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Brown in the Age of Obama

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In May 1954, at the time of the Brown decision, America was marked by a racial caste system that had its origins in slave times.

Society was racially stratified. Whites occupied the positions of power and prestige while blacks were grouped at the lower ranks. There were many whites who lived impoverished lives, but because almost all blacks lived that way, their disadvantaged status defined them as a group.

Like any caste structure, the chances for upward mobility primarily depended not on individual achievement, but rather on membership in the group into which individuals were born. Now and then, individual blacks miraculously scaled the heights – I have in mind the Jackie Robinsons of those days – but these individuals succeeded in spite of their membership in the disfavored group.

Moreover, as is true of any caste system, the racial hierarchy that then governed America was self-reinforcing and self-perpetuating. Membership in the disfavored racial group constituted a disadvantage any individual had to overcome in order to succeed, and the failure of these individuals to succeed had the effect of perpetuating the subordinate position of that group. Sometimes the disadvantage blacks faced arose not directly from race, not even implicitly, but rather from the lack of skills and resources attributable to earlier practices that had excluded them because of their race from jobs or schools or relegated them to the most inferior opportunities.

Viewed from this perspective, the Brown decision that we honor today should not be seen as just an education case, making certain that the schooling of black children is equal to that of whites, but rather as a broad edict condemning the racial caste system. This edict was of transcendent significance in American society and brought into being what has been called the Second Reconstruction – a massive reform program in which all the branches of government participated and which received much of its energy and direction from a social movement inspired by Brown and spearheaded by the black community.

The Second Reconstruction was not confined to schools but sought to eliminate the disadvantage suffered by blacks in almost every domain of social life – schools, yes, but also public accommodations, employment, housing, police practices, the judicial system, transportation, social services, even voting. The target of reform was not just decisions based on race, but also those decisions based on seemingly neutral criteria such as performance on standardized tests, because they also had the effect of relegating blacks to the lowest economic and social strata or excluding them from participating in the social and political life of the nation. Efforts were also made during the Second Reconstruction to counteract the self-reinforcing character of caste by giving blacks limited but indeterminate preferences in the competitive processes that controlled access to the most prestigious and powerful institutions in the country.

Maintaining the force and vitality of the Second Reconstruction was never an easy matter, and by the late 1960s this extraordinary endeavor began to falter. The assassination of Martin Luther King in 1968 deprived the civil rights movement of its most charismatic leader and the election of Richard Nixon in November of that year

institutionalized his so-called Southern Strategy. For the next 25 years, excepting only the Carter intermezzo (1976-1980), the White House remained in the hands of the Republican Party, no friend of the Second Reconstruction. The Republican presidents used their power to stymie or even roll back many of the reforms of the Second Reconstruction. They hesitated in the enforcement of the law and made a number of crucial appointments to the Supreme Court and to the lower federal courts that had the singular purpose of cabining the Brown decision.

The turning point came in 1974 with the Detroit desegregation case. That decision created a near impenetrable barrier between black inner city schools and white suburban schools. It also placed beyond the reach of the Brown decision any intra-district school segregation that was attributable to the neighborhood school plan. Fortunately, the Democrats controlled Congress for much of this period and through a series of measure such as the 1982 amendments to the Voting Rights Act of 1965 and the Civil Rights Act of 1991, Congress assumed responsibility for civil rights. The Congressional role, however, was largely defensive, trying to preserve the achievements of an earlier era, and Congress most assuredly stayed far away from politically explosive issues such as metropolitan school desegregation. Even this source of support, limited as it was, ended in 1994, with the election of the Newt Gingrich Congress and the passage of the welfare reform law of August 1996. When President Clinton signed that measure into law, the curtain was brought down on the Second Reconstruction.

This final turn of events is surely to be regretted. But it should not obscure the fact that over the life of the Second Reconstruction and largely due to its many policies, scores and scores of blacks have risen to the upper echelons and in fact obtained many of

the most prestigious and powerful positions in American society. Many describe this achievement by heralding the creation of a "black middle class," with the understanding that the word "middle" often understates the matter. Most Americans, even the most wealthy and successful, consider themselves members of the middle class.

