

Brown v. Board at 50: Time for Choice?

On May 11, fifty years after the historic *Brown v. Board of Education* decision striking down segregation in public schools, the Cato Institute hosted a Book Forum for the new Cato book *Educational Freedom in Urban America: Brown v. Board after Half a Century*. Speakers included Secretary of Education Rod Paige, Gerard Robinson of the University of Virginia, and Clint Bolick of the School Choice Alliance. Excerpts from their remarks follow.

Rod Paige: Educational freedom is an important topic. In just 25 years, Cato has developed a remarkable reputation for defending educational freedom, and freedom in all senses. Cato has helped advance the fight for educational freedom through the work of Ed Crane, David Boaz, Casey Lartigue, David Salisbury, and others who have been out there just plugging away. Thank you for your great work.

When I was a child growing up in Mississippi, I went to school with other black kids. The white school was about two miles down the road from us, but it might as well have been 200 miles. Yet I felt I knew the kids who went to school in that well-cared-for building with the beautiful, manicured lawns and a gymnasium I greatly admired. I learned a lot about them from reading the notes they made in our hand-me-down textbooks. I wondered sometimes why they tore out certain pages and tried to imagine what they were thinking about or whether they were interested in that subject by reading the pages in front of and behind the page that was torn out.

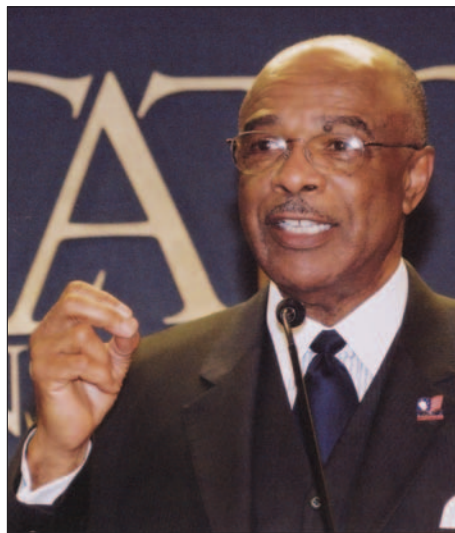
It was hardly an environment that would inspire my friends or me to dream of college or future success. But I was one of the lucky ones. I had parents who insisted that we do well, who instilled in my four siblings and me a deep, deep belief in education and its potential. My parents' generation of African Americans impressed on us children the importance of education.

The U.S. Supreme Court's decision in *Brown v. Board of Education* sent shock waves throughout the country. It was handed down toward the end of my junior year at Jackson State University. We had an all-night discussion about the decision. There

was a real sense of jubilation that night. We thought the world would change for the better the next day. We thought racism would be eradicated and the world would welcome us with open arms.

How naive. Segregation didn't disappear right away. The pace of change was slow. And it remains slow, measured in decades if not generations. We have made great strides since *Brown*, but all of us know we still have a long way to go. As a nation, we don't provide an equal opportunity for millions of children. We must do that in order to fulfill the promise of *Brown*.

President Bush recognized the problem and decided to take action. He saw a two-tiered education system in our nation. Some



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fortunate students receive a world-class education. Others, by virtue of their street address, their skin color, their accent, or when they came across the border, receive an inferior education. Our education system does not provide a quality education for all students.

That's why the No Child Left Behind Act is so important. The point of the No Child Left Behind Act is that every child deserves to be treated with respect and dignity, not pushed aside or even pushed ahead, and not ignored. The law says parents and taxpayers have a right to information about their local schools and how they compare with other schools. Empowered with this infor-

mation, parents can vote with their feet and can become active participants in their children's education.

Albert Shanker, the late president of the American Federation of Teachers, the second largest teachers' union, probably said it best: “Public education operates like a planned economy, a bureaucratic system. There are few incentives for innovation and productivity. It's no surprise that our school system doesn't improve: It more resembles the communist economy than our own market economy.”

No Child Left Behind challenges that monopoly. It aims to make the system more accountable for results on a national scale. More transparency will force the system to change and to improve.

Some observers say that we can improve the system by merely pumping more money into it. That contradicts the lessons of history. In years and years of trying to buy our way out of this problem, we've learned that money is only one issue. How the money is spent is more important.

The children at the bottom of the achievement gap—minorities and special education students—have stayed at the bottom for a long time. Despite spending more than \$135 billion in Title I dollars since 1965, we still have dismal results. We must help those kids.

