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PUTTING BLACK KIDS INTO A TRICK BAG: ANATOMIZING THE INNER-CITY PUBLIC SCHOOL REFORM

Wilbur C. Rich[*]

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INTRODUCTION

Former Alabama Governor George Wallace once said "segregation now ... segregation tomorrow ... segregation forever."[1] Although he meant all of Alabama social life, it was widely known that he planned to use public schools to achieve that end. The dual school-system of Wallace's time remains in place today, and chances are that it will continue to exist in the future. Black Americans' efforts to bring about racially integrated schools are analogous to the metaphor of the trick bag. A trick bag is a metaphor for a ruse in which victims would be told that a prize awaits them if they conduct a smart search. However, there is no prize and the search becomes an end in itself. The victim is never told that there is no prize and continues the meaningless search.

When the 1954 *Brown v. Board of Education*[2] ruling outlawed *de jure* segregation in public schools, many Black people thought school

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[1] LUCAS A. POWE, JR., THE WARREN COURT AND AMERICAN POLITICS 218 (2000).

[2] 347 U.S. 483 (1954).

integration would happen immediately. However, after *Brown II*[3] mandated that public schools be integrated "with all deliberate speed," some Blacks were suspicious that they were being led into a trick bag. They were right. The south read *Brown II* as an endorsement of gradualism, and as a result, implementation was brought to a virtual halt in many cities.[4] Integration efforts were further tested when southern Whites began moving to suburbs like their northerner counterparts. The end result was a southern school system that remained largely segregated. Years after *Brown*, Blacks had to go back to court in order to integrate local public schools, however, when Blacks were permitted to attend White schools by court order, the White parents began relocating their children to new schools. Once again, Blacks had been led into a trick bag. The question that remains is how do they get out? Part I of this Article discusses the history of *Brown*, and the legal and political barriers that prevented the nation from fulfilling *Brown's* promise. Part II, will examine the phenomenon of White flight, which resulted from the efforts to implement the court-ordered desegregation of public schools. The political and economic effects of White flight on school reform efforts will also be examined. Part III will provide the reader with possible explanations for why school desegregation failed. The author will argue that the unexpected complexity of the task of desegregation, the lack of a unified direction among the judiciary, and local political entities, as well as beliefs about the effects that school desegregation would have on White children, prevented desegregation efforts from being successful.

Part IV will analyze the various alternatives to court-ordered school desegregation that developed as a result to the legal, social and political barriers, which prevented court-ordered desegregation from taking place. The alternatives provide parents of school-aged children a significant amount of choice in deciding where to send their children to school. Part V briefly surveys the school-reform efforts of four cities. The success, or failure of, and obstacles facing these efforts will be examined. Part VI discusses the role of school finance in relation to student achievement. The property tax, as the major source of funding for public schools, will be examined, as well as the effects of funding disparities between affluent and poor school districts. Part VII follows with a discussion of the use of testing as a method of school reform. This Part will focus specifically on the use of student testing as a way to measure student performance and hold teachers accountable. Finally, Part VIII will examine the relationship between poverty and student performance. The correlation between high concentrations of poverty in Black and Latino schools and class standing will be discussed.

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    3.   Brown v. Topeka Bd. of Educ., 349 U.S. 294, 301 (1955).
    4.   *See* NUMAN V. BARTLEY, THE RISE OF MASSIVE RESISTANCE: RACE AND POLITICS IN THE SOUTH DURING THE 1950's (1969).

I. THE PROMISE OF *BROWN*

Since *Brown*, Americans have convinced themselves, or have been convinced by politicians, that attending racially integrated schools is not a part of their civic obligation. Given the racially segregated housing patterns and White parent preferences for racially exclusive schools, achieving school integration is even more difficult. In *Public Opinion and Collective Action*, Garth Taylor claims that Americans were prepared to jettison the ideology of inferiority and social inequality after *Brown*. Taylor found that during the first ten years after *Brown* there was widespread acceptance of court-ordered desegregated public schools. However, this attitude changed and Whites adopted a "doctrine of voluntary compliance."[5] This doctrine holds that Whites have a right to not send their children to integrated schools.[6] Although polls show that White Americans are becoming more tolerant of minorities, these attitudes do not translate into allowing their children to attend racially integrated schools.[7] Americans apparently believe that racial equality can be achieved in racially segregated schools. Consequently, the nation educates the majority of its K-12 minority students in inadequate, segregated schools, thereby limiting their life chances. Put more bluntly, the nation has institutionalized White privilege at the expense of inner-city minority children. It is impossible to achieve racial equality with racially segregated classrooms that have inadequate facilities, less experienced teachers and a poor learning environment. *Brown's* mission was to correct this disparity; but somehow, America has turned *Brown* on its head.

Brown came as a shock to White southerners who had come to believe that, although they had lost the war between the states, they had won the right to create a White privileged and racially segregated society with the 1896 *Plessy v. Ferguson* ruling.[8] Several southern and border states created an elaborate dual school system complete with segregated teacher training colleges.[9] However, southern apartheid began unraveling on that fateful day in May when the U.S. Supreme Court, in a unanimous

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5. GARTH TAYLOR, PUBLIC OPINION AND COLLECTIVE ACTION: THE BOSTON SCHOOL DESEGREGATION CONFLICT 5 (1986).

