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The Unintended Lessons in Brown v. Board of Education

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THE UNINTENDED LESSONS IN *BROWN V. BOARD OF EDUCATION*+

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I want to talk about learning the lessons that the decision in *Brown v. Board of Education*[1] could not teach. I note that the title of the symposium, "*Brown* Is Dead? Long Live *Brown!*," places a question mark after "*Brown* Is Dead." I would like to replace the question mark with a period. The *Brown* decision, as far as the law is concerned, is truly dead and beyond resuscitation. The question is why on its fiftieth anniversary *Brown* is not only remembered, but hailed as a landmark? Why, unlike thousands of other cases decided by the Supreme Court, its fiftieth anniversary is being celebrated and commemorated in the media, and in dozens of conferences and symposiums.

In 1970, courts finally began ordering enforceable school desegregation orders that went beyond the "grade-a-year" and "freedom of choice" plans that reflected a determination to retain segregated schools as long as possible. It was about that time that Yale Law School Professor Alexander Bickel, a constitutional law scholar, predicted that over time *Brown* would lose its viability. He said:

> This is not to detract from the nobility of the Warren Court's aspiration in *Brown*, nor from the contribution to American life of the rule that the state may not coerce or enforce the separation of the races. But it is to say that *Brown v. Board of Education,* with emphasis on the educa-

+ This essay is based on a talk given at *Brown Is Dead? Long Live Brown!: A Commemorative Symposium* at New York Law School, New York, April 26, 2004. The talk was based on Professor Bell's book, SILENT COVENANTS: BROWN V. BOARD OF EDUCATION AND THE UNFULFILLED HOPES FOR RACIAL REFORM (2004).

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1. 347 U.S. 483 (1954).

> tion part of the title, may be headed for — dread word — irrelevance.[2]

At the time, we civil rights lawyers criticized Professor Bickel's prediction, but he proved more right than we were. Even today, many civil rights advocates, despite facts that are as heart-rending as they are undeniable, maintain that *Brown* was and is a valuable precedent. They are entitled to their views — but they fit quite nicely with those who hold that the earth is, after all, flat.

There is a kind of solace in finding continuing meaning in *Brown* that avoids the hard-eyed conclusions that UCLA law Professor Cheryl Harris reaches with regard to contemporary race jurisprudence.[3] She starts from the assumption that *Brown* is irrelevant, and asserts that, in at least two respects, current civil rights law approximates the jurisprudence of the era following Reconstruction when *Plessy v. Ferguson*[4] was decided.

First, Professor Harris argues the Supreme Court seems to have adopted many of the specific forms of "racial erasure" that were prominent in the period of so-called Southern Redemption. Racial erasure is called upon and resuscitated in interpretations of the Equal Protection Clause that assigns the federal government a subordinate role relative to that of the states in protecting the right to be free from discrimination.[5]

In support of her argument, Professor Harris cites the Court's ruling in *United States v. Morrison*,[6] striking down the section of the Violence against Women Act that authorizes civil actions against perpetrators of gender motivated violence. Asserting both federalism and state sovereignty concerns, the *Morrison* Court found that the federal government lacked the power to enforce anti-discrimination laws against individuals, as opposed to state actors. In doing so, the Court ignored a luminous record of the states' failure to protect victims of sexual assault. The *Morrison* Court reached back

2. ALEXANDER M. BICKEL, THE SUPREME COURT AND THE IDEA OF PROGRESS 150-51 (1978).

3. Cheryl I. Harris, *Mining in Hard Ground: The Miner's Canary*, 116 HARV. L. REV. 2487 (2003) (book review).

4. 163 U.S. 537 (1896).

5. Harris, *supra* note 3, at 2490.

6. 529 U.S. 598 (2000).

to *The Civil Rights Cases*,[7] an 1883 decision invalidating the first federal public accommodations law, for its interpretation of the Fourteenth Amendment. In so doing, the Court embraced the same states' right logic that constituted the bedrock of the segregationists' platform.

Second, Professor Harris says that, like the *Plessy* Court in 1896, the current Court insists that all racial identities are symmetrical and hold no special social significance. Indeed, under the guise of color-blindness, this Court has naturalized and evacuated race as a matter of law. The result is that the Court now treats all race conscious efforts to eradicate racial inequality as conceptually equivalent to acts designed to install racial hierarchy.

