

Helping *Brown* Forward:
The Opportunity Agenda's Collaborative Communications Strategy
to Frame the Supreme Court's School Integration Ruling
A Case Study

By Jesse Serrins

2007 promised to be a landmark year for public school integration efforts in the United States, with the Supreme Court set to decide two very important cases central to the cause of integration: *Meredith v. Jefferson County Board of Education* and *Parents Involved in Community Schools v. Seattle School District No. 1*. Just over a half a century beyond the first great gust of momentum gained with the landmark *Brown v. Board of Education* decision by the Supreme Court in 1954, advocates for racial integration in America's public schools were noting worrisome trends. As the Civil Rights Project points out, "Racial gaps in education, income and financial wealth that were closing three decades ago have been widening, losing too much of the significant progress made from the 1950s to the 1980s." In this context, *Meredith v. Jefferson County* and *Parents v. Seattle School District No. 1*—in which the Supreme Court would decide whether modest public school integration programs undertaken voluntarily by the local school boards and communities in Seattle, WA, and Louisville, KY, passed Constitutional muster—stood to either reinforce locally specific, community-based efforts to counter re-segregation trends, or to impose new obstacles in the ongoing effort to offer equal educational opportunities to all Americans.

Background: Implementation of the Communications Strategy

Anticipating the Supreme Court's decision on the cases *Parents Involved in Community Schools v. Seattle School District No. 1* and *Meredith v. Jefferson County Board of Education*, The Opportunity Agenda began work in the winter and spring of 2007 to develop a communications strategy. The aim of the strategy was to coordinate the messages and responses that would be disseminated by the social justice community leading up to and following the Supreme Court's decision. By unifying the voices of the social justice movement through a collaborative communications strategy, the movement's efforts to inform policymakers, community leaders and the public on the significance of these cases and the Supreme Court's decision

regarding them could achieve greater coherence, resonance and amplification.

The Opportunity Agenda worked closely with a number of groups, including the Leadership Conference on Civil Rights and the NAACP Legal Defense and Educational Fund, The Ford Foundation Human Rights Fund, Mainstream Media Project, and the public relations firm McKinney and Associates, with an initial focus on coalition building. Through frequent phone and email correspondence, the coalition honed its strategy, with The Opportunity Agenda initially producing two main documents.

First, a set of preliminary talking points were issued ("Learning Together: The Supreme Court's School Diversity Cases"). This document emphasized the significance of establishing a consistent overarching frame when talking about these cases, in particular a frame that does not engage the opposition's language but rather establishes a different set of parameters for thinking about the promotion of diversity in our nation's public schools. The recommended primary frame was that of *community*. By beginning the discussion with community in mind, the key elements of the school integration cases could be addressed in a manner that served to emphasize the positive values of the social justice community's belief that the disputed integration efforts were modest, effective, voluntary local measures that were tailored to "fulfill the promise of the constitution." A focus on community served to underscore the fact that these integration measures, despite their modesty, are beneficial to everyone who is affected by them by encouraging the community to participate in the creation of the kind of diverse educational environment that research has shown improves the learning experience for children of all races and ethnicities. The community frame was called upon in order to establish a broad linguistic base that would enable in-depth discussion of the school integration cases without resorting to discussion of affirmative action, 'quotas' and other well-trod themes that carry the discourse into the opposition's territory.

Following on the preliminary set of talking points, The Opportunity Agenda distributed a more narrowly targeted set of sample messages for strategically responding to each of the decisions that the Supreme Court could potentially hand down. Each of the possible responses maintained careful adherence to the details of the community frame established by the preliminary talking points. These sample messages successfully anticipated the 4-1-4 decision that was ultimately handed down and served as successful

preparation to issue the core response: despite the fact that the modest, voluntary integration programs were struck down, the controlling opinion is pleasing in that it still leaves room to develop new measures for pursuing integrated and inclusive schools.

Several events were coordinated to take place on the day of the Supreme Court's decision. The finalized set of talking points drafted by Alan Jenkins of The Opportunity Agenda were distributed via email to 75 leaders of the social justice movement representing more than 45 organizations and universities. Additionally, a conference call was arranged during which Alan Jenkins presented and discussed the use of these talking points with a large group of social justice leaders in preparation for dissemination of a response to the ruling.

