



Civil Rights: The Struggle for Political Equality Part II

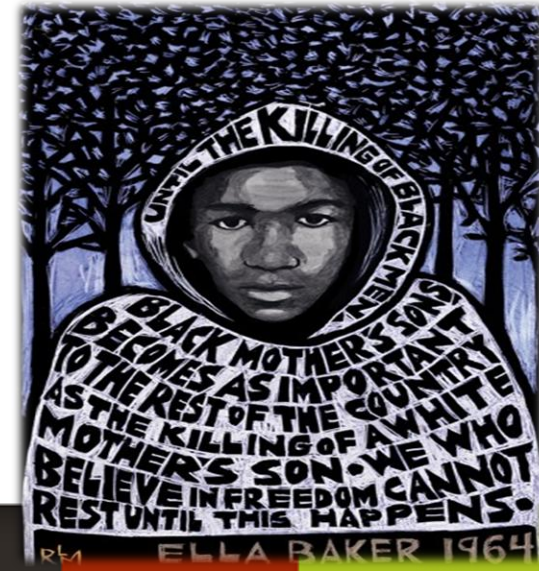
To cheapen the lives of any group of men,
cheapens the lives of all men, even our own.

William Pickens



Decline in Strength of the African American Civil Rights Movement

- Most northern blacks lived in racially isolated neighborhoods, sent children to predominantly black schools and found it hard to get jobs.
- MLK and other civil rights activists began to focus activity in northern cities.
- Busing issues and job discrimination issues hurt white majority support of civil rights activities.
- began to divide two major political parties





Decline in Strength of the African American Civil Rights Movement

- Republicans and the **Southern Strategy**
 - Republican Party electoral strategy of gaining political support among white voters in the South by appealing to racism against African Americans
 - Presidential candidates Richard Nixon and Barry Goldwater developed strategies that successfully contributed to the political realignment of many white, conservative traditionally Democratic voters in the South to the Republican Party.
 - Helped push the Republican Party much more to the right.



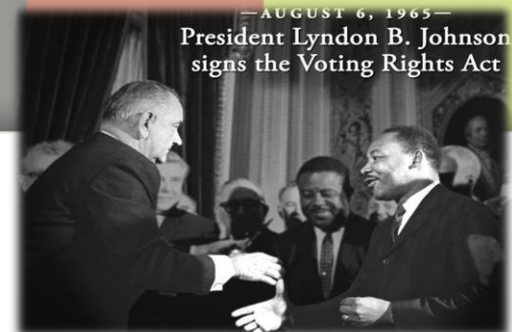


Voting Rights Act of 1965

- ...landmark piece of national legislation that prohibited racial discrimination in voting
- contained numerous provisions that regulate election administration
- **general provisions** provided nationwide protections for voting rights
 - Section 2 prohibited every state and local government from imposing any voting law that resulted in discrimination against racial or language minorities.
 - Other general provisions specifically outlawed literacy tests and similar devices that were historically used to disenfranchise racial minorities.



Voting Rights Act of 1965



- special provisions applied to only certain jurisdictions
 - Section 5 preclearance requirement prohibited certain jurisdictions from implementing any change affecting voting without receiving preapproval from the US Attorney General or the US District Court for DC that the change did not discriminate against protected minorities
 - Section 4 defined those jurisdictions
 - Another special provision required jurisdictions containing significant language minority populations to provide bilingual ballots and other election materials.
- Congress later amended the Act five times to expand its protections.
- considered to be the most effective piece of civil rights legislation ever enacted



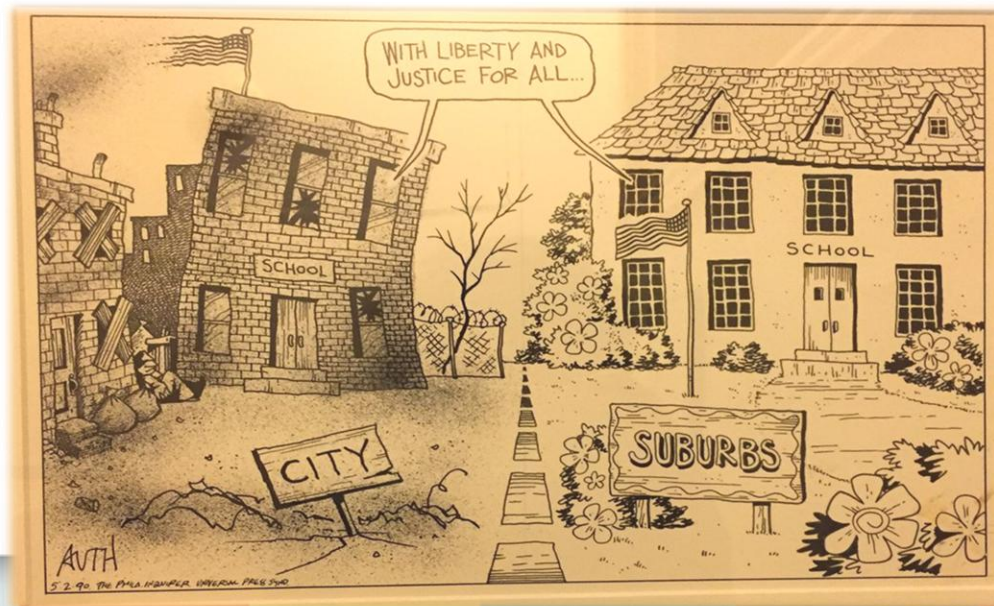
Supreme Court No Longer Forges Ahead

- popular resistance to further legislative initiatives
- Civil rights groups turned again to the courts.
- Courts distinguished between
 - *de jure* segregation: legally sanctioned law sending white students to one school, minority students to another ... prohibited
 - *de facto* segregation: occurs as the result of decisions by private individuals ... law sends all students to closest school, people choose to live in homogeneous neighborhoods so schools wind up segregated



Supreme Court No Longer Forges Ahead

- *Miliken v. Bradley* (1974) considered the constitutionality of the most pervasive form of *de facto* segregation - all white suburban schools versus black inner city schools ... majority sided with Bradley, stating that the Constitution forbids segregation but *does not require any particular racial balance* ... Thurgood Marshall dissented.





