

# **SIMPLE JUSTICE OR COMPLEX INJUSTICE?: AMERICAN RACIAL DYNAMICS AND THE IRONIES OF BROWN AND GRUTTER**

Vinay Harpalani, Ph.D. University of Pennsylvania

## **Introduction**

On May 17, 1954, the Supreme Court rendered one of the most important legal decisions in American history. With its first opinion in the *Brown v. Board of Education*, the Court ruled unanimously that racial segregation in public schools was unconstitutional. Writing for the Court, Chief Justice Earl Warren stated that racial segregation should not be allowed even if Black and White schools had equal funding, equal opportunities, and were equivalent in all other resources. The eventual result of the *Brown* decision was the complete breakdown of the legally mandated, or *de jure* segregation. It is appropriate that fifty years later, we commemorate the decision, which is aptly described by the title of Richard Kluger's (1975) famous book, *Simple Justice*.

Yet, in spite of its importance, *Brown's* true promise, that of an integrated, equal society, has been tragically unfulfilled. Quite ironically, *Brown's* lasting impact is least felt in public education. The Supreme Court's decision helped launch the Civil Rights Movement, leading to the elimination of Jim Crow laws, but due to *de facto* segregation and regressive court decisions, American public schools have become more racially segregated in the past 30 years (Orfield, Eaton, & Jones, 1997). The 50th anniversary of *Brown* also comes amidst the neoconservative rearticulation of the Civil Rights Movement (Omi & Winant, 1994), highlighted by the recent right-wing attacks on affirmative action in higher education. In 2003, the Supreme Court upheld limited use of race-conscious admissions policies in the University of Michigan Law School case, *Grutter v. Bollinger*; however, even this small victory was threatened in 2004 by the so-called Michigan Civil Rights Initiative, a proposed referendum to eliminate race-conscious measures in all state-sponsored venues. Previously, California and Washington voters passed similar statewide initiatives, and there will no doubt be many future challenges to affirmative action. Moreover, even as racial segregation in both K-12 and higher education increases, federal and state courts continue to remove desegregation orders.

Consequently, there is a certain dissonance about commemorating the *Brown* decision, reflected by the fact that many in the civil rights community refer to the 50th anniversary of *Brown* as a "commemoration" rather than a "celebration." Even as *Brown* and *Grutter* are hailed as legal victories in the quest for racial justice, both decisions are marked by several ambivalent legacies. In this essay, I examine some of the ironic parallels and contrasts between *Brown* and *Grutter* in order to highlight this ambivalence. Rather than analyzing the legal doctrine established or affirmed in these decisions, this essay focuses on the broader social, historical and cultural context of the cases and their relationship to American racial dynamics in the post-Civil Rights era. I employ various tenets of Critical Race Theory (Delgado & Stefancic, 2001), racial formation theory (Omi & Winant, 1994), and the racialized social systems framework (Bonilla-Silva, 2001) to explore this relationship, highlighting two areas: 1. The hidden political interests, particularly in the realm of international affairs, that impacted the *Brown* and *Grutter* decisions, and 2. The social science evidence presented in each case. In the process, I also illustrate, using these two cases, how K-12 and higher education have been salient venues for the creation of racial ideology and race discourse. My aim is to illustrate the duality of *Brown* and *Grutter* as not only "simple justice," but also a "complex injustice"—an ambivalence characteristic of the struggle for racial equity in America (Du Bois, 1903/1989).

## **Interest Convergence**

One of the central tenets of Critical Race Theory is interest convergence, the notion that both racism and seemingly anti-racist measures advance the interests of the majority group, White Americans (Delgado & Stefancic, 2001). When social changes occur that benefit people of color (or at least seem to benefit people of color), it is only because the interests of Whites (particularly elite Whites) and people of color (sometimes only particular groups of people of color) have temporarily converged. Thus, social changes that appear to benefit people of color actually have greater benefits for White Americans, and the interests of people of color are served only when they coincide with the interests of White Americans. The idea of interest convergence can

be applied to Brown and Grutter both individually and in relation to one another. The relationship between these two cases also illustrates how socio-political interests can shape the development of racial ideology and discourse. Several ironies are apparent here, as I will illustrate.

