

The Intersection of School Desegregation and Economic Globalization in America

Frank Brown, Cary C. Boshamer Distinguished Professor of Education, University of North Carolina at Chapel Hill

Introduction

Public education in America continues to be viewed as being worthy of major investments to improve the country's economic position in the world. But quality education for many Americans is still not within their reach¹. Fifty years after the 1954 U.S. Supreme Court decision in *Brown v. Board of Education*² eliminating legal segregation of public education by race the country is still a long way from realizing quality education for all of its citizens³. Retired Federal Court of Appeals Judge Robert L. Carter⁴, who argued the *Brown* case in admits that *Brown* did not achieve its goals. He feels that this generation must ensure that the *Brown* principles become a reality all children have an equal opportunity to a quality education in their respective communities; and the country increasingly dependent on the global economy cannot afford to under educate entire segments of the population along racial or social class to remain competitive. Exposing young people to people of different races is the only way to combat the self-perpetuating process of segregation that institutionalizes inequality (Carter, 2007: 248)⁵. This assessment was also supported by Judge Carter's co-counsel in *Brown*⁶.

This paper explores what happened in public education after *Brown*: changes in the demographics of the population, and economic changes world wide that should motivate the country to invest more to education minority children. Educational inequality is the

¹ Bill Bradley, **The New American Story**, New York: Random House, p. 160(2007); Orfield, Gary, Patricia Marin and Catherine L. Horn. **Higher Education and the Color Line: College Access, Racial Equity and Social Change**, Cambridge, MA: Harvard Education Press (2005).

² *Brown v. Board of Education*, 347 U.S. 483 (1954).

³ Frank Brown, *The Road to Brown, Its Leaders, and the Future*. **Journal of Education & Urban Society**, 36 (3): 255-265(May 2004); Cross, Thomas. *More Blacks are Competing in Advanced Placement Programs, But the Racial Scoring Gap is Widening*, **The Journal of Blacks in Higher Education**, Number 59: 63-42(Spring 2008).

⁴ Robert L Carter, *Brown's Legacy: Fulfilling the Promise of Equal Education*, **Journal of Negro Education**, 76(3): 248(Summer 2007).

⁵ *Id.*

⁶ Constance Baker Motley, **Equal Justice Under Law**, New York: Farrar, Straus, and Giroux, p.112-132(1998).

major source of the pool from which America produces its labor force is changing; and demographic changes in the population along racial lines is increasing at a faster rate than in the past. This paper also focuses on the ability to produce well educated students to be more competitive economically given a more racial and ethnically diverse population.

Economic Globalization

Globalization raises the notion that someone anywhere on earth can do your job, better and more cheaply; and boundaries between nations are removed so businesses may engage in worldwide market competition⁷. Lenin⁸ in 1916 noted the role of economic globalization. Lenin felt that the wealthy investment class would use their capital to make a profit any place on the globe without regard for the workers in developed countries who lose their jobs. Globalization is more advanced today compared to the world in 1916 and the role of education in this new economic battle ground to become more economically competitive. The term globalization⁹ and education was introduced in 1985; yet, economic globalization has been around for centuries.

Economic globalization has raised the ante for quality education around the world for those countries who wish to compete in the modern economy. Today, economic power goes to countries that can compete in this arena, not to those who currently control the most arms, wealth, or the hold politic dominance over countries but to countries that can compete more effectively in the new economy. The concept of globalization it induced in 1916 by Lenin¹⁰ saw globalization as a means by which wealth countries could take advantage of poor countries with their capital without colonization. For Lenin globalization by in several wealthy countries (German, France, Great British, Russia and the United States) was imperialism; developed countries took advantage of their superior capital assets to buy cheap raw material and labor in underdeveloped countries. These

⁷ Thomas L. Friedman, *It's a Flat World, After All*, **The New Times Magazine**, pp. 33-37(April 3, 2005).

⁸ V. I. Lenin, V. I. *Imperialism: The Highest form of Capitalism* in **The Essential Works of Lenin**, Edited by Henry M. Christman, New York: Dover Publications, pp.178-270(1987).

⁹ Joel Spring. *Research on Globalization and Education*, **Review of Educational Research**, 78(2); 330-363(June 2008).

¹⁰ V. I. Lenin. *Imperialism: The Highest form of Capitalism* in **The Essential Works of Lenin**, Edited by Henry M. Christman, New York: Dover Publications, pp.178-270(1987).

countries would continue to remain underdeveloped and poor; and the transfer of jobs from developed countries to underdeveloped countries would cause suffering among workers in developed countries. America needs more financial and political support for education at all levels to compete more effectively in the new world economy.

Trade between countries has existed from its earliest form, but in the past improvements in one country mostly help the country making the improvements as in America: the national railroad system and the national highway system benefited Americans only. But basic technology and the Internet technology developed in America helped countries beyond its borders without the cost of developing these products¹¹. Many countries are in a position to take advantage of this technology. America needs to think of how to become more competitive in the global economy and the one sure way is to improve education, especially in the mathematics and sciences. The National Science Foundation was established in the late 1950s to produce more scientists and support basic science research but the country has drifted away from these goals. Bill Gates of Microsoft has established a research center in Beijing, China with all Chinese engineers and scientists; and he considers it their most productive research team. In most instances companies out-source because they get cheaper, better-skilled and more productive workers than in America¹².

American k-12 schools, in science and mathematics, are near the bottom of all industrialized nations¹³. In 2001 India graduated a million more college students than America; and China graduated twice as many from college; and China graduated six times more engineers than America. It takes 15 years to produce a quality college graduate before one may expect to reap the benefits. But America has no choice but to provide more support for k-12 schools and colleges and universities to become more

¹¹ Thomas L. Friedman, T. L.). *It's a Flat World, After All*, **The New Times Magazine**, pp. 33-37(April 3, 2005).

¹² *Id.* at 37.

