial groups over others in these

so-called subjective measures? Do you have any sense based on the evidence? Is there any smoking gun in there?

Cory ([11:06](#)):

Well, the smoking gun, I think, is if you look at the brief of the plaintiff's file, it shows that among the most competitive applicants the ones with the strongest academic records have a serious shot of union at Harvard, that the personal rating does have African-Americans as the strongest, Hispanic students, the next strongest, white students, the next, and the Asians, the next.

Cory ([11:26](#)):

So it looks like those are the racial quota goals that they have and the preferences they need to get there, as opposed to actually evaluating the students' personal qualities. But, in terms of the actual evidence that came out, there was testimony from employees of Harvard. And so their claim is the personal rating is race-neutral. Perhaps Asian students had worse letters of recommendation. That may be a factor. So they stood by their claim essentially, that Asians, objectively speaking had the worst personal ratings. And that was an accurate evaluation.

Ravi ([12:01](#)):

This is amazing to me because this is not an argument that people would make about other races, right? Like if this were the flip side, and let's say that African-American students were being rated poorly on the subjective measures and then outperforming on the objective measures, there would be protests and I would join those protests. There would be protests out there. People would be appalled by all of this, progressives like me and a lot of people in my circles would be clamoring for change. What kind of reactions have we seen from progressive circles about what seems like a clearly racially biased process?

Cory ([12:46](#)):

I think it's ranged. I've seen some accusations of this being a white supremacist agenda that's using Asians. At the same time, I've also seen more thoughtful considerations that do recognize that there is a bias against Asians. And I really haven't seen a convincing argument that Asians aren't disadvantaged by at Harvard. So I think the question then becomes is it appropriate? Is Harvard trying to do a good faith holistic process versus just outright trying to achieve, do anything it takes, to get to the numbers they want? But yeah, I've done debates and back and forth conversations with professors who've supported these policies. And I haven't really heard a lot of denial that there is a disadvantage. These include professor Randall Kennedy from Harvard, Ted Shaw, from the University of North Carolina. And their response tends to be, look, African-Americans have suffered a much worse history in the United States that's still being worked through. And so Asian Americans are just going to have to deal with it.

Cory ([13:59](#)):

And so I can understand where they're coming from on that. At the same time, I disagree, because the Supreme Court has never really grappled with the possibility that these policies could be hurting racial minorities. They've always thought of the disadvantage imposed on the white majority in exchange for whatever benefits are for racial minorities, but the story of Asian-Americans complicates things. And it's hard to deny when you look at the facts of the Harvard case. And I will say that there have been a number of authors who in their pieces, so Asian-American authors, there's been a number of

Asian-American authors, who said in their pieces that they either support affirmative action policies, or at least understand why affirmative action policies exist.

Cory ([14:41](#)):

I think they might identify as liberal or progressive or moderate. And yet, they've written very eloquently about their own personal experiences of discrimination in these policies. So one of them is Aaron Mack from Slate, and he calls it the price of admission, and basically admits that when he applied the Yale, he tried to make his application look less Asian. He hoped they might think he was actually white. He didn't identify as Asian. He purposely didn't study Mandarin. He actually dropped out of a Mandarin class to avoid being shoehorned as an Asian. He didn't want to pursue pre-med or science or piano or things that were stereotypically Asian in order to, again, try to look different than other Asians. And he ultimately reflects on the cost that imposed on him, sort of the dignitary cost of being forced to basically deny your own heritage and try to run away from it because you imagine some Ivy League evaluator is just going to see you as another Asian.

Cory ([15:39](#)):

And so that's discrimination right there. Professor Jeannie Suk Gersen from Harvard also talks about a similar idea where she's talking to someone and they say, "Oh, you're not like the other Asians. You're so independent thinking," and all these phrases they would use. And she would actually say, "No, actually. There's a lot of things about my upbringing that do look pretty stereotypically Asian, but I know that when I'm playing this game of trying to get into the Ivy League schools and applying for academic positions, how I have to act and what I have to say in order to get you to say, 'Oh, you're not like the other Asians.'"