6. Taylor concludes, "the doctrine of voluntary compliance is, ... ingrained in most Americans' perception of the law. In almost every community there is an injustice frame that rationalizes ... opposition to busing and support for the view that segregation is illegal but desegregation is not mandatory." *Id.* at 63.

7. White attitudes toward integrated schools have shifted dramatically since 1942. When asked whether Black and White students should attend the same or separate schools, only one third said the same in 1942. By 1990, fewer than 5% wanted segregated schools. DAVID ARMOR, FORCED JUSTICE: SCHOOL DESEGREGATION AND THE LAW 195 (1995) [hereinafter ARMOR, FORCED JUSTICE].

8. 163 U.S. 537 (1896).

9. Most historically Black colleges and universities were started as teacher colleges. *See* BUELL G. GALLAGHER, AMERICAN CASTE AND THE NEGRO COLLEGE (1938).

decision, declared that separate but equal school systems were unconstitutional. In addition to providing a major impetus for the civil-rights movement, the *Brown* ruling also triggered massive White resistance. For about a decade, elected leaders in the South took racial hyperboles to a new level, promising to resist integration at all costs.[10] Billboards in the South read "Impeach Earl Warren" and White Citizen Councils were formed.[11] Small White children were taught to sing, "[t]wo, four, six, eight, we don't want to integrate."[12] State legislatures passed nullification resolutions[13] and freedom of choice laws.[14] Politicians stayed with the pro-segregation rhetoric, (or what they called segging) because it resonated with the American voter.

The first post-*Brown* presidential campaign, in 1956, barely men-tioned the issue of school integration. White southerners supported Eisenhower throughout his presidential campaign based on the belief that he was not enthusiastic about enforcing the school integration policy. They had heard stories about the President's remarks to Chief Justice Warren about why the South did not want integrated schools— Eisenhower thought that White southerners' fears over integration was based on concerns about "sweet little White girls ... seated alongside some big Black buck."[15] Southerners believed that Eisenhower would take a segregationist stance when it came to the race issue. However, southerners were wary of his successor, John F. Kennedy. The 1960 presi-dential campaign was focused on whether there was a missile gap and whether a Catholic could lead a predominately protestant nation, but not

10. *See* EARL BLACK, SOUTHERN GOVERNORS AND CIVIL RIGHTS: RACIAL SEGREGATION AS A CAMPAIGN ISSUE IN THE SECOND RECONSTRUCTION (1976).

11. *See* NEIL R. MCMILLEN, THE CITIZENS' COUNCIL: ORGANIZED RESISTANCE TO THE SECOND RECONSTRUCTION, 1954–1964 (1971) [hereinafter MCMILLEN, THE CITIZENS' COUNCIL].

12. This was a common chant that school children used to protest the integration of some southern schools. Apparently adults taught them to use this refrain to indicate their disapproval of school desegregation. MCMILLEN, THE CITIZENS' COUNCIL, *supra* note 11, at 283.

13. "Nullification" is a discredited 1798 legal doctrine that asserts that a state execu-tive or judicial officer can override a federal order. Georgia, Alabama, Virginia and Texas were among the states that attempted to nullify the *Brown* decision. *See* JEFFREY A RAFFEL, HISTORICAL DICTIONARY OF SCHOOL SEGREGATION AND DESEGREGATION: THE AMERICAN EXPERIENCE 187 (1998) [hereinafter RAFFEL, HISTORICAL DICTIONARY OF SCHOOL SEGREGA-TION]; In Cooper v. Aaron, 358 U.S. 1 (1958), the U.S. Supreme Court ruled that the rights granted to Black children in *Brown v. Bd. of Ed.* could not be nullified by state legislators. *Id.* at 17.

14. *See* Green v. County School Board, 391 U.S. 430, 435–41 (1968) (holding free-dom of choice laws were unacceptable because they did not yield desegregation). Freedom of choice was used in the South to provide at least two public schools for stu-dents to choose from "after having been assigned to schools of their race." RAFFEL, HISTORICAL DICTIONARY OF SCHOOL SEGREGATION, *supra* note 13, at 108–109 (1998).

15. POWE, THE WARREN COURT AND AMERICAN POLITICS, *supra* note 1, at 36.

a debate about the efficacy of *Brown*. Although, Kennedy was never a high-profile liberal in the Senate, southerners were unsure about his commitment to the southern status quo.

The Kennedy Administration spent a considerable amount of time trying to appease the southern senators who controlled the Congress. This delayed any strong initiative on school integration. Although Kennedy took on the segregationists with his use of federal troops to integrate the University of Mississippi and the University of Alabama, the pace of school integration continued to lose momentum; this was in spite of a vigorous Black civil-rights movement. In the end, neither Eisenhower nor Kennedy did much to undo segregated schools in the South.[16]

The first serious presidential involvement in school desegregation was when Lyndon Johnson declared before the nation, "we shall overcome."[17] His administration was the first to threaten to withhold federal funds from segregated schools.[18] Although the Johnson era was filled with great hope, it also saw the rise of Black militancy and rioting. This had a profound impact on Black leaders in the North. Northern school-districts, segregated by housing patterns or so-called *de facto* segregation, came under intense pressure, as Black leaders began demanding integrated public schools.

