BEYOND DISCRIMINATION

Racial Inequality in a
Postracist Era

Fredrick C. Harris and
Robert C. Lieberman,
editors

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Chapter 2 | The American State as an Agent of Race Equity: The Systemic Limits of Shock and Awe in Domestic Policy

Desmond King

THE HISTORICAL INFIRMITY of the American state in ameliorating the nation's searing racial inequalities is notable. It is even more striking when set against the same state's gargantuan military, fiscal, cultural, ideological, and political capacities, which have enabled the United States to dominate modern affairs since the Second World War and to maintain legitimacy at home. These raw capacities are described in this chapter as "shock and awe," a shorthand for the set of formidable policy measures and resources the U.S. political executive draws on to set the agenda and sometimes to achieve policy priorities (Weir and Skocpol 1985; Posner and Vermeule 2010, 11–12). The announcement may be more dramatic than the execution, but the aura of massive policy attack is irrefragable. Such engagements as Harry Truman's Hiroshima, Lyndon Johnson's War on Poverty, and George W. Bush's "war" on terrorism exemplify what James Scott (1998) memorably terms "seeing like a state," with its implied allocation of state power.

Yet this American state rarely sees profound race inequality as a priority for national action. The multiple material inequalities documented in this volume and elsewhere (Cohen 2010; Smith and King 2009) in African American housing and education opportunities and encounters with the criminal justice system, for instance, are grounds for a national restorative policy, but none is forthcoming. These unequal patterns are not construed as crises by the American state at present. Historically, it is the exclusion of

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African Americans from equality instead of ameliorating inequities that attracts state support (Katznelson 2005). The American state's ample resources to intervene in U.S. society were deployed from the 1880s to the 1950s to maintain race inequity in the separate-but-equal governance institutions.

In the mid-1960s, in the wake of the enactment of the Civil Rights Act, President Lyndon Johnson's adviser, the Harvard professor Daniel Patrick Moynihan, wrote a famous report declaring that legal equality for African Americans was crucial but needed immediately to be followed with a plan of "national action" to destroy material legacies of America's history of slavery and Jim Crow segregation (Moynihan 1965). Moynihan's imperative reached President Johnson. In his Howard University commencement speech, "To Fulfill These Rights," drafted by Moynihan and delivered in June 1965, Johnson conceded that freedom is not enough to rectify the searing damage of centuries of race inequality and systemic discrimination: "In far too many ways American Negroes have been another nation: deprived of freedom, crippled by hatred, the doors of opportunity closed to hope." National action, in Moynihan's view, meant at least a guaranteed family allowance, a massive employment program guaranteeing jobs, proper adoption and family planning services, and education and housing initiatives (Johnson 1965).

Moynihan's call for national action and Johnson's admission about the feeble policy response to enduring material inequities followed the culmination of decades of protests, which produced the Civil Rights Act of 1964. Johnson's and Moynihan's entreaties predated by a couple of months' enactment of the Voting Rights Act of 1965. Combined, these two laws created the potential for a postracial America, establishing equal rights of legal and democratic citizenship; however, the persistence of entrenched discrimination and systemic inequality precluded this possibility. One less important explanation is the content and reception of the so-called Moynihan Report, published in 1965, entitled *The Negro Family: The Case for National Action* (Moynihan 1965). As is well known, the report, intended by its author Moynihan, who was then based in the U.S. Department of Labor, and President Johnson to formulate a comprehensive strategy for helping African Americans, became mired in controversy about its characterization of African American families. The report's apparent judgmentalism on African American family structures overshadowed its policy recommendations, and these latter rapidly receded from the pool of American state actions.

In understanding the challenge, Moynihan emphasized that the sudden granting of equal rights of citizenship could not be taken as equivalent to providing equal material income or future opportunity. But the sociologi-

cal evidence he compiled while writing the report shifted his focus to the African American family structure and what he unhelpfully came to term the "tangle of pathology": "The Negro community has been forced into a matriarchical structure which, because it is so out of line with the rest of American society, seriously retards the progress of the group as a whole, and imposes a crushing burden on the Negro male and, in consequence, on a great many Negro women as well" (Moynihan 1965, 31). The report contained copious data about low wage rates, limited employment opportunities, poor education attainment, and numerous other factors that contributed to economic inequality facing African Americans and demonstrating a knowledge of major African American research findings such as W. E. B. Du Bois's (1996) work on Philadelphia and the writings of Kenneth Clark (1965) and Franklin Frazier (1939) (Patterson 2010). Nonetheless, Moynihan's conclusions focused primarily on the family crisis: "In a word, a national effort toward the problems of Negro Americans must be directed towards the question of family structure" (Moynihan 1965, 47).

Because of Moynihan's failure to attend to the overpowering significance of structural factors such as housing, schools, and proper jobs, the report became an easy target for African Americans, to whom the writer was an outsider, and for whom racism was not an academic issue. Moynihan was not presenting a simplistic cultural account of the issues, but his focus on the structure of African American families was curiously disconnected from the structural context of that structure. He did support a rigorous national program—the "national action" in the report's title—consistent with what came to be understood as affirmative action combined with family allowances, job schemes, and so forth. But this aspiration got drowned out in the negative response to other parts of his report (for a summary, see Patterson 2010, chap. 4).

What is interesting about the Moynihan controversy for this volume's thematic purposes is that from the mid-1950s, for a brief period of a decade and a half, the American state did see race inequity—at least, when inequality violated norms and formal rules of democratic citizenship—as a key priority and did bring to bear its shock-and-awe resources on the problem. The American state, in the exercise of concentrated policy initiative by the executive and its bureaucratic agencies such as the Department of Justice and the Equal Employment Opportunity Commission and with support from the Supreme Court, proved capable of mobilizing to address race inequities when a crisis strikes (and thereby to employ the shock-and-awe resources observable in other policy areas). Such executive engagement requires bypassing the institutional constraints on executive power embodied in both the separation of powers and in federalism. But why has this level of national action eluded advocates of a decisive response to

material race inequalities of the scope and depth prerequisite to shifting to a postracist society?

These issues prompt a broader query. Why has the American state at certain times and under certain conditions taken direct measures to address race inequity? When does the U.S. state see race as an issue? This chapter focuses on the conditions that enabled the executive to respond to a crisis in race inequity in the 1950s and 1960s to analyze the conditions and circumstances under which such American state action occurs. Two factors are crucial to understanding the state activism of the 1950s and 1960s: First, the time and context—already much documented by scholars—shows the force of the civil rights movement in domestic politics and the international Cold War pressure (Morris 1984; Klinkner and Smith 1999; Dudziak 2000; McAdam 1982). Second, the denial of civil and voting rights had reached crisis proportions, and the opportunity and willingness of the executive to act was unusually high, especially because, unlike reform to material race inequities, civil rights required legal reform and enforcement rather than a massive exercise in economic redistribution.