Brown's demise is apparent even beyond an analysis of legal doctrine. A quick review of the current statistics on the resegregation of public schools shows that the implementation of *Brown*, through the mechanisms of racial balance and busing, was a failure. Despite hundreds of school desegregation suits, many lasting for decades, most black and Latino students still attend public schools that are both racially separate and educationally ineffective.

A study issued in 2003 by Gary Orfield's pro-integration Harvard Civil Rights Project, reported that as of the 2000-2001 school year, white students, on average, attend schools where 80% of the student body is white.[8] Many, if not most, predominately black and Latino schools have substantially inferior resources to those provided to white schools in the same school system: teachers are less experienced in the minority schools, students have more behavioral problems, and academic out-put is almost uniformly poor.[9]

So, you may ask, what can we learn from our fifty years of experience with the *Brown* decision? I think there are several lessons that are far more accessible now than they were when *Brown* was decided.

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7. *See* United States v. Stanley, 109 U.S. 3 (1883).

8. *See* Erica Frankenberg, Chungmei Lee & Gary Orfield, The Civil Rights Project at Harvard Univ., *A Mutiracial Society with Segregated Schools: Are We Losing the Dream?* (2003), *available at* http://www.civilrightsproject.harvard.edu/research/reseg03/AreWeLosingtheDream.pdf.

9. *See id.*

LESSON 1

Brown was not a revolutionary decision. Rather, it is the definitive example that the interest of blacks in achieving racial justice is accommodated only when and for so long as policymakers find that the interest of blacks converges with the political and economic interests of whites. Black people have been challenging segregation in the public schools since 1850 — for the most part without success. As Professor Mary Dudziak has convincingly argued, the *Brown* decision advanced U.S. interests because racial segregation was hampering the United States in the Cold War with communist nations and undermining U.S. efforts to combat subversion at home.[10] Indeed, the NAACP brief in *Brown* argued that the separate-but-equal precedent of *Plessy* is not only unjust to blacks, but also bad for the country's image, a barrier to the development in the South, and harmful to its foreign policy.[11]

The amicus briefs filed by the Justice Department were the ones that really hammered away at how important it was that the Court strike down public school segregation. To emphasize this point, the government included a lengthy quote from Secretary of State Dean Acheson in its brief:

> During the past six years, the damage to our foreign relations attributable to race discrimination has become progressively greater. The United States is under constant attack in the foreign press, over the foreign radio, and in such international bodies as the United Nations because of various practices of discrimination against minority groups in this country.[12]

Acheson argued that "the undeniable existence of racial discrimination gives unfriendly governments the most effective kind of ammunition for their propaganda warfare" and that school segregation had been "singled out for hostile foreign comment in the United

10. *See* MARY DUDZIAK, COLD WAR CIVIL RIGHTS: RACE AND THE IMAGE OF AMERICAN DEMOCRACY (2000).

11. *Brown* was handed down during the McCarthy era. It is significant that the phrase "Under God" in the pledge of allegiance was inserted by Congress in 1954 as an anti-Communist measure.

12. *See* DUDZIAK, *supra* note 10, at 100 (quoting Brief for the United States as Amicus Curiae at 7, Brown v. Bd. of Educ., 347 U.S. 483 (1954)).

Nations and elsewhere."[13] He concluded that "racial discrimination in the United States remains a source of constant embarrassment to this Government in the day-to-day conduct of its foreign relations; and it jeopardizes the effective maintenance of our moral leadership of the free and democratic nations of the world."[14]

While there is no record that foreign policy was debated by the *Brown* Justices in conference, Professor Dudziak has found speeches by both Justice Warren and Justice Douglas, bewailing segregation's adverse effect on U.S. foreign policy. Surely, Justice Frankfurter and the other members of the Court were able to draw a connection between the foreign policy difficulties described by Secretary of State Acheson — the fears of subversion at home that were exploited during the Joseph McCarthy era — and the barriers to black freedom and equality that were widely trumpeted abroad during the war.

Brown is the definitive — but far from the only — example of interest convergence at work. The nineteenth century equivalent of *Brown* was the Emancipation Proclamation. President Lincoln's priority was saving the Union, not freeing the slaves. He signed the Emancipation Proclamation when he recognized that it would improve the Union's chances in the Civil War by disrupting the Confederate workforce and discouraging European nations, particularly England and France, from siding with the Confederacy. After Lincoln turned the Civil War into a war to free the slaves, as well as to save the Union, European abolitionists made certain that their governments did not enter the war on the side of the Confederacy. The Emancipation Proclamation also opened the way for the Union to enlist thousands of former slaves who made the difference in many battles, although with very heavy casualties.