The election of Barak Obama on November 4, 2008, is the most stunning example of the rise of a black elite, but it only consolidated a trend in making. Even before his election, other blacks had achieved great success in American public life. Here I refer not simply to the world of entertainment and sports, but also to those, Thurgood Marshall for example, who had been appointed to the highest public offices of the nation. Blacks also became a significant presence in the student bodies and faculties in the leading universities in the nation, such as Harvard, Yale, Princeton, and Stanford. Blacks are now represented in all the professions, including medicine and law. It is now commonplace for Wall Street law firms – once all white – to have a good number of black associates and even some have black partners. Some of the most successful and powerful corporations in the nation are headed by blacks.

Under these circumstances, we can no longer say that America is governed by a racial caste system. Blacks now occupy the highest positions in the nation including the presidency. Admittedly, in many contexts, too many, race still operates as a disadvantage, but the social stratification necessarily implied by the idea of caste – whites on top, blacks on the bottom – no longer prevails. Such a development should of course be applauded – indeed I believe it is of world historic significance – but it should not blind us to the fact that a portion of the black community – sometimes referred to as the black underclass – has not changed. They remain at the lower ranks of society measured

in terms of income, educational achievement, or occupational status. Many whites are poor, but a disproportionate number of blacks find themselves in this position and that sets them apart as a distinct group. In contrast to the stratification present at the time of Brown, however, the most disadvantaged group in American society – the black underclass – is not just defined by race but also by economic and social parameters.

The policies of the Second Reconstruction that brought into being the black middle class must be continued. This will have the effect of consolidating the gains of the last 50 years and enlarging the number of black families that can move upward. For that reason, we must continue to counter those practices that have the purpose or effect of disadvantaging blacks and continue the system of giving preferences to blacks in order to enhance their access to elite institutions. Yet this will not be enough. We must also create genuine opportunities of upward mobility for the sector of the black community that remains impoverished and confined to the lowest social and economic strata of society. This is the challenge of what might be called the Third Reconstruction.

The reforms of the Third Reconstruction must embrace all facets of social life – education, jobs, housing, social services, police practices, even transportation. However, to illustrate the distinctive character of the reform program I contemplate we might well focus on education. It was the starting point for the Second Reconstruction and of course the immediate context of Brown. But unlike Brown, we should not focus on racial integration in the abstract. We must situate the disadvantaged group geographically and recognize that poor black families are not randomly scattered throughout society but are likely to be concentrated in the inner city. This means that if school boards continue to assign students on the basis of the neighborhood school plan, then we are likely to

confront extremely high concentrations of children from poor black families in the public schools of the inner city. With such concentrations, peer learning will be minimal, maybe even negative, and in any event confront individual classroom teachers with enormous challenges, both in maintaining decorum and imparting the necessary skills.

Accordingly, in the Third Reconstruction we must encourage, and if necessary require, departures from the neighborhood school plan in order to avoid such concentrations. As part of this effort we must break down the divide between inner city schools and the suburbs. At the same time, we must commit additional resources to inner city schools in order to radically reduce class size and attract teachers who are able to meet the extraordinary challenges of the classroom. The charter school movement is often defended as a means of avoiding the bureaucratic rigidity and malaise of the public school system, but in truth it owes much of its success in the inner city to the unique financial capacity of charter schools to respond to the special needs of inner city students. The public schools should also have the abundant resources needed to do their job. Equal per capita expenditures throughout a school district ignore the special needs of students in inner city schools and thus should not be taken as the true measure of equality.

Account must be taken of the family structure that typifies inner city communities – a single parent, often of a limited educational background and at best with a low paying job. In practical terms this means that we must support and enlarge those programs such as Head Start and Educare, that begin school at the earliest possible moment. Parents must also be part of these programs. Parents must come to understand what is expected of them and be in a position to discharge these responsibilities – getting children to school on time, emphasizing the importance of education, making certain that their

children have the necessary environment to do their homework, perhaps even helping with the homework. No educational program, whether it be preschool or at the elementary and secondary school levels, maybe even at college, will be successful unless the parents actively support and participate in the program.