SHOCK AND AWE: FROM FAIR EMPLOYMENT PRACTICES TO TROUBLED ASSETS RELIEF

From the late 1930s and through the Second World War years the crisis that race inequality posed in and for American democratic politics was explosive (Johnson 2010; Morris 1984; Myrdal 1944; Parker 2009). War mobilization did not just intensify the grassroots movement against race inequity and the segregationist racial order. It demonstrated the capacity of American state officeholders to use concentrated national authority and enforcement capacity significantly to advance the meaning of race equity (Kryder 2000). President Franklin D. Roosevelt's issuance of Executive Order 8802 in June 1941 establishing a Fair Employment Practices Committee responded to the threatened March on Washington organized by A. Philip Randolph (King 2007, 25, 74–75). Equipped with hesitant powers of implementation and denied permanent status by Congress in 1946, nonetheless the committee demonstrated the ability of the executive to marshal national American state resources toward the goal of reducing race inequality (Frymer 2004).

The Fair Employment Practices Committee set a trajectory that took an egregiously long period to mature (through such actions as desegregating the Armed Forces, the Brown decision in 1954, and civil rights legislation) but nonetheless proved to be the first step of an irreversible journey to enact equal rights of citizenship for African Americans. What is striking, however, is the enduring reluctance since mid-twentieth century to push

this journey along with what I term the shock-and-awe tools used by the American state to resolve comparable crises in public order and challenges from social inequality in two respects: first, the slowness to pass civil rights laws and second, the reluctance to step beyond legal equality to the sort of national action, advocated, for instance, in Moynihan's 1965 report, required to abrogate material inequities. Thus while the misery of many New Orleanians' lives exposed by Hurricane Katrina prompted the president, George W. Bush, to call for the use of "greater federal authority" and "military resources" (Bush 2005, 1408) in addressing American society's ills, to many proponents of race equity the prior question ignored in Bush's remarks was important: Why have the American state's vast resources and capacities not been a greater tool of intervention toward this goal? It certainly has used these resources on other occasions.

Crises enable the political executive legitimately to mobilize otherwise fractious and conflicting centers of political power and interest, institutionalized in the separation of powers designed to constrain centralized authority, to set out priorities and agendas, to channel new resources through energized bureaucratic agencies, and to declare or delegate emergency powers. War is an obvious and often dramatic instance (the attack on Pearl Harbor in Hawaii ineluctably put the United States at war), but other domestic or international events have a comparable impact on the central state's authority and responsibility to act (Dudziak 2012; Sparrow 2011).

The power of crises has a further consequence. Crises may be contrived to empower the political executive to embark on a new initiative with the sort of concentrated policy focus familiar from warlike circumstances. For instance, declaring war on an inanimate target—such as poverty, illegal drugs consumption, crime, or even inflation—is a strategy to which many White House incumbents have resorted. The militarization of the U.S. border and domestic detention policy toward undocumented immigrants since the 1990s has the trappings of a war.

Although the extensive activist apparatus of taxing, spending, regulating, and standardizing continues—if somewhat imperceptibly for many Americans (Howard 1997, 2007; Mettler 2011)—historically, the American state is mobilized most forcefully and visibly in conditions of crisis rather than of routine politics. Social disorder, public health epidemics, financial system meltdown, war, or the threat of war elicit concentrated policy responses; indeed, crisis is such a powerful stimulus to executives wishing to mobilize state power that resorting to warlike or mimicking strategies is common.

Crisis is rarely an objective condition. The decades during which lynchings of African Americans often numbered more than a hundred a year did not prove a crisis of sufficient importance to warrant federal action in the

1920s and 1930s. This violent form of disorder elicited only failure in national institutions to enact antilynching laws, and after the failure of the Dyer bill in 1923 the issue disappeared as a congressional priority for two decades, despite the continuation of the murderous practice. George W. Bush did not perceive Hurricane Katrina as a crisis warranting federal action until the political fallout of failing to act made such action a matter of urgency.

But in contrast to Katrina, the American state's response to the post–September 2008 fiscal meltdown demonstrates its formidable resources and capacity to engage in massive policy attack. Faced, in the final months of his presidency, with an imminent global market implosion and liquidity crisis, George W. Bush delegated authority to his treasury secretary, Hank Paulson, who worked with the chairman of the Federal Reserve, Ben Bernanke, to prop up the collapsing U.S. banking sector. The American state response was substantial, beginning with the generous $700 billion Troubled Asset Relief Program and followed with almost daily government responses to the U.S. financial crisis in the fall of 2008. The American state was still hard at work on the fiscal crisis on March 18, 2009, when Bernanke announced the expenditure of $300 billion to purchase U.S. government debt, raising the Fed's balance sheet to more than $3 trillion, close to a third of the size of the U.S. economy.[1]

Commonly viewed as a stopgap to offset immediate distress, in fact pumping trillions of dollars in loans, buyouts, and guarantees into the U.S. economy to shore up the financial sector is the culmination of a half century of activist state expansion, an activism refined during wartime (Sparrow 2011). Since the 1950s the American state has become an activist and interventionist system of governance, in a process steered as much by Republican presidents such as George W. Bush as by Democrats such as Bill Clinton. This enlarged presence includes not just the reasonably observable changes in taxing, spending, and regulating in the United States—remaking the U.S. state, through "a great transformation," into an "activist state," according to the political scientist Paul Pierson (2007, 19)—but also the deployment of legitimate national authority to social policies such as education and for democratic nation building, defense, and struggles against internal if obscure "enemies" such as illegal drug users and illegal immigrants.

This expanded activism is mirrored in a scholarly literature on the idea and meaning of the U.S. state, commencing with Stephen Skowronek's *Building a New Administrative State* (1982) and the "bringing the state back in" research agenda orchestrated by Ira Katznelson and Theda Skocpol (see Evans et al. 1985). Scholars document the specificity and materiality of the American state (see Katznelson 2005; Mettler 2009, 2010) in studies

that include Margaret Weir and Theda Skocpol's (1985) seminal comparative study of U.S., British, and Swedish state responses to the Great Depression in the 1930s and taken up in an impressive outpouring of articles and monographs by political scientists and historians (which includes Balogh 2009; Dobbin and Sutton 1998; Edling 2003; Frymer 2004; Johnson 2007, 2009; Katznelson 2005; Kryder 2000; Lieberman 2009; Novak 2008; Sheingate 2009; Skowronek 2009; Stears 2002, 2010; and Ward 2005).

Although comparatively the U.S. federal government or American state has access to exceptional resources (military, fiscal and economic, cultural, and bureaucratic), because of constitutionally divided power the deployment of a concentrated massive policy response is far from automatic and more infrequent than common. But as Adam Sheingate (2009, 2) remarks, this literature and other research finds that "what is distinctive about the American state, . . . is where, by whom and for what purpose public authority is exercised," not the exercise of that public authority itself. This exercise of public authority was practiced forcefully in response to the 9/11 terrorist attacks, as it has been in responding to earlier crises and is perceptible in America's escalation of quasi-military resources against illegal immigrants. And rarely has the raw content and scale of American state power and exercise of public authority been as pellucid as in the response to the post–August 2008 Great Recession.

This enhanced American state activism and use of public authority includes the legislative, judicial, and executive programs democratizing the race inequities in the United States in the 1950s and 1960s, inequities constitutive at the nation's founding (Smith 1993, 1997), maintained and reformulated in shifting racial orders with observable legacies in contemporary America (King and Smith 2005, 2011). Scholars now acknowledge the historical and contemporary importance of American state activity—or, on occasion, purposeful inactivity—in shaping patterns of race inequity.

