

The Dream of Integration & the Politics of Resegregation: The Continuing Battle over the Legacy of *Brown v. Board of Education*

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This year, 2024, marks the 70th Anniversary of the landmark court decision in education which sought to end legal segregation, *Brown v. Board of Education*. At the time, the hope was that ending segregation would address the vast and deep inequities in educational resources by race that had long been the legacy of schooling in the United States. Getting to the *Brown* decision was a long, hard battle, fought by civil rights attorneys, but also by educators, social psychologists, and members of the Black community—parents and students. And yet, despite the hopes for resource equity and higher quality education for Black students, inequities by race still plague our education system, and the promises of *Brown* remain substantially unfulfilled.

This paper is a part of a series, titled *Brown at 70: Reflections and The Road Forward*. The series consists of nine papers by leading scholars of educational equity, and each takes an honest look at the progress since *Brown*, documenting the shifts over time on key aspects of education including segregation levels of schools across the country, achievement trends in relation to policies and practices over time, the diversity of the teaching force, access to resources, the role of Black scholars and community activism, and the relationship between democracy and education. Taken together, the set of papers offers both an historical look at the impacts of the *Brown* decision, and, importantly, also offers guidance for the road ahead—promising policies, practices, and directions for the schools we need.

The cover art for this series is a reproduction of the Jacob Lawrence painting from 1960, *The Library*, which depicts the library as a vibrant learning setting for Black community members, and signifies the important of reading, learning, and education in the Black tradition.

— Na'ilah Suad Nasir, Spencer Foundation President
Linda Darling-Hammond, Learning Policy Institute President

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It's been 70 years since *Brown*, and we have not been able to bring our children to school together as we became a profoundly multiracial society with no racial majority. Since *Brown* we've had 10 Presidents, enacted the most important civil rights laws in U.S. history, seen many barriers fall, but we're far from the seemingly simple goal of *Brown*. In fact, we've been going backward for more than three decades toward greater degrees of separation—and the separation is double separation, by both race and poverty. Very large educational gaps remain, and there have been no major positive legal or policy developments since the 1970s. In spite of all this, there is increasingly powerful evidence that *Brown* was right, that segregation has huge costs for students of color, that diverse schooling can change lives and strengthen the country. Civil rights groups, facing serious legal reverses, continue to seek new paths to achieve *Brown's* goals.

What happened? Is it true that integration was tried but it failed and was abandoned? Did it fail to help students of color? Was it a zero-sum game, where Whites had to lose so students of color could gain something? Are there deep values or desires in our society that destroy diverse schools and colleges? How did the balance tilt back toward segregation?

The basic story of rising segregation is often described by civil rights opponents as the product of a failed education effort, but the actual driving force was political. The conservative argument is that civil rights law and the courts pushed too hard to force students into schools together and it didn't work. Critics argue that the gains were small, the public was opposed and that the enterprise failed, resegregating the schools. This study concludes, in contrast, that desegregation produced major lasting gains in the short period of time it was seriously implemented, that many experiences were positive, and the real cause of the resegregation of the last third of a century was political. Hostile administrations playing on the politics of racial fear, decimated the federal enforcement process, eliminated aid, and transformed the Supreme Court. The result was Supreme Court decisions ending desegregation plans even when school districts wanted to continue them and forbidding even major forms of voluntary action through choice systems. Desegregation didn't fail. Its opponents took over the Supreme Court whose decisions set the basic parameters. Although Martin Luther King famously said "The arc of the moral universe is long, but it bends toward justice," the history described here is very different. There wasn't an arc but a major fight to achieve desegregation followed by a long-term strategy to reverse it. School desegregation was seriously undertaken because of a legal struggle, a great social movement, and strong leadership a President in the 1960s. It was limited and undone by a political party and Presidents identifying with southern resistance whose strategy focused on the Supreme Court and has had increasingly powerful control of the basic rule maker, the Supreme Court, ever since 1972.

The turn from *Brown* to resegregation is a complex political, legal, and demographic story. It is a story of three presidents, two movements, and eight major Supreme Court decisions. The story began in a court: the Court announced the law but failed to accomplish significant changes in the face of massive resistance. Then a movement and a President created transformative changes, especially in Southern schools where a long history of racial apartheid ended. The most important civil rights law in U.S. history was won after a historic battle. It was seriously enforced for only a few years, but that enforcement made Southern schools the most integrated in the country. Desegregation endured until it was dismantled by the courts. With the conservative movement, two presidents led the attack on desegregation and transformed the Supreme Court, which radically changed desegregation law, blocking even voluntary action. Resegregation was extended to higher education in 2023's Harvard-UNC decision (*Students for Fair Admission v. Harvard*)¹ outlawing affirmative action. In seventy years, except for a brief period in the sixties, we've never had a sustained effort to make *Brown* the reality in U.S. schools. We have experienced decades of attacks by politicians exploiting fears of racial change. Our high court that opened the door has been turned around and has played a central role in slamming the door again. Yet the vision of *Brown* lives. Schools are our major institution for mobility and opportunity and *Brown* said that their profound racial inequality violated our fundamental law. As those issues become more critical in a polarized nation without a racial majority among its young, it's obvious that the injustice, the segregation in clearly unequal schools, that *Brown* addressed is back.

Seventy years of history since *Brown* encompass many political changes, with 18 presidential terms and historic changes in the nation's population. A society with more than 80% White students at the time of *Brown* has become a society with a majority of non-White students. A Black-White society has become truly multiracial as massive immigration has increased the Latino population, making it the nation's largest "minority," and the Asian population, which is now the most educated. There have been huge movements of Black and Latino families to the suburbs. The share of students poor enough to need free lunches at school has increased substantially. Many parts of the country that had little diversity now have significant non-White population.

The changes that led to *Brown* began after World War II when the United States was suddenly the world's preeminent power. The USA had led the great crusade against the racist Nazi Reich—with a racist segregated army. Social scientists were documenting the realities of American race relations, including the huge Gunnar Myrdal project and his book, *An American Dilemma*², and the Court relied on their findings as one of the major bases for the decision. Black and Latino veterans came back experiencing discrimination on many fronts and demanding change. For the first time in its history the Democratic party adopted a civil rights plank; President Truman issued a report on civil rights. In 1957 the U.S. Commission on Civil Rights was created to study and report on the issues. Both the Truman and Eisenhower administrations recommended to the Supreme Court that there should be action against Southern school segregation. The Supreme Court had begun to open up graduate and professional schools to Black students, but the direct assault on segregated education in four states was the great case, the one that opened up a new era in American life.

