

BROWN IS NOT BROWN AND EDUCATIONAL REFORM IS NOT REFORM IF INTEGRATION IS NOT A GOAL

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In their article, *A Public Laboratory Dewey Barely Imagined: The Emerging Model of School Governance and Legal Reform*,¹ James S. Liebman and Charles F. Sabel argue that the “new [educational] reform” is the “legitimate legatee” of the movement for the desegregation of our schools.² This claim is dangerously false, drawing upon the foundational myth of standards-based reform—that impoverished students of color will necessarily benefit from it. While we acknowledge that the new reform has the capacity to minimize the achievement gap between whites and nonwhites, it fails to set as an explicit goal the true integration of our schools. Throughout their argument, the authors mischaracterize the nature of both the Civil Rights Movement, as well as the educational reform itself. In the end, their article is not about *Brown*,³ but is an apology for not being about it. Without a more complete and honest “interrogation of matters of race and equality”⁴ *Brown* will not be *Brown*, and educational reform will not be reform. After briefly exposing these weaknesses, we will call for a type of reform that remains true to *Brown*, transforming education and society in ways that necessarily surpass the authors’ tempered goals.⁵

BROWN IS NOT BROWN

Unlike Liebman and Sabel’s claim, *Brown* is not just about the “concern for equal treatment in a diverse society”⁶ nor is its goal confusing.⁷ Since repudiat-

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1. James S. Liebman & Charles F. Sabel, *A Public Laboratory Dewey Barely Imagined: The Emerging Model of School Governance and Legal Reform*, 28 N.Y.U. REV. L. & SOC. CHANGE 183 (2003).

2. *Id.* at 192.

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

4. Liebman and Sabel, *supra* note 1, at 302.

5. For a more complete exposition of this argument, see john a. powell, *The Tensions Between Integration and School Reform*, 28 HASTINGS CONST. L.Q. 655 (2001).

6. Liebman & Sabel, *supra* note 1, at 300.

7. *Id.* at 197.

ing the limitation in *Dred*,⁸ we have embraced the belief that our constitution demands full citizenship, not just for whites but for persons of all colors. We cannot simply pour whatever meaning we want into *Brown*. To challenge *Plessy*'s⁹ "separate but equal" is to go beyond separate as well as beyond equal in an effort not only to eradicate intentional discrimination,¹⁰ but to achieve true integration. In the words of Rev. Dr. Martin Luther King, Jr.:

The word *segregation* represents a system that is prohibitive; it denies the Negro equal access to schools, parks, restaurants, libraries and the like. *Desegregation* is eliminative and negative, for it simply removes these legal and social prohibitions. Integration is creative, and is therefore more profound and far-reaching than desegregation. Integration is the positive acceptance of desegregation and the welcomed participation of Negroes in the total range of human activities Thus, as America pursues the important task of respecting the "letter of the law," i.e., compliance with desegregation decisions, she must be equally concerned with the "spirit of the law", i.e., commitment to the democratic dream of integration.¹¹

The crucial and real value of integration *has* been lost along the way, contrary to the authors' belief that the new education reform fosters *Brown*'s goals.¹² At its very best the reform strives to reduce the racial and economic inequalities that persist in our schools.¹³ In Kentucky, the data-driven reduction of the achievement gap is a central focus of school assessment and reorganization.¹⁴ Yet commitment to even this minimal goal is not certain. As the authors admit, Texas reform efforts do not embrace reduction of the gap as fully as those in Kentucky.¹⁵ They also admit that the No Child Left Behind Act of 2001¹⁶ (NCLB) produces losers as well as winners and will have to be modified to

8. *Dred Scott v. Sanford*, 60 U.S. (19 How.) 393, 403 (1857).

9. *Plessy v. Ferguson*, 163 U.S. 537, 550 (1896).

