“Nosotros venceremos.” In English, “We shall overcome.” The words were scrawled across a large poster board and carried by a high school student who sat atop the shoulders of one of his peers. Next to them another pair marched down the street, one sitting on the other’s shoulders, with a sign that read “Shaffer must go.”1 (See figure 1.) They were joined by hundreds of other students from West High School and surrounding schools who, moments earlier, had walked out of their classrooms and onto the street. The march was a protest against the Denver Public Schools (DPS) that was set off by racist remarks made by social studies teacher Harry Shaffer. Students reported that he purposely mispronounced Spanish surnames and made disparaging remarks about Mexican Americans in class. As young Mexican Americans, they were fed up with teachers like Shaffer and a curriculum that ignored their group histories and contributions while celebrating US exceptionalism. They were sick of administrators who punished them more harshly than White students and a school system that tracked them into vocational courses rather than advanced academic or college preparation classes while doing nothing to address the high rate of Mexican American dropouts. On March 20, 1969, they had had enough.

The walkouts that day and the following two days were a catalyst for change for many Mexican Americans in Denver. When they walked out a second time, they were greeted by the Denver police, clad in riot gear and armed with nightsticks. They sprayed the students with mace and clubbed their bodies even though, according to many witnesses, they were peacefully assembling. The third day the clashes continued as students remained out of school, protesting in and around the area surrounding West High School. The Denver Blade, one of two African American newspapers in the city,
compared the incident to the nationwide urban uprisings that sprang up every summer between 1965 and 1968, its front-page headline boldly proclaiming, “Summer in March.” From the perspective of that paper’s editors, Denver appeared on the verge of rebellion, and Mexican Americans were right in the middle of it.

Three months later, on June 19, 1969, a group of White, Black, and Mexican American parents filed a lawsuit against DPS, arguing that the district intentionally segregated Black and Mexican American pupils from White pupils. Denver school officials, they maintained, were guilty of violating the Fourteenth Amendment rights of both Mexican American and Black students.\(^3\) \textit{Wilfred Keyes v. School District No. 1, Denver, Colorado} went on to become the first “non-southern,” or “de facto,” school segregation case heard by the US Supreme Court. When the court ruled in favor of the plaintiffs in 1973, \textit{Keyes} set a nationwide precedent that even school districts without a history of state-sanctioned segregation could be in violation of \textit{Brown v. Board of Education of Topeka} (1954). Denver’s school desegregation story, therefore, is integral to the history of desegregation in modern America. As in other school districts across the United States with large populations of Mexican Americans or other Latinas/os, school desegregation in Denver did not proceed along Black-White lines.\(^4\) Both the litigation and the various community responses it elicited unfolded according to the multiracial formations that structured social, political, and economic life in the Mile High City and many other places.

\textbf{Figure 1.} West High School student demonstration. 1969. Photo by Dick Davis. Courtesy of The Denver Public Library, Western History Collection, WH2129.
The first story describes one of many instances in the late 1960s and 1970s when Mexican Americans protested for a more socially just public school system, one that recognized and valued Mexican Americans’ historic and contemporary contributions to American society. Their struggles for bilingual and bicultural education, as well as more Mexican American teachers, counselors, and administrators, were central to the burgeoning Chicana/o movement. The second story illustrates integration advocates’ commitment to desegregated schooling. For many African Americans, in particular, school integration was essential for ensuring high-quality, equal education for all students. This was not true for all African Americans in all places, but in Denver the vast majority supported the integrationist project. By connecting these two separate but interrelated histories, Racial Uncertainties unpacks a different history of civil rights and racial formation in the late 1960s and 1970s. Mexican Americans and African Americans in Denver had different conceptions of what educational equality entailed, although there was always some crossover. At the very moment when Mexican Americans in the city began to organize effectively for the betterment of Mexican American education, organizing that prioritized bilingual-bicultural education, integration proponents initiated what would become a precedent-setting case that many felt hindered the ability of the school district to implement bilingual-bicultural programs. Desegregation and the enactment of bilingual-bicultural education programs were not inherently contradictory, but many Mexican Americans understood them to be in conflict. From their perspective, if the school district spread Mexican American students around the district, as the Keyes plaintiffs sought, bilingual-bicultural programs would not be feasible. Thus, many Mexican Americans pitted desegregation against bilingual-bicultural education and believed that only one of these reforms could be realized. This was a dilemma faced all over the country, one that White politicians exploited to help break apart coalitions between African Americans, Asian Americans, and Latinas/os, and to win Asian American and Latina/o votes. Adopting this strategy as governor of California, Ronald Reagan argued on multiple occasions that school desegregation would spell the end of bilingual education efforts in the state. “We have in Los Angeles,” he remarked in a 1970 press conference, “the community of Americans of Mexican Descent,” who desire and often require bilingual programs. He cautioned that desegregation would imperil those efforts. “I don’t know how we’d meet it [desegregation] if you disperse those students out of that neighborhood and scatter them all over the Los Angeles School District.”
Later that year he partly justified his signing of a bill that attacked school desegregation by saying he was protecting bilingual education “in Spanish-speaking areas.”