### **Desegregation as a Cold War Imperative**

The classic example of interest-convergence is Derrick Bell's (1980) evaluation of the Brown v. Board of Education decision. Conventional wisdom held that the decision came about for two primary reasons: 1. Diligent and pioneering litigation by the NAACP legal defense fund, which had argued desegregation cases for decades before Brown, and 2. Changing racial attitudes in the U.S., facilitated by opposition to Nazism in World War II. While not discounting these factors, Bell (1980) held that the main driving force behind Brown was a temporary interest-convergence between Whites and Blacks in America. The U.S. had become the world's pre-eminent power after the War and America's leaders were looking to expand its sphere of influence throughout the globe. In conjunction with growing anti-colonial struggles and the United Nations declarations against racism, it would be untenable for the U.S. government to increase its world influence while maintaining segregation at home.

In her article, "Desegregation as a Cold War Imperative," Mary Dudziak (1988) documented the extensive post-War coverage of American segregation and related injustices in the international press. For example, newspapers in India carried stories with titles such as "Untouchability Banished in India: Worshipped in America" (quoted in Dudziak, 1988, 85). The State Department was also particularly concerned about the portrayal of American racism in the Soviet Union during the era of McCarthyism. American officials feared that in lieu of progress towards racial equality, African Americans might be drawn to support communism. Dudziak also examines the U.S. government's amicus brief in Brown, which supported the NAACP Legal Defense Fund. The brief made reference to the need to view desegregation efforts "in the context of the present world struggle between freedom and tyranny" (quoted in Dudziak, 1988, 1; see also Dudziak, 2000). Thus, from a Critical Race Theory perspective, the most significant civil rights decision in American history occurred essentially so that the U.S. government could increase its influence over people of color worldwide.

The extent to which these factors influenced the Brown decision is debatable, but Bell (1980) also notes that after Brown assuaged international concerns about American racism, American courts immediately began to inhibit desegregation efforts. The 1954 decision stated only that racial segregation in public educational was unconstitutional; it did not propose a plan to end it. It was only in its second ruling, Brown II, rendered on May 31, 1955, that the Supreme Court focused on the actual implementation of desegregation. In this ruling, the Supreme Court used the vague phrase, "with all deliberate speed," to denote how fast desegregation should take place. Because there was no sense of urgency in the Court's language, Southern states thwarted implementation of Brown for many years. Eventually, later Supreme Court decisions, such as Milliken v. Bradley (1974), severely limited busing and other remedies to desegregate public schools. This led to the current situation: de facto resegregation of public education (Orfield, Eaton, & Jones, 1997).

### **Interest Convergence, U.S. Immigration Policy, and the Neoconservative Attack on Affirmative Action**

After World War II, the same political interests that led to desegregation also coalesced to bring about changes in U.S. immigration and naturalization policies; strict racial barriers in these venues were also eliminated (Takaki, 1989). The elimination in Jim Crow laws and racial restrictions on immigration, which were ultimately tied to the same U.S. foreign policy interests, also molded and changed American racial ideology and discourse—a shift that is usually represented as a progressive element of the Civil Rights era. Ironically, however, this same shift created the climate for attacks on affirmative action in the post-Civil Rights era, as I will illustrate.

In 1946, the Luce-Celler bill created small annual immigration quotas from countries that had previously been excluded. The 1952 McCarran-Walter Act removed all race restrictions on immigration. As the Cold War pressed on, the 1957 launch of Sputnik I by the Soviet Union intensified fears that the U.S. was losing ground to communism. American leaders saw the need for skilled professional workers in technical occupations, in order to keep up with Soviet technology (Prashad, 2000). At the same time, Asian countries with large populations, such as China and India, contained an excess of such skilled workers, who had limited economic opportunities in their homelands. The interests of these two groups converged with the Immigration Act of 1965, which raised annual quotas to 20,000 per country, and created a preference system for immigration that favored highly-skilled, professional workers, such as engineers and physicians. The result was a new class of educated Asian immigrants in the U.S.

Because many Asian immigrants of the late 1960s and early 1970s were highly-educated professionals, they brought with them a certain amount of social capital, which translated into educational and occupational success for both them and their children. The success of these first- and second-generation Asian Americans is often juxtaposed with the stagnant progress of African Americans and Latinos; Asian Americans are held as a "model minority" that other minority groups should follow (see Takaki, 1989; Prashad, 2000). As discussed by Dana Takagi (1996) in *The Retreat from Race*, the polarization of Asian and African Americans laid the groundwork for neoconservative attacks on affirmative action. In the 1980s, Asian Americans faced quotas and ceilings in admission to elite universities, in spite of the fact that they routinely outperformed White Americans in academic endeavors. When Asian Americans fought this practice, the elite institutions relented, but neoconservatives used the opportunity to raise questions about all race-conscious admissions in higher education. It is important to note that in the midst of the neoconservative assault, most Asian American leaders and organizations voiced their support for affirmative action policies (see for example Chin, Cho, Kang, & Wu, 1997). But the eventual results of the right wing's effort were the University of Michigan cases, along with the several statewide initiatives to eliminate affirmative action.

