Fifty Years After *Brown v. Board*: Five Principles for Moving Ahead*

Gary Blasi†

It is a privilege to be here, among so many friends and people who are personal heroes of mine. And it is both a privilege and a daunting task to speak about strategies for rekindling the spirit of *Brown v. Board of Education.¹*

As we look back on *Brown* and civil rights and educational justice work over the past half-century, it is important to neither understate nor overstate the importance of *Brown* itself. There is no doubt that *Brown* was a defining moment in American history for many different reasons. But for the ten years following *Brown*, there was not much evidence in the classrooms around America that it had happened. Real change took thousands of marches, boycotts, sit-ins, and the unwritten heroism of thousands of ordinary people. *Brown* helped, but it was the broader civil rights movement that produced the Civil Rights Act of 1964,² the Voting Rights Act of 1965,³ and the first signs of real desegregation in the schools.⁴ We do not have many conferences to celebrate or rekindle the spirit of all the individual marches, demonstrations, vigils, and the simple heroism of that time. But that part of history has lessons for us nonetheless, some of which I will draw on here today.

I do not have a grand strategy to set out before you. I look back fondly on the time during the civil rights movement, when we thought we had everything figured out—when the clear path toward liberation lay before us. I miss the optimism of the time. I do not miss the false sense of certainty.

In teaching my students, I try to convey a few take-home lessons.

One of them is this: beware of people who appear to have it all figured out. These people will lead you into disaster. The reason is this: the work we do is not rocket science. It is much more complicated than that. Our work is about people and about human motivation. It is about justice, anger, fear, and prejudice. It is about organization and incentives. And it is about learning.

But I also have another aphorism or take-home point I try to convey to my students. It is a saying by the great Eastern Philosopher, the Yogi Berra. (By “Eastern,” I mean New York.) Yogi Berra said this: “If you don’t know where you

---

* Cite as Gary Blasi, Fifty Years After Brown v. Board: Five Principles for Moving Ahead, in SYMPOSIUM, REKINDLING THE SPIRIT OF BROWN v. BOARD OF EDUCATION, 6 AFR.-AM. L. & POL’Y REP. 242; 11 ASIAN L.J. 324; 15 BERKELEY LA RAZA L.J. 115; 19 BERKELEY WOMEN’S L.J. 443; CALIF. L. REV. (2004). This is a footnoted version of a talk given on November 14, 2003, at University of California, Berkeley, School of Law (Boalt Hall), as part of the symposium, “Rekindling the Spirit of Brown v. Board of Education: A Call to Action.”

† Professor of Law, School of Law, University of California, Los Angeles.

are going, you might end up someplace else." I firmly believe that.

So where are we going? We know what we are against. But what are we for? One of the reasons the right wing has captured the initiative in this country is that they have cleverly figured out how to convert being against something into a positive vision. What the right wing is against is government, mostly because it costs their wealthy benefactors money they would prefer to spend on other things. In this vision, less government means more freedom. And it does, but just for a few people—it is a very pinched vision of freedom. For most of us, it means the freedom to choose among the two rotten schools that will accept your child—if you have a choice at all; or the freedom to quit your lousy job with no health insurance to seek another equally lousy job; or the freedom to starve if you do not find another job. It is freedom for the wealthy and for the lucky.

Some of us here have a broader vision of freedom. Roosevelt talked about "four freedoms," including the freedom from want or deprivation. What about freedom from discrimination? Isn’t there more to freedom than freedom from government? Or perhaps the concept of "freedom" does not provide the only framework for describing what we are for.

Here are some other thoughts on how we might explain what we are for, instead of just saying what we are against. At a meeting of academics and policy analysts in Palo Alto several weeks ago, I suggested a test for deciding whether educational reform policies have succeeded or failed. The test boils down to two questions.

First, post-reform, will we still be able to predict the opportunities for learning and the educational future of any given fifth grader, simply on the basis of his or her race and social class? If we can, then our policies have failed. Today, we can make those predictions with high accuracy. We are effectively making college admission decisions in the fifth grade and robbing children with wonderful potential of their futures. Consigned to woefully substandard schools, poor children of color in California have little access to an education adequate to prepare them to compete for admission to college.

The second test is a simple one: post-reform, will you—the lawyer, the professor, the expert—be willing to send your own child to a school selected at random. Today, we have all kinds of people making pronouncements about public education for other people’s children, who have themselves opted out of public education altogether.

