

# Ten Hurdles to Brown's School Desegregation Mission

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## Abstract

The present article probes into ten (10) key hurdles to the landmark verdict in *Brown v. Board of Education of Topeka* (1954), commonly referred to as *Brown*. Being the goad to the American schools' desegregation movement, *Brown* raises the issue of whether it is to be held accountable for the failure of ensuing public education integration endeavors. This article delves into the subsequent probing question: what were the dissimilar impediments that hindered *Brown's* mission? In fact, the school desegregation efficiency to level out racial discrepancies in extremely isolated black schools is intimately coupled with the very Supreme Court pronouncement, with the dedication of the federal government to the implementation of *Brown's* lofty order, and also with a number of extra forces that surpass *Brown's* scope.

يعنى هذا المقال

رئيسية التي وقفت في  
وجه  
التاريخي المؤرخ سنة

1954 كونه المحرض  
الرئيسي لحركة محاربة  
التمييز العنصري في

الأمريكية. قرار براون  
يثير جدل فشل المحاولات

التعليم العام و يطرح  
:  
ما هي الحواجز

مهمة براون  
الحقيقة النزع الجذري  
للفوارق العنصرية في  
رس ذات الأغلبية

بقرار المحكمة العليا  
في حد ذاته

الفدرالية في تنفيذ  
يرجع أيضا

الخارجية التي تتعدى



## Introduction

On May 17, 1954, the US Supreme Court proclaimed in *Brown* that "in the field of public education 'Separate but Equal' has no place." According to data from the National Center for Education Statistics, however, American public schools remained intensely segregated by race at the threshold of the 21<sup>st</sup> century. Additionally, the United States commemorated *Brown's* 50<sup>th</sup> anniversary a few years ago (2004) recognizing the dismal failure of the U.S. public education. As a matter of fact, changes in the percentage of southern black students in majority white schools reveal some striking trends; there was only the tiniest token of progress during the first ten years following *Brown*. Likewise, an alarming return to segregated education featured the 1990s and persisted up to the turn of the new century.

In this article I bring together, in an interchangeable order, ten miscellaneous impediments that impaired *Brown's* mission of eradicating racial lines in US public schools. Rationalized segregated education is approached first for its mighty impact on public opinion and thus public policy.

### 1-The Justification of Segregated Education:

Well before the Supreme Court of the United States asserted that segregation had no room in public education, in *Brown V. Board of Education of Topeka* Ruling (1954), segregated education was stoutly upheld by chauvinistic 'scientific' studies that placed earlier obstacles in the way of *Brown's* efficiency to dismantle discriminatory practices in U.S. public schools. These partial studies have pernicious effects upon public opinion with regard to desegregation and thus affect the formulation of public policy. In the United States, a major target of scientific racism was the black population. Both esteemed and unscrupulous scientists alike wrote and believed in these bigoted theories that served to rationalize segregated education. The myth of intellectual inferiority is still not dispelled at the turn of the 20<sup>th</sup> century; current 'scientific' studies such as [The Bell Curve 1994](#) continue to assert that blacks do not have an equal capacity of intelligence as whites. Historical studies have sustained these claims from diverse angles.

The most prevalent notion was that black people have smaller brains and thus are less intelligent. Before the Civil War, scientific results announced that blacks had less gray matter in their brains (Thomas and Sillen, 2). Samuel Morton studied the sizes of skulls from different cultures and while measuring the capacity of skulls, he found Africans to have the smallest ones. What made the findings straightforwardly absorbed is that "Morton was widely hailed as the objectivist of his age" (Gould, 110-11). Furthermore, a study by George Ferguson published first in 1916 indicated that intelligence increased with the degree of whiteness in a person (Ferguson, 125). Biased interpretations of intelligence testing scores that justified segregated education doubtlessly stroke a death blow to school desegregation efforts. Discrepancies in scores on intelligence tests were conclusive to many people that blacks were intellectually inferior. The following excerpt illustrates well the implications of intelligence testing:

The Negro's intellectual deficiency is registered in the retardation percentages of the schools as well as in mental tests. And in view of all the evidence it does not seem possible to raise the scholastic attainment of the Negro to an equality with that of the white. It is probable that no expenditure of time or of money would accomplish this end, since education cannot create mental power, but can only develop that which is innate (Ferguson, 125).