Case 1: *Brown v. Board of Education of Topeka*, 1954³

The *Brown* decision was one of the most decisive actions of the world's most powerful court. The Supreme Court's previous leading decisions in the history of race relations had been grim, including the *Dred Scott* decision upholding slavery and helping lead to the Civil War, a series of decisions dismantling the civil rights laws of the Reconstruction and the protections of the 14th Amendment, and, of course, the 1896 *Plessy v. Ferguson* decision establishing "separate but equal" as the law of the land and legitimating hundreds of mandatory segregation laws regulating many aspects of life in many states, including segregation of schools and colleges. The NAACP, founded in 1909 amid extreme segregation, had been struggling for a half century, gradually winning cases that helped build up legal precedents and community support for a major change.⁴

The unanimous *Brown* decision appeared to herald a new era. The Court boldly said that seventeen states were violating the Constitution, that segregated schools were "inherently unequal," and that states and communities must radically change their most important public institutions which were preparing their young. But the decision said nothing about how this was to be done and there was no definition of what *desegregation* meant. Nine judges and their law clerks weren't about to try to administer the schools of the South. In the *Brown II* decision⁵ the next year the Court held that it was a matter for the local federal judges to figure out and that they should act with "all deliberate speed." The Court did not set goals. The ruling was a decision to punt the responsibility to the Federal judges of the South who were told to act "with all deliberate speed," which was a singularly ambiguous command. The job landed on 58 Southern federal judges, who had usually been politically active lawyers, recommended by senior U.S. Senators from their states. These were establishment lawyers with no desire to implement a social revolution in communities where all the political leaders were resisting desegregation.⁶

When Arkansas Governor Orval Faubus attempted to use the Arkansas National Guard to block desegregation by nine students, and President Eisenhower decided to send in the Army to enforce the court order, there was fierce blowback from across the South, though the Supreme Court stood firm. Usually, when the highest Court rules that something violates a constitutional right, that right becomes effective immediately, and governments and institutions comply without being individually sued. Desegregation did not work that way in the South. With intense resistance, no legal authority for the Justice Department to intervene or file cases, and almost no lawyer in the region who would take a case, it's not surprising that there was only token enforcement. There was soon a very influential Court of Appeals decision, *Briggs v. Elliott*⁷, which said that *Brown* did not require actual desegregation but only some kind of opportunity for students to choose to transfer to a school of a different race, putting the onus on the Black students who had to come as unwanted intruders to a White school. This was called "freedom of choice" and became the dominant approach. Judges slow-walked the many cases brought by civil rights groups for years and generally ordered extremely little change, such as opening up very limited "freedom of choice" transfers over a decade or more. State legislators created many additional obstacles and there was retaliation against those bringing cases. Southern White leaders discovered that criticizing *Brown* and promising resistance were politically powerful stances in what were still almost all-White electorates. In some of the border states with small Black populations there was some voluntary action, but in the heart of the South, *Brown* was a dead letter for most African-American students, and a decade after *Brown*, in spite of many cases brought by civil rights lawyers, 98% of Blacks in the South remained in all-Black schools. There were no Whites in Black schools or being taught by Black teachers. *Brown* was a bold and key historic statement, but it failed to change schools immediately.

Eventually, however, the development of school desegregation law and policy showed a deepening understanding of what was required to actually change schools. It brought policies dealing with the realities of segregation, and of state and local resistance. In 1952, when President Eisenhower was elected, there was no reason to expect major changes. Earl Warren was appointed chief justice by a moderate Republican President in 1953 and served for 16 years. When he took office *Plessy's* "separate but equal" had given full legal authority to segregation laws across the South for almost six decades, while Congress had taken no significant steps for nearly 80 years. Warren had been a moderate California governor whose record was blemished by his support for the shameful internment of loyal Japanese Americans on racial grounds during World War II. The justices who decided *Brown* had a wide range of views; the President didn't believe in school integration but accepted the Court's ruling. *Brown* was a compromise decision which announced a broad but very general legal goal and called for gradual localized enforcement.

By the time Warren left in 1969 all of this had changed. Presidents and Congress had acted, extremely important civil rights laws had been passed and the Southern schools were deeply changed. Civil rights had been a bipartisan issue but were becoming a seriously partisan one. The Court moved decisively. Step by step, the justices had worked toward unanimous decisions.

Integration activists' goal in the 1950s had been to declare rights and begin changes, but the lack of compliance and the intensity of the resistance defeated the hope for moderate change. In the late 1950s and early 1960s, the Court stood up to open defiance by state authorities (*Cooper v. Aaron*, 358 U.S. 1, 1958), and blocked an effort to simply close public education to avoid desegregation (*Griffin v. County School Board of Prince Edward County*, 377 U.S. 218, 1964) but the court actions produced no systemic change. By the end of the Warren Court, the law was requiring rapid systemic change with a focus on outcomes. A series of unanimous decisions reflected an understanding by the Court and the Johnson Administration of what it would take to overcome continuing resistance. It had become clear that changing a strongly embedded, fiercely defended, segregated status quo required a systematic plan and serious enforcement. The Court's determination stirred passionate attacks on the Court and calls for the impeachment of the Chief Justice. The most dramatic changes came after Congress and the President had acted to force action and the Supreme Court affirmed the goals and gave them constitutional force.

The Civil Rights Movement

What actually changed schools: A social movement, serious Presidential leadership, Congressional action, and a Court that finally took decisive moves. The social movement, of course, was the civil rights movement that emerged in the late 1950s and early 1960s. The 1956 Montgomery bus boycott showed a powerful new spirit among Southern Blacks, made Martin Luther King, Jr. the leading spokesman of the movement, and led to a Supreme Court decision overturning bus segregation. The next year, King spoke in Washington demanding action on *Brown*, and civil rights groups began to press for enactment of what was called the "Powell amendment" (named for Harlem congressman Adam Clayton Powell, its primary sponsor), which required that schools not complying with *Brown* lose federal aid. This was considered the "nuclear option," violating the tradition of federal—state relationships, and had no chance to be enacted then. The federal government had long passively accepted segregation of the schools and colleges it was aiding and had rarely cut off funds in any grant program.

Over the following years, the movement became a national force, devising bold nonviolent actions, often facing intense resistance, to directly challenge segregation laws. "Freedom riders" risking their lives by defying transportation segregation in the South and Black college students leading lunch counter sit-ins went to jail for trying to force desegregation of public accommodations. Black communities were rising in the face of threatened violence and repression.

