

REVIEW OF BLACK ISSUES IN HIGHER EDUCATION'S *THE UNFINISHED AGENDA OF BROWN V. BOARD OF EDUCATION*

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Since the U.S. Supreme Court issued its landmark holding in *Brown v. Board of Education*,¹ (“*Brown I*”) the question of striking a balance to cure a history of educational inequity has spawned considerable debate as to the impact of this decision. This year marks the fifty year anniversary of the *Brown I* opinion, and in conjunction with this commemorative event, the editors of *Black Issues in Higher Education* offer a thought-provoking analysis of the impact of this case through *The Unfinished Agenda of Brown v. Board of Education*.²

BROWN V. BOARD OF EDUCATION

The plaintiffs in *Brown I* challenged the “separate but equal” doctrine announced in *Plessy v. Ferguson*.³ Chief Justice Warren delivered the judgment of the Court in *Brown I* and declined to examine “tangible factors” in assessing the equality of education but rather, considered “the effect of segregation itself on public education.”⁴ To this end, Chief Justice Warren affirmed the Kansas court’s finding that “[s]egregation with the sanction of law . . . has the tendency to (retard) the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racial(ly) integrated school system.”⁵ The Court, in considering the effect of segregation on public education, found that “the doctrine of ‘separate but equal’ has no place [in public education],”⁶ is “inherently unequal”⁷ and violates the Equal Protection Clause of the Fourteenth Amendment.⁸

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1. 347 U.S. 483 (1954) [hereinafter *Brown I*].
2. BLACK ISSUES IN HIGHER EDUC., *THE UNFINISHED AGENDA OF BROWN V. BOARD OF EDUCATION*, (2004).
3. *Brown I*, 347 U.S. at 488 (“Under that doctrine, equality of treatment is accorded, when the races are provided substantially equal facilities, even though these facilities be separated.”) (internal citations omitted).
4. *Id.* at 492.
5. *Id.*
6. *Id.* at 495.
7. *Id.*
8. *Id.*

On May 31, 1955, a year after the Court's decision in *Brown I*, Chief Justice Warren delivered the Court's unanimous opinion in *Brown v. Board of Education*⁹ ("*Brown II*") ordering the implementation decree instructing schools to desegregate "with all deliberate speed."¹⁰

While the *Brown* decisions played a pivotal role in opening the doors to equal education for minorities, they also generated debate as to the breadth and impact of this opportunity.

THE UNFINISHED AGENDA OF BROWN V. BOARD OF EDUCATION

Issues surrounding *Brown* are not restricted to the legal arena nor can these matters be addressed exclusively in the context of the African American experience. In light of these observations, *The Unfinished Agenda of Brown v. Board of Education* goes beyond the expected parameters in providing a multiracial and multifaceted exploration of *Brown* from a variety of perspectives. A cursory glance of the table of contents reveals that the book is a collaborative volume of analyses from various professionals. The book, of slightly more than two hundred pages in length, published by *Black Issues in Higher Education*, under the joint editorship of William Cox, Frank Matthews, James Anderson, and Dara Byrne, follows an expected progression. Notably, it includes contributions from attorneys, psychologists, educators, a linguist, an archivist, a journalist, and a daughter of a *Brown* plaintiff.

Each chapter is prefaced with an extremely well written introductory note,¹¹ and for those seeking a quick synopsis of the legal history of *Brown*, the book provides a condensed timeline.¹²

Aside from providing a historical account of the various cases leading to the *Brown* decisions, the book offers a comparative analysis of the two men at the helm of the arguments before the Supreme Court: Thurgood Marshall and John Davis. The former faced an aristocratic man of considerable legal accomplishment having, at the time, argued more cases before the Supreme Court than any other living lawyer.¹³ Marshall, a principal architect in *Brown*, as the National Association for the Advancement of Colored People's ("NAACP") special counsel, continued to implement the legal campaign developed by his predecessor and mentor Charles Hamilton Houston.¹⁴ The book delves into strategies employed by the NAACP legal team in their quest to eviscerate the practice of segregation in public schools and to bring the invidious nature of racial discrimination to the forefront of America's psyche.

Additionally, the book's inclusion of very informative, little known, Asian

9. 349 U.S. 294 (1955) [hereinafter *Brown II*].

10. *Id.* at 301.

11. While chapter two was thought provoking, its introductory reference to attorneys as possible "parasites" was not particularly palatable. See Tavis Smiley, *Paragons or Parasites?*, in *BLACK ISSUES IN HIGHER EDUC.*, *supra* note 2, at 23.