THE AMERICAN STATE AND RACE: FROM OPPRESSOR TO REFORMER TO SPENT FORCE

The history of the American state's engagement with issues of race equity between the mid-nineteenth and mid-twentieth centuries is an unhappy one, illustrating the importance of how the state sees race. This is the era of the "segregated state, the decades during which the U.S. federal government not only failed to uphold equal rights but actively fostered segregated race relations in government departments and agencies (King 2007; Lieberman 1998). The federal government was part of a segregationist racial order, consolidated from the 1890s, when the Plessy (Plessy v. Fergu-

son, 163 U.S. 537 [1896]) ruling legitimated the "separate but equal" pretense, and in place until the 1960s (King and Smith 2005), through which all policies—such as the New Deal programs or wartime mobilization in addition to education and transport—were established on the premise of separate facilities for African Americans to parallel those for white Americans.

This arrangement was not merely about separate facilities but also about separate governance. As federal government activism grew from the 1930s, ushering in an era of New Deal programs, so the disproportionate (and often inferior) inclusion of African American citizens unfolded. Ira Katznelson (2005, x) succinctly dubs this era as one "when affirmative action was white" and writes that "policy decisions dealing with welfare, work, and war during Jim Crow's last hurrah in the 1930s and 1940s excluded, or differentially treated, the vast majority of African Americans. . . . Inequality, in fact, increased at the insistence of southern representatives in Congress, while their other congressional colleagues were complicit. As a result of the legislation they passed, blacks became even more significantly disadvantaged when a modern American middle class was fashioned during and after the Second World War." Thus as national policy makers used American state power to expand national capacities and intervention in society, they not only demonstrated the enhanced resources and capacities—the genesis of shock-and-awe powers—but did so in a way that purposefully exacerbated race inequity. For those discriminated against and disappointed in this process, the American state was anything but weak or invisible or "out of sight" as understood in the conventional understanding (Nettl 1968).

State segregation was not confined to employment programs, however; it pervaded departments of the federal government and their field offices in the North as well as the South. The principles of segregation imbued the development of federal housing policy to underwrite mortgages and mortgage insurance as it developed from the 1930s; this legacy endures in American cities' residential divisions.

The segregated state was not merely epiphenomenal on a segregated society. It was an active agent of the discriminatory policies. In the 1890s and 1900s, for instance, the U.S. Civil Service Commission regularly reported the employment of African American graduates from black colleges in the federal government; this practice ended in 1915 as civil service recruitment was modified to exclude African Americans. Another example comes from the work of the U.S. Bureau of Prisons, which from its establishment in 1930 monitored and enforced racial segregation in U.S. federal penitentiaries (Gottschalk 2006). This was not an instance of simply responding to societal pressures but involved embedding segregationist

practices in institutional rules and procedures. It is notable how successful the American state proved as an enforcer of the segregationist racial order in the century to the 1960s. National action solidified race inequality by giving it state authority.

Inactivity in certain areas was equally a hallmark of the segregated state. Initiatives to get the executive and legislature to outlaw lynching, for instance, failed in the 1920s and was not implemented until several years after the Second World War. Voting rights violations gained little attention from the Justice Department until late in the 1950s, when, under the impetus of the civil rights movement, department officials began monitoring abuses and enforcing federal standards.

Then, in what appears historically as a remarkable transformation, the world of segregation imploded in the 1950s and 1960s, decisive reform legislation to establish civil and voting rights was enacted in the mid-1960s in a Congress energized by President Lyndon Johnson, and executive agencies were either enhanced or created to enforce the new democratic standards (Frymer 2004, 2005). The scope of these standards, however, is contested: even Justice Department enforcement of civil rights measures and monitoring of voting rights violations fluctuates with presidencies (this division was downgraded under the George W. Bush administration and revived by Obama under the auspices of his attorney general, Eric Holder). The need to address enduring material race inequities in housing, education, income, health care, and employment discrimination specifically gained recognition for a decade from 1957 but never became a national priority. These inequalities and the surge in African American incarceration rates strike many observers as crises (Alexander 2010; Barker 2009; Manza and Uggen 2006; Murakawa 2008; Simon 2007; Wacquant 2009; Weaver 2007; Western 2005; Western and Petit 2005), but not crises that have yet attracted significant American state policy engagement. Explaining this unevenness of American state activity and particularly the activism of the 1950s is my concern here.

AMERICAN STATE ACTIVISM FOR RACE EQUITY IN THE 1950S AND 1960S: A TYPOLOGY

Many scholars ponder the implications for policy implementation arising from the distinct bureaucratic structures of the American state. Civil servants spend careers in one department or agency rather than moving between them to create an elite cadre; the most senior appointments in these departments are party political rather than meritocratic (Carpenter 2001; Poggi 1990, 23; and see Novak 2008). In a recent paper Desmond King and

Robert Lieberman (2009) argue that these patterns give the American state comparatively distinct policy-making capacities. They identify five dimensions of the American state, including its role as a standardizer, that is, the task of setting and enforcing uniform standards within a given national territory such as democratic rights. On this view, standardization is not just a means of "seeing like a state," as James Scott's (1998) memorable phrase has it, it is a key aspect of being a state. The American state can thus be recognized, at least in part, by its efforts to standardize: efforts that range from engagement in measurement, census taking, and employment of statistics in the very early days of the Republic to enforcing patterns of and rights to democratic participation and attempts to engrain uniform moral beliefs across a diverse citizenry in the twentieth century (Desrosieres 1998, 188–209; Kelman 1987). But it is pertinent to reverse the focus and to ask what forces the American state to see race inequity as a pressing problem meriting action and policy response.

Achieving democratic standards to end race inequities is an important aspect of state legitimacy and presents a key activity for agents of the national state. In the United States, democratizing rights and representative institutions has been a comparatively agonizingly slow process because of the way in which state power was used until the middle of the twentieth century to curtail rather than to establish and enforce equal rights of citizenship (Katznelson 2005; Tuck 2009; Valelly 2004).

America's race inequities from the mid-twentieth century on have frequently presented as crises in national politics. Some of these eruptions are immediate—police attacks on civil rights marchers in Birmingham, Alabama, or the Little Rock standoff—and others slow burning—the decades' long build-up to declaring separate-but-equal segregation unconstitutional in Brown (1954), or the final enactment of voting rights enforcement powers by Congress, or the tortuous years of protest to get antilynching laws established. All constitute conditions which the state may wish to ignore but cannot, as disregarding the crisis merely permits and invites intensification of the underlying condition.

Three types of national action characterize the ways in which the American state has acted to address some of those race inequities as they explode into politics and elicit policy responses, whether the latter are designed merely to shore up the crisis or intended to provide long-term resolution: the state creates new standards; it uses coercive state power; and it initiates societal reform. Mobilization and enforcement of high levels of targeted policy activism are rendered institutionally complex by the fragmented American state: unlike centralized political systems exercising legitimate leadership, the U.S. political system requires unusual rather than routine circumstances. However, the American state can be effectively

Table 2.1   American State Responses to the Race Inequity Crises of the 1950s and 1960s

Response	Crisis	Does crisis overcome separated powers?	Is policy activism sufficient to end crisis?
Creating new state standards	Civil Rights Act of 1964; Voting Rights Act of 1965; Fair Housing Act of 1968	Yes	No
Coercive state power	Fair Employment Practices Commission, 1941; Little Rock, Arkansas, 1957; Public order in cities, 1965 and 1966; Attorney General Robert Kennedy and Alabama; Mississippi university education	Yes	Yes
State-led societal reform	School desegregation; housing desegregation	No	No

Source: Author's compilation.

mobilized in response to crises, including crises in race inequity and injustice. The resources and capacities available to the political executive means that the American state can deliver concentrated policy attacks. The content and success or failure of national policy initiatives turns on how, if at all, a new policy or heightened policy activism in response to a crisis is sufficient, first, to overcome the constraints of separated powers in the U.S. polity and second, relatedly, to resolve the crisis circumstances (table 2.1).