Divergent visions of quality education for Mexican Americans and African Americans worked in tandem with distinct but interconnected racial projects that demonstrate how constructions of Mexican American racial identity and racial politics shifted during the late 1960s and 1970s. A racial project, according to Michael Omi and Howard Winant, is “simultaneously an interpretation, representation, or explanation of racial identities and meanings, and an effort to organize and distribute resources (economic, political, cultural) along particular racial lines.” It encompasses both the ideological and material manifestations of race in any given society. Different racial projects emerge in specific times and spaces and are always a reflection of the particular historical context in which they develop.

One such project involved Mexican Americans’ reconceptualization of their racial identity as a resistance tactic designed to challenge White hegemony in US culture and society. As more and more Mexican Americans cast off the logics of colonialism and whiteness in favor of a politics of Chicanismo, they transformed into Chicanas/os. To be Chicana/o was to reject identification with whiteness, long a Mexican American social uplift strategy. It was to reclaim Indigenous history and ancestors. As a radical philosophy, Chicanismo meant accepting a distinct Chicana/o identity, becoming more aware of Chicanas/os’ shared history of struggle and injustice, and developing a desire to work within the community for Chicana/o liberation. These politics informed Mexican American educational organizing, as well as their responses to calls for integration. For many Chicanas/os, integration with Whites would not provide the kind of education they sought for their children. These politics also shaped how Mexican American lawyers understood Mexican American racial positionality. When attorneys with the Mexican American Legal Defense and Educational Fund (MALDEF) intervened in *Keyes* on behalf of Mexican Americans, they argued that because Chicanas/os were part of a distinct, non-White/non-Black race, they had a right to representation to protect their specific interests.

While many Mexican Americans adopted Chicana/o identities and politics, still others rebuffed such thinking. Content with society as it was and their place within it, these Mexican Americans continued to embrace the long-standing practice of claiming racial whiteness. Thus, a second racial project involved the maintenance and deployment of whiteness to challenge
school desegregation. Some of these individuals supported bilingual-bicultural education and worried that school desegregation would eliminate such programs. Others staunchly rejected both desegregation and bilingual-bicultural education. In both cases, these Mexican Americans either claimed a White identity or embraced the politics of whiteness in their opposition to court-ordered desegregation.

My study of Denver demonstrates that these dynamics played an important role in the reworking of Mexican American racial identity and in broader patterns of racial formation that centered Mexican American racial uncertainties. Disputes over where Mexican Americans were racially located—were they closer to whiteness or blackness—revealed important details about how people conceptualized school desegregation, race, and rights in the post–civil rights period. Conversely, how various groups and individuals organized around school desegregation illuminated much about how they racially constructed Mexican Americans.

Mexican Americans’ ambiguous racial identities resulted in an array of complications that, on the one hand, provided support for Denver school officials in their attempt to prove they had not intentionally segregated Black and Mexican American students and, on the other hand, provided multiple avenues of resistance for parents who refused to accept school desegregation was the law of the land. The constant debates over whether Mexican Americans were White or non-White encouraged school officials, parents, community activists, and lawyers to racialize Mexican Americans in whatever way would benefit them. That is, all parties utilized Mexican American racial uncertainty as a weapon in their attempts to secure or challenge school desegregation. Attorneys for the Keyes plaintiffs positioned them as “minority” and grouped them with African Americans to prove to the courts that DPS was guilty of maintaining a dual school system that contained “majority Anglo” schools and “majority minority” schools. DPS lawyers countered that “minority” was never a category utilized by school officials and, moreover, “Hispanos,” as Mexican Americans were called in Denver, were White. The courts’ determination that Mexican Americans were minority, akin to African Americans, set off debates among Mexican Americans of various racial and political subjectivities about their individual and collective identities. While Denver had a robust Chicana/o movement, and many Mexican Americans were influenced by its racial politics, others rejected the racial and political ideology coming out of the movement and remained committed to long-standing notions of Spanish whiteness. Such understandings filtered into the contest
over school desegregation and helped some Mexican American opponents of
desegregation challenge their placement in the district court’s plan. As these
various groups fought over the implementation of the court’s desegregation
plan, Mexican American racial uncertainty became not only a point of debate
but also a useful argument against race-based civil rights remedies. The fact
that people could not agree on whether Mexican Americans were White or
non-White, even after the Supreme Court agreed with the plaintiffs that they
were minority, raised critical questions about the meaning of race and the
legality of requiring racial balance in the schools when not even Mexican
Americans could agree on their own racial identities.