At this time, most of the nation's large city public-school systems were gaining Black student majorities. Despite integrating the teaching staff and the administration, conditions in southern schools continued to deteriorate. School buildings were in disrepair and the fiscal problems were mounting. The integration of Black professionals at higher levels on the board of education staff came at a time when the national drive for school integration lost its momentum and its strong supporters.[19] The 1968 *Kerner Report*'s prophesy of two nations, separate and unequal, one White and one Black, began to lurch toward reality.[20] A few policy makers desperately tried to salvage the nation's school integration policy by implementing a busing program, but this also failed. Busing efforts failed due to an anti-busing movement, which was a manifestation of the attitudes

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16.   *See generally* ROBERT F. BURK THE EISENHOWER ADMINISTRATION AND BLACK CIVIL RIGHTS (1984).

17.   Lyndon B. Johnson, Presidential Address to the Nation, (Mar. 15, 1965).

18.   *See* ERIC C. LINCOLN & MICHAEL V. NAMORATO, HAVE WE OVERCOME? RACE RELATIONS SINCE BROWN 138 (University Press of Mississippi 1979); *see also* JAMES C. HARVEY, BLACK CIVIL RIGHTS DURING THE JOHNSON ADMINISTRATION (1973).

19.   *See* WILBUR C. RICH, BLACK MAYORS AND SCHOOL POLITICS: THE FAILURE OF REFORM IN DETROIT, GARY AND NEWARK (1996) [hereinafter RICH, BLACK MAYORS AND SCHOOL POLITICS].

20.   KERNER COMMISSION, UNITED STATES, REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 1 (Bantam Books 1968).

of Whites towards integration.[21] Whites continued the trend toward sub-urbanization and their percentages within cities declined relative to the minority population.[22] Nor were these problems limited to the South. By the 1970s, most educators acknowledged that *de facto* segregation of schools in the North was just as insidious as *de jure* segregation was in the pre-*Brown* South.

The 1968 presidential campaign became a symbol of White resistance due in large part to the actions of Alabama Governor George C. Wallace. In 1963, Wallace "set the tone that made Alabama for the next four years a battle ground in the civil-rights struggle."[23] In 1968, as a third-party candidate, Wallace became a serious threat to the Republican nominee's hope of winning the deep-South.[24] The Republican Party's Southern strategy of converting Dixiecrats into Republicans was also affected.[25] During the 1968 presidential campaign, busing was one of the key issues of Vice President Hubert Humphrey, the Democratic nominee. Humphrey lost several southern states to Wallace, while the northern White working-class votes went to Richard Nixon. After the Humphrey defeat, the Democratic Party began backing away from issues related to busing and integration, arguably, creating a receptive political environment for the *Bradley* decision.[26] The Supreme Court's decision in *Bradley* signaled the nation's 15,000 school districts that they were sovereign entities that could resist border encroachment.[27] The Court's ruling in *Bradley* allowed suburban school-districts to become safe havens for Whites wanting to escape inner-city schools.

By developing a narrow view of its objectives, the judiciary further diminished any hope that court-ordered integration would provide an

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21.   *See* Christine Rossell, *Is it the Busing or the Blacks?*, 24 URB. AFF. Q. 138 (1988).

22.   Diane Ravitch, *A Response to the "White Flight" Controversy*, 53 Pub. INT. 112 (1978).

23.   Six months after his inaugural address, Wallace would "symbolize his defiance of the federal courts by literally standing in the school house door to block admission of two black students to the University of Alabama. JACK BASS & WALTER DEVRIES, THE TRANS-FORMATION OF SOUTHERN POLITICS: SOCIAL CHANGE AND POLITICAL CONSEQUENCE SINCE 1945 62 (Basic Books 1976) [hereinafter BASS & DEVRIES, THE TRANSFORMATION OF SOUTHERN POLITICS].

24.   "With Wallace on the ballot as a presidential candidate in 1968," Nixon garnered only 14% of the vote in Alabama. This was the worst Republican showing in the state since 1936. "Against McGovern in 1972, Nixon carried [Alabama] with 74% [of the vote]." *Id.* at 80.

25.   *See id.*

26.   THOMAS B. EDSALL & MARY D. EDSALL, THE IMPACT OF RACE, RIGHTS AND TAXES ON AMERICAN POLITICS 10 (Norton 1991). In *Milliken v. Bradley*, the court held that White, suburban school-districts were not required to participate in an inter-district busing plan absent a showing of an inter-district violation or an inter-district effect. Milliken v. Bradley 418 U.S. 717, 745 (1974).