Cory ([16:14](#)):

And so these are just examples of how these holistic processes hurt Asian. I think they both at least expressed some amount of sympathy for affirmative action policies. And yet there's just no denying that they do have a negative effect on Asian-Americans.

Ravi ([16:29](#)):

Yeah. This accusation of racism, I find fascinating, because I think there is no doubt in my mind that there are actual racists who view this case as helpful to whatever racist cause they have. But then I would also say there are actual racists to think there are too many Asian-Americans in Ivy League institutions. So, to me, there are probably racists on different sides of this equation who see something they like. And to me, that is besides the point.

Ravi ([17:00](#)):

It would be one thing if either side of this debate were actually coordinating with racists or giving oxygen to racist claims. The way I see it, as I've been trying to parse through this, is that there is, as you describe, really hard evidence for discrimination. It's hard for progressives, in my opinion, the people who support affirmative action, to deny that. So that debate quickly moves over to ... all right. Well, even if it's true, we're playing this dangerous game with people who have nefarious aims. And that's where I think this makes it a frustrating debate because it's not on the merits. You know?

Cory ([17:47](#)):

Yeah. And so, and as a legal question, what is equality? What does it mean not to discriminate? From my perspective, that's pretty simple. You know, equality means equality and there are victims of these policies, I think, as the facts of the Harvard cases show.

Cory ([18:03](#)):

I went to see the last couple of days of the Harvard trial, and I've never seen that many Asian-American journalists in a room in my life. And it really produced a lot of great thoughtful writing and just people telling their stories of going through this process. Again, some, maybe more conservative, but others who are either not political or just they're just telling their life story. And it really resonated with them.

Ravi ([18:23](#)):

Well, Cory, I have a question for you about just this term, Asian-American, right? You and I are both in that category. Although, I would say our family backgrounds are probably pretty dramatically different. Like my dad's from India. Your family came, I believe, in the late 80s, from China, escaping oppression there, I think if I had my facts, correct. Right? Your family came here in the late eighties and then decided to stay after Tiananmen square and were granted asylum, I think. Right? Whereas my dad came over as a doctor, wasn't escaping oppression, but just escaping poverty.

Ravi ([19:02](#)):

And this category includes like half the world of people. Asian-American seems to be a rather large category. Where did this come from? Why is Asian-American one big category? And does that category in and of itself cause problems for members of the category? Because it seems like automatically, we're now tracking this humongous group of people who seem to have very little in common.

Cory ([19:29](#)):

That's a great point. And I think it took Asian-Americans raising their voices. And again, this lawsuit, giving them a chance to talk about this issue. That's finally brought it to the forefront. And so I submitted an Amicus brief with Professor David Bernstein to the Supreme Court in the Harvard case, talking about this exact issue.

Cory ([19:46](#)):

And so you asked where did the category come from. It was really an arbitrary exercise of executive branch decision making back in the 70s. But if you even go back in the history of the country, the definition of Asian, for instance, has changed.

Cory ([20:04](#)):

So there's Supreme Court precedent considering the question of whether an Indian person is Caucasian. There was a widespread understanding that Indians were Caucasian. But then the Supreme court actually said, "No, there's obviously a difference between Indian people and white people." So even within that opinion, you see two different views of who counts as white or Asian. And then so in the 1970s-

Ravi ([20:25](#)):

And when was that case? That case was-

Cory ([20:30](#)):

Yeah. I have my brief here. Yeah, yeah. 1923. 1923. Yeah. So-

Ravi ([20:37](#)):

Oh, wow.