10. See, e.g., DERRICK BELL, AND WE ARE NOT SAVED: THE ELUSIVE QUEST FOR RACIAL JUSTICE 52-56, 159 (1987); Alan David Freeman, *Legitimizing Racial Discrimination Through Antidiscrimination Law: A Critical Review of Supreme Court Doctrine*, 6 MINN. L. REV. 1049, 1079-81 (1978).

11. REV. DR. MARTIN LUTHER KING, JR., *The Ethical Demands for Integration*, in A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS OF MARTIN LUTHER KING, JR., 117, 118 (James Melvin Washington ed., 1991).

12. Liebman & Sabel, *supra* note 1, at 300.

13. See generally GARY ORFIELD, THE CIVIL RIGHTS PROJECT OF HARVARD UNIV., SCHOOLS MORE SEPARATE: CONSEQUENCE OF A DECADE OF RESEGREGATION (2001). By the end of fourth grade, African American, Latino, and students in poverty in the nation are already two years behind other students; by eighth grade, three years behind; and by twelfth grade, four years behind. See Kati Haycock, Craig Jerald & Sandra Huang, *Closing the Gap: Done in a Decade*, THINKING K-16, Spring 2001, at 3, 3-4.

14. Liebman & Sabel, *supra* note 1, at 265.

15. *Id.* at 265.

16. Pub. L. No. 107-110, 115 Stat. 1425 (2001).

provide additional support to low achieving schools.¹⁷ Modifications of this sort, however, are unlikely in the current political and economic climate. Simply providing “an adequate supply” of basic goods required for democratic participation while ignoring integration will not remedy the severe racial and economic segregation that persists in our schools.¹⁸

The authors suggest, however, that we already view ourselves as a “racially mixed, multi-cultural society” and that open consideration of race and its effect on life chances has become a constitutive part of who we are.¹⁹ Although we certainly are growing more racially mixed, we have never fully committed to dismantling our nation’s racial hierarchy. This constant vigilance to fight discrimination that the authors’ suggest we exhibit²⁰ has been replaced with a “colorblind” mentality and constitutional proceduralism that supports and even normalizes continued white privilege.²¹ While appearing even-handed, this position avoids meaningful discussion of race and seeks to prohibit race-based remedies for the long-standing effects of white supremacy.²² The courts continue to devise new mechanisms to ensure that neither full citizenship nor full membership in the human community is equally available.²³ Alternatively, the authors rely on our “diversity” as a sign of our commitment to *Brown*.²⁴ This is equally deceiving, since our schools are resegregating at rapid rates each year²⁵

17. Liebman & Sabel, *supra* note 1, at 294.

18. *Id.* at 304. The authors mistakenly rely on adequacy suits as a means to achieve an “adequate education.” With the exception of *Sheff v. O’Neill*, 678 A.2d 1267 (Conn. 1996), the definitions of adequacy used by the courts fail to reference race or the need for racial integration. I.e., the so-called “doctrinal broadening” of adequacy beyond financial parity becomes a colorblind code for that which negates race. *Id.* at 205.

19. *Id.* at 300.

20. *Id.* at 301.

21. See, e.g., DERRICK BELL, RACE, RACISM AND AMERICAN LAW, 131–54 (4th ed. 2000).

22. *Id.* at 132. Several recent cases have prohibited the consideration of race in student assignments in grades K–12 in the Second and Fourth Circuits (See, e.g., *Wessman v. Gittens*, 160 F.3d 790 (2d Cir. 1998) (ruling that Boston Latin School had not provided sufficient evidence to demonstrate that diversity was a compelling interest—though it could be proven generally); *Tuttle v. Arlington Board*, 195 F.2d 698 (4th Cir. 1999) (per curiam); *Eisenberg v. Montgomery County Public Schools*, 197 F.3d 123 (4th Cir. 1999)). This new and inflexible extension of “colorblind” jurisprudence to the public school context, argues Professor John Charles Boger, is unwarranted by the Supreme Court’s specific holdings. John Charles Boger, *Willful Colorblindness: The New Racial Piety and the Resegregation of Public Schools*, 78 N.C. L. REV. 1719, 1719–25 (2000).

