

# A New Approach to Alumni Legacy Policies in Admissions

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*A fair assessment of current Stanford admissions practices reveals an inconsistency. The use of legacy preference as an admissions criterion works in opposition not only to affirmative action, which Stanford is currently reaffirming and defending, but also the broader goals of universities toward improving society. Although many people feel very sensitive about raising the issue, we are irresponsible if we choose not to. We must question the very basis of legacy preference policies on both philosophical and practical grounds. If this is done carefully, I suggest that we are left little choice but to abandon them in favor of a more just and socially responsible admissions philosophy.*

## Introduction

**T**he practice of offering preference in university admissions to the children of alumni is an obvious, yet oft tolerated subversion of meritocracy. The contradiction is pronounced; the very gateway to achieving success in our liberal democratic, capitalist nation does not adhere to meritocratic principles. Yet, many venerable universities maintain legacy preference, such as Harvard, Yale, Princeton, and Stanford. Why do alumni legacy policies exist? Can they be satisfactorily justified?

This essay seeks to approach these issues by considering them from the viewpoints of the political theorist and university admissions officer. The contrasting perspectives between political philosophers and university employees complement each other well because they provide us with both the macroscopic view, from the level of an individual designing a society from the top down, and the microscopic view, from the level of an individual representing the particular interests of a university. Following from these two sections, the conclusion synthesizes the results and

suggests remedies to possible discrepancies between theory and practice. But, before progressing on to a theoretical examination of legacy practices in admissions, a historical outline is appropriate in providing a foundation for discussion.

## Brief History: The Birth of Legacy

Legacy policies are certainly not new features on the educational landscape. In the 1920s Harvard, Yale, and Princeton, among others, began offering preference to the children of alumni in order to counteract their rising numbers of Jewish and Catholic students and applicants (Megalli, 71; Lind, 170). Although blatant bigotry and anti-Semitism faded away, legacy policies persisted after the Second World War.

Today, legacy preference policies are not exclusive to the private Ivy League, but can also be found at large public universities such as the University of Virginia. Legacy admissions acceptance rates are typically much higher at schools with legacy

policies, anywhere from one and a half to four times the general acceptance rate. For instance, in the early 1990s Harvard's legacy acceptance rate was 35%, while the general acceptance rate was 16%. Dartmouth accepted well over half of alumni applicants at 57%, while the general acceptance rate was 27% (Megalli, 72). Today, Harvard's legacy acceptance rate is even higher than a decade ago at 40% versus a paltry 11% overall acceptance rate (Golden A1). A near four-fold discrepancy in admit rates cannot and should not be easily overlooked, especially considering that the available data suggests legacy applicants are generally less qualified in terms of SAT scores and GPAs! A report by the U.S. Department of Education's Office for Civil Rights found that legacy students at Harvard averaged 35 points lower SAT scores and also had weaker GPAs than non-legacies (Megalli, 71-73).

The most recent trend, however, has been away from the use of legacy preference in admissions. Led by state legislatures, schools such as the University of California, Berkeley and the University of Georgia no longer use

legacy preference in the admissions process. Senator John Edwards, a Democrat from North Carolina, has even incorporated an anti-legacy preference stance prominently into his bid for president.

## The Moral Philosophers

Before applying the theories of John Rawls and Robert Nozick to legacy policies, there is a fundamental question that should be addressed. Is political philosophy relevant to university admissions practices?

The answer is an unequivocal “yes.” John Rawls would undoubtedly agree. Although he does not specifically mention legacy preference, he comes very close by placing special emphasis on equal opportunity of education and social mobility. Social mobility and education are inextricably linked for Rawls since he controls nearly every other variable related to economic success, such as social class of families, talent, and even self-respect (Rawls, 54). The recent decision by the Supreme Court to rule on two cases regarding affirmative action at the University of Michigan exemplifies just how much weight our society places on higher education admissions.

