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Introduction: From Ferguson to Geneva and Back Again

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GLOBAL PERSPECTIVES ON COLORISM

INTRODUCTION: FROM FERGUSON TO GENEVA AND BACK AGAIN

LEILA NADYA SADAT*

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.

—The Rev. Dr. Martin Luther King
Lincoln Memorial, Washington, DC, August 28, 1963

For decades, social and physical scientists have asserted that “race” is a social construct rather than a biological reality. Conversely, skin color is objectively identifiable. Yet, the law has focused largely upon racial categories to remedy discrimination against individuals based upon their skin color or “racial” identification. The Fourteenth Amendment to the United States Constitution includes both race and color as separate grounds of protection,¹ a distinction picked up in U.S. civil rights legislation² and international human rights instruments including the International Covenant on Civil and Political Rights (ICCPR), but discussion of race continues to dominate the field. While some authors continue to argue that race is “real” either from a biological or sociological

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1. It provides, “the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”

2. Title VII prohibits discrimination based upon color as well as race. *See* 42 USC §§ 2000 et seq. (2001) and EEOC Compliance Manual.

perspective,³ and others continue to challenge its biological and legal salience, this debate has proven largely unsatisfactory to policy makers and others interested in understanding both the social construction of race and skin color and its impact on the lives of individuals.

This debate is not only taking place in the United States, but all over the world. As one of the authors in this Issue, William Aceves, notes, “there is growing skepticism within the human rights community about the legitimacy of using racial categories to distinguish human beings.”⁴ Aceves points to the 2009 statement of the Durban Review Conference, later echoed by the Report of the High Commission for Human Rights in 2014, stating:

That all peoples and individuals constitute one human family, rich in diversity, and that all human beings are born free and equal in dignity and rights; and strongly rejects any doctrine of racial superiority along with theories which attempt to determine the existence of so-called distinct human races.⁵

Moreover, as globalization continues apace and individuals migrate from country to country, large communities of immigrants have suffered less from discrimination based upon *race* per se but from other forms of prejudice levied against them based upon their religion, their national origin, or, as the articles in this symposium suggest, their skin color. Picking up on this global trend and frustrated with the failure of academic and public discourse—particularly in the United States—to recognize this shift of rhetoric and the continuing harm of skin tone bias either as a proxy for “racial discrimination” or as a harm in its own right, in 2014, Washington University Law Professor Kimberly Jade Norward published an edited volume entitled “*Color Matters: Skin Tone Bias and the Myth of a Post-racial America*.” The book received widespread attention immediately following its appearance, and was critically acclaimed for its emphasis on *color* and skin tone as driving bias against individuals in multiple ways. Colorism (in the United States) has been defined as “a process that privileges light-skinned people of color over dark in areas such as income,

3. See, e.g., Robin O. Andreasen, *Race. Biological Reality or Social Construct*, 67 PHIL. OF SCI. (PROCEEDINGS), S653 (2000).

4. William J. Aceves, *Two Stories about Skin Color and International Human Rights Advocacy*, 14 WASH. U. GLOBAL STUD. L. REV. 563, 564 (2015).

5. *Id.* (quoting Outcome Document of the Durban Review Conference, U.N. Doc. A/CONF.211/8 (Apr. 24, 2009)).

education, housing, and the marriage market.”⁶ As Professor Norwood observes,

[I]t is true that discrimination based on race is harder to get away with today. American society has clearly advanced in that regard. But I believe that, as race is evolving, another form of discrimination is on the rise. In other words, while it is true that more people of color—and blacks in particular—are visible in the media and in corporate America, why are these people more often light in skin tone?⁷

In her article in this Issue, as well as her 2014 book,⁸ Professor Norwood uses evidence from around the globe, as well as in the United States, to demonstrate that in most cultures, including our own, lighter is better. As she observes, “millions of people of color not only hate the skin they live in but they long to be lighter in skin color.”⁹ This leads not only to negative consequences in terms of individual self-esteem but has profound negative long-term effects. She concludes:

Black and brown people will become a majority in the United States in the next few decades. In other words, America is becoming less white. Yet, unless colorism is acknowledged, the rising black and brown majority will continue to associate power and privilege with white skin and that association will continue the color caste hierarchy currently entrenched in American society. . . . If we are not careful, a new form of slavery will rise and while it will not be based on race, it will surely *look* and *act* like race-based slavery censored long ago.¹⁰

