Brown at 65: How Does the Changing Racial and Ethnic Ancestry of Blacks Impact the Interpretation of School Desegregation

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Kevin D. Brown*

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INTRODUCTION

Supreme Court opinions like *Brown v. Board of Education (Brown I)* reveal their consequences and yield their secrets only with the passage of time and the development of American society. The Supreme Court candidly recognized this reality seventeen years after it delivered its opinion in *Brown I* in *Swann v. Charlotte-Mecklenburg Board of Education*, where it both placed the obligation on school boards to achieve the maximum amount of desegregation possible and approved school busing as means to do it: "Nothing in our national experience prior to 1955 prepared anyone for dealing with changes and adjustments of the magnitude and complexity encountered since then." At the time the Court delivered its *Brown I* opinion, people of African descent were called Negroes or colored out of respect and were called coon, darkie and even black as an insult. Neither America nor her descendants from Africa lived through the Civil Rights Movement, the Black Consciousness Movement, the Desegregation Era, the Multicultural Movement, the Diversity Movement, or the Post-Racial Era. The Court’s opinion in *Brown I* preceded passage of the Civil Rights Act of 1964, the most sweeping civil rights legislation in the country’s history, by a decade. It also preceded by eleven years the Voting Rights Act of 1965 that secured the right to vote for most blacks living in the South, where the majority of them still resided. And it was not until 1968, in the Court’s opinion in *Green v. New Kent County*, that the Court’s patience with the slow pace of desegregation ran out and the Court ordered offending school districts to desegregate immediately.

Sixty-five years have now passed since the Supreme Court rendered its historic opinion on May 17, 1954. This passage of time allows us to put perspective into a reexamination of the opinion that launched American society into the Desegregation Era and became the catalyst for astonishing

3. See Gary D. Sandefur et al., *An Overview of Racial and Ethnic Demographic Trends*, in 1 AMERICA BECOMING: RACIAL TRENDS AND THEIR CONSEQUENCES 50 tbl.3-1 (Neil J. Smelser et al. eds., 2001) (showing the percentage of blacks in the South to be 59.94% in 1960 and 53.01% in 1970).
5. *Id.* at 439–42.
changes not only in public education but also in race and ethnic relations throughout American society. In brief, Americans today live in a society that has been fundamentally altered by the changes sparked by Brown I. Many of the changes in race relations that have occurred since 1954 can accurately be described as stunning. The story of school desegregation is a familiar one; it is primarily a story about its rise and subsequent fall. Therefore, sixty-five years later, if one limits their consideration of the impact of Brown I to the desegregation of public schools, the ultimate conclusion will be disappointing. If, however, we can agree that one of the most important objectives of school desegregation was as a means in which to produce a more integrated society, then there are ways to determine Brown I's success with respect to this goal other than focusing on racial integration regarding school attendance. Surely more intimate forms of integration, such as the increase in interracial dating and marriage, should be considered. Perhaps the most comprehensive form of integration is the production of black biracial children. This is race mixing at its very core.

At the time of the Court’s opinion in Brown I, American society used the one-drop rule—meaning any black blood made a person black—as the primary way to determine a person’s race. Due to the fact that over approximately 99.4% of Americans were classified as either black or white, a person’s race was generally apparent when they were present. Thus, racial identification was a socially ascribed personal characteristic. As a result of these factors, at the time of the Court’s decision in Brown I, there were no “black multiracial.” However, since Brown I, the massive immigration of people of color has radically changed the face and complexion of American
society.9 It is no longer possible to reliably determine the race of a given person based on appearance. Due primarily to advocacy by multiracial individuals and groups, since the 2000 census, collection and reporting of racial and ethnic data to the federal government no longer requires the designation of only one racial category.10 Rather, it allows individuals to self-designate all of the racial categories that apply to them.11 These changes by the federal government have had ripple effects throughout American society because they also apply to forms used by employers subject to civil rights laws, educational institutions, and others who have to collect and report racial and ethnic data to the federal government. Thus, the past two decades have witnessed the emergence of black multiracials.

Given the increasing percentages of blacks under the age of eighteen who are multiracial,12 within a decade that percentage will likely approach the percentage of blacks attending majority-white schools today. Even if we take no normative position on how to judge this reality, it is important enough to note its existence because it represents the type of change that "[n]othing in our national experience prior to 1955 prepared anyone for dealing with changes and adjustments of the magnitude and complexity encountered since then."13

This essay will assert that one of the most important goals of Brown I was to break down racial barriers in order to generate a more integrated American society. From that standpoint, the surprising increase in the percentage of blacks that are black multiracials is an important and enduring success that should also be attributed to Brown I. Furthermore, as the percentage of blacks who are multiracial increased, America also encountered another new phenomenon impacting its black population: the increasing percentage of blacks who are foreign-born. As one can easily imagine, at the time of Brown I, the United States was not the preferred

11. Id.
destination of foreign-born blacks. Foreign-born blacks accounted for less than 1% of the black population.\textsuperscript{14} Today, foreign-born blacks constitute nearly 1 in 10 blacks, and if we count black children with a foreign-born parent, they now make up almost 1 in 5 blacks in the country.\textsuperscript{15} By definition, foreign-born blacks are not descendants of those blacks whose ancestors suffered through America’s history of slavery and legal segregation. Arguably, by not considering the ancestry of black students when desegregating under \textit{Brown I}, we are comparing apples to oranges. In short, the changing racial and ethnic ancestry of blacks in the United States suggests that school desegregation may have been far more successful in integrating America’s black school children of the time and their descendants than we typically give school desegregation credit.

Part I of this essay will briefly discuss the rise and fall of school desegregation. It will talk about some of the major pieces of congressional legislation as well as Supreme Court opinions of the 1960s and early 1970s that helped to spur the advance of school desegregation. Then this essay will turn to the Supreme Court decisions that slowed the advance, eventually halted, and then reversed the desegregation of America’s public school students. Thus, by 1990, “we [had] already seen the maximum amount of racial mixing in public schools that will exist in our lifetime,”\textsuperscript{16} if not in all of American history. Those cases also created the current jurisprudence regarding the interpretation of the Equal Protection Clause that will make it difficult for public school authorities to reverse the continuing resegregation of public schools.\textsuperscript{17} Even if the political will for a massive new effort to integrate America’s public school students could be summoned, a proposition in today’s political climate that is dubious at best, and federal court deference extended to such efforts, the declining percentages of white

\textsuperscript{14} In 1960, the 125,000 foreign-born blacks made up about 0.7% of the black population. CAMPBELL GIBSON \& EMILY LENNON, U.S. CENSUS BUREAU, TABLE 8: RACE AND HISPANIC ORIGIN OF THE POPULATION BY NATIVITY: 1850 TO 1990 (1999), https://www.census.gov/population/www/documentation/twps0029/tab08.html.