### John Rawls

In *A Theory of Justice*, Rawls lays a strong theoretical framework against the use of restrictions like legacy in education or in the workplace. His famous thought experiment, the veil of ignorance, where a representative individual is asked to design a just society void of his or her partialities and particularities, aids us in hypothesizing the Rawlsian position on legacy preference policies. Rawls would almost certainly argue that it would be irrational to choose legacy as a criterion for university admission from behind the veil of ignorance, since in all likelihood, it would work against us rather than for us.

Rawls would justify his position by claiming that the two principles of justice would not permit an inequality, such as legacy preference, that is not to everyone’s advantage, especially at institutions as important to individuals and societies as universities. Rawls might compare legacy policies to the

aristocratic ideal, in his view an unacceptable social theory, in order to discredit them. On this topic, Rawls states, “The aristocratic ideal is applied to a system that is open, at least from a legal point of view, and the better situation of those favored by it is regarded as just only when less would be had by those below, if less were given to those above” (Rawls, 64). The situation Rawls describes in this statement closely resembles the legacy system. The university admissions process is a legally open system and legacy practices are often rationalized by the notion that fewer financial aid scholarships would be available for those “below” if legacy preference incentives did not exist for those “above.” The fit between legacy and Rawls’ description of the aristocratic ideal is undeniable.

Justice as fairness has important ramifications for the prospects and processes of social mobility. I would like to emphasize that he explicitly orders justice as fairness above efficiency (Rawls, 57-64). This is significant because it gives Rawls a powerful attack against supporters of legacy who might defend their stance on economic grounds, such as Robert Nozick. It implies that socioeconomic mobility should not only be theoretically possible, but practically possible as well. Applying this to university admissions, this should mean that students of the same ability and willingness have equal opportunities for admittance to universities. This is not the case today, however. One’s birth, that is, “initial place,” does affect prospects of success. For example, Stanford’s “Criteria for Undergraduate Admissions” explicitly states, “A few categories of applicants receive special consideration provided they meet the basic requirements of academic excellence and personal achievement....Children of Stanford graduates receive preference in choices among applications of approximately equal qualifications” (Fetter, *Questions and Admissions*, 9). In other words, children of Stanford graduates are *not* equal with applicants of “the same level of talent and ability.”

Delving further into this subject, Rawls states, “[Free choice of occupation] is achieved by policing the conduct of firms and private associations and by preventing the establishment of monopolistic restrictions and barriers to the more desirable positions” (Rawls,

243). If we assume Rawls would be opposed to legacy policies, this passage indicates he would extend the prohibition to private institutions in addition to public. It also suggests that he would make a point of ensuring that the “more desirable” institutions, in this case elite and/or private universities, such as the Ivys and Stanford, would not be above the law.

### Robert Nozick

Unlike Rawls’ interventionist state that constantly levels the social playing field, Nozick emphatically calls for the minimal state. The first line of his discussion on distributive justice, declares, “The minimal state is the most extensive state that can be justified. Any state more extensive violates people’s rights” (Nozick, 149). The implications of this short statement are profound for Nozick’s political and social theory. Justice is not based on ability or even fairness, but rather upon historical principles (Nozick, 154-160).

If we do not assume that justice demands society to be as meritocratic as possible, the very basis of Rawls’ theory is undercut. Nozick’s conception of justice relies upon his theory of entitlement and history, which asserts, if justice in acquisition of holdings and transfer of holdings are both in place, then no injustice occurred and there can be no justification for government interference. That is, if I make a dollar “fairly and squarely,” I should be able to keep it or bequeath it as I please *and* the government has no right to take it or any part of it away.

Nozick offers a couple pieces of evidence that suggest he would be in favor of allowing legacy policies. One, he criticizes Rawls’ difference principle as inappropriate “...as a governing principle even within a family of individuals who love one another” (Nozick, 167, footnote). This implies that private family values are important, even for government. Nozick might therefore defend the community and loyalty-building aspects of legacy. But is the university and families comparison appropriate? Universities are certainly communities, thus they have an interest in community-building, but they are *not* necessarily also families. Familial ties are based on love and are generally stronger than the bonds of even the

most intimate of communities. Although students may develop familial love with other students, one cannot accurately claim that students can share this same love with the institution of the university and vice versa. If these connections do not exist, are the “governing principles...within a family” even appropriate for universities? I fail to see any logical tie that binds the two. However, that does not mean Nozick and others cannot rightly believe universities *should* be governed like families. But, Nozick’s criticism of Rawls’ difference principle is reduced to a mere suggestion.