23. E.g., intentional vs. unintentional discrimination; state actors vs. private actors; city vs. suburb; and public vs. private, etc. Most recently, the Supreme Court ruled in *Alexander v. Sandoval*, 532 U.S. 275 (2001), that private suits under Title VI—a provision prohibiting discrimination by recipients of federal funding—can now be brought only for *intentional* discrimination. If plaintiffs cannot prove intentional discrimination, they can no longer sue under Title VI, even if they can prove that the challenged action has a discriminatory impact for which no justification can be shown. The Supreme Court’s decision in *Sandoval* abruptly reverses nearly three decades of precedent, including the unanimous views of all nine federal appeals courts.

24. Liebman & Sabel, *supra* note 1, at 303.

25. ORFIELD, *supra* note 13, at 38–39. According to data from the 1998–1999 school year and comparing it with similar data from prior years, greater than 70% of African American students in the nation attend predominantly minority schools, which is an increase from 1980. Educational

and since the Supreme Court was seriously reconsidering even this justification for race-conscious admissions policies.²⁶

Liebman and Sabel account for this regression in part by mischaracterizing the Civil Rights Movement and the judiciary's role within it. They admit that the Movement disrupted "established patterns of authority in favor of an arguably more equitable alternative,"²⁷ but argue that it was aimed solely at influencing the decisions, but not the forms of decision making.²⁸ For this reason, they claim, the courts became "disheartened" with their efforts to desegregate the schools.²⁹ In actuality, the Movement overwhelmingly called for systemic reforms,³⁰ but was frustrated by a judiciary ambivalent toward supporting the more far-reaching aspects of *Brown*, particularly during the Nixon era.³¹ Indeed, the courts have played an increasingly important role in protecting white privilege.³² That they knowingly ignored the link between housing and school segregation³³ further stymied any real efforts at integrating our schools and our

segregation rates are currently even higher for Latino students, 75.6% of whom attend predominantly minority schools. *Id.* at 36–37, 31. Gary Orfield and John T. Yun have also found three other important trends: the American South is resegregating after two and a half decades of having the highest levels of integration in its schools; an increasing number of African American and Latino students are enrolled in suburban schools, but serious segregation within these communities, particularly in the nation's large metropolitan areas continues; and there is a rapid increase in schools with three or more racial groups). GARY ORFIELD AND JOHN T. YUN, THE CIVIL RIGHTS PROJECT OF HARVARD UNIV., RESEGREGATION IN AMERICAN SCHOOLS (1999).

26. See *Grutter v. Bollinger*, 123 S. Ct. 2325 (June 23, 2003). Thankfully the court held that, "Although all governmental uses of race are subject to strict scrutiny, *not all are invalidated by it* When race-based action is necessary to further a compelling governmental interest, such action does not violate the constitutional guarantee of equal protection so long as the narrow-tailoring requirement is also satisfied." *Id.* at 2338 (emphasis added). The Court went on to say, "It is well documented that conscious and unconscious race bias, even rank discrimination based on race, remain alive in our land, impeding realization of our highest values and ideals." *Id.* at 2347–48. The Justices pointed to the extreme segregation in our nation's public schools and the fact that "schools in predominantly minority communities lag far behind others measured by the educational resources available to them." *Id.* at 2348.

27. Liebman & Sabel, *supra* note 1, at 271.

28. *Id.* at 272.

29. *Id.* at 191.

30. See, e.g., *Milliken v. Bradley*, 418 U.S. 717 (1974). Where a multidistrict remedy was sought, the Court held that no such remedy was available without a finding that all districts somehow participated in a segregation scheme and had opportunity to be heard. *Id.* at 744–45.

31. BELL, *supra* note 21, at 172. Many claim that Richard Nixon gained the White House by opposing further school desegregation progress. His administration adopted policies that slowed the federal government's participation in school desegregation. *Id.* See also LEON PANETTA & P. GALL, BRING US TOGETHER, THE NIXON TEAM AND THE CIVIL RIGHTS RETREAT (1971).