Cory ([20:38](#)):

The case is United States versus Thind. T-H-I-N-D. And it had to do with basically, you couldn't be a citizen if you were Asian. And so this Indian applicant tried to say, "I'm Caucasian. Indian people are treated as Caucasian. There's authorities, widely cited authorities, that describe Indians as Caucasian." And a Supreme Court said, "Even though those authorities exist, we all know that Indian people are not the same as white people. And so we're not going to allow this person to become a citizen."

Cory ([21:11](#)):

And so even back then, you could see that tension and this disagreement over who counts as white, who counts as Asian. That disagreement has continued. So in the 1970s, the executive branch, basically it was the office of management and budget. And they formed this ad hoc committee to standardize the racial categories among executive branch agencies.

Cory ([21:33](#)):

So there was this ad hoc committee that met and tried to come up with uniform categories for which racial categories ought to be used to standardize the record keeping. And they actually, in their notes, they describe this issue of who counts as white, who counts as Asian. And, again, the issue of where Indians fall is a subject of debate. And they acknowledge that they're competing authorities.

Cory ([21:59](#)):

They ultimately classified Indians as Caucasian. But then after subsequent discussion, South Asians were trying to advocate for being treated as minorities because they do face discrimination. They are a very different group than white Americans. And so that change then happened later, so in the history of the United States, it hasn't been clear. And then actually in Britain, the word Asian is more typically thought of to use, to refer to South Asians, right? Indian people. And people from China or Japan, Korea, the old term would've been Oriental. I suppose, today you can either say East Asian or just Chinese or Japanese or Korean. So even among different English speaking countries, there are different categories.

Cory ([22:42](#)):

And so that goes to illustrate the arbitrariness of what these universities are doing. They're basically taking statistics that they were preparing for the Department of Education that they happened to already have on hand and now saying that is supposed to be the best way to get educated when they can't even explain why these categories are the best way to sort people. There are all sorts of arbitrary factors, people who look very different. I think if you ask someone from China and someone from India, whether they were the same race, of course they wouldn't. They would say, "That's silly." They're different people with different histories that goes back thousands of years, but it just happens so in the United States,

they get grouped together for perhaps political reasons. Maybe to increase the population, to show some kind representation in various demographics and to be able to treat them all as minorities.

Cory ([23:29](#)):

But it's completely arbitrary. It's basically just some bureaucrats in the executive branch who met together, said, "We need to standardize the racial categories." They picked some categories and even they acknowledged that it was sort of arbitrary. There was disagreement, but they just had to pick something. And they actually had a disclaimer that said, "These are not anthropological in nature. And they should not be used for determining federal benefits." And yet here we are today with these categories, pretty much being the standard for determining what are the effects of these policies on different racial groups and which groups might be entitled to benefits under certain programs?

Ravi ([24:07](#)):

So what happens if the Supreme court strikes down these practices? Which I think a lot of people think is a strong possibility here, especially based on the trajectory of the court's jurisprudence on this and the composition of the current court. I know you're not predicting an outcome, but if the Supreme Court strikes down this practice, what will college admissions look like in the near term after colleges are no longer able to take race into account?

Cory ([24:39](#)):

Well, they would have to remove race from consideration. I think there will be some period of time in which there's analysis of whether schools are trying to use race covertly in what is facially a race neutral policy, but actually it's reverse engineered to get at race. That's always a possibility as in any area of race discrimination. Once overt discrimination has been eliminated. There's a question of whether there's some implicit way to try to backdoor race into consideration.

Cory ([25:13](#)):

I could see schools perhaps going to holistic processes that don't look at race, but consider socioeconomic factors. There's policies like the Texas top 10% rule, which today has been reduced to top 6% because the population's been changing, but basically there's automatic admissions to one of the state universities for the top of the class. And so that's considered a way to get at perhaps communities that are predominantly minority and maybe some schools who would never send any students to the top state schools, but through this top 6%, top 10% policy, they might be able to get some students in. And so that increases the diversity of the campus there.

