

Racism without intent

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Equal housing logo, U.S. Department of Housing and Urban Development

While the Supreme Court is always in the headlines in late June, this year it really made a splash. In two days, the court released a decision protecting the Affordable Care Act and another establishing access to civil marriage for same-sex couples. Both decisions are major steps toward a just and fair society.

Amid the chorus of Facebook likes and rainbow images, it was easy to overlook another critical ruling: a 5-4 majority voted to continue interpreting the Fair Housing Act of 1968 as prohibiting housing discrimination whether or not that discrimination is intentional. The landmark civil rights law made it illegal to refuse to sell or rent to someone on account of their race. The court maintained that “disparate-impact claims” can be brought under the FHA—that is, the law covers the effects of housing practices, not just their intentions.

It’s an important distinction—not just for housing discrimination, but as a lens on racism generally. Because it is not legal to put up explicit barriers between African Americans and housing, public accommodations, or the ballot box, some Americans think the nation has dealt with racism and can move on.

Yet barriers and double standards persist in subtler forms—sometimes even absent anyone’s conscious intent. De facto segregation continues in neighborhoods and schools that officially don’t discriminate. Black votes are suppressed by voter ID laws

that look pretty reasonable on the surface. A white supremacist who kills nine black church members is universally condemned but seldom understood as representing a familiar and troubling tradition of homegrown terrorism. Cable news viewers see endless footage of a pharmacy burning in the Baltimore protests but little coverage of the seven black churches that have burned since the Charleston shooting.

It is not enough to say that murder and arson are wrong, or even that racially targeted violence is particularly despicable. We have to deal as well with the context in which such horrific events occur—a context of racism that exists despite many people's best intentions.

So it has been heartening to see broad political support for finally ending the official display of the Confederate battle flag. While not everyone who supports the flag does so out of racist intent, their intent isn't the point. Like it or not, it's a deeply racist symbol with deeply racist impacts. Ignoring those impacts is something only those who have no reason to fear white supremacy can do.

Of course, getting rid of the stars and bars is pretty low-hanging fruit. The harder work is to dismantle the subtler legacies of racism. A divided court narrowly determined that racism doesn't need to be intentional to be serious and real. It's past time for our divided nation to reach the same conclusion.