I have titled this collection of essays that consider the fifty-year legacy of Brown v. Board of Education of Topeka, Kansas as “The Promise of Justice” partly because of the prophetic overtones of this phrase, although I believe that normally we are wise to be suspicious when writers, especially political writers, use prophetic or apocalyptic language. To describe ordinary events with extraordinary language exaggerates the events and eventually diminishes the language. For example, the words “vision” and “visionary” once were reserved for high purposes, as in: “Lincoln had a vision of the Union enduring and, for all its citizens, free.” Now, it is usual to hear “vision” in more commonplace contexts: “Young man, what is your vision for this entry-level job as an insurance salesman?”

In times when some of our strongest language has been thus denatured, it is therefore all the more remarkable that some language retains its historical power to rouse audiences and move them emotionally. Many decades after the death of Martin Luther King Jr., his greatest speeches—“I have a dream,” “I have been to the mountain”—retain their force among new generations of listeners. Surely part of the reason for this continuing power is the historical context of King’s words. Like Israel in Egypt in the Old Testament Book of Exodus, Black people in America’s South, though emancipated by federal proclamation, were still in legal bondage. Jim Crow legislation constricted every part of their lives, determining where they could live, where they could work, whom they could marry, whether they could vote, and where they could send their children for education. Within the historical context, it is no exag-
geration, it seems to me, to refer to the Supreme Court’s 1954 decision in the case of *Brown v. the Board of Education of Topeka, Kansas* as bringing “the promise of justice.”

Professor Manning Marable, in the opening essay in this collection, correctly says that “the *Brown* decision of 1954 set the legal framework for the emergence of what would become a mass Black Freedom movement to overturn legal segregation in all public accommodations and institutions, which was achieved a decade later with the passage of the 1964 Civil Rights Act.” *Brown* had established, in the words of Chief Justice Earl Warren’s decision, “that in the field of public education, the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal.” By the time of the passage of the Civil Rights Act of 1964, it was becoming settled jurisprudence that “separate . . . is inherently unequal” applied to all public services, institutions, and facilities.

But of course, before 1954 it was inescapable common knowledge among blacks and whites, those in the South and those in the North, that separate meant unequal. That, of course, was the point of keeping whites and blacks apart. In my all-black elementary school in rural Georgia, we knew that when the students at the local white school received new textbooks, trucks filled with their discarded books would soon be arriving at our school, to replace our long outdated texts with others only slightly out of date. There was no question in our minds that separate meant “less than equal” for us. The wonder to me now is that we accepted this condition as the way the world worked. Although we objected to the segregated environment of the 1950s and earlier, mass protests against it were rare.

Within the separate world legislated for American Blacks, hierarchies and support structures developed to make life possible. Some Blacks flourished by providing for community needs that were invisible for outsiders. A leading example was Madam C. J. Walker, the Indianapolis entrepreneur who catered to the beauty needs of the Black community. Others founded businesses and generated personal fortunes in similar ways. As the financial leaders of Black society, they felt an obligation to give back to the community by supporting local and national efforts to make life better for African Americans. Separation from the majority community and power structure helped to foster solidarity within the African American towns, churches, and civic clubs. As a rule, we accepted “separate and unequal” and learned to make it work. *Brown* showed us that the world could be different—that at least under law, we might be
entitled to equal justice, in education and in many other parts of life as well.

The authors of the essays included here share the point of view that *Brown v. Board of Education* reiterates in a very specific way the general promise of justice for all made by the Founding Fathers in the Constitution. Standing on the steps of the Lincoln Memorial in 1963, a decade after *Brown*, Martin Luther King referred to the Constitution as a “promissory note to which every American was to fall heir. This note was the promise that all men, yes, black men as well as white men, would be guaranteed the unalienable rights of life, liberty, and the pursuit of happiness. It is obvious today that America has defaulted on this promissory note as far as her citizens of color are concerned.” The Emancipation Proclamation of 1862 renewed that promise, and ninety years later, so did the Supreme Court in *Brown*.

The opening essay in this anthology, by Manning Marable, defines “The Promise of *Brown*” with a dual focus: first, on the legal framework established by *Brown* and the policies and actions, notably affirmative action, made newly possible within that framework; and second, on heroic persons, like Judge Robert Carter, one of the principal attorneys who argued and won in *Brown*. Recognizing that the promise has not yet been fulfilled, Marable concludes that the example of men like “Robert Carter, Charles Hamilton Houston, and Thurgood Marshall set into bold relief for us the political courage and selfless dedication that will be required to achieve that final victory over structural racism . . . in today’s America. . . . It is our living legacy to fulfill the long deferred promise of *Brown*.” Samuel DuBois Cook, author of the second essay, turns to philosophers (among them Aristotle, John Rawls, Reinhold Niebuhr, and Paul Tillich) and legal authorities to probe the meaning of “equality” and “justice” as these ideals relate to the U.S. Constitution and “the Human Person.” The triumph of *Brown*, and thus the promise of *Brown*, is that by the decision in this case, “Gone is the idea of ‘partial,’ fragmentary, limited, relative equality (of Blacks) in comparison to whites. Equality is truly constitutionalized.” The decision in *Brown*, Cook writes, “has nudged America in the noble direction of justice and equality for us all both as citizens and as human beings.”