Similar results echo in numerous published studies, like the words of Stanford psychologist, Lewis Terman in 1916 "dullness seems to be racial...uneducable beyond the merest rudiments of training. No amount of school instruction will ever make them intelligent voters or capable citizens" (Thomas and Sillen, 35). Such palpable racial discrimination laid the foundation for the rationalization of segregated facilities between blacks and whites in public education.

Besides, in 1969 a notable proponent of genetic intellectual inferiority, Dr. Arthur Jensen, published a paper on race and intelligence. He deduced a noteworthy divergence in IQ scores between blacks and whites, and discounted environmental factors in favor of "implicated" genetic factors. He inferred that black children can make only a small amount of gain and implied that vocational training would be a better fit for their innate capabilities (Thomas and Sillen, 42). Applying the results of intelligence tests in this way follows "the belief that intelligence was biologically innate and hence unchangeable" (Tucker, 110). Actually, it did not occur to American scientists to question such racist results because the

concepts were so congruent with social and political life. What originally impeded *Brown* was Plessy's "separate but equal" dictum.

## **2-The Legalization of Segregated Education:**

The *Brown* decision represents a landmark in the history of black education since it overturned the legal policies established by the *Plessy v. Ferguson* decision (1896) that legalized the practices of separate but equal. In the *Plessy* decision, the Fourteenth Amendment was interpreted in such a way that equality in law could be met through segregated facilities. The case was based upon the refusal of Homer Plessy to use the segregated train car assigned to black Americans, and as a result, was imprisoned for the violation of a Louisiana Statute. In the *Plessy* case, the Supreme Court ruled that separate facilities for blacks and whites were constitutional as long as they were equal. *Plessy v. Ferguson* stood as the case by which separation of the races was legally sanctioned in the United States and denied black Americans access to many white facilities. It is such federal legal sanction to racial segregation under the rubric of separate but equal that paradoxically constituted the significance of *Brown* and, at the same time, undermined its school desegregation mission. The significance of *Brown* lies in its aptitude to overturn the *Plessy* doctrine of separate facilities by law. The *Plessy* decision, on the other hand, made it thorny for *Brown* to thrive in desegregating public education. Indeed, by the turn of the century, racially segregated public education had become deeply entrenched by law and custom throughout the United States and separate, in every case, was decidedly unequal.

During the first decade of the 20<sup>th</sup> century, segregation in public education was well established in the South. The growth of a racial gap in public expenditures on education, the reliance of blacks on their own resources to create their proper schools, and the decline in black school enrolment were all the aftermath of the separate but equal doctrine in southern communities. In Georgia, for example, less than ten percent of the total allocation for public school buildings, equipment, and library maintenance was spent on black schools (Dittmer, 144-45). Similarly, black Americans drew on their own resources to create and sustain the rudiments of a common school system; in the Georgia Black Belt, for instance, three fourths of the black students met in private homes or churches and in South Carolina schools were housed in one-room structures, and most were run down and overcrowded. Additionally, nearly two-thirds of black children between the ages of five and fourteen did not attend school. Multiple factors

contributed to this situation, including location of schools, overcrowding, and limited availability of black teachers (Anderson James, 150-53).

Racially segregated education, however, was not limited to the South. Black Americans in the urban North underwent similar inequalities. The rapid influx of southern blacks into northern urban areas generated a deliberate effort on the part of whites to tighten racial boundaries dividing blacks and whites. Legal and extra-legal residential restrictions squeezed blacks into racially segregated neighborhoods. In Chicago, for example, whites protested black residential encroachment with violence; fifty-nine black homes were bombed during the late teens and early twenties (Hayness, 81-82). In terms of facilities and resources, black schools were definitely unequal. Plainly, such racial educational inequities made *Brown's* mission even harder as the discriminatory practices became part of the American way of life in both southern and northern communities. Moreover, the vagueness of the 'all deliberate speed' phrase undermined *Brown* as it enhanced resistance and curtailed compliance.

### **3-The 'All Deliberate Speed' Phrase:**

Though the *Brown* verdict was decided in 1954, the Supreme Court undermined its own order a year later in a remedial decision, dubbed *Brown II*, by instructing lower federal courts to "enter such orders and decrees consistent with this opinion as are necessary and proper to admit to public schools on a racially nondiscriminatory basis 'with all deliberate speed' the parties to these cases" (*Brown*, 1955). To obtain a unanimous decree to announce such a break with history and tradition, Chief Justice Earl Warren was compelled, despite the decision's lofty language, to be quite vague about its implementation. The vagueness of the Supreme Court's statement and the inclusion of such an ostensibly plain turn of phrase '*all deliberate speed*' kept the dream from becoming a reality. Law Professor Charles Ogletree states that "...after the lawyers read the decision, a staff member consulted a dictionary to confirm their worst fears that 'all deliberate speed' language meant 'slow' and... resistors were allowed to end segregation on their own timetable" (Ogletree, 10).