27.   *See* Robert A. Sedler, *Metropolitan Desegregation in the Wake of* Milliken—*On Losing Big Battles and Winning Small Wars* 2 WASH. U. L.Q. 535, 536 (1975).

effective remedy. In the view of Justice Burger, the objective of the judiciary was to "eliminate from the public schools all vestiges of *state-imposed* segregation."[28] Consequently, *de facto* segregation went largely unchecked. Paul Peterson's *City Limits* explains how *de facto* segregation amplified as suburban schools competed for the fleeing White residents with promises of safe, all White classrooms.[29] Suburban districts offered solace for the White refugees. White flight, which began as an orderly exit, soon reached stampede proportions. Whites were willing to pay higher mortgage rates, transportation costs and infrastructure costs to escape the integrated public-schools.[30] In the long run, *Bradley* would unleash a vicious bidding war for middle-class families of all races. Inner-city school districts simply could not compete with their suburban counterparts. The *Bradley* decision, in retrospect, was consistent with the changing mood of the nation.[31]

II. THE EFFECTS OF WHITE FLIGHT

White flight is truly an American social phenomenon.[32] White flight occurred mainly when White children were assigned or reassigned to predominately Black schools.[33] Furthermore, White families with elementary school age children engaged in White flight at rates higher than other White families.[34] White population shifts from cities to suburbs left the least prepared students in inner-city schools. The decline of inner-city public schools was further exacerbated by the indifference of surrounding school districts. However, not all Whites who abandoned inner-city schools were racists; some believed that predominately minority schools were pedagogically inadequate.[35] While others claimed that White children would be held back due to the slower minority

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28.   *See* Swann v. Charolotte-Mecklenburg Bd. of Ed., 402 U.S. 1, 15 (1971).

29.   *See* PAUL PETERSON, CITY LIMITS 93–106 (1981).

30.   *See* Kevin M. Kruse, White Flight: Resistance to Desegregation of Neighborhoods, Schools and Businesses in Atlanta, 1946–1966 (2000) (unpublished Ph.D. dissertation, Cornell University) [hereinafter Kruse, White Flight] (on file with author).

31.   Congresspersons introduced several bills designed to limit the authority of the federal court in cases involving desegregation. *See* Warren Weaver, *Senate Approves Education Funds, Kills Busing Ban*, N.Y. TIMES, Mar. 1, 1970, at 1.

32.   When their children reach school age, some Whites move from the city to the suburbs or seek private/parochial schools, because White families are not comfortable with their children being the minority group in a predominantly Black school. Scholars have shown that Whites would leave a school district once the Black-student population reached a certain percentage. *See* Diane Ravitch, *The White Flight Controversy* 51 PUB. INT. 135 (1978).

33.   *See* Kruse, White Flight, *supra* note 30.

34.   AMOR, FORCED JUSTICE, *supra* note 7, at 198.

35.   *See id.*

children.[36] A few would admit that they did not want their children to be a numerical minority in a predominantly Black inner-city school. Samuel Gaentner and John Dovidio coined the term "aversive racism": Whites denouncing racial discrimination, but at the same time avoiding contact with minorities.[37] Whatever the reasons, Whites of all socio-economic groups were leaving integrated school systems.

As early as 1980, Harvard Sitkoff found that two thirds of Black American students attended schools that were 90% Black.[38] Yet, law professor James Liebman, in a critical essay, declared "school desegregation is not dead. It lives quietly in what used to be the confederate South."[39] Discouragingly, the number of Blacks attending segregated schools grew at the dawn of the 1990s. By the mid 1990s, the Gary Orfield research team found that Blacks and Latinos were most likely to go to school with predominately minority classmates. Orfield and Eaton found that schools are just as segregated now as they were before *Brown v. Broad of Education.*[40] In 2001, Gary Orfield and Nora Gordon found that

> More than 70% of the nation's black students now attend predominately minority schools. Yet, the most dramatic and largely ignored trends affect Latino students. While intense segregation for blacks is still 28 points below its 1969 level, it has actually grown 13.5 points for Latinos . . .[41]
>
> According to the data, White students remain the most segregated from all other races in their schools. Whites on average attend schools where less than 20% of the student population consists of students from other racial and ethnic groups.[42]

Rapid White suburbanization soon became the norm throughout the country. Orfield opined that unless there was a coordination of hous-

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36. *Id.*

37. John F. Dovidio & Samuel Gaertner, *On the nature of Contemporary prejudice: The Causes, Consequence and Challenges of Aversive Racism in* CONFRONTING RACISM: THE PROBLEM AND THE RESPONSE (Jennifer T. Eberhart & Susan. T. Fiske eds., 1998).

38. HARVARD SITKOFF, THE STRUGGLE FOR BLACK EQUALITY, 1954–1980 232 (1981).

39. James S. Liebman, *Desegregation Politics: All Out School Desegregation Explained*, 90 COLUM. L. REV. 1463, 1465 (1990).

40. GARY ORFIELD & SUSAN EATON, DISMANTLING DESEGREGATION: THE QUIET REVERSAL OF BROWN V. BOARD OF EDUCATION 359 (1996) [hereinafter ORFIELD & EATON, DISMANTLING DESEGREGATION].

41. Gary Orfield & Nora Gordon, *Schools More Separate: Consequences of a Decade of Resegregation in* THE CIVIL RIGHTS PROJECT 1 (July 2001) [hereinafter Orfield & Gordon, *Consequences of a Decade of Resegregation*].