Protests, spreading across the country, came to a peak in the Birmingham movement in 1963 when a racist sheriff directed a vicious attack on peaceful protesters including children singing hymns, shocking Americans who demanded action. The TV images of segregationist violence galvanized the country, produced demonstrations in many cities, and lit a fire of demands for federal action. Before the dogs and fire hoses attacked peaceful demonstrations by Alabama children, there had not been a major civil rights law passed by Congress in 88 years, and that law had been interpreted away by conservative courts generations ago.

What changed the picture was dramatic action by two Democratic Presidents, Kennedy and Johnson, and a huge congressional victory for a bipartisan coalition in enacting the most important civil rights law in American history, the 1964 Civil Rights Act. It was soon followed by a landslide victory for Johnson in the presidential election that gave him power to enforce it. President Kennedy had delayed even modest civil rights actions but his administration faced intense White Southern political opposition even to small changes. Frustrated and disturbed by racist violence, he announced the historic civil rights bill in a nationally televised address in June 1963, following the Birmingham crisis. The bill was far-reaching, including empowering the Justice Department to include language requiring all recipients of federal dollars to comply with civil rights law or lose federal dollars.⁸

Kennedy was assassinated in Dallas before Congress had taken any action on his bill. His successor, President Johnson, committed his administration to getting the Kennedy proposal enacted. It took an epic congressional struggle and a coalition including many Republicans to defeat fierce southern resistance to what amounted to a challenge to the region's comprehensive system of racial subordination and exclusions.

Johnson, who had been a powerful Senate leader, put his power directly on the line. The struggle shut down Congress for months before an epic sixty-day Southern filibuster could be broken⁹, pressing successfully for a truly radical bill that went beyond Kennedy's proposal: the 1964 Civil Rights Act, the most important civil rights law in U.S. history. LBJ successfully negotiated and held together the broad bipartisan coalition needed to enact a law that was even stronger than the initial bill. In a poll taken at the end of the millennium, the law was regarded by the U.S. public as one of the most important events of the 20th century.¹⁰ The only fundamental national laws expanding the basic rights of non-White Americans passed since 1875 have been the 1964 Civil Rights Act, the 1965 Voting Rights Act, and the Fair Housing Act of 1968, all under Lyndon Johnson. The enactment of the 1964 law, the determination of the Johnson administration to enforce it, and very strong support from the Supreme Court resulted in large steps in desegregating the schools across the South by the early 1970s.

Before the Civil Rights Act, only a very small fraction of Southern school districts had been sued to desegregate. The cases had moved glacially and produced very limited remedies, such as opening up one grade a year for a few voluntary transfers of Black students to White schools. Since almost no lawyer in the South would take one of these cases, most had to be filed by a tiny cadre of civil rights lawyers from outside the South. After the act was passed, however, the U.S. Justice Department was given authority to file or intervene in lawsuits, so school districts were facing a formidable foe that almost never lost a civil rights case. More importantly, the new law contained what its opponents fiercely opposed: a provision, Title VI, that said that resistant Southern school districts could lose all their federal dollars, including the funds from the largest school aid program in U.S. history, enacted in 1965.

Under the Civil Rights Act, the Johnson Administration told the more than 2000 Southern school districts that they must quickly adopt an approved desegregation plan, and defined the requirements for these plans. Within a year, desegregation had begun in virtually all Southern districts. Those which held out lost money and were then sued by the Justice Department. More than 100 had their federal funds cut off. These were the steps that changed the original hope of *Brown* into the reality of the schools. Desegregation began to increase rapidly and, each year, the requirements were raised as obstacles were addressed. By the end of the Johnson administration the requirements had been expanded to include systematic desegregation of faculty, something that had seemed impossible in the South. The law also provided resources for dealing with community tension, for research, and for helping schools adjust.¹¹

The Law

The Civil Rights Act gave the executive branch a full array of tools for actually enforcing the goal of *Brown*. The Justice Department suddenly had power to bring civil rights lawsuits. The small squad of private civil rights lawyers suddenly had the U.S. government on their side and the Department virtually never lost a case. The Office of Education (the Education Department did not yet exist) had the power to develop and enforce regulations requiring actual desegregation and setting deadlines. For the first time the government was collecting and publishing regular national statistics on segregation and desegregation.

The new regulations required that all districts actually submit a plan and meet requirements well beyond those being implemented by many Southern judges. To increase the incentive to comply, President Johnson succeeded in enacting the most sweeping federal school aid law in U.S. history, the Elementary and Secondary Education Act, so schools complying got a sudden large increase in aid. Until the new laws passed, the vast majority of Southern school districts had not yet been sued and had done nothing. Once the Administration made clear that it would actually cut off funds and then the Justice Dept. would sue the districts anyway, virtually all districts adopted desegregation plans and change sped up quickly. As the federal officials gained experience and tightened the standards, major transformation took place.¹² The federal courts responded by supporting the standards and finally clarifying the legal requirements and ending delay, 14 years after the *Brown* decision. This was the period of most dramatic change, reconstructing basic racial practices in Southern schools, a remarkable and overwhelmingly non-violent social and educational change. But the powerful implementation of a new vision soon confronted serious opposition.

The Presidents

The three Presidents who most strongly affected the trajectory of the *Brown* decision and desegregation are Lyndon Johnson, whose leadership created and implemented the policies that took *Brown* from a theory to a reality in the South; Richard Nixon, who brought the expansion of desegregation policy to a sudden halt by transforming the Supreme Court; and Ronald Reagan, who turned the country firmly back toward *Plessy v. Ferguson* with policies that set in motion the resegregation of U.S. schools. None of the Democratic Presidents after LBJ exhibited substantial consequential leadership in this field and all of the Republicans followed the course set by Nixon and Reagan. Donald Trump's appointment of three far-right justices likely consolidated the Reagan reversal for this generation. The period of major coordinated pressure for desegregation by the President, Congress, and the courts was only five years out of the last 70. There have been eight conservative GOP presidential terms working actively to roll back civil rights. In the face of strong resistance, desegregation, once accomplished, lasted until it was reversed by the Supreme Court. The turning points toward resegregation came under Richard Nixon and Ronald Reagan.