¹³ Bill Bradley. **The New American Story, New York**: Random House, p. 160 (2007).

competitive in the global economy. Louis Gerstner¹⁴ former chairman of IBM informs us that in the global economy we need to improve our schools to produce more quality graduates. He also feels that the education profession is undervalued and under paid; and we our schools are the true battle ground in the global economy.

Brain Drain and Globalization

With economic globalization, new skills are needed to operate in this environment that requires knowledge and understanding of different cultures and languages. Globalization research list brain drain as the most frequently discussed topic¹⁵. The largest migration is from poorer to wealthier counties; the wealthier countries have 16% of the world's population but 60% of the global migration. Today the focus is on the brain drain or keep the educated in the country or to convince those who migrated to return to their home country¹⁶. For example, for South American and the Caribbean nations have 50% of their college educated citizens living abroad in wealthier countries. America remains the lone military superpower but is losing power and influence in other important areas-industrial, financial, education, social, cultural-the power.

America has a young population due mainly to new immigrants¹⁷. Foreign students and immigrants make up 50% of all science researchers in 2006; 40% of doctorates in science and engineering; 65% of all doctorates in computer science. By 2010 foreign students will make up 50% of all doctorates awarded by American universities and 75% of all doctorates awarded in the sciences. In 2006, foreign-born students receive 33% of research doctorates awarded by American universities¹⁸: 44% receives doctorates in the sciences and engineering. The most came from China followed by India, Korea, Taiwan and Canada: 32% in engineering, 47% in the physical sciences; and 40% all non-American citizens with doctorates working in the country in the sciences and

¹⁴ Louis V Gerstner Jr., *Bad Schools + Shackled Principals+Out*, **The Wall Street Journal**, p. A20 (October 12, 2004).

¹⁵ Joel Spring, (June 2008). *Research on Globalization and Education*, **Review of Educational Research**, 78(2); 330-363.

¹⁶ Fareed Zakaria, **The Post-American World**, New York: W.W. Norton & Company, p. 4-5(2008).

¹⁷ *Id.* at 196-198.

¹⁸ *Id.*

engineering. Each year 65,000 foreign professionals are granted visas to work in America. The job for America is to improve schooling for Americans; and keep many of foreigner students attending American universities.

American universities are first rate but its K-12 schools are not¹⁹ and the problem also rests with students who attend affluent suburban U.S. schools and those who attend less wealthy schools²⁰. Students from the wealthy schools competed with the best schools from other countries in mathematics and science and gain admission to the best universities. But, k-12 students in poor schools cannot compete. China in 2007 contributed more toward global growth than the U.S., a first since the 1930s²¹. Future business people need skills to communicate across different cultures if we wish to sell our products to other countries. In deed being educated for this environment means acquiring the skills to operative effectively across nation states and cultures. The new economic world is more diverse in every way-language, cultures, and racially. Now that good jobs are moving out of the country, we need to produce more good paying jobs in America to prevent our college graduates from also moving out of the country to find employment.

Currently, state and local governments continue to cut back on funding for education, so will local school districts as jobs are outsourced to other countries; and the new jobs pay less resulting in less tax revenues for state and local governments. As a result of globalization, America lose jobs which results in less tax revenues for state and local government services, including schools which diminish their capacity to compete as effectively in the global economy. This situation reduces the quality of education; and erodes its economic base. This situation calls for a national movement to push the United States at all level of government to fund education at a higher level needed to make this country more competitive in the global economy. To do less may result in a greater distance between the haves and the have-nots; and produce social unrest. Therefore, the

¹⁹ Jonathan Kozol, **The Shame of the Nation: The Restoration of Apartheid Schooling in America**, New York: Crown Publisher, 2005.

²⁰ Fareed Zakaria, **The Post-American World**, New York: W.W. Norton & Company, pp. 191-192(2008).

²¹ *Id.* at 218.

only productive route is for all Americans to work together to provide greater support for public education.

Other countries are recruiting foreign students, particularly China, India, Australia and Canada. U. S. Senator Lamar Alexander and former Secretary of Education suggest that one answer is to “in-source brain power”²². Likewise, former U.S. Senator Bill Bradley²³ and current Senators Robert Byrd²⁴ strongly support that quality is the best method for the country to remain competitive in the global economy. Fifty years after *Brown* many Black and Hispanic children are not receiving a quality education. In 2007 Blacks made up 5.8% of all Advanced Placement test takers but out of a top score of 5, the mean score for Blacks was 1.91 compared to 2.95 for whites; 62% of the white students had a score of 3 and above to 25.4% for Blacks²⁵.

Recruiting brain power from abroad is one possible option for the protection of America’s economic future but other countries are also recruiting foreign college students and graduates. Thus, the only sure option is to grow our own brain power by investing more resources in education; and educators should be in the forefront in telling this story. U. S. Senator Lugar states that we are not talking about how to accommodate students from abroad we are talking about a threat to education, the economy, and our security. America has a variety of special visas to allow individuals with special talents to enter the country; individual seek employment with high technology companies; to invest in a business in a under develop area; physicians from foreign counties willing to work and live in a small towns or rural areas; seasonal workers;; and there are other special means of gaining permanent resident in American. However, many talents individuals from other countries who once sought opportunities to residence and work in American prefer to remain in their home country; or seek employment else where.

²³ Bill Bradley, (2007). **The New American Story**, New York: Random House, p. 160

²⁴ Robert Byrd, (2004). **Losing America**, New York: W.W. Norton & Company p. 264.

²⁵ Thomas Cross. *More Blacks are Competing in Advanced Placement Programs, But the Racial Scoring Gap is Widening*, **The Journal of Blacks in Higher Education**, Number 59: 63-42(Spring 2008).