The Contemporary Status of Civil Rights for Racial Minorities

- Two basic issues have dominated the story of the extension of civil rights since the mid-1960s.
 - ending legal discrimination, separation and exclusion
 - debate over what actions to take to remedy past wrongs





Affirmative Action

- Despite new legislation and changed public attitudes as a result of the Civil Rights movement, the economic and social situations of African Americans were little improved.
- Prominent figures such as Martin Luther King, Jr. became convinced that a broader societal effort was needed to eradicate poverty.
- After MLK's assassination, many began to support the idea that racial progress required racial preferences for hiring, contracts and college admissions.





Affirmative Action

- Civil rights groups called upon government agencies, universities and businesses to rectify past discrimination.
- **affirmative action**: programs designed to enhance opportunities for groups that have suffered discrimination in the past
- **quota**: specific number of positions set aside for a specific group ... said by the Supreme Court to be unconstitutional



- ***Regents of the Univ. of Cal. v. Bakke*** (1978): prohibited the use of racial quotas by university admissions committees but later permitted the use of race as a factor in hiring or admissions



Affirmative Action

- Nixon took an important step in rectifying past discrimination.
- **Philadelphia Plan** (1969): required federal contractors to meet certain goals for the hiring of minority employees by specific dates in order to combat institutionalized discrimination on the part of specific skilled building trades unions
- Since then, government and higher education racial preference programs have become relatively permanent but their aim has shifted from providing remedies for past discrimination to **enhancing diversity**.



Arguments For Affirmative Action

- important remedy for lingering disadvantages from past discrimination
- tolerance and a sense of community requires diverse educational, workplace and government institutions
- provides important role models for disadvantaged groups





Arguments Against Affirmative Action

- violates idea that people viewed as individuals, not members of a group
- benefits the already-advantaged within traditionally disadvantaged groups
- brings new forms of discrimination
- increases interracial tension





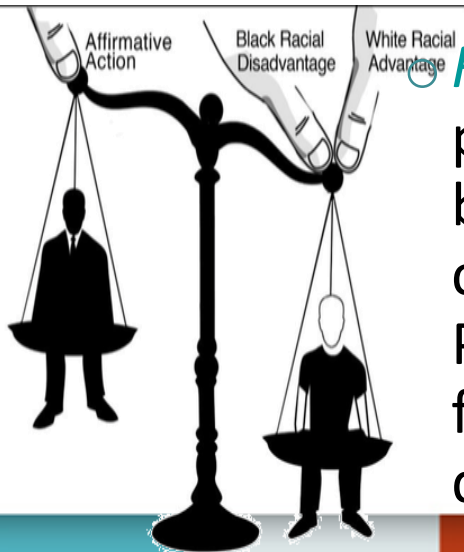
Public Opinion on Affirmative Action

- Most Americans support the diversity goals of affirmative action.
- Most also oppose racial preferences in hiring, contracts and college admission.
- wide racial differences on the issue of preferential treatment
- California (1996) and Washington (1998): passed similar laws prohibiting state and local agencies from granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity or national origin in public education, public employment or public contracting, thus **eliminating affirmative action programs** at all public colleges and universities



Supreme Court on Affirmative Action

- For most of the last decade, the Supreme Court has moved toward the position that government laws and actions that are not colorblind should be subject to strict scrutiny.
- *Wygant v. Jackson Board of Education* (1986): seminal case for the **strong-basis-in-evidence standard** for affirmative action programs (requires convincing evidence that remedial action is warranted)



- *Richmond v. Croson Co.* (1989): Minority set-aside program, which gave preference to minority business enterprises in awarding municipal contracts, is unconstitutional under the Equal Protection Clause since it failed to identify need for remedial action and that other non-discriminatory remedies would be insufficient.



Supreme Court on Affirmative Action

- *Adarand Constructors v. Peña* (1995): held national government to same standards as state and local governments through process of *reverse incorporation* in that racial classifications, imposed by national government, must be analyzed under a *standard of strict scrutiny*, the most stringent level of review which requires that racial classifications be narrowly tailored to further compelling governmental interests
- *Miller v. Johnson* (1995): court noted that in some instances, *a reapportionment plan may be so highly irregular and bizarre in shape that it rationally cannot be understood as anything other than an effort to segregate voters based on race* and thus requires strict scrutiny



Supreme Court on Affirmative Action

- University of Michigan cases signaled an apparent shift from earlier decisions.
 - *Grutter v. Bollinger* (2003): upheld affirmative action admissions policy of U of Michigan Law School ... had a compelling interest in promoting class diversity ... held that race-conscious admissions process that may favor *underrepresented minority groups*, but that also took into account many other factors evaluated on an individual basis for every applicant, did not amount to a quota
 - *Gratz v. Bollinger* (2003): ruled U of Michigan undergraduate affirmative action admissions policy's *predetermined point allocations* that awarded 20 points towards admission to underrepresented minorities *ensured that the diversity contributions of applicants cannot be individually assessed* and was therefore unconstitutional





Supreme Court on Affirmative Action

- current status of affirmative action under federal constitutional law:
- Any government program that uses race to determine who receives benefits is subject to strict scrutiny.
- In government contracts and hiring, affirmative action programs are acceptable only if narrowly tailored to rectify past discriminatory actions by that particular agency.



