



We the People
Race, Ethnicity and Citizenship in the United States 150 Years after Dred Scott

Prepared by

Susan Eaton & Nancy McArdle

Charles J. Ogletree, Jr., Executive Director

EXECUTIVE SUMMARY

This report surveys the most current data available to assess the state of citizenship in the United States 150 years after the Supreme Court's famous *Dred Scott v. Sandford* decision. In this 1857 case, the Court denied citizenship to blacks, even free blacks outside the South who'd voted and fought in our wars.

The High Court in *Dred Scott* reasoned that, at the time of the writing of the U.S. Constitution, blacks had been considered "as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior that they had no rights which the white man was bound to respect. . ."

We have obviously come far since *Dred Scott*. In the comfort of our comparative progressiveness, we collectively, see the decision for what it was: a travesty, a stain, perhaps even a sin. In the years that followed, our body politic and our courts expanded citizenship and thus rights and protections to African Americans, to women and other groups. But as this report suggests, the pattern of giving and taking away that *Dred Scott* exemplifies continues unabated today.

In this new report, released in conjunction with our major conference observing the 150th anniversary of *Dred Scott*, The Charles Hamilton Houston Institute for Race and Justice asks not merely what has changed in a century and a half. Rather, we concern ourselves with persistent patterns of inequality and disenfranchisement, disproportionate effects of policy and practice, and the inclination toward exclusion that remain with us and in some part define our contemporary society

We consider vital indicators in four broadly defined segments of our society: political participation, the courts and criminal justice, the workplace, and the public schools.

We find that for African-Americans, other people of color and for a significant portion of economically contributing foreign-born residents, the nature and quality of citizenship – or membership in our collective – is not on par with that enjoyed by white, U.S.-born Americans. The causes for this are exceedingly complex, derive from a mix of forces and are not completely understood. However, **data clearly indicates that several recent government policies and practices and subjective assumptions about "deservedness" continue to drive persistent inequalities that dilute the full expression of citizenship and humanity for millions of people in American society.**

VOTING AND POLITICAL PARTICIPATION

Before the *Dred Scott* decision, many blacks, especially free blacks in the North, were granted the right to vote. In 1857, *Dred Scott* took that right away. (The right was later restored by the 13th and 14th Amendments). In 2007, African Americans and other people of color possess declining voting power that is disproportionately weaker than their numbers in the population would predict.

- 1) **Voting and registration rates are declining overall for African-Americans.** In 1968, 66 percent of eligible African-Americans were registered. By 2004, this rate fell to 64 percent of eligible blacks registered.
- 2) **The overall voting rates for African Americans are also declining.** In 2004, 56.3 percent of eligible African-Americans voted. This marks a small decline from the national 58.5 percent voting rate for blacks in 1964 recorded just prior to passage of the historic Voting Rights Act.

- 3) **State legislation stripes 5.3 million Americans, disproportionate numbers of them African-American, of their right to vote because of prior criminal convictions even after they have served their time.** Some of these disenfranchised citizens are incarcerated but 74 percent of them live in the community.
- 4) **Latinos and Asians have weaker voting power in proportion to their population size.** This is, in part, because a comparably large portion of such groups are non-citizens who cannot vote, though one rigorous study shows Latino citizens 10 percent less likely to vote in states that have strict Voter-ID laws, which are increasingly common.
- 5) **Surveys reveal that African-American voters have declining confidence that their votes will even be counted.** In 2004, 47 percent of African-American voters said they were “very confident” their votes would be counted. Just two years later, in 2006, only 30 percent of blacks expressed this level of confidence.

COURTS, CRIMINAL JUSTICE

A century and a half ago, Dred Scott, deemed a “non-citizen” by the nation’s highest court, could not even sue for his freedom or enter court as a plaintiff in litigation. He would have been prohibited from serving on a jury. However, Scott could be tried and convicted for crimes. In 2007, blacks are vastly underrepresented on juries and overrepresented as defendants and prisoners and on death row.

- 1) In 2003, a Carnegie Mellon University study revealed that, on average, criminal jury rooms in Allegheny County, Pa., were only about 4 percent black in a county where the adult population was 12 percent black.
- 2) A recent study of jury selection in Massachusetts showed that the pool of available jurors who show up in court for service contained about one half the number of African Americans as it should have, given their numbers in the overall population.
- 3) A comprehensive study of the death penalty in North Carolina found that defendants whose victims were white were 3.5 times more likely to get the death penalty than other defendants who had committed similar types of crimes
- 4) A 2006 Stanford University study found male murders with “black-looking” features who’d killed whites were more than twice as likely to get the death sentence than lighter-skinned African American defendants who’d killed whites.
- 5) The link between low educational attainment and crime is particularly strong for African American men. Among high school drop outs, more than half of African American men born between 1965 and 1969 had a prison record by 1999, compared with 13 percent of white male dropouts.

