SCHOOL DESEGREGATION

A Sociologist's View

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THERE IS A TOUGH QUESTION in the sociology of law facing the nation. It is: To what extent is the inferior education of Negroes due to a failure to enforce the fourteenth amendment, which requires that the states must treat all its citizens equally and without discrimination? There may be more felicitous phrasings of the problem, but this puts it bluntly.

It is easier to get a clear answer to the question for the past than it is for the present: Until sometime in the 1930s, the Southern states (where most Negroes then lived) made no effort to provide an equal education for Negroes. In fact, in many parts of the South the states made no effort to provide any education for Negroes until about 1920 (what there was was largely paid for by the Negro parents directly and by Northern philanthropists). The federal courts completely ignored the Constitution as it affected the Negro in education—as they ignored the Negroes' rights to vote, to have a fair trial, to have freedom of speech and in every other way. Lawmen do not like to look back on this period of the U.S. Supreme Court's history because there was a gross, overt, and undeniable separation between what the Constitution said and what

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AUTHOR'S NOTE: *This is not a review in the usual sense of that term since it makes no effort to criticize the studies for their design, their methodology, or their presentation. It accepts their conclusions at face value, and seeks to show their implications for the sociology of law as it relates to the issue of school segregation and school desegregation in the United States.*

the Court said. But gradually even the conservative Court of the 1920s and early 1930s became more concerned about upholding some semblance of constitutionality, and it began to demand—in court cases brought by the NAACP in behalf of Negro pupils—that the states provide some semblance of material equality in the schools. Still, as late as 1950, the state of Mississippi was publishing figures showing that it contributed six times as much per year to each white pupil as to each Negro pupil.

By that time, the U.S. Supreme Court had had an awakening as to the legal, moral, and international implications of racial discrimination, as first evidenced in the landmark decision in *Smith v. Allwright* (1944), in which the unanimous Court finally said what the fifteenth amendment said: No state may prevent any of its adult citizens from voting without due process of law. Shortly afterward, in a series of cases affecting higher education, the Court said (*Sweatt v. Painter,* 1950; *Sipuel v. Oklahoma,* 1950) that the equality of education must be psychological as well as material as far as the states are concerned. This led the way to the decision in *Brown v. Board of Education of Topeka* (1954) which finally declared that all state action which distinguished among, and requested separation of, its school pupils according to race was unequal in practice and intent, and hence contrary to the fourteenth amendment. The Court was now back, in 1954, to the Constitution, although we shall see later that it had not fully solved the legal problems.

It there ever had been a doubt—except as a false rationalization for a real opposition—that a United States Supreme Court decision can change social behavior and social institutions, the implementation undertaken by the federal courts of the *Brown v. Board of Education* decision of 1954, should have dispelled it quickly. Throughout the Southern and Border states, where until 1954 the schools were segregated by state law, desegregation is going on apace. The miracle is not only 15% of the Negro children by 1966 were attending desegregated schools, but that practically every school district, even in the deep southern states of Mississippi and Alabama, had set up some facility for desegregation, even if only token desegregation. The old caste system of the South is too deeply set in the entire social structure of the region to permit its abolition in ten years, but is sharply cracked whenever *any* whites and Negroes get together in a social situation of equality. Even a few token exceptions change the nature of a caste system, because caste by its very nature does not tolerate exceptions. Many of the Border states and states

of the Upper South have gone a long way toward real desegregation of the school, given the residential concentrations of the two races and the continuing insistence on maintaining the neighborhood basis of schools, and the Deep Southern states now have token desegregation in the majority of their school districts. This will open up some better educational opportunities for some Negro children: The studies under consideration show that Negro educational performance keeps up to the white average only when the Negro children are placed in desegregated schools along with a white majority; most efforts to improve the quality of segregated education (South or North) have left the Negro children behind the white children in educational performance. Desegregation will also have a profound long-run effect in breaking down the caste system. For the first time in some 150 years, some Negroes and some whites in the South are able to talk to each other as equals.