○ In university admissions, actions to rectify past discriminatory admissions by a particular institution are permitted.

In university admissions, the goal of achieving a diverse student body is a compelling reason to have affirmative action programs.



The Return of Segregated Schools

- *Brown v. Board of Education* (1954), overturned the doctrine of separate but equal.
- mid-1960s through late 1980s: Schools had become almost entirely racially integrated but there were debates over the importance of integrated schooling.
- During the 1990s, the trend was reversed in the South.



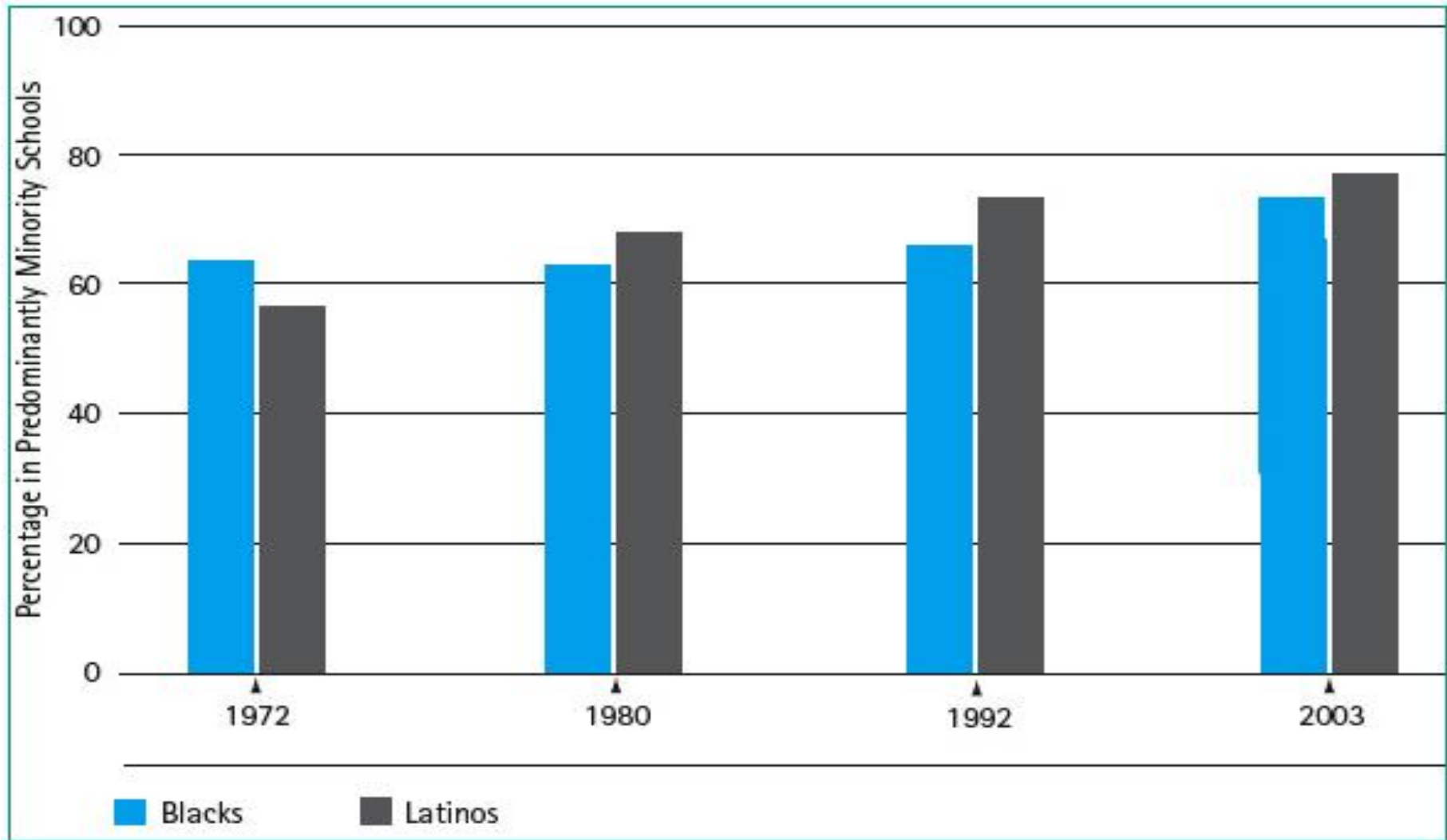


The Return of Segregated Schools

- *Board of Education of Oklahoma City v. Dowell* (1991): held that a national desegregation order should be ended even though it meant that schools would become re-segregated ... *The Court of Appeals' test for dissolving a desegregation decree is more stringent than is required either by this Court's decisions dealing with injunctions or by the Equal Protection Clause of the Fourteenth Amendment.*
- Absent busing, local neighborhood schools tend to be racially homogenous.