A century later, political and business leaders lobbied for the Civil Rights Act of 1964 and the Voting Rights Act of 1965. They recognized that televised images of southern police forces violently attacking sit-in protesters and marchers had generated widespread support for these measures. According to University of Virginia law Professor Michael Klarman, their support for civil rights legislation, after decades of ignoring the injustice of racial segregation was in-

13. *Id.* at 100-01.
14. *Id.* at 101.

evitable because of a variety of deep-seated, social, political, and economic forces that would have undermined racial segregation whether or not the Supreme Court had intervened in *Brown*. Professor Klarman acknowledges that while *Brown* acted as a catalyst for the civil rights legislation of the 1960s, it did not do so for the reasons commonly cited.[15]

LESSON 2

Interest convergence is far more important to gaining relief from racial injustice than the degree of harm suffered by blacks or the character of proof offered to demonstrate racial harm. The efforts over many years to get Congress to enact anti-lynching laws is an excellent example. Such legislation was never enacted despite the thousands of black people killed in horrible ways over several decades.[16]

It is just as easy to find contemporary examples of racial injustices about which society is aware, but is manifestly uninterested in remedying. There is the refusal of Congress or the Executive Branch to alter the federal sentencing guidelines that have resulted in large disparities in the sentences handed out to blacks and Spanish speaking people compared to whites who are convicted in drug cases.[17] Another example is a recent study that shows that almost one half of black men from ages sixteen to sixty-four in New York City are unemployed, with roughly 35% of these men out of the job

15. *See* Michael J. Klarman, *Brown, Racial Change, and the Civil Rights Movement*, 80 VA. L. REV. 7 (1994); *see also* MICHAEL J. KLARMAN, FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL EQUALITY (2003).

16. *See* JAMES ALLEN ET AL., WITHOUT SANCTUARY: LYNCHING PHOTOGRAPHY IN AMERICA (2000); *see also* WALTER WHITE, ROPE AND FAGGOT: A BIOGRAPHY OF JUDGE LYNCH (1929); ROBERT L. ZANGRANDO, THE NAACP CRUSADE AGAINST LYNCHING, 1909-1950 (1980).

17. The Supreme Court in United States v. Booker, 125 S. Ct. 738 (2005), by a 5-4 vote, found that the seventeen-year-old federal sentencing guidelines violated the Sixth Amendment by allowing judges to increase sentences above guideline maximums based on facts not decided by a jury. The complex decision did not strike down the guidelines, but found them to be advisory, rather than mandatory. The decision restored to judges the sentencing discretion they lost to the mandatory guidelines, but it created a host of new problems regarding who is entitled to resentencing and what will constitute a reasonable sentence in the future.

market and no longer looking for employment.[18] Massive unemployment is certainly a factor in the large percentage of black men in prison for non-violent drug offenses. There is, however, virtually no public outrage about these statistics. At least there is no outrage compared to the crisis that would be proclaimed if conditions in mostly white suburbs were generating similar statistics.

LESSON 3

Even when interest convergence results in a potentially effective racial remedy, that remedy will be abrogated as soon as it threatens the superior societal status of whites, particularly those in the middle and upper classes. For example, when southerners responded to the first *Brown* decision in 1954 with massive resistance, neither Congress nor the White House showed any interest taking the political risk of upholding the law of the land. With no support from the other branches of government forthcoming, the Court issued its second *Brown* decision in 1955[19] that withdrew its earlier commitment to desegregation by setting a standard for compliance — the "all deliberate speed" standard — that was so vague that it all but halted the implementation of the first *Brown* decision for at least fifteen years.

You would never know it from the opposition and determined resistance of so many whites, but the *Brown* decision was actually a good deal for white Americans. Professor Louis Michael Seidman explains how *Brown* brought about a transformation without real change. As he views it, the *Brown* Court faced a massive contradiction between the nation's oft-cited commitment to equality and the great value that whites placed on the racial preferences and priorities that were tacitly approved in *Plessy*. Given black Americans' lack of political and economic power, it appeared that their demand for equality could never be satisfied. For both foreign and domestic policy reasons, however, something needed to be done.