32. As Bell argues, "Out of fear of excessive judicial interventions, the courts' half-hearted attempts actually feed resegregation by driving whites out of the urban public schools." BELL, *supra* note 21, at 182. Professor Laurence Tribe agrees that the courts have not gone far enough when he writes, "If all vestiges of racial isolation in the public schools are to be 'eliminated root and branch,' the federal courts will require discretion to formulate remedies as complex, continuing and wide-ranging as the problems they confront." LAURENCE TRIBE, CONSTITUTIONAL LAW 1500 (1988).

33. BELL, *supra* note 21, at 182. Unfortunately, the Supreme Court has recognized this link,

society.³⁴ As George Lipsitz observes, many of our Civil Rights laws have been limited by the parameters of what he calls the possessive investment in whiteness.³⁵ When white privilege is challenged, the rights of blacks and other minorities are sacrificed to maintain reconfigured forms of power.³⁶ To suggest, therefore, that the current education reform movement is more “activist” and riskier than was the Civil Rights Movement³⁷ is not only misleading, but also patronizing.

EDUCATION REFORM IS NOT REFORM

According to the authors, the new reform movement removes the above-described judicial and social handcuffs. Through the inclusion of new players,³⁸ top-down³⁹ and bottom-up⁴⁰ efforts are said to produce an extensive, systemic and institutional transformation of the education system.⁴¹ What we perceive instead is the triumph of process over substance. Accountability and flexibility are cloaked in good will and collective action, but have little to do with deracializing our schools.

The new players involved in the reform are really the same players, not non-whites as the authors would like us to believe. The dissatisfying hierarchies⁴² collectively destabilized by “new publics”⁴³ are being replaced by new hierarchies that continue to marginalize and stigmatize impoverished persons of color. It is likely the new reformers conceive of white privilege as simply too powerful

but has been unwilling to remedy it. *See, e.g.*, *Columbus Bd. of Educ. v. Penick*, 443 U.S. 449, 465 n.13 (1979) (“school segregation is a contributing cause of housing segregation”).

34. Social scientists have long known what courts continue to ignore: that often causes of segregation and concentrated poverty are interrelated. *See, e.g.*, GUNAR MYRDAL, *AN AMERICAN DILEMMA: THE NEGRO PROBLEM AND MODERN DEMOCRACY* 77 (Transaction Publishers 1996) (1994), for a discussion of cumulative causation and the vicious cycle it can create. Indeed, one of the things he suggested set the “Negro” off from other poor people was the degree in which a number of negative conditions are present and related. More recently, George C. Galster has noted how a number of conditions reinforce each other in perpetuating inequality. *See generally* George C. Galster, *Polarization, Place, and Race*, 71 N.C. L. REV. 1421 (1993). *See also* IN PURSUIT OF A DREAM DEFERRED: LINKING HOUSING AND EDUCATION POLICY (John A. Powell et al. eds., 2001).

35. *See* GEORGE LIPSITZ, *THE POSSESSIVE INVESTMENT IN WHITENESS* 24–25 (1998).

36. *Id.* at 24. For example, Lipsitz argues that liberals carry out racialized agendas under the name of “respecting prevailing market practices, encouraging business investment in cities, and helping the ‘middle class’”; and conservatives under the name of “promoting states’ rights, protecting private property, and shrinking the welfare state.” *Id.* Similarly, in an article on school vouchers and choice, James Ryan asserts that efforts such as desegregation experience limited success when they are confronted with entrenched white resistance. James Ryan, *The Political Economy of School Choice*, 111 YALE L.J. 2043, 2046 (2002).

37. Liebman & Sabel, *supra* note 1, at 271.

38. *Id.* at 207.

39. *Id.* at 207–213.

40. *Id.* at 214–228.

41. *Id.* at 183, 269.

42. *Id.* at 269.