Educating Minorities

African Americans/Blacks came to America as slaves from Africa and most remained in that status from 1619 to 1865, the end of the Civil War. Formal education did not exist for the until after 1865 and to a limited degree most received four months of elementary education for three years and education was not compulsory. However, after the Civil War ended in 1865 Congress changed the Constitution to make it possible for the newly freed slaves to achieve a better life as free people. The poor quality of education that existed for Black Americans in the segregated South is well documented²⁶. The Black schools were poorly financed and poorly staffed. After 1865, Congress enacted three Amendments to the Constitution: the Thirteenth Amendment, outlawing slavery, the Fourteenth Amendment that gave all citizens legal protection against state laws under the Bill of Rights and citizenship, and the Fifteenth Amendment giving all males the right to vote. The important Amendment for school desegregation was the Fourteenth Amendment that all citizens equal protection under the laws, state and federal. Despite these new Amendments, freedom for Blacks from segregation under state laws in the southern and border states lasted until 1896 when the U.S. Supreme Court in *Plessy v. Ferguson*²⁷ upheld a Louisiana statute outlawing racially integrated rail travel within the state. The Court held that state could meet the equal protection clause of the 14th Amendment with “separate but equal” facilities for Blacks and whites.

In the 1930s the National Association for the Advancement of Colored People (NAACP, an organization established to promote improve conditions for Blacks began its legal assault on segregation in public education. The NAACP legal team was directed by Charles Houston, dean of the Howard University Law School, a Harvard University Law School Graduate and a member of the Harvard law Review. He later resigned and recommended Howard University law School graduate, Thurgood Marshall as his replacement. The team began its attack on *Plessy* by challenging the “separate but equal” doctrine with a focus on the lack of graduate and professional schools for Blacks where

²⁶ Richard Kluger, **Simple Justice**, New York: Vintage Books (1975).

²⁷ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

opportunities did not exist in the Southern and Border states. These states did not provide opportunities for Blacks to earn doctoral and professional degrees. There was no Black medical and law schools; or doctoral programs in the arts and sciences. In 1938 the NAACP defended a Black Missouri student²⁸, who sought admission to the state's white law school. The state of Missouri offered to pay his tuition to attend an out-of-state law school. But, the U. S. Supreme Court held this offer to be denial of his right to the enjoyment the same privilege that the State offered its white citizens; and the payment of tuition fees in another State does not remove discrimination. In 1948, the NAACP represented a Black applicant to the white law school at the University of Oklahoma²⁹. The State of Oklahoma responded by establishing a separate law school for Blacks upon demand or notice. Oklahoma argued that the Black applicant sought the relief offered³⁰. The Court recognized that the Black student could not be expected to wait until a law for Blacks was constructed and staffed and recommended her admission to the University of Oklahoma Law School. The State admitted the student but segregated the Black student from white students in the classroom, library and cafeteria. The NAACP petitioned the Court for a correction of this form of within school segregation³¹. The Court held that this arrangement handicapped the Black student and ruled in favor of removing within school segregation for the student. On that same day the Court decided a case in favor of a Black student who sought admission to the University of Texas law school³². The State of Texas established a new, but separate law school for Blacks. The Court held that this separate law school for could not provide Blacks with and equal education. The Court emphasized the “intangibles” that made educational institutions equal. The new Black law school excluded 85 percent of the population prepared to be lawyers in the State and was not equal to the University of Texas Law School. Four years later in *Brown* (1954) the Court held that the equal protection clause of the 14th Amendment enumerated in these two law school cases should apply with added force to K-12 schools.

²⁸ *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938)

²⁹ *Sipuel v. University of Oklahoma*, 332 U.S. 631 (1948).

³⁰ Authur S Flemming, (August 1976). **Fulfilling The Letter and Spirit of The Law: Desegregation of The Nation's Public Schools**, Washington, DC: U.S. Commission on Civil Rights.

³¹ *McLaurin v. Oklahoma State Regents*, 339 U.S. 637 (1950).

³² *Sweatt v. Painter* 339 U.S. 629 (1959).

In 1950s segregated k-12 public education was challenged in courts and the 1954 U.S. Supreme Court in *Brown* declared that legal racially segregated public education was a violation of the equal protection clause of the Fourteenth Amendment to the United States Constitution. A year later the Court in *Brown II* (1955)³³ set a schedule for the lower courts to implement *Brown I* with “all deliberate speed”. African Americans were not prepared for the Southern States’ complete defiance of court ordered school desegregation under *Brown* and the negative impact of desegregation on Black teachers and administrators³⁴. A decade after *Brown* only 1.2 percent of the Black students in the 11 Southern States attended desegregated public schools³⁵. There were other setbacks in the fight for desegregated education. The failure to secure Black parents willing to allow their children to be plaintiffs in school desegregation cases in the thousands of school district throughout the Southern and Border States due a fear of losing their jobs or the possibility of physical harm to their families. Black parents in each of the thousands of local schools districts had to file law suits challenging state imposed school segregation.

The *Brown* case began in South Carolina where the plaintiffs’ homes were destroyed by fire and several plaintiffs lost their jobs; and leader of the group was charged with a state crime and left the state and never returned for fear for his life or a long jail sentence. The South Carolina school was located Clarendon County; and the plaintiffs were led by Reverend DeLaine case³⁶. The U. S. Supreme Court combined five cases attacking state enforced school segregation to form the *Brown* case. In the five *Brown* cases, the NAACP requested a special three-judge panel drawn from the Federal Court of Appeals, bypassing federal district courts and moving from the special three-judge panel directly to the U.S. Supreme Court. The NAACP did not expect a favorable ruling from federal district courts in the segregated South so it was considered a wise policy to just by-pass

³³ *Brown v. Board of Education II*, 349 U.S. 294 (May 31, 1955).

³⁴ Constance B. Motley. **Equal Justice Under Law**, New York: Farrar, Straus and Giroux, p. 110-111 (1998).

³⁵ Arthur S. Flemming, **Milliken v. Bradley: The Implications For Metropolitan Desegregation: Conference Before the United States Commission on Civil Rights**, Washington, DC: U.S. Government Printing Office, No. 005-000-00124-2, p. 6(November 9, 1974).