Cory ([25:53](#)):

So I could see schools trying to achieve some diversity objective in a race-neutral way. I hope that they will respect a court's decision if it comes out that way, understand that race discrimination is wrong, and try to make a good faith attempt to comply with the Supreme Court's decision. But as is always the case in race discrimination, you have to be vigilant to see whether they're actually doing that in practice.

Ravi ([26:20](#)):

And so for you, I know you're a lawyer. So part of this is, you're focus a lot on the legal standard and the discrimination aspect, but what would a good admissions process look like to you? To me, I'll just start.

And maybe you react to what I think like a better admissions process could be. To me, it would be taking into account your economic background. Right? And I think that has to do with some of these subjective measures that people talk about, like your leadership, your courage, et cetera. To me, as a former school principal, I see mostly lower income kids. I see their ability to overcome life outcomes is much different than the people I know who went to private schools. And to me, I would want to take into account in the process, hey, if you come from a poor neighborhood and you went to a school that didn't have the same resources, and you're still excelling, that matters a lot to me.

Ravi ([27:17](#)):

I would get rid of this legacy admissions, because I think that hurts a lot of the different people fighting over the same piece of the pie right now. You alluded to the impact of legacy admissions on Asian-Americans, for example. Those are just two of the things I would do. I think I would probably care less about the extracurriculars. I don't care how well you row or whatever. We're supposed to be universities. A lot of these universities get public dollars. Why they're investing so much resources in such extraneous activities that are of very little benefit to society seems weird to me. Those are just a few of the things I would do. But for you, if they reacted to this decision and beefed up to preferences for socioeconomic status, how would you feel about that?

Cory ([27:58](#)):

I think that would be fine. I think in a big country, there's room for different universities. And my modest claim is just that whatever the university wants to do, just don't make race a part of it. So I think there's some value in having schools that are more so-called meritocratic, where they really do focus very hard on the academic factors, your grades, your curriculum, your SAT score. And I think there's value with that, right? You can find a student who maybe doesn't come from the best circumstances who may be a minority who, if you were to try to look at their personality, you would say, "Oh, well, they're not confident. They don't have the polished exterior that maybe a student from a wealthy private prep school would have, but that person has some talent and you could see it in their academics."

Cory ([28:47](#)):

So I think that does have an effect of leveling the playing field in a certain way. And you know, the goal of the university is academics, I think. At the same time, I could see other schools that want to have maybe some more athletics. They want to have a little bit of everything in terms of students' interests and to come up with this ... whatever diverse class, whether it's the interests or the socioeconomic backgrounds, I could certainly see a state university, especially, where they're being charged with public dollars, to use that in a way to help disadvantaged communities, maybe rural communities, or just places that maybe wouldn't be able to send as many students to a school that was just entirely competitive, based on academics, in order to provide opportunities for those students to rise from their circumstances.

Cory ([29:32](#)):

I would just say that whichever of those policies you use don't make race a factor because we are a country that has a guarantee of equality. We have the equal protection clause of the constitution. We have title six, our anti-discrimination law. And so when you discriminate on the basis of race, there are victims. There are people who are hurt by those policies. And the courts need to talk about those issues. And I think this case is finally provided an opportunity for that.

Cory ([29:56](#)):

But I could see in our country ground for universities having different missions for different students and different goals. And I think it's good to have all of those. Just don't make race a part of it.

Ravi ([30:11](#)):

Well, I think as we close out, I think the hardest argument to grapple with, as I see it, is the fact that this country had slavery for so long and it's such a destructive, terrible practice, and then botched the civil rights movement and everything from reconstruction through the 60s, everything from redlining to lynching, to poll taxes, to one roadblock after another, to true equality in this country. And I think people who are for affirmative action say, "Well, just stopping the clock and saying, 'Well, okay, now everybody's equal in the admissions process,' fails to take into account this many centuries of injustice that our country had and that we need some kind of affirmative intervention into the levers of power and privilege to equal the playing field." So what do you say to that?