The Civil Rights Act of 1964 gave strong congressional support to the Court action of 1954. It gave the U.S. Office of Education the power, and the obligation, to withhold federal funds for education from any school district which refused to comply with district court orders to desegregate (and it permitted the Office to set up standards for rapid desegregation on its own). The federal courts of the South have often taken heart from this congressional backing by stepping up the required pace of desegregation. Whereas earlier the cue had come from the first word of the Supreme Court's formula of 1955, "deliberate speed," by 1965, Judge J. Minor Wisdom, of the U.S. Court of Appeals for the Fifth Circuit, on June 30, 1965, at Jackson, Mississippi, said: "The time has come for foot-dragging public school boards to move with celerity toward desegregation . . . The rule has become: The later the start, the shorter the time allowed for transition."

Judge Wisdom's remark incidentally points up a dilemma for district and circuit court judges in the South: They have been put in a position of *administering a rule* which they have found, following their highest authority, to be *unconstitutional.* That is, segregation is legally recognized since 1954 as unconstitutional, but the U.S. Supreme Court has allowed it to be abolished gradually, with a deliberate speed depending on "local circumstances," as judged by federal district judges. These judges now have to determine, from time to time, what local circumstances will tolerate, and in effect to administer a role of gradual desegregation. Courts are not well equipped to ascertain local circumstances

or to administer a vague rule; this has been a problem for many well-intentioned courts.

The community cases of school desegregation analyzed for the U.S. Office of Education, the National Opinion Research Center, and the U.S. Commission on Civil Rights are not the first ones to be reported in literature. Some years ago, before the *Brown* decision took effect, Robin Williams and M. W. Ryan,[1] described and analyzed some significant changes toward school desegregation, and there have been a number of other privately sponsored case studies of school desegregation which the present authors overlook. Particularly to be noted are a series of case reports published by the Anti-Defamation League in cooperation with the Society for the Study of Social Problems during the late 1950s and the early 1960s. All these analyzed how some degree or another of school desegregation came to be achieved in cities and towns and counties throughout the United States. Each community is somewhat different, and the forces, strategic factors, amount of struggle, and specific outcomes differ from community to community. The cases are interesting in themselves, although they would not bear repeating in a review article, and some of the broad patterns of generalization from their analysis are presented on later pages.

At this point, we need merely note that the cases call attention to the fact that the Southern school desegregation effort has concentrated on getting rid of de jure segregation, while the Northern one is said to have concentrated on getting rid of, or around, de facto segregation. The Southern history has been more clean-cut. For some eight years after the U.S. Supreme Court's implementing decision of 1955, most of the Southern states twisted around legally to find a constitutional substitute for their now-outlawed segregation statutes. (The Border states complied quickly with the desegregation rule.) By 1963, all the legal gyrations had been tested in the federal courts and had been thrown out, and the Southern states finally accepted the principle that there was no statute which would segregate the races and satisfy the courts. Since then, it has been a matter of local political pulling and hauling, pressures and counterpressures. The district courts, the U.S. Office of Education, and the civil rights organizations of various kinds push for desegregation. The local white groups resist, and they sometimes include the school administration officials. Some local leader, usually white but sometimes

1. R. WILLIAMS & M. RYAN, SCHOOLS IN TRANSITION (1955).

Negro, serves as a catalyst to effect a compromise, and some degree of desegregation takes place. The pressure on the Southern states has been unrelenting and it looks as though de jure school segregation there is on its way out. As we said, local variations are considerable, but the case reports of communities before us all give this same general picture.

The law seems to be much more obscure as it applies to the North, and therefore the pattern of change is less clear-cut, and progress toward desegregation has been less remarkable. I submit that the obscurity in the law, as it applies to the Northern school situation, rests very largely on misuse and misunderstanding of the terms de jure and de facto. The *Brown* decision said that state action could not be used to sustain separate schools; this was de jure segregation. But lawyers and law courts claimed not to know what was meant by state action: some insisted that it referred only to statutes passed by Southern states requiring separate public schools. In 1954, it was probably true that much, if not most, of the segregation in the North was also de jure, not as a result of legislative action in statutes, but as a result of school boards' deciding where to locate schools and school boundary lines and superintendents' giving out permits to change schools on a racially selective basis. The Northern school systems have quietly, under district and local court pressure, gradually eliminated some of this de jure discrimination, but much more remains today than anyone is willing to acknowledge. The Northern school authorities have successfully been able to throw sand in the eyes even of the civil rights activists by saying they have de facto segregation, not de jure as in the South. Since the U.S. Office of Education began to crack down on the Southern states in 1965, by threatening to withhold federal aids to de jure segregated schools, most of the Southern states have about as good a record on de jure segregation as do most of the Northern states. So the nation has been fooled by language: the Northern boards of education and the superintendents and principals don't put their discriminatory procedures into formal language, and so get away with what the Southern states cannot because they insist on making their prejudices and discriminations explicit.