McKinney and Associates was enlisted to coordinate a media briefing for 12pm on the day of the decision. In preparation, McKinney conducted intensive outreach to journalists and media outlets, developed an electronic media kit, and repeatedly disseminated an advisory announcing the media briefing for the day of the decision. The briefing consisted of concise presentations from Ted Shaw of the NAACP, Wade Henderson of the LCCR, and representatives of the School Board Association, followed by an extensive question-and-answer session to allow representatives of the media to engage the presenters on the decision. McKinney also conducted follow-up outreach to ensure dissemination of the coalition's response to the decision.

Finally, an afternoon conference call was arranged under the LCCR's direction, inviting an additional 75 social justice leaders to hear presentations from Alan Jenkins, Wade Henderson, Anurima Bhargava and Bill Taylor.

Analysis

The Opportunity Agenda's collaborative communications strategy was effective in coordinating a response to the Supreme Court's decision among a number of representatives of the coalition who did gain media appearances surrounding the decision. However, some obstacles should be considered in developing similar future communications strategies.

Radio

Mainstream Media Project (MMP) tracked the radio appearances of coalition members following on the Supreme Court's decision. Radio is a difficult medium to subject to analysis- beyond the logistical problem of tracking appearances, there is the additional obstacle of gaining access to archives or transcripts of the broadcasts. Nevertheless, MMP documented 38 separate radio appearances by representatives of the coalition in the wake of the Supreme Court's decision. Of these 38 appearances, 11 archived broadcasts were obtained for analysis. In addition to these audio archives, transcripts from 4 National Public Radio broadcasts featuring appearances from coalition members were also available for consideration.

The great majority of the radio appearances that we were able to assess reflected strong adherence to the talking points drafted by The Opportunity Agenda, and the community frame was frequently present in the discussion as well. Only one of the radio appearances completely diverged from the talking points and the framing suggestions.

The hosts of the various talk shows almost invariably characterized the Supreme Court's decision as a "split decision" and a "5-4 vote" in favor of striking down the voluntary integration programs in Louisville and Seattle. However, the coalition representatives were consistent in clarifying that the decision actually came as a more nuanced 4-1-4 vote. The recurrence of this clarification inevitably led to a focus on the fact that Justice Kennedy's controlling opinion very clearly insisted that there is a compelling interest in actively seeking the integration of our nation's public schools. As one representative stated in explaining the 4-1-4 decision, Kennedy did vote to strike down the Seattle and Louisville plans, "*but*- and this is the important part- he then says that, under certain circumstances, 'I do believe that it's constitutional for school districts to take race into account in order to integrate schools.'" [James Ryan, WSMN, 7/2/07] This emphasis was echoed, for example, when another representative explained that Kennedy departed from the plurality decision "in one very important way. He said that he still believed that reducing segregation was a valid goal for school officials, and he said that they could under the law decide that that was something that they should address, and that there are ways that they can address it that would not be unconstitutional... What that means is that school districts can still legitimately under the constitution try to reduce racial isolation in their school

districts. And there are tools that Kennedy specifically talked about [in order to do that]." [Dennis Parker, WWPR, 7/6/2007] Still another representative put it quite concisely: Kennedy "acknowledged that achieving racial diversity in schools is a compelling interest that school districts can pursue." [Jack Boger, WSLR, 7/6/2007]

The **community frame** was also present to some extent throughout much of the radio talk show discussion of the decision. Several quotes highlight the way in which the community frame was generally established:

I was very disappointed when the Supreme Court struck down two voluntary programs. These are school districts that want to do the right thing, that realize that it's a benefit for all their students to have desegregated schools, that have support from the community for these programs. [Dennis Parker, WWPR, 7/6/2007]

The way to have students and this country stop discriminating on the basis of race has long been shown to be to bring people together and to have them be able to learn about one another and to instill tolerance for people of different backgrounds and cultures, and there's no better place to do that than America's public schools... and that is exactly what [Roberts] and others who joined him are trying to have us not do. [Anurima Bhargava, WBAI, 7/2/2007]

