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Jamel K. Donnor

Abstract
This article provides a critical race analysis of the U.S. Supreme Court’s decision to declare voluntary public school integration unconstitutional in Parents v. Seattle School District No. 1. The author contends that the high Court used a perpetrator perspective of racial discrimination to privilege the self-interests of white families over students of color opportunity to attend the Seattle metropolitan area’s top public high school. This paper not only explains how the decision locks-in racial inequity in education, but also, how education policies created to improve the learning opportunities for students of color are resisted, and ultimately thwarted by Whites. The article concludes with a discussion for the continuance of race as a proportional instrument to achieve equity in education.

Keywords
Whiteness, race and education, school desegregation, colorblindness, racism and education, critical race theory

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Throughout white supremacist discourse, whites are depicted as the victims of racial oppression.

Abby L. Ferber, *White Man Falling*, 1999, p. 3

White innocence is the insistence on the innocence or absence of responsibility of the contemporary white person.

Thomas Ross, *The Rhetorical Tapestry of Race*, 1990, p. 3

**Introduction**

Whiteness and White privilege are instrumental in informing society’s disposition toward racial inequality, especially in education. Dating back to the planter aristocracy’s opposition to educating newly freed slaves during the antebellum period under the presumption that such activities would disrupt the sociopolitical order of the South to Northern Whites’ violent response to busing, because it was deemed inegalitarian, Whiteness and White privilege as discursive constructs have shaped the learning opportunities and educational fortunes of non-Whites in the United States (Anderson, 1988; López, 1996; Patterson, 2001; Watkins, 2001).

In the 21st century, Whiteness and White privilege continue to shape students of color’s access to meaningful learning opportunities. Using discursive tools, such as metaphors, analogies, metonyms, syntax, and linguistic references, policies and practices intended to promote racial equality have been undermined, because they are framed as unfair and discriminatory toward Whites (Edelman, 1975). For example, in *Parents Involved in Community Schools v. Seattle School District No.1*, an antischool integration lawsuit, the U.S. Supreme Court ruling in favor of the plaintiff declared that the group of mostly White families had a legal claim of injury and harm by articulating a self-interest in “not being forced to compete for seats at certain high schools in a system that uses race as a deciding factor in many of its admissions decisions” (*Parents v. Seattle School District No.1*, 2007, 127 S. Ct. 2738, Section II, p. 10, ¶ 2). In addition to framing desegregation as a “special consideration above and beyond a perceived baseline of equal treatment,” the high court’s usage of harm and injury operate as ideological and epistemic instruments to construct White people as a population needing protection from policies meant to proportionately expand students of color access to quality learning environments (Bracey, 2006, p. 1272). I submit, that the verdict, advances the historical sociopolitical advantages accorded to Whites over the educational needs of students of color by framing the purported injuries to Whites...
as equal to the historic subordination and present-day marginalization of non-Whites.

The purpose of this article is to discuss how the U.S. Supreme Court’s decision to declare voluntary school desegregation unconstitutional in *Parents Involved in Community Schools v. Seattle School District No.1* situates Whites as the positional norm in education policy discourse. I submit that the high court’s decision frames efforts to address racial inequality in education beyond a purview of equity that is necessary to provide students of color access to meaningful learning opportunities. Moreover, existing inequities in education become entrenched because policies meant to foster proportional access are defined as providing people of color an unearned advantage over Whites. This article is comprised of four sections. The first section of this article provides an overview of *Parents Involved in Community Schools v. Seattle School District No.1*, including the Seattle school district’s efforts to desegregate the city’s public schools. The second section of the article reviews the Supreme Court’s ruling. The third section offers a critical race analysis of the court’s ruling. The fourth and final section, discusses the implications of the decision and argues for the continuing use of race as policy instrument in the allocation of opportunities in the education of students of color.