In point of fact, the courts basically granted resistors the alternative to carry out the essential changes at the time they judged fit. Regarding the two decisions jointly, one could say that the promise of *Brown* was incongruous\_ to revolutionize fundamentally the basic structure of southern society and race relations yet to do so in a way that would not acutely disturb local officials and white racists. This compromise was based on the

vain hope that a strategy of gradualism would ease the transition while displaying caution about the limits of judicial power. But in fact, intense white political confrontation rather than moderate compliance crystallized principally across the South and later racist tendencies widespread to the education system of the northern states. Virtually the entire southern leaders mobilized under the banner of 'massive resistance' enacting scores of laws to try to block any significant desegregation, attacking the Supreme Court, opposing even the most modest voluntary desegregation, closing public schools, and stirring up deep racial polarization. Ogletree points out that "...the southern segregated school system remained almost completely segregated for a full decade after *Brown*. By 1964, only one-fiftieth of all southern black children attended integrated schools [and]...northern segregation remained unaffected until the mid-1970s" (128)

Considering that the same Court which ruled in *Brown* would practically disable its impact just one year later by passing the burden of social change to lower court judges without any means to accomplish desegregation, it is plausible that the decision was purposely emblematic, and that tangible enforcement was never a priority. *Brown I* was a chiefly philosophical opinion denouncing segregation, and *Brown II* was impotent to elucidate its mandate. Accordingly, federal court judges had no way to discern what racial balance was required in schools to qualify them as desegregated, how desegregation should be accomplished, and how swiftly and enthusiastically it should be carried out. In this respect, the 'all deliberate' phrase destabilized the *Brown* decision as the ambiguity of the phrase allowed blatant stalling on the part of resisters to remain in compliance. *Brown's* reliance on social science research to draw its conclusion reflects a supplementary Achilles' heel in the decision's desegregating order that magnetized weighty criticism and was met with massive resistance.

#### **4- Reliance on Social Science:**

In reality, the genuine trial in *Brown* featured extensive comparative testimony about measurable variables like physical plants and expert testimony about the psychological impact of school segregation on white and black school children. The utilization of psychological testing through Kenneth and Mamie Clark's doll test proves functional. Simply put, the test asked a group of black and white children a series of highly suggestive questions about the prettiness and desirability of both the white and black dolls. The responses illustrated not just aesthetic and personal choices, but according to Clarks, the responses revealed a decided cultural and social

preference for the white dolls. They correlated this preference with the greater esteem of whiteness and the lower esteem of blackness. Segregation, they extrapolated from this finding, mirrored and exacerbated this racist bias. The core of their argument was that the tests revealed that school segregation undermined the self-esteem of black school children because separate and unequal black schools stigmatized black school children as inferior (Scott, 119-36). The Warren Court seemed to have admitted this logic affirming:

To separate [black children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone (*Brown*, 1954).

Though the Court did find the social scientific evidence cogent, even if not sufficient to rest a case for overruling school segregation upon, critics within the NAACP and outside of it found the test too soft, impressionistic, and open to doubt. Undeniably, in the decade following 1954 the Supreme Court and its opinion in *Brown* were strongly vilified. Even many defenders of the result had little good to say about the opinion, arguing that its overruling of previous precedents was abrupt and unexplained and that its use of social science to demonstrate the harm that segregation imposed on black children was unconvincing. The day after the decision, May 18, 1954, the prominent American journalist James Reston wrote in the New York Times that the Court had rejected “history, philosophy, and custom” in basing its decision in “the primacy of the general welfare....relying more on the social scientists than on legal precedents...a procedure often in controversy in the past...the Court insisted on equality of the mind and heart rather than on equal school facilities” (qtd. in Kluger, 711). The Court's opinion read more like an expert paper on sociology than a Supreme Court opinion.

Southern opponents were equally incensed by the decision. In March of 1956, southern Senators and congressmen issued a “Southern Manifesto” denouncing *Brown* as a “clear abuse of judicial power,” that substituted the Justices’ “personal political and social ideas for the established law of the land.” (The Southern Manifesto, 1956). This proved to be one of the most moderate reactions. Additionally, the failure to grapple with racial segregation in public education is due to *Brown's* implied intention and its possibly-disguised intent which might have been other than racial equality.