Case 2: *Green v. New Kent County*, 1968¹³

Civil rights advocates and federal officials feared that school districts angry about the far stronger requirements would try to overturn them by suing the administration in conservative federal district courts. The Supreme Court stepped in with its last major school decision of the Warren Court in 1968, strongly supporting the requirements under the Civil Rights Act, defining a comprehensive set of desegregation principles and holding that they must be implemented immediately. Dozens of decisions by courts across the South attempted to deal with resistance and barriers created by state and local officials in the fourteen years after *Brown*. Judicial decisions outlawed one after another strategies of state resistance. Hostile officials were not allowed to simply shut down public schools and subsidize private vouchers for White flight schools, as happened in Virginia. The Supreme Court did not allow school districts to split up to avoid desegregation. But the Supreme Court had not answered the fundamental questions left undecided by *Brown*—what were the basic elements required to repair the effects of segregation and when must they be implemented?

In the 1968 *Green* decision, the last major unanimous desegregation decision of the Warren Court, the Court clarified the law. It held that desegregation must be immediate and comprehensive, setting guidelines for all federal courts, cutting off many forms of evasion. For the first time the Supreme Court gave a clear definition of the essential elements of desegregation and required immediate compliance.

In a decision from what was then a small district, New Kent County, Virginia, near the city of Norfolk, a unanimous Supreme Court said that desegregation must eliminate separate schools and the right to desegregation must be enforced immediately. The Court ruled that desegregation must include not just the composition of student bodies but equality in every facet of school operation—"faculty, staff, transportation, extracurricular activities and facilities." All of these elements must be included. The duty was "prompt and effective disestablishment of a dual system." The decision required a radical and immediate transformation of the schools following 14 years showing unwillingness of school districts to act on their own; with extensive evidence that choice plans by themselves would leave the Black schools totally segregated and White schools with only token Black participation, fundamental change was essential. The *Green* decision, affirmed the rules developed by the Johnson administration under the Civil Rights Act, told the country what was needed, and demanded every feasible step to end the racial identifiability of schools as White or Black and offering superior or inferior education. It seemed that the fundamental questions had now been answered and an immediate root-and-branch transformation of schools was under way.

Richard Nixon, as a Senator and Vice President, had been a moderate on civil rights—in what was then the mainstream of his party—and when he ran for Vice President alongside Eisenhower for the second time in 1956, the GOP was still receiving a substantial share of the Black vote as the party of Lincoln. In his presidential campaign in 1968, however, he shifted sharply to the right. George Wallace was running a powerful independent candidacy after becoming known for his pledge to defend "segregation forever." Wallace was especially targeting the issue he called "busing," not integration.¹⁴ In his nomination fight, Nixon decided to adopt what became known as the "Southern strategy," based largely on pledges to slow down enforcement of voting rights and school desegregation and to appoint conservatives to the Supreme Court. In his campaign in the South, he targeted criticism on urban desegregation proposals. His strategy was a great success in the South and gave him a narrow general election victory over Hubert Humphrey, a strong supporter of integration, whose candidacy was damaged by his party's division over the Vietnam War. It turned out to be a fundamental reorientation of the White South to the GOP and the GOP to the right on school desegregation.

Nixon led an administration which initially included both moderate and conservative Republicans. He had extraordinary opportunities to transform the Supreme Court and to redefine the use of the Civil Rights Act. He doubled down on the Southern strategy. He fired officials who tried to enforce school integration.¹⁵ He would later push out his HUD Secretary, George Romney (Mitt Romney's father), largely because he wanted subsidized housing to include non-segregated suburban sites, which Nixon denounced as "forced integration of the suburbs."¹⁶

In his first term Nixon had the rare opportunity to appoint four justices, including a new Chief Justice. LBJ left two vacancies, including the Chief Justiceship, from a failed effort to name his friend Abe Fortas as chief justice. The Nixon administration, under Attorney General John Mitchell, successfully pressed Justice Fortas to resign and searched systematically for strong conservative justices to turn around the Supreme Court—a practice which would be intensified in future GOP administrations. Two of his Southern nominees were defeated in the Senate partly on the basis of their record on school desegregation and civil rights; these defeats made Nixon only more determined to change the direction of the Court. One of his successful appointees was a conservative lawyer, Lewis Powell, who had helped delay desegregation in Richmond, VA., and would have a critical role in future cases. Another, William Rehnquist, was a Justice Department lawyer who, as a clerk on the Supreme Court during the *Brown* case, had argued for continuing the “separate but equal” policy and who had been active in opposing civil rights policy in Phoenix, AZ. Rehnquist turned out to be the first post-*Brown* Justice who became a harsh and consistent critic of desegregation policy.¹⁷ Rehnquist would later be appointed Chief Justice by Ronald Reagan. Both Powell and Rehnquist would play central roles in limiting and reversing desegregation.

All four of Nixon’s Justices (the others were Warren E. Burger and Harry Blackmun) were part of the 5-4 majorities in 1973 and 1974, discussed below, that shut the door on suburban desegregation and ended the possibility of federal court decisions equalizing funding of public schools, stopping what had been the expansion of court-ordered financial equalization of public education. Nixon saw his Supreme Court choices as “among the most constructive and far-reaching actions of my presidency.”¹⁸ They had enduring impacts on the opportunities for Black and Latino children.

Nixon acted decisively to limit administrative enforcement of the Civil Rights Act. He fired officials in both education and housing who were trying to enforce the laws. He announced that he was opposed to “forced integration of the suburbs”; he threatened to support a constitutional amendment limiting judicial desegregation powers if the Supreme Court ordered desegregation of suburban schools. His administration used the Justice Department’s civil rights oversight powers to block and delay desegregation, provoking protests and resignations in the department. Federal courts found his administration guilty of intentional nonenforcement of the Civil Rights act and, in an extraordinary step, ordered the resumption of enforcement.¹⁹

By the time Congress forced Nixon to resign in disgrace from the presidency, the executive enforcement of desegregation under the Civil Rights Act had been decisively weakened and the Justice Department was representing resisting school districts. The Supreme Court had changed from the source of strong and comprehensive policies on desegregation to the roadblock to the expansion of the rights of minority students, and Lincoln’s party was on its way to becoming the party of the White resistance in the South, though the transition was far from complete.

Case 3: *Swann v. Charlotte-Mecklenburg, 1971*²⁰

The next great question that came before the Supreme Court was raised by the desegregation of the giant county-wide school district serving North Carolina’s largest city and its major suburbs, in the case called *Swann v. Charlotte-Mecklenburg Board of Education* (1971). Much of the law about desegregation had been made with regard to small settings. In the *Brown* case it was about Linda *Brown* being denied the opportunity to attend her nearest neighborhood school in Topeka, Kansas. In *Green* it was about a small district with no significant residential segregation where Black and White children were being bused past each other in both directions to preserve segregation. The remedy in small districts with limited housing segregation was apparent. But the great challenge was in the districts in the growing metro regions.

