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Race, Housing Segregation, and Special Education:

A DisCrit Reading of Richard Rothstein's *The Color of Law*

It's no secret that racism and racial inequality are alive and well in the U.S. In fact, in many ways this truth is more widely and vocally recognized than it's been in some time. The blatant racism of the sitting president, the momentum of Black Lives Matter protests this past summer, and the devastatingly unequal impacts of covid on racial minorities have brought the subject of racism into the public discourse like never before. Black Americans' awareness has increased more than other races, but those who think our country hasn't done enough to give Black people equal rights increased in number in all racial categories between early 2019 and late 2020 (Pew Research Center, 2020). But while it's clear to increasing numbers of people that Black Americans suffer from countless inequities, fewer people are aware of the structures that created the wealth inequality and residential segregation that underpin racial disparities in the U.S. and are so ubiquitous today.

Richard Rothstein's *The Color of Law* synthesizes legal history and personal narrative to draw an inescapable conclusion: for as long as there have been free Black people in the U.S., government at all levels (from the federal government to neighborhood associations) has worked to dictate where they can live, and thus also where they can work, shop, recreate, and go to school. Focusing on the period from WWI to the end of the 20th century, Rothstein describes the efforts to keep Black people out of White neighborhoods, which were tenacious and frequently entirely

candid—and, as Rothstein argues, a clear violation of the Thirteenth Amendment, which prohibited “all badges and incidents of slavery” (Rothstein ix).

The means of segregation were many. While explicit racial zoning was outlawed by the *Buchanan* case of 1917, local and federal governments found other avenues of attack: zoning excluding multi-family structures in White residential areas, strategic demolition of integrated neighborhoods, real estate fear-mongering, legal enforcement of private agreements, police indifference to and involvement in mob violence, predatory lending and tax structures, condemnation of land intended for development of low-income housing, lack of municipal services, and strategic school placement.

The federal government played perhaps the largest role in excluding Black families from the suburbs: in the interwar and postwar periods, the Federal Housing Authority and other government agencies subsidized housing developments and mortgages only for White families in exclusively White neighborhoods (Rothstein 63-65). The construction of the suburbs was the construction of the middle class, and Black people were excluded from this, and the resulting equity and wealth that came with suburban homeownership (Rothstein 182-85). This exclusion from suburbia alone is responsible for a substantial portion of the wealth inequity that we see today.

Rothstein’s underlying argument is that “African Americans were unconstitutionally denied the means and the right to integration in middle-class neighborhoods, and because this denial was state-sponsored, the nation is obligated to remedy it” (xiv). As such, his focus is primarily on legislative and judicial structures: while he weaves local and personal narratives into the book, the institution he cares about is government. This results in an incredibly broad and in-depth picture of the political, legal, and economic facets of residential inequality, but a sparse

understanding of sociocultural impacts or connections to structures aside from the law. In particular, his brief discussion of the ramifications of housing segregation on education is shallow and misdirected.

While discussing high rates of respiratory illness and absences due to family challenges in predominantly-Black schools, he says: “[I]f most students in a classroom share these impediments, teachers cannot devote special attention to each one” (197). There’s a lot to unpack here. First of all, “these impediments” could refer to a host of possible antecedents, from asthma to truancy, but Rothstein’s language suggests he’s referring to disability. The use of repeatedly vague language from an author who is usually clear and precise reveals his discomfort and ignorance about disability. The assumption that “teachers cannot devote special attention” to each struggling student is, unfortunately, often true, but is mostly due to absurdly high student-to-teacher ratios, which make it “virtually impossible to meet the needs of individual students” (Sensoy and DiAngelo 86). Understaffing and overcrowding are especially prevalent in predominantly-Black urban schools. However, it’s the passive voice and implied causality in Rothstein’s next sentence that truly miss the mark: “In that case,” he writes, “curriculum becomes remedial, and too much time is taken from instruction for discipline” (197). Rothstein seems to suggest that a preponderance of disabled students naturally and inevitably leads curriculum to “become” remedial and discipline to “become” excessive, obscuring the agents who set curriculum and mete out discipline: policymakers, school administrators, and of course, teachers. While not contesting his assertion that remedial curriculum and excess discipline are *negative* consequences, I must challenge his implication that these are *necessary* consequences.