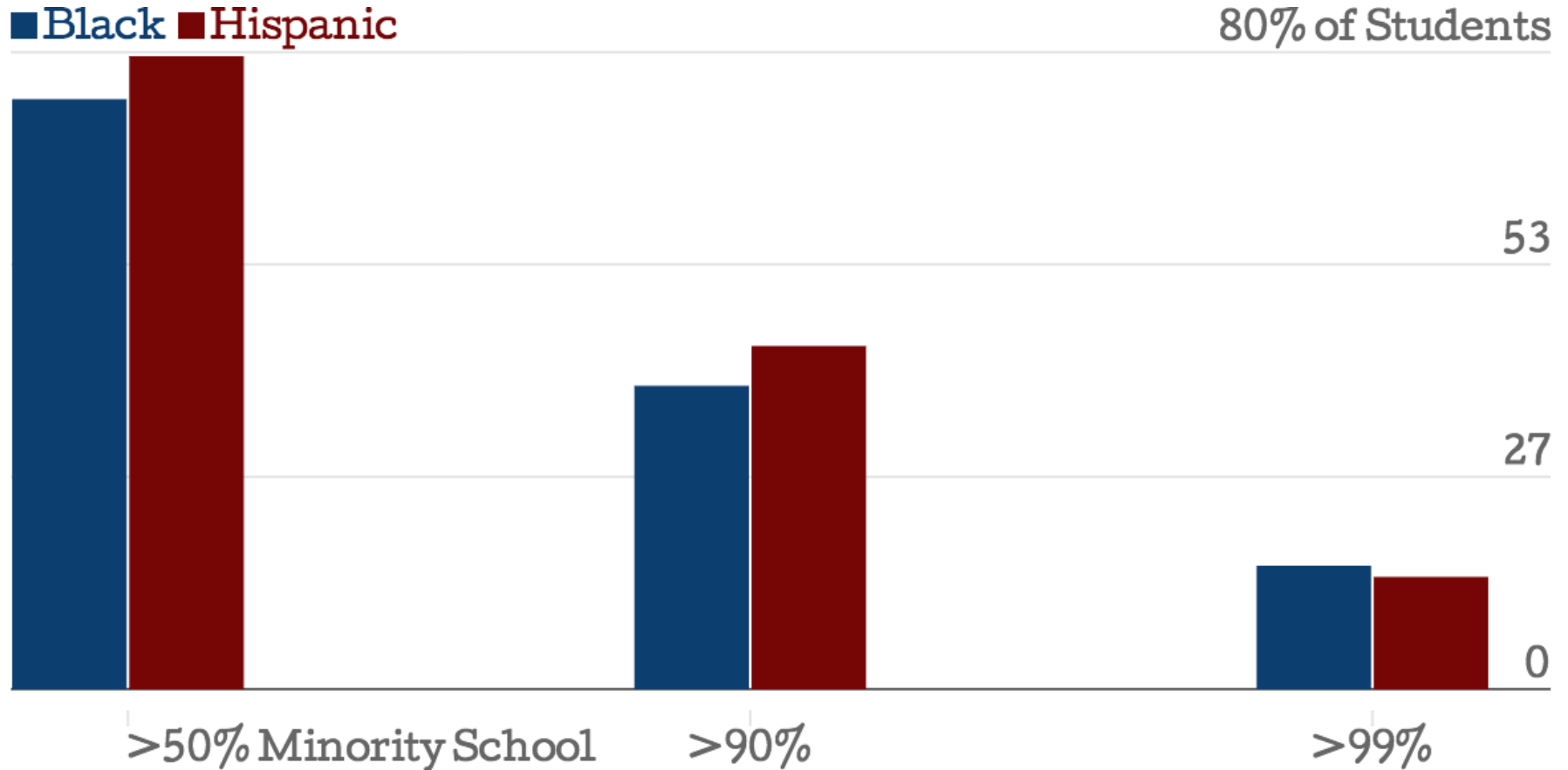


Percentage of African American and Latino Students in *Segregated* Schools





Percent of Students in Minority Schools by Race, 2015



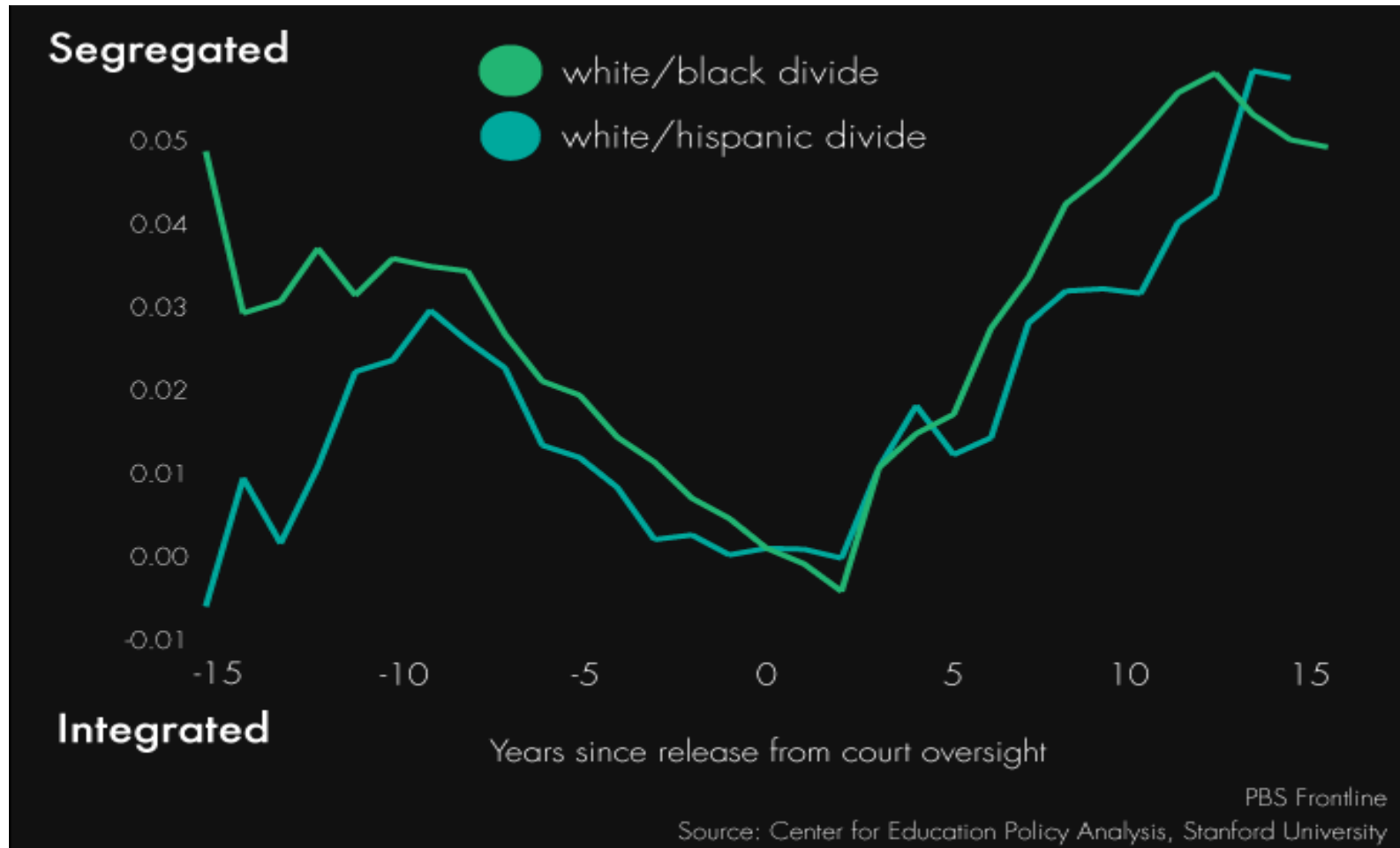
U.S. News & World Report

Lindsey Cook for USN&WR; Source: Civil Rights Project

US Education: Still Separate and Unequal



Segregation Tends to Rise without Court Oversight



[The Return of School Segregation in Eight Charts](#)



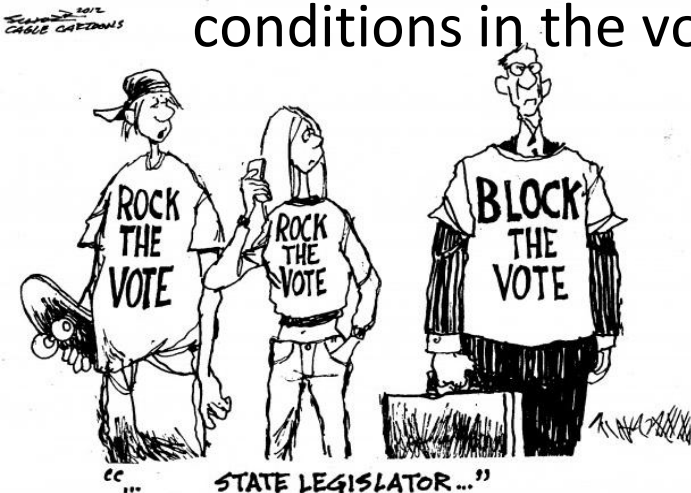
The Return of Voting Restrictions

- After 2010 election, state lawmakers started introducing hundreds of measures making it harder to vote. New laws ranged from strict photo ID requirements to early voting cutbacks to registration restrictions. [What Happened Next in 8 States Will Not Shock You.](#)
- In 2016, 16 states had [new voting restrictions](#) in place for the first time in a presidential election: AL, AZ, FL, IN, KS, MS, NC, NE, NH, OH, RI, SC, TN, TX, VA and WI.
 - 42% of eligible voters couldn't participate because they faced an array of newly-enacted barriers to the ballot box.
 - Laws [disproportionately harmed](#) students, the poor and people of color.
 - In several instances, lawmakers pushing such policies said explicitly that their goal was [suppression of voters who favor the Democratic Party.](#)
 - Experts say It's undeniable that there is an effect from new voting laws.



The Return of Voting Restrictions

- *Northwest Austin Municipal Utility District Number One v. Holder* (2009): VRA permits all political subdivisions, including the district, to seek to bailout from the preclearance requirements of the VRA.