42. *See id.*

ing and schools, school integration would disappear.[43] The result would be permanent social isolation of Black and Latino children. Black students are now the majorities in some big-city schools: Baltimore 75%, Washington, D.C. 75%, New Orleans 81%, Cleveland 69%, Detroit 85% and Memphis 74%.[44]

The decision by Whites to abandon the public schools is consistent with Albert O. Hirschman's economic theory of organizational loyalty.[45] In *Exit, Voice and Loyalty*, Hirschman argues that organizational loyalty is determined by one's ability to use their voice or their option to exit.[46] According to Hirschman:

> [T]he decision not to exit in the face of a clearly better buy (or organization) could ... be taken by customers (or members) who expect the complaints and protests of *others*, combined with their own faithfulness, to be successful in [improving the product or organization that the customer or member uses or is a part of].[47]

In the case of school integration, Whites exercised their exit option rather than use their voice to repair and upgrade schools. By exercising their exit option, Whites left the public schools without a strong voice,[48] while simultaneously robbing the exited districts of the strong tax base that was needed to repair the problem. The groups left behind were unorganized and had no voice with which to effect any significant

43. Gary Orfield, *Schools More Separate: Consequences of a Decade of Desegregation in* THE CIVIL RIGHTS PROJECT 8 (2001) [hereinafter Orfield, *Schools More Separate*].

44. NATIONAL CENTER FOR EDUCATION STATISTICS, UNITED STATES, CHARACTERISTICS OF THE 100 LARGEST PUBLIC ELEMENTARY AND SECONDARY SCHOOL DISTRICTS IN THE U.S. (2000–2001).

45. Hirschman describes a situation where a consumer of product A is faced with the choice of switching to the competing or substitute product B, which is available at the same price as, and superior to, product A. In this situation, the consumer has the option of "going over to B" (exiting) or continuing to use product A. ALBERT HIRSCHMAN, EXIT, VOICE, AND LOYALTY 36–37 (1970). Some consumers that choose to stay with product A will do so out of "loyalty". "Many of these 'loyalists' will actively participate in actions designed to change A's policies and practices, but some may simply refuse to exit and suffer in silence, confident that things will soon get better." *Id.* at 38.

46. *Id.* at 36–38.

47. *Id.* at 38. "[T]he decision [of] whether to exit will often be taken *in the light of the prospects for the effective use of voice*. If customers are sufficiently convinced that voice will be effective, then they may well *postpone* exit." *Id.* at 37. Furthermore, "the voice option includes vastly different degrees of activity and leadership in the attempt to achieve change 'from within.'" *Id.* at 38.

48. *See id.* at 100. Hirschman argues that parents who shift their children from public to private schools "may further contribute to the further deterioration of public education." *Id.* This quality deterioration of public schools, which affects the lives of both parents and children, may be so great that it outweighs the higher educational attainments [gained] by the children that are switched to private schools *Id.* at 100–01.

improvements within their schools. Furthermore, the subsequent lack of financial resources left poor Blacks and poor Latinos with no way of maintaining an adequate school system. As public schools became more minority dominated, the discourse about schools changed. Society gave up on school integration and instead, began focusing on achievement deficits among minority students.[49]

III. WHY SCHOOL DESEGREGATION FAILED

There are several explanations for the failure of school desegregation, some of which are obvious and others of which are less clear. First, the desegregation of schools was a more complex undertaking than policy makers realized. In retrospect, one could argue that they were a bit naïve. Some believed that desegregation was simply a matter of assigning Black children to White schools or vice versa.[50] Most proponents of school integration did not understand the racial particularity of a given school district and its host community;[51] there were few, if any, studies of community readiness for racially integrated schools. In retrospect, we now know that some communities were more ready than others.

In jest, Harry Golden, a southern journalist, made an astute suggestion for facilitating school desegregation that revealed the bizarre and complex class and race structure of the South. He stated that the "Black girls could wear miniature aprons to school over their street dresses and Black boys should carry the books of their classmates."[52] This would relax the status conscious White parents and school integration would proceed smoothly.

Ignoring the fragile, socially constructed racial system, integration proponents believed teaching racial tolerance in the South would be more reality-based in an integrated setting and that the academic performance of Black children would improve.[53] Good intentions proved to be a poor substitute for community preparation. The lack of preparation left many communities without informed and committed interracial leadership. As a result, the school-integration process ended up

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49.   *See* William Sampson & Ben William, *School Desegregation: The Non-Traditional Sociological Perspective*, 47 J. NEGRO EDUC. 72 (1978).

50.   *See* Michael Klarman, *How Brown Changed Race Relations: The Backlash Thesis* 81 J. AM. HIST. 81 (June 1994).

51.   There were some that did realize that racial idiosyncrasies existed among different school districts. *See* S. Russel Merritt, *The Success of Greenville County, South Carolina, in Avoiding Public School Resegregation, 1970–1990,* 28 EQUITY & EXCELLENCE 50 (1995).