³⁶ Richard Kluger **Simple Justice**, New York: Vintage (1975).

the federal courts of appeals³⁷. The five cases came from segregated school districts in Kansas, South Carolina, Delaware, Virginia and The District of Columbia (Washington, DC).

In 1964 Congress passed a Civil Rights Act which authorized the Office of the U.S. Attorney General to bring suits in court in behalf of children in de jure segregated school districts to bring about school desegregation. Over the next decade the Justice Department brought legal actions against more than 500 school districts and brought actions cutting off federal education aid to against approximately 600 offending school districts that discriminated racially against Black children³⁸. Prior to this 1964 Act, it was difficult to find plaintiffs in local school districts of the South to desegregate public schools. The 1964 Civil Rights Act gave the U.S. Attorney General authority to bring suits against offending school districts. Progress towards desegregating the public schools by race through the courts was slow. But in 1964, ten years after *Brown*, the Court³⁹ declared that the time for “all deliberate speed” for the implementation of *Brown* had to end and speedier and more effective means must be used. In 1968, the Court⁴⁰ ordered a local school board to come forward with a plan that was speedier and more effective in desegregating schools; and in 1969 the Court⁴¹ urged the lower federal courts to issue its decrees and orders to become effective immediately. In 1971, the Court in *Swann*⁴² approved the use of busing in Charlotte, North Carolina as a way to increase school desegregation (the use a student’s race in making school assignments). In 1974 efforts⁴³ of the largely Black Detroit, Michigan school district’s efforts to seek a metropolitan remedy to desegregate its school population were denied. The Court restricted desegregation remedies to a single school district; and rejected a metropolitan school desegregation plan. This case forces one to conclude that the desegregation of large urban school districts with a largely minority school population cannot be changed

³⁷ Daniel M. Berman, **It Is So Ordered: The Supreme Court Rules on School Segregation**, New York: W.W. Norton & Company (1966).

³⁸ Richard Kluger **Simple Justice**, New York: Vintage, p. 759(1975).

³⁹ *Griffin v. County School Board of Prince Edward County*, 337 U.S. 218 (1964)

⁴⁰ *Green v. County School Board of New Kent County*, 396 U.S. 19 (1969).

⁴¹ *Alexander v. Holmes County Board of Education*, 396 U.S. 19 (1969).

⁴² *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971).

⁴³ *Milliken v. Bradley*, 418 U.S. 717 (1974)

under a Court order without a change in residential segregation. The Detroit case was important because in large cities most white and Black children live in segregated neighborhoods and attend racially segregated schools. Major U.S. from 1990 to 2000, the segregation levels of Black and white children grew sharply as a result of white flight⁴⁴. In Milwaukee where the voucher experiment began, Black children now made up 61% of the public school population in 2000, up from 46% in 1990⁴⁵. "White flight", the exit from of racially mixed urban public schools was as strong in the 1990s as it was in the 1970s. In 238 metropolitan areas from 1987 to 1996 white losses in urban public school enrollment resulted from white families moving from one district to another, or enrolling their children in private schools; and avoid moving into districts with high minority concentrations⁴⁶. This pattern existed across small and large urban communities; and in southern and northern urban communities.

School Reform.

The use of publicly funded vouchers to attend private schools is legal in three school districts, Cleveland, Ohio, Milwaukee, Wisconsin and the District of Columbia (Brown 2004)⁴⁷. The Cleveland, Milwaukee and District of Columbia voucher programs are designed for low-income students. The Milwaukee voucher program serve about 1.5 percent of the district's student population; and the Cleveland voucher program also serves a small number of students. In 28 states, school districts are allowed to experiment with charter schools, autonomously operated public schools. About 700 charter schools out of 85,000 public schools are in operation nationwide and most are small and aimed at disadvantaged elementary and middle school students. The U. S. Federal provide a small amount of start-up finding for charter schools; that support rose from \$51 million in 1995 to \$85 million in 2000. In New York and several other large

⁴⁴ Gary Orfield, (2004). **Dropouts in America: Confronting Graduation Rate Crisis**, Cambridge, MA: Harvard Education Press.

⁴⁵ Walter C. Farrell, Jr. and Jackolyn Mathews, *The Milwaukee School Voucher Initiative: Impact on Black Students*, **The Journal of Negro Education**, 75(3), 519-531 (2006).

⁴⁶ Edward E. Frankenberg and Gary Orfield *Lessons in Integration: Realizing the Promise of Racial Diversity in American Schools*, Charlottesville, VA: University of Virginia Press (2007).

⁴⁷ Frank Brown, *The Road to Brown, Its Leaders, and the Future*. **Journal of Education & Urban Society**, 36 (3): 255-265(May 2004).

cities, public schools are being reconstituted and restructured into smaller units bring about increased academic improvement. But, creating a few good schools has never been difficult with enough energy and motivation, but scaling up to improve all public schools in a district has proven difficult or impossible. Many states allow public schools to contract with private companies to operate their schools for a cost. These are profit making companies operating public k-12 schools. In America, education markets do not seek consumers from among the poor and more minority families are in the low income category. High quality education suppliers have not fought to take advantage of public education vouchers that serve poor minority children. Public education does not respond to true market conditions. Education as a market lowers its quality based upon state funding levels, not consumer demands (assuming all parents want the best for their children) by: employing less qualified teachers, a higher student/teacher ratio, and fewer support services. The motives for school choice movement in public education in America is declining and will probably soon disappear.

The school reform movement began as a means of opposing the school desegregation under *Brown*. Opposition mechanisms took the form of school choice plans and privatization of public schools (Brown, 2004)⁴⁸. However, in 2002 a federal appeals court decision (*Belks*) to halt the use of race in making students assignments to public schools by school districts first occurred the 4th Federal Circuit in five states (North Carolina, South Carolina, Virginia, Maryland and West Virginia) in *Belks*. In 2007, the U.S. Supreme Court in *Parents Involved v. Seattle*⁴⁹ extended the 4th Circuit decision nationwide to all k-12 school districts preventing the use of race in making school assignments. The end of *Brown* does not return to the pre-*Brown* era because the states can no longer require schools to be racially segregated. But it does mean that the racial composition of a neighborhood will now determine to amount of school desegregation; a concept generally referred to as “neighborhood schools”. The minority population is

⁴⁸ Frank Brown, *Privatization of Elementary and Secondary Education* In Charles Russo, **Key Legal Issues for School Business Officials**, Lanham, MD: Rowman & Littlefield Education, pp.33-52(2006).