43. *Id.* at 266–277.

to confront and, therefore, accommodate it.⁴⁴ The authors point out that in Kentucky, participation by minority parents in particular is “disproportionately low” and that those minorities that do participate report “difficulties in making their voices heard” in engaging fruitfully in the movement.⁴⁵ The process of scrutinizing low rating schools in Texas also appears to involve only staff, not parents of color.⁴⁶

The authors’ warning against the withdrawal of homogenous groups from the larger surrounding community in the educational reform process also obfuscates the reality of white balkanization. We don’t need a “caricatural example” of a subgroup committed to “a form of comprehensive schooling that inculcates the value of blind obedience to authority distinct from the generally critical, liberal values held by the larger society” as the authors propose.⁴⁷ We already have this now. White supremacy is not liberal, and white history and culture already dominates our curriculum, standards and testing tools. The “incrementalist insurgence against the status quo” desired by the authors⁴⁸ seems more like a surreptitious resurgence of it.

Similarly misleading is the claim that the educational reform involves the transformation of systems and structures. While top-down and bottom-up restructuring is laudable, larger systemic inequalities that persist in education, as well as housing, employment, and healthcare are left unexamined. If the goals of reform are incomplete and ignore the harms of segregation and the need for integration, then the effects on the actors and institutions involved will be far from “profound.”⁴⁹

INTEGRATION AS A GOAL

In their defense of the new education reform, Liebman and Sabel attempt to strike a balance between the “deep goals of equality” and the “respect due the values [] in a liberal democracy.”⁵⁰ In so doing, they refuse to allow the state to regulate “the fine details of our association,” or to fix “which groupings in the long run encourage inclusion and which are antithetical to it.”⁵¹ Government

44. Ryan, *supra* note 36, at 2088–89.

45. Liebman & Sabel, *supra* note 1, at 259.

46. *Id.* at 246. The authors even admit that the reformers are white when they warn that they should not proceed with reform at the expense of “minorities within their midst.” *Id.* at 302. This “new democracy” envisioned by reformers does and will come at the expense of the racial “others” who remain on the sidelines of the new local movements, often trapped in under resourced “laggard” schools. *Id.* at 294.

47. *Id.* at 302.

48. *Id.* at 303.

49. *Id.*

50. *Id.* at 301.

51. *Id.* This takes us back to an old argument against *Brown* based on the association rights of whites not to have to attend school with blacks. Herbert Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 HARV. L. REV. 1, 33–34 (1959). Contrary to what the authors imply, polls indicate that we believe integrated schools are worthwhile and that blacks and whites benefit from

restraint of this sort, which is mirrored in our society in multifarious ways, reifies white supremacy and abdicates responsibility to mitigate “choice” as the primary standard by which we *will* regulate our association. In the process, little consideration is given to how private choice exercised by whites has been used to constrain the public good and deny choice to non-whites. Remedying persistent racial and economic segregation, therefore, is not about regulating fine details, but about transforming our very democracy.⁵² Not only must we talk about racism, but we must fix it. This requires that we embrace true integration as an explicit goal.⁵³

Liebman actually agrees. In an earlier article he proposes that we remedy racial segregation by categorizing education, not as a private right that desegregation efforts dislocate, but as a public good that is fit for governmental and constitutional distribution. Given the important role that education plays in our democracy and given that government already has its distributive hands on a good portion of public education, the courts, as well as the general public, should be more open to this ethical and legal shift.⁵⁴

them. See *Sad Lessons for Diversity*, MILWAUKEE J. SENTINEL, July 23, 2001, at 6A. The same poll also showed that the more schools resegregate, the more we favor integration. *Id.*