The major laws enacted in the 1960s, including the Civil Rights Act of 1964, the Voting Rights Act of 1965, and, to a lesser extent, the Fair Housing Act of 1968, are the prototype in creating new standards by which equal rights of citizenship and other measures are upheld. These new rights need not just to be promulgated but also to be enforced, which requires other types of American state activity. But the key aspect of this type of action is the creation of touchstone standards that citizens can look to the American state to provide. That it took almost two hundred years and a massive civil rights movement struggle to get the standards established is indicative of how precious they are for democratization.

Coercive state power involves speedy executive action in response to specific threats. The executive uses powers and resources it possesses independently of judicial or congressional challenges. Examples include President Franklin D. Roosevelt's executive order establishing a Fair Em-

ployment Practices Committee in 1941 and President Dwight Eisenhower's deployment of federalized national guards to Little Rock, Arkansas, in October 1957. This type of state power is designed to restrain disorderly behavior and above all to maintain public order.

Many changes require engaged processes of social and economic change. This is particularly apparent in such changes as the desegregation of housing and schools. These are state led in that new standards are institutionalized but the state pushes leadership for the changes onto societal actors, notably communities. Lacking a coercive edge and often enjoying judicial protection for the weakest version of the reform, communities and citizens mostly obfuscate, resist, and dilute the changes.

The three types are created by distinguishing between events that either succeed or fail in empowering the executive to overcome the constitutionally constraining separation of powers and between the levels of the policy response. The varying policy outcomes speak to the issue of the stubborn "stickiness" of racial inequality by showing that activism is greater for the short than long term. Inevitably, these categories are overdrawn and overlap in numerous ways. But the framework provides a starting point.

Crises vary. I allude mostly to significant breakdowns or threatened breakdowns in public order that local authorities either encourage or fail to control. In this context *crisis* alludes also to enduring issues of systemic discrimination and segregation. For example, the marches led by Martin Luther King Jr. to protest segregated housing prompted legislation in 1968 after King's assassination, but the underlying problem of discrimination was not resolved. These distinctions can be explained in part by the dynamics generating crises and by consideration of who in society is affected by the crisis.

DYNAMICS OF THE AMERICAN STATE AND RACE EQUITY CRISES

Six sorts of factors help differentiate the types of American state responses to crises over race inequity. Not every factor is manifest in each crisis, but several are, and how they interact helps determine the state's policy response. First, whether reforming legislation has been enacted affects the authority and legitimacy of American state policy enforcement. The Voting Rights Act of 1965 augmented the Justice Department's powers and legitimacy. Of course, legislation is no guarantee of legitimacy or effectiveness, as the tepid content of the Civil Rights Act in 1957 with respect to desegregation or weak antilynching laws shows, but it can be a firm point of minimum standards. Second, the willingness of the president to use executive orders to enforce agreed national policy has often proved criti-

cal to change over the long term, though its short-term effect is to stem rather than prevent a crisis (Howell 2003; Mayer 2001, 2009; Robinson 2001). Ordering the mobilization of national troops is a dramatic step to maintain order in an explosive situation but rarely resolves the underlying source of conflict. Third, and related, is the powers of enforcement used by the American state, distinguished by being either emergency powers (such as troops deployment) or routinized (such as referral to mediating bodies, which became common as enforcement of civil rights developed from the 1960s democratizing laws [Frymer 2005; Skrentny 2006]).

Fourth, the strength and violence or potential violence of local resistance to reducing race inequity is a key determinant of the scale and significance of American state responses. Historically, resistance is spread widely, with elected officeholders, law enforcement officials, and prosegregationist whites having the potential to mobilize separately or collectively toward a cumulative purpose (Kryder 1999; Simon 2007); routine politics can also dissipate the efforts of American state initiatives to address race inequity (Weir 2005). Governor Orval Faubus's failure to act in Little Rock, Arkansas, in 1957 encouraged police officers to ignore whites' thuggery toward African Americans. In Selma, Alabama, in 1965 the local sheriff assaulted local African Americans attempting to register to vote; and as the political scientist Richard Valelly (2004, 193) records, on February 18, 1965, "in the nearby town of Marion, the Alabama state police attacked reporters from NBC News and the *New York Times* and launched a frenzied attack on black citizens." But resistance to busing policy in the 1970s was orchestrated without such obvious law enforcement connivance. The greater the general opposition, the more robust any effective American state policy initiative needs to be.

Fifth, the power and influence of the civil rights movement's activists and reformers affects American state policy response to race inequity (Johnson 2010). Protest stretches from nonviolent demonstration and marching to political engagement directly with the White House (Harris 2006). These varied expressions of demand for the American state to act to address a crisis commonly interact with other pressures on the executive. Sixth, the international context of America's race inequity crises shapes executive action, even when the executive has wished to resist taking the initiative (Dudziak 2000; Klinkner and Smith 1999). President Kennedy's reluctant involvement in discrimination in housing and restaurants was forced on him by the complaints of African State ambassadors in Washington and even New York and on Maryland's Highway 40 (Dudziak 2000, 167–69). The American state feared the effect of images of African American civil rights activists being brutalized and mistreated beamed around the world.

Equally germane to these six factors are those actors who trammel the use of effective state power. In retrospect, the enforcement of integration and the attack on race inequality looks weak: when public order broke down or teetered on the edge of anarchy, national action was almost unavoidable and forthcoming, but using that action to ameliorate underlying issues and causes was rare. Furthermore, the American state did not face deep threats from corporate interests or threats of economic boycott to state revenues, suggesting that its timidity was about political unwillingness to use public authority for race equity. But effective action required sustained engagement either through the use of shock-and-awe resources, including military presence, or by fostering change by stealth with expanded fiscal resources to local institutions, such as universities, Justice Department personnel to counter rolling law suits, and national programs targeted on enduring material deprivations.

AMERICAN STATE RESPONSES IN ADDRESSING RACE INEQUITY: ILLUSTRATIONS

As table 2.1 sets out, there is a typology of national American state responses to racial inequality. In this section, I examine each type using examples from the 1950s and 1960s.

Creating and Enforcing New State Standards

A new statutory law with appropriate resources for enforcement is the most effective American state type of response to race inequity. In principle, it combines the branches of government through unitary action. Legislation can be passed—such as the 1957 and 1960 civil rights laws—bereft of appropriate powers of implementation, which postpones dealing with enduring problems. Or meaningful reform can be enacted but a lack of political will or public authority precludes American state enforcement. The state creates and enforces new state standards when the crisis forces a policy response of sufficient magnitude to overcome intransigence in one institution that is historically a hindrance to change. Thus the passage of the Civil Rights Act in 1964 and the Voting Rights Act in 1965 both benefited from a decisive White House incumbent—Lyndon Johnson, abandoning his segregationist origins—whose efforts defeated the traditionally obstructive role of the Congress, which had subverted numerous previous bills designed to achieve similar change.