This history of school desegregation and Mexican American racial forma-
tion demonstrates that the race work in-between Black and White is fer-
tile ground for examining the complexity and absurdity of race in modern
America, as well as the longevity and adaptability of Mexican American
whiteness. As people tried to articulate, negotiate, and adjudicate Mexican
American racial identity, they brought to the surface long-standing debates
over the relationship between Mexican Americans and whiteness and the
role of the state in determining racial identity in the post–civil rights nation.
Denver’s school desegregation case and the various Mexican American re-
sponses to it challenged what had become “common sense” understandings
of race, ethnicity, and culture. As in other cities with multiracial student
populations that included Latinas/os, their very existence in the public
schools forced the courts, attorneys for both sides, school officials, and
parents to grapple with the racially in-between status of Mexican Ameri-
cans. The existence of such racial uncertainty and its utility as a tool of
resistance to civil rights are hallmarks of the operation of race in post–civil
rights America. People’s inability to categorize Mexican Americans as either
White or Black and subsequent debates about their location along the racial
spectrum raised questions about the legitimacy of court-ordered desegrega-
tion and provided avenues for challenging it. That some Mexican Americans
were among these voices only added credibility to the argument that court-
ordered desegregation was not only illegal but un-American.

MEXICAN AMERICANS AND WHITENESS

The contention over Mexican American whiteness or non-whiteness in Den-
ver was influenced by the legacies of migration from northern New Mexico
and southern Colorado earlier in the twentieth century. Most Mexican Americans in Denver traced their family roots back to this region, which over centuries had developed particular social, cultural, and economic relations that were the products of “double colonization,” first by the Spaniards and then by the Americans. Contestations over land, water, and other resources forced the mestizo peoples who called this region home to develop new strategies of resistance and survival. As they navigated the new American social order, they came to understand themselves as “Hispanos,” a culturally unique people with deep ancestral ties to the region that linked them to the Spanish settlers of the sixteenth and seventeenth centuries. While memories of Spanish colonization were prominent in Mexican American identity constructions across the Southwest, they played a particularly important role in northern New Mexico and southern Colorado, an area that one scholar labeled the “Hispano Homeland.” In response to US colonialism and White racism, Mexican Americans in this region developed a mythology about the Spanish origins and cultural distinctiveness of Hispanos or Spanish Americans, a mythology that reinforced Spanish whiteness and helped shape civil rights politics in the post–World War II period.

Speaking in the 1960s, Dr. Daniel T. Valdes stated, “Hispano is a cultural term accurately applied to people of and from Spain, Mexico, Cuba, and any other country with a Spanish heritage. . . . And, of course, it identifies with the presently powerful transplanted Europeans, rather than the intelligent and highly imaginative, often non-literate, Indian peoples.” Valdes explained that racially, Hispanos were “biologically white Caucasians.” Thus, Hispano was an ethnic identity that denoted cultural distinctiveness and racial whiteness. It was an identity construction that held firm for many nuevomexicanos in the twentieth century and to the present day.

By 1969, when Keyes was filed, many Mexican Americans were undergoing a major shift in the way they racially identified and formed their racial politics. No longer content to identify as Hispano, these mostly young people took up the cause of the burgeoning Chicana/o movement and proclaimed themselves now to be proud “Chicanas/os.” For them, the terms Hispano or Spanish American celebrated a White, European ancestry and history, which they now rejected. Instead of whiteness, they celebrated brownness, a color identity that positioned them in stark opposition to Whites and linked them more closely with their Indigenous ancestors. But these newer ideas did not influence everyone. Instead, many Mexican Americans remained committed to older notions of racial identity and political subjectivity, and
they positioned themselves against the expanding Chicana/o movement. In Denver, political conflicts between these various factions of the Mexican American community were frequent, particularly once the city’s most visible Chicana/o social justice organization, the Crusade for Justice, began to agitate regularly for social, economic, and political changes. The battle over school desegregation only heightened these conflicts.

While the vexing question of Mexican American whiteness had shaped ideas regarding Mexican American racial categorization for over a century, the changed social, cultural, political, and legal context of the late 1960s and 1970s breathed new life into this long-standing issue. Simply, the reasons people claimed or rejected whiteness changed. This does not mean that the previous rationales for or against whiteness disappeared; rather, the list of possible rationales expanded. Throughout the 1930s, 1940s, and 1950s Mexican American civil rights efforts were centered on winning whiteness from the courts and recognition of that whiteness by individual states and local communities. If only Whites would acknowledge Mexican Americans as fellow White citizens, the argument went, they would be able to take advantage of all the privileges such whiteness conferred. When Mexican Americans in the League of United Latin American Citizens (LULAC) began their campaign against segregated “Mexican” schools in Texas, they argued that such schools were illegal because you could not segregate White children from “other White” (Mexican American) children. In 1954, when the Supreme Court heard a case dealing with the civil rights of Mexican Americans for the first time, lawyers for the plaintiff argued that even though Mexican Americans were White, state officials treated them as if they were not White. They were, in other words, a “distinct class” of Whites. Such actions, they claimed, proved that the state of Texas was guilty of violating Mexican Americans’ constitutional rights. Achieving recognition of Mexican American whiteness was an important step in Mexican Americans’ efforts to secure full access to the benefits of US citizenship. In a society built first on Native American dispossession and Black enslavement, then the US conquest of northern Mexico, becoming fully American meant being White.