52. A number of writers over time have explored how racism in general, and segregation in particular, has distorted American democracy, allowing us to give power to some over others. See generally DAVID LEVERING LEWIS, W.E.B. DUBOIS: THE FIGHT FOR EQUALITY AND THE AMERICAN CENTURY, 1919–1963 (2001). For a description of how the arrangement of segregation between city and suburb undermines democracy, see J. ERIC OLIVER, DEMOCRACY IN SUBURBIA (2001). See also IRIS MARION YOUNG, INCLUSION IN DEMOCRACY (2002). In fact, the Supreme Court in *Grutter* went to great lengths to describe numerous justifications beyond diversity for integrated schooling. In its words, the “substantial” benefits of integration include “cross-racial understanding” that “helps to break down racial stereotypes,” enables persons “to better understand [others] of different races” and “better prepares [persons] for an increasingly diverse workforce and society.” *Grutter v. Bollinger*, 123 S. Ct. 2325, 2339–40 (citing Gary Orfield & Michael Kurlaender eds., *DIVERSITY CHALLENGED: EVIDENCE ON THE IMPACT OF AFFIRMATIVE ACTION* (2001)). The Court went on to add, “These benefits are not theoretical but real, as major American businesses have made clear that the skills needed in today’s increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.” 123 S. Ct. at 2340.

53. As Professor Liebman argues elsewhere,

[I]n our pluralistic society, treatment as an equal requires political actors to render equal respect and concern . . . to all other people . . . to generate their own equally worthy visions of the good . . . [D]eviations from the principle of equal concern fundamentally corrupt the political process . . . [R]acial segregation—in schools and in other public settings—is perhaps the most virulent form of this polity-threatening corruption.

James S. Liebman, *Desegregating Politics: “All Out” Desegregation Explained*, 90 COLUM. L. REV. 1463, 1475 (1990).

54. James S. Liebman, *Implementing Brown in the Nineties: Political Reconstruction, Liberal Recollection, and Litigatively Enforced Legislative Reform*, 76 VA. L. REV. 349, 360–64 (1990). Liebman argues,

Rather than being portrayed or vilified . . . as the redistribution of resources from ‘innocent’ whites to ‘unjustly enriched’ blacks . . . [a]n effective remedy . . . induces . . . empathy by making each person recognize the interests she potentially shares with all other persons. . . . Once advocates give up arguing that desegregation corrects imbalances in the distribution of private rights when it palpably does not, they are free

In the context of educational reform, true integration requires us to move beyond minimizing the achievement gap and beyond our current limited desegregation efforts.⁵⁵ Because segregation creates a culture of racial hierarchy and subordination, true integration requires community-wide systemic efforts to dismantle this culture and create a more inclusive educational system and a more inclusive society—a society in which all individuals and groups have equal opportunities to fashion and participate in the democratic process. True integration in our schools, then, is not assimilative but transformative. It requires different types of educational reforms that implicate everything from district restructuring to refashioning classroom dynamics.⁵⁶

True integration, however, also requires metropolitan-wide strategies that will deconcentrate poverty, integrate our neighborhoods, and equalize wealth and opportunity.⁵⁷ Instead of shrugging our shoulders at regional remedies that involve fair-share housing and tax-base sharing, we must pursue educational and housing solutions together and must aggressively articulate the need for them in our legislatures.⁵⁸ We must also develop employment, transportation and health care opportunities more equitably throughout a region. This will require strong

to point out that the rearrangement of private rights that *Brown* incidentally does effect is relatively inconsequential and clearly worth the politically reconstructive candle.

Id. Kevin Brown also advocates education as a public good in his defense of racial preferences in student assignments. Although the Supreme Court subjects all racial classifications to strict scrutiny, Brown argues that desegregation efforts should be viewed in light of their socializing function, their role in inculcating “fundamental values necessary to the transmission of our democratic society.” Kevin D. Brown, *Implications of the Equal Protection Clause for the Mandatory Integration of Public School Students*, 29 CONN. L. REV. 999, 1002–03 (1997).