Ironically, while the anti-affirmative action movement perpetuated the model minority myth, the proportion of new educated Asian immigrants was actually decreasing. As American technology improved and the Cold War abated, immigration restrictions were tightened. Beginning in 1976, occupational preferences in immigration required job offers, and other regulations were also later enacted. More recent waves of Asian immigrants have been composed predominantly of working class laborers. Many of these workers secured immigration privileges based on family preferences rather than occupational status, and the waiting time for family preferences has also increased significantly in the past thirty years. Thus, as the interests of U.S. government leaders diverged with those of Asian immigrants, the latter began facing more difficulties with regard to immigration (see Prashad, 2000). These restrictions on immigration parallel the court rulings since *Brown*, which have made the implementation of school desegregation more difficult. Moreover, as illustrated earlier, Cold War political interests and the policies they yielded also helped to shape neoconservative racial ideology—particularly with regard to educational achievement. All of these factors complicate the supposed progress in racial relations during the post-Civil Rights era.

### **Affirmative Action as a Globalization and “War on Terrorism” Imperative**

In a vein similar to *Brown*, *Grutter* has also been described in terms of interest convergence (Lâm, personal communication, 2004). In fact, American foreign policy interests inherent in *Grutter* were directly cited in the Court's opinion. In some ways, these interests are similar to the State Department claims in *Brown*, but this time they reflect a post-cold War agenda focused on economic globalization and the "war on terrorism." Writing for the majority in *Grutter*, Justice Sandra Day O'Connor discusses the rationale for invoking diversity as a compelling state interest, citing an amicus brief from the General Motors Corporation:

...major American businesses have made clear that the skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse, peoples, cultures, ideas, and viewpoints... (quoted from *Grutter v. Bollinger*, 2003).

O'Connor's opinion highlights diversity initiatives as an integral aspect of economic globalization. Affirmative action programs—once touted as efforts to overcome segregation and racism—are now viewed as necessity for cultural competence and political domination as America further infiltrates foreign economies.

Moreover, the Court also invokes the language of "national security," a highly popularized and salient political force since September 11, 2001. The majority opinion quotes an amicus brief from retired U.S. military leaders:

...What is more, high-ranking retired officers and civilian leaders of the United States military assert that, "[b]ased on [their] decades of experience," a "highly qualified, racially diverse officer corps ... is essential to the military's ability to fulfill its principle mission to provide national security"... (quoted from *Grutter v. Bollinger*, 2003).

The immediate political context of this reference is especially noteworthy, as the oral arguments and deliberation in *Grutter* occurred on April 1, 2003, at the height of the U.S. invasion (and subsequent occupation) of Iraq. In this light, O'Connor notes the benefits of diverse representation among occupation forces and military efforts abroad; affirmative action is thus viewed as a "war on terrorism" imperative.

President George W. Bush's position on the University of Michigan cases also illustrated the subtle political interests involved in this issue. In contrast to Eisenhower's brief in *Brown*, which had sided with the civil rights community, the Bush administration opposed the Michigan affirmative action programs. The Administration contended that while it supported diversity, the University of Michigan programs were not narrowly tailored. However, Bush's opposition was very tempered; his aim was primarily to appease conservatives rather than to have the programs overturned. During the week after Bush announced his position, Secretary of State Colin Powell and National Security Advisor Condoleezza Rice both made public statements supporting race-conscious admissions policies. Neither would have done so without the President's permission, and Bush himself claimed that he did not oppose such policies in principle; he merely objected to what he called the University of Michigan's "quota system." Nevertheless, Bush was not exactly devastated to see the law school plan upheld; he even noted his respect for the decision after it was released in June 2003. In reality, the elimination of affirmative action would have created more problems than benefits for the Bush administration. The administration briefs were filed in January 2003, during the wake of the Trent Lott debacle, and the President was already facing backlash for his position on Iraq, among other issues. The eradication or even the significant limitation of race-sensitive policies in higher education would have drawn more ire from civil rights advocates. After appeasing conservatives with his symbolic opposition, Bush was perfectly happy with the outcome of the Michigan cases, lest the drop in minority college enrollment became a major issue in the 2004 presidential campaign.