**Parents v. Seattle School District No.1**
and the Auspice of Integration in Seattle

Brought before the U.S. Supreme Court by Parents Involved in Community Schools (PICS), an organization comprised primarily of Whites in the Seattle metropolitan area, *Parents v. Seattle School District No.1* posited that the Seattle school district’s policy on integration created an excessive burden for White families (*Parents*, Petitioner’s Brief, No. 05-908 2006). According to the plaintiffs, the district’s policy on integration, which used a race as a plus-one factor in assigning pupils to the city’s most-sought-after public high schools, is harmful to families whose children are unable to attend the school of their choice or in close proximity to home (*Parents*, Petitioner’s Brief, No. 05-908, 2006). For PICS, the school district’s desire to create a racially inclusive learning environment constituted a racial quota because it “prefers one individual to another for no reason other than race” (*Parents*, Petitioner’s Brief, No. 05-908, 2006, p. 21). Used by social conservatives and ideologues on the Far Right of American political continuum, “racial quota” is invoked to refer social reform policies developed to ameliorate the legacy of Jim Crow and as unfair. In education, racial quota alleges that people of color are given preferential treatment over
Whites in school admission decisions because of race (Anderson, 2004; Brown et al., 2003). Although there is very little empirical evidence to support this viewpoint, the image of Whites being disadvantaged provides the cognitive image necessary to mobilize resistance toward policies and practices intended to promote representational access to social and political opportunities (Winant, 1997a-b).

Since the city of Seattle has never operated a *de jure* segregated school system or been under federal court desegregation orders, the district’s policy on integration, according to PICS, did not meet the Supreme Court’s strict scrutiny standard of judicial review. Under strict scrutiny, a government agency is required to justify its use of race as a criterion in public policy decision making or determining access to public resources. To meet this burden of proof, a government agency must (a) identify a broad societal goal or demonstrate a “compelling interest” to justify its use of race in policy and practice, and (b) ensure that the methods used to achieve the compelling interest are specifically tailored to the societal purpose (*City of Richmond v. Croson*, 1989, 488 U.S. 469; Donahue, 1997; Lechner, 2003; Mead, 2003). Based on the foregoing criteria, PICS contended that the district’s efforts to diversify the city’s most-sought-after high schools present an unfair burden to families whose children are not admitted to the school of his or her choice or in close proximity to home (*Parents*, Petitioner’s Brief, No. 05-908, 2006).

**School Desegregation in Seattle: An Overview**

In an attempt to offset the effects of residential segregation and quell burgeoning African American political activism in the region, the Seattle school board instituted a school desegregation policy for its public schools in 1963 (Taylor, 1995). According to the school board, “[h]ousing patterns in Seattle are starkly divided along a north-south line: more than 75% of the District’s non-White students live in the southern half of the city, while 67% of Whites live in the northern half” (*Parents*, Brief for Respondents, No. 05-908, 2006, p. 1). As a result, “24 of 36 neighborhoods surrounding the District’s elementary schools in the southern portion of the city had student populations that were more than 70% non-White and nine had populations that were 90% non-White” (*Parents*, Brief for Respondents, No. 05-908, 2006, p. 2). Conversely in the northern section of Seattle, “only two of the 25 elementary schools in Seattle’s northern section had a non-White student population over 50 percent,” which created varying degrees of segregation within the city’s public school system (*Parents*, Brief for Respondents, No. 05-908, 2006, p. 2).

In addition, Seattle was a “hostile city” toward Blacks for most of the 20th century (Taylor, 1989, p. 433). In contrast to the overt practices of racial
subordination and marginalization meted out in the South (i.e., Jim Crow), Whites in Seattle were indifferent to issues of Black inequality or engaged in subtle forms of racism (Taylor, 1995). According to historian Quintard Taylor, as early as 1910,

Major theaters refused black patrons or relegated them to balconies, downtown restaurants and lunch counters turned away Afro-American customers, and nightclub owners and employees made known their attitude toward blacks by charging excessively high prices for drinks or deliberately smashing glasses after Afro-Americans used them. (p. 433)

Like their brethren in the North and South, African Americans in the Pacific Northwest regularly experienced racism and racial discrimination.