From April 2–3, 2015, the Whitney R. Harris World Law Institute at Washington University School of Law set out to explore Professor Norwood’s hypothesis, and was proud to convene a conference on *Global*

6. Margaret Hunter, *The Persistent Problem of Colorism: Skin Tone, Status and Inequality*, 1 SOC. COMPASS 237, 237 (2007). Although Hunter’s definition is largely correct, it inappropriately includes Professor Aceves nuance—that skin tone bias may sometimes disfavor lighter skinned individuals, such as Albinos. The same comment was made during the conference regarding light-skinned Native Americans who are not treated as properly belonging to Native American communities.

7. Kimberly Jade Norwood, *Introduction*, 3 in COLOR MATTERS: SKIN TONE BIAS AND THE MYTH OF A POST RACIAL AMERICA (Kimberly Jade Norwood ed., 2014)

8. Kimberly Jade Norwood, “*If You is White, You’s Alright. . . .*” *Stories about Colorism in America*, 14 WASH. U. GLOBAL STUD. L. REV. 585 (2015).

9. Norwood, *supra* note 7, at 6.

10. *Id.* at 7.

Perspectives on Colorism, honoring Professor Norwood's path-breaking work. Believed to be the first global conference ever convened on the legal and sociological effects of color, the conference brought together speakers from all over the world—Latin America, Europe, Israel, India and the United States—as well as individuals hailing from different academic and professional disciplines. The opening keynote address was delivered by Dr. Carlos Moore, writer, ethnologist and social scientist, and was followed by five panels on “The Globalization of Skin Tone Preference,” “Shade-ism Among Blacks, Bi- and Multi-Racial Americans in the United States,” “The Effects of Color on Native Americans, Latin Americans and Immigrants of Color,” “Understanding Color Distinctions in Asia,” and “Human Rights Protections for Color under International Law.” With plenty of time for discussion and with many speakers using film or television clips to make their points, the conference demonstrated, incontrovertibly, the terrible toll that skin tone bias works not only in the United States but within sub-groups in the United States and around the world. What we could not have known when organizing the event a year earlier, is how the killing of an African-American teenager, Michael Brown, in Ferguson, Missouri on August 9, 2014, would bring these global issues to a head in a way that was up close and personal for the St. Louis community, and highlight the need for conferences like ours, as well as the need for a concrete follow up agenda.

The Articles in this symposium represent but a sampling of the discussions and presentations that occurred last April, but they are fine ones. Interestingly, other than the contribution by Professor Norwood to this Issue, they focus less on the experience of African Americans, a major focus of Professor Norwood's work and a subject addressed by several conference presenters, than on the experience of other groups in the United States and abroad. For example, the Articles by Vinay Harpalani, Kim Chanbonpin and Tanya Banks address the experience of Asian Americans from different perspectives. Professor Harpalani agrees with Professor Norwood in his Article, *To be White, Black or Brown? South Asian Americans and the Race-Color Distinction*, that “skin color is the primary physical feature associated with race. . . and has become a metaphor for race.”¹¹ He adds, however, that racial status is more complex than the notion of color; and “can involve various characteristics and perceptions,” that function as a “social and political demarcator that can yield privileges

11. Vinay Harpalani, *To Be White, Black, or Brown? South Asian Americans and the Race-Color Distinction*, 14 WASH. U. GLOBAL STUD. L. REV. 609, 612 (2015).

or disadvantages.”¹² In a fascinating account of the “color” history of South Asians in America, Harpalani notes that they were sometimes legally classified as “white” (with some consternation), relying either on skin color or Aryan ancestry; but other times found the contrary; indeed, in 1923, the United States Supreme Court itself found that a “high-caste Hindu” of full Indian blood was not “white,” holding that:

It may be true that the *blond* Scandinavian and the *brown* Hindu have a common ancestor in the dim reaches of antiquity, but the average man knows perfectly well that there are unmistakable and profound differences between them today.¹³

After some period of discrimination, they found themselves suddenly reclassified as “white” in the 1970 Census which prevented them from receiving protected minority status conferred by the civil rights legislation of the 1960s.¹⁴ This was subsequently reversed, but the ambiguity over the “racial status” and “color” of South Asian Americans continues to provoke discussion and negative behavior by candidates in American politics who have made the darker skin color of South Asian Americans a politically divisive issue in a variety of ways, including hurling epithets at them, or, ironically, attacking them either for claiming whiteness or being “colored.”