The *Brown* decision and lesser federal court decisions until 1967 avoided coming to grips with de facto segregation. The nearest to a Supreme Court review has been a sustaining of a circuit court decision in a Gary, Indiana, case that purely de facto segregation was not illegal.[2]

2. Bell v. School City of Gary, 213 F. Supp. 819, 829 (N.D. Ind. 1963).

On the other hand, lower courts have supported boards of education that have taken active steps to eliminate de facto segregation.[3] A new Supreme Court test is in the making on the basis of a District of Columbia decision in June 1967 that de facto segregation is unconstitutional.

It is to be hoped that a future Supreme Court decision on de facto segregation will take under consideration the proposition we wish to emphasize in the remainder of this paper, that de facto school segregation is a function not only of racial concentration in housing but also of certain institutional arrangements currently dominating the school system. While the school authorities did not create the housing concentration, they did create the institutional arrangements that keep the races segregated in the schools and hence they are partly responsible for the de facto school segregation and for keeping the Negro children educationally backward.

Let us assume that there is, in a given concrete instance, de facto segregation. That is usually taken to mean that the school authorities, in a factually segregated school district, have taken no action, formal or informal, consciously or unconsciously motivated, to create this segregation by location of schools, drawing of zone boundaries, granting of permits, etc. We are still faced with three fictions, by way of institutional arrangements, which the courts may or may not decide to recognize. The fictions are (1) that a school must serve *all* the children in a given *circumscribed* geographic area, instead of a *portion* of the children in a *larger geographic* area; (2) that the schools must be small rather than large; and (3) that each school must be *alike* in its course offerings, and each school duplicate in program every other school in its level. These fictions are sacred to teachers, and they tolerate no discussion of alternatives. Teachers have succeeded in getting most parents to support the first fiction, that of the necessity of a neighborhood school, but it is probably a fact that most parents are not even aware that there are possible alternatives to the second and third fictions—so sacred are they. The courts, in their search for constitutional alternatives to existing de facto segregated schools might wish to examine alternatives to these sacred fictions, for they create and maintain de facto segregation just as much as do racially imbalanced neighborhoods. In other words, the

3. *See*, Commission on Law and Social Action, American Jewish Congress, "The Courts and De Facto Segregation" and "Application of Constitutional Principles to De Facto Segregation" (1964). *See also* U.S. COMMISSION ON CIVIL RIGHTS, RACIAL ISOLATION IN THE PUBLIC SCHOOLS, Legal Appendix, p. 219ff. (1967).

school personnel, with their sacred fictions, are creating so-called de facto segregation just as much as is the residential concentration of different races in different neighborhoods. Therefore, can it not be said that the school personnel, by insisting on the application of these fictions, are *deliberately* creating so-called de facto segregation, and that this segregation is therefore de jure—a result of the deliberate practices of state-employed personnel?

Let us examine these fictions further. The first is the institutional arrangement of the small-neighborhood school—that is, of placing a school where it will serve all the children of a given small geographic area and of that area only. The school systems that have tried sincerely to overcome de facto segregation have attacked this arrangement, by combining of adjacent school districts, by non-discriminatory issuing of permits, by issuing of permits only to Negroes who want to go to white schools, by voluntary and compulsory busing. Local courts have been permissive toward these efforts, but they have not insisted that they be utilized. There are some good reasons for a small-neighborhood school on the elementary level; many fewer good reasons to have a neighborhood school on the secondary level.[4] But even at the elementary schol level, it is feasible to combine several existing school districts, and divide the children living in the now-large district by grade rather than by race, or to build new schools concentrated at one location. Civil rights innovators, like Max Wolff, have advocated the educational park to further break de facto segregation by breaking the principle of the small-neighborhood school. If the courts should find that the action of school authorities *deliberately* in opposition to a non-neighborhood-based school were de jure segregation, and hence illegal under the Brown decision, much of the back of so-called de facto school segregation would be broken.

