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Brown v. Board of Education at Fifty

Where Are We Now?

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On May 17, 2004, our nation celebrated the fiftieth anniversary of a landmark decision, Brown versus the Board of Education of Topeka, Kansas. This U.S. Supreme Court decision was an impressive unanimous vote. In the words of the Court, “We conclude that in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal. . . . It is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education” (Brown v. Board of Education [1954], 347 U.S. 483). This landmark decision was celebrated in 2004 throughout the country, and it is therefore appropriate that it also be written about in scholarly outlets such as this one. The primary goal of this essay is to build the case that Brown was and remains an important watershed moment in U.S. history, especially for those whose job it is to educate the next generations of collegiate Americans in small private institutions of higher learning and large public ones alike. Documentation for this chapter comes from the work of many researchers such as Williams (1988), Betances (1994), Del-pit (1995), Suarez-Orozco (1995), Nieto (1996), Tatum (1997), Jacobs (1998), and Tushnet (2001). It is also based on public legal documents from the U.S. courts and other sources.
In 1954, the U.S. Supreme Court struck down the “separate but equal” doctrine of *Plessy v. Ferguson* that the Court had rendered in 1896. Unfortunately, even after this landmark decision, the *Brown I* decision needed to be reinforced in what is known as *Brown II* by an additional clarification in which the Court held that public schools must integrate “with all deliberate speed.” Social conditions and failure to integrate public education necessitated follow-up legislation, especially in certain regions of the country where deliberate stalling tactics were widely implemented.

Now, more than fifty years later, a number of important questions must be asked: How far have we come in achieving equity in our U.S. school systems, colleges, and universities? Indeed, what are the implications of *Brown* for those who work in schools, colleges, and universities? Is creating and maintaining a diverse student body a priority value for educational institutions? And if the answer is a predictable “yes,” then what are the necessary steps in recruiting, retaining, and graduating a diverse student body at all levels of the educational enterprise? How do contemporary students rate their current teachers and themselves low or high on a diversity climate scale? Is our U.S. society better off because of our collective educational efforts to provide access and opportunity for a solid academic education for all students?

Answers to the above questions can be found, in part, in the work of some of the most widely read social scientists and education writers of the past decade. For example, the works of Delpit, Sleeter, Betances, Jacobs, and Nieto suggest that we “have a long way to go before we can sleep.” In other words, the aims of *Brown v. Board of Education* are far from having been achieved in the U.S., despite the half-century and more since the initial legislation was passed.

This essay explores some of the above questions and presents answers, but first a brief historical recap is needed to set the stage for treating such questions. In 1954, the year of *Brown I*,

- Public schools, colleges, and universities were, for the most part, separate for black and whites. By law, in the South, white students and black students attended separate schools [de jure]. By custom, in the North, it was typically the case that school attendance was separated along racial lines [de facto]. In today’s U.S. society, of course, public schools cannot legally be separated by race.
- Schools for white and black students were almost always unequal no matter what evaluation measures were used.
Many held that black students were “deprived of equal educational opportunity” through their “separate but equal schools.”

At that time in history, Thurgood Marshall was one of the chief legal advisors for the National Association for the Advancement of Colored People (NAACP). He and other NAACP attorneys had assembled lawsuits from various areas of the country that might eventually be used collectively in a U.S. Supreme Court case to impact school attendance practices. We now recognize the defining case as in Brown v. Board of Education (May 17, 1954).

By 1965, some conditions had changed:

- The Civil Rights Act of 1964 had been passed by Congress.
- Restaurants, hotels, and other businesses that served the general public were legally required to serve all people without regard to race, color, religion, or national origin. The Civil Rights Act also banned discrimination in voting, public accommodations, schools, and employment. Also the Fifth and Fourteenth amendments to the Constitution forbade depriving a person of life, liberty, or property. An important principle of “due process” further mandated that the U.S. government treat each person fairly.

It is also important to note that the Fourteenth Amendment of the U.S. Constitution states, “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws” (emphasis added). These last few words are the well-known “equal protection” clause that was at the heart of the Brown legal argument that swayed the Supreme Court justices and resulted in a unanimous decision in Brown I.