As Professor Seidman puts it, the "[c]ontradictions in the ideology of the separate-but-equal doctrine were permanently destabi-

18. *See* MARK LEVITAN, COMMUNITY SERVICE SOCIETY, A CRISIS OF BLACK MALE EMPLOYMENT: UNEMPLOYMENT AND JOBLESSNESS IN NEW YORK CITY, 2003 (2004), *at* http://www.cssny.org/pubs/special/2004_02labormarket.pdf.

19. 349 U.S. 294 (1955).

lizing and threatened any equilibrium."[20] By purporting to resolve those contradictions, *Brown* served to end their destabilizing potential. The Court, Seidman claims:

> resolved the contradictions by definitional fiat: separate facilities were now simply proclaimed to be inherently unequal. But the flip side of this aphorism was that once white society was willing to make facilities legally nonseparate, the demand for equality had been satisfied and blacks no longer had just cause for complaint. The mere existence of *Brown* thus served to . . . legitimate current arrangements. True, many blacks remained poor and disempowered. But their status was now no longer a result of the denial of equality. Instead, it marked a personal failure to take advantage of one's definitionally equal status.[21]

The *Brown* decision's rejection of the racial barriers imposed by segregation, then, reinforced the fiction that the path of progress was clear. Everyone could and should succeed through individual ability and effort. One would think that this reinforcement of the political and economic status quo would have placated, if not pleased, even the strongest supporters of segregation. After all, blacks did not demand, nor did the Court offer any damages or reparations for the harm and loss caused by decades of segregation.

Rather than accept a good deal, however, white politicians used the *Brown* decision to enrage large groups of white people — initially in the South, but also in the North as efforts to implement the decision moved across the country. In effect, whites demanded the name "segregation," as well as the game of white racial preference. Initially, the federal courts responded cautiously to white resistance in an effort to allow time for the process of desegregation to work. But, over time, the courts issued a series of stronger and more specific orders that were intended to assert their judicial authority as much as to carry out the mandate of *Brown*. These orders were implemented eventually, but white parents' fear of sending their children to desegregated schools drove many of them either to move to mainly white school districts or to enroll their children

20. Louis Michael Seidman, *Brown and Miranda*, 80 CAL. L. REV. 673, 717 (1992).
21. *Id.*

in all-white private schools. The primary reason for racial balance remedies departed right along with those white families.

It is interesting, although far from encouraging, to compare white opposition to the *Brown* decision with the violent reaction of whites who opposed the Emancipation Proclamation. Ignorant or uncaring of the fact that Lincoln's action would greatly benefit the Union, whites rioted in New York City and elsewhere after the Emancipation Proclamation was issued — killing innocent black people and destroying property. In the mid-term elections, many whites voted against the Republicans. After the Union army won the Civil War with substantial help from freed blacks, however, opposition by southern whites and disinterest by northern whites lead to the abandonment of Reconstruction policies. These actions undermined the political and economic gains blacks were making, and opened the way to massive violence against any blacks deemed not to know their place. This history-wide pattern of white resistance to policies that nominally address racial injustices, but are substantively more valuable to whites and the nation, can be observed today in widespread white opposition to affirmative action policies. Those policies are directly and indirectly more valuable to whites and to the country's well-being than they are to blacks.

One of the characters in the old radio series The Shadow was a superhero who could become invisible because he had the power to cloud men's minds. Racism has a similar power to cloud American minds. Racism prevents many whites from understanding that they are the major beneficiaries of civil rights policies; and many blacks rely on and defend those policies with little appreciation for what motivated their issuance and how vulnerable they are to withdrawal when conditions change.

LESSON 4

The *Brown* decision encouraged post World War II challenges to segregation in public transportation and facilities. Of course, as Michael Seidman and others have suggested, there were multiple forces that combined to undermine the most stark aspects of racial segregation after World War II. These positive developments should not, however, prevent us from acknowledging that *Brown* was a disaster for the schooling of black children.

Dr. W.E.B. Du Bois accurately predicted that the South would not comply with the *Brown* decision for many years: "long enough to ruin the education of millions of black and white children."[22] I was not aware of Dr. Du Bois's warning in the early 1960s when I was litigating school desegregation suits at the NAACP LDF, and had I known about it, I would not have accepted it. At that time, I believed that my work on school desegregation might prove to be the high point of my career. I was wrong. The implementation of the court orders that I helped obtain resulted in the closing of black schools and the dismissal of thousands of black teachers and administrators. When the black children who were the beneficiaries of those court orders were admitted previously to all whites schools, they often faced hostility, and only infrequently found a teaching environment that was conducive to their needs.