The United States had become predominantly urban with massive ghettos and barrios and was going through an enormous spread of suburbs in metropolitan areas after World War II, often with open exclusion of Blacks. The suburbs already had half the metro population by 1960 and were mushrooming. Almost all urban communities had high residential segregation²¹ and overt discrimination in housing sales was only outlawed nationally in 1968 in a law with very weak enforcement powers. Many city districts had been losing White enrollment as suburbanization grew. With millions of students of color segregated in large metros, that issue came to the courts.

Could a school district comply with *Brown* and *Green* simply by setting up a neighborhood school system in a residentially segregated neighborhood, leaving most students whose rights had been violated over history locked into segregated schools, or did its plan have to create actual integration where possible even if it was necessary to transport students to schools in other neighborhoods? The answer to that question would determine whether millions of students in segregated neighborhoods had any opportunity for integrated education. Two-fifths of U.S. students took buses to school because of distance, including many in the growing suburbs. Could the court order transportation of students to integrated schools?

In the *Swann* case the federal district court had concluded that the *Green* factors could only be realized by massive reassignment of students across a large metropolitan county. President Nixon had attacked the plan in Charlotte during his presidential campaign and his Justice Department opposed the plan. The *Swann* case was the first major case decided by the Supreme Court headed by Nixon appointee, Chief Justice Warren Burger.

The decision, which was unanimous, found that busing for the purpose of integration was constitutional. It was the last of the Court's major unanimous decisions on school desegregation. When *Swann* was argued, the Court still had 7 members of the Warren Court and only two Nixon appointees (Burger and Blackmun) and there were divisions emerging.²² The decision was confusing and contained limits and language which would cause major problems later, but it did force rapid desegregation across Southern cities.

Swann supported the use of racial guidelines, setting a range of for the desegregation of schools not requiring full racial balance. It held that desegregation orders were not permanent, meaning that local authorities could be able to return to "neighborhood" policies restoring segregation in the future. But the Court did agree that choice plans were not sufficient to fulfill the constitutional requirement established in previous cases. In essence, it supported comprehensive urban desegregation in spite of differences within the Court. *Swann* produced intense political conflict and was opposed by the President and his Justice Department. After the decision was handed down, the Nixon administration refused to enforce it, but was found to be violating the Civil Rights Act and was ordered by the Federal Court of Appeals to apply it broadly. Civil rights attorneys filed cases in many districts winning orders to update existing desegregation plans to meet the new standards, producing a surge of urban desegregation in the major cities of the South and intense political conflict at the beginning of the 1970s.

Case 4: *Keyes v. School District No. 1, 1973*²³

The next historic decision came just two years later, in Denver. Nixon now had four judges on the Supreme Court and *Keyes* produced the first divided decision since *Brown*. Almost two decades after *Brown*, the Supreme Court took up two huge issues not yet decided. What rights did students in highly segregated schools have in states where there was no law mandating school segregation but many public and private practices and decisions that produced segregation? This was a crucial question for the large cities of the North and West where the non-White students usually lived in segregated neighborhoods and attended schools with virtually no White classmates, suffering the same educational isolation as those in the South but for different reasons. The *Keyes* case began with neighbors in a diverse community objecting to school assignment decisions that were resegregating their neighborhood. The Southwest was already experiencing the immigration surge that would make Latinos the largest group of minority students. The other big issue in the Denver decision was whether or not Latinos as well as Blacks had the right to desegregated schools. There had been discriminatory enrollment and curriculum practices for Latino students in the Southwest for many years, particularly in Texas, isolating children, for example, in "Mexican rooms." Often Latino children were denied access to regular classes and sent to separate rooms or schools with much more limited instruction. Discrimination was severe. Latino migration was growing rapidly, and there were serious patterns of segregation as the first national statistics on Latino segregation were released.

The 7-1 decision (Justice Byron White did not take part) was the last major civil rights victory on desegregation, and it came with limits. The divided Court's decision written by Justice Brennan supported by four other Justices rejected the idea that segregation was "inherently unequal" regardless of its cause, an idea that existed in some state policies and decisions. Research showed that the educational impact of segregation appeared to be the same whether the children were segregated by law or by other causes. The decision said that you could get a desegregation order for a city only if there was proof of some pattern of substantial official actions causing school segregation. In contrast to the South where you only had to submit the historic state laws to trigger a remedy, in other regions, including the West, plaintiffs had to study the whole history of school district and other local official decisions that would cause segregation. That created a huge burden of proof, especially in large cities which civil rights groups often could not afford very expensive research and documentation. The Denver case, for example, was only possible because of the work of a local antitrust attorney with expertise in handling vast records and data. In the cases that did go to trial, there was almost always abundant evidence eventually produced showing a complex history of discrimination—issues like intentional selection of school sites or boundaries to reinforce rather than diminish racial segregation, segregated location of subsidized housing and related schools, discriminatory assignment of non-White staff, systematically unequal curriculum, and many other violations. It was not the product of accident or choice of non-White families to be segregated. The *Keyes* decision produced a flurry of new urban cases, but no group had resources to file citywide cases in some of the largest districts including New York, Los Angeles, and Philadelphia.

The recognition of the rights of Latino students was a major breakthrough, resting in part on the Civil Rights Commission's documentation of the history of discrimination and inequality. Since the numbers were growing rapidly and segregation was increasing, there was major potential for plans that would produce significant changes. The *Keyes* case brought the first clear dissent in a school desegregation case since *Brown*. Justice Rehnquist wanted to limit desegregation orders to the states with a history of laws mandating segregation. Justice Powell also dissented in part. Rehnquist described the decision as a "drastic extension of *Brown*." He would consistently fight against it. *Keyes* did not provide lasting remedies and was never seriously enforced by any of the subsequent administrations. In many Southern cities where the Latino population was beginning to grow, there were already old cases that had not included Latinos that would be ended before ever recognizing their rights. By the late 1980s the number of Latino students were surging and their segregation rapidly increasing.