Now, many of you believe there is no role for the federal government in education policy. Some of you would like to eliminate not only the U.S. secretary of education's job but the whole Department of Education. But I believe there's a role for the federal government in education, and I think *Brown* proves it. It was during Ronald Reagan's first term that “A Nation at Risk” was published. It didn't say “a few states at risk” but a *nation* at risk. The federal government has stepped in to correct overt unfairness and inequality, starting with measures to enforce civil rights and to dismantle segregation in the wake of *Brown*.

The federal government's first big initiative in K-12 began back in 1965 with the enactment of the Elementary and Secondary Education Act, as a part of President Johnson's War on Poverty. Again, the intent was to even out the playing field, to get extra aid to students who needed it most. The difference under the No Child Left Behind Act

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is that we have put some teeth in the law. If you take federal funds, you will be measured on your results.

And we mean that. When President Bush took office, only 11 states were in compliance with the prior education policy, adopted in 1994. That’s right: three-quarters of the states were not following the law. They were simply taking federal funds without accounting for their results. Now, the days of free money are over. We take our stewardship of the taxpayers’ dollars quite seriously.

This law is not a one-size-fits-all federal approach, though. The administration has worked hard to listen to states and school districts. Don’t confuse our impatience and sternness with inflexibility.

This administration also believes that there need to be multiple delivery systems in education—healthy market competition. Options would include private schools, home schools, cyber schools, parochial schools, and any other delivery system that promises to help students learn. But despite those other systems, public schools will always be the heavy lifter. And that is why our goal is to improve public schools. We cannot let another generation of children pass through them without doing better.

So why is the federal government interfering in this market system? Because it has to. We stand on the side of education consumers—not the bureaucracy, but parents and children.

The *Brown* chapter is closed. The age of accountability is beginning. We have turned the corner, but we still have much to do. Someday we will look back at these years and realize that we were all present and we all played a part in a new era in education, one in which all children are counted, all children are given a chance, all parents can understand the system, and they are treated with respect. And we will feel good about that, because we will be a better society for it.

Gerard Robinson: Fifty years ago, the floodgate of freedom opened wide. To finally realize that promise, we really have to look at school choice in the context of *Brown*. But some people oppose freedom of choice because they say it’s racist. They say that freedom of

choice will open the floodgate of segregation, and that if you do it in 2004, you’re going to have the same type of problems you had in 1955, 1956, and in fact in 1964.

Following the *Brown* decision, there were a number of people who had unreconstructed hearts and minds, who refused to support the *Brown* decision because it went against states’ rights.

One of the tactics Southerners used was something called a tuition grant. From 1956 until the 1960s, a number of states—Virginia, South Carolina, Mississippi, Alabama, Louisiana, and Arkansas—passed tuition grant laws. Those grants gave parents the freedom of choice to use public money to send their children to a school of their choice.



Gerard Robinson: “Liberty-based choice and fear-based choice are different.”

It sounds a lot like vouchers today, but I call it fear-based freedom of choice. Some governors not only stood in front of school doors but threatened to shut down the school system entirely, as they did in Prince Edward County, Virginia, from 1959 to 1964, rather than integrate. They wanted to give freedom of choice, but not to all parents, just to white parents. They gave tuition grants in order for white kids to go to segregated white academies at public expense.

The NAACP and a number of organizations objected to the laws. And between 1956 and 1969, the federal courts struck down that type of freedom of choice. Court after court said that using public money at

racially discriminatory schools for the purpose of trying to circumvent the *Brown* decision was unconstitutional. They said that that type of fear-based freedom of choice was inconsistent with the principles of American democracy.

Fast-forward to the 1990s. We opened the door to something new: liberty-based freedom of choice. People like Howard Fuller in Milwaukee helped usher it into existence. The reason we call it liberty-based freedom of choice is that any parent, regardless of race, should have an opportunity to choose the best school for his or her child. Today we have white, Latino, Asian, and black students who are taking advantage of voucher programs.

Liberty-based choice is not perfect. There are surely some people who use and will continue to use vouchers in some bad ways. Is that a problem with vouchers? No, it’s a problem with human nature. James Madison told us in the *Federalist Papers* that if men were angels, we would not need government. But because we know that people will use vouchers and freedom of choice in less than angelic ways, we need to make sure there are safeguards in place. Fortunately, we now have the 1964 Civil Rights Act. If people discriminate, we have the power to say, “You can’t do that to American children with public money, because these are the public’s children, one way or another.”

Another thing that differentiates liberty-based choice from fear-based choice is the fact that no schools closed in Cleveland or Milwaukee. Governors did not come with proclamations promising to shut down integrated public schools. Liberty-based choice and fear-based choice are different ideologically.

