



Zaidi, A. S. (2024/2025). Kalief Browder and the eclipse of the public good. *Workplace: A Journal for Academic Labor*, 35, 16-19.

KALIEF BROWDER AND THE ECLIPSE OF THE PUBLIC GOOD¹

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In June 2015, Kalief Browder, a twenty-two year old Bronx Community College (BCC) student, hung himself in the home of his adoptive mother. His suicide became national news. Arrested five years earlier at age sixteen for allegedly having stolen a backpack, Kalief had been unable to afford a \$3,000 bond. Therefore, he had to spend three years at Riker's Island, two of which were spent in solitary confinement.

Kalief declined plea bargains that would have required him to plead guilty to a crime that, such as it was, he most likely did not commit given his accuser's inconsistent testimony. Unable to prove his guilt, prosecutors repeatedly postponed Kalief's trial. During captivity, Kalief was beaten repeatedly by both gang members and corrections officers, which actions were recorded on prison security footage. Kalief twice attempted suicide in prison.

By his own account, Kalief had no mental health problems prior to incarceration. He would still be alive had New York, at the time of his arrest, not been one of only two states to try sixteen-year-old criminal offenders as adults. The headline of a story in *New York Magazine* sums up our collective failure: "How All New Yorkers Killed Kalief Browder".

In January 2015, several months before Kalief hung himself, New York City banned solitary confinement for prisoners under the age of twenty-one in city jails where, in 2022 alone, nineteen prisoners died in custody. In May 2015, weeks before his death, Kalief wrote a research paper for a BCC English class on the history of solitary confinement in the United States. After Kalief's death, his professor shared the paper online, an epitaph to a life cut short.

In death, Kalief grew in stature, accomplishing what he could not in life. Two weeks after his suicide, Supreme Court Justice Andrew Kennedy cited his case to condemn the overuse of solitary confinement. A year later, President Obama, during his final year in office, banned solitary confinement for juvenile offenders in federal prisons. In 2019, thanks in part to public awareness of Kalief's suicide, New York State banned the prosecution of anyone under the age of eighteen as an adult. And in December 2023, the New York City Council, over the opposition of the mayor and the Corrections Department, voted by a veto-proof 39-7 margin to ban the use of solitary confinement in city jails.

When I heard the news of Browder's death in 2015, I recalled what I witnessed during my final semester at BCC. In February 2007, the Curriculum Committee, on which I served, considered the elimination of Sociology 38. This course, titled "Social Advocacy," taught paralegal students how to advocate for invalids, the poor, the homeless, and the elderly, and to help them navigate the regulatory labyrinth of social services in New York City. Every other course in the paralegal studies curriculum did little more than train students to clerk for private law firms.

During the discussion on the proposed elimination, I pointed out to my fellow committee members that Sociology 38 was the only course that prepared our paralegal students to act in the public interest. Such a course, I argued, was needed at a community college where many students were homeless or were undocumented immigrants. I observed that the Bronx was the poorest county in New York State and plagued by endemic crime and corruption.

I might have mentioned that one in three adults in the Bronx suffer from diabetes, or that the borough's HIV infection was skyrocketing. I might have remarked that one-sixth of Bronx's children are afflicted with asthma, the highest

¹ This essay first appeared in the Summer 2024 issue of *Lumpen* (UK).

incidence in the United States, or that the Bronx's asthma death rate is more than three times than the rest of New York State due to the air pollution generated by the power plants, waste transfer stations, and transportation hubs that are concentrated in the Bronx.² And I might also have noted that New York State had increased prison expenditures by 76% and decreased public university spending by 29% during the preceding decade.³

However, no one appeared interested in what I had to say, so instead of belaboring the matter, I asked my fellow committee members why Sociology 38 was being cut. Thereupon I learned that the course had not been taught in five years. This baffled me, since Sociology 38 was required for BCC's two hundred and thirty four paralegal majors. That alone would guarantee full enrollment in the course. After further questioning, I discovered that paralegal majors were being allowed to substitute "Introduction to Sociology" for "Social Advocacy." That the substitute course had no practical bearing on social advocacy, or for that matter, on paralegal studies, seemed not to trouble my colleagues.

