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RACIALLY BALANCED SCHOOLS: PSYCHOLOGICAL AND LEGAL ASPECTS

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THE PROBLEMS INVOLVED in providing equal opportunity for Negroes in education seem almost daily to become more complex, more intractable and more urgent. Housing and employment opportunities for Negroes pose difficult problems, but at least these problems are definable and to some extent resolvable. Education for Negroes that is integrated and truly equal, however, seems to constitute a problem and a challenge which defies analysis and resolution.

The dilemmas surrounding the subject of integrated education are becoming ever more thorny because of the fact that, both in the south as well as the north, the segregated or overwhelmingly Negro school is caused by neighborhood housing patterns much more frequently than by any intentional *de jure* discrimination. It is seldom realized that the enormously controversial subject of *de facto* segregation in public schools is the problem not merely of Chicago and New York but also of Nashville and Atlanta. If students are to continue to attend the school nearest their homes, all cities, north and south, will witness a persistently deepening and seemingly irreversible trend toward having the children of the urban poor concentrated in the same schools—and in the vast number of cases these children will be Negroes.

One of the crucial questions then, is the incredibly emotion-laden concept of the neighborhood school. In preparation for an analysis of this phase of the controversy let us review the following key points in the background of the struggle over integrated public schools:

(1) The extent and force of the 1954 *Brown v. Board of Educ.*¹ desegregation decision of the United States Supreme Court;

(2) The contemporary crises in northern communities over attempts by public education officials and civil rights groups to obtain racially balanced schools.

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¹ 347 U.S. 483 (1954).

The Supreme Court's Desegregation Mandate

The 1954 ruling of the nation's highest tribunal which outlawed "separate but equal" schools was clear enough in its essential thrust and meaning. But a decade after this opinion it must be said that it was not clear as to the timetable by which desegregation of public schools was to be carried out. The Court ordered compliance "with all deliberate speed" — a phrase which has been so misused and exploited that only about ten per cent of all segregated schools in the south have been integrated. The Supreme Court has tried on several occasions to weaken its "deliberate speed" qualification but it may be that within the not too distant future the Court will simply have to change "deliberate speed" to "forthwith." One could construct a persuasive case in fact to show that the Court might profitably have ordered desegregation "forthwith" in its original decree.

Even if the federal courts and now the Civil Rights Act of 1964 hasten the implementation of desegregation plans throughout the south, there will remain in most southern cities the problem of *de facto* segregated schools. The *Brown* decision gives no specific guidance with regard to schools that are totally or overwhelmingly Negro in student population not because of any state action but simply because of residential patterns.

The problem then of segregation-in-fact in public schools is the real problem both in the south and in the north. One can argue from certain statements in the *Brown* opinion that the Constitution, as the Supreme Court interpreted it, would outlaw all segregated schools regardless of the reasons that cause such segregation. However,

since the Court has not ruled specifically on this question, proponents and opponents of the racially imbalanced school must continue to struggle without any real assistance from that body. The central issue, of course, is whether public school officials have a *positive duty* of arranging attendance at school so that Negro children will study and grow up in a school that is truly integrated. Assuming the existence of such a duty, there remains this burning question: What must northern communities do to bring about racially balanced schools?

The Crises in The North

Within the very recent past civil rights groups have initiated over twenty lawsuits in federal and state courts designed to obtain a ruling that *de facto* segregation in public schools—regardless of its cause—violated the equal protection clause of the fourteenth amendment. No court has as yet issued such a ruling. But many judicial opinions have hinted or implied that under the proper circumstances a court might eventually hold that *de facto* segregation has the same deleterious effects upon Negro children as does *de jure* segregation.

The unwillingness of the courts up to this time to find unconstitutionality in unintended educational segregation has not, however, and will not deter civil rights groups from continuing their militant drive to obtain racially balanced schools. The leaders of the most influential Negro groups are thoroughly and totally persuaded that the rising generation of non-white children will not be able to break the barriers of discrimination in housing or employment unless they receive the training and self-confidence which is obtainable only in a school where there exists at least a substantial percentage of white students.