Clint Bolick: The issue of school choice is susceptible to cold, hard economic analysis. And many people in this room probably came to the idea through Milton Friedman, as did I. But it is at its core a heart-and-soul issue. Education is so vitally important to each and every American. As Martin Luther King Jr. said, “We shall so appeal to your heart and conscience that we shall win you in the process, and our victory will be a double one.” It is that type of passion

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that needs to go into the battle to fulfill the unfulfilled legacy of *Brown v. Board of Education*.

Most of us who have become militant about school choice but who were first persuaded by Milton Friedman's economic arguments have experienced epiphanies about the potential of choice. I would like to tell you briefly about two of mine. They both were in the early 1990s, when I was starting to defend a choice program in Milwaukee. At that time, Milwaukee had the only choice program in the United States—and it looked like it might stay that way. Milwaukee was under siege by the unions and groups like People for the American Way.

So at the Institute for Justice, we decided to fight back by filing a new lawsuit against school districts. We took an old, liberal idea—that state constitutions guarantee equal educational opportunities—but asked instead for a real remedy: not just giving more money to the districts that were already failing students but giving the students remedies that would allow them to leave the failing system. The cities in which we filed those lawsuits (and ultimately lost) were Chicago and Los Angeles, two of the most troubled school systems in the country.

I went to Chicago and visited some schools. One was Holy Angels School, a little private school in one of the poorest neighborhoods in the city, surrounded by four of the worst-performing public schools in the entire United States. Holy Angels charges \$900 per year, per family. It is entirely African American and it is very, very low income.

I was touring the school and I stepped into a kindergarten room. There were about 40 little kids in there, with impish grins on their faces, dressed in uniforms, their hands folded, looking at this visitor with puzzled but amused looks. I thought to myself, there is something odd about this classroom. And then I realized that the teacher had stepped out for a few moments. Now, I was picturing what my son's classroom would be like if his teacher stepped out. There would be total cacophony. Those kids were exercising, at the kindergarten

level, a self-discipline that, in the Virginia suburbs, would be an unfulfilled aspiration. Even if their parents subsequently lost the economic means to send them to that school, those kids would have that self-discipline for the rest of their lives.

I also traveled to Los Angeles around that same time. My colleague and I were going to a meeting of parents who were going to consider being plaintiffs in our lawsuit in South Central Los Angeles. The day was April 29, 1992.

While we were in the car, we heard that there had been a judgment in a case involving Rodney King, and it was not a judgment to too many people's liking. We were sitting



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at a traffic light, and suddenly our car rocked. Several men were throwing rocks at us. When one of them charged the car with a two-by-four, I pulled into oncoming traffic and we managed to escape.

We got to the meeting, and it turned out that dozens of parents showed up that night, in a building that later that night was burned to the ground. It was two intersections away from where Reginald Denny was being beaten. The parents knew about the riots, and they came out for the meeting anyway.

What struck me about those stories was that these were children, in the first instance,

whom the system has written off. And in the second instance, these were parents who some in the media and many in the unions tell us don't care about their children. And I thought, if they could risk their lives to be at this meeting for the slim hope of choice, this was the most urgent possible issue.

We have tried so many things since *Brown v. Board of Education*—busing, money, all sorts of new-fangled educational ideas. The one thing that we have not tried is to transfer power from bureaucrats to parents, to give people with lower incomes more control of the educational destiny of their children.

We must deliver power to parents to control their kids' education. We must redefine the notion of public education, away from where a child is educated toward *whether* a child is being educated. We must do it now. These kids do not have a moment to spare.

Martin Luther King Jr. said: “Our goal is freedom. We will win it because the goal of the nation is freedom.”

My friends, we are the generation that has it within our power to make good on the promise of equal educational opportunities, and to deliver them to every school child in America, black or white, rich or poor. Let's do it. ■

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expanding the federal role in education rather than abolishing the Department of Education as earlier Republican platforms had pledged to do. Jerry Taylor said that some well-meaning regulatory reforms were enacted but that those reforms have been largely ignored by the bureaucracies they were designed to tame.

The first few months of 1995 were heady times for advocates of limited government. But the euphoria was not to last. In recent years, business as usual seems to have reasserted itself in the capital. It seems that the revolutionaries of 1994 have, as do most politicians, become comfortable in their new role as the establishment party.

Papers from the conference will be published in a book, edited by Chris Edwards and John Samples, in January 2005. ■