In 2001, President George W. Bush signed the No Child Left Behind Act. It required all K–12 schools that receive federal funding to “test students” to measure yearly academic progress, particularly in reading and mathematics. Tests to measure science achievement are predicted as the next set of tests to be developed and mandated. Each state in the U.S. determines which tests to use to measure student achievement, but most states have chosen to implement some type of standardized achievement test as an accountability measure.

With this brief historical recap as a context for the next section of the article, it is important to return to the Brown I decision of 1954. In that
decision, Chief Justice Warren wrote: “It is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity is a right which must be made available to all on equal terms. . . . We conclude that, in the field of public education, the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal.”

It is appropriate at this point to ask if the United States is any better off as a result of the Brown I and II decisions? And, at first glance, of course, it can be agreed that the country is better off now than it was before the Brown decision of 1954. With these decisions, our country removed a legal barrier to fair educational opportunities for all of its citizens, both black and white. However, a closer analysis of the current reality in the U.S. reveals that Brown set the stage for fundamental changes, some of which remain unachieved.

Thurgood Marshall was the champion of the cause. Because of his long and hard work, he was not only a key voice for integration in the U.S., including the public schools, but it is also now commonly acknowledged that he was subsequently appointed by President Lyndon Johnson to the U.S. Supreme Court because of his integration work and his strong record in winning cases presented to the Supreme Court. Justice Marshall was the first Black American to receive the honor of being appointed to the U.S. Supreme Court.

Now that fifty years have passed since the first Brown v. Board of Education ruling, it is indeed appropriate to celebrate Thurgood Marshall and all the other valiant individuals who fought for better schooling for all of our citizens, both black and white. We honor them today for their groundbreaking civil rights work. But where are we today on the issues that were the focus of Marshall’s work and the important Brown decision?

One set of answers can be found in publications of the Civil Rights Project at Harvard University which in 2004 released a study showing that public schools, especially in the South, are becoming resegregated at surprising levels. Some scholars believe that poor black children, due largely to housing patterns and economics, may be in a worse condition today than in 1954 because the Brown decision at least guaranteed an equal education: “. . . opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on an equal basis,” wrote Chief Justice Earl Warren, writing for a unanimous Supreme Court in Brown v. Board of Education. And when this right was denied, there was a legitimate basis upon which legal action could be taken.
The NAACP with Thurgood Marshall’s leadership changed the course of U.S. history. However, today, many ethnic and racial minorities are still trapped in separate and unequal schools. Sadly, *Brown v. Board of Education* is not fully living up to its aims.

Rosenberg (1991) and Reed (2001) have taken differing positions on the impact of *Brown v. Board of Education*. In a somewhat controversial book entitled *The Hollow Hope*, Rosenberg argued that in handing down the *Brown* ruling, the Supreme Court and lower courts achieved very little in terms of impacting the integration of schools. Reed took a different position in his examination of the *Brown* ruling on school funding issues. He has argued that *Brown* helped focus the nation’s attention on the “harms of racial prejudice and discrimination” (Reed, 15).

We link these two authors together because Reed took issue with Rosenberg’s contention that *Brown* “barely caused a blip in American political consciousness and activity” (Reed, 16). Indeed, Reed has written that his own book, *On Equal Terms: The Constitutional Policies of Educational Opportunity*, is “a rejoinder to Rosenberg” (Reed, 16). In particular, Reed’s book demonstrates the meaningful effects the courts, including the Supreme Court ruling in *Brown v. Board of Education*, have had on school finance.

In a recent report entitled *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* Frankenberg, Lee, and Orfield (2003) reported that U.S. schools are becoming more segregated. Nationally, U.S. school segregation is now at a 1969 level in some regions of the country. This is shocking in light of the primordial focus of *Brown v. Board of Education*. Some findings reported in this important study are worth reiterating here:

- In 2000 and 2001, the most segregated groups were white students; they typically attend schools with a student population of 80 percent or more white students.
- Desegregation for black students was increasing until the late 1980s; however, since then, many black students have ended up in segregated schools. Some scholars have identified the conditions in these segregated schools as being “apartheid-like.” This is an alarming but largely accurate description.
- In 1967, many suburban school districts were primarily white; and that situation seems to be repeating itself in contemporary settings. For many U.S. communities, housing patterns are currently having a negative impact on school integration. This is,
unfortunately, true for both urban and suburban school districts nationwide, according to the Harvard Report (Frankenberg, Lee, Orfield, 2003).