### 5- Reaction to Cold War Efforts:

According to dominant civil rights discourse, *Brown* almost single-handedly changed the normative American vision of race relations by defining and supporting the promising cause of racial equality. This image, however, might be based upon misconceptions of the ruling's origins and its legacy. The common perception is that *Brown* was intended to help subjugated blacks and that segregation is an injustice of the past. In fact, *Brown* might have been a 'Cold War tactic' meant to improve America's international reputation. Segregation only vanished in popular consciousness; it is hugely prevalent at the turn of the 20<sup>th</sup> century, though not with the same intensity that featured the pre-*Brown* era.

*Brown* represented a dramatic break from Supreme Court precedent in which the Court truly sided with black interests and rights. Yet, many scholars, both recently and in the *Brown* era, are justifiably hesitant to adopt this perception. As evidenced by years of slavery and oppression, the plight of the black people has rarely, if ever, been the government's primary concern. Professor of Constitutional Law at New York Law School, Derrick Bell, argues that rather than being a pure act of altruism toward the black community motivated by a profound sense of justice, the *Brown* decision was a reaction to the Cold War efforts abroad and the Red Scare at home. For example, the State Department filed a brief urging the Court to invalidate segregation because it would benefit the nation's foreign policy (Bell, 71). At the time, both the Soviet Union and the United States were actively courting the newly independent nations to convert to their political systems. Because most of these formally colonized peoples were not white, most were disinclined to ally themselves with the United States, a government that endorsed segregation and discrimination and often refused to prosecute indiscriminate mob violence against minorities. Segregation and racism at home was a profound weakness in the ideological war against communism abroad. *Brown's* main objective might have been to rectify this weakness in foreign relations. In retrospect, *Brown* was only a symbolic victory for the petitioners. Even at the time of the decision, American civil rights activist W. E. B. Du Bois observed that "no such decision would have been possible without the world pressure of communism" which made it "simply impossible for the United States to continue to lead a 'Free World' with race segregation kept legal over a third of its territory" (qtd. in Doty, 113). Ironically, the same threat that produced the Red Scare, which often manifested in ruthless attacks on black labor unions, compelled the United States government to move toward espousing racial equality in the *Brown* decision. It is more likely that the *Brown* decision was meant to thwart a communist critique of the American system than it was to ameliorate the

plight of 'Black America'. Besides, the failure to redress educational inequities in U.S. public schools, notably in the 1990s, is largely due to a variety of Supreme Court decisions in the 1970s.

### **6-The Supreme Court Contributes to the Re-segregation of American Public Education:**

The Court ensured separate and unequal schools by preventing inter-district remedies, refusing to find that inequities in school funding are unconstitutional, and making it difficult to prove a constitutional violation in northern 'de facto' segregated school systems.

In 1974, the Supreme Court started to take a different turn in its jurisprudence of granting broad powers to federal courts in desegregating cases. In *Milliken v. Bradley*, the Court imposed a substantial limit on the court's remedial powers in desegregation cases. *Milliken* involved the Detroit area schools and the reality is that, like so many areas of the United States, Detroit was a mostly black American city surrounded by predominantly white suburbs. A federal district court imposed a multi-district remedy to end 'de jure' segregation in one of the districts, but the Supreme Court ruled that this desegregation technique is impermissible. It concluded that "without an inter-district violation and inter-district effect, there is no constitutional wrong calling for an inter-district remedy" (*Milliken*, 745). Thus, *Milliken* has a devastating effect on the ability to achieve desegregation in many areas. In a number of major cities, inner-city school systems are substantially black American and are surrounded by almost all-white suburbs; desegregation requires the ability to transfer students between the city and suburban schools. There simply are not enough white students in the city, or enough black American students in the suburbs, to achieve desegregation without an inter-district remedy. Yet, *Milliken* precludes an inter-district remedy unless plaintiffs offer proof of an inter-district violation. Furthermore, *Milliken* has the effect of encouraging white flight. Whites who wish to avoid desegregation can do so by moving to the suburbs.