Two, Nozick stresses the significance of the right of an individual to give or bequeath. Legacy policies at universities, which are somewhat akin to inheritance practices within families, can reasonably be considered as falling under the logic of this argument. But, the strength of this argument depends entirely upon whether or not we accept the validity of his “communities as families” argument. If universities are not like families, then the right to give is severely limited.

### The University Admissions Officer

In seeking to develop a realistic and practical perspective to compare against Rawls and Nozick, I interviewed Jean Fetter, the Dean of Undergraduate Admissions at Stanford from 1984-1991 and Jonathon Reider, Senior Associate Director of Undergraduate Admissions at Stanford from 1985-2000. From the interviews, it became clear just how many different forces push and pull on admissions officers at any one time.

#### Jean Fetter

Admission officers must make difficult decisions every day. The general admittance rate from the total applicant pool at Stanford was around 14%-15% during her time. Legacy admit rates at Stanford were about two to two and a half times the general admit rate (the percentages remain the same today), so fewer alumni children were being rejected as a percentage than non-legacies. Although it is impossible without much further study to show causation between legacy preference policies and

higher legacy acceptance rates, it should be noted, as stated earlier, the U.S. Department of Education’s Office for Civil Rights’ two-year investigation at Harvard discovered that legacy students averaged 35 points lower SAT scores and also had weaker GPAs than non-legacies (Megalli, 71). This information leads me to believe that legacy preference policies account for much, if not all, of the two-fold difference in acceptance rates between legacies and non-legacies.

When asked if legacy would be an appropriate criterion for admission/election/hiring in spheres of life outside of education, especially the ones generally considered to be meritocracies, Jean stated, “I think [education] is a special case. It is a formative time in your life...It imbues a different type of loyalty [than for-profit jobs]” (Fetter, Interview). This reasoning very closely resembles Nozick’s argument that policies should not be totally alien to family values. I find this sort of exceptionalism for justifying legacy at universities hard to accept. If family values, such as giving preference to relatives, is illegal in government, why should it be legal in universities admissions? It is not even accepted within universities when it comes to appointing professors! She also commented that Stanford’s position as both private and non-profit made a difference in her response, which also fits in with Nozick’s interpretation that private organizations enjoy certain privileges of non-interference from the state. This is a much more defensible argument because the “correct” amount of government-forced congruence between public and private organizations is anything but clear cut.

Despite presenting a number of justifications for legacy, Jean exhibited an unexpectedly high degree of caution on the matter. She identified specific instances where Stanford’s legacy policy came uncomfortably close to compromising the integrity of her position. She cited a specific example, stating, “One of my most agonizing decisions was when the chairman of the board of trustees had a grandson in the applicant pool and I couldn’t in good conscience admit him. His father was a Stanford alum—he was a legacy—and his grandfather was chairman of the board! That was really, really hard. It’s a slippery slope” (Fetter, Interview). Legacy poli-

cies are at the root of these dilemmas.

### Conclusion: Creative Resolutions

Discussions and debates in the popular media concerning legacy often fail because those who argue against legacy stay on philosophical grounds and those who argue for it remain on practical or economic grounds, without the two ever meeting in the middle to produce any meaningful compromise or synthesis. Part of this problem lies with legacy supporters who rarely use political or moral theory as a defense and thus feel a certain degree of moral unease with their position because they rely on purely economic reasoning, even though as I have shown through Nozick, it is possible to do so. However, I still have serious, unaddressed concerns with this moral viewpoint. I believe this unease is reflected by the unwillingness of many universities to publish any legacy statistics or justifications whatsoever, excepting the brute force of a government investigation. I experienced this first-hand while researching for this essay. Despite being a student, the current Stanford Admissions Office was clearly suspicious of my questions. Their reply came after a few hours (which were apparently used to consult with those higher up), but did not provide any new data. Fault also lies with the anti-legacy camps, however. They cannot expect to preach from moral high ground and be heard in terms of making real policy progress without at least addressing economic issues. Therefore, I will summarize the faults with both theory and practice and then propose a few measures to address this fissure.