Taking these two tests for reform as a point of departure, let me return to the question of vision, of what we are for. Here is what I am for: I am for an educational system and a society where “equal opportunity” means just that and is more than a required phrase at the end of a newspaper advertisement. I am for a

---

6. We aim to be antiracist, antisexist, antimilitarist, etc. It is perhaps telling that conventional adjectives for (pro)gressive positions rarely begin with "pro."
8. The meeting was sponsored by the Hewlett Foundation and attended by a wide range of educational policy analysts and academics.
society where your lot in life may depend on how hard you work, on the wisdom of your personal choices, or even on blind luck, but it does not depend so heavily on what color you are, what country you or your parents were born in, or how much money your grandfather made.

How do we get there? Again, I have no grand strategy or set of detailed architectural plans. But I do have some design specifications and principles to suggest. For now, I will just lay out five principles. The five principles are these:

1. Adopt The View From The Bottom.
2. Practice Principled Solidarity.
3. Be A Principled Pragmatist.
5. Address Racism, In All Its Forms, All The Time.

1. Adopt the View from the Bottom.

In the case of education, this principle means adopting the perspective of the student in the system—the view from the desktop. Here’s what I mean:

First, a lot of our battles have been fought out over large-scale policies that we hoped would make a difference at the ground level. For example, in Serrano we thought that giving every child a right to live in a school district that had equal claims on public money would translate into equal education in classrooms. But Serrano did nothing about the huge disparities among schools within districts, and nothing about the fact that some districts waste a huge percentage of the money they receive, leaving far too little for the classroom.

Second, we won a lot of those battles, as we did in Serrano, because they were about relatively simple propositions. The cases being litigated today are more difficult because they are more complicated. It did not take the hundreds of depositions being taken in Williams v. State to prove the Serrano case. What happens in schools is a function not only of general principles of funding equity, but also of the systems of administration, regulation, accountability, and incentives that work their way from the highest levels of government all the way down to the desktop of the individual child. This requires us to learn a lot more than we now know about accountability systems, about management, about organization, and about the operation of market mechanisms. It also requires us to maintain as our test for success what is happening at the desktops of individual students.

Third, as I look around at current activities that yield hope and optimism, none ranks higher than the advocacy work being done in our middle and high schools by students themselves. Often with the assistance of skilled young organizers, students themselves are developing sophisticated understandings of the inequality that surrounds them and also sophisticated approaches to describing and resisting that inequality. Let me give you some examples: (1) the work by the Community Coalition and students whom I have met from Fremont High School in Los Angeles, around what students there call “the prison track” in their high school; (2) a digital film produced by students about conditions in the largest

11. The “prison track” is Track B in a “Concept 6” calendar used by the most overcrowded
middle school in America, a film you can see on the website of my colleague’s organization at UCLA;\(^2\) (3) the sophisticated campaign of Californians for Justice around the state, not only against the High School Exit Exam, but also around the inequality in opportunities for learning that accounts for much of the huge disparities in failure rates.\(^3\) Not only can we learn from these students, we also can be inspired by their examples. I know I have been.

2. Practice Principled Solidarity.

My second design principle for the future I call principled solidarity. Those of us lucky enough to have jobs talking and writing for a living tend to develop specialties, so do most advocates and activists. We focus on housing, on health, on welfare, on juvenile justice, on workers’ rights, or on education. And then we further specialize. So as education advocates, we are particularly focused on preschool, or K-12, or higher education, or college access, or on the problem of dropouts. We focus not only to the exclusion of other education advocacy areas, but to the exclusion of housing, health, etc. One consequence of this is that we have set ourselves up for the divide and conquer strategies of the opposition. Come budget time, the education advocates want all they can get, and homeless people can fend for themselves. If undocumented workers are being exploited and the labor law enforcement apparatus of the State is being gutted, that’s too bad, but not so bad if the savings are spent on education. If we can pass an initiative to help preschool and K-12, the community colleges will have to find their own way, and so on.