\textsuperscript{17} See id.
students in public schools makes it unlikely that substantial progress in increasing the number of blacks attending majority white schools would occur. For those more familiar with the rise and fall of school desegregation, I would implore you to skip directly to Part II. Part II will discuss the rise of black multiracials.

At the time of the Court’s decision in Brown I, over thirty states continued to ban whites from intermarrying with blacks. By 2017, however, about 15% of married black men married outside of their race, with about three-fifths of them married to white women. And 7% of married black women married outside their race, with four of the 7% married to white men. However, interracial marriages make up a much larger percentage of new marriages by blacks than existing marriages. In 2015, 24% of black men who married, married outside the race and 12% of black women. These tend to be marriages of young people who are in the prime of their reproductive years. As a result, according to 2018 census figures, black multiracials now make up 8.5% of the black population. But, the younger people are, the more likely they are to be mixed race. For black children who are currently between the ages of four and eight, over 20% are multiracial.

As the percentage of blacks who were multiracial was increasing, so were the percentage of blacks who were foreign-born. Currently, our thinking about school desegregation has followed the “all blacks are alike” approach. Even if most Americans draw no distinction between the blacks who are descendants of slaves brought to the U.S. as part of the Trans-

21. Id.
23. Id. at 18.
24. See infra note 178 and accompanying text.
25. See infra note 181 and accompanying text.
Atlantic Slave Trade and the recent black immigrants from the Caribbean or Africa, surely the foreign-born blacks recognize there is a difference. Growing up outside of the United States in a predominately black country, as the overwhelming majority of foreign-born blacks did,\textsuperscript{27} necessarily creates a different impression of America's racial history. Part III will discuss the changing ethnic ancestry of blacks. Part IV will discuss the impact of the changing racial and ethnic ancestry of blacks to how we think about school desegregation.

\textbf{I. RISE AND FALL OF SCHOOL DESEGREGATION}

This part will briefly address the rise and fall of school desegregation, including the impact of some of the more significant pieces of congressional legislation and Supreme Court decisions. The first section will discuss how school desegregation began and its rise through the 1980s. School desegregation was primarily the result of Supreme Court opinions, but what the Court giveth, the Court can take away. The second section will discuss the fall of school desegregation. In doing so, it will discuss a few of the most important Supreme Court decisions that halted the rise of school desegregation and led to the resegregation of public schools that has been going on for the past three decades.

\textbf{A. The Rise of School Desegregation}

The national story of school desegregation is one that is often recounted. In \textit{Brown I}, the Supreme Court struck down the segregation statutes of seventeen states and the District of Columbia.\textsuperscript{28} After taking the bold step of striking down school attendance statutes that covered approximately 40\% of the nation's school children,\textsuperscript{29} the following year the Court issued a somewhat conservative implementation decision in \textit{Brown II}.\textsuperscript{30} In remanding the cases to the lower courts, Chief Justice Warren noted

\begin{itemize}
\item \textsuperscript{27} Id. (stating that 88\% of foreign-born blacks living in the United States are from predominantly black countries in the Caribbean and Africa).
\end{itemize}
that the full implementation of the constitutional principles discussed in *Brown I* required varied solutions to local school problems.\textsuperscript{31} He went on to instruct the district courts overseeing these school districts to "take such proceedings and enter such orders and decrees consistent with this opinion as are necessary and proper to admit to public schools on a racially nondiscriminatory basis *with all deliberate speed* the parties to these cases."\textsuperscript{32} The Court's *Brown* decisions, however, were met with massive resistance in many states of the former Confederacy.\textsuperscript{33} As a result, not much desegregation occurred in that region during the first decade after *Brown I*. By 1964, only 2% of the black school children in these states attended schools with whites,\textsuperscript{34} there were virtually no black teachers or administrators in the historically white schools, and there were virtually no white teachers or administrators in the historically black schools.\textsuperscript{35}

A period of increasing school desegregation occurred from the mid-1960s to the mid-1970s. Several major developments substantially quickened the pace of school desegregation. Congress passed the Civil Rights Act of 1964.\textsuperscript{36} One provision of the Act authorized the Attorney General to intervene in or to initiate school desegregation litigation.\textsuperscript{37} With the enormous resources of the federal government being brought to bear on local school districts throughout the country, the pace of school desegregation lawsuits quickened.\textsuperscript{38} Another provision of the Civil Rights Act of 1964—Title VI—banned discrimination in all federally-aided programs.\textsuperscript{39} The

\begin{itemize}
\item \textsuperscript{31} *Id.* at 299.
\item \textsuperscript{32} *Id.* at 301 (emphasis added).
\item \textsuperscript{33} U.S. COMM'N ON CIVIL RIGHTS, *supra* note 37, at 45–46.
\item \textsuperscript{34} *Id.* at 46.
\item \textsuperscript{36} U.S. COMM'N ON CIVIL RIGHTS, *supra* note 37, at 11–12.
\item \textsuperscript{37} *Id.*
\item \textsuperscript{39} 42 U.S.C. § 2000d (2018) ("No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied
Secretary of Health, Education, and Welfare (HEW) was empowered to deny federal funds to any school district found in violation of this provision. At the time the Act was passed, however, federal aid to public education was insignificant. Federal and state governments considered education and its funding as primarily an obligation of state and local governments. However, a year later, Congress passed the Elementary and Secondary Education Act of 1965. This Act provided funds for remedial assistance in reading and math to schools with a disproportionate number of economically-disadvantaged children. Because of the poverty that existed in the Deep South, a large portion of this funding was earmarked for the states that had resisted school desegregation the most. In order to be eligible to receive these funds, however, school systems had to comply with HEW guidelines as to what constituted a non-discriminatory school system. This pot of money provided an additional incentive for school systems to desegregate.