The passage of the 1964 Civil Rights Act, which formally ended legal discrimination, and the 1965 Voting Rights Act, which outlawed racial requirements for voting, dramatically altered the terrain upon which civil rights battles were waged. Whiteness was still a prerequisite for full Americanism in the post–Jim Crow nation, but it was no longer the sole method of challenging discrimination in the courts. The civil rights movement,
the Chicana/o movement, new civil rights laws, legal decisions, and Great Society programs, created largely in response to the civil rights upheavals of the previous decade, initiated a cultural shift in how Mexican Americans conceptualized their difference, organized for social change, and developed legal strategies for challenging discrimination.

By the late 1960s many Mexican American civil rights leaders and attorneys began to frame their strategies around the idea that Mexican Americans were racially distinct from both Whites and Blacks, a repositioning that allowed them to put Mexican Americans’ nonwhiteness to political and legal use. They no longer were bound by the “other White” strategy adopted by Mexican American civil rights advocates in the 1930s. Yet whiteness still had great allure for some Mexican Americans. Particularly those with lighter skin color and middle-class status, but also others drawn to the privileges of whiteness, identifying as White and buying into White racial politics still held the best promise of material success, social acceptance, and political power. Efforts to categorize Mexican Americans racially as something other than White, such as the requirement to classify them as “minority” for racial balance purposes in Keyes, challenged the precarious White existences they had built. The Chicana/o movement, too, raised serious questions about Mexican Americans’ relationship to race and racial politics, questions that forced some of them to reinforce their claims to whiteness and its benefits. They sought, in the formulation of legal scholar Cheryl Harris, to assert their property rights in whiteness, rights they had come to expect as the natural entitlements of whiteness. This included the right to send their kids to school where they saw fit, regardless of what the courts said. In this way, claiming whiteness in the post–civil rights period could also, and often did, mean rejecting the social, economic, and political changes brought on by the civil rights movements of the previous decade. It meant opposition to being labeled “minority” in the new context of group rights that made possible civil rights victories like court orders for school desegregation.

The historical scholarship on Mexican American whiteness demonstrates the contingent nature of racial formation and the important ways that whiteness has operated in Mexican American communities, as both an enabler of social hierarchy and a producer of material wealth. Studies on mid-twentieth-century Mexican American civil rights politics have pointed to the ways groups like LULAC and the American G.I. Forum (AGIF) organized around the politics of whiteness. By emphasizing their status as US citizens and their whiteness, civil rights leaders in these groups espoused a moderate
political ideology very much in line with the period. Historians who have documented these racial politics differ in how they interpret their meaning and in how much significance they ascribe to Mexican American claims of whiteness. One side of the debate underscores how Mexican Americans, who “walked the color line” in a place like Texas, employed anti-immigrant and anti-Black politics to secure their own whiteness and, in the process, their status as full-fledged American citizens. According to this interpretation, middle-class Mexican Americans in groups like LULAC eschewed alliances with Mexican immigrants and African Americans to prove they were worthy of whiteness and, thus, full belonging. Other scholars maintain that whiteness was a strategic necessity, rather than a true representation of how Mexican Americans self-identified and thought about the world around them. In a Jim Crow society, Mexican American civil rights proponents’ tactical choices were limited by the Black-White color line and its corresponding social, economic, and political structures. Rather than attack the legality of Jim Crow, they chose the much simpler and more pragmatic approach, which was to argue that they fell on the White side of the color line. Much of LULAC’s work to secure Mexican American civil rights, moreover, was transnational, demonstrating a commitment to maintaining Mexican cultural, social, and political ties. While they privileged American citizens of Mexican descent, they did not always turn their backs on the Mexican immigrants among them.

By focusing on Denver and the historic connection between Mexican Americans in that city and northern New Mexico/southern Colorado, Racial Uncertainties contributes new insights to this important scholarly conversation. By the late 1960s and 1970s, many Mexican Americans in Denver had adopted the racial politics of the Chicana/o movement, but others continued to accept earlier racial constructions that were rooted in colonial relations and a staunch acceptance of the politics of whiteness, what Daniel Martinez HoSang describes as “political whiteness.” As a conceptual category, “political whiteness describes a political subjectivity rooted in white racial identity, a gaze on politics constructed by whiteness.” It is a way of looking at the world and one’s place in it, a roadmap for how to think, act, and vote to secure and defend the psychological and material benefits of whiteness, not merely a description of the politics of people who understand themselves to be White. For Mexican Americans who identify as White, “political whiteness” operates in the same ways, but it also is adapted for the particular needs and investments of ethnic others. These individuals think,
act, and vote in the name of (aspirational) whiteness, but they evoke their ethnicity both to support the bootstraps narrative of hard work and upward mobility that defines their identities and to provide cover for their support of the politics of whiteness. I argue that these politics were reinforced not only by public displays of Chicana/o pride and power, with which many Mexican Americans vehemently disagreed, but also by the court’s remaking of Mexican American racial identity in the Keyes case. Compelled to develop a strategy for keeping their children in the neighborhood school, some Mexican Americans challenged their racialization as “minority” and insisted they were White. This 1970s claiming of whiteness was as strategic as it had been in earlier decades. Strategic choices, however, still have political consequences. In the context of the post–civil rights period, denying Mexican American nonwhiteness and allying with the burgeoning “antibusing” movement made important political statements about Mexican American efforts to secure bilingual-bicultural education and African American efforts to dismantle segregated schooling. By committing to the “antibusing” cause and putting their racial uncertainty to use in the name of “political whiteness,” some Mexican Americans helped reinforce antiblackness and the growing conservative movement against civil rights.