All serious public policy questions involve balancing the absolute rights of every individual with what's needed for a community... Most of the people in Seattle and large majorities in surveys in Louisville want to have integrated schools. The means they adopted to get them were very moderate. Very few people were denied their first choices, and most of the people in these communities... got what they preferred, which was integrated schools... [The court decision] ignored the fact that they were overriding the judgment of the local elected officials, the educators in these communities, and the citizens and the students. We actually surveyed the students in both of these cities... and the students who were in the integrated schools were very satisfied with their experience- almost identical levels of satisfaction in minority and white students. So basically in the name of protecting the rights of a very small number of individuals, the rights of everybody else to get what they want were denied. [Gary Orfield, WBAI, 7/2/2007]

The fact of continuing segregation was widely discussed during all of these radio appearances. In particular, the connection between pervasive housing segregation and the documented trend of re-segregation in schools was a recurring theme. The need to recognize race, and the fact that the Roberts opinion would, in seeking to deny the constitutionality of acknowledging the role of race in American life, render integration efforts nearly infeasible, was captured particularly well in the following:

[Roberts and those who joined him] keep talking about race neutrality and race blindness as if race doesn't matter in the United States, as if the segregation that exists in Seattle, and in Louisville, and in communities all over the country, is completely disconnected from discrimination. And we know that that is not true, that a good part of the reason for the housing patterns we see are a product of discrimination not only in housing, but in employment, and in transportation, and in a whole range of American life. So when you have this segregation that's produced as a result of all these factors, and then you put on top of that school assignment

zones, then you're just basically freezing in place that segregation, and assuring that schools will continue to be segregated. [Dennis Parker, WWPR, 7/6/2007]

Others also pointed to documented evidence and the overt desires of a range American communities to underline the need to acknowledge race and actively pursue integration:

We had run thousands of school choice plans in the early 1960s that didn't take race into account, and it was proved in place after place: they increase segregation, they undermined integrated neighborhoods. So basically the court decision just ignored that history, it ignored that reality. [Gary Orfield, WBAI, 7/2/2007]

The military and the business community, in a brief they filed four years ago in the University of Michigan cases, said that racial diversity is essential to national security. The military could not have a corps of men and women, who are quite diverse, if they're not led by generals, captains, majors, lieutenants who look like some of them. And the business community has long found that diversity is essential for prosperity. [John Brittain, WWPR, 7/11/2007]

There is nothing that's more important to community than trying to bring quality education to their children and to their schools. And there are many different ways that we try to do that... In Louisville, nearly 90% of white and black parents thought it was incredibly important that having integrated schools was part of the quality education that they provided to their children. And so it wasn't that there is anything magic about a majority black school or a majority white school. There is something magic about trying to bring a quality education to your students where diverse and inclusive schools are part of that. [Anurima Bhargava, KPFK, 7/3]

Brown v. Board of Education was also frequently referenced during the course of these talk shows.

One of the strongest references to its legacy is given in the following:

*I think the important thing to recognize about *Brown v. Board of Education* is that it is more about equal educational opportunity and opening up those doors of access to students of all different backgrounds. That was the promise of *Brown*, that was the goal of *Brown*... Somewhere along this way, the notion that *Brown* is just simply about integration of schools, I think that's missing what the powerful force of *Brown* is in this country, not just in terms of opening up doors to students of all different backgrounds, but really in providing opportunities and trying to actually ensure that education, which is the very foundation of this country, is something that all children receive. [Anurima Bhargava, WBAI, 7/2/2007]*

However, the nature of the discussion around *Brown* throughout most of these radio appearances does point to a particular obstacle in coordinating a communications strategy of this kind. By and large *Brown* entered the discussion in terms of the way it was coopted by the plurality opinion in the school integration decision, so that several times it was pointed out that Justice Roberts "turned *Brown* on its head." While indeed there is a good deal of truth to this, it seems that framing *Brown* in these terms runs the danger of diminishing the power of the community frame as it was devised through the collaborative effort to draft a communications strategy. The above quote from Anurima Bhargava directs the discourse around the school integration decision towards the positive aspects of deliberate efforts to integrate schools and implicitly

emphasizes moving forward. On the other hand, discussing *Brown* in terms of its perverse cooptation by the opponents of integration concedes to these very opponents the terms in which *Brown* will be discussed.