Beginning with the Voluntary Racial Transfer Program (VRT) in 1963, an intradistrict student transfer program, approximately “1, 400 of the [city’s] 7,000 African American students were to be sent to schools outside [Seattle’s] Central District to arrest the growing racial isolation of Black children in the public schools” (Taylor, 1995, p. 8). During this initial phase of desegregation, schools that were identified as predominately African American on Seattle’s south side were closed and the students were reassigned to mostly White schools on the North side of town (Kohn, 1996, p. 24). The district’s efforts during this phase focused on integrating the city’s high schools; however, by 1965 the school board expanded the program to elementary and middle schools (Parents, Brief for Respondents, No. 05-908, 2006). Unfortunately, due to several lawsuits and administrative complaints regarding policy implementation, the mandatory features of the VRT were abolished, and only the voluntary elements were maintained. This first phase of school desegregation in Seattle lasted until 1976 and had mixed results (Parents, Brief for Respondents, No. 05-908, 2006).

The Second Phase of School Desegregation in Seattle

In response to the dismantling of the mandatory assigning of Black students to White schools, which contributed to the overall lack of success in integrating the city’s schools, the Seattle school board adopted the “Seattle Plan” in 1977 (Parents, Brief for Respondents, No. 05-908, 2006). Larger in scale than the VRT program, the Seattle Plan used attendance zones to pair or “triad” elementary schools in African American neighborhoods with elementary schools in predominately White communities (Dumas, 2007; Kohn, 1996). Under the plan, African American students were to be placed or transferred to a White elementary school’s Grades 1 to 2, and another White elementary
The Third and Final Phase of School Desegregation in Seattle

As an attempt to deter White flight from the city’s public schools and assuage their feelings of being forced to integrate, along with allaying Black Seattlites’ concerns that they were paying the bulk of the human and institutional costs of busing, the Seattle school board created the Open Choice Plan to integrate area schools (Parents, Brief for Respondents, No. 05-908, 2006). Under the Open Choice Plan, the district terminated its attendance-zone method of placing students along with “racial targets” and enrollment caps (Parents, Brief for Respondents, No. 05-908, 2006). According to the Open Choice Plan, families in the region could select any high school in the district to enroll their child (Parents, Brief for Respondents, No. 05-908, 2006).

Under Open Choice Plan, students ranked their enrollment preference of the district’s 10 public high schools. When too many students selected a particular high school, the district used a series of tiebreakers to place students. The first tiebreaker was a siblings priority (Parents, Brief for Respondents, No. 05-908, 2006). Meaning, a student with a sibling in a selected high school was given priority because the district believed that students who attended school with their sibling encouraged parental engagement (Parents, Brief for Respondents, No. 05-908, 2005). The second tiebreaker was geographic proximity. In this instance, the district accorded placement priority to students who lived close to their preferred schools. Similar to the sibling tiebreaker, the district asserted that parents with children attending schools close to home are more likely to develop long-term partnerships with teachers.
The third tiebreaker of the Open Choice Plan was the “integration tiebreaker” (*Parents*, Brief for Respondents, No. 05-908, 2006). According to the school district, when an over-subscribed or over-selected school’s student enrollment deviated by “15 percentage points,” plus or minus, from the district’s overall student demographic composition, a student’s race was considered in determining pupil placements (*Parents*, Brief for Respondents, No.05-908, 2006). The district used the integration tiebreaker only when the particular high school became racially homogenous (*Parents*, Brief for Respondents, No. 05-908, 2006; Seattle Public Schools, 2007). It is important to point out that disaffected families could have their child’s placement assignment overturned if they were able to demonstrate that the school district misapplied the integration tiebreaker’s rules or that their child suffered a “psychological hardship” or “medical need” that precluded him or her from attending a nonneighborhood high school (*Parents*, Brief for Respondents, No. 05-908, 2006, p. 7).

**The Ruling: What the Supreme Court Heard**

Decided by a 5-to-4 margin, the U.S. Supreme Court in *Parents v. Seattle School District No.1* declared that the district’s integration tiebreaker was unconstitutional (*Parents v. Seattle School District No.1*, 2007, 127 S. Ct. 2738). Citing the prospective harm to students and injuries to their families resulting from denial of admission to the school of their choice, the Supreme Court ruled that the district’s use of race as a categorical variable in assigning students to oversubscribed schools was “fatally flawed” (*Parents v. Seattle School District No.1*, 2007, 127 S. Ct. 2738, Section II, p. 15, ¶ 3). According to the COURT’S majority, the Open Choice Plan’s integration tiebreaker “works backwards” toward achieving student racial diversity, instead of “working forward from some demonstration” that diversity provides an educational benefit to all students (*Parents v. Seattle School District No.1*, 2007, 127 S. Ct. 2738, Section II, p. 15, ¶ 4).