the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

40. See U.S. COMM'N ON CIVIL RIGHTS, supra note 37, at 11–12.
42. See Kaestle, supra note 50, at 18 (outlining historical bases for this phenomenon, including political resistance to desegregation, equalization, and federal overspending, combined with political activism by parochial schools and higher education, who saw increased federal support for primary and secondary education as a threat).
44. See id.
45. See U.S. COMM'N ON CIVIL RIGHTS, supra note 37, at 16 (“[O]n balance it is clear that with the use of the guidelines and threatened or actual cut-off of Federal funds, desegregation increased for 5 years after passage of the 1964 Civil Rights Act, especially in the South.”).
46. See id. at 12, 18 (noting that even this enforcement mechanism proved ineffective because HEW would allow states to desegregate by merely lifting mandatory segregation laws and allowing freedom of choice “at the earliest practicable date.”).
In addition to congressional action, in its 1968 decision in *Green v. New Kent County School Board*, the Supreme Court indicated that its patience regarding school desegregation had run out. The Court read *Brown I* and *Brown II* as imposing a duty on school boards to immediately take affirmative steps to convert to a unitary system in which racial discrimination would be eliminated, root and branch. Three years later, the Supreme Court finally articulated the appropriate limit of the duty to desegregate a school system. In *Swann v. Charlotte-Mecklenburg Board of Education*, the Court not only approved busing as a means in which to desegregate the schools, it also placed the obligation on school boards to achieve the maximum amount of desegregation possible.

The impact of the above congressional acts and Supreme Court decisions on racial integration in public schools was dramatic and immediate. By the 1968–1969 school year, 23.4% of black students attended majority-white schools nationwide, and in the 1972–1973 school year, this percentage had increased to 36.4%. It reached its all-time high of 37.1% in the 1980–1981 school year. Also, in the 1968–1969 school year, 64.3% of black students were in hyper-segregated schools, ones where 90% or more of the student body was minority. But that percentage decreased to 38.7% four years later. This figure continued to decrease through the 1970s to the mid-1980s, reaching its lowest point of 32% in 1988. Desegregation was even more rapid and pronounced in the South. In 1967, only 13.9% of black

48. *Id.* at 437–38.
50. *Id.* at 13.
52. *Id.*
53. *Id.*
54. *Id.*
students attended majority-white schools; but by 1972, that figure had jumped to 36.4%, and it reached its maximum in 1988 of 43.5%. Also, the percentage of southern blacks in hyper-segregated schools decreased from 77.8% in 1968 to 23% in 1980.

B. The Fall of School Desegregation

After issuing opinions requiring school districts to aggressively pursue desegregation, the Supreme Court’s commitment to the project began to wane. In its 1973 decision in *Keyes v. School District No. 1*, the Supreme Court, for the first time, addressed a desegregation case from a state that did not segregate students pursuant to a state statute in 1954. Thus, the Court had to decide when segregation in public schools violates the Equal Protection Clause in the absence of state statutory authority. Unlike de facto segregation, which could be established by showing racial concentration of students in the public schools, de jure segregation was a “current condition of segregation resulting from intentional state action directed specifically to [segregate schools].” Some thought that the Supreme Court would use de facto segregation as the basis of an unconstitutionally segregated school system. After all, in *Brown I*, the Court had approvingly quoted from the district court in Kansas: “Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law.” Thus, in *Brown I*, the Court made it clear that segregation per se was detrimental to blacks. Nevertheless, in *Keyes* the Court opined that de jure, and not de facto segregation, violated the Constitution.

57. ORFIELD ET AL., supra note 44, at 10.
60. Id. at 191.
61. Id. at 205–06.
63. Keyes, 413 U.S. at 208–09.
The Court’s embrace of de jure, instead of de facto, segregation limited the reach of remedies for school segregation in two ways. First, in some school districts, school desegregation proponents could not establish that the segregation that existed was the result of intentional government conduct. Thus, those school districts could not obtain a school desegregation remedy. Second, even though courts almost always found de jure segregation whenever litigation was seriously pursued, the adoption of the intent standard significantly increased the difficulty of establishing a constitutional violation for de facto segregation. Often trials could last up to six weeks and produce thousands of pages of testimony and exhibits. “The added cost of obtaining and introducing such evidence” was “enough to discourage . . . potential plaintiffs from going to court at all.”

The devastating blow to school desegregation efforts occurred in the Supreme Court’s 1974 decision in *Milliken v. Bradley*. By the end of his first term, President Richard Nixon had appointed four Justices to the Supreme Court. Four of the Nixon justices, Chief Justice Warren Burger, and Justices Harry Blackmun, Lewis Powell, and William Rehnquist, were in the five-person majority that issued an opinion limiting the scope of school desegregation remedies to the offending school district’s boundaries, absent

64. See id. at 217–19 (Powell, J., concurring in part and dissenting in part).

65. While the *Keyes* Court rejected de facto segregation as the basis of the constitutional harm, it also adopted a procedural rule that made proving de jure segregation easier. If plaintiffs establish intentional segregation in a substantial portion of the school system, the Court will presume that unlawful segregation exists throughout the school system. Id. at 208–09. This presumption removed the enormous burden that could have been placed on plaintiffs of establishing unlawful segregation for each school in the system in order to justify a system-wide remedy.


very unusual circumstances. The negative impact of *Milliken* on school
desegregation was two-fold. Limiting the reach of school desegregation
remedies in this way meant that, in many urban school districts, effective
desegregation was not possible because there were not enough white students
in the district to accomplish it. The Court’s decision also provided a simple
exit from the scope of school desegregation remedies for white families who
did not want their children to participate in such a process. These families
simply had to move from a district under a school desegregation order to an
adjacent one that was not. “As a result, [Milliken] helped to generate, if not
encourage, the white flight that frustrated a host of desegregation efforts
throughout the country.”

*Keyes, Milliken*, along with *Pasadena City Board of Education v.
Spangler*, other Court decisions, and Republican presidential
administrations that were not keen on furthering school desegregation
limited the potential for America to desegregate its public schools. The
practical effect of these decisions significantly slowed and then halted the
progress of school desegregation throughout the country.

In the 1990s, the Court’s school desegregation jurisprudence turned
to what school districts needed to do to eliminate federal court supervision.
The Court decided three cases that detailed the requirements for dissolving
school desegregation decrees and releasing an offending school district from
federal court supervision, the first of which was its 1991 decision in *Dowell*

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74. *427 U.S. 424* (1976). In that decision, the Court addressed the issue of periodic adjustments of student school assignments in a school system undergoing the desegregation process to take account of changes in residential segregation. *See id.* at 432–33. The Court held that such subsequent resegregation of students was not part of the original constitutional violation. *Id.* at 440. Thus, a district court cannot require annual adjustments in order to maintain a certain amount of desegregation.
v. Board of Education. This marked the beginning of the withdrawal of the federal courts' engagement with school desegregation.