The primary difficulty can be summarized as follows: while the language of The Opportunity Agenda's talking points and the community frame were predominant throughout most of these discussions, this language was often woven together with a strong sense of disappointment with the decision, a focus on the ways in which it will now be more difficult to foster integration, and an emphasis on the rightward shift of our courts and government:

[The school integration case] is very significant on many levels. It's going to make it much harder for school systems to implement voluntary desegregation. The Supreme Court said that school systems can't look to the race of students in assigning them to schools. It's very hard to desegregate schools without paying attention to race. Also, at least four of the justices indicated that they think the Equal Protection Clause requires that the government be colorblind. I think that's going to put in jeopardy affirmative action programs that the court had previously upheld... I believe that this is the most conservative court since the mid-1930s... This is the year the conservatives got their court. [Erwin Chemerinsky, WRKF, 7/6/2007]

You have Justice Kennedy saying, 'Well, you could do targeted recruiting,' so that means that you could go into a black neighborhood and recruit for schools there, or you can draw attendance zone lines and do the kind of gerrymandering that used to be struck down when it was done in other contexts... Kennedy seems to be saying that's fine now, as long as it's used to desegregate the schools. And so it's at least a partial short-term solution, but I think in terms of confronting the underlying racial issues, it's avoiding them, and it is doing it in a way that's not straightforward, and it's not honest. But it's what we have- unfortunately. [Dennis Parker, KBOO, 7/16/2007]

*There's no question about it. The court has tilted away to the right. In the long litany of major school desegregation cases [lists these major cases from *Brown* through to the University of Michigan cases]- and those cases have all upheld affirmative action, but they've all taken a bit of a hit, like a ship that that was hit in the bow. It's listing but it's still floating, and it manages to right itself and continue on, although not in full-fledged power and steam. And now we come to 2007, with the [integration cases], and once again the integration supporters dodged a bullet. The door to integration is still open, but the supporters have to figure out a way to enter. And so we are in a period of some confusion and some searching.* [John Brittain, WWPR, 7/11/2007]

[The Supreme Court has now said,] contrary to many of it's previous decisions, that local authorities had no right to take any conscious action that really was likely to work in these settings except under very extraordinary circumstances, and made the whole outcomes for these communities much more complicated and expensive for these communities to even partially recreate what they've got now... What you've got now is a real twisting of the 14th amendment... it was about protecting freed slaves. Now it's being applied to protect individual whites to have absolute choice, and to be able to take down the judgment of an entire community that wants to maintain integration after a struggle of forty years to figure out how to do it. [Gary Orfield, WBAI, 7/2/2007]

If, in an ideal situation, the frame for discussion would be completely shifted from one of reactivity and a sense of having been defeated, to one that promotes a sense that progress depends on moving forward,

on assessing the changing conditions and defining a pro-active, affirmative response to these conditions, then the radio talk show format calls attention to several obstacles impeding the completeness of this shift. First, the talk shows that members of The Opportunity Agenda's coalition appeared on clearly tend towards a liberal or left-leaning perspective. Though this is mostly favorable to the strategy devised by The Opportunity Agenda, the format seems to carry with it certain assumptions about how to discuss rightward trends in our country. It is perhaps useful to think of these assumptions as stemming from a combination of the talk show hosts' honed approaches to doing radio and the audiences' expectations of how the hosts will treat a development such as the school integration cases. It seems that, in addressing this decision on liberal talk radio, greater emphasis is placed on the story of the courts and the government, their shift to the right and the threat this poses to a progressive agenda, so that the narrative that *Brown* has been turned on its head by a rogue court is predominant over the alternative use of *Brown* to demonstrate the constitutional legitimacy of the programs that the Supreme Court has ruled against. This narrative mode tends to detract from a more affirmative effort to lay claim to and foreground the language of the Supreme Court's opinions that is favorable to the social justice movement.