52.   HARRY GOLDEN, ONLY IN AMERICA 108–09 (Permabooks 1959) (1958).

53.   AMY STUART WELLS & ROBERT L. CRAIN, *Perpetuation Theory and Long-term Effects of School Desegregation,* REVIEW OF EDUCATION REVIEW 531, 532 (1994).

in disarray.[54] In addition, local politicians, with their public and private opposition to integrated schools, made integration efforts difficult. Several communities were initially successful at integrating their schools but they received little media attention. Instead, the media focused on the failed attempts and on politicians like Louise Day Hicks who sought to defy desegregation court-orders.[55]

Second, there was a lot of policy drift in the implementation of desegregation. The wheels of local politics and the courts overran the entire process. Not only was a clear direction lost, but sympathetic community leaders became frustrated as well. Near the end of the 1960s, we began to get red flag scholarship warnings about racial isolation in public schools.[56] School-board meetings became caldrons of racial conflicts and the ideological composition of a school board became critical to the implementation of desegregation. Robert Crain's study of eight cities found that a school boards' initial reaction to desegregation set the tone for the implementation of a desegregation plan. It was found that once the pro-integration coalition—composed of Black and White liberals—broke up, cities began regressing.[57]

A case could be made that the failure of desegregation efforts was inevitable. The nation was never truly committed to school integration, but no one predicted that we would return to a pre-*Brown* era. White flight also came during a time when the labor market was changing. The onset of the post-industrial labor market with its emphasis on college education introduced more competition into the lives of Americans. As the competition for college admission grew more intense, White parents opted for more reliable "star" high-schools.[58] Parents adopted a type of rational selfishness for their children's education. For all intents and purposes, the era of schools as a social experiment was aborted. Inner-city minority students now faced the possibility of losing even more ground.

Yet the scholarship on desegregated schools boomed. Researchers found that the integrated schools improved the performance of Black children, but it did not harm the achievement of White children.[59] They also found that desegregated schools worked best in the elementary schools—once children reach middle school, their racial attitudes have

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54. DORIS FINE, WHEN LEADERSHIP FAILS: DESEGREGATION AND DEMORALIZATION IN THE SAN FRANCISCO SCHOOLS 13 (1986).

55. ROBERT L. CRAIN ET AL., THE POLITICS OF SCHOOL DESEGREGATION 3 (1968).

56. U.S. COMMISSION ON CIVIL RIGHTS, RACIAL ISOLATION IN THE PUBLIC SCHOOLS 2–5 (1967).

57. *See* CRAIN ET AL., THE POLITICS OF SCHOOL DESEGREGATION, *supra* note 55, at 356–65.

58. Paul Attewell, *The Winner-Take All High School: Organizational Adaptation to Stratification*, 74 SOC. EDUC. 267, 267–78 (2001).

59. Robert L. Crain, & Rita E. Mahard, *Desegregation and Black Achievement: Review of Research*, 42 LAW & CONTEMP. PROBS. 17, 18 (Summer 1978).

already been formed, therefore, it is important to integrate children at a young age.[60]

After studying several community desegregation efforts, Jennifer Hochschild's *The New American Dilemma* concluded that, "when fully and carefully carried out, mandatory desegregation reduces racial isolation, enhances minority achievement, improves race relations, promotes education quality, opens new opportunities, and maintains citizen support."[61] She also found that mandatory desegregation does not harm White achievement. However, by the time Hochschild's book was published in 1984, President Reagan's brand of conservatism had captured the minds of many Americans who believed the nation had the luxury of ignoring school desegregation.

In 1985, Raymond Wolters, the author of *The Burden of Brown,* lamented that after thirty years, *Brown* was a social failure. According to Wolters, *Brown* had not improved the education of Blacks and courts simply meddled naively in social engineering.[62] Wolters went so far as to suggest that *Brown* had harmed the Constitution because it "unelected judges" who attempted to legislate social policy.[63] Pronouncing *Brown* a failure got Professor Wolters a great deal of publicity during the Reagan era and his iconoclastic thesis still gives solace to some legal scholars who believe *Brown* was wrongly decided. However, it was not disagreements among scholars that unleashed doubts about the efficacy of racially integrated schools, but rather an unspoken panic that gripped the few remaining Whites in city school systems. Many feared their child would become a minority in a predominately Black school.

IV. THE SEARCH FOR ALTERNATIVES

Faced with the reality that court-ordered desegregation would not come to fruition, Black communities, business entities and local governments began the search for alternative methods to bring about a more egalitarian school system. These alternative methods took many forms; their effectiveness however, in equalizing Black and White school systems, as compared to the effectiveness of court-ordered desegregation, remains to be seen. What follows is an analysis of some of the alternative methods developed.

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60.   *See* Timothy J. Bergen, *The Development of Prejudice in Children,* 122 EDUC. 154, 162 (2001).

61.   JENNIFER HOCHSCHILD, THE NEW AMERICAN DILEMMA 177 (1984).

62.   RAYMOND WOLTERS, THE BURDEN OF BROWN 7 (1984).

63.   *See id.* at 8.

A. *Afro-Centric Curriculum*

A parallel reaction to re-segregation has been a type of Black resig-
nation that expresses itself in a quasi-appeal to Black nationalism. The
reaction has been *Blacks do not have to sit next to White people to learn; rather
Blacks can learn in "their own" schools with a curriculum that Black's designed.*
Black communities are asked to go in alone and empower the remaining
inner-city schools. Out of this sentiment grew a demand for an
Afro-centric curriculum. A few saw Afro-centric schools as an alternative
to the integration mandate of *Brown* and a method to improve the
achievement scores of Black children. Jarvis' comments reflect this view.