- *Shelby County v. Holder* (2013): Section 4 of the Voting Rights Act is unconstitutional in that it imposes current burdens that are no longer responsive to the current conditions in the voting districts in question.





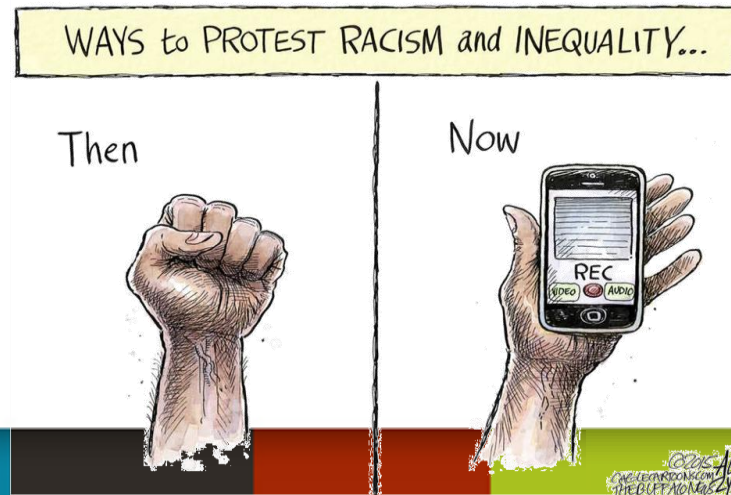
The Return of Voting Restrictions

- *Arizona v. Inter-Tribal Council of Arizona* (2013): VRA preempts other voter registration requirements. To allow states to impose additional requirements would allow them to reject voter registrations applicants who met the federal requirements to vote, which would defeat the purpose of the Act. Also held that Arizona may *petition* to have more requirements added to the federal standard.
- *Texas NAACP v. Steen* (2017): held the voter identification law the Texas Legislature passed in 2011 was enacted with the intent to discriminate against black and Hispanic voters, raising the possibility that the state's election procedures could be put back under federal oversight (but in the meantime it was used in the 2014, 2016 elections)



Contemporary African American Civil Rights Issues

- The main doctrine on discrimination at the present time is clear.
- Any use of race in law or government regulations will trigger **strict scrutiny** from the courts.
- Government can defend its acts under strict scrutiny only if it can produce a **compelling government interest** for which the act in question is a necessary means.
- Few laws survive this challenge.