Figures from the Harvard Civil Rights Project showed that the percentage of African-American students attending majority-minority schools had decreased from its all-time high of 37.1% in 1980-81, to 31.2% in the 1996-97 school year, to 28.4% in 2000. The percentage of African-Americans in hyper-segregated schools also increased from its low point of 32.5% in the 1986-87 school year, to 35% in 1996-97, to 37.4% in 2000. In the South, by 2000, the percentage of blacks attending majority-white schools dropped from the all-time high of 43.5% in 1988 to 31% in 2000 and to 27.7% in 2006. The percentage of blacks in hyper-segregated schools also increased from its low point of 23.0% in 1980, to 26.8% in 1994, to 31.8% in 2004.

The increasing termination of school desegregation decrees by the federal courts left the issue of furthering school desegregation to the political process. However, by then, the political process was increasingly embracing charter schools and expanded school voucher programs as part of its move toward embracing parental choice with regard to school assignments, not school desegregation.

The Court's next major school desegregation opinion was its 2007 decision in Parents Involved in Community Schools v. Seattle School District No. 1. This opinion delivered a crushing blow to school desegregation efforts by the political process. This opinion severely limited the use of individual racial classifications of students in pursuit of integrated student bodies. In other words, in Parents Involved, the Supreme Court ruled unconstitutional the very kind of school desegregation plans it had required offending school districts to implement in the 1960s and 1970s. This was in

78. See FRANKENBERG ET AL., supra note 65, at 31.
79. Id.
80. GARY ORFIELD ET AL., supra note 44, at 10.
81. FRANKENBERG ET AL., supra note 67, at 8.
84. Id. at 747-48.
spite of the fact that the Court had written in its 1971 decision in *Swann v. Charlotte Mecklenburg Board of Education*:

School authorities are traditionally charged with broad power to formulate and implement educational policy and might well conclude, for example, that in order to prepare students to live in a pluralistic society each school should have a prescribed ratio of Negro to white students reflecting the proportion for the district as a whole. To do this as an educational policy is within the broad discretionary powers of school authorities; absent a finding of a constitutional violation, however, that would not be within the authority of a federal court.85

As the twenty-first century unfolded, the resegregation of public schools continued. In 2013, the United States passed a school segregation mile marker. For the first time in American history a larger percentage of public schools were hyper-segregated because 90% or more of the student body was minority as opposed to being hyper-segregated because 90% or more of the student body was white.86 In 1988, 38.9% of public schools in the country were classified as hyper-segregated due to their high percentage of white students, compared with only 18.4% in 2013.87 In contrast, only 5.7% of public schools were hyper-segregated due to their minority population in 1988 compared to 18.6% in 2013.88 As further evidence of the resegregation of public schools in 2013, there are fourteen states where more than 40% of black students are in schools that are at least 90% minority, including New York (65.8%), Illinois (59.6%), Maryland (53.7%), New Jersey (49.2%), Michigan (48.7%), California (47.9%), Wisconsin (45.3%), Pennsylvania (45.3%), Mississippi (45.2%), Tennessee (44.3%), Texas (43.3%), Georgia (43.1%), Alabama (42.1%) and Missouri (41.4%).89 The latest figures from Civil Rights Project reported that in 2016, 40% of all black students were in hyper-segregated schools.90 In the South, the percentage of

87. *Id.*
88. *Id.*
89. *Id.* at 4–5 tbl.1.
90. ERICA FRANKENBERG ET AL., CIVIL RIGHTS PROJECT, HARMING OUR COMMON FUTURE: AMERICA'S SEGREGATED SCHOOLS 65 YEARS AFTER BROWN
blacks attending majority-white schools fell to 23.2% in 2011\textsuperscript{91} and those attending hyper-segregated schools increased to 35.8% in 2014\textsuperscript{92} and 36.4% in 2016.\textsuperscript{93}

While there were certainly some local efforts to further school desegregation,\textsuperscript{94} what the above history since the Supreme Court’s decision in \textit{Brown I} tells us is that with the Supreme Court’s current school desegregation jurisprudence and lack of political will, there is little-to-no chance that America will have another massive effort to further integrate its schools in the foreseeable future. Even if there was the political will and the court deference to allow such measures to develop, the changing racial and ethnic demographics of public school students over the past 50 years would severely hamper desegregation efforts. While the percentage of black students in public schools has remained roughly the same since 1970, during this time the percentage of white students has declined from 79% to just 48.4% in 2016.\textsuperscript{95} These white students have been largely replaced by Latinx and Asians. In 1970, the combined percentage of these two groups in public schools was only 5.6%, but by 2016 it was 31.8%\textsuperscript{96}

II. \textbf{CHANGING RACIAL ANCESTRY OF BLACKS IN THE UNITED STATES AND WHY IT MATTERS IN TERMS OF SCHOOL DESEGREGATION}

Proponents of school desegregation did not center their advocacy on the fact that school desegregation would lead to increased interracial sexual relations between blacks and whites. Indeed, as one contemporary commentator on interracial marriage and the law put it, “[D]esegregation on the marriage front seemed far less pressing a matter than did progress in

\textsuperscript{91} ORFIELD ET AL., supra note 44, at 10.
\textsuperscript{92} FRANKENBERG ET AL., supra note 67, at 8.
\textsuperscript{93} FRANKENBERG ET AL., supra note 101, at 25.
\textsuperscript{95} FRANKENBERG ET AL., supra note 101, at 16 fig.1.
\textsuperscript{96} Id.
educational opportunity or voting rights.”97 However, many advocates for school desegregation embraced the teachings about human interactions espoused by Gordon Allport in his seminal work, The Nature of Prejudice,98 which was published in the same year as the Brown I decision. Allport developed the intergroup contact theory that supported the concept of school desegregation.99 This theory asserted that the way to break down racial stereotypes and provide for the ability of people to see others of different races as individuals, as opposed to members of their race, was to promote high-quality interracial interactions.100 In these interactions, people have the opportunity to learn about individuals from different social groups and alter their affective, cognitive, and behavioral responses to outgroups and their members.101 Allport asserted that these interracial contacts were “maximally effective” when they occurred in situations that “lead to a sense of equality in social status.”102 It is also best if they occur in ordinary purposeful pursuits with, if possible, the positive sanction of the entire community.103 The deeper and more authentic these interracial contacts, the greater their effect.104

Despite the lack of explicit advocacy by proponents of school desegregation at the time that it would lead to increased interracial sexual relations, in retrospect, this seems obvious. Given that one, if not the, primary goal of school desegregation was to break down racial barriers, increases in interracial marriage and multiracial children should certainly be among the most important indicators to keep in mind in assessing whether America has become a more integrated society. In addition, the strongest justification for racial segregation was the fear of the consequences of miscegenation.105 Thus, increasing rates of interracial sexual relations undercuts the primary justification for segregation that existed during the Jim Crow Era.