Kim Chanbonpin’s excellent Article picks up where Harpalani leaves off, demonstrating how the “dichotomy of the Black/White binary that frames race discourse in the United States” is harmful to the identities and lives of South Asian Americans, trying to fit either into the “white” or “black” category, depending upon the advantages and disadvantages conferred.¹⁵ Like Harpalani, she uses anecdotes to underline her points; particularly pithy is her discussion of television personality Bill O’Reilly’s efforts to demonstrate the absence of “white privilege” by pointing to the success of Asian Americans. As she notes,

If the lens through which race is viewed captures only Black and White, it facilitates one-way crossings over Black and White, but also renders invisible those peoples who actually lie between those two poles. . . . Neither Black nor White, racial intermediary groups

12. *Id.* at 615.

13. *U.S. v. Bhagat Singh Thind*, 261 U.S. 204, 209 (1923) (emphasis added).

14. Harpalani, *supra* note 11, at 621.

15. Kim D. Chanbonpin, *Between Black and White: The Coloring of Asian Americans*, 14 WASH. U. GLOBAL STUD. L. REV. 637, 638 (2015).

like Asian Americans and Latinos lack both visibility (and thus political power) as well as the legal language to articulate valid discrimination claims.¹⁶

She argues that the long-term viability of the “Black/White binary,” is doubtful, and that a new “and more complex racial hierarchy based on gradations of color will take its place,” pointing to Latin America as the example.¹⁷ She also refutes the notion of the “Model Minority” as rebutting the notion of white privilege and racism stopping individuals from achieving the American Dream.

Finally, Taunya Banks also addresses the problem of colorism with respect to South Asians in the United States, focusing¹⁸ specifically on employment discrimination cases brought by South Asians, especially Asian Indians. She notes that although colorism in the South Asian community doesn’t necessarily “negate or disenfranchise those who are dark,” or “automatically correlate to caste,” the increased popularity of skin lighteners in Asian communities is a worrisome trend.¹⁹ She examines some of the Title VII case law applicable to South Asians and notes the dismissal of cases on colorism grounds, or the complete absence of discrimination claims tied to color as opposed to race in others. Although color surfaces in describing the individuals involved, it is typically not treated as justiciable by the courts (because it is subsumed into race). She concludes that even if courts recognize colorism claims, “successful claims will be rare and success is difficult to attain, especially for South Asians.”²⁰

Three Articles in this Issue address the phenomena of colorism around the world: In Latin America, Japan and India. Tanya Hernández’s short Article on Latin America dovetails with Kim Chanbonpin’s, noting that it is an extraordinarily diverse land, with more than 150 million persons of African descent, but which has been surprisingly “racially innocent” in denying that color (and race) are salient features of the Latin American political and economic landscape. Brazil and other Latin American countries actively promoted immigration of white Europeans in the 19th

16. *Id.* at 653.

17. *Id.* at 654.

18. Taunya Lovell Banks, *Colorism Among South Asians: Title VII and Skin Tone Discrimination*, 14 WASH. U. GLOBAL STUD. L. REV. 665, 669 (2015).

19. *Id.* at 673.

20. *Id.* at 680.

Century to “whiten” their populations; making them “just as involved in regulating race as was that of the U.S. during Jim Crow segregation.”²¹

In a fascinating exploration of race, color and immigrant status in Japan, Debito Arudou focuses on the notion of “visible minority” for unpacking questions of color and race in that country. Arudou notes that his research is not intended to show that the Japanese are “racist;” instead, it

intends to outline the contours of the conscious and unconscious rules of interaction, and the tacit, “embedded” understandings within Japanese society that lead to differentiated, “othering, and subordinated treatment of peoples by physical appearance.”²²

Like Hernández, Arudou notes the general blindness in research and public discourse about the effect of race and color in Japan, beginning with its treatment and discourse about “mixed-blood children” and other visible minorities. He combines racial and skin tone biases by his use of the term, “visible minority,” a term used primarily as a demographic category by Statistics Canada in connection with Canada’s Employment Equity Act. It defines visible minorities as “persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour.”²³ This term is helpful in focusing upon the biases generated using either race or color as the “othering” characteristic; even within Canada, however, it is not free from controversy, as some prefer to be identified as a person of color, black, Chinese, or some other defining term.²⁴ Nonetheless, Arudou’s use of the term in the Japanese context is potentially useful, particularly in his discussion of “mixed race” children and “invisible minorities,” (as he calls them) which include individuals physically able to “pass” as Japanese but stigmatized if their otherness was discovered.²⁵ Using critical race methodology, he concludes that in Japan, like the other

21. Tanya Katerí Hernández, *Colorism and the Law in Latin America—Global Perspectives on Colorism Conference Remarks*, 14 WASH. U. GLOBAL STUD. L. REV. 683, 693 (2015).