Desegregated schools adopted tracking mechanisms that placed most blacks on non-academic tracks. Black children were disproportionately disciplined, and there was little consideration given to black cultural interests. Moreover, despite the priority given to white students, their parents either refused to enroll them in desegregated schools or removed them from those schools as soon as they were able. Alas, there is no reason to speak of these educational outrages in the past tense. These policies are still followed in all too many supposedly desegregated schools.

For these and several other reasons that I have suggested, a *Brown* decision that mandated the full enforcement of the equal portion of the separate-but-equal doctrine rather than one striking that doctrine down, might have better advanced the education of black as well as white children. Such a result would have appeared to be a devastating defeat to the civil rights lawyers who had persisted in their struggle against segregation for over twenty years, but it would have led to a better outcome in the long run.

Why, you might ask, try to remake history a half-century after the fact? I do so with far more pain than pleasure. I do so in order to demystify court ordered racial remedies — and, in fact, all racial justice policies — that promise far more in relief than they can de-

22. W.E.B Du Bois, The Autobiography of W.E.B. Du Bois: A Soliloquy on Viewing My Life from the Last Decade of its First Century 333 (1968).

liver. Racism is still the glue that holds our society together — despite its tremendous disparities in wealth, income, and opportunity.

Brown gets undeserved credit for desegregating public facilities other than schools. That process was encouraged by *Brown*, but it was not the decisive factor. In fact, prior to *Brown*, some southern states were already working to equalize black schools — admittedly in hopes of avoiding a desegregation order. The process of setting requirements and standards for the equalization of public schools was already underway when *Brown* was decided. The addition of integrated monitoring teams and a requirement of black community representation on school boards would likely have enhanced the efforts of the black teachers and administrators who had labored for decades in inadequate facilities, but with some success. Without *Brown*, perhaps politicians would not have been able to rally white support for the massive resistance campaign that turned the South into a closed society for more than a decade. In order to gain and remain in office, even moderate politicians like Alabama Governor George Wallace and Arkansas Governor Orville Faubus, became all-out segregationists. Maybe that would not have happened if the Court had recognized, as some of the briefs submitted in *Brown* argued, that black kids were not the only ones hurt by segregation. Indeed, white kids were harmed as well: both in the quality of their schools, even though they were far superior to the facilities provided for blacks, and also because segregation instilled in them the sense that they were superior.

Paradoxically, an order to equalize black and white school facilities would likely have hastened school districts' voluntary desegregation efforts because of the high cost of maintaining two equalized school systems. Dual school systems were expensive to maintain even when they were not equal. In many of my desegregation cases, school board members would defend the constitutionality of their practices and lie about their schools being equal. Then during the break, however, they would sidle over to me in the hall and whisper, "You know I had to say those things on the stand, but I'm glad you are all down here, because we can't afford two sets of schools."

Commenting on the debate over separate versus integrated schools in 1935, Dr. Du Bois observed that "Negro children need

neither segregated schools nor mixed schools. What they need is education."[23] The good news today is that educators and parents are ignoring the siren song that integration is an essential component of a good school. Resisting pressure from public school officials, teacher's unions, and some civil rights experts, educators and parents are working to provide black children with effective schooling based on their needs. Looking beyond schools, there are hundreds of after-school and supplemental school programs, where dedicated individuals are developing students' talents in the arts and sports. These programs enable black and Spanish background children to overcome multiple disadvantages and perform above average on standardized tests. They are stepping stones to college and to brighter futures than the students in them would otherwise have enjoyed.

These programs are applauded by all those who recognize that effective schooling is of primary importance regardless of its source. The Frederick Douglass Academy in West Harlem is one such program. Virtually all of the children who attend Douglass Academy come from families that are poor enough to qualify for the free breakfast and lunch programs. The Academy has strict standards and even higher expectations. Douglass Academy students perform above average on standardized tests, and most of them, according to one official, attend college. Schools like Frederick Douglass and a great many other educational programs are proof that children from impoverished neighborhoods need not be written off as lost.