To the court, the district’s policy on integration does not have a “logical stopping point” (*Parents v. Seattle School District No.1*, 2007, 127 S. Ct. 2738, Section II, p. 15, ¶ 4). Meaning, that if the racial composition of the Seattle metropolitan area were to shift, the district would be compelled to continue considering race in assigning students to the city’s most-sought-after public high schools. In the Supreme Court’s view, allowing the district to use race categorically in pupil assignments would “effectively assure that race will always be relevant in American life” (*Parents v. Seattle School District No.1*, 2007, 127 S. Ct. 2738, Section II, p. 16, ¶ 1).
In a separate concurring opinion, Justice Clarence Thomas wrote that the Seattle School Board did not “have [an] interest in remedying past segregation” (Parents v. Seattle School District No.1, 2007, 127 S. Ct. 2738, Section II, p. 25, ¶ 1). Because the Seattle school district has never been subjected to federal court orders to integrate area schools, it cannot proactively use race to ameliorate inequalities in opportunity, access, or according to Justice Thomas after experience. For Justice Thomas and the court’s majority, school segregation is the product of government policies and individual action purposely intended to separate students “solely on the basis of race” (Parents v. Seattle School District No.1, 2007, 127 S. Ct. 2738, Section II, p. 25, ¶ 1). Therefore, upholding the Seattle school district’s integration tiebreaker as constitutional would purportedly “give school boards a free hand to make decisions on the basis of race—an approach reminiscent of that advocated by the segregationist in Brown v. Board of Education, 1954” (Parents v. Seattle School District No.1, 2007, 127 S. Ct. 2738, Section II, p. 25, ¶ 1).

Whose Compelling Interest?
The Supreme Court’s decision in Parents v. Seattle School District No.1 is shortsighted and misleading. In referencing Brown I 1954 to support its decision, the Supreme Court equates the prospective harm and injuries White Seattleites might incur from being denied their choice to the legacy of racial subordination and marginalization people of color have disproportionately experienced in the United States. This analytical link at first glance appears logical; however, a more critical examination of the court’s rationale reveals that its reference to Brown v. Board of Education (a) whitewashes the significance of race as a life-opportunity construct and the legacy of racism and racial inequity, and (b) absolves Whites of responsibility for creating, maintaining, and dismantling a society designed to advance their social, political, and economic advantage over the needs and interests of non-Whites. Furthermore, by articulating that the Seattle school district failed to demonstrate a “good faith” effort to integrate its schools through “race-neutral alternatives,” the Supreme Court in Parents v. Seattle School District No.1 neutralized Whites and stigmatized people of color (Parents v. Seattle School District No.1, 2007, 127 S. Ct. 2738, Section II, p. 20, ¶ 1).

The suggesting of race-neutral alternatives within the context of school desegregation decontextualizes the sociopolitical realities of education, families, and students, respectively and connectively. A discursive tool of the colorblind approach to law and social policy, race-neutral alternatives frame inequality and equality according to race in narrow terms (Crenshaw, 1997a-b).
Under the colorblind paradigm, racial equality is achieved through the “formal removal of race” as a social category altogether (Crenshaw, 1997a, p. 103). As a result, society is transformed into a space occupied by atomistic individuals whose actions and existence are without historical continuity or reference and institutions that treat everyone identically (Freeman, 1978). Not only is race removed as a source of identity and analysis, but because Whites are the ruling majority in the United States, they are able to select a racial identity that affords them equal claim to protection against discrimination as racial minorities (Freeman, 1990).

