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Mary Louise Frampton
Berkeley Law

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Foreword

Collaboration: The True Spirit of *Brown v. Board of Education*^{*}

Mary Louise Frampton[†]

On the fiftieth anniversary of *Brown v. Board of Education*, we confront the sobering reality that our public schools are rapidly becoming resegregated, that our “at risk” students are predominantly children of color, and that racial stereotyping in our educational system continues. This crisis motivated the November 2003 symposium, *Rekindling the Spirit of Brown v. Board of Education: A Call to Action*, hosted by the Boalt Hall Center for Social Justice.

We can trace the failure to enforce the legal mandate of *Brown* to a myriad of causes: a federal judiciary that often facilitated the efforts of educational institutions to skirt existing desegregation orders and dismantled voluntary integration plans established by school districts; a political system that lacks the will to make difficult decisions and to invest in education; a society imbued with unconscious racial prejudice and white privilege; and a pattern of residential segregation created by racially discriminatory federal mortgage programs. This collective failure threatens our democracy and deepens the psychological, economic, political, and social wounds inflicted by centuries of slavery and Jim Crow laws.

The objective of the symposium, *Rekindling the Spirit of Brown v. Board of Education: A Call to Action*, however, was not to dwell on the past but to develop effective strategies to ensure real equal opportunity for students of color in the future. To create that vision, it was necessary first to analyze critically why our expectations of *Brown* were so unrealistic and to acknowledge both the limitations of the law and the complexity of the problem. As the historian James Anderson noted in the first panel session, the “overly optimistic expectations” of liberals in the 1950s and 1960s arose from a “miscalculation” of the “endurance of cultural norms favoring segregation and inequality as well as the capacity of institutional practices to sustain and even increase school segregation in spite of federal and state legal mandates for constitutional equality.”¹ Indeed, “in time the standard creed of equality, as reflected in the law, became disconnected from the day-to-day

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[†] Director, Boalt Hall Center for Social Justice; Lecturer, School of Law, University of California, Berkeley (Boalt Hall).

1. James Anderson, Professor and Chair, Department of Educational Policy Studies, University of Illinois at Urbana-Champaign, remarks at Panel 1: The Historical Perspective: From the Transformative Vision of *Brown* to Today's Minimum Education, at Symposium, *Rekindling the Spirit of Brown v. Board of Education: A Call to Action* (Nov. 14, 2003).

institutional practices of segregation and discrimination.”²

With the recognition that reversing that disconnection cannot be achieved without the concerted effort of lawyers, educators, policy makers, social scientists, legal academics, community organizations, philanthropists, and the media, the afternoon break-out sessions discussed approaches that are currently being implemented in a variety of schools and in communities, legislatures, courts, and academic institutions. Participants were encouraged to put aside their preconceptions and ideologies, to consider ideas that were unfamiliar or uncomfortable, to engage with people outside their own disciplines, and to reshape their thinking.

For example, L. Michael Russell, deputy general counsel of the Los Angeles Unified School District, suggested that *Brown* should not be interpreted to mean that “a child cannot receive sufficient educational opportunities unless a substantial number of white children attend the school.”³ Instead, he posited, the “evolutionary adaptation of the philosophical spirit of *Brown*” should focus on “equal attainment of educational skills rather than equal access to schools with good resources.”⁴ Others responded that equal opportunity can only be achieved through integration.

The climax of the symposium was a plenary session led by a multidisciplinary panel of experts who discussed new strategies for rekindling the spirit of *Brown*. Many of those ideas are included in these pages. At the end of the day, a sense of urgency was coupled with the understanding that sophisticated, cooperative, and multifaceted approaches—informed by the actual experience of students of color—offer our best hope for the future.

This historic collaborative symposium issue produced by the *African-American Law & Policy Report*, the *Asian Law Journal*, the *Berkeley La Raza Law Journal*, the *Berkeley Women's Law Journal*, and the *California Law Review* underscores not only the gravity of the problem facing our society, but the need for all of us to work together to solve it. The issue is also a tribute to the abiding commitment of Boalt Hall law students to build broad coalitions that serve the public interest.

The editors of these journals rejected the easy paths of simply producing the proceedings of the symposium or selecting articles from only the most prestigious speakers. Instead, they chose a small but representative sampling of articles and presentations from the symposium to balance the dynamic energy of the event with the rigorous intellectual analysis that the subject deserves. Each journal's participation in this project is best understood through its own voice:

The *African-American Law & Policy Report (ALPR)* is thrilled to participate in this collaborative publication celebrating the fiftieth anniversary of *Brown v. Board of Education*. For the largely African-American membership of *ALPR*, *Brown v. Board of Education* has special significance. The decision symbolizes the liberation of denied opportunities—an historic moment for our

2. *Id.*

3. L. Michael Russell, Deputy General Counsel, Los Angeles Unified School District, Remarks at Workshop 2: Inside the School: New Approaches, Curriculum and Teaching Methods, at Symposium, Rekindling the Spirit of *Brown v. Board of Education: A Call to Action* (Nov. 14, 2003).

4. *Id.*

parents, and, by extension, for us. At the same time, our spirits are dampened by the reality that on this fiftieth anniversary of *Brown*, we struggle with the contemporary resegregation of public education. At the University of California, where race-conscious admissions were eliminated by Proposition 209, the stability of our journal ebbs and flows with admissions and enrollment rates. For us, publishing is an act of resistance to forces like Proposition 209 that would, if left unchecked, permanently alter the composition and quality of our institution. At *ALPR*, we do not have the luxury of taking publication for granted. Initially, our diminished workforce, the responsibilities of publishing our regular annual issue, and the production of a national symposium made collaborating on a supplementary issue initially seem beyond our capacity. The irony was telling—the resegregation of higher education threatened our black law journal’s ability to participate in the commemoration of *Brown*. Nonetheless, it was clear that the project could not proceed without us. This celebration of *Brown* was made possible by the support of participating journals, the dedication of our membership, and a keen understanding that the pioneers of integration deserved our recognition.