Numerous of the six factors were at work compelling executive enforcement from the American state, including international reproach of Americans' tolerance of discrimination toward African American citizens, a gal-

vanized and long-standing civil rights movement, a localized resistance opposition whose nastiness was captured on television, and executive commitment both in the White House and in agencies and departments, such as Justice, to fundamental reform.

Contingency mattered. The assassination of President John F. Kennedy undoubtedly helped to carve an opportunity for deeper reform, and the massive Democratic party victory in 1964 signaled a political mandate for national action. Neither effect was automatically translated into legislation, however. The civil rights bill passed the House in February 1964 with a strong majority (290–130), but the Senate filibustered for three months before a cloture motion passed on June 10 (71–29), permitting the legislation to gain a majority. Equally, the beatings of civil rights marchers in Alabama and the brutal killing of Jimmie Lee Jackson in Marion, Alabama, gave Johnson an opportunity to deliver his March 15, 1965, speech to a joint session of Congress galvanizing support for the voting rights bill, which was eventually passed and signed into law on August 6 (Valelly 2004; Keyssar 2000).

The Voting Rights Act of 1965 established federal capacity to intervene in voting registration practices, empowering the Department of Justice to monitor and override state and local agents. This was an instance of concentrated policy action supported in the short term with appropriate resources. The act was explicitly designed to end Jim Crow segregationist disenfranchisement. It suspended voting tests and systems in areas that had registration or turnout below 50 percent of the resident voting-age population in the 1964 elections. The act extended the federal presence in voting arrangements by requiring Justice Department "preclearance" of new voting rules. By proscribing long-standing techniques to prevent African Americans' voting and establishing mechanisms to enforce them, the act soon generated increases in black voter registration and voting (but not office holding in the short term) and was eventually made permanent after contested renewals and Supreme Court rulings. Preclearance was a bitter instrument for defenders of the segregationist order. But it survived judicial review and functions as a key mechanism for ensuring the achievement of standards-setting legislative enforcement by American state power. Yet even in this sphere of American state enforcement, numerous caveats about voting endure, including the at times dubious culling of names from voting registers, as in Florida in 2000, and the use of photo ID requirements to vote that critics charge affect minority voters disproportionately.

State legislative power changes relations in society and affects groups differently. New voting laws threatened white voters and white supremacist officeholders who discriminated against and violently opposed African American citizens trying to vote. The new state power did not chal-

lenge any corporate or powerful economic interests directly, which may have helped to get the state to act but in the instance of voting challenged the existing segregationist order in a fundamental way.

Coercive State Power

Coercive power is an expression of American state resources and capacities in circumstances of crisis. Its use by the executive in response to enduring race inequities is frequent. It signals the gravity of crisis for the state. Without action there will be a breakdown in social order or a collapse of vital services. It is very much a top-down state-led conception of crisis, however: the Little Rock resistance embarrassed the United States internationally, whereas lynching failed to garner such attention.

A key instrument of state coercive power is the executive order, which normally carries emergency powers of enforcement sufficient to control the short-term crisis. For the long-term resolution of a crisis executive orders often signal that the issue cannot be ignored, though how long this "long term" will be is hard to predict. Franklin D. Roosevelt's response to the threatened March on Washington by African American war workers in 1941, demanding some federal effort to ensure equality of employment opportunities in the defense industry, was to issue an executive order. Roosevelt simply bypassed the recalcitrant segregationist Congress to issue executive order 8802, "Reaffirming Policy of Full Participation in the Defense Program by All Persons Regardless of Race, Creed, Color or National Origin." The order created the Fair Employment Practices Committee to investigate cases of employment discrimination in war industries (any firm receiving federal procurement contracts directly or indirectly), government employment, and unions. The committee proved the precursor of post-1960s antidiscrimination laws, and thus a harbinger of the long term, but getting to that point was protracted as Congress refused to make the wartime agency permanent and deliberately obstructed proper monitoring of employment practices. But the Fair Employment Practices Committee was the first step toward a nondiscrimination policy and the first instance of the transformation in the federal government's role as a practitioner and defender of segregation into its critic and reformer. The response to the immediate crisis did not resolve the underlining injustice. But it marked more than a symbolic step toward its resolution.

Coercive power violated President Dwight Eisenhower's whole philosophy of how Americans should deal with race inequity and injustice. But Eisenhower was compelled to use this unilateral presidential action in 1957 to address the integration crisis at the high school in Little Rock, Arkansas; the presidential deployment of federal troops was a short-term

solution only. Eisenhower's reluctant but decisive action trumped an uninterested Congress and staved off the short-term crisis in favor of upholding a federal judicial ruling—the Brown I (Brown v. Board of Education of Topeka et al., 347 U.S. 483 [1954]) and II (Brown v. Board of Education of Topeka et al., 349 U.S. 294 [1955]) decisions that schools should be integrated because segregation was unconstitutional. But the action was short term in focus.

The objective crisis centered on the enforcement of federal law. The Supreme Court ruled, in 1954, that all American schools should be desegregated and integrated. This outcome was predictably ignored in many districts throughout the country. In 1957 the school board and city mayor of Little Rock (following plans drawn up by the school district superintendent Virgil Blossom in May 1955) ruled that schools within its district should be desegregated and integrated from the academic year beginning in September. The high school authorities agreed, but the Arkansas governor, Orval Faubus, vowed strenuously to resist the planned integration.[2] The governor deployed 270 National Guard troops to Central High School to "protect" against social disorder. The nine African American pupils were discouraged from attending on the first day of term but did present themselves for classes on the second day, accompanied by two white ministers and two African American ministers.

As televised nationwide and around the world, the National Guard troops prevented them from entering the school, a reversal of the role many expected the forces of law and order would assume; the racist taunts and abuse endured by the courageous African American children shocked. And on September 20 a federal judge (following the Supreme Court ruling in May 1955 about enforcing desegregation) ordered Faubus to withdraw the National Guard troops in their role of preventing the African American children from enrolling and to permit integration to occur. The domestic and international political pressure on the White House to enforce federal authority was intense. Republican president Dwight Eisenhower had frequently expressed his doubts about imposing desegregation and was unwilling to assert federal authority through the deployment of federal troops. He now faced a crisis of such proportions that executive action was inevitable.

Nonetheless, for eighteen days after the initial retreat by the nine high school students the White House negotiated feverishly but pointlessly with the Arkansas governor (efforts that included a face-to-face meeting between the president and Faubus in Newport, Rhode Island), while the children were forced to stay at home because of the danger of attack and violence if they tried to attend Central High School. Eruption into violent public disorder was imminent. The chaperoning of the children into the

school through a side entrance on September 23 incensed the white mob into generalized attacks on African Americans, unprotected by a disengaged local police force whose 150 members walked away from the violence with their badges removed. The scale of disorder and continued barring of the African American children from school (who were later sneaked out of the school) forced the city mayor to request federal support to maintain order; this request went straight to the White House. Hoping that the mob would disperse, Eisenhower prevaricated but was forced the next day, September 24, to deploy eleven hundred paratroopers to restore order and to federalize the Arkansas National Guard, whom Governor Faubus had used as his anti-integration force. No such employment of federal force to uphold the law and maintain public order because of a race inequity crisis had occurred since the collapse of Reconstruction in 1877. Predictably, Eisenhower defended his action as a means of restoring public order and not as an instrument of desegregation.

