

EDITOR'S NOTE

Volume VII of the *African-American Law & Policy Report (ALPR)* marks the eleventh year since *ALPR* released its first edition. In many ways this is the most far-reaching issue *ALPR* has ever produced. Unlike issues past, this volume is not derived solely from a previous symposium, a joint publication with another journal, or entirely reliant on student submissions. Volume VII better typifies the reason *ALPR* exists more than any other in its history not only by virtue of its breadth, but in the manner by which the works contained herein were created, culled, and refined.

Take, for instance, our lead article by Professors Kevin Johnson and Angela Onwuachi-Willig, which responds to a *Stanford Law Review* article by Professor Richard Sander attacking affirmative action policies that are designed to enhance the admission rates of African Americans at elite law schools. As African-American law students in the eye of the affirmative-action storm ever since Proposition 209 banned its use for admissions in California, we felt a special obligation to generate an immediate retort. We mobilized a call-to-arms to elicit a forceful rebuttal of Professor Sander's assertions, which was answered with alacrity by Professors Johnson and Onwuachi-Willig.

Insofar as it is relevant in the context of discussing the importance of diversity in legal education, it bears mentioning that we are elated at the arrival of Christopher Edley, Jr., founder of the Harvard Civil Rights Project, now Dean of Boalt Hall and the first African American to become dean of a premier law school. This Editor's Note also serves as the first formal inscription of this historic event as documented by the Boalt Hall African-American community. When future generations of our students read this, they should do so with the assurance that the import of this moment was grasped fully, with even a hint of sorrow that we will not be present to witness the greatest of Dean Edley's achievements.

ALPR also proudly reproduces two speeches in essay form from our 2004 symposium, *The Role of Law & Policy: Africa, the Caribbean, and the United States*, by two of the most provocative and independent voices in American politics. Coming little more than a week after the coup d'état in Haiti, the symposium gave Congresswoman Barbara Lee and former Congresswoman Cynthia McKinney (who has since re-claimed her House seat) a forum to rail against hypocrisy in American foreign policy. Both congresswomen offer devastating critiques of the Bush Administration's flagrant disregard for the democratic process in Haiti and, in the process, illuminate a powerful rationale

for why African Americans should be thoroughly engaged in issues of foreign affairs with black nations.

One of our finest students also contributes to expanding the scope of our community's concerns by authoring a penetrating treatise on regional trade and economic development. Rachel Anderson, last year's Managing Editor, current Articles Editor with the *California Law Review*, and recipient of a Berkeley Olin Fellowship for research in Law and Economics, has penned an analysis of how Jamaica must combat the vestiges of colonial exploitation by enhancing its rule of law vis-à-vis multilateral trade agreements and liberalization. The rigor of the study along with its detailed proposals for implementing reformative procedures evinces the caliber of scholar that Boalt Hall produces—and one that we are privileged to count as an academic pillar of our student community.

Finally, our book review by Carlo Pedrioli offers a Critical Race Theory perspective of James Patterson's *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy*. In a larger sense, this review is an alarm to the modern progressive American movement. Pedrioli and Patterson agree that while case law milestones such as *Brown* have offered profound benefits, over-reliance on the judiciary is inadequate to render solutions for what are essentially social problems.

The range of subjects in Volume VII demonstrates how the *Report*, since its original conception in 1992, has matured in its ideas inversely to a shrinking world in the Age of Globalization. Slowly but surely, the African-American community is increasingly forced to deal with the repercussions of a changing international order and, therefore, a changing America. The meager gains African Americans made in the 1990s have since been reversed—leaving us, in the wake of the 2004 presidential election, with a choice between one party that largely takes us for granted and another that dresses up detrimental public policy in black-face so as to weaken whatever political cohesion we have left. As the welfare state has eroded and the paradigm of privatization has emerged ascendant, societies around the world have suffered growing inequality, which has disproportionately impacted those already anchored at the bottom. At the same time, our historic position as America's largest minority group has recently been eclipsed by Latinos coming to America in ever-increasing numbers. African Americans cannot escape or ignore the reality that—as a community with one of the most punitive rates of unemployment in the nation—dynamics of the international economy are very much within the province of our concern.

Nevertheless, even as black America has struggled through recession over the last few years, we actually increased our electoral support of a conservative administration insensitive to the core afflictions of our community. The Bush Administration argued against the affirmative action policies practiced by the University of Michigan Law School ultimately upheld by the Supreme Court. It was the first administration to refuse to meet with the NAACP since its

inception in 1909. It sought unconditional application of the death penalty in all federal cases—stripping U.S. Attorneys of their prosecutorial discretion even as the Supreme Court took mammoth strides in recognizing the repugnance with which the modern world regards capital punishment. And, incredibly, four years after being tragically disenfranchised in a mockery of American democracy, we found ourselves once again the victims of technological and administrative disparities replicating the injustices of the 2000 election. Yet, this administration still improved its standing from 9% to 11% of voting African Americans. What exactly is happening inside our community?

Which begs another pressing question: *what is our community?* Over the last ten years the number of black Africans and Caribbeans immigrating to the United States has exploded. More Africans are now coming to the United States than at any time since the Trans-Atlantic Slave Trade. Additionally, they are out-performing the native born descendants of American slaves in earned income and rates of admission to institutions of higher learning. As a result, cleavages are forming and the future of the “black community” is anything but certain. Will divisions continue to harden between native Blacks and immigrants along cultural lines? If so, does that mean that race as a defining societal mark is receding relative to ethnicity and class? If not, will we be able to identify those invaluable common denominators that could possibly reinvigorate the political purchase of the black community to levels unseen since the 1960s? Moreover, if we are successful in creating an integrated African-American/black immigrant community, will we be able to muster the political solidarity needed in a post-9/11 America that uses a law called the “Patriot Act” to scour the land for dissidents and undesirables? As a people born into American second class citizenship can we—will we—empathize with those at home and abroad who are randomly targeted because of our country’s perceived security threats as well as its national interests?

The issues germane to our community are so variegated that they can hardly be identified in an entire volume, much less an Editor’s Note. Nevertheless, this is an exciting time for *ALPR* because we are, at the very least, equal to the task of grappling with these issues in a constructive way that could, if we are vigilant, point the way toward displacing discontent with tenacious resolve. Volume VII represents a bold step for the *Report* in fully harnessing its capacity to galvanize all the elements within our community to effectuate its core mission: to push the envelope in shaping academic discourse; to thrust different perspectives into conversation with one another; and to train our own members in the rigors of scholarly writing and thinking. In years to come we will surpass what we have produced today. But, for now, we will revel in the knowledge that we have created a work of relevance far greater than the sum of its parts.

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Editor-in-Chief