The *Asian Law Journal* committed to this collaborative project because school desegregation and current challenges in public education are of central importance to our community, our scholarship, and our future careers as legal practitioners. Asian Pacific Americans comprise a community of diverse ethnic and class backgrounds connected by a shared understanding of an immigrant history shaped by racism and xenophobia. Despite the growing presence of some Asian Pacific American groups in competitive public schools and colleges, the lessons from *Brown v. Board of Education* provide a roadmap of the work that remains to ensure that communities of color will not continually be denied access to quality education and true equal opportunity. Many within and without the Asian Pacific American community overlook the absence of the poor, refugees, or recent immigrants in institutions of higher education, and similarly underestimate the critical value of coalition-building with other underrepresented groups. This collaboration represents an affirmative step toward correcting such oversights by creating meaningful social change in the spirit of *Brown*.

Berkeley La Raza Law Journal’s (BLRLJ) involvement in this issue is central to our mandate and critical to the histories of Latinas/os in the United States. Seven years prior to the Supreme Court’s decision in *Brown, Mendez v. Westminster* challenged the educational segregation of Mexican Americans in Orange County, California. Thomas Saenz’s analysis of this case reveals how ethnicity and language were used as a proxy for race. Decisions such as *Mendez* and *Brown* laid the foundation for the attainment of equal education, but did not remove the challenges we continue to face. Since Proposition 209, we have seen a tenuous rise in Latina/o law students, yet we are still inexcusably underrepresented at the bench and bar. Although *BLRLJ* is the longest running, continuously published Latina/o law journal—one of only five in the country—former student boards struggled to maintain two publications annually. It is vital for our journal to preserve this mission. In addition to fluctuating student resources, we face other hurdles. Submissions remain unpredictable from one year to the next, and scholars from our communities often seek recognition in mainstream publications. This collaboration presented an

important opportunity for *BLRLJ*, and we chose to devote most of our resources to it, offering this to our readers as our regular spring issue. In doing so, we follow in the footsteps of former *BLRLJ* joint publications. We also gained valuable experience as student editors grappling with issues of race, class, and gender in a cross-journal coalitional effort. Overall, this project is grounded in the teamwork of the general members and the dynamic group of strong women leaders who represented each of the respective journals. ¡*Si se puede!*

Berkeley Women's Law Journal (BWLJ) is honored and thrilled to be part of this historic collaboration. Fifty years after *Brown v. Board of Education*, the decision continues to affect communities of racial minorities in dramatic and important ways. We hope that by publishing this joint issue, our journals will spur debate regarding the successes of *Brown* and the work that remains to be done. *BWLJ* is guided by an editorial mandate that distinguishes us from other gender journals. We publish works that address gender and one or more other axes of subordination, including, but not limited to, race. This joint issue presented us with a unique opportunity to add depth and dimension to our mandate, as each piece contained herein specifically addresses issues of race. Waldo Martin's contribution recounts the story of a young, African-American girl whom a white man accosted and attempted to rape on the very day *Brown* was decided. The piece demonstrates how multiple axes of subordination—the girl's race, gender, and youth—intersected to create her experience, and reveals that *Brown* was not uniformly a source of celebration even as it resonated as an unprecedented legal success. Although not all pieces in this issue address gender as explicitly as Martin's, their descriptions of the discrimination faced by racial minorities is central to *BWLJ*'s purpose: to give voice to underrepresented communities and individuals. Within our community of Boalt Hall, this collaboration also represents an important step toward building meaningful, lasting coalitions among identity groups and journals. Working alongside the other four journals in this collaboration has been an honor for *BWLJ*, and we hope to continue collaborating with and supporting all underrepresented communities at Boalt in the future.

Members and editors of the *California Law Review (CLR)* are proud to have joined this rare and welcome cross-journal collaboration. *Brown v. Board of Education*, widely celebrated as a promise to end segregation and bring about racial equality, stirred a reconceptualization of substantive equal protection and great optimism in a more moral American social order. Yet, as articles in this volume attest, public education in California remains deeply segregated along lines of both race and class. Has the promise of *Brown* been broken, or does change just require more time and effort than was previously supposed? The Center for Social Justice Symposium at Boalt Hall provided an occasion to address that question from personal, legal, educational, and interdisciplinary perspectives. Speakers celebrated the abiding spirit, courage, and optimism inspired by *Brown*, while also recognizing the tremendous challenges in ensuring high-quality education for all students. Members of the *CLR* resoundingly supported the collaboration to produce Symposium essays as an opportunity to bridge the work of scholars and practitioners in educational reform and civil rights. In the creation of this joint volume, we enjoyed a rich and rewarding exchange with our peer journals at Boalt, and we hope

that the results will in turn contribute to a dialogue about continuing *Brown's* promise into the future.

This type of joint enterprise requires an enormous amount of hard work, organization, and patience. It is a particularly difficult task for the editors of law reviews and journals who pride themselves—and rightly so—on the exceptionally high quality of their work. The capacity of editors from five different journals with five different perspectives, approaches, priorities, constituencies, schedules, and editing styles to work together to produce this issue, especially in such a short time frame, is an extraordinary feat in and of itself. I am profoundly grateful to the brilliant and empathetic students who dedicated themselves to this issue and feel privileged to work with them on this precedent-setting project.

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