⁴⁹ *Parents Involved in Community Schools v. Seattle School District No. 1*, 127 S. Ct. 2738 (2007).

increasing relative to the white population and should bring about changes in education via the political system.

The law should protect parents and students against discrimination based upon race, gender, disability, religion, or national origin. But the degree to which these rights are enforced depends upon the philosophy of the political party in power and/or the ideological composition of the U.S. Supreme Court appointed by the political party in power over time. Currently, the U.S. Supreme Court has stopped enforcing the 1954 *Brown* Court decision requiring the racial desegregation of public schools. The Court applied this principle in the 4th circuit federal district in *Belk*⁵⁰ in 2001 and in 2007 nationwide in *Parents Involved v. Seattle*⁵¹. Likewise, the use of public funds to support educational services in religious schools at this level has been a violation of the federal constitution but a recent U.S. Supreme Court decisions have weakened that standard by allowing public funds to be used to pay for books, transportation, related services in K-12 religious schools and the use of publicly funded vouchers in religious schools in Cleveland, Ohio⁵². Many parents used "school choice" as a rationale for maintaining racially segregated schools. These parents also sought public vouchers and tuition tax credits to fund private segregated schools commonly called "Christian Academies" to escape sending their children to integrated school.

What are some of the central to issues in public education after *Brown* making de jure racial segregation of public education unconstitutional? One strategy for those who oppose *Brown* and school desegregation is educational reform such school choice, vouchers, magnet schools and charter schools. There are no for-profit schools operating in American which should not confused with the private management of public schools by for-profit companies. There are also other labels related to school choice/privatization issues such as family choice, charter schools, vouchers, opportunity scholarships, magnet

⁵⁰ *Belk v. Charlotte-Mecklenburg Board of Education*, 269 F.3d 305, 316-17 (4th Circuit 2001).

⁵¹ *Parents Involved in Community Schools v. Seattle School District No. 1*, 127 S. Ct. 2738 (2007).

⁵² *Zelman v. Simmons-Harris* 536 U.S. 639 (June 27, 2002).

or public school academies, "break-the-mold" schools, "new schools," "reconstituted schools", deregulation, private money for public schools and tuition tax credits.

In 2001, the Court in *Belk*, reconsidered the 1972 *Swann* case on appeal from the Fourth Circuit Court of Appeals and supported its ruling that the use of a student's race in making school assignments can no longer be use. In 2007 the High Court applied this principle to the entire country in *Parents Involved v. Seattle*. June 28, 2007 the Court ended the 50 year practice of using race in assigning students to schools to promote greater racial desegregation of public. In 1972 the Court officially sanctioned the use of race in the Charlotte (NC)-Mecklenburg School District in *Swann* to racially desegregating its public schools. This ruling reverses the 1972 *Swann* decision by the Court. The case involved voluntary racial desegregation plans by the Seattle public schools and the Jefferson County Board of Education of Louisville, KY. Neither school system was under federal court ordered to desegregate their schools. Seattle had never operated under de jure segregation rules. This ruling by the Court was highly anticipated based upon its prior decision where the Court allowed a 4th Circuit decision to stand that terminated a race based student assignment program in the Charlotte-Mecklenburg School System in North Carolina. The Charlotte race based program was initially approved by the Court in *Swann* which was almost identical to the student assignment plans used to schools in Seattle and Louisville. This ruling by the Court was expected; but the hostile tone of the majority opinion to *Brown* was a surprise by a divided Court in a 5-4 decision. Almost immediately, after the 4th Court of Appeals declared the use of race in assigning pupils to specific schools in five states-North Carolina, South Carolina, Maryland, Virginia, and West Virginia. The schools in these states began to re-segregate by race; and re-segregation is expected in the remaining states. In general students now attend schools in their neighborhoods, even if many will result in single race schools.

Legal school segregation by race ended nationwide in the mid 1970s but more subtle form of segregation continued. In several small communities in the Southern states, white parents removed their children from the public schools and enrolled them in private

academies⁵³. This remedy resulted in poorly funded k-12 schools for both races. In schools where all races attended, within school mechanisms were employed to separate minority students from most white students. Several common mechanisms employed included: (1) ability grouping or tracking where most white students are placed in the high ability groups or classes for gifted students; (2) creation of academically gifted classes or advanced placement courses (courses a higher level, for example, an advance chemistry or biology course); (3) the establishment of special schools (often referred to as “magnet schools”) for academically gifted students, often within the same building; and (4) the assignment of more minority students to special education (classes for educationally handicapped students) classes. I will refer to this form of racial segregation as the second tier school reform aimed to soften the impact of *Brown*.

Minority Education

America should continue to debate means of improving educational opportunities for the children from low income families; and poor children generally have less educational opportunities than children from affluent families. America owes a deep gratitude to the NAACP who fought so bravely and for so long to remove the racially segregated public education by law in southern and border states. Further, economic globalization requires quality education for all students. There is a wide gap between the academic achievement of Black and Hispanic students and white students⁵⁴. The federal education law under No Child Left Behind statute mandates that states provide test scores for different groups by race and ethnicity. However, each state has great flexibility in how their students are tested and how it disaggregates data for the various groups within their state.

In 1920 the state of California ranked 11th in population but first in the number of students enrolled in public higher education; and retained this high level of public college

⁵³ New York Times Legacy of School Segregation Endures, Separate but Legal, p. A17 (September 30, 2007).

