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How the Brown ruling led the way

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Today marks the 50th anniversary of the US Supreme Court's 1954 ruling on racial desegregation, known as *Brown v Board of Education*. The case is both the most famous and most important judicial decision in US history. The judgment began the very slow racial integration of state schools across the US south, where segregation of the races in most aspects of daily life had prevailed since the end of slavery in the 1860s. The case also supplied crucial inspiration to African-American activists who campaigned successfully for the elimination of other forms of officially-sanctioned legal racism during the 1950s and 1960s.

But *Brown* brought far greater change to America than simply ending racial segregation. It launched a 50-year phase in which the US Supreme Court has ordered revolutionary changes in many other aspects of life. The elimination of "rotten boroughs" - blatantly unequal electoral boundaries - in the "one man, one vote" political districting cases of the 1960s; the legalisation of a woman's right to abortion in the 1973 case, *Roe v Wade*; and the striking down last year of sodomy laws aimed at homosexuals were all rulings that followed directly in *Brown's* footsteps. In the US and elsewhere, *Brown* signifies how courts and judges in general should protect fundamental rights whenever majority tyranny deprives disfavoured or unrepresented people of equal treatment under the law.

In America, much commentary now about the *Brown* case is surprisingly dismissive. Such laments come not from conservatives, who today embrace *Brown* as symbolising the "colour-blind" approach to public policies they advocate, but from African-American and liberal intellectuals, who complain that racial equality is still far from a reality for many Black Americans. These denigrations of *Brown* strike a sympathetic chord with many liberals. Not only did the desegregation of southern public schools proceed very slowly in the 15 years following *Brown*, but the Supreme Court stopped short of requiring racial integration in the large cities of the North and Midwest, where racially distinct schools were the result of housing patterns and administrative policies rather than of explicit state laws.

As a result, many American children today still receive superior education in predominantly white classrooms - and decidedly inferior instruction in exclusively black schools. By many statistical measures, US public schools are less racially integrated now than in the 1970s, when court cases seeking aggressive enforcement of *Brown* were most widespread. Liberal commentators blame this sad regression on conservative judges appointed by Republican presidents, but partisan complaints mask two social problems that loom larger than schoolroom inequality.

Notwithstanding the two landmark civil rights laws the US Congress enacted 10 years after *Brown*, which mandated the elimination of racial segregation and discrimination from almost all aspects of daily life, racial inequalities remain widespread in the US. This is largely due to

longstanding economic differences that anti-discrimination laws have not altered. Housing patterns, also, remain highly segregated in most US urban and suburban neighbourhoods, presenting a big obstacle to greater integration of local schools.

In addition, many US school districts have experienced financial crises in recent years. US state education is locally rather than centrally funded, and district-level funding disparities play a large and growing role in the educational inequalities. Proponents of educational equality have tried to win judicial orders mandating equitable funding in many states, but their success is mixed, at best.

Brown v Board of Education thus did not eliminate all racial disparities from US state schools. Nor did it ensure equal standards of education for students. But while left-liberal dismissal of *Brown's* impact is not wholly erroneous, belittling the importance of the ruling is more dangerous than most commentators possibly appreciate. That is because *Brown* stands for judicial reform of unjust government practices just as much as it represents a clarion call for racial equality. The *Brown* judgment was a powerful indictment of racism - and *Brown's* declaratory force propelled the US Supreme Court toward a series of rulings in which the justices likewise combined moral exhortation and legal analysis to order big reforms in daily life.

Baker v Carr is a 1962 Supreme Court decision few Americans can identify. Yet, Earl Warren, the US chief justice and author of *Brown*, always named the *Baker* judgment - which began the redistribution of legislative power from rural "rotten boroughs" to previously under-represented but densely populated metropolitan areas - as the most important decision of his tenure, not *Brown*. Many American legislators of the 1960s wholeheartedly agreed.

Roe v Wade, the 1973 ruling that legalised women's access to medically safe abortions, is almost as famous as *Brown*. When the Supreme Court reaffirmed *Roe* in a 1992 decision named *Planned Parenthood v Casey*, the controlling opinion included a lengthy analysis of the similarities between *Brown* and *Roe*, a discussion that highlighted how the justices themselves viewed *Brown* as the reigning precedent for the judicial resolution of highly contentious legal battles.

Nowhere has *Brown's* importance for the present-day Supreme Court been more readily visible than on the question of gay rights. Eight years ago, in a case called *Romer v Evans*, the Supreme Court for the first time vindicated the rights of gays and lesbians to equal treatment. Then, last June, in *Lawrence v Texas*, the Court issued an outspoken decision voiding all remaining US sodomy laws. The *Lawrence* opinion explicitly decried government hostility toward gays and opened the door to full legal equality for homosexuals - just as *Brown* did for African-Americans. Just five months later, the top court in the state of Massachusetts legalised gay marriages, a ruling that appropriately takes effect today, on *Brown's* 50th anniversary.

Around the world and in the US, *Brown* thus represents not only the fundamental human equality of people of all races; it also stands for how judicial power can and should thwart majority tyranny and government violation of basic human rights.

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