Contemporary African American Civil Rights Issues

- Legal protections do not mean that racial discrimination has disappeared from the US.
- Significant problems still impact African Americans.
 - 1/3 of African American and 1/5 of Latino and Asian men report experiences of job discrimination.
 - Overwhelming majorities of African Americans, Latinos and Asians say they have been subject to poor service in stores and restaurants because of their race, and have had disparaging remarks directed at them.
 - All minorities report bad experiences with racial profiling.
 - Black unemployment is nearly double the national average.



Other Groups Mobilize for Rights

- Asian Americans
- Women
- Hispanic Americans
- Native Americans
- Gays and Lesbians
- Senior Citizens
- Disabled Americans





Asian American Civil Rights

- Unlike other groups, Asian Americans were often expected to be quiet and behave and thus did not have sanctioned outlets to express the anger and indignation that accompanied their racially subordinated status.
- New to influence, Asian Americans watched African Americans expose institutional racism and government hypocrisy, and began to identify ways in which they had faced discrimination.
- While *first* generation Asian American immigrants fought for the right to naturalize and the right to own property - essentially, the right to *be* Americans - the *next* generation fought for their rights *as* Americans.



Activist Yuri Kochiyama

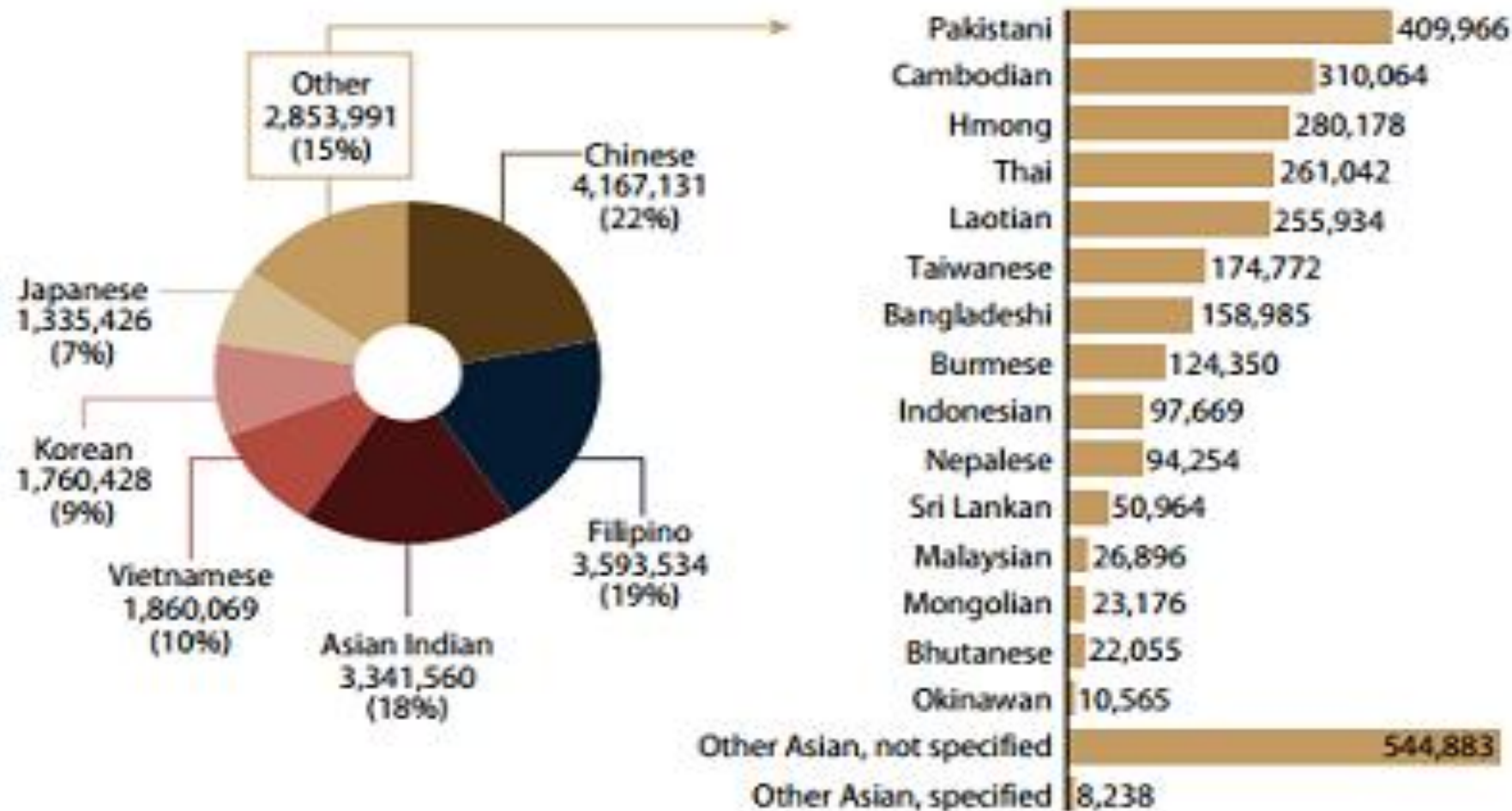


Asian American Civil Rights

- Like Latinos, they represent many different nations with differing, even conflicting, policy concerns ... **48 ethnicities** are categorized as Asian American by the US Census Bureau.
- A challenge of the Asian American civil rights movement from the outset was that **Asian Americans identified by ethnic group rather than as a racial group**. The Vietnam War changed that. During the war, Asian Americans - be they Vietnamese or otherwise - faced hostility. Chinese American, Filipino American, Japanese American and other Asian American students began to coalesce as **pan-Asian American** groups and to reach out to other minority groups.
- **A Concise History of Asian American Civil Rights Issues**