**BROWN V. BOARD OF EDUCATION AND SCHOOL DESEGREGATION IN THE POSTWAR UNITED STATES**

*Racial Uncertainties* uses the *Keyes* case, community responses to it, and organizing around it to examine Mexican Americans’ shifting racial identities and political commitments, as well as broader societal processes of Mexican American racialization in a period of profound transformation. Because of the importance of school desegregation for the racial, political, and ideological changes of the post–civil rights period, *Keyes* offers a useful lens through which to examine Mexican American racial formation. At the heart of legal and social understandings of race and civil rights in the post–World War II period was the issue of school segregation and the legal decision that laid the groundwork for desegregation efforts around the nation, *Brown v. Board of Education of Topeka* (1954).

While *Brown* initiated decades of legal challenges to school segregation and led to fewer racially concentrated schools in some places, primarily in the South, these victories were fleeting. The movement of White families
from the cities to the expanding suburbs had been an important feature of postwar metropolitan America and helped erect what the US Commission on Civil Rights in 1961 called a “white noose” of suburbs around the nation’s increasingly non-White central cities. The Charlotte-Mecklenburg school district, which encompassed both the city of Charlotte, North Carolina, and the surrounding county, was different. There was no escaping to the suburbs for many people who lived in Mecklenburg County. In 1969, a federal judge ordered the district to desegregate and said that school officials should expand the use of “busing” to accomplish more racial balance. By the time the case, Swann v. Charlotte-Mecklenburg Board of Education, was heard by the Supreme Court in 1970, “busing” had become a national controversy. In 1971, the court affirmed the district court’s desegregation order, setting an important precedent about the constitutionality of transporting students to effect desegregation. Whereas anti-integrationists maintained that ordering transportation of students was beyond the remedial powers of the courts, the high court ruled that transportation by bus was within the courts’ powers. “Busing,” the court wrote, was “one tool of school desegregation” among many and, furthermore, “desegregation plans cannot be limited to the walk-in school.” School officials in districts with histories of state-sanctioned segregation, that is, could not use a neighborhood school system as an excuse for not implementing a proactive desegregation plan.

As Whites continued to leave urban cores in the wake of housing and school desegregation efforts in the 1970s, the “white noose” was pulled ever tighter. Consequently, city schools became increasingly non-White, making it difficult to impossible to achieve racial balance without involving majority White suburban school districts. The Supreme Court’s decision in Milliken v. Bradley (1974), however, halted such plans and ensured that White families who wanted to avoid integration could abandon the nation’s cities for the suburbs without the fear of cross-district desegregation orders. Some districts already included surrounding suburbs and could not escape city-suburb desegregation. Knowing this, anti-integrationists in some metropolitan areas moved to ensure city school districts could never combine with suburban districts. In 1974, Colorado voters overwhelmingly passed the Poundstone Amendment, which effectively ended annexations to the city of Denver by requiring a majority vote of residents in the counties that would be losing land to approve such annexations. Whereas residents of surrounding communities had enthusiastically pursued annexation in the postwar period, mostly to achieve access to the city’s cheaper water and other public
services, including the schools, a decisive shift occurred once school desegregation came to Denver. After the Supreme Court prohibited desegregation plans that crossed district lines in *Milliken*, White, suburban support for the Poundstone Amendment skyrocketed, helping to guarantee its victory. Passage of the amendment ensured that only limited desegregation in Denver could be achieved. The school district, in fact, never secured long-term racial balance. As more and more White families fled the city, DPS came to represent an increasingly smaller percentage of metropolitan area students. By 2003, only 19 percent attended Denver schools.\(^{26}\)

