Instead of fighting over student debt forgiveness, politicians should focus on an even easier solution that could transform the student loan crisis

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- **The ongoing student loan crisis in America is real, affecting one in eight adults and making up 11% of consumer debt.**
- **The focus by Washington policymakers on what the "right amount" of blanket forgiveness should be is misguided.**
- **Instead, lawmakers should focus on revising existing laws governing "undue hardship" that could empower student debtors and provide them the relief they need**
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- **This is an opinion column. The thoughts expressed are those of the author.**

What if the entire national conversation we're having around student loan debt is the wrong one?

In the ongoing dialogue on student loans, a disproportionate amount of attention is being paid to what amount of blanket forgiveness is the "right amount" to help our country manage this $1.71 trillion liability on our collective balance sheet. President Biden has floated $10,000 per person; Senators Warren and Schumer set their bid at $50,000. The Department of Education and Secretary Cardona have been tasked with determining the optimal path forward to help the nearly 45 million Americans with student debt.

Unfortunately, this numbers-guessing game is mis-focused. To sustainably address student loan debt in the United States, we need to pivot to a pragmatic dialogue on the realities of our economy, our political environment, and, most importantly, our existing laws that we can revise to help those Americans facing financial hardship. By clarifying the existing bankruptcy code, we could relieve deserving Americans of some or all of their student loan debt without creating unnecessary political waves.

Understanding the student debt landscape

Student loan debt makes up 11% of total US consumer debt today, impacting one in eight American adults. An estimated 92% of this obligation, equating to $1.56 trillion dollars, is owed to the federal government.

Every dollar the federal government forgives means one less dollar on the asset side of the nation's balance sheet, which is already strained significantly by historical debt and more recent COVID-19 expenditures. This forgiveness would be contemporaneously competing with other expensive priorities like infrastructure plans, which will collectively impact the country's federal balance sheet and upturn debt-to-GDP levels.

And the forgiveness perspective doesn't contemplate those student debtors who selected less expensive universities to avoid burdensome loans, or who already repaid their loans and rightly would inquire about disparate treatment. Nor does it take into account the future generations who would want the same opportunity afforded them when their loans are due.

College and graduate-school affordability, or rather the lack thereof, presents a significant challenge that sits at the core of the student debt situation. Blanket forgiveness does nothing to address these rising costs. In fact, it does the opposite, by eliminating incentives or pressures on colleges and universities to optimize their cost structures by socializing these expenses across all Americans through increased national debt.

Economic impracticalities aside, it's also important to acknowledge the fraught political environment in Washington. We find ourselves in a highly partisan and charged political environment, where Congress cannot reach consensus and antagonism and obstructionism run rampant. Not a single Republican in the House or Senate voted for pandemic relief earlier this year; instead, we see political lines drawn today on infrastructure spending, voting rights, and the Senate filibuster. While student debt should be an apolitical issue, the very concept of debt forgiveness (or, rather, the transfer of this expense to the federal government), will be met with contempt by many fiscal conservatives.

President Biden's omission of student debt forgiveness from his budget further complicates the situation and shows how divided we are on a solution. Our policymakers owe it to the American public, particularly those who cannot afford to pay their loans, to be honest and realistic, and to pursue resolutions that have a chance at passage and implementation.

The existing solution

But there are pathways, including established, but under-utilized ones. A possible resolution mechanism already exists within the US Bankruptcy Code — it is a means to manage student debt known as "undue hardship."

This effort requires a separate filing in bankruptcy court where a student debtor goes before a judge to show they cannot maintain a standard of living for themselves or their dependents and do not expect to be able to do so during their repayment period, and that they have made good-faith efforts to repay the loans. Unfortunately, what sounds like a simple enough option is fraught with unnecessary obstacles.

The undue hardship provision is interpreted differently in bankruptcy courts across the country, as the Bankruptcy Code doesn't provide specific guidance as to what constitutes undue hardship. Generic ambiguity aside, undue hardship remains elusive even for the most deserving student debtors; the standard, in most interpretations, appears to be so onerous that few attorneys even advocate for their clients in its pursuit. The provision is serving few, if any, of the individuals who are enduring financial hardship due to their student loan debt simply because it's too cumbersome to pursue.

Where we can affect change in a real, immediate, and impactful way, is to revise this Bankruptcy Code provision with universal guidance and applicability so that it achieves what Congress sought when it first wrote it into law. If the federal government provided greater clarity in this regard, we could see an easier and more efficient way to manage the dire cases where Americans really are crippled by student debt.

There is a recent, and successful, parallel. Congress already successfully implemented Bankruptcy Code revisions by extending the ceiling of Subchapter V bankruptcies to help small business owners during the pandemic. A similar approach could be applied to

the undue hardship provision, which would provide lasting support only for those most dire cases without driving up the national deficit.

If the Biden administration and policymakers are serious about addressing student debt, this is a way forward that would provide relief for student debtors today and for generations to come, while protecting the federal balance sheet by limiting forgiveness to the extent necessary to allow debtors to sustain a certain standard of living, rather than providing a blanket discharge without context for personal decisions or need. Amending the bankruptcy code is an effective, accessible, equitable and pragmatic policy solution.