The problem here is related to my first principle, about adopting the view from the bottom. We, the few lucky ones, may be specialized and divided by interests, but the people we purport to care about are not. The low-income workers, the tenants in slum housing, the people without health care, and the parents of children in decrepit schools: these are the same people. We cannot expect children to do well in school if they must return each afternoon to a rat-infested slum, even if

---

schools in California. The term comes from the belief that the education afforded Track B students does not prepare them for either work or college. Students in Track B attend school in three blocks: in school for two months, off for two months, in for four months, off for two months, and so on. Quite commonly, there are fewer course offerings available to Track B students. Jeannie Oakes, *Multi-Track, Year-Round Calendar (Concept 6)* and *Busing to Address Overcrowding*, available at http://www.mofo.com/decentschools/expert_reports/oakes_report_3.pdf (last visited Mar. 30, 2004). The phrase has also been used more generally to refer to the close connection between poor educational opportunities for youth of color and the overrepresentation of these youth in the juvenile justice and prison systems. See, e.g., Johanna Wald and Daniel F. Losen, *Defining and redirecting a school-to-prison pipeline, New Directions for Youth Dev.*, Fall 2003, at 9, available at http://media.wiley.com/product_data/excerpt/74/07879722/0787972274.pdf (last visited Mar. 30, 2004).

12. The film was produced by middle- and high- school students from among the lowest performing schools in Los Angeles, as part of a summer school in 2002 offered by UCLA’s Institute for Democracy, Education and Access (IDEA). The film can be seen in streaming video at http://MEDIA.WILEY.COM/product_data/excerpt/74/07879722/0787972274.pdf (last visited Mar. 30, 2004).

13. Californians for Justice (CFJ) describes itself as “a 7 year old statewide grassroots organization working to empower communities that have been pushed to the margins of the political process.” *About Californians for Justice*, at http://caljustice.org/about_cfj.shtml (last visited Mar. 30, 2004). CFJ’s most active members are high-school students in cities across California. CFJ led a successful effort to postpone a high-school exit exam that would have denied diplomas to thousands of graduating high-school seniors, despite the fact that many of these students had been denied access to an education necessary to pass the exam. *Californians for Justice*, at http://www.caljustice.org/ (last visited Mar. 30, 2004).
they can take a book home with them. We may succeed in getting a lot more kids out of high school, but will there be any place for them in higher education, especially in our community college system? Those undocumented workers being exploited in the sweatshops of California and the janitors whose brilliant “justice for janitors” campaign brought better conditions and some measure of dignity are not just workers, but also the parents of the children in the schools we say we care about. But when education advocates talk about building bridges to labor, the conversation seems to stop at the teacher unions. One thing we can learn from labor and from labor history is this: in solidarity there is power; in division there is inevitable defeat. We have been living that defeat for some decades now.

There have been times in America—the thirties and the sixties—when people concerned with injustice tended to think of themselves as progressives, or radicals, or activists first. They were all collaborators in a common project. Their passion might take them into labor organizing, or education reform, or health care, but they believed they were part of something larger. Until we rebuild a movement that is committed to core principles of equality and opportunity and also is active across a wide range of particular problems, we will have a very hard time competing with the power that wealth brings in this society. We have to believe, and then act like we believe, that we are in this together.

3. Be a Principled Pragmatist.

One thing that helped bring down the last coherent progressive movement of the sixties was the widespread certainty that there was one true path to liberation. The problem was that the certainty was widespread, but there were thirty-six detailed versions of what the path was, twenty-eight of which traced to Leon Trotsky. Among any ten progressives, there were at least four deeply committed to different true paths to liberation. While those four fought with each other, the other six drifted away. By now it should be clear to most of us that there is probably not one true path to liberation. Or if there is, we have not stumbled upon it yet. We are all in this together, even if we have different hypotheses about how best to get where we are going. And we are more likely to get there by trying to figure it out together.

Principled pragmatism means keeping an open mind about ideas and possibilities, even when those ideas have troubling intellectual ancestries. For example, you cannot really understand the way people feel about public school choice, or vouchers, or any of the so-called market approaches to education reform without understanding the ideological history of those ideas in laissez-faire capitalism. If we were able to wipe out that history and begin from first principles, a lot of progressives might like some aspects of market approaches much better. So too, a lot of people on the right might be more amenable to some kinds of regulation, particularly those that deal with market failures, or the creation of a good market in


the first place.

To give an even more specific example, I expect that we will soon see in California proposals for public school choice, school-based budgeting, and weighted student average funding. There are three basic ideas here. First, rather than fund schools on a per capita basis, we fund students based on the differential costs of educating students with different characteristics, such as socioeconomic status or disability. In essence, we give each student the equivalent of a voucher to be used in the public system, the value of which depends on the student's characteristics. The child of an intact middle-class family with no disabilities whose first language is English might get a weight of 1.0. In some places where these systems are in place, the weights go all the way up to 7.0. Second, we move the control of school budgets from the district bureaucracy to the school level. The principal controls the school budget and is accountable for turning that budget into educational opportunity and achievement. Third, we allow each student to go to any public school, perhaps even across district boundaries. If the details are correctly handled, schools will compete for higher-need students because they bring with them the means to provide them with the resources they need.