There is a bigger problem of the geographic school, however, which cannot be solved simply by a Supreme Court re-definition. This is created, on the one hand, by demographic changes sweeping over the nation, and, on the other hand, by the institutional arrangement of allowing school boards to take on whatever small jurisdictions they want to. For some decades, Negroes have been moving out of the rural South into the central cities of both South and North, and white people have been moving out of central cities to the suburbs, where there are sepa-

4. *See*, A. ROSE, DE FACTO SCHOOL SEGREGATION (1965).

rate school boards. While we should not fall for the absurd prediction that soon most of the population of all of our central cities will be Negro—Negroes constitute only 11% of the total population, and even if their higher birth rate should continue it will raise this percentage only gradually—it is true that a larger and larger chunk of our central cities will consist of residentially segregated Negro neighborhoods. It will become harder and harder for the central city school boards to desegregate, even if they ignore small-neighborhood school boundaries within the city. The long-run solution requires cooperation on desegregation among the city and suburban school boards. As a matter of fact, the long-run solution of a lot of social problems requires metropolitan government cooperation, and the nation will have to tackle this issue. It is probably too great a set of problems for the federal courts to tackle, but Congress is being faced increasingly with the need to circumvent the state governments to get the local governments to cooperate on specific issues. Congress has the power to implement the fourteenth amendment, which requires that the states treat its citizens equally, and not avoid that obligation by setting up school boards which divide their jurisdictions according to what is increasingly becoming racial lines. The federal courts probably have Constitutional sanction to require the local school boards—or agencies of the same state government, that is not supposed to discriminate—to cooperate in order to eliminate de facto school segregation. But this big task can more effectively be tackled by the Congress, as the U.S. Commission on Civil Rights correctly observes.

The second fiction is that a good school is a small school. This is patently untrue at the secondary level, where quality of education is associated with a wide range of course offerings and with costly equipment, both of which are feasible only in heavily populated schools. Even at the elementary level, improvements of quality and savings in cost can be effectuated with schools serving a larger number of children than is common in our city schools today. Team teaching, in which a highly qualified teacher supervises a number of less qualified teachers at each grade level or in each subject matter, is feasible only in larger schools. We must not confuse small classes, which are desirable, with small schools, which can claim no benefit toward quality education. Thus, combining several of the existing school districts, and building larger schools to serve these larger districts, will improve the quality of educational offerings and make it much easier to find the residential mix so as to break up racial imbalance in the schools. It is a matter of curiosity

that even the modern innovators of the educational park want to retain small schools and put a bunch of them side-by-side rather than build a single large school, in which there could be significant savings in cost and maintenance. Can the Supreme Court find that the school personnel's irrational institutional arrangement of a small school building is helping to retain racial imbalance in the schools, thereby keeping Negro education inferior, and thereby violating the fourteenth amendment?

The third fiction is even less discussed today than are the neighborhood school and the small school. This is the fiction of the "comprehensive school" as the guiding light of the democratic, American school system as contrasted to the aristocratic, bad European school systems. It is easier to attack God in the public schools, or at PTA meetings today, than to criticize the comprehensive school system. Again, the comprehensive school has reality, and makes sense, at the elementary level. Except for handicapped children, it probably makes good sense to have all urban, elementary schools alike, although we are now experimenting with divergent classes in the form of ungraded classes. Of course, this principle prohibits experimental schools, which innovative school personnel profess to support, but exceptions can be made if they are not discussed. Where the comprehensive school makes no sense at all and has no factual reality, is on the secondary level: (1) In fact, high schools and junior high schools vary tremendously within a city; they are not in fact identical in their course offerings. In Minneapolis, for example, a large high school has twice the range of course offerings of a small high school; (2) In fact, children take different programs within a high school. There is absolutely no factual basis to the belief that American high school programs—from the standpoint of individual students—are comprehensive, nor can they be, nor should they be. Yet the comprehensive high school (and junior high school) as maintained by the school authorities is a very strong obstacle to getting rid of so-called de facto segregation at the secondary level today. (It also happens to be another strong obstacle to excellence in high school teaching generally, as we shall point out later.) Since school personnel—as state officials—deliberately and with great effort prevent any efforts to modify the comprehensive school, can they be said to be engaged in promoting de jure segregation, and can the courts find this to be illegal under the fourteenth amendment and the *Brown* decision?

