

**SundayReview** | OP-ED COLUMNIST

When Whites Just Don't Get It, Part 3

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Nicholas Kristof

SOME white Americans may be surprised to hear Archbishop Desmond Tutu describe Bryan Stevenson, an African-American lawyer fighting for racial justice, as “America’s young Nelson Mandela.”

Huh? Why do we need a Mandela over here? We’ve made so much progress on race over 50 years! And who is this guy Stevenson, anyway?

Yet Archbishop Tutu is right. Even after remarkable gains in civil rights, including the election of a black president, the United States remains a profoundly unequal society — and nowhere is justice more elusive than in our justice system.

When I was born in 1959, the hospital in which I arrived had separate floors for black babies and white babies, and it was then illegal for blacks and whites to marry in many states. So progress has been enormous, and America today is nothing like the apartheid South Africa that imprisoned Mandela. But there’s also a risk that that progress distracts us from the profound and persistent inequality that remains.

After the shooting of Michael Brown in Ferguson, Mo., I wrote a couple of columns entitled “When Whites Just Don’t Get It.” The reaction to those columns — sometimes bewildered, resentful or unprintable — suggests to me that many whites in America don’t understand the depths of racial inequity lingering in this country.

This inequity is embedded in our law enforcement and criminal justice

system, and that is why Bryan Stevenson may, indeed, be America's Mandela. For decades he has fought judges, prosecutors and police on behalf of those who are impoverished, black or both. When someone is both and caught in the maw of the justice system — well, Stevenson jokes that “it's like having two kinds of cancer at the same time.”

“We have a system that treats you better if you're rich and guilty than if you're poor and innocent,” he adds.

Stevenson, 54, grew up in a poor black neighborhood in Delaware and ended up at Harvard Law School. He started the Equal Justice Initiative, based in Montgomery, Ala., to challenge bias and represent the voiceless. It's a tale he recounts in a searing, moving and infuriating memoir that is scheduled to be published later this month, “Just Mercy.”

Stevenson tells of Walter McMillian, a black Alabama businessman who scandalized his local community by having an affair with a married white woman. Police were under enormous pressure to solve the murder of an 18-year-old white woman, and they ended up arresting McMillian in 1987.

The authorities suppressed exculpatory evidence and found informants to testify against McMillian with preposterous, contradictory and constantly changing stories. McMillian had no serious criminal history and had an alibi: At the time of the murder, he was at a church fish fry, attended by dozens of people who confirmed his presence.

None of this mattered. An overwhelmingly white jury found McMillian guilty of the murder, and the judge — inauspiciously named Robert E. Lee Key Jr. — sentenced him to die.

When Stevenson sought to appeal on McMillian's behalf, Judge Key called him up. “Why in the hell would you want to represent someone like Walter McMillian?” the judge asked, according to Stevenson's account.

Stevenson dug up evidence showing that McMillian couldn't have committed the crime, and prosecuting witnesses recanted their testimony, with one saying that he had been threatened with execution unless he testified against McMillian. Officials shrugged. They seemed completely uninterested in justice as long as the innocent man on death row was black.

Despite receiving death threats, Stevenson pursued the case and eventually won: McMillian was exonerated and freed in 1993 after spending six years on death row.

I suggested to Stevenson that such a blatant and racially tinged miscarriage of justice would be less likely today. On the contrary, he said, such cases remain common, adding that he is currently representing a prisoner in Alabama who has even more evidence of innocence than McMillian had.

“If anything, because of the tremendous increase in people incarcerated, I’m confident that we have more innocent people in prison today than 25 years ago,” Stevenson said.

Those of us who are white and in the middle class rarely see this side of the justice system. The system works for us, and it’s easy to overlook how deeply it is skewed against the poor or members of minority groups.

Yet consider drug arrests. Surveys overwhelmingly find that similar percentages of blacks and whites use illegal drugs. Yet the Justice Department says that blacks are arrested for such drug offenses at three times the rate of whites.

One study in Seattle found that blacks made up 16 percent of observed drug dealers for the five most dangerous drugs and 64 percent of arrests for dealing those drugs.

Likewise, research suggests that blacks and whites violate traffic laws at similar rates, but blacks are far more likely to be stopped and arrested. The Sentencing Project, which pushes for fairer law enforcement, cites a New Jersey study that racial minorities account for 15 percent of drivers on the turnpike, but blacks account for 42 percent of stops.

THE greatest problem is not with flat-out white racists, but rather with the far larger number of Americans who believe intellectually in racial equality but are quietly oblivious to injustice around them. Too many whites unquestioningly accept a system that disproportionately punishes blacks and that gives public schools serving disadvantaged children many fewer resources than those serving affluent children. We are not racists, but we accept a system that acts in racist ways.

Some whites think that the fundamental problem is young black men who show no personal responsibility, screw up and then look for others to blame. Yes, that happens. But I also see a white-dominated society that shows no sense of responsibility for disadvantaged children born on a path that often propels them toward drugs, crime and joblessness; we fail those kids before they fail us, and then we, too, look for others to blame.

Today we sometimes wonder how so many smart, well-meaning white people in the Jim Crow era could have unthinkingly accepted segregation. The truth is that injustice is easy not to notice when it affects people different from ourselves; that helps explain the obliviousness of our own generation to inequity today. We need to wake up.

And that is why we need a Mandela in this country.

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