### **Stigma, Self-hatred, and Privilege: Social Science Evidence in *Brown***

Having examined the historical and political context for *Brown* and Grutter, I now turn to the social science evidence in each case. For *Brown*, this has been another area of contentious debate among legal scholars. Some have contended that *Brown* represented the triumph of legal realism (Mody, 2002) and/or that it established education as a fundamental privilege for all American citizens (Liebman & Sabel, 2003). In this vein, the social science evidence cited in footnote 11 of the decision is ancillary, merely providing further support for claims already established. Others, however, claimed that *Brown* essentially thwarted legal reasoning and that the social science evidence was the basis of the decision (see Mody, 2002 for an overview of both of these views). In either case, footnote 11 of *Brown* has been the topic of much discussion, and a closer examination of this evidence, along with subsequent related research, reveals several ironies. It also demonstrates the shift from pre- to post-Civil Rights racial ideology in America.

The Supreme Court cited social science evidence in *Brown* to demonstrate that African Americans were psychologically damaged by segregation. The plaintiffs argued that separate schools, even if they were completely equal in funding and resources, were still unacceptable because segregation stigmatized Black Americans as inferior and engendered feelings of self-hatred. The cited works included research conducted by some of the most well known social scientists of the time. All of this research occurred during the anti-racist ethos of World War II, as the notion of race as a biological entity was also being debunked (Montague, 1942). Among the cited works were Gunnar Myrdal's *An American Dilemma* (1944/1962) and E. Franklin Frazier's *The Negro in the United States* (1949). However, the research findings most often credited for the *Brown* decision are the doll studies by social psychologists Kenneth and Mamie Clark. Kenneth Clark's monograph on this work was the first study cited in footnote 11 (Clark, 1950). The Clarks' found that Black children age three through six systematically preferred White dolls over Black dolls, and they among others, assumed this to be a sign of low self-esteem. Thus, Kenneth Clark's monograph argued that Black children were psychologically damaged by segregation, and as noted, many observers credited this evidence as a deciding factor in the *Brown* decision.

However, there were problems with the doll studies, both in implementation and interpretation. The light- and brown-skinned dolls used were not equivalent in aesthetic terms, owing to the sparse availability of high quality brown-skinned dolls in the 1940s. More significant, though, was the erroneous assertion that Black children's preference for lighter dolls equated to low self-esteem. As future work by Margaret Beale Spencer (1982, 1984) and others would show, racial preference behavior is not synonymous with self-esteem, particularly for young children. This is because young children, under the age of six, are cognitively egocentric. They choose the White dolls because they have already learned that White, as a color and status, is accorded more value in American society. The children do not, however, translate this behavior inward, as they have not developed the cognitive capacity to do so at this young age. Spencer (1982, 1984) demonstrated that most young Black children who are Eurocentric (i.e., prefer White) in preference behavior still score high on self-esteem measures.

As Black children develop the ability to experience cognitive dissonance, their preference behavior changes. Ironically, as William E. Cross (1991) notes, even the Clarks found that seven-year old Black children had largely shifted in preference behavior; they more frequently preferred the Black dolls. However, the Clarks' interpretation of data was affected by an ethos of Black pathology. Researchers, even those with enlightened and progressive agendas, typically viewed African Americans as helpless victims of racism. The resilience and internal strength of Black communities was largely ignored. Later research also

reflected this deficit-oriented view of African Americans, including the “culture of poverty” arguments of the 1960s (e.g. Lewis, 1968) and the “acting White” hypothesis of Signithia Fordham and John Ogbu (1986). The lack of a developmental perspective is also apparent in all of this work, as researchers assumed that data collected on young children also applied to adolescents and adults (Spencer, 1982, 1984). Moreover, as theories of Black genetic inferiority were scientifically rebuked as an explanation for Black-White achievement gap, neoconservatives (and even some moderates and liberals) advanced the culture of poverty arguments, claiming that African American communities devalue education and are thus responsible for their own positions in society. Thus, the dominant right wing argument became one of cultural rather than biological inferiority. The aforementioned model minority myth, which purported the superiority of Asian cultural values, also reinforced these notions. As part of the neoconservative project, all of these ideas formed a new American racial ideology to explain achievement differences, and as noted, this was a central feature of the neoconservative attack on affirmative action. Ironically, the neoconservative movement accepted the underlying scientific foundation of Brown—that races were not biologically different and that segregating them de jure served only to stigmatize. But these ideas were rearticulated, as culture replaced biology, de facto replaced de jure segregation, and African Americans were again relegated to inferior status.