Let us look at the comprehensive high school in our cities today. It is a school which offers a range of programs—from college preparatory

to commercial, from science-oriented to fine arts-oriented—to the children who are enrolled in it. Because no school system spends enough money to buy the best scientific, industrial arts, language training, fine arts, teaching equipment for every school, all the schools have inferior, often out-of-date equipment in every field. The situation is obviously worst in industrial arts, where most schools have out-of-date trash for their equipment—often at considerable cost to the citizens. Similarly, because there are only a limited number of outstanding teachers in any city in any field, the good and the mediocre teachers are spread around equally, by chance, in the various high schools of the city. (There is some concentration of the better teachers in the schools in upper-class white neighborhoods, because such teachers bargain for such assignments and threaten to leave the school system if they do not get their choices.) The central school authorities devote a great deal of effort to maintain mediocrity in the teachers and the teaching equipment of the high schools: they must spread equally, they believe, for otherwise they would not be democratic.

The alternative is simple. Every high school obviously needs the same *required core* curriculum of English, mathematics, science, arts, industrial arts that the school personnel and the accrediting agencies decide are necessary for all high school children. All high schools must be "comprehensive" to this extent, and to the extent of making them all college-preparatory (with the possible exception of one or two vocational-preparatory high schools in a large city system). But for the optional subjects and for the different "programs" offered by the schools, the children—in choosing a program—should in effect be required to choose a school where that program is offered with *excellent* teachers and *excellent* equipment. If a city can offer only one high school where the equipment and teaching in *science* is excellent, and another where the *fine arts* are taught with excellence, and another where the very best *foreign language* training is offered, it has something to offer. White parents should want to send their children to such a school, even though Negro children are present, rather than to inferior private schools. *Every* high school would have to excel in something, and children who would sign up for a program in science, for example, would attend a school where science is taught excellently. What if the demand for science teaching were too great? Admission to a school, as to a program now within a comprehensive school, would be on a first-come, first-served basis, and a child might not get into a school (or program) of his choice during his first, or even his second, year. But this would be rare, if the school

authorities planned well to meet the needs of their pupils. In *any* case, every pupil would get *excellent* training in some field, even if it were not at first (*i.e.* for the first year or two) the field of his choice.

This program would save money for the school system, incidentally. The high schools, where there would be no pretense of offering excellence in most fields, would not need the elaborate equipment of the school that did offer excellent training. For example, most schools would not even pretend to offer machine shop or printing shop, and would forego buying the expensive equipment; their industrial arts could be limited to carpentry and electric shop, which require less expensive equipment, or dropped altogether. Not every school would need up-to-date science laboratories; *most* of them would need only minimal shop and laboratory equipment. Such specialized schools would not be racially segregated; presumbly Negro and white children would select programs according to their tastes and their aspirations, not their race.

One of the shibboleths of the teachers in expressing horror at the thought of a specialized school system is that the New York school system is *alleged* to have tried it once. It did not, in fact. What New York City did for some decades was to take three or four among its several dozen high schools and turn them into superior specialized high schools. Then it gave a test to every child who sought to get into these select schools, and eliminated all but a small quota who could pass the difficult tests. Naturally, the system kept out of these superior schools all but a small handful of Negro children, and the specialized schools—while offering excellent teaching—became snob schools for WASPs and Jews. Thus, the New York system bears no relationship to what is suggested here.

Those who have pondered the dilemma of the so-called de facto segregated schools—judges, civil rights leaders, even school personnel—have thus far been reasoning in the framework of a tightly circumscribed set of alternatives, and naturally they have found themselves in a bind. The social definition of a school—set and rendered sacred by professional school personnel—is of an educational building in a small neighborhood, never making any reference to the programs that are taught within it. I now assert that the failure to consider the program is not only a failure to consider ways of improving the quality of education, but also a deliberate device to maintain the schools illegally segregated. A school is segregated not only by virtue of the location of residence of its pupils, but also by its "institutional arrangements." If

the courts can only bring themselves to consider this proposition, they will have licked the problem of school segregation.