So, how should we respond to this proposal? One response might be: this is the Trojan Horse for vouchers, for dismantling public education and therefore we should fight it to the death. Another approach might be to ask questions: can this approach work, at the desktop level, for the kids we are most concerned about? If so, what would it take to make this approach work? Principled pragmatism would lead us to adopt the latter approach with an open mind. In my view, how such a program might work is an empirical question, and both the devils and angels are in the details. It depends on the weights in the weighted student formula. It depends on whether we can figure out a way to give all parents good information about school quality—the same kind of good information that upper-middle-class parents use in finding schools for their kids. It depends on whether the State will require some minimal standards to which every school must adhere. It depends on how much parental decisions will be driven by racial prejudice rather than an objective evaluation of school quality. It depends on how much of the current (and increasing) re-segregation of the public schools is a product of residential segregation and parental reaction to the substandard opportunities for learning at schools attended primarily by students of color, rather than simple prejudice against the students attending those schools. Much more generally, it depends. Therefore, we should engage the proponents of these ideas, even if they come from ideological places different from our own, to see


17. For example, as implemented in Seattle, a child from a middle-class, two-parent home, who is a native English speaker and has no learning disabilities carries a weight of 1.0 and is "worth" $2616 to the school he or she attends. A child from a poor, single-parent family, not fluent in English, with serious learning disabilities might carry a weight of 9.2 and be "worth" $24,067 to the same school. WILLIAM G. OUCHI, MAKING SCHOOLS WORK 87 (2004); see also William G. Ouchi et al., The Impact of Organization on the Performance of Nine School Systems: Lessons for California, in CALIFORNIA POLICY OPTIONS 2003, at 22 (Daniel J.B. Mitchell ed., 2003), available at http://www.williamouchi.com/rec_articles.html.

whether we can find some mix of market and regulation approaches that will work for our kids, from the level of the desktop.

4. Follow the Money.

In the Williams case, the State’s well-paid experts are arguing that money doesn’t matter to education. In fact, it seems that nothing matters. But I have one question for their cross examinations: if money doesn’t matter, why do wealthy people, people who have choices, send their kids to expensive schools? Money isn’t everything. In the words of the Beatles, it won’t buy you love. But it will help you operate a terrific school, or build new schools, or hire doctors, or repair slum housing.

This is one place where principled solidarity is absolutely key. The issues of taxation and government spending more generally have been ceded to the wealthy and the right, sometimes with pretty dramatic consequences. At the same time the fires were raging in Southern California, so too was support for repealing the tax that supports firefighters. Go figure. Perhaps the wealthy figured that, worse comes to worse, they can each have their own fire truck.

In any case, the fact is that in many cases we cannot level the playing field without moving some dirt. And moving some money as well. Again, this is one area in which principled solidarity is key. So long as we are fighting over the scraps rather than uniting to get a fair share for all those in need, we will be left only with the scraps, even those of us who grew the food and cooked the meals.

We do not have a lot of tax specialists in the social justice community. Maybe it is pretty boring stuff, but everything else depends on it. Thank God for the California Budget Project and the Center on Budget and Policy Priorities. But we do not do a good enough job of taking their information, and working with it, in principled solidarity. For example, rather than fighting separately to preserve particular health, education, or workplace safety programs of critical importance to low-income people and people of color, progressives might join together to use the California Budget Project’s analysis that repealing a 1.7% state tax cut for the richest 1% of Californians (with an average annual income of $1,518,700) would raise about $2.5 billion per year. This is more than enough to preserve all these programs.