22. Debito Arudou, *Japan’s Under-Researched Visible Minorities: Applying Critical Race Theory to Racialization Dynamics in a Non-White Society*, 14 WASH. U. GLOBAL STUD. L. REV. 695, 700 (2015).

23. See www.statcan.gc.ca/concepts/definitions/minorite1-eng.htm (last visited Feb. 4, 2016) (cited in Arudou, *supra* note 22, at 701).

24. See, e.g., Equity and Inclusion Lens: Diversity Snapshot: Visible Minorities 3 (Ottawa: A City for Everyone 2010), available at http://documents.ottawa.ca/sites/documents.ottawa.ca/files/documents/visible_minorities_2010_en.pdf (last visited Feb. 5, 2016).

25. Arudou, *supra* note 22, at 704.

countries surveyed here and in the conference at large, “colorism exists” despite the contrary claims of officials and even scholars.²⁶

Finally, Neha Mishra, explores the complex history of skin tone and bias in India. While noting that dark skin did not suggest inferiority in Ancient India, pointing to examples of dark-skinned and powerful deities like Krishna and Ram, that dramatically changed with the colonization of India by the British. The British made skin tone a racial issue, referring to themselves as “superior” and “intelligent” and to “inferior” and “black coloured” Indians who were not admitted to restaurants, educational institutions and other important venues.²⁷ This has led to a situation where in modern India, beauty ideals glorify lighter skinned models—male and female and the extensive use of “fairness products” (skin lighteners).²⁸ She notes that caste and regional differences may also influence social status and position, but her empirical study of 100 students (with a mean age of 22) was stunning: it was clear that they clearly saw fair people as “more acceptable in general,” which was particularly true for women.²⁹

Given that skin color is the basis of prejudice in societies around the globe, it is unsurprising that discrimination based upon skin color is prohibited by international human rights law. What was perhaps more surprising at the conference, however, was that none of the papers—other than those penned by international human rights lawyers—and virtually none of the panelists—other than the international human rights lawyers—made either written or oral references to the international instruments and institutions charged with remedying this state of affairs.³⁰ Stephanie Farrow’s excellent Article, “*Color*” in the *Non-discrimination provisions of the Universal Declaration of Human Rights and the Two Covenants*,³¹ points out that discrimination based upon color was explicitly included in the Universal Declaration of Human Rights (UDHR) in 1948,³² and

26. *Id.* at 723.

27. Neha Mishra, *India and Colorism: The Finer Nuances*, 14 WASH. U. GLOBAL STUD. L. REV. 725, 731 (2015).

28. *Id.* at 733.

29. *Id.*

30. This observation surfaced during the discussions. Participants pointed to both a lack of familiarity with human rights law, and frustration with its weak enforcement.

31. Stephanie Farrow, “*Color*” in the *Non-discrimination Provisions of the Universal Declaration of Human Rights and the Two Covenants*, 14 WASH. U. GLOBAL STUD. L. REV. 741 (2015).

32. Universal Declaration of Human Rights, G.A. Res. 217, UN GAOR, 3d Sess., U.N. Doc. A/810 (1948), art. 2 [hereinafter UDHR].

thereupon included in the two Covenants³³ emanating from the UDHR as well as in the newer Convention on the Elimination of All Forms of Racial Discrimination in 1969.³⁴ Professor Farrior notes that although the UN Charter itself refers to race, but not color, both words were used, often interchangeably, during the drafting of the instrument, even though in the early period of its negotiation, “only one colored group participated, the Chinese, and the equality and basic problems of Negroes and colonial colored people were not on the agenda.”³⁵ As the negotiations continued, the promotion of human rights and the principle of non-discrimination became a “cornerstone” of the Charter, running like a “golden thread” through it.³⁶