55. Research suggests that in desegregated schools, while diversity is given lip service, policy decisions relating to academic achievement relies instead on a semi-essentialist understanding of race that ignores the racial inequalities in the immediate school environment and wider society. Assimilation rather than integration most often prevails. See, e.g., Amy Stuart Wells, *The “Consequences” of School Desegregation: The Mismatch Between the Research and the Rationale*, 28 HASTINGS CONST. L.Q. 771 (2001); Daina C. Chiu, *The Cultural Defense: Beyond Exclusion, Assimilation, and Guilty Liberalism*, 82 CAL. L. REV. 1053, 1125 (1994); Roslyn Arlin Mickelson, *Subverting Swann: First- and Second-Generation Segregation in the Charlotte-Mecklenburg Schools*, 38 AM. EDUC. RES. J. 215, 239 (2001).

56. Such reforms would include accountability measures, tracking, discipline policies, curricula, school environment, and extracurricular activities. See generally Amy Stuart Wells, *Reexamining Social Science Research on School Desegregation: Long- Versus Short-Term Effects*, 96 TCHRS. C. REC. 691, 691–706 (1996); Amy Stuart Wells et al., *When School Desegregation Fuels Educational Reform: Lessons from Suburban St. Louis*, 8 EDUC. POL’Y 68, 68–88 (1994); Janet Ward Schofield, *School Desegregation and Intergroup Relations: A Review of the Literature*, 17 REV. RES. EDUC. 335, 335–409 (1991); Robert L. Crain & Rita E. Mahard, *Research on School Desegregation and Achievement: How to Combine Scholarship and Policy Relevance*, 1 EDUC. EVALUATION & POL’Y ANALYSIS 5, 5–15 (1979); Gary Orfield, *How to Make Desegregation Work: The Adaptation of Schools to their Newly-Integrated Student Bodies*, 39 LAW & CONTEMP. PROBS. 314, 314–40 (1975); MARY HAYWOOD METZ, CLASSROOMS AND CORRIDORS: THE CRISIS OF AUTHORITY IN DESEGREGATED SECONDARY SCHOOLS (1978).

57. See James Traub, *What No School Can Do*, N.Y. TIMES MAG., Jan. 16, 2000, at 52.

58. See generally MYRON ORFIELD, METROPOLITICS (1997); DAVID RUSK, CITIES WITHOUT SUBURBS (2d ed. 1995).

metropolitan governing bodies. In the meantime, until we achieve integrated neighborhoods, we must reconsider retooled mandatory, metropolitan-wide desegregation plans—not simply the good will of parents and districts to stem the increasing resegregation of our schools.⁵⁹ Only then can we move beyond voluntary choice toward the transformative task of truly integrating.

Education is perhaps the most important crucible for remedying disparities, enhancing life opportunities, and promoting a genuine multiracial and multi-ethnic democracy. Although we must consider explicit reforms, we must not be distracted by them or rely upon them to “transform” our schools and our society. Any given strategy can be reconfigured to limit disturbing white privilege. If we accept that race is not genetically or biologically grounded, but is instead a social construct, then dismantling the racial hierarchy must be prized.⁶⁰ We are not just trying to make better schools for poor non-whites. We are trying to make citizens for a better nation by providing all students with a truly integrated experience.

59. Metropolitan-wide (inter-district) desegregation efforts are more successful and stable. See GARY ORFIELD & FRANKLIN MONFORT, NAT'L SCH. BOARDS ASS'N, RACIAL CHANGE AND DESEGREGATION IN LARGE SCHOOL DISTRICTS: TRENDS THROUGH THE 1986–87 SCHOOL YEAR (1988); Gary Orfield, *Metropolitan School Desegregation: Impacts on Metropolitan Society*, 80 MINN. L. REV. 825, 831 (1996) (“In fact, the most extensive desegregation plans, covering entire urbanized counties, have shown by far the highest levels of desegregation and have produced the nation’s most stable districts in their percentage of white enrollment.”). Some of the larger school districts with metropolitan school desegregation include Broward County (Ft. Lauderdale); Clark County (Las Vegas); Nashville-Davidson County, Tampa, St. Petersburg, Jacksonville (Duval County, Fla.); Orlando, (Orange County); and Palm Beach County. *Id.* at 832.

60. See generally GLENN LOURY, THE ANATOMY OF RACIAL INEQUALITY (2002).