⁵⁴ John D. Douglas, **The Conditions for Admission: Access, Equity and the Social Contract of Public Universities**, Stanford, CA: Stanford University Press (2007).

going rate through the 1950s⁵⁵. Today, the public college going rate in California has declined. One reason for this decline is the ability of rich school districts to offer more Advanced Placement (AP) courses in high school. In addition to standardized test scores for college admission, many colleges also give added weight for admission to students who complete AP course with high scores. The wealthier school districts offer more Advance Placement (AP) courses, the wealthier school districts are able to offer more AP courses than the less wealthy school districts⁵⁶. In the 1980s the University of California encouraged students to take more rigorous courses, AP courses; and thus earn a higher grade point average with more AP courses. An A grade in a standard course generates a 4.0 credit; while an A grade in an AP course generates a 5.0 credit. In 1998 some school offered no AP courses and 10% did not offer courses required to enter a public four year college in California. Some have offered a plan to eliminate use of standard test scores to gain admission to college but this would not likely increase the enrollment of students from poor schools because universities would have to increase the grade point average (GPA) to remain selective (Douglas, 2007:217). However, a more minority students attend schools that offer few or no AP courses which just go to limit their opportunities to gain admission to elite college or four year degree colleges. The average minority who earns a college or university degree graduates from lower status institutions of higher education compared to their white counterpart⁵⁷.

This discussion high lights the second tier school segregation mechanism discussed in the section above. However, a positive fall out from the Court's decision to end affirmative desegregation of public education under *Brown* is the likelihood of an end to second tier segregation with a return to neighborhood schools with more single race schools. In the post-*Brown* era with more single race neighborhood schools there should less of a need for ability grouping or tracking, schools for the academically gifted, the placement of students in classes for the academically handicapped, the retention of more minority

⁵⁵ *Id.* at 217.

⁵⁶ *Id.* at 292.

⁵⁷ Victor M. H. Borden, *Top 100 Undergraduate Degree Producers: Interpreting Data, Diverse: Issues in Higher Education*, 25(9):20-36(June 12, 2008).

students in the same grade for one or more years⁵⁸ or to offer advanced placement courses to separate minority students from white students. All of the above practices are harmful to minority students but the grade retention is perhaps the most harmful because it results in tracking of minority into less academically challenging classes which leads to a high dropout rate for these students. The grade retention process begins in kindergarten and first grade. The courts have never felt the need to intervene into this form of racial segregation. These conditions and poverty places more minority at or near the bottom of their graduating classes; and even if they attend all minority schools and graduate in the top of their graduating class they may still fail to gain admission to elite colleges or universities due to low test scores. However, three states have addressed this issue: Texas, California and North Carolina. The state of Texas guarantees admission to all graduating high school senior who rank in the top 10% of their graduating class to the elite University of Texas campuses; California guarantees admission to all graduating high school senior who rank in the top 4% of their graduating class to the elite University of California campuses; North Carolina gives a higher weight in its admissions decision to students based upon class rank in their graduating class than to standardized test scores in gaining admission to the elite University or North Carolina at Chapel Hill. It is hopeful that other states will follow the lead of these states in some form to enroll more minority students in their elite universities

After Brown, Globalization and Education

In 2004 America ranked 14th in the percentage of its population that entered higher education and completed a bachelor's degree or higher and America is among the few developed nations where the older generation achieved a higher high school graduation rate than the younger generation⁵⁹. For example, in California access to higher education has declined over the past two decades. In 1970, 55% of the high school graduates attended college; in 2000 the rate was 48%, with a large majority going to community colleges where most students are part-time students and will not likely earn a 2-year

⁵⁸ Winnie Hu, *Too Busy to Eat, Students Get a New Required Course: Lunch*, **The New York Times**, pp. A1, A11 (May 24, 2008).

⁵⁹ John D. Douglas. **The Conditions for Admission: Access, Equity and the Social Contract of Public Universities**, Stanford, CA: Stanford University Press, p. 264, (2007). .

college degree or a bachelor's degree later⁶⁰. It is estimated that by 2022 about a third of all new jobs in California will require college degrees. Further concerns, in 1980 college fees for public colleges was about 15% of the cost; 28% by 2000; and two-third of college under graduates left with about \$20,000 in debt; and graduate students left with approximately \$45,000 in debt; and fewer American students are entering scientific fields compared to countries such as China and India.

America enrolls about 19 million students in degree granting institutions of higher education and many are foreign students; but to remain competitive this number must be increased⁶¹. America's k-12 schools must improve the number of students who graduate and enroll in a four year college or university. The major problem rests with the lack of quality schools for the poor and minority students who find it more difficult to gain admission to elite colleges and universities; and little has change over the past four decade. In 2007 Blacks made up 5.8% of all Advanced Placement test takers; but 62% of the white students had a score of 3 and above to only 25.4% for Black students⁶². Admission to selective institutions require more than a high national standardized test score, but it helps to have taken and made high scores on Advanced Placement courses; the more courses taken the better.

In 2006, foreign-born students holding temporary visas received 33% of all research doctorates awarded by American universities in 2006⁶³. That number has climbed from 25% in 2001 with foreign students comprised 44% of science and engineering doctorates in 2006. In 2006 the county of origin for the largest number of non-U.S. doctorates came from China followed by India, Korea, Taiwan and Canada. The percentage of doctorates earned by Americans ranged from 32% in engineering, 47% in the physical sciences, to 87% in education and 78% in the humanities. Approximately 40% of all Ph.D.s working in American science and engineering occupations are foreign-born? About 65,000 H-1B

⁶⁰ *Id.* at 266.

⁶¹ *Id.*

⁶² Joel Spring, (June 2008). *Research on Globalization and Education*, **Review of Educational Research**, 78(2); 330-363.

⁶³ **Wall Street Journal**, *American Brain Drain*, November 30, 2007; Page A16.

visas hire foreign professionals are allocated each year and exhausted as soon as the applications became available in April⁶⁴.