The debates regarding the inclusion of anti-discrimination provisions on both color and race in the human rights instruments echo the contributions of the authors in this Issue focusing on the phenomena of bias based upon color and race in national systems. Some argued that “color” was subsumed in “race,” others argued for the separate inclusion of “color” in the human rights instruments, even though the UN Charter did not include it. Ultimately, the discussion continued as the draft wound its way through various stages and when finally presented to the Third Committee of the General Assembly and as adopted, it included both “‘race’ and ‘color’ as distinct categories.”³⁷

The fascinating drafting history of the UDHR and subsequent treaties including non-discrimination provisions outlined by Farrior illuminates several interesting points. First, that inclusion of color at the outset was deliberate and heavily negotiated; second, that its inclusion in article 2 of the UDHR meant that subsequent provisions of the UDHR or other treaty instruments had either to refer to “race” and “color” or risk the conclusion that “color” was somehow excluded, or subsumed into discrimination based upon “race,” and finally, occasionally some provisions did slip

33. International Covenant on Civil and Political Rights, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171, art. 4 (entered into force June 26, 1987) [hereinafter ICCPR]; International Covenant on Economic, Social and Cultural Rights, opened for signature Dec. 16, 1966, 993 U.N.T.S. 3 (entered into force on Jan. 3, 1976) [hereinafter ICESCR].

34. International Convention on the Elimination of All Forms of Racial Discrimination, Article 1(1), opened for signature Dec. 21, 1965 (entered into force Jan. 4, 1969) [hereinafter CERD].

35. Farrior, *supra* note 31, at 744 (citing Ernest Johnson, *A Voice at the Peace Table?*, THE CRISIS 345 (Nov. 1944), cited in Paul Gordon Lauren, *First Principles of Racial Equality: History and the Politics and Diplomacy of Human Rights Provisions in the United Nations Charter*, 5 HUM. RTS. Q. 1, 12 (1983)).

36. *Id.* at 745 (referring to a statement of John Humphrey, the Director of the Human Rights Division of the UN Secretariat).

37. *Id.* at 751 n.71.

through referring to “race” but not “color”, such as article 16 of the UDHR which guarantees men and women the right to marry and found a family “without any limitation due to race, nationality or religion.” According to Fariior, the Third Committee and the General Assembly approved this language upon the basis that “racial” discrimination includes “color-based” discrimination.³⁸ This tendency to cite “race” and “color” as separate grounds for discrimination but to, in practice, treat color-based discrimination as subsumed into assessments of racial discrimination continued in the elaboration of other human rights instruments and in the practice of the treaty bodies established to monitor compliance of states with their human rights obligations. According to Fariior,

A review of the reports of the treaty bodies . . . does not reveal *any* instances when these bodies have singled out “color” as distinct from race or ethnicity as a basis of the discrimination about which they have expressed concern. Instead, the treaty bodies either refer just to “race” or group “color” in with race and ethnic origin.³⁹

At the same time, however, Fariior notes that advocates can use the treaty bodies to “raise awareness” of colorism and “draw attention of human rights violations based on colorism.” This is particularly true of the Committee on the Elimination of Racial Discrimination, which has several mechanisms to monitor situations involving discrimination based upon race or color: reporting, an early-warning procedure, the examination of inter-state complaints, and the examination of individual complaints⁴⁰ Because the human rights bodies are global in nature, and have been operating for decades, they have now a relatively extensive jurisprudence on discrimination and what States must do to remedy discrimination that is arguably more neutral and better developed than the law in many national legal systems.

Picking up on many of the themes emerging from the other Articles in this Issue, William Aceves notes that even though race and color are often used interchangeably, it is “important to treat color as a distinct category,”

38. *Id.* at 759.

39. *Id.* Professor Fariior was not referring presumably to the CERD Committee which has focused on color to a much greater degree than the other human rights treaty bodies according to the presentation given by Professor Carlos Vasquez, who spoke at the Conference, and was elected to the UN Committee on the Elimination of Racial Discrimination.