Thus far, I have talked only of so-called de facto segregation in the North. The Southern states, outside of Mississippi and Alabama, are rapidly eliminating the segregation due to the old statutes: Already by the fall of 1966, 15% of the Negro children of the entire South were no longer in segregated schools. While this is deplored as too little by civil rights leaders, I warn that it may not be able to go much further under application of the present court orders (except in Mississippi and Alabama). The reason is simple. The Southern cities—with two or three exceptions—have de facto residential segregation just as the Northern cities do. In fact, the Southern cities are becoming *more* residentially segregated while the Northern cities are becoming *less* so.[5] Already, some Southern *schools* are *less* segregated than the Southern *neighborhoods* are. The Southern segregation problem is now not much more de jure than the Northern segregation problem is, although the Southern courts have been more insistent in upholding the *Brown* decision than the Northern courts have been. If the Supreme Court holds to a narrow definition of the *Brown* decision, as applying only to statutes and other public pronouncements of a segregation policy, there is no further desegregation of the schools than *can* be accomplished under it, for such statutes and pronouncements are no longer operative.

Negro education is still mostly segregated, and mostly inferior, and white education is also mostly inferior (and incidentally mostly segregated). In the context of what has been said above, and in the context of the studies which we are about to report, only the U.S. Supreme Court can break the pattern. And it can break the pattern by adopting a simple principle of the sociology of law known as "redefining the situation." The Supreme Court need only acknowledge that de jure segregation exists not solely by virtue of a legislative statute or a school board pronouncement in favor of segregated schools or segregated grades. It exists also by virtue of institutional arrangements made by school authorities—*i.e.* school boards and superintendents, who are state officials. If they persist in maintaining institutional arrangements which force the maintenance of segregation, they are flaunting the fourteenth amendment and the *Brown* decision, as long as there exist reasonable alternative insti-

5. K. A. TAEUBER, NEGROES IN CITIES (1966).

tutional arrangements which they can follow that would get rid of segregation. It is as simple as that.

Let us now look at the main conclusions of the studies. The unpublished volume by Robert L. Crain and others at the National Opinion Research Center of the University of Chicago, entitled "School Desegregation in the North," consists of eight comparative case studies of policy-making and community structure. After a reasonably thorough analysis, the authors arrive at the conclusion that it is the school board, not the civil rights movement, not the superintendent, not other school personnel, not the other politicians, who determine what the pattern of desegregation, if any, is to be in a Northern city. While one can accept all of their findings (and there are interesting and valuable data presented), one needs not accept their conclusions, because their premises are wrong. In the first place, as they themselves acknowledge, the school board seldom initiates desegregation, which means that if the civil rights movement does not start something, there will be no desegregation. But what never crosses the authors' bright minds is that the superintendent and the school personnel set the institutional limits within which whatever desegregation the school board permits must take place. The school board is never even offered the possibility of interfering with the small school or the comprehensive school, sometimes not even with the neighborhood school. In my judgment, it is the institutional limits-setter who is ultimately most powerful, not the school board which is given a narrow range to fiddle around in. The weakness of the civil rights movement is not simply in their frequent lack of power, recognized by the authors, but in their lack of understanding of political strategy—how to get things done in local politics. I have personally seen how the small and initially ineffectual civil rights movement of Minnesota eventually got its way on much state legislation by learning how to make coalitions in the legislature and by using the clergy as its chief pressure arm. Judging by the authors' case studies, no such wisdom afflicted the civil rights movement of the eight cities they studied.

There are seven co-equal authors of the main report of the U.S. Office of Education report, *Equality of Educational Opportunity* (1966), although the sociological community has attributed, apparently mistakenly, senior authorship to the one first listed. This is an important study, not so much because of its excellent design (which has been paralleled in many other studies), but because of the comprehensiveness of its data,

which only a government agency could afford to obtain (although failing to get cooperation of 30% of the school authorities around the country is not a good record and may have hurt the study). The first major finding is that there is very little inequality of education according to race, using dozens of objective measures, outside the South—and not so much there either. In buildings, equipment, special purpose rooms, class size, teachers' formal qualifications, textbooks, library, free lunch, school psychologists and nurses, art and music instruction, curriculum offered, programs for exceptional children and for pupil evaluation and placement, and extracurricular programs—in none of these are there consistent average differences between what Negroes are getting and what whites are getting. Regional variations are generally much greater than ethnic ones, with the South having the poorest objective measures generally. Even more important, the data could be used to support a thesis that neither the Negro nor the white schools nor the mixed schools are providing what a rich society ought to be providing its children by way of educational equipment. If the Negroes feel their education is inferior, they are justified, but not by comparison to what white children are receiving. The study clearly shows that the general lack of excellence and segregation, not racial inequality, are the main characteristic of American educational offerings.