This American state action dealt with the crisis in the short term. Eisenhower issued executive order 10730 to deploy the units of the U.S. Army 101st Airborne Division and to federalize the Arkansas National Guard. In so doing, he demonstrated the president's power as commander-in-chief and ultimate arbiter of order. The resistance to integration and the arrival of a federal protection force became fodder for nightly television news worldwide. But the measure failed to overcome the separation of powers constraint on American state action: the paratroopers and federalized Guardsmen remained for a year outside Central High School, permitting eight of the nine African American students to attend, enduring unpleasantness throughout, as did the school principal, who received death threats. Some of the parents of the nine lost their jobs. Reelected as governor the following year, Orval Faubus closed all the schools in Little Rock to preclude desegregation. The 1954 Brown decision was followed up in 1955 by the Supreme Court's injunction that desegregation should proceed "with all deliberate speed," an unreachable prospect—in both the North and the South—without American national federal enforcement of the sort Eisenhower was unwilling to exercise.

The state's action directly challenged citizens, local law enforcement officers, and elected officeholders. It challenged the legitimacy of racists' use of federalism to protect racialist segregation. It did not directly intervene in local business practices (hiring and separated provision), but the implication that these racial arrangements would have to change was clear. Eisenhower's focus was on publicly funded school systems.

The U.S. attorney general during the John Kennedy administration (1961 to 1963), Robert Kennedy, was kept busy fielding a stream of logistical, constitutional, and political challenges rooted in America's segrega-

tionist order. His involvement provides another example of coercive state power. The attorney general had numerous exchanges with Alabama governor George Wallace about ending segregation in education (these exchanges occurred in the wake of James Meredith's entry to the University of Mississippi, Oxford, campus in September 1962, where rioting required President Kennedy to deploy federal troops). In April 1963 the following dialogue took place:

MR. KENNEDY: Do you think it is so horrifying to have a Negro attend the University of Alabama?

GOVERNOR WALLACE: I think it is so horrifying for the federal courts and the central government to rewrite all the law and force upon people that which they don't want.

MR. KENNEDY: But Governor, it is not the central government. We are not rewriting the laws. It is the federal courts that have made a decision and a determination. . . .

GOVERNOR WALLACE: The federal courts rewrote the law in the matter of integration and segregation. (Marshall Papers, 8)

Wallace denounced the 1954 Brown decision. Kennedy reminded the governor that "as well as being a citizen of the State of Alabama, Governor of Alabama you are also a citizen of the United States" (Marshall Papers, 9). Wallace was unmoved, restating, "I will never submit to an order of the federal court ordering the integration of the school system" (Marshall Papers, 17).

The crisis prompting this exchange followed the matriculation of James Meredith at the University of Mississippi six months earlier, an event that helped galvanize the national civil rights crisis. His attendance required federal marshals and troops to accompany him (an exercise in state coercive power) and provoked rioting in which two people lost their lives. Meredith entered the university under a court order asserting his right to attend. Mississippi governor Ross Barnett stood firm with the violent opponents of African American attendance at a university.

Governor Wallace blamed the courts and the Department of Justice for going against "the overwhelming majority [of the people who] are against the matter of integration. The Congress has passed no law regarding integration. It is not the law of the land. It is the law of the case" (Marshall Papers, 20–21). Attorney General Kennedy and Wallace discussed the discrimination against African Americans seeking to register to vote in Alabama, a contorted exchange during which the governor predictably threw back every charge of obstruction and regularly cited civil rights violations

in Northern states, such as cities with statutes that excluded black Americans from living in parts of them. But Kennedy did not relent, telling Wallace that his department had a "responsibility" to enforce the law to maintain the "integrity of the courts" and "to that end . . . all of the force behind the Federal Government will be used." This last threat provoked an angry governor: "I know you are going to use all of the force of the Federal Government. In fact, that is what you are telling to me today, if it is necessary you are going to bring troops into Alabama" (Marshall Papers, 49). The threat of deploying federal troops infuriated Wallace, and a heated argument ensued; Kennedy reiterated his wish not to use troops. But the issue would not abate. Wallace replied,

> I am not trying to trick anybody, but of course we do know that troops were used in Mississippi, we know they were used in Arkansas, and we know that you took photographs of the University of Alabama, for what purpose I cannot comprehend other than the use of troop ingress and egress, and you did say, Mr. Kennedy, that you would make full use of the full power of the Federal Government to enforce the orders of the court and protect the integrity of the courts, and the full power of the government necessarily means military power" (Marshall Papers, 49).

The Justice Department and the Kennedy administration anticipated a repeat of the violence seen at the University of Mississippi on Alabama's campuses (Tuscaloosa and Huntsville) in June 1963, when two African American students—Vivian Malone and James Hood—were due to enroll. They were correct. Wallace led Alabama Highway Patrol officers and special deputies to bar the students. In July President Kennedy ordered the governor and his underlings to desist from obstructing desegregation at the state university. A federal court ruled in June 1963 that Malone and Hood had the right to attend the University of Alabama and should be admitted immediately. Governor Wallace disregarded this order and used gubernatorial powers to appoint himself as temporary university registrar. In this capacity he famously stood in the doorway of the main campus's administration building where the students should have registered. Just as local officials had intimidated and beaten African Americans when they tried to register to vote in Alabama, so the Alabama governor refused to let these two students register for university. President Kennedy was forced to follow the example of his republican predecessor Eisenhower and federalized the Alabama National Guard, who then mustered a hundred-strong unit to chaperone the two students into the registration building, Governor Wallace having been ordered to step aside. The con-

flicts to resist civil rights in both Alabama and Mississippi were sizable and often brutal, and many civil rights reformers were injured or killed.

To avert state failure the federal government used other measures—as part of a long-term state-enforced reform process—to shift race inequality in these states by giving additional grants to the university to strengthen administrators' resolve and getting the U.S. Civil Service Commission to monitor closely promotion and appointment patterns by race in state branches of federal departments such as the Post Office, the Internal Revenue Service, the Veterans Administration Hospital, and Social Security payment centers. These efforts complement the sort of state-led societal reform measures, the third type of state activity. These measures relied on initially very weak regulatory efforts.

But although the crisis at Mississippi and Alabama campuses forced the White House to exercise executive authority without the support of Congress to deploy troops, the convoluted processes and arguments deployed by the governors and their assistants in those states ensured that the process of ameliorating gross racial inequalities would be hindered for a decade. The governors exploited constitutional language and arrangements about states' rights to the full; only state-enforced reform could displace such purposeful resistance. The short-term crisis was absorbing and led to coercive state action.

The state lacked the resolve to go much further with direct intervention at that time. Rather, it settled on a long-haul but purposeful approach, emboldened by judicial decision. School integration, in the long term, required judicial rulings and direction (Swann v. Charlotte-Mecklenburg Board of Education 402 U.S. 1 [1970]) and continued federal enforcement.