40. See Committee on the Elimination of Racial Discrimination, *available at* <http://www2.ohchr.org/english/bodies/cerd/> (last visited Feb. 10, 2014). See also Theodor Meron, *The Meaning and Reach of the International Convention on the Elimination of all Forms of Racial Discrimination*, 79 AM. J. INT’L L. 283 (1985).

particularly “in light of growing concerns about the legitimacy of racial categories.”⁴¹ His article fittingly concludes with two important narratives which bring us full circle: One, the killing of Michael Brown by police officers in Ferguson Missouri, and his family’s question to use international human rights treaty bodies to put their claims for justice to a global audience;⁴² second, the brutal killing of Gasper Elikana, an albino, in Tanzania. Aceves’ Article notes the terrible discrimination that persons with albinism face, based upon their lighter skin color, and the efforts of human rights treaty bodies and activists to address them. He concludes that the “stories of Michael Brown and Gasper Elikana share much in common . . . reveal[ing] the continuing significance of skin color as a defining characteristic of human beings.”⁴³ Both young people were allegedly killed based upon the color of their skin, although the facts in the Michael Brown case are disputed. Both suffered a lack of redress, and a lack of accountability and sense of impunity arguably emboldened those who killed them. While there may be a factual debate about the killing of Michael Brown, it is beyond doubt, as numerous human rights bodies have now found, that disproportionate numbers of young African-Americans die in encounters with police in the United States, or find themselves incarcerated or on death row in disproportionate numbers.⁴⁴

These nine articles, and the Conference at which the papers were first presented, represent but a fraction of all the stories that could be told and the scholarship that might be authored regarding the phenomenon of colorism. But they represent an important contribution to our understanding of the problem of skin tone bias and discrimination based upon color. They show that color has often been used as a proxy for race and that lawyers and judges—and even members of “racial” groups—are loath to abandon the notion of “race” entirely in favor of discrimination based claims based upon “color,” even while admitting that race is not a biologically defensible notion. In part this is due to the nature of law—it looks backwards, building upon precedent, and can be slow to adapt to changing social realities and understandings. It is also true that disadvantaged groups that have fought hard to win small gains based upon

41. Aceves, *supra* note 4, at 564.

42. See Douglas Pivnichny, *Ferguson and Geneva: Bringing Human Rights Treaties to the Heartland, Lex Lata, Lex Ferenda*, available at <http://law.wustl.edu/harris/lexlata/?p=298> (last visited Feb. 9, 2016).

43. *Id.* at 23.

44. *Id.* at 8 (citing the Report of the High Commissioner for Human Rights, Prince Zeid ra’ad Al Hussein).

remedying racial discrimination are understandably worried that if the terrain shifts from “race” to “color”, those gains could evaporate. Thus race, color, and ethnicity remain legally salient categories in assessing and remedying discrimination because they are *subjectively* even if not *objectively* real, causing specific social harms to concrete groups of human beings. The albinism story is a caution, as well, that although in most places, for historical reasons, lighter skin is seen as more socially advantageous, individuals who are different than the majority around them for any reason, even their lighter skin, may suffer terrible discrimination and prejudice. Arudou’s exploration of the experience of mixed-race children in Japan is an important counter-narrative as well.

This brings me to the quote with which I began this *Introduction*. Although we can dream that color will become irrelevant and character will be the criteria we use to judge our fellow human beings, developing legal doctrines and social policies to advance this goal is a real challenge. Several positive themes emerge, however, from the Articles in this collection. First, research on, education about and acknowledgment of the problem is clearly a critical first step in its solution. The Articles on Japan and Latin America suggest that many countries are simply blind to the treatment of minorities in their midst. Second, it is clear that this is a global problem, existing on every continent, and often exacerbated by colonialization and migration. At the same time, it is also clear that differences exist in how colorism manifests in different countries, making a one-size-fit-all solution impracticable (and probably ineffective). Third, accountability under the law and enforcement of non-discrimination provisions is critically important to combat impunity for racial and color discrimination. It is not sufficient to have weak laws and provide for private enforcement; as international human rights law requires, States should be required to remedy structural inequalities as part of their treaty obligations. Substantive equality needs to become a positive goal, not just non-discrimination. Finally, it is clear that conversations about race and color can become fraught with tension, leading to negative as opposed to positive dialogue and interactions. For the most part, that was not the case with our Conference, but deep tensions sometimes emerged in the discussions that were held, and can be found in even the most cursory review of the literature. Developing a common vocabulary and shared understanding across borders and within States will be critically important for education to take root and accountability mechanisms to become effective. It was a great honor for the Whitney R. Harris World Law Institute to organize and host this important conference; it is my hope that

this conference and this *Symposium Issue* can contribute in some small way towards the resolution of this pressing global problem.