Harvard sociologist Charles V. Willie measures the impact of *Brown* and concludes: “*Brown*, as an innovation in public education, was not a failure. *Brown* has not failed us; but the law enforcement process in our democratic nation failed *Brown*.” Willie stresses that *Brown* “was an equity case and should be remembered as such because excellence and
equity ought always to be kept together. We need both because equity is a correction for the excesses of individualism and excellence is a correction for the excesses of collectivism in a society.” C. U. Smith painstakingly traces judicial history as the context for *Brown* and brings the issue forward to the present time. He includes much recent information that is discouraging in view of the promise of *Brown*, then concludes with the affirmation of actions promoting educational diversity provided by the Supreme Court in *Grutter v. Bollinger*: in the words of Justice Sandra Day O’Connor, “The Equal Protection Clause does not prohibit the Law School’s narrowly tailored use of race in its admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body.”

The next four essays—by Lester Monts, Ralph K. Frasier, Judge Robert Duncan, and William and Adia Harvey—are included in order to add the personal testimony of eyewitnesses to the weighty arguments and histories of the previous scholars. These witnesses include one of the plaintiffs in a court action subsequent to *Brown*, the case of *Frasier, et al. v. the Board of Trustees of the University of North Carolina et al.*, as well as the presiding federal judge in the case of *Penick v. Columbus Board of Education*, one of the last desegregation cases involving a large urban school district. These accounts present details to instruct and remind audiences who did not see, and therefore may not otherwise be aware of, the injustices that *Brown* was intended to correct. These accounts also bring the dialogue forward, with comments on “a decidedly post-segregationist world, but one that still wrestled with issues of integration” (in the words of Adia M. Harvey). Because some forces still actively oppose realizing the promise of *Brown*, we believe it is important to keep alive the memory of the injustice and inequality which that promise was expected to redress.

The focus of the last five essays in this collection shifts perceptibly to the legacy of *Brown*, with a secondary theme in each of these five that depends on the difference in meaning between “desegregation” and “integration.” Professor John A. Powell cites Martin Luther King on this distinction:

> The word *segregation* represents a system that is prohibitive, it denies the Negro equal access to schools, parks, libraries and the like. *Desegregation* is eliminative and negative, for it simply removes these legal and social prohibitions. *Integration* is creative, and is therefore more profound and far-reaching than desegregation. . . . As America pursues the important task of respecting the “letter of the law,” i.e., com-
pliance with desegregation decisions, she must equally be concerned with the “spirit of the law,” i.e., commitment to the democratic dream of integration. (emphasis in original)

powell argues first that for full understanding, Brown, the judgment released in 1954, requires Brown II, released a year later, with its famous prescription that desegregation should proceed “with all deliberate speed.” Further, powell argues that the Supreme Court underestimated the degree of change necessary for compliance with Brown, and finally, that the “profound vision of Brown” requires a radical shift in the meaning of “whiteness” and an understanding of how whites are injured by segregation and “white space.” In his final section, powell discusses variant misunderstandings of integration, which is not simply desegregation or assimilation: “Brown and Brown II can more aptly be seen as a profound vision of integration and a multiracial and multietnic democracy. It is the vision of a society without a superior class.” In this vision, for powell, is the promise of Brown.

Deborah Jones Merritt also focuses on Brown’s legacy, pointing out the downside that “judicial power can serve the interests of elites by helping to marginalize more democratic forms of policy making,” with consequences for integration that, she argues, the courts themselves will not solve. Philip T. K. Daniel traces the aftermath of Brown through local desegregation decisions such as Griffin v. County School Board of Prince Edward County, Alexander v. Holmes County Board of Education, and others, concluding that “the circle of racial segregation in schools has completed itself based on the more recent Supreme Court cases weakening the welfare of African-American and other students of color. . . .” Vincene Verdun traces a history of Supreme Court actions and omissions that, in her view, led to “a separate and unequal America.” She cites such factors as the lack of a clear mandate in Brown, the Court’s failure to include suburban school districts in the remedy for state-supported segregation of urban schools, the requirement of intent to demonstrate discrimination, and the failure to recognize benign discrimination. Finally, Janine Hancock Jones and Charles R. Hancock survey the educational landscape as it stood fifty years after Brown to answer the question “Where are we now?” Sadly, they conclude that, if asked “to rate the current level of success of Brown v. Board of Education,” they “would assign a grade of C+ at this point in our nation’s history.”

The essays in this collection all attempt to come to terms with the decision in Brown in light of the experience of the fifty years that
followed. Most of these essays first appeared in a special issue, published in January 2005, of The Negro Educational Review. The essays by Robert Duncan, Lester Monts, and John Powell are printed here for the first time and add significantly to the perspectives in the original group. For example, Robert Duncan was the federal judge in *Penick, et al., v. Columbus Board of Education*, one of the last desegregation cases involving a large urban school district to be litigated. The case was argued from April to June 1976, but its consequences continued to reach his court through 1985 and beyond. A goal for many of the authors in this volume was to assess the positive differences that *Brown* has made. I agree with most of the contributors that since 1954 much good has been accomplished in response to *Brown*, but that as I write in 2006, it would be inaccurate to assert that equal justice has been achieved.

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