Case 5: *San Antonio Independent School District v. Rodriguez*, 1973

Many opponents of desegregation suggested that equity could be won by what they called “desegregating the dollars”; that is, giving racially divided districts equal funding (separate but equal dollars). There were, of course, large differences in school funding between many low income, troubled, non-White schools and districts and the affluent suburbs. Redistributing money was often pointed to as the logical way to help solve inequalities, ignoring the *Brown* conclusion about the “inherent” inequality of segregated schools and what happened in the six decades under the “separate but equal” formula in *Plessy v. Ferguson*. A decisive case came out of metropolitan San Antonio to the Supreme Court. Important cases in states and some in the federal courts had maintained that the “equal protection of the laws” provision must mean, at least, equal resources. Although the federal Constitution says nothing about public education, which did not exist on any scale until long after the Constitution was ratified, public schools were a basic service provided by many states since before the Civil War and there was flagrant inequality. The inequalities were often particularly striking among school districts, often nearby school districts within the same metro area. This was the background of the case filed on behalf of a poor school district in the San Antonio metro, asking for resources. It was, at the time, widely expected that the Court would order a major remedy, possibly even requiring equalization across state lines. The Court of Appeals had supported the rights claimed by the residents of the poorly funded district which had a concentration of low-income non-White students.

The case was about inequality. The Court described the basic facts: “The district is situated in the core-city sector of San Antonio in a residential neighborhood that has little commercial or industrial property. The residents are predominantly of Mexican American descent: approximately 90% of the student population is Mexican-American and over 6% is Negro. The average assessed property value per pupil is \$5,960—the lowest in the metropolitan area—and the median family income (\$4,686) is also the lowest.” The majority opinion noted that “Texas virtually concedes that its historically rooted dual system of financing education could not withstand the strict judicial scrutiny that this Court has found appropriate in reviewing legislative judgments that interfere with fundamental constitutional rights.”²⁴ But the Court’s majority, in a decision by Justice Powell, concluded that education was not a federal constitutional right so the Court should simply accept Texas’ judgment that the status quo of extremely unequal expenditures was good enough. The four dissenters said that *Brown* had seen equal education as a fundamental right and insisted that the equal protection clause of the Constitution did apply. But the decision in this case has blocked any federal right to equal educational resources, the “separate but equal” idea, ever since. (The majority cited research by conservative economist Eric Hanushek for the proposition that money differences didn’t really matter much for educational outcomes; with far better data and analytic methods we can now see that money clearly does matter significantly but the *Rodriguez* decision stands.)²⁵

The 5-4 decision was an important turning point with Nixon’s and Eisenhower’s appointees breaking from the four remaining Democratic appointees, Brennan, White, Douglas, and Marshall. The Court held that there was no right to education in the Constitution so no basis for ordering equality. It argued that property tax revenues in very unequal districts were legitimate local government activities and cited research suggesting that school funding did not matter anyway. The decision shut the door to financial equalization of schools by federal courts for the last half century. It was a clear sign of a major shift from a central concern with equity to one deferring to local and state governments. In terms of the long history, it rejected half of the *Plessy* equation, “separate but equal,” concluding that unequal resources for a fundamental institution do not violate any federal rights.

Case 6: *Milliken v. Bradley*, 1974²⁶

Another 5-4 decision the next year decided the fate of metropolitan desegregation and ended the possibility of lasting desegregated education for millions of big city students of color. The case revolved around the desegregation of Detroit’s Black students. The Detroit school district was already heavily Black and rapidly losing its White population. The once powerful city was poor and was devastated by a massive 1967 race riot and by a tragically mismanaged federal housing policy which left large sectors of the city abandoned and in ruins. The conservative judge hearing the case at the lower court level found abundant evidence of acts of intentional segregation on the part of both district and state officials. He concluded that the students deserved a desegregation remedy but that, with so few White students now in the city, the only way it would be meaningful was to include the suburban districts. The judge ordered that a plan be drawn up. The decision, supported by the Court of Appeals, produced a fierce attack from President Nixon and many state governments.

The Supreme Court’s 5-4 decision reversing the lower courts held that the traditional autonomy of school districts had greater constitutional weight than desegregation rights. The decision, written by Chief Justice Burger, basically drew a line around the cities, exempting the suburbs from desegregation roles. The decision insisted that the city district should solve the problem, though the lower courts had shown this was impossible. In his dissent, Thurgood Marshall, who had been on the team of civil rights lawyers who won the *Brown* decision, said that the decision meant that there would be no remedy for millions of students stuck in schools intensely segregated by race and poverty in cities with declining resources, since, in the previous year’s *Rodriguez* decision, the same 5-4 majority had ruled that there was no constitutional right to equal resources either. So the victims of discrimination in central cities would face a separate and highly unequal future with no rights to change it, a result worse than the *Plessy* formula.

Justice Douglas also dissented: “When we rule against the metropolitan area remedy, we take a step that will likely put the problems of the Blacks and our society back to the period that antedated the ‘separate but equal’ regime of *Plessy v. Ferguson*. The reason is simple. The inner core of Detroit is now rather solidly Black; and the Blacks, we know, in many instances are likely to be poorer, just as were the Chicanos in *San Antonio School District v. Rodriguez*. By that decision, the poorer school districts must pay their own way. It is therefore a foregone conclusion that we have now given the States a formula whereby the poor must pay their own way.” Douglas concluded: “Today’s decision, given *Rodriguez*, means that there is no violation of the Equal Protection Clause though the schools are segregated by race and though the Black schools are not only ‘separate’ but ‘inferior.’”²⁷ The Warren Court was now in the rear view mirror.

The case went back to the district court judge in Detroit who had to decide what to do next. Although the decision said that he must desegregate the students, he concluded that it was impossible and that any Detroit-only plan would fail and hurt the city. Instead, he ordered the state to pay for some remedial programs. The Supreme Court, in the 1977 case known as *Milliken II*²⁸, upheld the order. Efforts continued for 12 years with little success and the Court abandoned the effort.²⁹ Federal judge Avern Cohn noted that in spite of the state being required to spend \$238 million in twelve years: “These monies were insignificant when considered in light of school district’s budget and were insufficient to serve as an incentive for real change.” Former Detroit Superintendent Arthur Jefferson said: “To even think that it...was going to be possible to eradicate those problems caused by segregation in a decade? That’s impossible.”³⁰ The *Milliken II* orders were used in some other cases, with especially large resources committed in St. Louis and Kansas City. The idea was that the *Rodriguez* limits on equalization didn’t hold in a situation where the courts had found unconstitutional discrimination by the state but could not order effective desegregation. In the Supreme Court’s 1995 *Missouri v. Jenkins*³¹ decision, however, the Court ruled that the state could be required to aid Kansas City only temporarily, whether or not the money was curing the inequalities. It also ruled that money could not be used to even recruit suburbanites to come voluntarily into more integrated city magnet schools. The hope that *Milliken II* would provide some kind of lasting solution for separate but equal remedies for proven discrimination only lasted 18 years, before that somewhat hopeful pathway was also extinguished. Desegregation had been redefined as a temporary thing; so, now, had extra money for plans to provide funds to try to deal with deep educational inequalities in the schools doomed to segregation by the first *Milliken* decision.