It turned out that the college administration would not hire anyone to teach Sociology 38, thereby terminating the course in all but name. Nonetheless, I pleaded with my colleagues to preserve the course. The proposal to eliminate the course came to a vote in March. I arrived early to that meeting and listened for several minutes to two professors having a conversation about Britney Spears having shaved her head. Before voting, we were asked if anyone had anything more to say. No one did. The motion passed 20-1. As we left the meeting, I expressed my dismay to an assistant professor of political science, knowing that he had to have voted in favor of the motion. He replied, "This is not a room full of people guided by reason." I wondered what had guided him to vote as he did.

Shortly afterwards, I received an invitation to the Bronx Community College Foundation 50th Anniversary Gala which was held the Garden Terrace Room of the New York Botanical Garden on April 26, 2007. The master of ceremonies was Serafin Mariel, the founder of the New York National Bank which in December 2005 had been fined by the US Department of the Treasury for non-compliance with consent orders and for violations of the law.⁴ Tickets for the gala ranged from \$500 to \$2,500. A presidential table sponsorship could be had for \$25,000. The invitation listed the members of the BCC Foundation Board of Directors, who included, besides senior BCC administrators, corporate executives such as Howard Stein of Rite Check Financial Services, a cash-checking company whose payday loan services thrive amidst the poverty of the South Bronx.

The stage to what I witnessed at BCC had been set years earlier. In 1991, CUNY students were hit with a triple whammy: a \$92 million reduction in CUNY's budget, a \$400 per student reduction in Tuition Assistance Program grants, and a \$700 tuition increase. Having petitioned their public officials and having exhausted all possibilities to seek remedies from their legislators, students took over buildings at BCC and throughout CUNY.

On April 8, 1991, representatives from a dozen unions met at the New School to pledge their support for the protesters. Two days later, the Representative Assembly of the Newspaper Guild of New York unanimously passed a resolution in support of the student protests against tuition hikes and budget cuts. The resolution called for the News Guild to collect petitions, food, and funds on behalf of the protesters and requested that Mayor David Dinkins, the New York City Police Commissioner, and CUNY officials refrain from using the police against the peaceful student protests.

Two days later, Ramsey Clark, the former US Attorney General, issued an appeal to state and CUNY officials that concluded: "These students are fighting for their future and the future of the generations to follow. Without education, they have no future. Talk to them. Listen to them." However, the CUNY administration would not listen. Any hope that Roscoe C. Brown, Jr., BCC's first African American president, might forego using force against the students soon dissipated. On April 23, Brown obtained a preliminary injunction – that is to say, before a judge could hear the merits of the case – from the New York State Supreme Court that ordered the BCC student protesters to "[c]ease and desist from occupying, congregating or assembling within any building, office, unit, entrance or exit" at BCC and to end the occupation of buildings by April 24.

Meanwhile, the CUNY-wide protests continued to gather momentum. On April 18, a caravan of fifty Bailey Cab taxis

² "Asthma in the Bronx." St. Barnabas Hospital Bronx. 30 August 2016. <https://www.sbhny.org/blog/asthma-in-the-bronx/>

³ Gangi, Robert, Vincent Schiraldi, and Jason Ziedenberg. *New York State of Mind?: Higher Education vs. Prison Funding in the Empire State, 1988-1998*. Justice Policy Institute, 1999.

⁴ "Stipulation and Consent Order." #2005-187. Office of the Controller of the Currency, Department of the Treasury. <https://occ.gov/static/enforcement-actions/ea2005-187.pdf>

brought student protesters to BCC free of charge in solidarity with their struggle.⁵ In the early morning hours of April 26, police officers massed at Yankee Stadium and proceeded to storm Colston Hall, arresting nineteen students without resistance.⁶ Many students felt betrayed by David Dinkins, New York City's first African American mayor, and by Democratic governor Mario Cuomo. Disenchantment with the Democratic Party doomed Dinkins' quest for a second term in 1993, as well as Cuomo's campaign for a fourth term in 1994. However, under the administration of the new Republican mayor, Rudy Giuliani, and the new Republican governor, George Pataki, the defunding of CUNY only intensified.

I began teaching as full-time lecturer in Spanish at BCC in January 1999. I had been at the college less than a month when I learned of the death a newly enrolled BCC student who intended to major in computer science. Amadou Diallo, an undocumented immigrant from Guinea who worked as a street vendor, had been killed by four New York City plainclothes police officers belonging to the notorious Street Crime Unit. Amadou ran into the vestibule of his apartment building when the officers confronted him. Although Amadou was unarmed, the police officers fired forty one shots at him, nineteen of which hit their mark.