The Supreme Court also addressed the issue of discrimination in Northern school system in *Keyes v. Denver, Colorado* (1974). *Keyes* involved the public schools of Denver, where substantial segregation existed, even though state law had never mandated the separation of the races. The Court recognized that *Keyes* was not a case where schools were segregated by statute, but stated that "plaintiffs [have to] prove that the school authorities have carried out a systematic program of segregation

affecting a substantial portion of the students, schools, teachers, and facilities within the school system..." (Keyes, 201) More than this, Keyes held that plaintiffs must prove intentional segregative acts affecting a substantial part of the school system. In other words, proof of a discriminatory impact is not sufficient to show an equal protection violation; proof of a discriminatory purpose must also exist (Keyes, 208). Once a plaintiff proves the existence of segregative actions affecting a significant number of students, something hard to be obtained, an equal protection violation is demonstrated and thus justifies a system-wide federal court remedy. In reality, Keyes created an almost insurmountable obstacle to judicial remedies for desegregation in northern cities, where residential segregation is intensive and thus weakened integration effectiveness.

By the 1970s, substantial disparities existed in American schools' funding, the Chicago public schools, for example, spent \$ 5.265 for each student's education; but the Niles school system, just north of the city; spent \$ 9.371 on each student's schooling (Kozol 236). The disparity corresponded to race: in Chicago, 45.4 % of the students were white and 39.1 % were black American; in the Niles Township, the schools were 91.6 % white and 0.4 % black American (Steele, 591).

Finally, the Court had the opportunity to remedy the inequality in school funding in *San Antonio v. Rodriguez* (1973). *Rodriguez* involved a challenge to the Texas system of funding public schools largely through local property taxes. Texas' financing system meant that poor areas had to tax at a high rate, but had little to spend on education; wealthier areas could tax at lower rates, but still had much more to spend on education (*San-Antonio*, 10-13). The Court concluded that the inequalities in funding did not deny equal protection (55), that poverty is not a suspect classification, and that where wealth is involved, the Equal Protection Clause does not require absolute equality or precisely equal advantages (*San-Antonio*, 47-53). Thus, American public education is characterized by wealthy white suburban schools spending a great deal on education surrounding much poorer black American city schools that spend much less on education. Then, how can we expect a triumph to *Brown's* racial school integration efforts? During the 1990s, America's courts have been systematically tearing down desegregation policies that were drafted to ensure equal educational opportunities for all Americans.

### **7- The Supreme Court Ends Desegregation Orders:**

The U.S. Supreme Court issued several rulings which relieved school districts from federal supervision. Once districts are relieved of their

responsibility to ensure desegregation, they are often very willing to turn a blind eye as schools within their jurisdictions revert to separation of the races. The result has been a reemergence of segregation in America's schools.

In *Oklahoma v. Dowell* (1991), the Court ruled that formerly segregated school districts could be released from court-ordered busing once they have taken all "practicable" steps to eliminate the legacy of segregation. It held that once a "unitary" school system had been achieved, a federal court's desegregation order should end even if the action could lead to re-segregation of the schools (Dowell, 247-49). This ruling was not only detrimental to desegregation efforts, but also was characterized by vagueness. The Court did not elaborate on what all "practicable" steps are and did not define "unitary system" with any specificity, which gave local school districts the power to make up their own definition of what the Court meant, and thus do as little as possible to ensure desegregation in their schools.

In *Freeman v. Pitts* (1992), the Supreme Court held that a federal court's desegregation order should end when a district complies with the order, even if other desegregation orders for the same school system remain in place. In other words, the Court ruled that a school district does not need to achieve [equal] status in all six 'Green factors'\_ student assignment, faculty, staff, transportation, extracurricular activities and facilities\_ before being released from court supervision. In this ruling, the Supreme Court nullified the standards that they themselves had agreed to and once again weakened the validity of *Brown's* desegregation mandate.

Finally, in *Missouri v. Jenkins* (1995), the Supreme Court mandated an end to a school desegregation order for the Kansas City school. The Court's holding consisted of three parts. First, the Court ruled that the district court's order that attempted to attract non-minority students from outside district was impermissible because the plaintiffs had not proved an inter-district violation (Jenkins, 90-94). Second, the Court concluded that the increase in teacher salaries was not necessary as a remedy (100). Finally, the Court ruled that the continued disparity in student test scores did not justify continuance of the federal court's desegregation order. The Supreme Court held that once a district has complied with a desegregation order, the federal court effort should end (101-02). Clearly, the institution that provided the impetus for desegregation and offered so much hope- the courts- is accountable for *Brown's* failure. What is more, the federal expenditures on desegregation programs are much less than for compensatory education.

