

Identity Politics within The Supreme Court

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Introduction

Identity politics leads to individuals making political decisions which favor those most similar to them. This leads to underlying bias towards those in your racial and socioeconomic group, making diversity an essential for political equality. However, the Supreme Court has been notorious for a lack of diversity on the bench. The Supreme Court decisions have an universal application forcing all citizens to follow their rule. While the Supreme Court has been seen as a progressive instrument in making change, they are not as advanced as they seem. The use of identity politics in their decisions has resulted in different groups being stripped of basic civil rights. Additionally, when the Supreme Court makes decisions granting new rights, they are simply following the trends set by the states.

Hirabayashi v United States

Following Pearl Harbor, Japanese Americans became a target due to their racial identity. These were individuals who had lived in the US their entire lives, with no reason to be seen as a threat. However, this case ordered a curfew based upon racial identity was constitutional¹. The lack of minority representation on the bench, facilitated this decision¹.

Korematsu v United States

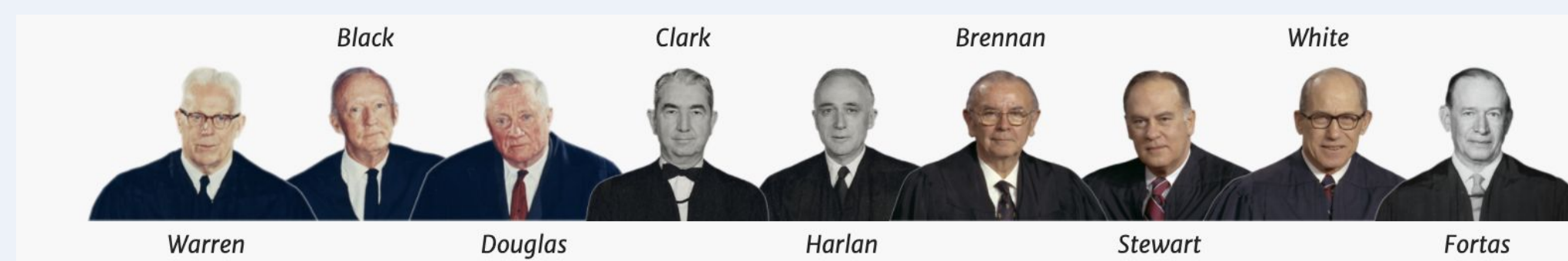
In a 6-3 decision, the Supreme Court found the US government was within their Constitutional right to force the relocation of Japanese Americans into internment camps following the Pearl Harbor attack². The Justices argued, it was based upon national security, although there was no evidence of a threat beyond the initial attacks². This was a blatant withdrawal of basic civil rights for Japanese Americans.



¹Korematsu v. United States." Oyez, www.oyez.org/cases/1940-1955/323us214. Accessed 10 Apr. 2020.

Loving v Virginia

Mildred Jeter and Richard Loving were an interracial couple married in the District of Columbia but resided in Virginia³. The couple were arrested as interracial marriage was illegal in Virginia. At this time, these laws were outdated, with the majority of states overturning their individual laws⁴. At this time the entire bench was white males, however they ruled against their identity politics as interracial marriage was no longer seen as a threat as it had been passed at the state level³.



³Loving v. Virginia." Oyez, www.oyez.org/cases/1960/395. Accessed 10 Apr. 2020.

Fisher v University of Texas

Fisher v Texas, granted it was legal under the Equal Protection Clause for college admissions to take race into consideration when making an admission decision⁵. This case was decided in 2016, and was centered on the use of Affirmative Action in the college admissions process⁵. This case demonstrates the use of identity politics by the justices when making decisions. Justice Clarence Thomas often makes decisions opposing affirmative action, and in this case wrote the dissenting opinion⁵. While attending and after graduating from Yale Law school, Justice Thomas faced discrimination with many people saying his admission into the school was not due to his great academic achievement and hard work but rather due to affirmative action⁶. Justices Ruth Bader Ginsburg and Sonia Sotomayor, were in the majority of this case and sided with the use of race in admission⁵. Sonia Sotomayor, a graduate of Yale Law, also had her academic achievements reduced by others, stating she was granted admission based on affirmative action⁷. However, Sotomayor sees herself as a success story, promoting affirmative action, as it may give many others the ability to achieve⁷.



⁵Fisher v. University of Texas." Oyez, www.oyez.org/cases/2015/14-981. Accessed 10 Apr. 2020.

Conclusion

The Supreme Court has the ability to grant universal decisions regarding rights for different groups. While they have made universal decisions expanding rights for many, these decisions were made after the states had already begun making these changes. Additionally, while there have been some advancements in the diversity on the bench, more is needed. Fisher v University of Texas, demonstrates how different life experiences impact decisions made, it is essential for political equality to have a variety of life experiences on the bench.

Future Directions

As the United States becomes more diverse in its citizens, it is imperative to have diversity in identity, race, and life experiences on the bench. Currently, there are no term limits for Justices, with most stepping down for retirement or once they die. As of April 2020, there are three current justices who have been on the bench for at least twenty-five years⁸. In order to increase diversity, term limits should be implemented. A term limit of ten years would be sufficient and would allow new perspectives to make decisions.

References

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