American universities are first rate but its K-12 schools are not and many students who attend affluent public suburban American schools but more students attend poorly funded schools. Students who attend affluent American schools compete with the best schools from other countries in mathematics and science and gain admission to elite universities. But, American students who attend poor schools cannot compete. Students from poor homes need the same help in achieving high test scores and good grades in all courses, including Advanced Placement courses. For example, even students from wealthy homes who earn all A grades are under stress from parents and teachers to earn admission to elite colleges and universities⁶⁵; many students skip lunch to compete for good grades and take additional Advanced Placement courses. America must try to keep college graduates in America and do a better job of educating k-12 students.

The Future

America's economic survival depends on how well it educates its k-12 population regardless of the racial composition of the student population because we know that many white parents will continue to leave schools where significant number of minority students reside; or enroll their children in private schools. Now that the Supreme Court has moved away from the enforcement of *Brown*, it's logical to conclude that the country will return to neighborhood school; children will attend school in the community where they reside. Blacks felt that a decision by the highest court in the land would be enough to secure equal education with whites but in hind sight, that notion appears naïve. Judicial restraint limits the courts in enforcing constitutional statutes against the legislative and executive branches of government. If a court determines that a constitutional violation has occurred, judicial restraint causes the court to adopt limited remedies. The courts will

⁶⁴ *Id.*

⁶⁵ James Kaufman. *High School's Worst Year: For Ambitious Teens, 11th Grade Becomes a Marathon of Tests, Stress and Sleepless Nights*, **Wall Street Journal**, A1, A8(May 24, 2008).

not ensure full educational equalities and unequal education continues. Today the picture is not encouraging, for example, in 2001 the Boston Public Schools are 86 percent non-white with fewer resources⁶⁶. It appears that the only response for the minority community is to become more involved in local and school affairs to improve education for minority children. From the beginning there was massive resistance to *Brown* from every level of government. *Brown* gave Blacks a more positive view of American but equal educational opportunities never materialized. Topeka, Kansas home of the lead plaintiff in *Brown* adopted a neighborhood school policy after *Brown* that produced three all Black elementary schools in a district with less than 10 percent Black population. In 1979 *Brown* was reopened and in 1992 the 10th Circuit Court of Appeals concluded that the school district was still racially segregated⁶⁷. The Court in *Parents Involved v. Seattle* declared an end to the use of race in assigning students to schools within the school district to promote school desegregation. The Court decision leaves the country with the neighborhood school assignments; and the school reform remedies designed as opposition to *Brown* will likely decline as evident of what happen in the five states of the 4th Federal Court of Appeals where the neighborhood process began six years earlier.

In America, education is a state function and their investment in education varies between states and between school districts within the same state. This makes public education and local issue with minimum input from the federal government. The federal government provides about 7% of the budgets for k-12 schooling mainly to provide funding to assist in the education of economically and educationally disadvantaged students. The states express a strong desire to support public education but face strong financial problems. The states must compete economically against foreign corporations for jobs but must also compete with other states. Most states are willing to lower taxes on businesses to keep them from leaving the state for another state or foreign country. This situation reduces state funds for education and other public services. The federal

⁶⁶ Charles J. Ogletree, Jr., (2004). **All deliberate Speed: Reflections on The First Half Century of Brown v. Board of Education**, New York: Norton, pp. 306-309.

⁶⁷*Id.*

government also expresses a desire to support an excellent educational system as expressed by members of the U.S. Congress⁶⁸. Congress views education the best tool for improving and protect its economic interests. However, we need to see more positive action by the states and the federal to improve k-12 schools and opportunities for high school graduates to gain admission to four year colleges and earn undergraduate and graduate degrees in mathematics and the sciences. However, as long as businesses support the hiring of foreign with additional costs to local and state governments little will change to improve education beyond what the already supports. The better goal appears to include some in-source of brain power; and at the same time increase funding for all levels of schooling. The latter is the better option due to the possibility that foreign may find it more financially rewarding to seek their education and employment else where. Perhaps, more important is the changing demographics. There are more children born to minority families than in middle class white families; including children of illegal immigrants who are American citizens if born in America even if their parents are non-citizens under the Constitution. These are the students of the future and if they are well educated and cared, the country will suffer economically and politically. It is unlikely that the 2007 Court decision to over rule the more than 50 year *Brown* decision to use race to desegregation, racial segregation is increasing; and most observers do not see a return to *Brown*. The only real question is how the country will achieve these goals.

It may take a decade to dismantle the school reform movements designed to reduce the impact of *Brown*. The neighborhood school concept supported by the Court's 2007 decision (Parents Involved) is likely to should help to end these reforms. The American court system is not likely to move quickly or affirmatively involving heated social issues because is a part of the social and political system controlled by the majority group. Judges, at the state level are elected by popular votes or appointed by governmental officials for a specific term in office; and tend not to reelect if they render unpopular decisions. Federal judges are the President with the approval of Congress for life; but if one seeks promotion, an unpopular decision is not likely result in promotion to a higher

⁶⁸ Bradley, B. (2007). **The New American Story**, New York: Random House, p.

court. Thus, the slow pace of implementing *Brown* may have expected. Now, that a major education issue has been settled by the Court, maybe the country can move forward to increase support for education at all levels designed to compete effectively with education anywhere on the globe. I agree with those who are convinced that the improvement of America's education at all levels is the one best way to make its economy more competitive. Granted there are other ways to improve its competitiveness, such as in-sourcing brain power which depends more on elements outside the control of this county.