Annamma et al. (2013) seek to address precisely these sorts of misconceptions in their proposal of DisCrit, an offshoot of Disability Studies and Critical Race Theory. Examinations of

race alone or disability alone, they argue, frequently overlook important intersectional experiences of disabled students of Color, and attempts to examine race and disability together must consider the complexities of both. Remedial curriculum is not a natural consequence for disabled students: on the contrary, while White students with disabilities are typically identified in ways that give them supports to stay with their peers, disabled students of Color are more often either overlooked or placed in segregated remedial programs (Annamma et al. 7). Clearly, it is not disability alone but its co-occurrence with race that leads teachers and other school staff to choose remedial curriculum for disabled students of Color. But why does this happen?

Annamma and Morrison (2018) draw from functional ecology and DisCrit in their discussion of the ways bias, both implicit and explicit, impacts disabled students of Color. Myriad studies have shown that Black children are viewed as older and more threatening than White children, and that their pain is perceived with less empathy; furthermore, cultural deficit myths suggest that students of Color struggle academically not because of systemic racism but because of cultural laziness or indifference (Annamma and Morrison 6-8, 9; Sensoy and DiAngelo 82). Learning and behavioral challenges stemming from disability are often dismissed by such biases as apathy or aggression. It is all too easy to see how this leads (primarily White, female¹) teachers to disproportionately scrutinize and penalize the behavior of students of Color, particularly in a traditional classroom where the teacher is positioned as the authority figure.

Remedial curriculum and excess discipline are certainly problems for disabled students of Color; and the impacts of residential segregation, as Rothstein describes, isolate Black and White people from one another, so that neither sees in full the vast racial differences between lived

¹ There are countless studies revealing the predominantly White and female nature of the teaching force. The NTPS published this year shows that in 2017-18, 4 out of 5 teachers were White and 3 out of 4 were female (U.S. Department of Education).

experiences such as school tracking. In Rothstein's words, we, as American citizens in general and teachers in particular, must "develop a broadly shared understanding of our common history"—and our common and divergent present (198). Annamma and Morrison as well as Sensoy and DiAngelo (2017) emphasize that we must uncover our biases and actively work to counter them. Gutiérrez (2015) offers a powerful conceptual framework for the ongoing work of antiracist teaching, with particular attention to teaching mathematics. She offers the term "Nepantla," a Nahuatl word, as raised by the poet Gloria Anzaldúa in describing the dual consciousness people of Color must develop; and extends the concept to describing the complexities and contradictions inherent in being a teacher of students of Color (Gutiérrez 7, 12). Gutiérrez argues that antiracist teaching requires teachers to "help their students both play the game and change the game of mathematics" (5).

As a White math teacher, I must work within the system ("play the game") to help my students jump through necessary hoops like standardized testing; but I must also work against the system ("change the game"), exposing and challenging the Whiteness of mathematics. I can do this by recognizing that my Black students and other students of Color are individuals with struggles and hopes and ideas, and that they are also burdened with the products of generations of oppression and segregation. I can do this by welcoming my students as "authors and doers of mathematics" instead of forcing them to assimilate and become passive receivers of knowledge—by creating a curriculum that fosters discussion and collaboration and inquiry (Gutiérrez 15). I can do this by remaining aware of my role in the system as a White teacher, and by turning awareness into action, building coalitions with other teachers committed to this work and helping each other solve problems and maintain accountability. I can do this by advocating for academic and political reforms and by using my Whiteness to elevate the voices of Black teacher-activists.

The decades of housing segregation Richard Rothstein describes have such far-reaching impacts that it is impossible to truly account for them. However, it's clear that residential segregation and school segregation have been mutually constructed; the persistence of residential segregation has ensured that "schools are more segregated today than they were forty years ago" (Rothstein 179). Because school funding is so contingent on local taxes, and because Black people have been systematically impoverished, school segregation also means that Black schools are chronically underfunded. While education is often touted as a means of escaping poverty, the structural impacts of residential segregation ensure that Black people, on the whole, have severely limited access to wealth, education, and mobility. Such massive social problems would require correspondingly massive solutions. However, that doesn't mean that I am powerless. As a teacher, and particularly as a White teacher of mathematics, I can do my part by building an awareness of the oppressive structures I participate in and by working, in small ways and large, to dismantle these structures.

Works Cited

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