The Movement that Undid Desegregation

The country continually celebrates the civil rights movement. People are proud to claim a role. Schools show films. There are museums and statues. But, so far in this historic struggle, a different, far less celebrated, movement is prevailing. It is the movement that Nixon brought into the center of the GOP and that Reagan embraced as a highly ideological, transformative president who changed the national agenda. It didn’t start in small Black churches or on protest marches by Black churches, have a national holiday, or create words written on monuments. It started as the segregationist movement of Alabama’s Gov. George Wallace, South Carolina’s Strom Thurmond, the KKK, and many others determined to preserve Southern racial traditions.³² It is supported by very wealthy donors. It includes believers in states’ rights, the Tea Party and libertarian movements, “original intent” legal theories and many others. It became central to political and legal battles when one of America’s two national parties adopted its goals and, often, helped elect its leaders. It reached full expression with Donald Trump’s campaigns and presidency with overt racial and anti-immigrant bias. It has rallies with enthusiastic crowds. It was relentlessly focused on changing the Supreme Court.³³ There has not been a Court with a majority of Democratic appointees for more than a half century. This movement, after three Trump appointments, controls the Supreme Court, and it is moving the country backward. Since we have only two national political options, when a movement captures a political party and wins an election it can change the country. That happened in the 1960s for the civil rights revolution and it happened in the 1970s and 1980s, consolidating in the Reagan-Bush era. By stages, it has virtually eliminated the representation of moderates within the GOP. We are living in the wake of a movement that won, especially on its central goal of reversing the Supreme Court. It has a large structure of institutions from the Federalist Society to the Heritage Foundation to the anti-civil rights litigation groups, and it has the reach of a huge national political party. Since most scholars don’t like it, they often ignore it, to their peril. It has given energy to the rise of the most successful demagogue in the history of American national politics. What has happened to school integration can hardly be understood without understanding this movement and how it has operated. After Nixon’s appointments and actions essentially stopped the expansion of desegregation rights and created boundaries that have held, the Supreme Court would turn sharply backwards.

Case 7, *Board of Education of Oklahoma City v. Dowell*, 1991³⁴

The 1991 decision by Chief Justice Rehnquist was his culminating move in a long history of bitter criticism of school desegregation requirements. He opposed the *Brown* decision, and, according to the White House aide who managed his confirmation, lied about it to the Senate.

He was the first open dissenter in the Supreme Court on a major desegregation case in the 1973 *Keyes* decision; he worked hard to try to limit desegregation to the smallest number of schools in a number of cases when he was still in the minority. In the 1991 Oklahoma City case he dissected desegregation law and left it in tatters.

Rehnquist's decision in *Dowell* defined desegregation as temporary, not permanent, and provided that if a district made what a trial judge thought was a reasonable effort at desegregation, the order should be lifted. The decision took terms from earlier decisions and changed their meanings to justify ending desegregation plans. The 1968 *Green* decision was about the total, multidimensional restructuring of the historically segregated "dual school systems" into an integrated and transformed system eliminating the racial identifiability of schools, making all schools fair and equitable, as the goal of *Brown*. Dual schools were to be replaced by "unitary" schools that were not identifiable by race. The Rehnquist decision took the position that districts were "unitary" when a trial judge said they had made a good effort for a period of time and that *unitary* meant that the judge should dismiss the case and the school district had no further obligations. In fact, it was free to adopt policies that would obviously produce resegregation so long as they said that they did it for some other reason. The Court could not look at the effect and the civil rights groups would have to prove intent to get a desegregation plan reinstated, something almost impossible to do unless officials admit their segregative intent. A desegregation order was the one chance for a historically excluded racial group to be fully included in schooling. The great power of federal courts in imposing remedies for unconstitutional action gave leverage to plaintiffs with little or no local political power. There was nothing in the *Green* decision that suggested that school authorities, once they complied for a short time, were authorized to take actions that would quickly resegregate the schools.

What had seemed a clear definition of the goal of *Brown* in *Green* in the late 60s, equitable and racially integrated education, redefined *Brown* as a temporary punishment for a history of segregation not an ongoing mandate for racial justice. As long as a court order existed, a school district could be prevented from taking any action that would increase racial inequality. Once it was lifted, however, the same school district could take any of a variety of actions, such as reinstating segregated neighborhood schools or building schools in segregated areas, so long as the school officials said it was, for example, for efficiency or student convenience. Choice plans could be implemented in ways that favored students from privileged families. The year after the *Dowell* decision the Supreme Court went further, saying in *Freeman v. Pitts*, 503 U.S. 467, that even if the district had never implemented all of the *Green* factors it could be released from continuing parts of the remedy it had implemented.

Three years later the Supreme Court, which had ruled that compensatory educational remedies could be implemented in cases where the courts found desegregation to be impossible in a central city district, ruled in *Missouri v. Jenkins* that *Milliken II* remedies could be dropped after a few years even if there was no evidence that the remedy had actually worked or been carried out well enough or long enough to change things for the victims of segregation.

By 1995 the courts were rapidly dismantling major remaining desegregation orders and abandoning educational remedies across the United States. The law now had reduced desegregation to short-term plans, directed judges to make the orders temporary, removed any national standards for compliance, and eliminated the capacity to order long-term educational remedies for segregated students. The law said that schools that were still separate and unequal had met all their responsibilities and absolved them of continuing responsibility, and created a presumption that almost whatever local political or board officials wanted to do in the future was up to them. *Brown*, which together with the Civil Rights Act had launched a revolution in Southern schools, had been interpreted away into virtual insignificance and the primary responsibility of the courts now was to get out of the way and to end the district's responsibility to continue even a part of the *Green* factors until all had been met even for a short time. Desegregation of Black students had reached its peak in the South shortly before *Dowell*. After *Dowell*, segregation rose in all parts of the United States for the next third of a century and much of the progress of the civil rights revolution was lost, at least for the time...

