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Interpreting Forgiveness
Legislative Power, Judicial Oversight, and the Student Debt Crisis

- **The Real Current Approach [C]**
 - **Effect of Loper Bright Enterprises [A]**
 - **The Ideal Approach [D]**
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The history of student loan forgiveness dates back to 1944, when the federal government initiated programs to make higher education accessible for American citizens. As of current, student loans have amounted to \$1.75 trillion in student debt, placing significant financial strain on federal resources. Expanded into a national crisis, it raises complex questions about government policy, legal fairness, and the economic impact on American citizens and taxpayers alike. Student loan forgiveness is a contested issue highly influenced by the balance of power between the legislative, executive, and judicial branches; their efforts conflict with each other, facing constitutional challenges and difficulties in decision-making amidst authority disputes. Recent jurisprudence, case law precedents, and administrative actions to cancel student debt offer insights into potential balanced approaches based on statutory interpretation and the evolving landscape of student loan policy.

The basis of American democracy is founded on principles like “consent of the governed” and the Enlightenment idea of separation of powers in government. The balanced division of power among the legislative, executive, and judicial branches creates a system of

checks and balances to ensure accountability without authoritative abuse. Considering their respective roles in politics, especially with student loan forgiveness, the question over which branch is most suited to delegate the final say becomes significant. Shifting the focus to executive action, the branch is responsible for enforcing federal laws, but its authority is checked by other branches so that unilateral power does not exist. In 2022, President Joe Biden planned to cancel up to \$20,000 in federal student loan debt per borrower, equaling up to \$430 billion in forgiveness. Citing his right to “waive or modify” federal student aid in an emergency such as the COVID-19 pandemic, as per the Higher Education Relief Opportunities for Students (HEROES) Act of 2003, he claimed the proposition was a response to a national crisis. However, in *Biden v. Nebraska*, 600 U.S. ____ (2023), the Supreme Court unanimously found Biden's acts unconstitutional. Chief Justice Roberts stressed that the HEROES Act did not authorize large-scale debt cancellation, confirming that, while the executive branch can oversee and amend existing programs, significant student loan forgiveness must be founded in legislation passed by Congress, as forgiving loans impacts federal budgets. Since Biden's approach was based on a personal, broad interpretation of an existing statute, it highlighted the inherent limitations of an executive branch commanded by a single person. Executive action alone lacks the constitutional authority to enact major student loan forgiveness without the support of the legislative or judicial branches, where more people can voice their consent in the political landscape. The judicial branch serves to interpret laws and ensure their alignment with the Constitution. The power of judicial review, which was established in *Marbury v. Madison* (1803), gives courts the responsibility of checking both legislative acts and executive decisions. The Supreme Court’s unanimous decision in *Biden v. Nebraska* is a primary example of this role; blocking executive overreach in attempting broad student loan forgiveness without explicit congressional

authorization, it proves the judiciary's role as an impartial judge of evaluating law. Historically, courts often deferred to administrative agencies under the Chevron Doctrine, diminishing courts' power by restricting their primary judgement. However, the recent Supreme Court ruling in *Loper Bright Enterprises v. Raimondo* (2024) overturned this deference, mandating that courts exercise independent judgment when interpreting unclear legal statutes. This shift diminishes agency power and reinforces judicial authority over ambiguous areas such as the discharge of student loans under §523(a)(8) of the Bankruptcy Code. By ensuring statutes are applied fairly and constitutionally, the judiciary acts as the ultimate decision-maker on the legal limits of student loan forgiveness, upholding the balance of power within the federal government. Despite acting as a constitutional safeguard, the judiciary has no power to create laws and can only interpret statutes within their scope. This means that in the context of student loan forgiveness, the judiciary may only interpret whether a debtor meets the "undue hardship" standard and it therefore does not have a proactive role in shaping nationwide forgiveness policy. Apart from the executive and judicial branches, the legislative branch possesses the constitutional power to regulate public funds and establish national policies, making it the most appropriate authority to determine student loan forgiveness. The U.S. Constitution gives Congress the power to borrow money, regulate commerce, and enact laws necessary for governance (U.S. Const. art. I, § 8), which means the legislative branch finalizes the extent of federal financial obligations. Historically, the legislative branch has enacted all acts and codes relevant to the American economy, including the Appropriation Clause which enables government to allocate funds for federal loan programs. Additionally, since the 1970s, Congress directly shaped student loan discharge rules by using amendments on the Bankruptcy Code in order to alter time limits and

restrictions on loan forgiveness, thus exercising direct, ultimate control over this issue in order to reflect the nation's fiscal reality.