### **8-The Equalization of Separate Education:**

Racial segregation in public schools prevailed during the 1990s since the separate but equal doctrine, though overruled under *Brown*, still has its proponents. That is to say, the federal government is still operating under the 'separate but equal' doctrine. Critics of desegregation often argue that it would be better to spend the money on improving schools where they are. The suggestion is that while a great deal of money is spent on desegregation, Americans are ignoring alternative solutions that have been shown to produce academic gains in segregated neighborhood schools. In reality such solutions do not exist. Before the Supreme Court ordered desegregation in 1954, the United States had been operating under a constitutional mandate to equalize the segregated schools, which had been a massive failure. Even after the Supreme Court acted, dramatic inequalities continued to exist between black and white schools in many districts. The long history in thousands of communities produced great skepticism about the willingness of the majority to make black American schools equal.

Even in the period of the most active Supreme Court intervention on more than token desegregation, the government always spent much more money on programs intended to equalize education in poor black schools than it did on desegregation. The only significant federal expenditures on desegregation occurred during the 1970s, when the Emergency School Aid Act provided funds for training teachers to deal with diverse classes, to develop curricula, and to work on improved race relations among students. Since then no significant desegregation aid program was adopted; the basic educational goal of both national parties has been to improve schools by imposing tough standards. Compensatory education for high poverty schools has, in fact, been the central goal of federal educational policy for the past 40 years. The largest program, Title I, pumps dollars into high poverty schools. Many other programs, including bilingual education, Head Start, and charter schools are intended to improve education without addressing the issue of race or moving children away from their communities (Orfield, Congressional Power, 53-5).

The Prospects study Congress commissioned of the Title I program showed that the average benefits of the huge federal compensatory education program, administered by state and local educators, were extremely small or non-existent. This racial school desegregation ineffectiveness throughout the 1990s is largely due to the absence of positive federal leadership to desegregate public schools. Instead, the federal government has been fostering compensatory education during the past several decades; a strategy experienced long ago but was doomed to dismal

failure. Another major impediment that hindered *Brown's* school desegregation mission was residential segregation.

### **9-Residential Segregation:**

Actually, the right to choose where one wants to live is a historical American concept that is entrenched in the American history of early westward expansion and modern suburbanization. Throughout the major part of the 20<sup>th</sup> century, hundreds of thousands of white families made the move from city life to suburban sprawling. The mass exodus to the suburbs left African American families behind. This homogenous suburban picture was not adventitious but was rather an outgrowth of direct and intentional government policies and private discrimination. Moreover, with the assistance of exclusionary zoning practices, African Americans have been prevented from moving into suburban municipalities through the establishment of economic and racial barriers designed to keep suburbs homogeneous and affluent (Kosman, 59-60). Therefore, the freedom to choose where one wishes to live is not a concept which has resonated for a significant portion of non-white Americans.

The inability of middle-class African Americans to move into suburban neighborhoods has resulted in a disproportionate number of middle-income blacks now living in poor neighborhoods. While 23% of black families earn a middle-class income, only 4% of these blacks live in a predominantly white or racially mixed neighborhood (James, 407-27). The concentration of poverty in urban ghettos is a direct consequence of residential racial segregation. Problems associated with urban poverty become exacerbated by the isolating effect of residential segregation. Educational disadvantages are actually only some of the social problems found in the urban ghettos.

The isolation of the urban ghetto inflicts severe hardship on poor African American children. Removing young people from concentrated ghettos and its ill social effects has proven beneficial and underscores the existent inadequacies in racially segregated areas. A research team from Northwestern University, for example, compared low-income black students from families assigned to live in scattered site housing in white suburbs with students from families assigned to public housing in Chicago's ghetto. Although the two groups were initially statistically identical, once removed from ghetto high schools, black students achieved higher grades and better academic preparation, sustained lower dropout rates, and maintained higher rates of college attendance compared with those who remained in

ghetto institutions. Similarly, in a nationwide study, northern blacks who attended racially mixed schools were more likely to attend college than those who went to all-black high schools. Another investigative study revealed that black and white students who went to high schools in affluent neighborhoods were considerably less likely to drop out than those who attended schools in poor neighborhoods, and that girls in affluent schools were much less likely to become teen mothers (Mayer, 321-41). Notably, the most important factor bearing on student success rates was school affluence and not the race of the student body.