Case 9, *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, (2007)³⁵

Beginning in the late 1980s, the Supreme Court began to adopt the theory that it was just as illegal to consider race to produce voluntary desegregation as it was to consider race to produce segregation. In the civil rights era, the consideration of race in order to voluntarily produce desegregation, college access, voting rights, affirmative action in employment and other fields was considered to be not only legal but admirable. It often was ordered in desegregation remedies so that they would work. The basic idea was that racial discrimination is deeply entrenched in American institutions and you had to take race into consideration positively if you were going to get beyond race. Trying to solve it without considering the race of students was like trying to operate in a body with dangerous cancers without x-rays. If forbidden to consider the race of students, which had been shown to be essential, for example, in successful magnet plans, then not only might the remedies fail but it would make those who, for example, gave special consideration to get some students of color into a college prep program susceptible to being sued for discrimination.

Proving discrimination in individual cases, where those violating could obfuscate and state and local officials could keep inventing new ways to perpetuate the status quo, was often an exercise in futility. Eventually, to get real change it was necessary to suspend normal policies and to produce actual desegregation. When school desegregation had relied on individual action, the *Brown* decision had very limited impact for a decade. After the Civil Rights Act made it possible to require adoption of plans and specify requirements for progress, contrary to the claims of opponents left by the intense media focus on the worst conflicts, most of these changes were tense but peaceful and the schools adapted. Considering race and focusing on outcomes, the Southern schools changed rapidly. A federal survey of nearly a thousand school superintendents at the height of the busing controversy reported, for example, that vast majority of districts had required no additional police work and that normal education was back in operation within weeks of desegregation.³⁶

As the conservatives' theories took hold in a changing Supreme Court, consideration of race with the goal of producing integration was increasingly limited. Finally, in 2007, the Supreme Court agreed to hear cases relating to voluntary desegregation efforts by school boards in Louisville and Seattle to use race-conscious choice plans to foster desegregation in situations where there was no court order. Seattle was the only big city that had desegregated without a court order. Louisville had maintained desegregation voluntarily two decades after the court had said its schools were unitary because it had succeeded in increasing integration. Many plans, for instance, had long included "M-to-M" transfer plans where students could transfer from any school where they were a majority to any school where they were a minority, giving preference to moves increasing integration. Magnet schools were set up with specific integration goals and consciously used target recruitment and selection criteria to assure substantial and lasting integration. Both districts were sued by parents whose children had not gotten their favorite choice. In its decision, the Supreme Court's majority asserted that any consideration of a student's race was unconstitutional even if its purpose was to increase diversity and expand the option of integrated schools in segregated cities. This widely criticized decision (which Justice John Paul Stevens, a Republican appointee, said no member of the court he joined three decades earlier would have supported), made many voluntary plans unconstitutional and helped lay the groundwork for the 2023 decision ending affirmative action in higher education.

These eight major constitutional decisions and the experience of active enforcement of the Civil Rights Act in the 1960s, show that even the most dramatic civil rights success can be lost, that Supreme Court appointments can have vast social impact in a society with an extremely powerful judiciary, that movements and mobilization can make a difference, especially when embraced by a political party, and that celebrations of the *Brown* decision and the role of the great civil rights heroes often neglect to note that the celebrated rights have actually been largely interpreted away and that rights on paper are only real when backed by power and enforcement.

If one were to close the story of leadership and law on desegregation at this point in history, it could seem that the epic story of the nation's struggle over *Brown* and the civil rights revolution was an exercise in futility even though the South is still far from conditions before *Brown* and there are places when integrated schools continue. We have certainly learned that racial segregation and polarization are powerful and durable forces supported by institutions and stereotypes and fears shared by substantial proportions of American society. We have seen that the only President who actually made *Brown* real for millions of students was the first Southerner elected since the Civil War, Lyndon Johnson, and that the two who did most to limit and reverse the progress were Californians who rose, in part, by exploiting White fears in a party that became increasingly focused on activating White fears. Two conservative Presidents helped turn the country backward on school integration. A common saying, often attributed to French historian Augustin Thierry, is that the victors write the history. At this point, the opponents of school desegregation seem to be the victors in the 70 years of struggle set off by *Brown* and the Civil Rights Act. Segregation, double segregation by race and class, has been rising for a generation. In another generation I think that there's a good chance that the writers will be producing a different narrative in a society with a declining White minority still dealing with serious racial polarization and, perhaps, generating different, powerful movements and a politics of racial justice. This is not the last act.

There have been two powerful, but very different, movements and many years of struggle over the fate of race in our schools. Right now, it seems normal to accept segregation and make policy about everything else, but this is not the last movement that will change our schools. As the society changes and the understanding of the role of unequal education and the harm of segregation deepens, this issue will come back. There has been crucial big data studies that show the life-long impacts of desegregation in ways not previously understood. When there are new movements, it will be good to understand the strategies and the legal and political tactics that were effectively used by the current dominant group. The conservatives doubled down on tactics employed by the NAACP Legal Defense Fund in the civil rights era, financed them, and expanded them. Civil rights opponents had a much more focused and sustained drive to control the courts.

Educational aspirations and hope are central realities of the excluded in a highly unequal society where race matters at all stages of life and outcomes are far from equal. The issue will come back because in the 128 years since *Plessy*, we've never succeeded in making separate schools equal on a large scale and in a profoundly multiracial, stratified society, reform movements cannot give up what is probably our most powerful tool for changing it. Race conscious remedies will be advocated again because it is extremely difficult to change racial outcomes without explicitly focusing on race.

History, of course, continues, and we may have presidents and movements who help turn things back toward the goal of *Brown*. Our experience has shown that it is possible to change deeply rooted institutions, relatively rapidly, with decisive legal and political action. Millions of students were, for the first time, educated in diverse schools in areas that had been absolutely segregated. We now know that there were major lifelong benefits for desegregated students of color and that desegregation did no academic harm to White students while giving them better preparation to live and work in a diverse society, the non-White majority in our schools will become the voting majority; it can profoundly change politics, and, through politics, the courts and the law, if its power is organized. The most resistant forces in the United States, older, poorly educated Whites, are a rapidly shrinking part of our society. There are many reasons to think about a long-term trend toward a very different set of decisions by new leadership. But, given the current Supreme Court, there are powerful obstacles to reform. The conservative movement will surely continue its work to consolidate a status quo preserving advantages for the advantaged. Those who fought against great odds to win the victory in the *Brown* decision and those who led or participated in the social and political movements that led to *Brown* persisted through heartbreaking defeats and overwhelming obstacles that could happen again. Deeper understanding of why change happened and what have been the consequences or excluded students and segregated communities will be part of any such movement.

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