Ethnicity and National Origin of the Asian American Population, 2012



Source: Bureau of the Census, "Asian alone or in any combination by selected groups, 2012," available at http://factfinder2.census.gov/bkmk/table/1.0/en/ACS/12_1YR/B02018 (last accessed March 2014).



Asian American Civil Rights

- **Transcontinental Railroad:** In 1865, Central Pacific arranged with labor contractors to import thousands of poor Chinese workers (90% of workforce) directly from China to construct tunnels and lay track, dangerous work at which many died. Chinese workers went on strike once (1867) but after 8 days cut off from food and supplies, they ended the strike.



- **LA's Chinese Massacre of 1871:** racially motivated riot by mob of over 500 white men, who entered Chinatown to attack, rob and murder Chinese residents of the city



Asian American Civil Rights

- **Chinese Exclusion Act of 1882**: all immigration to US from China banned for 10 years and Chinese residents living in US prevented from naturalizing as American citizens ... was eventually renewed indefinitely until the mid-20th century
- **California Alien Land Law of 1913**: prevented aliens ineligible for citizenship from owning property
- **Immigration Act of 1924**: widened the breadth of institutionalized discrimination to all people of Asian descent (not until Immigration Act of 1965 that a large influx of immigrants from Asia would be welcomed)



Asian American Civil Rights

- Japanese internment in WWII
 - Executive Order 9066 (1942): ordered Japanese Americans, regardless of citizenship, into military-run internment camps during WWII
 - Much of the internees' property was confiscated and sold.
 - *Korematsu v US* (1944): Balancing nation's stake in the war and national security against the suspect curtailment of the rights of a particular racial group, Court decided the nation's security concerns outweighed the Constitution's promise of equal rights.
 - number of Asian American civil rights activists were Japanese American internees or the children of internees





Asian American Civil Rights

- *Sei Fujii v. US* (1952): Court rendered the Alien Land Laws unconstitutional
- *The Immigration and Nationality Act of 1965*: landmark reform that finally lifted restrictions on immigrating to the US, eliminating previous nation-origins quotas that had only allowed a small number of people to emigrate from Asia and naturalize ... Asian Americans who were citizens and permanent residents could now apply for family members to move to the US.





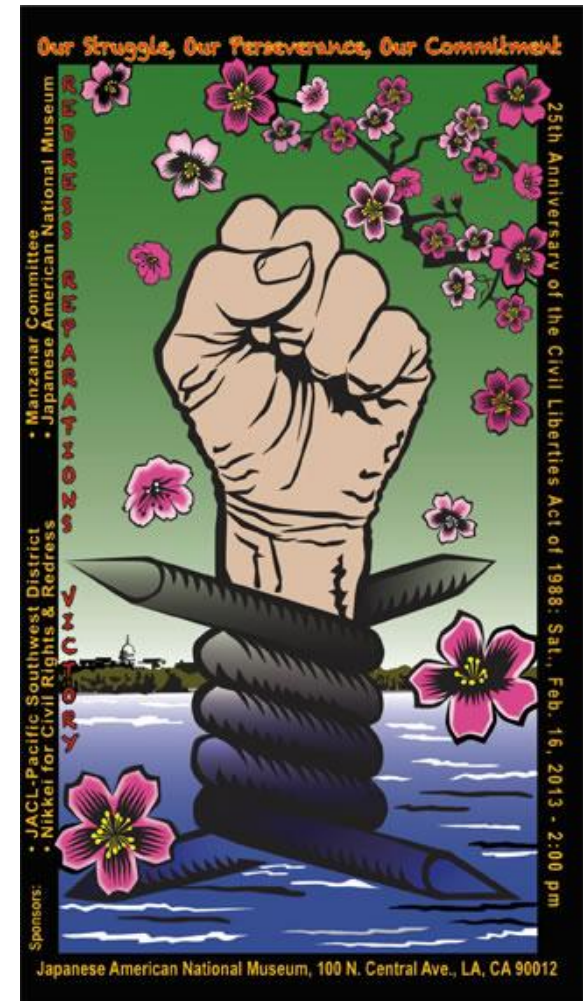
Asian American Civil Rights

- During the Asian American civil rights movement of the 1960s and 1970s, activists fought for the development of **ethnic studies programs** in universities, an end to the **Vietnam War** and **reparations for Japanese Americans** forced into internment camps during WWII.
- Speaking out about racial bias felt risky for some Japanese Americans, given their past treatment by the US government.
- *Lau v. Nichols* (1974): students' access to, or participation in, educational programs cannot be denied because of inability to speak or understand English (began as a class action by Chinese-speaking students against school district in San Francisco but applied to all non-English-speaking students)



Asian American Civil Rights

- **Proclamation 4417** (1976): made Executive Order No. 9066 completely void and stated that Japanese Americans were extremely loyal and were unfairly suspected
- **Civil Liberties Act of 1988**: distributed \$20,000 in reparations for internees and included an apology from the federal government





Contemporary Asian American Civil Rights Issues

- Regardless of the seemingly cushy stereotype of the *model minority*, Asian Americans have yet to achieve parity - in the workplace, in the ballot box, in the eyes of the mainstream. The diversity of Asian American ethnicities prevents sweeping generalizations from being made. Current issues include:
 - Segments of the community lack access to **adequate healthcare**.
 - **anti-Asian violence**: Hate crimes committed against Asian Americans, which often go unreported, dramatically increased after 9/11.