> Such curricula promote *Brown's* goal of improving the op-
> portunities of black schoolchildren. Such curricula need not
> be racially exclusive; they can provide educational benefits
> to non-black students as well. A curriculum, which simply
> replaces Eurocentric orthodoxy with an Afrocentric one,
> would not in and of itself improve educational opportuni-
> ties for black children. Therefore, it would face challenges
> from those who fear it would doom integration. However,
> the important goal of having non-racially identifiable
> schools need not be repudiated by a well-designed Afrocen-
> tric curriculum.[64]

Deborah Mathis echoes these sentiments. She would have school-reform
activists to stop spending millions on "magnet schools to lure White chil-
dren out of their suburban refuge and back into the city schools."[65]
Mathis wants school-reform activists to put the money into Black and
Brown schools and make them into "havens." She, like many Blacks, be-
lieves that Blacks can learn without White classmates.

Supporters of an Afro-centric curriculum believe the fight for
school integration is an unrealistic goal that has shifted the focus away
from improving inner-city schools. They want to build a separate curricu-
lum using Black history and Black role models to appeal to and energize
Black students.[66] It is often difficult to argue with the aspirations of Afro-
centric curriculum proponents, but the point is that America has never
equitably supported a dual system. Afro-centric curriculum may sound
revolutionary, but parallel curriculums are basically unrealistic. Perhaps,
aspects of an Afro-centric curriculum will be adopted by school districts,

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64.   Sonia Jarvis, *Brown and the Afrocentric Curriculum*, 101 YALE L.J. 1285, 1304 (1992).

65.   Deborah Mathis, *Re-segregation May be the Way to Re-energize*, HOUSTON
CHRONICLE, June 29, 1997, at 6 *available at* http://web.lexis-nexis.com/universe/
document?_m=532cd419eb96a72279068a28f0f18bd3&_docnum=1&wchp=dGLbVzb-
lSlzV&_md5=d6656b845ee222bd251882bab861a616.

66.   *See* Molefi Asante, *The Afrocentric Idea in Education*, 60 J. NEGRO EDUC. 170 (1991).

but students will continue to be measured on their knowledge of the traditional Euro-centric curriculum.

Since racial secession is not a real option, education scholars have concentrated their efforts on tinkering with the extant pedagogy. There is a plethora of theories on "how to teach" minority children, but no theory has acquired enough reliability to apply to all inner-city schools. Compensatory and enrichment programs, once thought to be the panaceas, have failed to close the achievement gap between Black and White students on standardized tests. Yet school districts keep trying these programs and have become dishearten by the process. Due to the crisis over the performance of minorities on standardized tests, local politicians have been prompted to take a more proactive role in school reform.

As is the case for most public-policy issues, the politicians divided themselves along liberal and conservative affiliations. The conservatives want to either completely reorganize the inner-city public school systems or grant students more choices. Conservative foundations like the Manhattan Institute and the Thomas Fordham Foundation have supported the choice movement and sponsored choice conferences. What is problematic about the choice movement is that there is no consensus about what choice means. Kevin Smith and Kenneth Meier observes:

> There are many version of school choice. Voucher plans, choice limited to public schools, programs that include private school, intradistrict choice, interdistrict choice, voluntary and involuntary open enrollment policies. While a universally appealing metaphor, there is virtually no agreement on what policy translation the school choice metaphor should take.[67]

One liberal response has been to seek higher pay for teachers and better school facilities and equipments for both teachers and students in an effort to improve minority schools. Other voluntary programs used to integrate suburban schools have also received the support of liberals. In Boston, the METCO program buses inner city students to suburban schools.[68] A Better Chance, Inc (ABC) recruits inner-city students and places them in suburban high schools and in group homes. In addition, prep schools often offer scholarship programs for talented students and athletes. Liberals are also the strongest supporters of charter and magnet schools.

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67. KEVIN SMITH & KENNETH J. MEIER, THE CASE AGAINST SCHOOL CHOICE 24 (1995).
68. *See* SUSAN EATON, THE OTHER BOSTON BUSING STORY 5–7 (2001).

B. *Magnet Schools*

Cities have also invested heavily into magnet schools in order to attract more middle-class children (i.e., suburban White children) to inner-city schools.[69] School buildings were renovated, the latest equipment was brought in, experienced teachers recruited and a diverse staff hired. Designed to be unlike other public schools, magnet schools are organized to draw students from across the city and even the metropolitan area. The assumption was that White children would only attend inner-city schools with all the bells and whistles. Magnet schools ranged from the traditional examination schools, such as Boston Latin School in Boston, to new high tech ones such as Clark Magnet High School in Glendale, California. Some are free standing or full-site schools and others are partial sites (i.e. a magnet school within an existing school). Magnet schools also endeavor to keep a racial balance—a proportional number of White students to Black students. However, research shows that Blacks and Whites have a different idea about what is an acceptable proportion of minority students.[70] Therefore, controlling the number of Black students became an ongoing challenge for magnet schools.