20. The qualifications and reports of these experts (and those assisting the plaintiffs) can be found on the website about the litigation, maintained by Morrison & Foerster LLP, the firm assisting plaintiffs with the case pro bono, at http://www.decentschools.org/experts.php (last visited Mar. 30, 2004).
22. John Howard, Repeal May Not Be Easy: Undoing the Unpopular Vehicle License Fee Hike May be Harder than Candidate’s Promise, ORANGE COUNTY REG., Oct. 7, 2003, at A3 (funds generated by the vehicle license fee went to cities and counties to pay for, among other things, firefighting).
23. The California Budget Project is a nonprofit think tank that provides detailed analyses of the consequences of proposed budget and tax actions for low and middle-income Californians, see www.cbp.org (last visited Mar. 30, 2004). The Center on Budget and Policy Priorities does much the same thing at the federal level, see www.cbpp.org (last visited Mar. 30, 2004).
5. Address Racism, In All Its Forms, All The Time.

I have left the most important principle to last. Brown was, in fact, two cases. It was a case about schools. And it was a case about race. It was decided a half-century after W.E.B. DuBois predicted: "The problem of the twentieth century is the problem of the color line." Now, a century after DuBois wrote, it is clear that it is the problem of the twenty-first century as well. But it is not the same problem.

To our Supreme Court, racism is only about intentional discrimination and racial animus. But, as Chuck Lawrence and Linda Hamilton Krieger and others have explained, today most forms of racial discrimination do not spring from intention or animus. There is still old-fashioned discrimination in employment, in housing, and in education. But another kind of stereotyping and prejudice often operates below the level of conscious awareness.

Over the past few years, I have spent a lot of time looking at scientific research on how people respond to racial difference. Last year I published an article about the implications of this research for advocates, called Advocacy Against the Stereotype. The upshot of the research I reviewed is this: there is virtually no social policy issue in America in which race does not play a significant role, often at a completely subconscious level. The fact is, you cannot talk to voters about substandard schools without activating, at least at a subconscious level, deeply rooted attitudes about children of color. We do not face the same kind of racism that those brave civil rights activists faced in the 1950’s and 1960’s, but race still plays a powerful role in public life.

So what do we do about that? One thing we do not do is ignore it. Study after study has shown that when people are aware of the potential for prejudice, many of them successfully overcome it, at least during the period of awareness. Consequently, the kind of discrimination we should worry about today may not be overtly occurring in the formal meetings about hiring decisions, but it is happening

30. For example, in studies of mock trials, Samuel R. Sommers & Phoebe C. Ellsworth found that white jurors were less likely to demonstrate racial bias in judgments of guilt and decision making when issues of race were made more salient. Samuel R. Sommers & Phoebe C. Ellsworth, Jury Decision Making: White Juror Bias: An Investigation of Prejudice Against Black Defendants in the American Courtroom, 7 PSYCHOL. PUB. POL. & L. 201, (2001). Even when race is not mentioned explicitly, white jurors are less likely to convict a black defendant in a more racialized setting—for example, a black defendant confronting a white accuser in an otherwise all-white courtroom. John M. Conley et al., The Racial Ecology of the Courtroom: An Experimental Study of Juror Response to the Race of Criminal Defendants, 2000 WIS. L. REV. 1185, 1213-14.
in the 500 hallway interactions that determine who ultimately gets to work on the most important projects. For our education work, this research suggests talking about race and persisting racial discrimination, and doing it in an open and direct way, so people have at least a chance to confront their own unconscious stereotyping and prejudice. Otherwise, they—and we—have no chance.

Connected with the notion of principled solidarity, this also means that now more than ever, white people must deal with race, with stereotypes, and with prejudice. Not only is it unfair to leave the raising of these issues to people of color, it is neither principled nor pragmatic. It is wrong and it will not work. There is no doubt a dynamic of white privilege that helps maintain inequality. But if you believe—as I do—that racism, especially the more insidious modern form, is the main obstacle to progress on just about everything we care about, then you also have to believe that some white people will and do see that more racial equality is good for them as well.31 Certainly, there will be others selling a different message, in order to sow division and distrust. But we have one advantage here: our message is the truth.

I leave you with those five principles and another inspiration. There may not be one clear road toward liberation. But this much is certain: “We make the road by walking.”32

Time to move on.

31. The narrow and short-term self-interest of white privilege must eventually yield to the fact that racial division is perhaps the most powerful force dividing those who might otherwise come together to contest the powers that maintain inequality in the multiple dimensions of gender, class, sexual orientation, national origin, and so on.

32. This folk saying is best known as the title of the book by the same name by the popular educators Myles Horton and Paulo Freire. MYLES HORTON & PAULO FREIRE, WE MAKE THE ROAD BY WALKING: CONVERSATIONS ON EDUCATION AND SOCIAL CHANGE (Brenda Bell et al. eds., 1990).