WORK & MILITARY SERVICE

In 1857, Dred Scott, as a slave, contributed his labor to the economy. However, in the eyes of the Supreme Court, the nation owed him nothing in return. In the United States, work has long been one of the primary ways people define their roles as members of the collective. The premium we place on “hard work” can’t be overstated. This value shapes judgments about who “deserves” citizenship and who does not. Current debates over immigration turn on questions

about who is working, how much, in what fields, to whose benefit and at whose expense? As we struggle with these questions, the life opportunities hang in the balance for millions of people contributing to our economy. African Americans, meanwhile, continue to suffer vast inequalities in the workplace and in measures of overall wealth.

- 1) Unemployment rates for blacks hover around 9 percent, more than twice the white unemployment rate. **During the last 40 years, despite some fluctuations, essentially no lasting progress has been made in reducing the black/white unemployment gap.**
- 2) In 2006, roughly three in five black males aged 20 to 24 (not including men in prison and other institutions) were employed. **This represents a decline from four decades ago when four in five young black men were employed.**
- 3) The racial wealth gap in 1988 was \$60,980, meaning that net worth of white households on average was this much larger than it was for African-Americans. **By 2002, the wealth gap between blacks and whites increased to \$82,663.** Blacks have about 10 cents in wealth for every dollar of wealth held by whites.
- 4) Undocumented immigrant workers pay taxes without getting rights and benefits afforded to most workers and taxpayers. **An estimated 50 to 60 percent of undocumented immigrants work for employers who withhold income, Social Security and Medicare taxes** from their paychecks.
- 5) Undocumented **immigrant workers subsidize public programs from which they cannot benefit** For example, they contribute up to \$7 billion each year to the Social Security Fund but are not eligible to get proceeds from it.
- 6) About **30,000 non-citizens serve in our armed forces. In the last six years, about 100 non-citizens died in Iraq and Afghanistan.**

PUBLIC SCHOOLS

Schools have always been viewed as important training grounds for the fulfillment of citizenship in our democracy. Persistently unequal opportunities, coupled with the nation's retreat from desegregation efforts and decline in civics education, challenge the nation's vision of itself as a country committed to equal chances.

- 1) Overall, the school-going population is growing more racially, ethnically and linguistically diverse. On average, though, whites, blacks and Latinos have been increasingly unlikely to attend schools that approximate the diversity of the larger society.
- 2) In 2003, the average black child attended a school that was 53 percent black. The average Latino child attended a school that was 55 percent Latino. The average white child attended a school that was 78 percent white.
- 3) **In 2003, a typical black or Latino student attended a school where nearly half the students were poor, more than twice the share of poverty found in the school of a typical white student.** Research has long shown the negative effects of high-poverty schools. Generally, high poverty schools employ less

qualified teachers, have higher rates of teacher turnover, higher rates of drop outs, suspensions and expulsions and are far less likely to offer college-prep courses.

- 4) In 1998, only about a third of elementary school teachers reported covering civics-related material “regularly.” **Most high schools teach just one civics class in the 12th grade. This represents a decline since before the 1960s when three such courses were typically taught throughout high school.**

Historical Background & Context

Our grand, guiding documents -- The Declaration of Independence and the Constitution, - express our noblest goals, highest aspirations of inclusiveness, self-evident truths about “equality” in much the spirit as the Pledge of Allegiance promises to exact justice “for all.” These same two founding documents, though, reveal an ever-present contrary inclination to restrict and deny not only rights and citizenship, but basic humanity to certain groups. Historically, decisions about constricting and limiting rights have been based upon whatever inherent inequality or lack of deservedness -- be it of blacks or women, immigrants -- seemed “self-evident” at the time.

In other words, *Dred Scott* is not really ancient history. It is most effective not as a baseline by which to measure our progressiveness. More appropriately, *Dred Scott* is a warning from the past. **To this end, in the following year and beyond, CHIRJ will gather thinkers from a wide array of academic disciplines, activists from a variety of settings, leaders of faith communities, litigators and educators to more fully answer the many questions this report raises. In 2008, we will convene a 2nd major conference on the “State of Citizenship” in the United States. This international conference will place particular emphasis on the ability of people of color and contributing members of the foreign-born to pursue life, liberty and happiness in the United States.**