When the Supreme Court issued its opinions in *Keyes* and *Milliken*, the “antibusing” movement had already gained adherents across the country, who worked to reshape the narrative around school desegregation so that Whites became the victims in the courts’ zeal to force racial balance via “busing,” the transportation of students to schools outside their neighborhoods to create racially balanced schools. According to the “busing” narrative, Whites in northern and western cities had had nothing to do with creating segregated schools. They should not, therefore, be punished for it by being made to “bus” their children across the city. Like the courts, they refused to acknowledge how they had benefited from discriminatory social and economic policy at the expense of mostly poor, non-White inner-city communities.\(^{27}\) By embracing seemingly race-neutral arguments like “freedom of choice” and “freedom of association,” White parents, homeowners, and taxpayers railed against school desegregation plans as attacks on their rights as citizen consumers and individual meritocratic class accomplishments and helped develop the colorblind legal language that eventually rolled back race-conscious civil rights remedies like racial balance and affirmative action.\(^{28}\) Central to this emerging colorblind racial discourse was the idea that the US Constitution required racial nonrecognition by the state. Any recognition of race was viewed by civil rights opponents as unfair, immoral, and illegal. Such arguments became powerful tools in White efforts to undo court-ordered desegregation because without the ability to racially categorize students, creating racial balance would be impossible. White resistance to school desegregation, along with the Supreme Court’s refusal to recognize the history of government policies that had created segregated housing and schooling, greatly limited *Brown’s* reach. Within a matter of decades many of those schools that achieved some level of integration became resegregated, and many northern and western school districts became more and more racially segmented.\(^{29}\)
Nonetheless, *Brown* laid the groundwork for racial discrimination jurisprudence in the postwar United States and ushered in many of the political conflicts that came to define the era. At the most basic level, this seminal civil rights case established that racially segregated schools were unconstitutional. But there are several aspects of the Supreme Court’s decision that would go on to inform the *Keyes* case and the outcomes that are explored in this book. First, *Brown* was argued and decided on the grounds that school segregation violated the Equal Protection clause of the Fourteenth Amendment. Thus, the court maintained that segregated schools were “inherently unequal” and violated the Fourteenth Amendment rights guaranteed by the US Constitution. Supreme Court jurisprudence going back to the Civil Rights Cases, however, greatly limited the reach of the Fourteenth Amendment by declaring a distinction between state and private action. In those cases, testing the constitutionality of the Civil Rights Act of 1875, the court ruled that the Fourteenth Amendment banned only state action to enforce discrimination in public accommodations like public transportation, theaters, and inns. Congress could not, therefore, prohibit discrimination in privately owned accommodations. *Brown* applied to state-mandated segregation in public schools, schools that were understood to be de jure segregated. But there were questions about whether it applied to de facto segregated schools, or schools that were segregated not by law but by “private” actions (such as a family’s individual choice of where to reside and send their children to school). When the Supreme Court heard the *Keyes* case, this was one of the questions before it. Were “neighborhood schools” constitutional, even when they produced segregated schooling? This is the reason *Keyes* set such a significant precedent.

The fact that *Brown* was decided on the grounds that school segregation violated the Equal Protection clause of the Fourteenth Amendment also informed the racial negotiations employed by the plaintiffs in *Keyes*. Passed and ratified in the aftermath of the Civil War, the principle of equal protection clearly was meant to apply to African Americans. But there was uncertainty as to whether it applied to other racialized groups. In the case of Mexican Americans, it took decades for the courts to finally rule that it did. At the same time *Brown* was winding its way through the courts, a case dealing with the civil rights of Mexican Americans, *Hernandez v. Texas*, was doing the same. In that case, the plaintiff, Pete Hernandez, maintained that his Fourteenth Amendment right of equal protection was violated because the jury that convicted him of murder did not have any Mexican Americans
on it. He had not, therefore, received a trial by a jury of his peers. His lawyers argued that in Texas Mexican Americans systemically were kept out of jury pools because of their *ethnicity*. Even though they were *racially* White, Texas officials treated them as if they were non-White. In their opinion, the judges for the Texas Court of Criminal Appeals cited a case they had heard the year before in which they pointed out that the equal protection clause of the Fourteenth Amendment applied to two groups only, Whites and Blacks. Mexican Americans, they wrote, “are not a separate race but are white people of Spanish descent, as has often been said by this court. We find no ground for discussing the question further.” Irritated that this issue kept coming up in their court, the judges even remarked that “no member of the Mexican nationality challenges that statement.” They seemed to mock Hernandez’s lawyers for trying to argue they were a “special class” of Whites who should be granted a “special privilege”: the right to a trial by jury that included people of their nationality. The Supreme Court overruled this decision, stating that in Jackson County, Texas, Mexican Americans were a “distinct class,” separate from Whites based on their ancestry or national origin. Thus, they were protected by the Fourteenth Amendment. The court did not, however, issue a ruling on the universal status of Mexican Americans. Instead, the justices opined that the determination must be made in each case, based on the local conditions and social relations in the community in question. This remained legal doctrine in the late 1960s, when integration proponents in Denver were pushing for DPS to develop a desegregation plan and gearing up for litigation. In order to demonstrate that Denver school officials were guilty of creating majority minority and majority Anglo schools—that is, a dual school system—the plaintiffs’ lawyers in *Keyes* needed to first prove that local Whites discriminated against Mexican Americans as a class. They had to show that they were, in fact, a distinct minority. This is what explains the racial categories the plaintiffs chose to employ, as well as the strategy they developed.