The raging controversies over racially imbalanced schools now occurring in Chicago, Cleveland, Boston, New York and indeed in most sizable northern cities will not abate until the remedies requested have been granted. What then are the major driving forces behind the demands of civil rights groups for the elimination of the *de facto* segregated school? With this question we come to our central proposition which may be stated as follows: Educationally, psychologically and legally, Negro children have a right to equality of educational opportunity in a racially balanced school.

The Right To Attend Racially Balanced Schools

Let us analyze in turn (a) the educational, (b) the psychological and (c) the legal bases of the right to an education with a student body which is not overwhelmingly non-white.

a) Educational

There are clearly millions of parents and educators who feel that an all-Negro school which has an adequate building, a competent faculty and an efficient administration can be and will be just as good a school academically as if all the pupils were white. Persons advancing this point of view, however, fail to recognize the invisible but real factors which contribute to students' motivation to learn. New York State Commissioner of Education, Dr. James E. Allen, Jr., recognized these important factors in his directive of June 18, 1963, requiring all local school districts to eliminate racially unbalanced schools (schools in which fifty-one per cent or more of the students were non-white). Commissioner Allen stated:

[I]n schools in which the enrollment is largely from a minority group of homo-

geneous ethnic origin the personality of these minority group children may be damaged. There is a decrease in motivation and thus an impairment of ability to learn. Public education in such a situation is socially unrealistic, blocking the attainment of the goals of democratic education, and wasteful of manpower and talent, whether the situation occurs by law or by fact.

Other educational officials like Commissioner Raubinger of New Jersey have issued statements pointing out that an ethnic concentration of students impairs the ability to learn of individuals confined to this group. One of the customary and oft-repeated rejoinders to the conclusions of Commissioners Allen and Raubinger is the contention that in the past certain public schools have had heavy concentrations of students of Italian or Irish or Polish or Jewish origin and that no one ever asserted that the schools which educated these groups were educationally deficient. One could reply by saying either that diversification within these schools would in fact have been better or that the Negro child in America is radically different from the child of the immigrant. The latter response is probably the more correct one—but one which unfortunately has not been adequately communicated or very fully understood.

Critics of plans of re-zone or to "pair" schools in order to secure a racially balanced student population deny the validity of the fundamental tenet of those who believe in the racially balanced school; this tenet is, of course, that the non-white pupil will remain culturally deprived and poorly educated if he spends all his years of schooling in a "ghetto" atmosphere.

Some empirical studies are now available to support the wisdom of the directives of the growing number of officials who have

ordered the elimination of all racially imbalanced schools. Empirical data, however, will probably remain rare because (1) the existence of a deliberately arranged racially balanced school is a new phenomenon and (2) there are so many variables besides the racial composition of a class to take into account when measuring the academic achievements of a group of students who have been together for a period.

It may be that those who fail to see how the predominantly Negro school is inevitably inferior academically do not appreciate either the psychological realities of the Negro people in America or the psychological problems of the Negro child.

b) *Psychological*

It has often been noted by well-qualified social scientists that Negro children who become teenagers with virtually no association with white children frequently have the lifelong scar of a felt inferiority and a perpetual lack of self-confidence. This sense of inferiority is, of course, impressed upon Negro children by thousands of expressed or implied indications of the alleged superiority of the white race. But a sense of inferiority is more unmistakably conveyed to Negro children if they go to school apart from white children. It is, moreover, highly unlikely that Negro children assigned for several years to a virtually all-Negro school can resist a feeling of inferiority because they can understand that their segregation into all-Negro schools is not an intended discrimination but simply the result of residential patterns. Children can hardly be expected to understand the juridical differences between *de jure* and *de facto* segregation. The mere fact that a Negro child sees himself set apart from a white civilization in the places where he lives and goes to school inevitably gives

that child the impression that he and all Negroes are deemed to be inferior to white persons. From acceptance of or rebellion against this sense of inferiority comes the apathy or the militant anger both of which understandably are so common among Negroes.