Finally, with the end of court ordered school desegregation by race, the country must seek ways to produce quality education in neighborhood schools; and produce more college graduates in the sciences and mathematics. There should be a short range plan and a long range plan. For the short range plan I recommend the following for k12 schools. There is a need to improve the teaching of the sciences and mathematics in k-12 public schools. I recommend that the initiative funded by the federal government from the late 1950s to the mid 1970s through the National Science Foundation (a federal government agency established to meet these specific needs) that offered fully funded summer and academic year degree programs for public school science teachers. This effort significantly increased the number of students entering higher education as science and mathematics majors and graduating from colleges with degrees in those fields. For doctoral level studies in the sciences and mathematics, the federal government should expand the number of fellowships for studies in these areas to the level that existed in the 1960s. These measures may serves as short or long term goals depending existing and future needs in these fields. Second, the one definitive long term need is how to improve k-12 public education. The mechanism for such improvement at the national level is already in place but needs radical changes, Title I of the No Child Left Behind (NCLB) federal education law. Title I is the largest funded portion of NCLB designed to provide help for disadvantaged learners in elementary and secondary students but due to compromises to satisfy varies political groups Title I funds were never properly used to equalize educational opportunities for advantaged students in a specific school or school

district⁶⁹. Also, of the more than 40 year life span of NCLB, every study commissioned by the federal government to evaluate the effectiveness found that it made no difference in the academic performance of Title I students. I recommend that the government stop funding specific school based program and provide funding to local school districts based upon: the number of economically disadvantaged students as defined by the number of students who qualified for reduced school lunch program (student get free lunch or get lunch at a reduce price) by the average per pupil expenditure for the district from local and state sources, the average dropout rate for the local district and the average national college admissions test scores for the local school district. Thus initial funding is base funding for the district's Title I programs currently in operation. But annual future increases in Title I funding will be based upon: an increase in graduates college admissions test scores; a decline in the dropout rate for the school district; and the amount of increase in per pupil expenditure for the local school district. This will allow school districts to experiment will multiple means of improving education for all students and will be rewarded financially for such improvement; and students from economically disadvantaged homes will no longer be placed in special programs apart from other students which serve to stigmatize in a negative way by non-Title I students and teachers. These changes should be easy to implement if the country is serious about improving its human capital resources to improve its competitiveness in domestic and global markets. These recommendations may serve as a proxy for equal educational opportunities sought by framers of *Brown* (Carter, 2007; Motley, 2004); and the structures are already in place to implement these important reforms. The equal educational opportunities sought by *Brown* must now shift to the local and state levels to achieve equity goal, the court has opted out of this fight for equality between the races and social classes.

Now that race cannot be used by public schools to desegregate schools beyond the neighborhood concept is this the end of the equity dream for minorities given that more

⁶⁹ Frank Brown, *Title I: Is It Compensatory or Just a Partial Equalizer*, **Emergent Leadership**, Vol. 1, No. 1, Fall 1976, pp. 10-14.

minorities live in poorer neighbors.⁷⁰ A few school districts in the five states ordered to follow this none racial pupil assignment policy in 2001 are use a proxy for race, the social economic status of students(SES). SES is defined as students receiving federally assisted lunch money, however, white flight continues and most schools are becoming more racially segregated⁷¹. Yet, there are Congressional Committees in both chambers of Congress on “economic competitiveness” and they all cite education as the best hope for retaining America’s competitive edge now and in the future. Congress also recognizes that increasing more students are minority students who reside in poorer neighborhood where the quality of education for a myriad of reasons are not adequate to maintain the country’s competitive edge; and are seeking ways to improve the education system but what is the right education⁷². Yet, American history suggests that achieving equal educational opportunities for minority students will continue to demand a long struggle for supporters of equity in public education⁷³. I continue to see economic globalization⁷⁴ as a plus in the fight for equal education for all students; and a decline in “educational reforms” designed to reduce the impact of *Brown*⁷⁵.

⁷⁰ John Charles Boger and Judith Welch Wegner, **Race Poverty and American Cities**, Chapel Hill, NC: University of North Carolina Press, 1996.

⁷¹ John Charles Boger and Gary Orfield, **School Resegregation: Must the South Turn Back?** Chapel Hill, NC: University of North Carolina Press, 2005; Simmons, Tim and Hannah-Jones, Nikole *White Flight Continues The News & Observer* (Raleigh, NC), pp. 1A and 8A (April 4, 2004).

⁷² Michael W. Apple, Second Edition, **Educating the “Right” Way: Markets, Standards, God, and Inequality**, New York: Routledge, 2006.

⁷³ Frank Brown, *Nixon’s “Southern Strategy” and Forces Against Brown*, **Journal of Negro Education**, Summer 2004; Frank Brown, *The Continuing Search for Quality Education by African Americans: Fifty Years After Brown*, **Journal of Negro Education**, Summer 2004.

⁷⁴ Frank Brown, *Educational Equity, Globalization and The No Child Left Behind Act*, in Frank Brown and Richard C. Hunter, **No Child Left Behind and Other Federal Programs for Urban School Districts**, Amsterdam, The Netherlands: Elsevier, pp. 309-320; Frank Brown (2007). *Funding Urban Education in the Globalization and Post-Brown Era* **The National Journal of Urban Education & Practice**, (1) (1): 22-35(Summer 2007). Frank Brown *Ending the Brown Era: What Is the Future for Equal Educational Opportunity?* (October 2007). **School Business Affairs**, 73 (9): 8-10(October 2007).

⁷⁵ Frank Brown, *School Choice and Educational Equity Under No Child Left Behind in the Post-Brown Era*, in Richard C. Hunter and Frank Brown, **No Child Left Behind and Other Federal Programs for Urban School Districts**, Amsterdam, The Netherlands: Elsevier, pp. 37-60; Frank Brown (2003B). *Choice, Vouchers and Privatization as Education Reform or the Fulfillment of Richard Nixon’s Southern Strategy?* In Richard C. Hunter, and Frank Brown, **Challenges of Urban Education and Efficacy of School Reform**, Amsterdam: JAI, Elsevier Science; Brown, F. (2006B). Frank Brown, *Privatization of Elementary and Secondary Education*. In Charles Russo, **Key Legal Issues for School Business Officials**, Lanham, MD: Rowman & Littlefield Education, pp.33-52.

Published by the Forum on Public Policy

Copyright © The Forum on Public Policy. All Rights Reserved. 2008.