A second major irony with regard to the social science in Brown is that Kenneth Clark also presented another line of evidence—that segregation had a harmful impact upon Whites. In a 1991 interview with Alan Carter, Bridgett Boyd, and Margaret Beale Spencer, Clark noted that in the documents provided to the Supreme Court, he had also presented data about the racial paranoia and unrealistic view of self that segregation perpetuated among Whites. Indeed, Clark discusses these issues in *Prejudice and your Child* (1952). When asked why the Supreme Court did not cite this evidence, Clark responded, “Because they are White.” (K.B. Clark, personal communication, 1991). Clark’s ideas portended later theorizing on White privilege. As recent work by Luthar & Becker (2002) and Spencer et al. (2001) has shown, psychological coping problems related to privilege are significant and drawing more attention.

In fact, my point here is not to criticize Kenneth and Mamie Clark, whose work was indeed pioneering, and was limited by both the resources available to them and by the ethos of the time. There is no doubt that segregation promoted a view of Black inferiority, and Brown was correct in asserting that segregation served only to stigmatize and to perpetuate negative stereotypes of African Americans. However, erroneous was the assumption that African Americans adopted a monolithic view of self-hatred in response to this stigma. Furthermore, the elimination of de jure segregation has not eliminated stereotypes (Smith, 1990). Perhaps, as Kenneth Clark portended, America would be better served to examine the White psyche rather than Black psyche in the effort to understand the phenomenon of racism.

### **Diversity, Racism, and Ignorance: Social Science Evidence in Grutter**

As in Brown, social science also played a key role in Grutter. Sandra Day O'Connor's majority opinion in Grutter cited several studies that highlighted the positive impact of diversity in higher education. These included *The Shape of the River* (Bowen & Bok, 1998), a longitudinal analysis of diversity at 20 elite institutions. Written by William Bowen and Derek Bok, respectively the former presidents of Princeton and Harvard, *The Shape of the River* concludes,

In our view, race is relevant in determining which candidates “merit” admission because taking account of race helps institutions achieve three objectives central to their mission—identifying individuals of high potential, permitting students to benefit from diversity on campus, and addressing long-term societal needs (quoted on p. 278).

Other studies cited by O'Connor reached similar conclusions (e.g., Chang, Witt, Jones, & Hakuta, 1999).

While there is validity to this evidence, the more important issue of racial inequity was largely ignored in the Grutter decision. In fact, the irony here is that in direct contrast to Brown, Grutter did focus more on the White psyche than the Black psyche. Specifically, O'Connor's opinion noted that White students benefit from diversity, as having a “critical mass” of students of color helps breakdown racial stereotypes among White students and allows them to learn about both within and between group racial diversity. Both Brown and Grutter addressed racial stereotyping, but in strikingly different ways. Brown emphasized the need to eliminate segregation because of the stigma, or negative stereotypes, that it placed on Black Americans. Grutter, on the other hand, makes no mention of the negative impact of racial stereotyping on African Americans; in fact, from the perspective of the Grutter opinion, racial stereotyping would be perfectly benign except for the fact that it removing it (or at least attempting to do so) enhances the education of White Americans.

The shift in the rhetoric of affirmative action, from a remedy for racial discrimination to a venue for diversity, dates back to the Supreme Court's opinion in the 1978 Bakke case (*University of California Regents v. Bakke*, 1978). Grutter reaffirmed Justice

Lewis Powell's view in *Bakke* that diversity is compelling state interest. However, affirmative action programs in higher education began in the 1960s not as means to create diverse student bodies, but rather as radical desegregation measures demanded by people of color who were seeking equal opportunity. The emphasis on diversity rather than social justice has compromised efforts towards educational equity, and has facilitated greater elitism among people of color. For example, compared to the late 1960s and early 1970s, far fewer spots at elite universities are now occupied by students of color from low-income backgrounds (see Glasker, 2002).