Probably the most recent hurdle that stands in the way of school desegregation progression is the adoption of a new, and probably the most significant, federal education measure in the US history, the No Child Left Behind Act (NCLBA) 2002, presumably aiming at fostering educational accountability by improving school performance as well as student performance.

### **10-New Dimensions of Segregation:**

The No Child Left Behind Act (2002) is supposed to boost academic achievement in schools across the US, rise the performance of underprivileged students to the level of their more affluent counterparts, and magnetize qualified professionals to teach in every classroom. Its stated purpose, briefly, is to: increase accountability for student achievement; allow school choice for students attending failing schools; allow more flexibility for how federal education dollars are spent; and place a stronger emphasis on skilled teaching. These goals are obviously laudable. The Act, however, creates incentives that actually work against their achievement.

The new law acknowledges the achievement gap between minority and non-minority students and states closing it as a main goal. Yet, because the NCLBA does not establish guidelines for how tests should be used as an accountability measure or prohibit states from attaching individual high stakes to scores, there is concern that some states may use results to punish rather than support students and reform schools. Where this is the case, the NCLBA will not resolve the core problem of unequal educational opportunities, but will instead mask disparities, or worse, limit opportunities for underachieving students; notably African Americans.

Because they lack exposure to supplemental and collateral educational opportunities, black American students rely more heavily on school for learning than children in high socioeconomic classifications. These students also more frequently attend poor schools that do not have the

resources to provide necessary learning tools and, thus, are more likely to be punished, for example, through grade retention. Consequently, high-stakes testing has a disparate impact on the most vulnerable students, and data show that as standards get more stringent, the disparities get larger (Heubert, 238-43). Moreover, retaining students in grade for failing tests does not necessarily help them gain proficiency or close the achievement gap. Thus educators and civil rights advocates fear that the high stakes will most negatively affect children in poor, underfunded, urban public schools that are largely populated by black American students.

Educators also find problems with using graduation rates to measure a school's success and pinpoint accountability. Dropout and gradualism measurements are inconsistent across states, and there is evidence that some states disguise problems by falsifying completion rates, particularly as they relate to black students. For example, the New York City school system reportedly "pushed out" failing students and then categorized them as having transferred to other school settings, without tracking the students or identifying those settings (Lewin and Medina, A 1). In general, the NCLBA promotes, though probably unintentionally, racial and socioeconomic segregation in a number of ways. It provides administrators of white, middle class schools a reason to exclude black American students. Actually, to improve the chances that a particular school within a district makes Adequate Yearly Progress, administrators have an incentive to minimize the number of black American students in a school or district (Bogar, 1448-49). As for the NCLBA's choice provisions, administrators of successful schools may, easily, claim that they lack much, if any, space for transfer students. The NCLBA also threatens to exacerbate the problem of student exclusion. Given the connection between performance on tests, socioeconomic status, and race, the students most likely to be targeted for exclusion will be poor and/or racial minorities. If dropout rates increase, the NCLBA could end up further harming those students who obviously need the most help\_ leaving them, quite literally, behind. Another major hurdle that blocked racial school desegregation progress is the prevention of good teachers from choosing black Americans-attended schools. Indeed, the largest standards and testing movement, of which the NCLBA is a part, creates two separate problems regarding teachers. First, it makes teaching a less attractive profession to some talented individuals. Second, it bolsters the tendency of good teachers to choose relatively wealthy, white, and high-achieving schools.

## Conclusion

To put it in a nutshell, *Brown's* school desegregation mission was hindered by ten dissimilar and influential obstructions. Their set order in this article is not as important as their potent influence as deterrents to *Brown's* lofty order. All through the 1970s and the 1990s, the Supreme Court respectively ensured separate and unequal schools and has been steadily tearing down various drafted desegregation policies. It also undermined its genuine ruling in *Brown* a year later, via the use of the "all deliberate speed" phrase, and utterly depended on social science evidence to draw its conclusion in *Brown*. Above and beyond, the federal government was prioritizing compensatory education and in spite of the perceptibly praiseworthy aspirations of the new federal measure, the NCLBA devises, though inadvertently, inducements that work against their realization. The failure is evenly ascribed to such xenophobic 'scientific' studies against school integration, to the deep-rooted 'separate but unequal' facilities, and to residential segregation being an inescapable repercussion of re-segregation. Worse, *Brown's* intention might have been a time-adequate retort to the Cold War efforts abroad and the Red Scare at home. Thus, the tendency to equate *Brown* with the whole of school integration history is flawed; the decision is not accountable for the integration's ineptitude. It was rather the above-mentioned hurdles that lied behind its impotence.