The first section of this part will examine the increases in interracial marriages since the Supreme Court’s decision in Brown I. In 1954, American

99. Id. at 261–81.
100. Id.
101. Id.
102. Id. at 489.
103. Id.
104. Id.
society used the one-drop rule to determine a person’s race.106 As a result, there was no such thing as a black multiracial. However, increasing interracial marriage rates helped to generate the multiracial movement that sought to add a “multiracial” category on all governmental forms used to collect racial and ethnic data.107 This movement led the federal government to change the way that racial and ethnic data are collected and reported to it starting with the 2000 census.108 Among these changes was the right to allow individuals to indicate all racial and ethnic categories that a person identifies with.109 These changes, when coupled with increased immigration of people of color from the rest of the world,110 have led to the demise of the one-drop rule and the recognition of self-identified black multiracials as separate from other blacks. The second section will discuss the demise of the one-drop rule, which is necessary for the recognition of black multiracials as distinct from other blacks. The third section will discuss the increasing percentage of blacks who are multiracial and how that can impact our view of the integration of the nation’s black school children.

A. Increases in Interracial Marriage Rates

At the time of the Supreme Court’s opinion in Brown I, about thirty states still banned interracial marriages.111 As one might expect, interracial marriages were very unpopular at the time. A poll showed that in 1958, only 4% of whites approved of interracial marriage between blacks and whites.112 In 1960, “[o]f the almost twelve million blacks over the age of fifteen in the

107. See Parker et al., supra note 17.
108. Id.
109. Id.
111. Loving v. Virginia, 388 U.S. 1, 6 n.5 (1967) (noting that, in 1967, sixteen states still banned interracial marriage and fourteen had repealed their statutes over the past fifteen years).
112. See Kim M. Williams, Mark One or More: Civil Rights in Multiracial America 89 (2006).
country, only 51,000 were married to whites."113 Black women were slightly more likely to have a white spouse than black men.114 Surveys in the 1960s showed that there was only a marginal change from the 1940s when 92% of whites indicated that they would not consider marrying an African-American.115

After its decisions in Brown, the Supreme Court showed considerable reluctance in taking up the question of antimiscegenation statutes. A few months after the Court’s decision in Brown I, it declined to hear the case of a black woman convicted of violating the Alabama antimiscegenation statute.116 Two years later, the Court again decided not to take up a similar case from Virginia.117 In 1964, however, the Supreme Court changed its posture. A Florida jury convicted a black man, Dewey McLaughlin, and a white woman, Connie Hoffman, of violating a statute that made it a crime for an interracial couple to habitually live in and occupy the same room at night.118 This statute authorized a greater punishment for this crime when committed by a black-white interracial couple than single-race couples.119 The judge sentenced McLaughlin and Hoffman to thirty days in jail and fined them $150.120 The statute treated black-white interracial couples differently than other couples, but it punished both the white and black parties involved the same. The Florida Supreme Court upheld the antimiscegenation statute and the convictions.121 The United States Supreme Court, however, overturned the decision without addressing whether an antimiscegenation marriage statute itself was invalid.122

The Supreme Court finally struck the death knell for antimiscegenation marriage statutes with its 1967 decision in Loving v.

119. Id. at 2.
120. Id.
121. Id. at 3.
In a unanimous opinion written by Chief Justice Earl Warren, the United States Supreme Court stated that the clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious discrimination. Virginia only prohibits interracial marriages involving white persons, which Warren noted further demonstrated that the racial classifications standing on their own were measures designed to maintain white supremacy.

As time progressed after the Court’s decision in Loving, American society slowly began to drop its objections to interracial marriages involving blacks. This led inevitably to an increase in interracial sexual relations. The percentage of blacks with a spouse of another race increased from 1.1% in 1970, to 2.4% in 1980, to 4.1% in 1990. By 2000, 7.0% of married single-race blacks were married to someone outside of their race. Figures from a 2010 Pew Center survey showed that about 9% of married blacks were married to someone outside of the race. The percentage of black males who marry outside of the race, however, continues to be significantly higher than black females, 12.5% compared to 5.5%. By 2017, about 15% of black men, with about 60% of them married to white women, and 7% of black women, with 4 of the 7% percent to white men, who were married were married outside of the race. Interracial marriages also make up a much larger percentage of new marriages by blacks than existing marriages. According to a Pew Research Center Report, about 17% of newlywed blacks

123. Loving v. Virginia, 388 U.S. 1 (1967). In 1924, Virginia adopted the Racial Integrity Act, which defined a person as white if they had “no trace whatsoever of any blood other than Caucasian; but persons who have only one-sixteenth or less of the blood of the American Indian . . . . shall be deemed to be white . . . .” 1924 Va. Acts 534. A 1930 statute also defined as colored, anyone “in whom there is ascertainable any negro blood.” 1930 Va. Acts 26.
125. Id. at 11 n.11.
126. Id. at 11.
128. Id.
130. Id.
131. Marriage in Black America, supra note 27.
married outside of their race in 2010. In 2015, 24% of black men who married, married outside the race and 12% of black women did as well.

