GlobalResearch
Center for Research on Globalization

U.S. Supreme Court: White Majorities and Corporations Über Alles

By Glen Ford
Global Research, April 24, 2014
Black Agenda Report 23 April 2014

Region: USA
Theme: Law and Justice

"Black folks have no rights that white majorities are bound to respect." That's the message from the U.S. Supreme Court, which declared diversity programs an option that white majorities can legally ban. The High Court also safeguards the right of the rich to dominate elections. This week's ruling shows that the Roberts Court "knows how to serve both majorities of whites and Big Capital, too."

White majorities have the constitutional right to create laws that selectively lock racial minorities into inferior status. So decreed the United States Supreme Court, in a 6 to 2 vote upholding Michigan's prohibition against affirmative action in public higher education. Although race-conscious admissions polices remain legally permissible, voters may close the door to such remedies to historical discrimination, at will, as set forth in Justice Anthony M. Kennedy's controlling opinion: "There is no authority in the Constitution of the United States or in this court's precedents for the judiciary to set aside Michigan laws that commit this policy determination to the voters."

In plain English, Black folks have no rights that white majorities are bound to respect.

It's "a racist decision," the modern equivalent to the Supreme Court's 1896 *Plessy v Ferguson* ruling sanctifying racial segregation, said Shanta Driver, lawyer for Detroit-based By Any Means Necessary, the losing party in the case. The decision "makes clear that this Court intends to do nothing to defend the right to equality in politics, opportunity, rights, hopes and aspirations of its Latina/o, black, Native American and other minority citizens" said Driver. "At the very moment that America is becoming a majority minority nation this Court is declaring its intention to uphold white privilege and to create a new Jim Crow legal system."

The circling of black robes around the inviolability of the principle of one person-one vote is a supreme historical irony, given that the Constitution originally counted Black slaves as "three-fifths of all other Persons" for the purpose of apportioning the Congress. White majorities were slim or non-existent in the slave-intensive states, whose reconstruction to electoral "democracy" remains incomplete to the present. Yet, in the waning days of a national white majority, an era projected to end around the year 2043, majoritarian rule becomes a crude legal redoubt of white supremacy.

Back in 2003, the Supreme Court ruled that affirmative action at the University of Michigan served a compelling public interest in spreading "diversity" in the upper echelons of U.S. society. As I wrote in The Black Commentator at the time, the Court was *not* addressing Black historical grievances, which had already gone by the legal wayside. Rather, it ruled

that the programmatic inclusion of non-whites at elite public universities created benefits for society as a whole. This week's ruling sweepingly proclaims the right of white majorities (58 percent of "the voters" in a 2006 Michigan referendum) to forgo such benefits, at their pleasure, as have California, Florida, Texas, and Washington.

Affirmative action, as understood by President Lyndon Johnson and Dr. Martin Luther King Jr., is long dead. It is "diversity" as public policy that was mortally wounded by the Roberts court, this week. Diversity is now an option that can be outlawed by white voter fiat – which will no doubt occur at a quickening pace given that majorities of whites believe they are the main objects of discrimination in American life. A 2011 study by researchers at Harvard and Tufts Universities, titled "Whites See Racism as a Zero-Sum Game That They Are Now Losing," showed whites "believe that anti-white bias is more prevalent than anti-Black bias" and that "Black progress is linked to a new inequality" – at white expense.

It is difficult to imagine a greater mass cognitive dissonance. The racism that has always been endemic to the U.S. drove whites crazy, and majorities of them remain nuts – dangerous people, capable of...anything. The High Court has given its benediction to the righteousness of their insanity.

The judicial system is, of course, even more consistent in building a body of legal precedent for the supremacy of money in electoral politics, than of the primacy of majorities – the two being antithetical in principle. In practice, however, the U.S. Supreme Court knows how to serve both majorities *of whites* and Big Capital, too. The post-Civil War Supreme Court elevated corporations to personhood, smoothing the way for the Gilded Age, and plunged Blacks into the depths of Constitutionally-sanctioned Jim Crow, simultaneously creating all-white electorates and one-party rule by the most backward elements of the bourgeoisie in Dixie.

In Michigan, where white majority opinions and prejudices are deemed sacred by the High Court and a racist referendum is dubbed a "Civil Rights Initiative," more than half of Black voters have been effectively disenfranchised under the dictatorship of state-imposed emergency financial managers. In jurisdictions like Detroit, Flint and Benton Harbor, where Blacks are the bulk of the population, majorities mean less than nothing; they are dangerous, and must be politically neutered for the general public good, while Wall Street picks Detroit's bones in a federal bankruptcy court.

Where racism is endemic, all kinds of things are possible – and constitutional.

BAR executive editor Glen Ford can be contacted at *Glen.Ford@BlackAgendaReport.com*