This cognitive fluidity, coupled with the acontextualization of the interplay between race, opportunity, and the distribution of society’s resources and opportunities, causes the majority of Anglo-Americans to argue for the application of colorblind and race-neutral approaches in pupil placement assignment policy (Lively, 1989; López, 2006a-b, 2007; powell, 1995, 1997, 2000). Moreover, it allows Whites to maintain their “possessive investment” status quo (Lipsitz, 1998). For example, despite being the site for the historic legal case, the Topeka Board of Education sought to limit Brown I’s 1954 capacity. Using racially coded terms such as “freedom of association” and the “right to be free from compulsory integration” to protect local Whites interests in avoiding integration, the Topeka school board framed school desegregation discourse as a set of competing values and interests (Dudziak, 1987).

According to constitutional scholar Mary Dudziak,

The idea of competing values provided [board members] a way of talking about interests in avoiding integration in language other than the language of racism and recalcitrance. . . . The focus on liberty also enabled board members to restrict their field of vision on the question of segregation to the actions they engaged in, and not to the results those actions achieved” (p. 389)

Public school integration for most Whites continues to be troubling for two reasons. First, many personally harbor concerns about interracial dating and miscegenation (Patterson, 2001). Second and more important, integration disrupts the “durability of White supremacy and therefore about their ability in the long run to maintain their social and economic superiority over people of color” (Patterson, 2001, p. 88).

Consider Southern Whites’ reaction to the Brown decision of 1954 by insisting upon freedom-of-choice plans to desegregate public schools (Donnor, 2009; Guthrie & Springer, 2004; Patterson, 2001). In theory, freedom-of-choice plans were intended to allow Black and White parents equal opportunity to
send their children to the school of their choice (Crespino, 2006; Donnor, 2009; Ogletree, 2004). In practice, however, freedom-of-choice plans shifted the responsibility of public school integration onto African Americans because Blacks had to apply for admission to White schools, and White parents “almost never” chose not to enroll their children at African American schools (Kotlowski, 2005, p. 172). As a result, the pace of school desegregation was not only slow but, for almost a decade after Brown v. Board of Education 1954 and Brown v. Board of Education 1955 (Brown II 1955), “not a single black child attended an integrated public grade school” in South Carolina, Alabama, or Mississippi (Klarman, 1994, p. 84).

Since the mid-1970s, the majority of winning plaintiffs in racial discrimination lawsuits have been White (Kairys, 2004). The Supreme Court’s decisions in these cases have been nothing short of a role reversal where Whites are the victims and people of color are the discriminators (Kairys, 2006). In contrast to the petitioners in Brown I 1954 who challenged racial discrimination on basis of underinclusion and facility inadequacy, the discrimination claims articulated by Whites are rooted in a discourse emphasizing their loss of the absolute right to avoid or exclude people of color (Harris, 1995; Mahoney, 2003). Appropriating the political language and discourse of the Civil Rights Movement era, organizations such as PICS in latter part of the 20th century and beginning of the 21st century have defined Whites as the victims of legislation of this epoch.

In contrast to a more nuanced conception of racial discrimination, which requires an examination of structural conditions and life experiences that are shaped by a dynamic interplay between macro- and micro-level forces, the Supreme Court through the strict scrutiny standard used a perpetrator perspective of racial discrimination to affirm the privileges and advantages associated with being White (Freeman, 1978). Central to the perpetrator perspective is the “principle of individual or institutional fault,” which according to Freeman, “creates a class of ‘innocents’, who need not feel any personal responsibility for the conditions associated with discrimination” (Freeman, 1978, p. 1055). What this means is, unless a particular instance of racial discrimination or racism can be directly linked to a specific or ongoing intentional act perpetrated by an individual or institution, attempts to promote racial justice are viewed as discrimination in reverse (Black, 2002, p. 929; Freeman, 1978; Lawrence, 1976; McCristal Culp, 1994).

Therefore, what the Supreme Court in Parents v. Seattle School District No. 1 chose to ignore in its decision was that during the 2000-2001 academic school year, the only year the integration tiebreaker was used, “80.3%” of the total number of ninth graders were assigned their first choice of school
compared to “80.4%” when the tiebreaker was not utilized (Parents, Brief for Respondents, No. 05-908, 2006, p. 9). In other words, the percentage of ninth graders receiving their first choice of schools would have increased by one tenth of a percentage point without the integration tiebreaker.