Contemporary Asian American Civil Rights Issues

- Current issues include:
 - **Voters and potential voters face barriers** that discourage them from voicing their views at the ballot box.
 - Asian American youth have the lowest rates of voter registration of all minority youth populations.
 - Backlogged applications for naturalization prevent residents from obtaining the right to vote for years.
 - Mandatory bilingual ballots and voter assistance are frequently absent at the polls, violating the Voting Rights Act.
 - Concerns of the community go overlooked due to lack of representation.





Contemporary Asian American Civil Rights Issues

○ Current issues include:

○ **employment discrimination**: 31% of Asian Americans surveyed reported incidents of discrimination, the largest percentage of any racial or ethnic group, but Asians Americans generally file fewer discrimination complaints than other groups.

ratio of executives for
Asian/white men and women
at five major Silicon Valley-
based companies

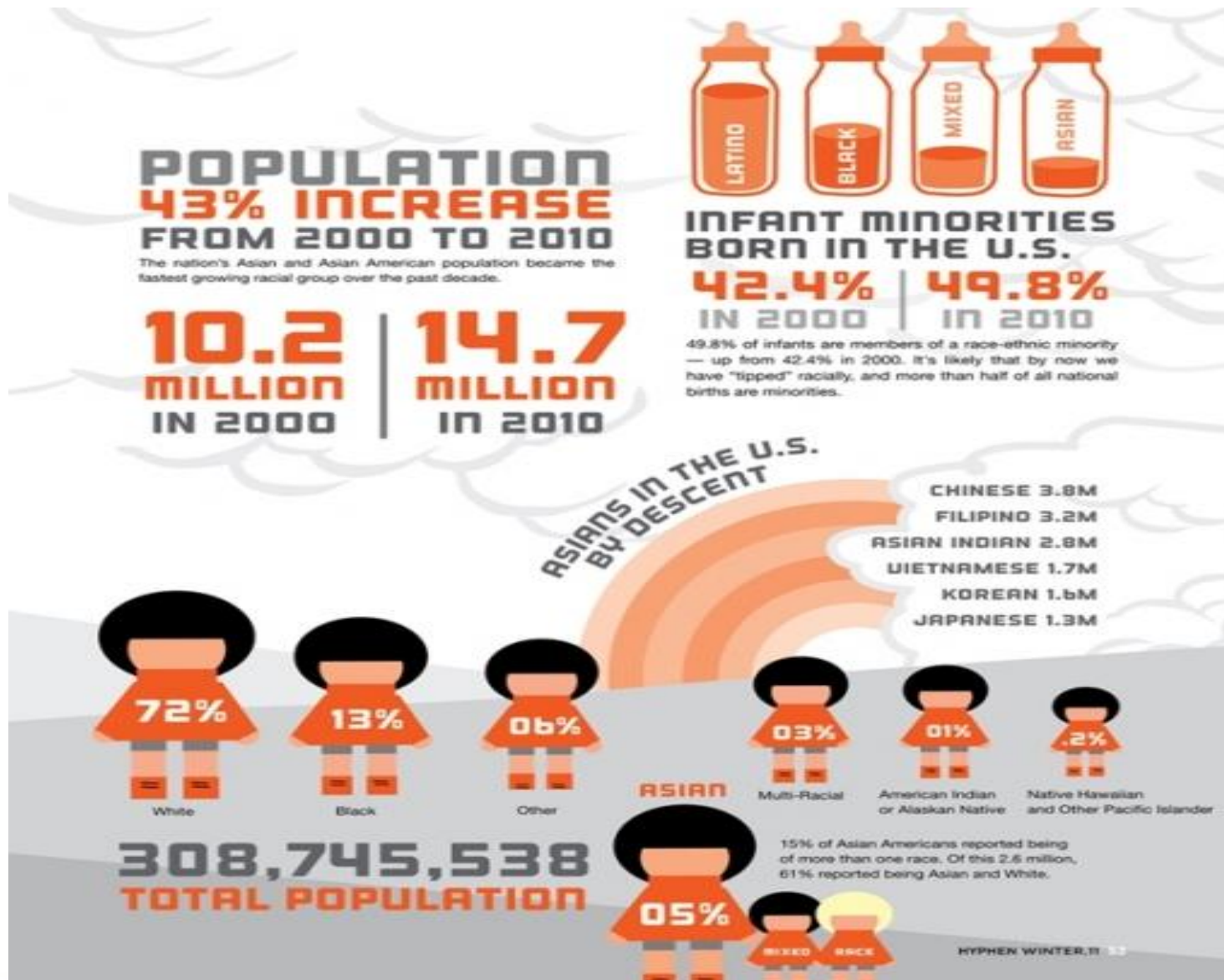


○ **glass ceiling**: Despite the large number of Asian American professionals, most are unable to break into top management positions, which are still predominantly filled by those who are white (97%) and male (95%). Less than 1% of college presidents are Asian American.

1 per 285 Asian Women
1 per 201 Asian Men
1 per 123 White Women
1 per 87 White Men



Asian American Population Statistics





continued in Civil Rights: The Struggle for Political Equality Part III