In addition, the Third Reconstruction must support parents in their efforts to protect their children from the violence that often inflicts their neighborhood and to stop the recruitment of their children by the criminal gangs that often operate in the inner city. Law enforcement policies must be adjusted accordingly to respond to these needs, although never in a way that compounds the dynamics that add to the burden of the families in the inner city. The full weight of the law should be felt by those who come to the inner city to purchase drugs or participate in other criminal activities or by those who head and manage the various criminal enterprises that pervade the community. Those who work the streets should of course be intercepted and prosecuted, but they should not be subject to the especially long prison sentences associated with the war on drugs. The disproportionately high rates of incarceration of young black men in part accounts for the joblessness that pervades these communities and to the dominance of the single parent family – a phenomenon that only increases the burdens on the schools serving the inner city.

As is clear from the example of education, in formulating the policies of the Third Reconstruction the temptation will be great to ignore race and to structure the reform program in terms of class. The thought is that we should, for example, pursue economic rather than racial integration, or provide abundant resources to the schools of the poor, rather than those of blacks who are poor. Or, as some have argued, affirmative action

policies applicable to universities should be reformulated so that preferences are given to the poor, rather than to blacks who happen to be poor.

President Obama has not spoken to these issues with any clarity, but he seems inclined toward class-based policies. This became evident when he retold the story of Ashley at the conclusion of his most sustained speech on race, *A More Perfect Union*, delivered in Philadelphia in March 2008. Ashley, you may recall, is a white woman who worked for the Obama campaign and who was, at the time of the speech, twenty-three years old. When she was nine, her mother was diagnosed with cancer, soon lost her job and her health insurance. Dirt poor, the family tried to cut food costs and Ashley, trying to do her part, convinced her mother that she loved to eat mustard and relish sandwiches. The speech, which had begun by trying to account for the grievances blacks felt, ends with an elderly black man, called on to explain his reason for participating in the Obama campaign, saying, "I am here because of Ashley."

Superficially, the shift from race to class may seem to hold great political advantages. If we assume that self interest is the guide for most voters, and people identify with the racial group to which they belong, such a shift would broaden the electoral base that might support social reform programs. Whites will not support race-specific policies, but class-based reforms will have the support of all the poor, both white and black. What this position does not account for, however, is that the magnitude of the reforms that would be necessary to improve the life chances of poor black families if class-based rather than race-specific policies are pursued. For example, a class-based affirmative action program would have to be much more extensive than a race-based one



in order to achieve the same benefits for blacks who are poor and that increase in the scope of the program is likely to create its own political opposition.

Some account must also be taken of the imperatives of justice that drive race-specific policies. Race is in large part the cause of the poverty of the so-called black underclass and continues to operate as a source of disadvantage and a barrier to their upward mobility. Of course, poverty may pose barriers to upward mobility too, but the demands of justice may be different. Justice may not call for a remedy when the economic status of an individual is due to some deliberate choice on his or her part – when, for example, an individual decides to become a poet rather than an engineer. Moreover, even when poverty is entirely faultless, as is true when it is the condition into which a child is born or is experienced by the disabled, it does not make as strong an appeal to justice as when the source of disadvantage is race. The condition of being poor, that is, of lacking economic resources, may impede upward mobility, but people are not disadvantaged by others because they are poor. Poverty is not a badge of inferiority. But blacks may well be disadvantaged because they are black and thus members of a despised minority. In that sense, it's worse to be poor and black, than simply poor.

The so called black underclass bears the burden of America's history of racism and for that reason makes a special appeal to justice. Considerations of justice not only make the judicial remedy available, as they did in Brown, but they are also an important engine of American politics. The Second Reconstruction was the work of not just the courts, but also of the legislative and executive branches, as well as of a protest movement of ordinary citizens, both white and black. Considerations of justice got people beyond self interest and the politics of racial polarization and led them to make

sacrifices that would otherwise be unimaginable. Considerations of justice also led to the great awakening that made Barack Obama's election possible and will be necessary to bring the Third Reconstruction into existence and to enable us to fulfill the promise of Brown.