In addition, the high court failed to consider that, in contrast to the overt practices of racial subordination and marginalization used in the South Whites in Seattle engaged in subtler forms of racism (Taylor, 1995). For example, during the region’s economic boom of the 1960s, the unemployment rate for African Americans was “triple the rate for the entire city, and a full percentage point above the Black unemployment rate nationally even though 148,000 new jobs had been created in the past 18 months” (Taylor, 1995, p. 2). Between the large surplus of White laborers and local employment agencies steering of African Americans toward jobs in the service sector, occupational mobility for African Americans in Seattle was limited. In the housing market, approximately 80% of Seattle’s African American residents lived in only 4 of the city’s 110 census tracts in 1960 (Taylor, 1995, p. 3). Housing discrimination in Seattle was the product of covert racist practices, such as restrictive covenants among White homeowners, redlining by banks, and blockbusting realtors (Taylor, 1989, 1995). Subsequently, the confluence of White indifference toward Black inequality and racial discriminatory practices in the employment and housing sectors resulted in the de facto racial segregation of Seattle’s public schools.

Perhaps most perplexing about the Supreme Court’s decision in Parents v. Seattle School District No. 1 was its decision to overturn precedent. In Washington v. Seattle School District No. 1 (1982), also an antidesegregation lawsuit filed by an organization comprised of White families, the Supreme Court decreed that the statewide antiintegration bill Initiative 350 “uses the racial nature of an issue to define the governmental decisionmaking structure, and thus imposes substantial and unique burdens on racial minorities” (Washington v. Seattle School District No. 1, 1982, 458 U.S. 457, p. 14). According to the bill, a student could only be assigned to a school outside his or her neighborhood “if [s/he] requires special education, care or guidance, or if there are health or safety hazards either natural or man made, or physical barriers or obstacles . . . between the student’s place of residence and the nearest or next school, or if the school nearest or next nearest to his [or her] place of residence is unfit or inadequate because of overcrowding, unsafe conditions or lack of physical facilities” (Washington v. Seattle School District No. 1, 1982, 458 U.S. 457, p. 10).

Under Initiative 350, busing as a method integration was permitted only to achieve “racial balance” or correct instances in which the total non-White
student enrollment for a specific school “exceeds the district wide combined average by 20 percentage points, provided that the single minority enrollment . . . of no school will exceed 50 percent of the student body” (Washington v. Seattle School District No. 1, 1982, 458 U.S. 457, p. 9). School desegregation would occur under the most restricted circumstances. However, the U.S. Supreme Court determined that the bill must “fall because it does not attempt to allocate governmental power on the basis of any general principle” (Washington v. Seattle School District No. 1, 1982, 458 U.S. 457, p. 14).

I argue that what the Supreme Court heard Parents v. Seattle School District No. 1 was White families saying “[w]e’ve done enough” regarding school desegregation in addition to recognize the shrinking “geographies of opportunity” in the postindustrial economy (Briggs, 2005a-b; powell, 1997; Tate, 2008; Tushnet, 1996). According to the social science literature, race and class are not only proxies determining the quality of one’s life chances when coupled with school and neighborhood capacity, are key long-term indicators one’s quality of life including employment options, safety, and environmental health (Tate, 2008). To put it more succinctly, racial inequality in education matters to the Supreme Court when the victims are White. Hence, options for families of color in order to secure a quality public education for their children through desegregation are limited at best and futile at worse (Bell, 2004, 2007).

Discussion

Despite the Supreme Court’s ruling, race remains essential in the effort to provide students of color a quality public education. As it relates to place, capacity, and opportunity, race is a useful diagnostic tool for assessing and promoting educational equity (Guinier & Torres, 2002). Specifically as an instrument of proportional measurement to examine the interrelationship issues of access, including the distribution of educational resources and opportunities, race is a useful approach because it is not only historical but also continuous, reflexive, and relational. Given that social inequality and racial discrimination in the 21st century occurs through a “subtler series of screens” than de jure methods deployed during the 19th and 20th century, respectively, improving the educational fortunes of students of color requires a historical point of view, as well as a sociopolitical understanding of public education including its connections to shifts in the U.S. political economy (Holt, 1995; Katz, Stern, & Fader, 2005, pp. 76-77; O’Connor, Lewis, & Mueller, 2007; Omi & Winant, 1994).