The second aspect of *Brown* that informed *Keyes* and the outcomes that grew out of it was the Supreme Court’s decision in *Brown II* to withhold immediate relief and defer to district courts on the specifics of the remedy. Generally, when the court ruled in favor of an aggrieved party and granted relief, it ordered the immediate implementation of that relief. Not so when it came to school desegregation. In 1955 the court famously determined that school districts in violation of its decision in *Brown* must desegregate “with all deliberate speed.” This timeframe was purposefully vague. Because of
the explosiveness of the school integration issue, many on the court felt that a unanimous decision in *Brown I* was necessary to stave off potential problems. The justices correctly believed that many White southerners would resist once the court issued its decision invalidating school segregation, and they hoped to issue an opinion that would make the transition as painless as possible. To secure unanimity, those justices who were inclined to rule in favor of the plaintiffs had to compromise on the remedy. They had to promise to implement a remedy that gave White southerners time to come to terms with the decision. Accordingly, the court concluded that “the personal interest of the plaintiffs in admission to public schools . . . on a non-discriminatory basis” had to be balanced against “the public interest” in desegregating “in a systematic and effective manner.” A desire to appease White southerners also shaped the court’s decision to adopt a gradual approach to desegregation. Rather than issue concrete guidelines for developing desegregation plans, the justices determined to leave the details to the district courts. This would ensure, they reasoned, a commitment to “local conditions” and “flexibility” in the development and implementation of plans on a case-by-case basis. By adopting gradualism and vagueness, the court protected the interests of White segregationists over those of African Americans, whose constitutional rights had been violated.

These choices informed decades of school desegregation litigation and enabled anti-integrationists to resist full desegregation much more effectively than if the court had issued more specific guidelines and mandated immediate relief. *Racial Uncertainties* shows that in Denver and many other northern and western cities, the long delay between the court’s initial finding that school officials had violated *Brown* and the final order to desegregate system-wide (a period of almost six years) allowed anti-integrationists to develop sophisticated arguments against a more robust and fair desegregation plan. These arguments centered on colorblindness, already a powerful weapon against race-conscious civil rights remedies. During this period of delay, people opposed to the court’s order for city-wide desegregation pushed colorblind arguments beyond the common freedom of choice and freedom of association claims to “reverse discrimination” claims. According to proponents of this view, requiring “busing” to achieve racial balance was reverse discrimination against White students and families. Yet it was not only Whites who took advantage of this new argument; some Mexican Americans opposed to “busing” did as well. Their commitment to this emerging form of White resistance reveals new insights into the ideological
worldviews of those Mexican Americans who retained their sense of Hispano (White) identity and political subjectivity, even as other Mexican Americans refused the same.

RACE AND ANTI–CIVIL RIGHTS POLITICS IN POST–CIVIL RIGHTS AMERICA

In the most basic sense, the descriptor *post–civil rights* refers to the period after the federal government passed the 1964 Civil Rights Act, which ended legal discrimination of the Jim Crow kind, and the 1965 Voting Rights Act, which outlawed racially motivated disenfranchisement practices. These two landmark pieces of legislation, the result of massive grassroots civil rights mobilizations, were profoundly important and set the stage for decades of legal challenges to discrimination based not only on race and ethnicity, but also on gender, sexuality, class, immigration status, age, and more. For many African Americans, the elimination of Jim Crow changed the way they lived their lives and propelled some into the growing middle class. Many scholars, writers, politicians, and news commentators have hailed these civil rights victories as a “revolution.” Yet the breakdown of formal, legal discrimination and elimination of some forms of racially motivated voter suppression did not end the structural workings of race that produced the most consequential outcomes for African Americans and other racialized groups. This legislation also did not end discrimination in the law. Thus, in a second sense, I define the post–civil rights period as *ideologically* and *legally* distinct from the pre-1964 period. Under Jim Crow most Americans conceived of racism as prejudice. According to this model, racism derived from individuals’ own conceptions of racial superiority and inferiority. Racism, therefore, had an important psychological dimension that could be addressed—in a way, “solved”—through intercultural education and tolerance training. Once the law made prejudiced acts illegal, some people might still be racist, but the majority rejected such prejudice as no longer socially acceptable. And if public institutions did try to discriminate, the courts could step in to remedy the wrong. Many Americans concluded, in the aftermath of this victory, that the nation had finally reached the zenith of racial liberalism. The promise of “liberty and justice for all,” many believed, was finally a reality.

After 1964 this understanding of racism as prejudice held, but all was not calm. Conservative intellectuals and legal scholars convinced a wide swath
of the American public that racism was over. Yet civil rights activists continued to push for reforms meant to address what Kwame Ture and Charles Hamilton referred to as “institutionalized racism.” Widely publicized instances of urban rebellion and the expansion of neighborhood and school integration efforts to the north and west revealed the continued existence of material racial disparities. For some this was deeply confounding. For others, urban rebellions were further proof of Black depravity and violence. And continued calls for desegregation and other civil rights were evidence of Black overzealousness and selfishness. Accusations of racism were easy to dismiss because, in many cases, there was no proof of prejudice as the motive behind individual action. A White family’s decisions to move to a majority White suburb and send their children to majority White schools were not racist, such thinking implied, but rather were pragmatic economic and educational choices. As Americans moved deeper into the 1960s and 1970s, they developed sophisticated arguments, steeped in the idea of colorblindness, to combat continued calls for civil rights policies and legal decisions that would redress material inequities. Having learned that racial civility was a stronger weapon than outright racial hostility in the post–civil rights nation, these anti-integrationists embraced colorblindness with wholehearted fervor. Out of this new, colorblind worldview emerged a set of assumptions that began to guide opposition to civil rights. This is the context in which the Keyes drama unfolded.