- According to Frankenberg, Lee, and Orfield (2003), the largest growth in student population is among Latinos. Parenthetically, the authors wish to state that they have intentionally used the term Latino in this article, despite the fact that Hispanic is also commonly used in the professional literature. Subsequently, the term Chicana is used by the authors to denote a female of Mexican or Mexican American origin. These are not unimportant name reference choices by the authors. From 1994 to 2004, Latinos grew 45 percent, from 22.4 million to 32.4 million students. This group is the most segregated group and shows signs of becoming more segregated by language and cultural traditions. Unfortunately, it must be reported that Latinos also have the highest school dropout rates, especially in P–12 school settings. The data show that heavy school dropout rates are increasing for Latino male students, especially young middle school Latino males.

- The fastest trend towards resegregation for black students in the U.S. is occurring in the South, where these students attend increasingly segregated schools. States considered to be in the South are: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia. Schools in the West: Arizona, California, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

In 2003, the Supreme Court decided the now commonly known Grutter v. Bollinger case by upholding the University of Michigan Law School diversity policies related to admissions procedures. The Court declared that diversity is a significant state interest. In 2002, school vouchers gave students who attended what were termed “failing” public schools the option to attend private or parochial schools. Also in 2002, President George W. Bush signed into law the No Child Left Behind (NCLB) Act, patterning his education agenda, at least in name, after the work of Marian Wright Edelman of the Children’s Defense Fund. Interestingly, however, President Bush’s education agenda focuses on testing for accountability, while Dr. Edelman’s agenda is well known for its emphasis on helping children. This is not an insignificant distinction.

President Bush announced that NCLB was necessary because “too many of our neediest children are being left behind.” He also announced
that this law, designed as a basis for education reform, was designed to improve student achievement and change the culture of America’s schools. However, the problem with NCLB is that it punishes schools when students do not make “adequate yearly progress” as measured specifically by standardized achievement tests administered at different grade levels, especially in reading and mathematics. The harsh sanctions required by NCLB against so-called “failing schools” are very likely to be counterproductive. Reaction across the country to NCLB is raising serious questions about its merits and the need for greater funding to support NCLB.

Reasonable people and particularly those who care about public schools in this country are also raising serious questions about the plight of children in so-called “failing” public schools identified as part of NCLB. What happens to the children who remain in the so-called “failing” schools? What will happen to these children’s education? What quality of education will they receive? Who will assure that we do not create a different type of undesirable segregation, namely, one based on socioeconomic status? In other words, where are the safeguards for all of America’s children, including the poorest ones, whether they are black, Latino, Asian, Native American, or white? Answers to questions like these reveal that, despite the Brown decision, public schools are currently facing major segregation and resegregation problems. No reasonable person would disagree that a good education is needed for all children and youth. In Chief Justice Warren’s words on behalf of the Supreme Court previously cited above, “it is doubtful that any child may be expected to succeed in life if he is denied the opportunity of an education.”

It is clear, too, that U.S. schools are still not equal. The goal should not be to focus so heavily on accountability that test scores end up creating further divisions and racial segregation in our public schools. An even more important goal should be to assure that a quality education is offered to every child in spite of their socioeconomic level. After all, participatory democracy is built on the assumption of equality and freedom for all citizens, and that includes educational access. Clearly, there can be no reasonable argument against these rights for all U.S. citizens.

So, why do we need racially and ethnically diverse student bodies in U.S. schools, colleges, and universities? In Grutter, Justice O’Connor aptly stated that “Numerous studies show that student body diversity promotes learning outcomes, and better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals” (2003; Justice Sandra Day O’Connor for the U.S Supreme
Our country is composed of a rich mixture of people from varying races, ideals, cultures, and lifestyles. The U.S. Supreme Court continues to celebrate diversity while admitting that racial inequality must be legally eliminated wherever it occurs. And the previously mentioned Civil Rights Project study has indicated a significant problem with the resegregation of U.S. public schools.

Justice O’Connor’s words also include references to the value of a diverse workforce when she says, “... major American businesses have made it clear that the skills needed in today’s increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.”

Beverly Tatum has written an important book that should be required reading for all educators. The book is entitled Why Are All the Black Kids Sitting Together in the Cafeteria? As a psychologist and educator, Dr. Tatum has dealt straightforwardly with the sticky issues of race and racial identity, and has encouraged educators as well as parents to have conversations about race and racial issues. She made the claim that if one were to walk into any racially mixed high school or college, one might expect to see black youth seated together in the cafeteria. She also predicted that white, Latino, Asian, and Native American groups would also be clustered together in school settings such as the cafeteria area. Is this self-segregation a problem that should be “fixed,” or is it a coping strategy for students that should be supported?