Over the course of SCOTUS history, the judiciary has introduced transformative legal precedent, elevating its set role to evaluate constitutionality and interpretation of the law. Accounting for both enumerated powers under Article III and delegated authority, many of the Supreme Court's cases have reached landmark rulings and reshaped the extent of political power across the three branches of government. Connecting to the issue of student loan forgiveness, the judicial branch has offered its oversight into the decision-making practices of the court system, specifically in the context of ambiguous laws. In recent years, it has reevaluated the limits of federal agency power in the case of *Loper Bright Enterprises v. Raimondo* (2024) which overruled the Chevron Doctrine. In the case of *Chevron U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984), the Supreme Court established the Chevron Doctrine, determining that federal agencies under the executive branch could impose their definition of an unclear legal statute onto a court's verdict even if judicial interpretation was different. After *Loper Bright Enterprises* challenged a federal regulation issued by the National Marine Fisheries Service (NMFS), the Supreme Court ruled in a 6-3 vote to overturn the Chevron Doctrine because the rule issued by the Department of Commerce was unconstitutional according to the Magnus-Stevens Act. This demonstrates that court deference to the federal agency's interpretation was void and unlawful since it opposed a clear, legal statute, so the Chevron Doctrine left court's unable to exercise their rightful, judiciary power. The mandate of using independent judgment when interpreting ambiguous statutes revolutionized the legal landscape; the effect of this decision has placed limits on federal agencies' power, thus indirectly weakening the executive branch. On the other hand, it restores interpretative authority to the judiciary by

giving it a primary decision in court cases. As the overruling of the Chevron Doctrine effected the power of all federal agencies, the implications of this decision go beyond impacting the U.S. Department of Commerce. Rather, it alters the extent of power with issues like student loan forgiveness. Agencies like the Department of Education do not have unchecked discretion in interpreting laws governing student loan discharge in bankruptcy (such as §523(a)(8) of the Bankruptcy Code). This results in a higher level of judicial involvement and the role of courts to determine whether a borrower meets the “undue hardship” standard needed for debt discharge. Such a decision is not a power of an administrative agency but instead of judicial interpretation, and while the legislative branch should hold final authority to create and modify laws, the “undue hardship” standard can only be rightfully analyzed in individual cases under court evaluation. The case of *Loper Bright Enterprises v. Raimondo* (2024) has propelled a robust, engaged judicial review policy in court cases, thus leading to more consistent and constitutional interpretations. In fact, this landmark decision reflects a rebalancing of powers executive and judicial branch. Ultimately, *Loper Bright Enterprises* signals a shift towards increased judicial discretion in interpreting student loan discharge laws, weakening agency control and emphasizing the judiciary’s role in shaping the scope of loan forgiveness in terms of bankruptcy protections.

In the history of the student loan debt, bankruptcy law traditionally balances debtor relief with creditor protection to ensure a stable economic state. Student loans are distinctly different than general private debts such as credit cards, mortgages, or even personal loans; in fact, student loans are linked both to the borrower and the national investment into higher education which makes them unique and subsidized. Therefore, student loans are unlike the general commercial loans issued for profit, and debt discharge thus impacts social equity and federal budgets. To

balance an approach regarding student loan forgiveness, it's vital to observe regulation and the power vested into government branches. Following the Bankruptcy Reform Act in 1978, a 5 year discharge rule was implemented; later extended to 7 years in 1990, Congress struck down these regulations in 1998 to enforce the "undue hardship" standard which is current law. As the 5-7 year discharge rules prioritized relief after a given period of time without the need for the borrower to prove any form of hardship, the law was a gateway for abuse or undermining repayment systems. Under current law, borrowers are required to prove "undue hardship" with the courts using a strict method of the Brunner Test from *Brunner v. New York State Higher Education Services Corp.*, 831 F.2d 395 (2d Cir. 1987). While this method gives courts a sole, individual authority to determine debt discharge, many criticize the test unrealistic and the "undue hardship" standard overly strict since a borrower must prove three factors of poverty, persistent financial struggle, and a genuine effort to repay the loan. In this instance, some may argue that the Brunner Test prioritizes creditor protection over debtor relief which causes unbalance. A revised framework lowering the hardship threshold or setting a more reasonable waiting period before loans are dischargeable could form a middle ground between the discharge rules and "undue hardship" standard. By using income-based assessments or a flexible hardship definition, debtors and creditors could be satisfied alike. The government would retain its ability to fund future loans and student struggles could be reflected like disability, low income, or life crises. Seemingly, a revised framework could represent the interest of borrowers while courts would have a legitimate, fair guideline that could promote consistent judicial review. It would limit the instance of ambiguous legal statutes and reflect national priorities of access to education, economic stability, and reducing borrower exploitation. A modernized legislative approach that recognizes financial realities while protecting federal interests would ultimately be

the best approach to solve student loan debt and maintain the purpose of bankruptcy law in a fair and constitutional manner.

The question of who controls student loan forgiveness cuts deeper than politics or economics; it tests how our government should work. The executive branch may act in emergencies, and the courts may step in when laws are unclear, but only Congress holds the lasting power to write the rules on national debt. The debate over forgiveness shows how important it is for the branches to respect their limits while working toward solutions that reflect both fairness and reality. Instead of letting this issue swing between strict hardship rules and broad relief promises, lawmakers need to shape a system that honors financial responsibility while giving honest borrowers a real chance at relief. In the end, a balanced law, passed by the people's representatives, is the only way to make student loan forgiveness work for both individuals and the nation.

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