The inner psychological forces operating on the American Negro are almost unknown by most white people. And even those white persons who seek to understand find themselves bewildered by the complexity of the forces affecting a non-white minority whose ancestors did not come voluntarily to America but were brought here as slaves. We should never forget that all the cruelty and inhumanity with which the Negro slaves were treated and the brutality of a century of Jim Crow civilization after the Negro's emancipation have left emotional and psychological scars on the Negro people which are not likely to disappear very rapidly.

Those who oppose the creation of racially balanced schools should therefore study and ponder on the inner psychological needs and anxieties of Negro children. One simply cannot say that the present system of ghetto living and ghetto schools can be perpetuated. The Negro child has a profound need and yearning to enter into the mainstream of culture in America. This deep need has prompted Negro leaders to turn to the courts for relief.

c) *Legal*

If it can be demonstrated that the school which is virtually all-Negro is by reason of that fact academically inferior and psychologically damaging to Negro children then the courts will in due course simply have to rule that true equality of educational opportunity is being denied to Negro children who attend a *de facto* segregated

school. The great problem for the courts is the type of proof which they must receive before they can issue an opinion which would require the elimination of the racially imbalanced school. Some educators have been persuaded that the predominantly Negro school should be eliminated because of strictly academic reasons. But is the evidence, which educators have accepted, so persuasive that courts should say that the Negro has a constitutional right to attend a racially balanced school and, therefore, public school officials have a positive duty to furnish Negro children with such a school? This, of course, is the crucial question with which judges are being confronted more and more frequently. Its ultimate resolution may have to await a ruling by the Supreme Court of the United States. One can be absolutely certain that the problem will neither disappear nor solve itself.

So much then for a very brief review of some of the educational, psychological and legal factors of *de facto* segregation. Let us conclude by emphasizing the key role which Catholics in northern cities will play in the resolution of this problem.

Catholics and Racially Imbalanced Schools

It appears certain that Catholics in and out of public life will have an influential and even a decisive role to play in forming public opinion and official policy with regard to the desirability of racially balanced schools. When Catholics are searching their consciences as to what view they should take so as to safeguard the educational rights of their own children and still guarantee the right of all children, regardless of color, to equality of educational op-

portunity, they should ponder the pronouncement made on November 17, 1963, by the National Catholic Conference for Interracial Justice. Meeting in Washington, 120 official delegates from 60 local Catholic Interracial Councils unanimously endorsed the following statement:

[E]ven if there is equality in facilities, standards and education, there is an implied sense of inferiority in the *de facto* segregated school which is contrary to Christian teaching. . . . Thus the social and moral issue leaves no doubt that confining children to a segregated school deprives them of an essential right. Whether it is by official policy [*de jure*] or from the community patterns of housing segregation [*de facto*] makes no difference to the segregated child. . . . *In our judgment, therefore, transferring and bussing to secure racial integration are morally justifiable.* (Emphasis added.)

This statement, endorsed by the nation's leading Catholic authorities in interracial justice, is obviously entitled to the greatest weight. Those who disagree with it must by cogent evidence rebut the presumption of the competence of its authors and the validity of their conclusions.

A Brooklyn *Tablet* editorial expressed the views with which this author would like to leave his readers. On February 6, 1964, the *Tablet* stated:

Certainly every feasible and reasonable step should be taken at this time to correct the current racial imbalance in our city's schools. Formal education, it must be remembered, is nothing less than a preparation for life. Children who will one day have to live, work and compete in a society that is racially mixed must learn early to mingle with and to understand those whose race and background happen to be different from their own. The classroom is an ideal place for this essential preparation.