To a smaller extent, affirmative action, forced bussing, 'legislating from the bench' and 'judicial activism' did receive mention. However, it should be noted that affirmative action never entered the discussion as a way of describing the school integration cases. Affirmative action received mention in several instances where coalition members offered speculation on the possibility that the Supreme Court's school integration ruling could have negative implications for affirmative action in the future. Affirmative action also entered the discussion in the sense of legal precedent, as in this explanation by Theodore Shaw:

The force in law is that [Kennedy's opinion] may be what controls here. You think back to the Bakke decision in 1978. It was a 4-4-1 decision in which Justice Powell's opinion was little understood at that time. But that ended up really being the opinion of the court. And it was on that opinion that affirmative action in higher education was sustained for 25 years... This decision very much resembles the Bakke decision in terms of the alignment. [Theodore Shaw on "Tell Me More," NPR, 6/29/2007]

There was only one instance of an exchange involving 'legislating from the bench' and 'judicial activism.' These terms were used to describe the actions of Chief Justice Roberts and those who joined with him. This exchange was initiated by the show's host, who opened his interview by prompting just such an

exchange. Unfortunately, these phrases did become a recurring theme of this particular show.

In a more general sense, the issue of negotiating the direction that a host chooses to give to his or her program was most clear, among the radio appearances under consideration, in a broadcast appearance by a coalition member that diverged entirely from The Opportunity Agenda's talking points. In this particular instance, the coalition representative was a legal scholar who had been asked onto the show to discuss the state of the Supreme Court at the close of its term in general, with the result that the school integration case was only briefly discussed in the context of the threat of a radically right-wing Supreme Court. This highlights the difficulties both of maintaining the talking points and the framing effort when the format and content of a media appearance is largely dictated by a host or a writer, and also of reconciling the communications strategy with the different established expertises and opinions of the individuals connected to the effort. By and large, however, these potential conflicts were secondary to a strong adherence among coalition members to the communications strategy.

Print

A Lexis-Nexis scan of print media was also conducted. The date range of the database search was 6/28/2007 to 7/6/2007, with the search terms being the names of individuals who had been briefed on the talking points and framing effort [see attached spread sheet]. The search yielded 20 unique articles featuring appearances by coalition members. Several of these articles were syndicated and appeared in a number of different outlets [see attached spreadsheet]. Despite the small sample size- which encompasses regional and national outlets, as well as wire services and legal news publications- a few points can be made.

The articles themselves were generally somewhat clear on the fact that possibilities for deliberate integration efforts still remain. However, coalition representatives were generally restricted to very brief citations. It seems safe to assume that the content of the radio interviews would reflect to some extent what representatives would have said to print journalists as well. However, for the most part, the print citations of coalition members tended towards statements about how the Supreme Court's decision limits integration efforts rather than drawing on quotes that emphasize the 'door left open' perspective. A substantial

Associated Press article by Mark Sherman from the day of the ruling, which received syndication in a number of outlets, contains the following set of closely-grouped quotes:

'We got rained on today, but there's a silver lining,' said Theodore Shaw, president of the NAACP Legal Defense and Education Fund. Dennis Parker, director of the American Civil Liberties Union's Racial Justice Program, said, 'Even so, the rejection of the Seattle and Louisville school plans represents a significant step backwards in a nation where schools are becoming increasingly segregated by race and ethnicity'... The ruling also could unsettle the more than 2000 magnet schools that educate 2 million children since many were created under desegregation plans, said UCLA education expert Gary Orfield. 'These are some of the only integrated things in a lot of our inner cities,' Orfield said. 'It's one of the only ways to keep middle-class kids involved in big-city school systems.'

This series of citations points to the difficulty of anticipating how quotes will be selected for print.

Considering the range of statements to be found in the radio broadcasts, it seems that to some extent journalists tended to select quotes that enabled a 'balanced narrative' in telling the story of these decisions. Most of the stories in which coalition members appeared were stories about the fact of the Supreme Court's having handed down a decision, rather than an elucidation of the implications of this decision or a close look at the plans themselves.