12. *BLACK ISSUES IN HIGHER EDUC.*, *supra* note 2, at xxxi.

13. Juan Williams, *Never-Ending Argument*, in *BLACK ISSUES IN HIGHER EDUC.*, *supra* note 2, at 26.

14. *Id.* at 27.

American and Mexican American outlooks debunks the assumption that any *Brown* dialogue can only exist within the confines of a black-white dichotomy.¹⁵ The Asian American voice examines another causality of the “separate but equal” doctrine. Namely, “the invidious comparison between different groups of U.S. minorities that showcase a ‘successful’ minority, Asian American, for the sole purpose of denigrating the character of and denying societal responsibility for the consequences of institutional racism on ‘failed’ minorities.”¹⁶

The “considerably less known” legal struggle for educational opportunity is exemplified through the twenty-three court cases filed by Latinos in the wake of *Brown*.¹⁷ Interestingly, according to the book, the educational legal terrain changed significantly for Latinos in a case that was a precursor to *Brown*. In the 1948 case of *Delgado v. Bastrop Independent School District*, the plaintiffs alleged that Mexican children were being segregated from the children of other white races in the absence of specific state law; and the Court agreed and ordered that the segregation of Mexican-descent children cease.¹⁸

As the title suggests, in *The Unfinished Agenda of Brown v. Board of Education* criticisms abound as to the full impact of the cases on our educational system. In Chapter 3, legal theorist Charles Ogletree observes that while “*Brown I* ensured that integration was made a legal imperative, *Brown II*, with its hesitant decision to proceed ‘with all deliberate speed’ ensured that the legal imperative did not translate into a social imperative.”¹⁹ As a result of this timid approach to integration, “southern school systems remained almost completely segregated for a full decade after *Brown* was decided.”²⁰ Ogletree observes that, there exists a continued failure to ensure integrated education and as an example he cites the fact that in 1979 the original *Brown* case was reopened to again “challenge the continued segregation of Topeka schools.”²¹

Most enlightening is the book’s examination of one of the casualties in the fight for equal education: black educators. Disturbingly, black teachers during the immediate post-*Brown* era suffered wholesale displacement in the form of dismissals or demotions. Consequently, as one educator opined, the “purging of black educators from the teaching force basically meant that black students were placed in environments that were often hostile educationally and culturally.”²² These historical accounts are not to suggest that the victories of *Brown* should not be celebrated, as the book quickly offers examples of why the decision, with its inherent casualties, resulted in the greater good of the overall educational system.

15. Evelyn Hu-DeHart, *An Asian American Perspective on Brown*, in BLACK ISSUES IN HIGHER EDUC., *supra* note 2, at 107; Marco Portales, *A History of Latino Segregation Lawsuits*, in BLACK ISSUES IN HIGHER EDUC., *supra* note 2, at 124.

16. Hu-DeHart, *supra* note 15, at 109.

17. Portales, *supra* note 15, at 124.

18. *Id.* at 128.

19. Charles Ogletree, *All Too Deliberate*, in BLACK ISSUES IN HIGHER EDUC., *supra* note 2, at 45.

20. *Id.* at 53.

21. *Id.* at 59.

22. Mary Hatwood Futrell, *The Impact of the Brown Decision on African American Educators*, in BLACK ISSUES IN HIGHER EDUC., *supra* note 2, at 90.

And if the reader is tempted to indulge a romanticized version of the segregation era, Julian Bond offers a brutal assessment. “[M]any of these schools were broken-down shacks. It was raining inside the classrooms, and many teachers did not have a bachelor’s degree. Some classrooms had six grades in each room. No one can teach, no one can learn in those circumstances.”²³

Strategically interwoven throughout the chapters are the engaging and oftentimes moving “Voices of the Era,” that render first-hand accounts from individuals who fully lived and breathed the pre-*Brown* and post-*Brown* eras.

Without question, I would highly recommend this work for those seeking an authoritative guide. Overall, *The Unfinished Agenda of Brown v. Board of Education* is an excellent choice and in the words of one of its contributors, Tavis Smiley, “the volume is both the starting point for the fiftieth anniversary episode of the *Brown* conversation and a primer for anyone who lacks the confidence or information to participate fully in this dialogue.”²⁴

23. Julian Bond, *Voices of the Era*, in BLACK ISSUES IN HIGHER EDUC., *supra* note 2, at 131.

24. Tavis Smiley, *Introduction Brown v. Board of Education: An Unfinished Agenda*, in BLACK ISSUES IN HIGHER EDUC., *supra* note 2, at 2.