State-Led Societal Reform

Dismantling segregated housing was a core aim of the civil rights movement and a cause repeatedly singled out by Martin Luther King Jr. in the 1950s and 1960s. He led marches for open housing. But in American cities the legacy of residential racial segregation is overwhelming. This is despite several landmark pieces of legislation, judicial rulings, enhanced powers of anti-discrimination given to the Department of Housing and Urban Development, and the almost complete eradication of the vestiges of the segregationist order that long informed Federal Housing Authority mortgage underwriting and mortgage insurance premiums (though minor aspects recurred in the subprime lending practices).

Both the passage of legislation and the enhancement of enforcement powers put housing policy into the third category of American state re-

sponses to race inequity: state-led societal reform. This is a case of state-led reform in that the resources to enforce fair housing and housing desegregation laws have at last been established in federal authority and agencies, in contrast to busing, which lacked any kind of federal statutory authority, no executive support except in Richard Nixon's Southern strategy, limited judicial authority, and little or no federal agency direct implementation power. Indeed, the Supreme Court blocked any meaningful metropolitan busing plans early on. But implementation of the anti–discriminatory housing powers is diluted the further from national authority one looks: implementation is weak because the state fails to make use of coercive power, including executive orders or material enforcement through, for instance, massive house building. Furthermore, the concentrated policy initiative required visibly to shift the contours of racial residential occupancy have not been forthcoming in American state measures; such sizable initiatives as urban renewal and social housing construction, remarkably, merely reinforced the segregationist patterns (Lamb 2005; Massey and Denton 1993; Mollenkopf 1983; King 2007).

Civil rights legislation was meant to mark an end to housing discrimination and a transformation in labor-market opportunities for African Americans. In practice, legislation agreed by Congress—thus passing the test of transcending the separation of powers—proved inadequate to the task. The 1968 Fair Housing Act lacked the enforcement powers necessary to implement measures capable of ending discrimination in housing (in renting and sales, mortgage evaluations, and insurance underwriting), and further legislation was necessary and was enacted over the next twenty years (indeed, given current levels of residential segregation, these additional measures are inadequate) (King and Smith 2011, 153–63). The 1968 legislation faced an uncertain future as a bill until the assassination of Martin Luther King Jr. on April 4, 1968, sent a signal about the significance of reform that Congress could not disregard; it was passed within several days of King's murder. One reason for American state legislative enactment was pressure from the civil rights movement, often conjoined with international commentary on U.S. cities' skewed residential patterns. King's murder accelerated these pressures, since Congress had failed to enact various fair housing bills introduced during the preceding two years and some of the urban disorders during the mid-1960s—such as the 1965 Watts or 1967 Detroit riots—were sparked in part by the crisis of inadequate affordable and nondiscriminatory housing for African Americans. Civil rights reformers expected the 1964 law to be a breakthrough for robust fair housing legislation, but in this expectation they were disappointed.

Since the temptation to local homeowners is to discriminate and prac-

tice segregation, unwittingly or wittingly, integrated housing necessitates federal standards and federal enforcement, a feature recognized by Nixon's housing secretary George W. Romney, whose plans to achieve desegregated housing nationally in the Open Communities project were undercut by the White House (Lamb 2005). Nixon's use of state power did not extend to shifting low-income families into suburban neighborhoods. He supported subsidized low-income housing. This position was articulated in Nixon's fair housing policy, issued on June 14, 1971. A more ambitious housing integration program—Secretary Romney's Operation Breakthrough—foundered. (A parallel race inequity manifesting characteristics of state-led societal reform is that of affirmative action and antidiscrimination in the labor market [Chen 2009].)

To achieve truly fair housing requires use of both the legal constraints against discrimination established in 1968 and robust enforcement mechanisms. These were not put in place until new legislation enacted in 1988, twenty years after the first antidiscrimination legislation. Without the latter, state-led societal reform fumbled, a deliberate outcome, given presidential party calculations and the unwillingness to deploy executive power such as executive orders. For these two decades complaints about housing discrimination mounted as the weakness of Housing and Urban Development's regulatory powers became plain. Indeed, the race inequity crisis in housing remains, and state-level enforcement continues to be weak.[3]

As with any government measures that induce substantive reform in race inequalities, some groups in society are likely to be affected detrimentally. In the case of housing, such ripples included not only obvious corporate interests such as real estate firms, builders, and politicians but almost all Americans, since residential housing is so widely segregated. This meant that designing and enforcing effective antidiscrimination measures was a huge task. But what the Nixon nonaction reveals is an unwillingness to use available state power to this end, in contrast to the rapid engagement of the Justice Department's active pursuit of voting violations under President Johnson.

The contrast between these three types of state action imply a dichotomy between race inequality, which leads to violations in democratic norms and therefore measurable government failure, and racial inequality, which is attributed by public officials to society in a very general sense and therefore not to government inaction and failure. This distinction—often implicit in discussions of America's segregated state—has limits, however. Housing discrimination clearly arises both from government action and societal practice. Nonetheless, the distinction might help to show that shock-and-awe tactics may work better in the former case—that is, in the presence of clear violations of the democratic rules of the game—than in

the latter, where inequalities are ascribed to personal or societal sources. It is a thin line, however, since many government policies reinforce societal practice and, as noted earlier, often foster that practice (King 2007).

THE SOURCES OF STICKINESS: WHY AMERICAN STATE POLICY FAILS THE GOAL OF RACE EQUITY

The discussion in this chapter takes as a given that the problems of enduring material race inequities not only preclude use of the appellation "postracial" to the United States but also that these legacies move the problem beyond the level of individual behavior to one of systemic institutionalization. Even crises framed as rooted in societal interests ultimately require state action for resolution. The issues discussed here engage with two other themes identified by the editors: timing and stickiness. The American state has an arsenal of resources on an impressive scale deployable against the evil and sources of race inequity, but that the deployment of those resources is far from automatic. Although the evilness of race inequality was increasingly recognized from the 1930s and decisively so after the 1940s, this recognition did not elicit sufficient state action to excise inequality from democratic norms and social relations.

The three types of American state responses discussed here focus on a particular period in American history when domestic forces—principally the civil rights movement and a new generation of Democrats in Congress—and, to a lesser extent, international pressures—a new era of global politics that articulates human rights and exposes the United States to external scrutiny—constituted pressure for change. These pressures and the resultant changes, however, were far from automatic or ineluctable: the struggles and activism of the civil rights movement (broadly construed from protests to legal avenues) were lengthy and arduous. They were fought on the canvas of an American state whose substantial resources were historically dedicated both to maintaining the separate and marginalized governance of African Americans in the U.S. polity and to privileging affirmative action for whites.

The transformation in how the state came to see race inequality as an evil and a violation of democratic norms rather than as a public good for whites is the subject of substantial research focused on the civil rights movement and changes in the American state between the 1930s and 1960s, which I do not rehearse here. Suffice to say that the combination of a discrediting of so-called scientific doctrines about race hierarchies, acknowledgement of the partiality of U.S. democratic institutions, and the

negative consequences of these legacies, concurrent with the sorts of international and domestic factors outlined in this chapter, eventually forced such a shift. The presence of some key figures who adopted antisegregationist rather than prosegregationist stances was crucial (King and Smith 2005). And crises, I have argued, were equally galvanic.