In these stories, Gary Orfield was generally cited to lend authority to claims about the continued existence of segregation in housing and schools:

*Because neighborhoods often are segregated by race, and blacks and Hispanics are more likely to be poor than whites, school officials can use geography, income and other criteria in making assignments and still achieve racial balance, said Gary Orfield, co-director of the Civil Rights Project at the University of California, Los Angeles. [Savage and Havemann, *The Grand Rapids Press*, 6/29/2007]*

Theodore Shaw was most often cited as acknowledging the setback and explaining that room was left to develop other avenues to school integration. Dennis Parker and Wade Henderson appear in print with brief and essentially negative responses to the ruling (and it is therefore interesting to note that in his radio appearances, Parker mostly retained a tone in keeping with the communications strategy, suggesting that the journalist or editor in this case may have selected for a more negative assessment). Erwin Chemerinsky made several print appearances to comment or editorialize on the overall rightward movement of the court this term.

In summary, it could be said that these stories sought to use coalition members—who were portrayed as dismayed but generally looking to rethink integration within the bounds set by Kennedy's opinion—as a

point of contrast to the comments of the plaintiffs in the integration cases and those who support them, who were, to quote one plaintiff, “relieved and vindicated” by the decision.

Two press releases were returned by the print media scan as well. A press release from the NAACP was strong in reflecting the talking points and framing effort, leading with a paragraph that both highlighted the voluntary nature of the integration programs and emphasized that “the court did, however, uphold diversity as compelling interest in kindergarten through 12th grade public education.” A press release from the National Campaign to Restore Civil Rights was noticeably bleaker, and did not reflect the talking points or suggested framing.

Television

Transcripts from 7 television appearances by Theodore Shaw were also returned by the Lexis-Nexis search for print media. 5 of these appearances consisted of brief sound bites during news show coverage of the Supreme Court’s ruling, 3 of which were noticeably more negative than the quotes selected by print journalists.

Shaw also appeared for discussion on PBS’s *NewsHour with Jim Lehrer* on June 28th, 2007, alongside Roger Clegg of the Center for Equal Opportunity. Against Clegg’s view that the Supreme Court decision was “the right thing to do,” Shaw was strong in asserting the coalition talking points and shifting the discussion towards an emphasis on the strategies for integration left available by Kennedy’s decision:

Clegg: ...*I think that school boards are also going to be sensitive to the fact that most parents don’t like it when they are told that where they can send their children to school depends on what color they are...*

[Host]: *Is that the future you see, Mr. Shaw?*

Shaw: *Well, I think that what we’re going to see is a continued re-segregation of many of our nation’s public schools, although we should be very clear. Justice Kennedy’s opinion is significant. It leaves open the possibility that school districts can take a number of actions to avoid segregation, and even goes as far as to say that school districts and the government in general ought to be able to address what’s been called de facto segregation, which is a bit more progressive than Supreme Court decisions had indicated in the past.*

A June 29th appearance on MSNBC’s *Tucker*, with Tucker Carlson was more or less an exercise in futility, in which Shaw made every effort to hold a reasonable dialogue around the Supreme Court decision and Carlson repeatedly sabotaged the effort and insisted that Shaw was dishonest in not admitting that

“certain kids are allowed to go to certain schools because of their skin color and others aren’t.” Essentially Carlson sought to brow-beat Shaw into admitting that his own views are discriminatory, and Shaw was forced to spend the entire appearance refusing to agree with this.

Summary

Considered as a whole, the Opportunity Agenda’s collaborative communications strategy for framing the Supreme Court decisions regarding racial integration in America’s public schools stands as a strong model for similar efforts in the future. Though actual media penetration was somewhat modest in this instance, representatives of the coalition demonstrated a commitment to the overall strategy. Deviations from the established talking points seem to have arisen not systematically, but rather as more isolated responses to some of the more unpredictable or uncontrollable aspects of a media push.

In the radio broadcast context, the agendas of talk show hosts (and also perhaps audience expectations) often posed an obstacle to message adherence. Additionally, the difficulty for those representatives who have long-established positions on such issues as school integration to fully shift the general language of their positions into more affirmative territory presents another challenge to maintaining frame consistency. In a print context, quote selection by journalists and editors seems to have been geared more towards the standard trope of presenting the ‘liberal’ or ‘progressive’ perspective as an ideological balance to the conservative position. While this may serve to maintain a journalistic notion of objectivity, it also seems to consistently result in the selection of quotes that do not serve to strongly advance the framing initiative. Altogether, however, the coalition itself presented a strong and unified effort to bring the community frame forward and shift the focus to the positive possibilities of advancing racial integration going forward.