B. Demise of the One-Drop Rule and the Recognition of Black Multiracials

At the time of the Supreme Court’s opinion in Brown I, American society determined who was black based on the application of the one-drop rule. Fueled by concerns about the horrors of miscegenation, the one-drop rule became the unwritten law for determining race by the end of the nineteenth century. Thomas Dixon, Junior, author of The Clansman (the book that would be turned by D. W. Griffith into his silent movie classic Birth of a Nation), discussed the accepted dogma of one drop of black blood in his 1902 best-selling fictional novel, The Leopard’s Spots. “One drop of Negro blood . . . . . kinks the hair, flattens the nose, thickens the lip, puts out the light of intellect, and lights the fires of brutal passions.” In pointing out the acceptance of the one-drop rule at the beginning of the twentieth century, legendary black leader Booker T. Washington stated:

It is a fact that, if a person is known to have one per cent. of African blood in his veins, he ceases to be a white man. The ninety-nine per cent of Caucasian blood does not weigh by the side of the one per cent of African blood. The white blood counts for nothing. The person is a Negro every time.

While the one-drop rule was in common practice by the end of the nineteenth century, in 1910, Tennessee became the first state to codify the

132. Wang, supra note 141, at 8–11 (noting that from 2008 to 2010 the share of blacks intermarrying increased from 15.5% to 17.1%).
133. LIVINGSTON & BROWN, supra note 29, at 6.
137. Id. at 244. See also Neil Gotanda, A Critique of “Our Constitution Is Color-Blind,” 44 STAN L. REV. 1, 25–27 (1991) (tying the one-drop rule to the notion of racial purity of whites).
accepted practice by passing a statute defining a person as black based on the one-drop rule.\textsuperscript{139} It was followed by Louisiana later that year, Texas and Arkansas in 1911, then Mississippi in 1917, North Carolina in 1923, Virginia in 1924, Alabama and Georgia in 1927, and Oklahoma in 1931.\textsuperscript{140} In addition, at least seven other states—Indiana, Kentucky, Maryland, Missouri, Nebraska, North Dakota, and Utah—amended their blood-fraction statutes to classify a person as black who had as little as one-sixteenth or one-thirty-second black blood.\textsuperscript{141}

With the 1930 census, the Census Bureau officially adopted the one-drop rule. The instructions included the requirement that the census form of “a person of mixed White and Negro blood was to be returned as Negro, no matter how small the percentage of Negro blood.”\textsuperscript{142} The instructions for the 1950 census continued the requirement.\textsuperscript{143} In addition, in 1950, census enumerators were still solely responsible for filling out the household census forms.\textsuperscript{144} Thus, they, not the individuals being counted, were responsible for determining a person’s racial classification based on phenotypical appearances.\textsuperscript{145}

The use of the one-drop rule and the dual-race nature of American society meant that Americans, in the overwhelming majority of cases, could determine a person’s race based on their physical appearance. Racial identification was, therefore, a socially ascribed trait, not a matter of personal preference. As long as American society socially constructed race based on

\textsuperscript{139} Paul Finkelman, \textit{The Color of Law}, 87 NW. U. L. REV. 937, 954 n.95 (1993) (reviewing \textsc{Andrew Kull}, \textit{The Color-Blind Constitution} (1992)).

\textsuperscript{140} Frank W. Sweet, \textsc{Legal History of the Color Line: The Rise and Triumph of the One-Drop Rule} 318–19 (2005).

\textsuperscript{141} Id. at 319.


\textsuperscript{143} Id. at 569.

\textsuperscript{144} See id.

\textsuperscript{145} The Census Bureau sent advanced copies of the 1960 census form to over 80% of American households who filled them out and then gave them to census enumerators when they showed up. See id. The 1970 census form was the first designed to be completed by respondents alone without any assistance from census enumerators. See 1970 Overview, U.S. Census Bureau, https://www.census.gov/history/www/through_the_decades/overview/1970.html (last visited Oct. 24, 2019).
the one-drop rule, simply put, there were no black multiracials. And the issue about how to view them differently from other blacks for purposes of analyzing the impact of school desegregation did not exist.

By the late 1980s and early 1990s, individuals in black-white marriages and multiracial groups such as A Place for Us, the Association of MultiEthnic Americans, and Project RACE (Reclassify All Children Equally) spearheaded efforts to add a “multiracial” option to all local, state, and federal governmental forms used to collect racial and ethnic data, but especially to the 2000 census forms. The proponents who argued for a “multicultural” designation generally argued that mixed-race individuals viewed themselves as multiracial rather than belonging to a single racial or ethnic group. A multiracial designation was, therefore, a better reflection of the true understanding of the multiracial person’s racial identity. These groups pointed to the psychological problems created for biracial children who are forced to identify with one parent more than the other. In addition, they noted that the one-drop rule does not apply to any other racial or ethnic group and appears to exist only in the United States. They also noted that the one-drop rule was inherently racist.

In October 1997, the Office of Management and Budget (OMB) published changes to the federal government regulations regarding the collection and reporting of racial and ethnic data to the federal government. OMB rejected adding a “multiracial” category, but decided that self-identification would be the primary method to determine racial and ethnic identity. When employed, organizations had to allow individuals the ability to check all racial and ethnic categories that they identified with from an approved list. Thus, with the adoption of these revisions, the federal
government—for the first time ever—allowed individuals to designate and be classified in more than one racial category. The ripple effects of OMB’s changes were substantial because all federal programs were required to adopt policies and procedures consistent with the OMB changes. Essentially, these changes by OMB impacted the design of many forms used in America daily to collect racial and ethnic data, including employment applications used by employers subject to federal reporting requirements, application forms used by all educational institutions, and even medical admissions forms. The collection and reporting of racial and ethnic data for the 2000 and 2010 censuses generally followed these revisions.

C. Impact of Increasing Numbers of Black Multiracials

The changes that have occurred regarding black multiracials since Brown requires us to reassess our thinking about how to view the impact of Brown on the integration of America’s school children. Even though the federal government has changed the way racial and ethnic data is collected and reported to it, whether these changes would have been enough to cause Americans to abandon the one-drop rule in their day-to-day interactions with each other remains an open question. However, these changes by the federal government were occurring as American society was experiencing massive waves of immigration of people of color from the rest of the world. This immigration has changed the face and complexion of American society and also undercut the ability to determine a person’s race and ethnicity based on appearance.

Immigration during the past fifty years has fundamentally altered the predominantly dual race nature of American society. According to the 1960 census, whites constituted 88.8% of all Americans, with an additional 10.6% classified as black. The 1960 census categorized Latinx based on their

156. Id. at 58782.
158. See Campbell Gibson & Kay Jung, Historical Census Statistics on Population Totals by Race, 1790 to 1990, and by Hispanic Origin, 1970 to 1990,
race, not their ethnicity; thus, blacks and whites comprised 99.4% of the American population. According to July 2018 estimates by the US Census Bureau, white non-Hispanics only make up 62% of Americans, with Latinx accounting for 16.9%, blacks at 12.6% and Asians at 5.2%. Thus, where those who were neither black nor white were less than 1% of the American population at the time of the Court’s opinion in Brown I, today they make up over 25% of Americans, nearly double the percentage of single-race blacks in the country.