As was demonstrated through the arguments of John Rawls, today there are still sound reasons for opposing legacy preference policies, such as preserving the ideals of meritocracy and allowing social mobility, which both serve to rejuvenate society. Nozick’s theory was shown possibly to support legacy preference because individuals and organizations should enjoy maximum protection from the intrusion of the state. But faults were found here. Equating organizations, such as governments and universities, with families was discovered to be speculative at best and deeply flawed at worst. In fact, I

believe that even the suggestion that governments and universities should be operated more like families is offensive to the progress of modern liberal democracies and would make some of the Founding Fathers, like Tom Paine, roll in their graves.

Additionally, economic motivations, such as those raised by Jean Fetter with her example of the chairman of the board's grandson, can potentially undermine the integrity of foundations of learning, which should serve as moral role models. Deans of admissions need to invent, incorporate, and constantly re-realize a coherent *moral* philosophy behind their policies. It is not enough to have a mission statement for admissions that is essentially "dead" and only be able to defend decisions with economic justifications.

There are also concrete measures I believe can be taken to address the issues presented by legacy policies. Economic pressures are often cited as a primary driver for legacy theories, yet

when I asked Jean and Jon if they were aware of any institutions having done a cost-benefit analysis on the topic, they both responded, "no." A good first step would be to determine whether the economic argument carries as much weight as many would hold. If such a study refuted the economic benefits of legacy policies, there would be little justification for most people, if any, for continuing legacy preference. Also, the Federal government should seek to work with universities to address any economic concerns over banning legacy in order to rectify the subversion of meritocracy that legacy policies cause. Carrots, or incentives, in the form of grants would probably have to be used in conjunction with sticks, or penalties, such as an outright prohibition or quota on legacy at public schools and the threat of funding loss for private universities to help overcome the collective action problems associated with a university unilaterally banning legacy and losing money relative to its peers.

After considering both sides of the debate on legacy admission preference policies, both my intellect and sentiment remain unconvinced by any pro-legacy arguments. It still offends me on a gut level and remains philosophically hard to accept. It appears to be an injustice that is propagated and explained exclusively by the same types of forces that have allowed so many other inequalities, such as aristocracy, sexism, and racism to persist: those in power do not like relinquishing it. More than any society in the past, America has shown the ability to overcome these stagnant and anti-progressive forces. With the right amount of publicity, social cooperation, and leadership on the part of concerned individuals and politicians, I am confident that legacy preference policies will one day be added to the long-list of injustices that seem exceptionally anti-democratic and anachronistic upon reflection. Perhaps, Stanford could help lead the charge.

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## References

Fetter (Chu), Jean. Personal Interview. 19 Nov. 2002.

Fetter (Chu), Jean. *Questions and Admissions: Reflections on 100,000 Admissions Decisions at Stanford*. Stanford, California: Stanford UP, 1995.

Golden, Dan. "Family Ties: Preference for Alumni Children in College Admissions Draws Fire." *The Wall Street Journal*, 15 Jan. 2003.

Lind, Michael. *The Next American Nation*. New York: The Free Press, 1995.

Megalli, Mark. "So You Dad Went to Harvard: Now What About the Lower Board Scores of White Legacies?" *The Journal of Blacks in Higher Education*, Vol. 0, Iss. 7, Spring, 1995. <<http://www.jstor.org>> (Nov 7, 2002).

Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, Inc., 1974.

Rawls, John. *A Theory of Justice*. Rev. ed. Cambridge, Massachusetts: Harvard UP, 2000.

Reider, Jon. Personal Interview, 19 Nov. 2002. E-mail Interview, 2 Dec. 2002.