THE SOCIAL AND LEGAL CONSTRUCTION OF RACE

At its heart, this is a history of racemaking. By linking social, cultural, and legal history, I trace the structural, discursive, and legal shifts that produced new understandings of Mexican American racial identity in the critical period after major civil rights reform in the United States. Racial Uncertainties is premised on the notion that race is a sociohistorical construct. Rather than a natural or biological essence, it is a system of ideas and social relationships that change over time and look different according to region, nation, city, or neighborhood. That is, race is time and place specific. By racemaking, racialization, or racial formation I mean the process whereby individuals, groups, practices, relationships, or even spaces become imbued with racial meaning. This occurs at the level of both structure and representation, as racialization is a material and discursive phenomenon. Thus, ideas about
physical appearance, behavior, morality, intellectual ability, language, and culture, among other things, are attached to specific bodies as a way of making sense of and organizing a particular society. In time, these representations of race become socially ingrained, and people start to understand them as natural or inherent, the “common sense” of race. As these ideas are filtered throughout a given society they merge with other economic, cultural, and political forces to produce racialized social structures. For example, in the twentieth-century United States dominant ideas about non-White students’ racial undesirability and intellectual inferiority worked in tandem with real estate and banking practices and federal policy to produce systems of racially stratified schooling across the nation.

The law is an intrinsic part of how race is made in any given society. Law operates to construct and reconstruct race both by creating and enforcing legal rules that dictate human behavior (social control) and by reflecting and reinforcing the social and cultural value systems of society at all levels. Because the law is both a set of regulations for socially acceptable behavior and a set of ideas, it operates on the levels of both coercion and ideology. Some of the earliest laws in US history had to do with defining the status of unfree people: Who was free and who was enslaved? Where could enslaved people go? How could they act? Such laws helped give social meaning to both blackness and whiteness, meanings that have survived in only slightly different forms for centuries. Immigration and naturalization law similarly has shaped the ideas that inform constructions of belonging and exclusion by limiting who could enter the nation and who could become US citizens. Starting in 1790, whiteness was a prerequisite for naturalization, a law that was not eliminated completely until 1952. These notions of whiteness and blackness filtered into everyday social encounters; were reinterpreted and reinforced at the local level; and then went on to instruct legal actors and institutions in the legal production of new racial categories, identities, and definitions. In this way, the law both produces racial knowledge and is itself manufactured by the racial knowledge that filters through society. As legal scholar Ian Haney López writes, “Through law, race becomes real becomes law becomes race in a self-perpetuating pattern altered in myriad ways but never broken.”

Racemaking is both a top-down and a bottom-up process. In the post–World War II United States, this means that the state, through its judicial, legislative, and bureaucratic arms, produced and disseminated racial ideas that played important roles in the construction of the law, the operation of
state programs, and the maintenance of US geopolitical power. The state, over the course of the twentieth century, became increasingly adept at utilizing race in its state-building projects. At the same time, racemaking is an independent, grassroots process that allows people and groups to form their own racial identities that can, and often do, change over the course of a lifetime. The courts and the US Census Bureau identified Mexican Americans as White for much of the postwar period, yet by the late 1960s increasing numbers of Mexican Americans had cast off the White label and embraced identities as brown mestizos, more akin to their Indigenous ancestors than their European ancestors. Such divergent racial projects are not an anomaly; rather, contradictory racial projects are an intrinsic aspect of racial formation.40

Racial Uncertainties approaches Mexican American racialization from both directions (top-down and bottom-up) because each process produced oppositional racial constructions that clashed in significant ways. Starting in the late 1960s and accelerating by the early 1970s, both the courts and the federal government began to reconceptualize Mexican Americans and other Latinas/os as non-White minorities. Prior to this period the state recognized them as White. This shift did not translate across the entire federal bureaucracy—the US Census Bureau, for example, continued to understand Latinas/os as ethnically distinct but racially White—but bureaucrats working in civil rights and other agencies tasked with implementing Great Society programs understood Mexican Americans as one of several minority groups in American society.41 Legally, federal courts came to different conclusions about the nonwhiteness of Mexican Americans, but this was finally put to rest in Keyes. After 1973 Mexican Americans were legally non-White minorities. One of the purposes of this book is to trace that development. I focus on the case at the district court level in order to elucidate the legal logics that went into the formation of Mexican Americans as minority after so many years of being legally White.

The story looks slightly different from the ground level. Social movement participants, members of various organizations, students, teachers, and parents, among others, had multiple, shifting perspectives on Mexican American racial identity. While the racial politics of the Chicana/o movement had a major influence on Mexican Americans’ racial and cultural identities, there were also many others who vehemently disagreed with these newer ideas. Most of the time they kept their opposition silent because there was no need to bring it out into the open. For many people, identity was deeply personal,