Because many of the concerns and problems facing students of color in education and society are not new, contemporary responses must reference history to avoid inaccurate descriptions and incomplete solutions. Used as a
method of comparison, racial history links the past to the present by allowing for a comprehensive understanding of trends and patterns, including how and why conditions have changed or remained constant over time (Katz, 1993). For example, a key component in the “historical continuities and discontinuities” of racial inequality in the American public education system is the “distribu-
tional processes” (i.e., school funding arrangements), which are the most durable over time (Walters, 2001, p. 36). According to Walters,

The system of distributing education that is in place at any given time is the product of the past: The institutional mechanisms available to the state to implement change, available to threatened groups to resist change, and available to disadvantaged groups to foment change are constrained in critical respects by policy decisions made in earlier periods. State policies instituted in one era, even for egalitarian purposes, may work at cross-purposes to equalizing attempts in later periods. (p. 36)

Race used historically requires one to think holistically and continuously about inequality in education. Moreover, given that students of color, (especially African Americans), schools and opportunities are enmeshed within a particular set of discourses, processes, and hierarchies regarding purpose and functionality, existing structural arrangements, collective outcomes, and disparities must be viewed as products of a cumulative interrelationship between competing ideologies, institutions, and human behavior (Apple, 1995; Mickelson, 2003).

A paradox of inequality in the current political economic context is the “coexistence of structural rigidity with individual and group fluidity” (p. 77). The continuance of structural inequality in conjunction with individual and group mobility “highlights the limitations of policies that focus only on access to education without addressing the factors that structure and reproduce inequality” (Katz et al., 2005, p. 107). In short, inequality in education is contextual according to race, place, and time, which the Supreme Court failed to consider in Parents v. Seattle School District No.1.

Conclusion

The issue moving forward for policy makers and scholars concerned with ensuring students of color equitable access to quality opportunities to learn is not to reconcile the gaps in the Supreme Court’s logic in Parents v. Seattle School District No. 1. As I have tried to explain in this article, Whiteness and White privilege are powerful devices that shift in order to maintain the status
As discursive constructs, *Whiteness* and *White privilege* frame policies and practices intended to expand and the improve the life chance for members of historically marginalized communities as unfair to people of Western-European descent. Going forward, the Supreme Court’s decision in *Parents Involved in Community Schools v. Seattle School District No.1* should be seen as only reaffirming such policies and practices.

Derrick Bell (1992), an American constitutional scholar and former attorney for the National Association for the Advancement of Colored People (NAACP), suggests that school desegregation was the result of a convergence of competing interests in which the rights of African Americans to attend schools that were equal to Whites was legitimated only when it furthered the political economic interests of the dominant class and society’s governing institutions during the Cold War with Russia. Rather than reconcile the fundamental discrepancy, state-sanctioned racism and racial discrimination presented constitutionally, the court’s decision to break with the separate-but-equal precedent of *Plessy v. Ferguson* (1896) in *Brown v. Board of Education*, was nothing more than a U.S. foreign policy strategy.

Thus, though school desegregation as a policy affirmed African Americans’ right to equal treatment before the law, structurally it accomplished very little. From its inception, school desegregation was intended to be more symbolic than substantive. As the Supreme Court’s verdict in *Parents v. Seattle School District No. 1* reveals the power of Whiteness and White privilege is endless.

**Author’s Note**

Initiative 350 was a ballot measure put forth to residents of Washington State to prohibit the “unnecessary busing of students” on November 7, 1978, which was approved, but ultimately overturned by the U.S. Supreme Court. Initiative 350 was filed on February 10, 1978 by Ben Caley. 182,882 signatures were submitted to qualify I-350 for the ballot.

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References


Plessy v. Ferguson, No. 210, 163 U.S. 537 (1896).


Bio

Jamel K. Donnor is an assistant professor in curriculum and instruction in the School of Education at the College of William and Mary. His research interests include examining race in education and society as it relates to theory, policy studies, and the experiences of African American males throughout the K-16 education pipeline.