There are plenty of people who, by the application of the one-drop rule, look black but are from such places as the Caribbean, Latin America, the Middle East, North Africa, South Asia, or East Asia. One of the major consequences of immigration for racial identification in the United States is that even for those who want to apply the one-drop rule, appearance is no longer a reliable way to determine a person’s race. Blacks with lighter complexions or less obvious African facial features are increasingly interacting with people who can no longer assume that they are black based on their physical appearance. This new uncertainty about a person’s racial identity has meant that to determine a person’s race, people have to ask.

Research exploring the identity formation of multiracial individuals suggests that they may understand their racial identity in a variety of ways. In addition to a singular identity (either exclusively black or exclusively white), which some research subjects chose, other options include a border identity (exclusively biracial), a protean identity (sometimes black, sometimes white, sometimes biracial), and a transcendent identity (no racial identity). Research also suggests that individuals choose one (or several) identity(ies) based on social networks or appearance. Another probable explanation for this phenomenon is that multiracial people may identify

159. See id.
162. Id. at 338–40.
themselves differently in different contexts. In short, black multiracial need not especially choose a single racial/ethnic identity because they have more than one. When others inquire about their race or ethnicity, these racially ambiguous individuals with some black ancestry are increasingly able to respond to such a question by saying, "I am black" or "I am multiracial" or "I am _____ (fill in the blank)" or "I am just me." In other words, many black multiracials, as well as light-skin blacks, can exercise a certain amount of choice in deciding their racial identity because it is increasingly a function of self-identification, as opposed to social ascription. But, this means that racial identification is radically different today than it was in 1954.

Increasing interracial sexual relationships involving blacks has inevitably led to an increase in the number of black multiracial children. According to the 2018 census figures, 8.5% of blacks (up from 4.8% in 2000 and 7.4% in 2010) indicated another racial category. As one might expect, the younger blacks are, the more likely they are to be multiracial.

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164. See, e.g., David Kaufman, Biracial Experiences in the United States, INTERRACE, Apr. 1994, at 15, 19 (quoting a multiracial college student as saying that ethnic identity and cultural awareness are very important, but that a single ethnic identity is not necessary: "Who are you if you are not the sum total of your physical, mental and environmental beings?").
165. According to the 2018 Census Bureau figures, there were 47,841,851 individuals who were classified as Black Alone or in Combination and 43,804,319 who were black only. Population, BLACK DEMOGRAPHICS, https://blackdemographics.com/population/ (last visited Oct. 29, 2019). Thus, the percentage of black in combination to total blacks was 8.5% (47,841,851 − 43,804,319 = 4,037,532; 4,037,532/47,841,851 = .085).
166. According to Census Bureau figures in 2000, there were 36,419,434 individuals who were classified as Black Alone or in Combination and 34,658,190 who were black only. U.S. CENSUS BUREAU, 2000 CENSUS OF POPULATION AND HOUSING: PROFILES OF GENERAL DEMOGRAPHIC CHARACTERISTICS 1 (2000). Thus, the percentage of black in combination to total blacks was 4.8% (36,419,434 − 34,658,190 = 1,761,244; 1,761,244/36,419,434 = .048).
167. According to Census Bureau figures in 2010, there were 42,020,743 individuals who were classified as Black Alone or in Combination and 38,929,319 who were black only. U.S. CENSUS BUREAU, OVERVIEW OF RACE AND HISPANIC ORIGIN: 2010 7 (2011). Thus, the percentage of black in combination to total blacks was 7.4% (42,020,743 − 38,929,319 = 3,091,424; 3,091,424/42,020,743 = .0735).
Brown at 65

Census figures from 2016 show that the portion of mixed-race blacks today between the ages of twenty and twenty-four was only 8.0%.\textsuperscript{168} However, the portion of mixed-race blacks among blacks between the ages of fifteen and nineteen was 11.9%, between ten and fourteen years it increased to 14.4%, between five and nine years to 16.6%, and for those between the ages of four to eight was 18.1%.\textsuperscript{169} Another way to look at the increasing percentage of blacks under the age of eighteen that are multiracial is to note that if interracial sexual unions remain the same, then within a decade, the percentage of black children who are black multiracials is likely to approach the percentage of blacks currently attending majority white schools in the South, which had long been the region with the most integrated schools in the nation.\textsuperscript{170} In other words, while American society may not be on a path of integrating its public schools, it is on a path of increasing the number of mixed race individuals with black heritage. And this may prove to be the far more lasting form of integration American society obtains.

\textsuperscript{168} According to Census Bureau figures in 2016, of the 3,700,000 individuals between the ages of twenty and twenty-four who were classified as black alone or in combination, 3,403,000 were black alone. Thus, the percentage of black in combination to total blacks was 8.0% \((297,000 (3,700,000 - 3,403,000))/3,700,000\).

\textsuperscript{169} For ages fifteen to nineteen, the corresponding figures were 11.9\% \((423,000 (3,564,000 - 3,141,000))/3,564,000\); for ages ten to fourteen the corresponding figures were 14.4\% \((514,000 (3,557,000 - 3,043,000))/3,557,000\); for ages five to nine the corresponding figures were 16.6\% \((617,000 (3,721,000 - 3,104,000))/3,721,000\); for under the age of five the corresponding figures were 18.1\% \((670,000 (3,707,000 - 3,037,000))/3,707,000\).

\textsuperscript{170} FRANKENBERG ET AL., \textit{supra} note 67, at 4.
III. CHANGING ETHNIC ANCESTRY OF BLACKS

Increases in interracial marriages involving blacks and black multiracials were occurring at the same time that the United States was also experiencing its first massive wave of immigration of people of color, including blacks, from the rest of the world. Due to America’s history of racism, slavery, and segregation, until the 1960s, America was not a preferred destination for very many sons and daughters of the soil of Africa who had both the wherewithal and the desire to immigrate to another country.171 In addition, it wasn’t until the 1960s that Anglophone Caribbean countries gained their independence, starting with Jamaica in 1962, Trinidad and Tobago later that year, and Guyana in 1966.172 As for Africa, three years after Brown I, Ghana became only the third independent black nation on the continent, joining Ethiopia and Liberia.173 Within a dozen years, thirty-five other sub-Saharan African countries gained their independence from European colonial rule.174 The result was that these former European colonies were able to institute black rule and take control of the means of deciding who could leave their countries and where they could go.