Thus the timing of these two types of state activity—creating new standards and using coercive state power—was unusual, given that historically the American state more commonly fails to address the issue of race inequity. This activism arose because of social order crises. Without the crises, the status quo would have been uninterrupted. For instance, President Eisenhower would never have considered employing coercive power to address school integration if he had not been compelled to do so by circumstances beyond his control, and he did everything he could to avoid the eventuality; mere disobedience of the rule of law did not exercise national leaders—it was how that disobedience translated into severe social order crises that mattered. But state reaction to crises driven by America's race inequalities were treated with policy directed at the surface rather than the deeper sources. The Wallace intransigence about integrated education succeeded in shaping the immediate crisis as public disorder and delaying the process of integration.

This latter pattern helps explain the timidity of the American state (and therefore the stickiness of inequality) in responding to gross unequal treatment of its citizens. The Moynihan report (1965), produced intentionally to influence policy makers to act, failed on its own terms because American state officials were unwilling to use colossal resources in a case of national action on the scale he proposed (full employment measures, extensive training and education, family support). Ignoring sources and focusing only on surface expressions of the inequalities ensured a limited response to real problems and legacies with which the United States still struggles, as the need for state-led societal reforms implies.

This stickiness is one reason that scholars correctly express reservations about any transition to a postracial society. Yes, there is historical change signaled by Barack Obama's election (Sugrue 2010), and this is a culmination of changes enforced by the American state from the 1960s to make voting rights real; but the enduring material race inequities are too deep not to require targeted state policies (Cohen 2010; Smith and King 2009). The election marks a key development in the civil rights movement's agenda, developed from the 1940s, but not its fulfillment. The legacy of material race inequities in education, employment, housing, criminal justice, and health care provision is profound, and truly to be modified necessitates a crisis-style declaration and level of resources policy. Historically,

it is striking for what a brief period this allocation of state activism enjoyed, and this brevity is warning about the systemic limits on state activism.

The American State and Institutional Constraints

Race inequality and injustice crises exemplify the general problem that American state mobilization of resources and capacities is biased toward the short term rather than durable solutions. For instance, Lyndon Johnson's War on Poverty commenced with considerable concentrated resources applied to the issue and a military-like campaign by the president to get his legislation enacted and funded. But sustaining this initiative proved harder, and specifying criteria of success proved woefully undeveloped. The same problems affect the American state's quasi-wars on illegal drugs (which have contributed to the rise in male African American prison rates) and undocumented workers, where, despite expanding resource allocation for border patrols, detention, and deportation and expanded coordination with local enforcement authorities, the rates of illegal migration remain high.

The American state's response to Hurricane Katrina is an enduring example of inequality in the deployment of resources and capacities and clarity of purpose. Because the national political system is fragmented and executive authority to make policy mostly requires cooperation with other branches, policy making is biased toward stealth rather than direct measures. For instance, the outcomes of state-led societal reform have dogged efforts to use affirmative action to reduce race inequity in the labor market. Beginning with an unexpected commitment to a significant program of reform—the Philadelphia Plan (the scheme to require contractors to employ minority workers proportionate to their numbers in the local labor market) implemented by the Nixon administration—the scale of required change scared off American state officeholders. Thus reform has become a gradual and steady process achieved through particular agents in the state's bureaucracy (such as the Equal Employment Opportunity Commission and No Child Left Behind) rather than a highly visible one guided by clear quota goals and their enforcement (Dobbin 2010; Dobbin and Sutton 1998). The cost of this process is insufficient progress effectively to make the labor market fairer. Within the American state's systemic constraints, individual agencies do effect important reforms.

The American State and Racial Orders

The threefold typology of American state responses to race crises illuminates how important the definition of the crisis is to policy action and level

of resources applied to the issue. Crises rooted in dichotomous policy options—the right to vote or denial of the right to vote, for instance—or in the breakdown of social order offer a clearer response (though with complications, as discussed in the preceding pages) than a more general policy goal of ending housing discrimination. In practice, even apparently uncomplicated aims such as establishing and enforcing the right to vote have complex implications—for example, whether majority-minority voting districts are necessary for previously excluded citizens to have effective participation and representation (King and Smith 2008). But the general point is that the way policy for race equality was defined in historic legislation enacted in the 1960s sets the issue as one of protecting constitutional rights and entitlements, not ameliorating material inequities, although the latter was a fundamental aim of the civil rights movement and its importance acknowledged nationally by President Lyndon Johnson and other policy makers. This constitutionalism—cautiously supported in the first and second types of state activism—meant that material inequities could only be treated within a universal framework, not as part of a targeted scheme. Crucially, such an effect was not a random outcome but a consequence of how race is constitutive of American politics and history.

This pattern reflects the way racial orders have developed and endure in American political development, I argue in collaborative work with Rogers Smith (King and Smith 2005, 2011). Thus to grasp the potential and limits of American state responses to the nation's recurring and enduring race inequality crises requires that they be placed in their historically shaped racial orders. President Barack Obama operates within a racial order that structures policy options dichotomously between color-blind or race-targeted responses to these inequalities; thus while the sorts of inequalities in housing, education, criminal justice, and income levels might well lead some reformers to advocate targeted policy, it is pretty clear that the political and racial orders structuring the Obama presidency dictate standards-inspired activism: a universalist response that can be justified in general benefits and not particularistic ones—for example, the Federal Protection and Affordable Care Act and the education program, Race to the Top.

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NOTES

1. By the time of this November announcement, the federal government had taken on close to $7.8 trillion of direct and indirect financial obligations, a sum equivalent to half of the U.S. GNP.
2. Hostility from parents of children in elementary schools led the school district to begin integration in high school in 1957, hoping to include the junior school in 1960 and the elementary school in 1963.
3. A parallel issue of race inequity that manifests characteristics of state-led societal reform is the use of affirmative action and antidiscrimination legislation in labor markets. The struggle to end discrimination in labor markets continues with the affirmative action measures enacted from the mid-1960s (including the Nixon-era quotas of the Philadelphia Plan), having made important inroads into employment opportunities for African Americans, but a pattern of material race inequity endures.

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Chapter 3 | Racial Inequality and Race-Conscious Affirmative Action in College Admissions: A Historical Perspective on Contemporary Prospects and Future Possibilities

Anthony S. Chen and Lisa M. Stulberg

THE RACIAL COMPOSITION of undergraduates attending American colleges and universities has experienced a far-reaching transformation over the past sixty years. At the midpoint of the twentieth century, most institutions of higher education were racially exclusive, whether by policy or custom. The overwhelming majority of students going to college were white—no matter where in the country they went to school. Of course, African Americans did go to college in modest numbers, but most of them attended historically black colleges and universities in border or southern states. A tiny handful of black students were enrolled in the predominantly white schools of the North, and even fewer could be seen on the campuses of public and private institutions in the South. Whether a capable person could obtain a college degree seemed more dependent on an accident of birth than anything else.

By the end of the century, undergraduate education had grown far more racially diverse. In 1998 more than 10 percent of full-time college students were black, and 80 percent of black college students were enrolled at predominantly white institutions (Clotfelter 2004, 154; see also Karen 1991).[1] The change in the racial composition of American undergraduates is even