A second major conclusion is that the normal range of quality of the schools accounts for very little of the differences in educational achievement. This is not because Negro and other minority parents are less motivated to get a good education for their children than are white parents; on the contrary, they are more motivated and expect more from their children's education, although of course they themselves are less likely to have the wherewithal to aid that education. The problem seems to lie in the lack of many schools with really high quality: only the special programs in a few of the cities are providing an *excellent* education and they are doing this regardless of what race their pupils belong to. The problem is again one of the general lack of excellence in American public education.

The third major conclusion of the U.S. Office of Education study is that Negro educational performance is indeed inferior, even if their schools are not. Puerto Rican, Mexican American, and Indian American performance is also inferior on the average, in that descending order, but Oriental American performance is up to the average standard. Negro children start out as inferior, on the average, in the first grade, and their

relative position grows more inferior as they ascend the educational ladder, until by the twelfth grade, they are three grade levels behind the whites. There is variation, of course, but only about 16% of the whites are below the average for the Negroes.

The deterioration of the Negroes' performance does not seem likely to be due to lesser native ability or to reported motivation or to reported expectations of parents, according to the Office of Education study or the studies reported by the U.S. Commission on Civil Rights, *Racial Isolation in the Public Schools,* which provides the best general survey of the problem of school segregation. Efforts to cope with the inferior performance of Negro children in the segregated schools—by various large-scale and expensive programs of remedial education, cultural enrichment, "ego development" such as a thorough teaching of Negro history—have so far all proved to be failures. The effect of pre-school training in elementary reading and study habits—such as the federal government's "Headstart" program—seems to be promising, but also seems to be negated once the Negro child enters the segregated elementary school. Only one technique has thus far been found to bring the Negro child's educational performance up to the level of the average white: This is to place him in a school where the majority of children are white. The exact psychology of the situation is not fully known, but it seems that segregated Negro education is inferior *by virtue* of the fact that there are only inferior-educated children (Negroes, lower class children generally) in it: The children face similar handicaps, they understand that the outside world considers that their schools are inferior, and they drag each other down. When, on the other hand, the Negro children are directly faced with constant expectations for performance on an average level, as in a white school, they come up to the average. It is quite likely that if they were faced with constant expectations for *above*-average performance, *some* white and Negro children would perform on an above-average level. "Average performance" is an artificial construct arising from the school personnel's distorted conception that a democratic school system requires that all schools be alike.

In any case, it is clear that Negro children can overcome the handicaps of inferior educational performance—which must affect their future job prospects and their whole lives in many ways—by being distributed on an approximately equalitarian basis through the school system. The first step in this direction in the South is now rapidly being completed—by wiping out de jure segregation. The considerable remains of de jure

segregation in the North have mainly to be tackled. But the problem of so-called de facto school segregation will continue, North and South, until we are willing to change our institutional arrangements. Many communities throughout the United States have taken successful steps already to get rid of the small-neighborhood school, with benefits in educational provisions to both white and Negro children. The many different techniques of doing this, depending on the social geography of the town or city, are detailed in the Report of the U.S. Commission on Civil Rights. There are even a few instances where suburban school systems are cooperating with central city school systems to have a few Negro children bused out to suburban schools, apparently to the benefit and satisfaction of all. But much, much more can be done along these lines. The U.S. Supreme Court can help by stating that the illegal discrimination against Negro children cannot be maintained by the excuse that schools can serve only small local neighborhoods. And Congress could tackle the bigger problem of requiring the states to get their school boards to cooperate so as to meet the requirements imposed by the fourteenth amendment on the states—namely, of not treating their citizens unequally. After all, the states can legally control the extent of the jurisdictions of the school boards, and they could reimpose a much greater degree of segregation than now exists by creating more school boards with smaller jurisdictions of the school boards, unless this is recognized as contrary to the fourteenth amendment. Finally, the courts can oblige the school systems to deviate from the arbitrary requirements of a small or "comprehensive" school system—*i.e.* one where all schools are alike in offerings—so as to extend the possibility of mixing children by race and class.

While definitive studies have not yet been made on the quality of education after getting rid of the archaic institutional arrangements of the neighborhood school, the small school, and the comprehensive school, the little evidence so far available—as reported in the volume by the U.S. Commission on Civil Rights—suggests that education will improve for all children. There seems to be a likelihood that the struggle to get rid of unequal education for the races will result in an improved quality of education for all children.