As a reader, what do you think? Of course, on some level, reasonable individuals would agree that people should be allowed to make their own decisions about where to sit and with whom to communicate on a regular basis. But, then, why do we make a concerted effort to integrate the student body, staff, and faculty of our nation’s schools if people are going to naturally cluster in racial or ethnic groups as a phenomenon of natural human behavior? Can a person achieve the true benefits of studying and working in a racially or ethnically diverse setting without interacting with people who are from different racial and ethnic groups? In short, is simply sitting next to someone in a class enough, or should one grow educationally by interacting with people whose views may be different than yours? Is Professor Cornell West right when he advocates that “race matters”?

Chapter 8 of Dr. Tatum’s book (Tatum 1997) deals with racial identity, not only for blacks but also for Latinos, Native Americans, and Asians. In this chapter, she quoted several college students as very convincing examples of contemporary college students’ views:
• Judith, a Chicana (Mexican female) college student stated: “I took a Chicano [Mexican] studies class my freshman year and that made me very militant.”

• Cristina, a Puerto Rican college student, stated: “I’m a lot more fluent with English. I struggle with Spanish and it’s something I’ve been trying to reclaim . . . I’m reading and writing more and more in Spanish, and I’m using it more in conversations with other Puerto Ricans.”

• Don, a Native American college student, stated: “There is a certain amount of anger that comes from the past, realizing that my family, because they had to assimilate through the generations, don’t really know who they are.”

• Khanah, an Asian American college student, stated: “Being an Asian person, a person of color growing up in this society, I was taught to hate myself. I did hate myself, and I’m trying to deal with it.”

• A Chinese college student asked Mark, a young white college student of Italian ancestry, “What do you know about Asians?” Mark answered: “I’m going to be honest with you. I completely believe the stereotype. Asian people are hard workers, they’re really quiet, they get good grades because they have tons of pressure from their families to get good grades. . . . Asians are quiet so people can’t have a problem with them.”

Dr. Tatum beautifully illustrated a point in her book that America can never be viewed as solely a racially black-white society. “Cultural identities are not solely determined in response to racial ideologies, but racism increases the need for a positive self-defined identity in order to survive psychologically” (Tatum 1997, 165).

And so an important series of related questions arises: Where do we go from here? How are we grappling with some of these tough education issues that are linked both directly and indirectly with Brown v. Board of Education? How should the nation deal with issues of assuring a racially and ethnically diverse student body in schools and colleges? Assuring a racially and ethnically diverse staff in schools and institutions of higher education? Assuring a racially and ethnically diverse faculty and administration in all school settings? Celebrating our racial, ethnic, and cultural differences? Recognizing that racial and ethnic differences in school settings must not be perceived with connotations of good or bad, but different?

So, why was it important for us to celebrate more than fifty years of Brown v. Board of Education? The issues that prompted the Brown ruling
in 1954 continue to plague us today throughout the U.S. Studies have shown that we are in a state eerily and arguably similar to the pre-Brown era. It is indeed crucial that “no child be left behind.” However, educators, legislators, and concerned citizens everywhere, especially those who work in educational institutions, need to ensure that the vision of Brown is fully realized. We must all work together to make sure not only that the principles of Brown v. Board of Education continue to be upheld, but that its ideals become embedded in all of our American institutions, particularly our schools, colleges, and universities “with all deliberate speed.”

As Dr. Martin Luther King Jr. told a crowd of about 20,000 college students who were protesting segregation in the 1960s: “Segregation injures one spiritually. It scars the soul and distorts the personality. It inflicts the segregator with a false sense of superiority while inflicting the segregated with a false sense of inferiority.” (Washington 1999, 121)

Brown v. Board of Education’s fiftieth anniversary is an appropriate time for the nation to pause for a moment and evaluate our achievement of the aims and vision of the landmark 1954 Brown decision. If asked to rate the current level of success of Brown v. Board of Education, we, the authors of this essay, would assign a grade of C+ at this point in our nation’s history. We look forward to the opportunity to assign a higher grade in the future.

References