The fifty-year long experience with *Brown* teaches that advocates of racial justice must rely less on judicial decisions, and more on tactics, actions, even attitudes that challenge the assumption of white dominance. History, as well as current events, calls for realism in formulating racial tactics and strategies. We must recognize that while landmark decisions may be designed to address and hopefully resolve deeply divisive social issues; they must be framed in language that appears to do justice, without unduly upsetting

23. W.E.B. Du Bois, *Does the Negro Need Separate Schools?*, 4 J. NEGRO EDUC. 328 (1935); *see generally* Derrick A. Bell, *The Legacy of W.E.B. Du Bois: A Rational Model for Achieving Public School Equity for America's Black Children*, 11 CREIGHTON L. REV. 409 (1977).

large groups whose non-compliance could frustrate relief efforts and undermine judicial authority.[24]

For reasons that may not have been apparent to the members of the *Brown* Court, their school desegregation decision has achieved a far loftier place in legal history than is justified based on its failure to reform the ideology of racial domination that *Plessy* represented. The decision in *Brown* was far more successful in recognizing racial injustices than it was in providing meaningful remedies. Most of the time we do not notice that advances in racial justice neatly coincide with those periods when policymakers realize that remedying racial injustice best suits the nation's needs. Fortuity has been and remains a far more important factor in achieving racial justice than any national commitment to freedom and justice for all.

Because we do not understand the motivations behind the case and overvalue its significance, the anniversary of *Brown* on May 17th has become the flag day of the civil rights movement. At that time of year we gather, renew our commitment, and join in the strains of "We Shall Overcome." Viewing *Brown* as a symbol of what might have been, however, only serves to mask the continuing manifestations of inequality that divide us along lines of color and class. These divisions are exploited to enable an uneasy social stability, but at a cost that is no less onerous because it is all too obvious to blacks, and all but oblivious to a great many whites. We know that the permanence of racism emanates from the determination of whites to dominate blacks and other colored peoples with little regard to the hidden, but no less real, costs of that dominance. Given the great disparities of income and wealth in the United States, racism is a necessary stabilizing force, serving as a substitute for money and power for most whites.

Here is a truth that must energize us rather than cause us despair. Now we can continue the struggle against racism enlightened by what we have learned in the half century since *Brown* was decided. The landscape for meaningful racial reform is neither smooth nor easy. History's lessons have not been learned, and even at this late date, may not be teachable. Racial reforms that blacks view as important, many whites oppose as a threat to their status

24. *See, e.g.,* Roe v. Wade, 410 U.S. 113 (1973).

and an unfair effort to make them pay for wrongs committed by neither they nor theirs. Color-blindness is adopted as an easy way to cover over racial issues with which the nation would rather not wrestle, much less try seriously to resolve. Color-blindness is an attractive veneer that obscures flaws that will not correct themselves simply by being hidden from view.

Brown is a dramatic instance of a decision that promised to correct deficiencies in justice that were far deeper than the Supreme Court was able to understand. Understanding those deficiencies more fully, and suggesting how we should address them, is the continuing challenge for civil rights advocates. Once revealed as a motivating factor, interest convergence can be transformed into useful strategy. Those that defended the University of Michigan's affirmative action plans, for example, utilized interest convergence by promoting diversity as being in the self-interest of the University.[25] Interest convergence was part of their strategy, planned for in advance, rather than a happy coincidence recognized in retrospect. Using the interest convergence model in planning and implementing civil rights strategies may mean relying less on courts to advance racial justice goals. But, as individuals and groups, we have to challenge the assumptions of white dominance and the presumptions of black incompetence. We do so by refusing to accept white dominance in our schools, places of work, our communities, and yes, among those whites who consider us friends. We have to show a due regard for our humanity, and have to convey enlightenment to some whites, deeply immersed in the still widespread beliefs of a white dominated society.

Professor Robert Gordon of Stanford University, offers encouragement in this likely lifelong process when he reminds us that things seem to change in history when people break out of their accustomed ways of responding to domination by acting as if the constraints on them are not real and they have the power to change things. Sometimes they can change things, although not always in the ways they had hoped or intended. But they cannot know whether they have the power to change things until they try.

Preston Wilcox, the long time Harlem activist, restates Gordon's words in the form of a grass roots challenge: "Nobody

25. *See* Grutter v. Bollinger, 539 U.S. 306 (2003).

can free us but ourselves." His admonition has meaning for every aspect of life for African Americans, and all those deemed outsiders. Nowhere does it have greater relevance than the education of our children. Preston Wilcox's truth is easier to acknowledge than to act on. But this, of course, is usually both the measure and the challenge of truth.