Cory ([31:12](#)):

I certainly would not claim that race discrimination somehow doesn't exist in our country just because we've gotten the laws correct. And you know, our culture has shifted a lot. We've made a lot of progress, but I'm not going to say that there's no such thing as discrimination. Certainly as fellow Asian-Americans, I think we all have our own stories of challenges we've faced growing up.

Cory ([31:33](#)):

The question then is, what's the right way to deal with it? And I suppose the point that I want to make is that these policies, they do have victims. And there's a problem with these any means necessary type approaches to achieve certain quotas. And even though the Grutter case said it wasn't going to do a quota. That's more or less what the universities are doing today. And so when you have that kind of quota thinking, whether it's, for example, I'm a lawyer, and so you see news articles that are only X percentage of the population. Sorry, only X percentage of law firm partners for instance, are insert demographic category, whether it's sex or race, or LGBT or whatever. And this kind of thinking, well, there has to be this representation in every institution.

Cory ([32:25](#)):

I think in order to achieve that, you would have to enact policies that ultimately destroy the nature of the institutions that they're being implemented in and that ultimately inflict harms on others on account of those factors like race. For example, against Asian-Americans and college admissions. In a free society, there's not going to be perfect representation of every group in every conceivable part of life and perfect proportion, right? Asian-Americans, if you just take that flawed category as we've discussed, but let's just take that category and say we're roughly 6% of the population. Does that mean that in every institution, there could only be 6% Asians, right? Because if Asian were ever to exceed that, that would mean some other racial group becomes underrepresented.

Cory ([33:12](#)):

And so there's no way to get perfect representation in every organization without inflicting harms and some way destroying what the purpose of that institution was. Right? And I think academics, there's something about that, that should be transcending race. So in an article I wrote in the Texas Review of

Law and Politics, I [inaudible 00:33:33] the Souls of Black Folk, where he talks about this concept of the veil, which is how the white and black interaction had this veil in between that prevents us from fully seeing each other as human. And yet through studying great works like Aristotle and Balzac and whatnot, the great books, that we can somehow transcend that veil. The veil is lifted, and we're just seeing each other as human beings. We're engaging with these ideas that transcend those differences, and talking about what it means to be human.

Cory ([34:05](#)):

I think also in the sciences, there's just objective questions about how the world works and you either understand it or you don't. And so in my mind, the pursuit of truth, the pursuit of learning, is something that should transcend race. And unfortunately, in these racial politics, this kind of quota thinking of X percentage, and we need to get the numbers to look a certain way, ultimately is destructive of the goals of learning.

Ravi ([34:28](#)):

Well, Cory, thank you for being with us. This was super instructive. Just for our awareness, so from my understanding, the Supreme Court is going to hear this case in the next term and decide on it by June of 2023. Is that correct?

Cory ([34:45](#)):

I think that's right. The briefing is still ongoing during the summer. And then the court will schedule argument. They can potentially reschedule at different times. So we don't have an argument date yet. So I would say we're sort of expecting that the case will be scheduled this upcoming term, perhaps to be argued sometime in the fall or winter, then decided before June. But the court can make adjustments. It's done so in the past before, so we don't know for sure right now.

Ravi ([35:09](#)):

Who are the lead attorneys for each side here? Who will be arguing in the Supreme Court for each side?

Cory ([35:17](#)):

I'm not sure it's been officially decided yet, but I'll just describe some of the lawyers on the case. The lead lawyer for Students for Fair Admissions is Will [inaudible 00:35:26]. For Harvard, Seth Waxman. The former solicitor general is representing Harvard.

Ravi ([35:33](#)):

Oh, interesting. Cool. All right, Cory. Well, it was nice to meet you, man. If you ever make it to New York, let me know. Would love to buy you a cup of coffee. Sounds like you're up to some interesting stuff out there.

Cory ([35:43](#)):

Yeah. Thanks for the opportunity. I'll look forward to seeing the final product.