The venue of the trial was moved from the Bronx to Albany where the police officers were acquitted of unpremeditated murder, including Kenneth Boss, who had shot another unarmed African American man two years prior to the shooting of Diallo. In 2016, the New York City Police Department's Sergeant Benevolent Association gave Boss its Sergeant of the Year Award.⁷ With the proceeds of a \$3 million dollar settlement with New York City, Amadou's mother, Kadiatou Diallo created a scholarship foundation in her son's name with the funds to be divided equally between BCC and the Borough of Manhattan Community College. Kadiatou related that Amadou's last words to her, left on her voicemail, were: "Mom, I'm going to college." The foundation now owns the trademark to that phrase. There is, apparently, no limit to what one can monetize in the United States of America.

It was not long before I realized that BCC was a dysfunctional institution that did little to mitigate the societal harm done to its students. In June 2000, the New York City Controller released an audit of the BCC Auxiliary Enterprise Corporation, which receives revenue from the college bookstore, cafeteria, parking permits, and investments. The audit noted that the Auxiliary had made 317 expenditures during the 1999 fiscal year, of which 131 lacked the required documentation indicating their college-related purpose; 32 more lacked invoices or receipts, while 43 others were not properly authorized. Moreover, the audit took issue with the fact that Auxiliary had lavished tens of thousands of dollars on business meetings, dinners and dances, membership dues, the President's holiday party, theater tickets, as well as on items that should have been reimbursed from other sources.⁸ The audit also determined that the Auxiliary had failed to properly supervise employees who failed to match the number of issued parking permits with the collected fees.⁹

During my eight and a half years at BCC, the administration of President Carolyn Grubbs Williams imposed austerity on the college. In 2001, the administration closed the library on weekends for nearly a year, thereby inconveniencing the many BCC students who work in the daytime and take classes at night. The administration eventually reversed course, but its short-sighted fiscal practices persisted. In the middle of the spring 2002 semester, the administration froze the Modern Languages Department budget, which consisted of a bare two thousand dollars for supplies, mailing, and all other needs, for the entire academic year. It came as a surprise, then, that at a meeting of the BCC Faculty Senate, where I was serving in fall 2002, a college administrator announced that BCC had achieved a million dollar surplus that year.

Injustice is expensive. It cost New York State more than half a million dollars a year to incarcerate Kalief at Riker's and it cost New York City 3.3 million dollars to reach a settlement with his family. And yet New York State continues to undermine its social foundations in ways that are neither cost-effective nor understandable beyond the logic of

⁵ McKeon, Courtney T. "Cabbies Show Support for CUNY Protesters." *BCC Communicator*. 2 May 1991: 5.

⁶ "Cops Take Colston Hall, Arresting 19 Students." *BCC Communicator*. 2 May 1991: 1.

⁷ Solis, Jorge. "Who Was Amadou Diallo and Why Is The Story of His Death Still Relevant?" *Newsweek*. 18 June 2020.

⁸ Audit Report on the Bronx Community College's Auxiliary Enterprise Corporation. Bureau of Management Audit, Office of the Comptroller, City of New York, June 28, 2000.

⁹ Wilson, Greg. "City Audit Hits College Agency for Cash Waste." *Daily News*. 2 August 2000.

capitalist imperatives. New York City has delayed plans to close Riker's by 2027 because it has yet to build other jails to house its prisoners.

The BCC campus hosts the Hall of Fame for Great Americans, which was created in 1901, and which is the very first of its kind. In 2017, after a resurgence of white supremacist violence following the election of President Donald Trump, the statues of Confederate generals Robert E. Lee and Stonewall Jackson were removed from the Hall of Fame. BCC security handcuffed free-lance journalist J. B. Nicholas when he tried to interview students about the statue removal and charged him with trespassing. The charges were dismissed.¹⁰ Nevertheless, it remained clear that the privatization of public space would be lasting.

Also in 2017, on what would have been Kalief's twenty-fourth birthday, public officials, accompanied by Kalief's family and friends, unveiled "Kalief Browder Way" on the corner of Prospect Avenue and East 181st Street in the Bronx. Notwithstanding, New York remains the most segregated state for African American students as well as the state with the greatest income inequality. A more fitting tribute to Kalief and Amadou than the renaming of a street corner or a statue in the Hall of Fame would be for New Yorkers to restore justice and to reclaim the common good.

¹⁰ Zahn, Max. "This is Unprecedented': Public Colleges Limiting Journalist Access." *Columbia Journalism Review*. 13 December 2017.