The emergence of independent, predominately-black nations in the Caribbean and Africa in the late 1950s and 1960s, globalization, and changes

in American immigration law, starting with the landmark Hart-Cellar Act of 1965, have led to substantial increases in the percentages and numbers of foreign-born blacks in the United States. The 1960 census recorded only 125,000 blacks not born in this country, constituting less than 0.7% of the black population. The portion of blacks that are foreign-born increased to 1.1% in 1970, to 3.1% in 1980, to 4.9% in 1990, to 6.1% in 2000, and to 8.0% in 2005. The 2010 census recorded almost 3,600,000 foreign-born blacks, constituting 8.8% of the black population, and census figures show that in 2016, there were 4,200,000 foreign-born blacks, making up almost 10% of the black population. In addition to the foreign-born blacks, about 8% of blacks born in the US have a foreign-born black parent. Thus, nearly one in five blacks in the country is either foreign-born or has a foreign-born black parent.

The numbers and percentages of black youth under the age of eighteen with at least one black parent have also increased substantially. Statistics from the Census Bureau indicated that in 1994, 7.8% of black children under the age of eighteen had a foreign-born parent, but by 2017, that percentage had increased to 16.8% or one in six black children under that age. This percentage is still on the rise because of the significant increase

176. In 1960, the 125,000 foreign-born blacks made up about 0.7 percent of the black population. GIBSON & LENNON, supra note 19.
in foreign-born blacks in the country and the possibility that foreign-born black women will to continue to have more children than native black women. For example, foreign-born black women bore approximately one out of every six black children in 2004, and in Massachusetts, where one out of every three blacks is currently foreign-born, since 2008, a majority of black babies born there have been to immigrant mothers.181

The rising percentage of first- and second-generation black immigrants should raise questions regarding how to treat them for purposes of evaluating America’s programs to address its history of discrimination,182 including school desegregation resulting from Brown I. For much of the history of the United States, we have viewed all blacks as alike and have not recognized the existence of different black ethnicities due to different countries of origin. At the time of Brown I, with some justification, this was the case. But, despite the importance that we in the United States place on events that occur here, all concepts of oppression and subordination are local. They depend upon the history of a specified group in a particular locale at a given time. As noted earlier, the concept of the one-drop rule appears to only have existed in the United States. In addition, the notion of combining all of those from Latin America into a group we think of as Latinx or all those from Asia as Asians are uniquely American concepts.183

The experiences that native blacks have with race in the United States, obviously, are different from the experiences that a foreign-born black

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181. See Kent, supra note 184, at 4 (asserting that the figure drops to just 13% of black children if only non-Hispanic blacks are considered). For Massachusetts statistics, see Maria Sacchetti, The Changing Face Of Citizenship, BOS. GLOBE (Mar. 25, 2014, 12:00 AM), https://www.bostonglobe.com/metro/2014/03/24/immigrants-from-africa-caribbean-changing-make-black-population-massachusetts/hYhp23NSlxyCDobXeHBD7L/story.html.


183. See David A. Hollinger, The One Drop Rule & the One Hate Rule, Winter 2005 DAEDALUS 18, 20.
who immigrates to the United States from Nigeria, Haiti, Jamaica or Ghana or their children will have. It might have made sense to ignore these differences when foreign-born blacks were less than one percent of the black population. But, now, black children under the age of eighteen with one black parent make up almost one in six blacks. That is a percentage that is only ignored at the risk of accepting the history of racial discrimination in the United States that was based on the notion that whites do not perceive ethnic differences among blacks. As a result, we have to at least ask the question, what does this mean to our understanding of school desegregation.

**CONCLUSION: IMPACT OF THE CHANGING RACIAL AND ETHNIC ANCESTRY OF BLACKS ON HOW TO THINK ABOUT SCHOOL DESEGREGATION**

When *Brown I* was decided there were certain fundamental assumptions about school desegregation that no longer hold true. First, racial identification was a socially ascribed characteristic, not a matter of self-identification. Second, over 99% of Americans were classified as black or white. This, along with the use of the one-drop rule, meant that everyone in American society could determine virtually everyone’s racial identification based on their physical appearance. Thus, there was no choice involved in whether one was classified as black in the United States. Third, application of the one-drop rule also meant that there were no black multiracials. Fourth, America had very few voluntary black immigrants. Thus, when the Supreme Court rendered its opinion in *Brown I*, it could safely assume that almost all of the black school children that would be impacted by school desegregation were the descendants of blacks who were victimized by segregation and slavery in this country.

These assumptions no longer apply to a growing percentage of blacks of school age. The significance of the increasing percentage of black multiracials in terms of how we understand school desegregation may prove to be dramatic. As pointed out above, over one in five black children between the ages of four and eight are multiracials. Assuming that current levels of interracial sexual relationships continue, within a decade, the percentage of black multiracials will exceed the percentage of blacks currently attending schools that are majority-white in the most integrated part of the country. Surely if the goal is integration, such an astonishing increase in black multiracials has to be taken into account in judging the effectiveness of school integration.
The impact of the dramatic rise in first and second generation black immigrants may be a little more difficult to determine. Almost one in five blacks and one in six of school age has a foreign-born parent. One thing seems certain, it is at least debatable whether they should be looked at as if they were African-Americans and, therefore, the racial struggles of African-Americans should apply to them. One of the tenants of racism is that all blacks are alike, therefore, they can be homogenized. But, surely that too is a product of the experiences of racial oppression blacks have endured. And, it seems also insulting to suggest that black immigrants should be viewed no differently than the African-American because it means that there is nothing in the black immigrants experience as an immigrant that is worthy of consideration.

So what does the changing racial and ethnic ancestry of blacks have to do with school desegregation? In a very real sense, it depends on the mission. If you view the purpose of school desegregation simply in terms of increasing interracial contact of black students in their schools, it is a failure. But, we have seen that white students are in more integrated environments today than in 1954. If the goal of school desegregation was to help integrate our society, surely increases in interracial marriages and black multiracial children has to be counted as a success. After all, mixed ancestry is the most intimate form of racial mixing that can possibly exist.