## Bibliography

### Primary Sources

Board of Education of Oklahoma City Public Schools v. Dowell. 498 U.S. 237 (1991).  
Brown v. Board of Education. 347 U. S. 483 (1954).  
Freeman v. Pitts. 498 U.S. 1081 (1992).  
Keyes v. School District No. 1. 413 U.S. 189 (1973).  
Milliken v. Bradley. 418 U.S. 717 (1974).  
Missouri v. Jenkins. 515 U.S. 70 (1995).  
No Child Left Behind Act (NCLBA). Pub. L. No. 107-110. Sec. 9110 (2002).  
San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).  
The Southern Manifesto. 102 Cong. Rec. 4515-16 (1956).

### Secondary Sources

-Anderson, James D. The Education of Blacks in the South, 1860-1935. Chapel Hill: University of North Carolina Press, 1988.  
-Bell, Derrick. Silent Covenants : Brown v. Board of Education and the Unfulfilled Hopes for Racial Reform. New York : Oxford University Press, 2004.

- Bogar, John Charles. "Education's "Perfect Storm"? Racial Resegregation, High stakes Testing and School Resource Inequities: The Case of North Carolina." North Carolina Law Review 81 (2003): 1117-23, 1143-49.
- Dillon, Sam. "New Federal Law May Leave Rural Teachers Behind." New York Times 23 Jun. 2003: A 1.
- Dittmer, John. Black Georgia in the Progressive Era, 1900-1920. Urbana: University of Illinois Press, 1980.
- Doty, Ashley. "The Legacy of Brown V. Board of Education." Law and Society Journal 4 (2005): 111-122.
- Ferguson, George O. The Psychology of the Negro. Westport: Negro University Press, 1916.
- Gould, Stephen J. "American Polygeny and Craniometry Before Darwin." The Racial Economy of Science: Toward a Democratic Future. Ed. Sandra Harding. Bloomington: Indiana University Press, 1993: 110-111.
- Haynes, George. "Negro Migration: Its Effect on Family and Community Life in the North." Opportunity Oct. 1924: 81-82.
- Heubert, Jay. "Education Accountability Briefing Transcript." Charlotte, North Carolina. Feb. 6, 2003: 238-43  
<<http://www.law.umaryland.edu/marshall/usccr/documents/cr12r24.pdf>>
- James, David R. The Racial Ghetto as a Race-Making Situation: The Effects of Residential Racial Segregation on Racial Inequalities and Racial Identity. 19 L. and SOC. INQUIRY 407, 427 (1994).
- Kluger, Richard. Simple Justice: The History of Brown v. Board of Education and America's Struggle for Equality. New York: Vintage Books, 1977.
- Kosman, Joel. Toward an Inclusionary Zoning Jurisprudence: A Reconceptualization of Zoning. 43 CATH. U. L. REV. 59-60 (1993).
- Lewin, Tamar and Jennifer Medina. "To Cut Failure Rate, Schools Shed Students." New York Times 13 Aug. 2003: A1.
- Mayer, Susan E. How Much Does a High School's Racial and Socioeconomic Mix Affect Graduation and Teenage Fertility Rates? in THE URBAN UNDERCLASS 321-41 (Christopher Jencks and Paul E. Peterson, eds., 1991).
- Ogletree, Charles J. All Deliberate Speed: Reflections on the First Half Century of Brown v. Board of Education. New York: W.W. Norton & Company, 2004.
- Orfield, Gary. Congressional Power: Congress and Social Change. New York: Harcourt Brace Jovanovich, 1975.
- Ryan, James E. and Heise Michael. "The Political Economy of School Choice." Yale Law Journal 111 (2002): 2064-73, 2106-07.
- Scott, Daryl Michael. Contempt and Pity: Social Policy and the Image of the Damaged Black Psyche, 1880-1996. Chapel Hill: University of North Carolina Press, 1997.
- Wells, Amy Stuart and Jennifer Holme. "No Accountability for Diversity: Standardized Tests and the Demise of Racially Mixed Schools." Paper presented at a -Conference on the Resegregation of Southern Schools. North Carolina: Chapel Hill, Aug. 30, 2002: 13, 16, 18.  
<[http://www.civilrightsproject.harvard.edu/research/reseg02/wells\\_holme.pdf](http://www.civilrightsproject.harvard.edu/research/reseg02/wells_holme.pdf)>