As in *Brown*, the Court ignored important evidence in *Grutter*—this time evidence that highlighted the current reality of racism throughout K-12 and higher education. The student intervenors in *Grutter*, United for Equality and Affirmative Action (UEAA), raised several of these issues in their brief (see Brief for respondents Kimberly James et al., 2003). Among the research cited in the UEAA brief were articles by Walter Allen, and by Joe Feagin and Melvin Sikes, which examined Black students' experiences of racism on predominantly White college campuses. The UEAA brief also cited research by William Kidder on racial biases in standardized testing, and by Claude Steele and colleagues on the impact of negative intellectual stereotypes on African American students. This research, and in particular the work of Steele (1997), which speaks directly to the impact of racial stigma, would seem relevant if *Grutter* had been viewed in the context of *Brown*. Ironically, the only references to racial stigma and standardized testing in the *Grutter* opinion are found in Justice Clarence Thomas's dissent.

It remains to be seen how *Grutter* will impact American racial dynamics, in terms of political movements and racial ideology and discourse. Perhaps the juxtaposition of African and Asian Americans—the neoconservative racial project which grew out of the Civil Rights and Cold War eras—will be further complicated by xenophobic, anti-immigrant currents in the so-called war on terrorism, along with the growing elite class of African Americans and Latinos created by affirmative action and reaffirmed in *Grutter*. The color line promises to grow ever more complex in the 21st century.

## **Conclusion**

In this essay, I have analyzed American racial dynamics through the lens of *Brown* and *Grutter*, focusing on political interests surrounding the decisions and the evidence considered within them. I have also examined how neoconservatives manipulated these factors to create an ideological racial hierarchy partly rooted in educational achievement differences. By comparing and contrasting the cases, I have highlighted many of the ironies that characterize these two American civil rights “victories”—half a century apart. Although the lessons are far from clear, several preliminary lessons emerge from this analysis.

First, there is the need to recognize the relational character and construction of race in modern American society. This goes beyond mere recognition of different groups and their struggles. In recent years, it has been frequently noted that we should move beyond the Black-White paradigm of American race relations, almost to the point where this has become cliché. Such rhetoric has often fallen within the co-opted rubric of diversity, thus even detracting from emphasis on racial inequity. My point here goes beyond recognizing that different groups such as African Americans and Asian Americans exist in our society and face both similar and different barriers to advancement. Rather, what I have tried to illustrate through my analysis is that in post-Civil Rights America, one cannot fully understand the racial portrayal and positioning of Asian Americans without considering the experiences of African Americans, and vice versa. The same is true for other groups. The neoconservative racial project has, in various ways, situated these groups in opposition to one another. To understand and combat this, we must not focus on one group or even separately on several groups. Instead, we must carefully examine the relationship between various racial groups in proper historical and political context.

Second is the need to critically examine the subtle and sometimes hidden political interests that surround any decision. Contrary to rhetoric, the Supreme Court is not free from societal influence, and it is to the advantage of civil rights advocates to be aware of these interests. When possible, we can and should use majoritarian interests to our advantage when possible. Proponents of affirmative action recognized the importance of “national security” in this post-September 11 era and used this to their advantage. The brief for U.S. military leaders was an instrumental component of the legal and political battle to retain race-conscious programs in education. The NAACP Legal Defense fund and leaders of the Civil Rights Movement also contrasted their fight for freedom with totalitarian communist regimes, and these were important factors in the gains of the 1950s and 60s.

Thirdly however, we must also be careful to also consider my first two points in relation to each other. The interests of different groups can be pitted against each other, as we saw with African and Asian Americans in the neoconservative project to eliminate affirmative action. Moreover, such racial polarization is often articulated by the right wing around the policy issues most important

to all Americans—education, economic prosperity, and national security. To combat this tendency, we must always demand a careful, thorough, nuanced analysis and understanding of the historical and political context, along with the tangible short- and long-term interest of different racial groups, both individually and relation to each other. If we do not do this, then racism will continue to express itself in ever more complex and subtle forms.

Finally, in the midst of these battles, we should keep an eye on the irony—and outright hypocrisy—of race relations in America. Perhaps the most salient example of this was Justice O'Connor's statement, in the Grutter majority opinion, that race-conscious admissions should not be necessary in 25 years. In 1955, the Supreme Court was not willing to define a timeline for desegregation, allowing South states to proceed "with all deliberate speed." But when it came to dismantling affirmative action, the most effective tool to integrate higher education, the Court was all too willing to set a time limit.

Such irony is emblematic of racial justice in America, the defining paradox of American society. Brown and Grutter, with their many ironies, simultaneously represent simple justice and complex injustice—they are both tremendous civil rights victories and tragically unfulfilled promises in America's struggle for racial equality.

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