Federal courts have approved remedial and compensatory programs designed to improve the quality of Black schools.[71] In order to make Black schools more attractive, and "thereby promoting chances of a stable and successful voluntary desegregation plan, the plan under consideration in *Jenkins*, required:

> Grants to each of the schools in Kansas City Missouri School Districts for a three-year period, a voluntary interdistrict transfer plan, and a reduction of class size proposal ... as well as a capital improvements program which imposed a cost on the school district of $10,000,000 over a three-year period, and $27,000,000 on the State over the same period.[72]

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69. Magnet schools can be separate or part of existing schools. Raffel cites four characteristics of magnet schools: (1) special curriculum; (2) voluntary desegregation plan; (3) choice; and (4) access by students outside the attendant zone. RAFFEL, HISTORICAL DICTIONARY OF SCHOOL SEGREGATION, *supra* note 13, at 149.

70. *See* Jon Alston & Ben Crouch, *White Acceptance of Three Degrees of School Desegregation, 1974*, 39 PHYLON 216 (1978). Data presented by Alston and Crouch show that, during 1970, 57% of Whites in the North and 52% of Whites in the South "objected to integration when blacks formed half or more of the student body." *Id.* at 216.

71. Jenkins v. Missouri, 807 F.2d 657, 682–83 (8th Cir. 1986).

72. *Id.* at 682. Although the Court of Appeals struck down parts of the plan, which inappropriately allocated certain costs of the plan to the State, the Court found that capital improvements were necessary for successful desegregation. *Id.* at 684–86.

Voluntarism is thought to be a better way to promote integration. Magnet schools are purely voluntary and are supposed to attract White students. Christine Rossell's *The Carrot or the Stick for School Desegregation Policy*, presents research indicating that "magnet-voluntary plans desegregate a school system more effectively than either mandatory reassignment plans or the pre-1968 freedom-of-choice plans."[73] However, Orfield and Eaton found that while "magnet schools have been successful in attracting diverse student populations and improving their own racial balance, . . ."[74] problems with racial segregation persisted:

> [O]ne new magnet school at each level had insufficient White enrollment in 1994, and one middle school had too few Black students. [Moreover, regarding within-school desegregation], when only a fraction of students in any given school are enrolled in a magnet program—or when different groups of students are enrolled in different magnet programs—individual magnet programs may be out of balance even though the school as a whole is balanced.[75]

A White student who attended a magnet school observed that Blacks and Whites on the whole were segregated within the school, even though the numbers painted a different picture, one of integration: "From the separate bathrooms, parties, clubs and classes, a tacit subculture of segregation existed within the school ... Because of this exclusion, Blacks and Whites appeared to operate in separate and discrete cultures that rarely intersected."[76]

Magnet schools were not as successful in attracting White students as magnet school supporters had hoped they would be. Brian Fife's *Desegregation in American Schools* found that over a certain period White flight continued despite the voluntary nature of magnet schools.[77] One report showed that the majority of White middle-class parents disapproved of

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73. CHRISTINE ROSSELL, THE CARROT OR THE STICK FOR SCHOOL DESEGREGATION POLICY 210. (1990) "A magnet-voluntary plan is one in which desegregation is primarily accomplished through voluntary transfers-that is, by relying on parental choice motivated by incentives." *Id.* at 42. Usually, these plans are structured to allow Whites to voluntarily transfer to magnet schools placed in minority neighborhoods. Such plans also give minorities the options of transferring to White magnet schools or White schools that are under a majority-to-minority transfer program. *Id.*

74. ORFIELD & EATON, DISMANTLING DESEGREGATION, *supra* note 40, at 194.

75. *Id.* For a case study analyzing the affects of "within-school segregation on Black children, *see* Carla O'Connor, *"I'm Usually the Only Black in My Class": The Human and Social Costs of Within-School Segregation,* 8 MICH. J. RACE & L. 221 (2002).

76. Cynthia Gersti-Pepin, *Magnet Schools: A Retrospective Case Study of Segregation,* 85 HIGH SCHOOL J. 47, 51 (2002).

77. BRIAN FIFE, DESEGREGATION IN AMERICAN SCHOOLS: COMPARATIVE INTERVENTION STRATEGIES 117–19 (1992).

lower-class students in the classroom because they were thought to be disruptive.[78]

Kimberly West concluded that magnet schools had failed as a desegregation tool. In partial-site magnet schools, segregating students into non-magnet and magnet schools created a stigma, which resulted in non-magnet students internalizing a sense of inferiority.[79] Non-magnet students resented their pampered and privileged magnet cohorts. West observes:

> Racial segregation within a magnet school is particularly and especially objectionable because it stems from a supposed desegregation remedy. The fact that desegregation-oriented magnet schools operate separate Black and White classrooms is a rueful contradiction ... The segregation of students within a magnet school constitutes a unique injury to minority students attending the school because it quite literally adds insult to the prior injury supposedly being remedied.[80]

Yet even with their flaws, magnet schools still have their defenders. Black students who attend them complain about the segregated social atmosphere, but most believe it is a small price to pay to get a first rate education. However, the problem with the so-called exam schools—magnet schools that use standardized testing to determine a child's eligibility for admittance—is the difficulty of maintaining a racial balance. White students with higher exam scores than minorities are sometimes passed over for minorities. In Boston, some White parents have gone to court to have their children admitted to Boston Latin School,[81] while others have suggested that a charter school should be created for minority students.[82]

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78. Maria Yon et al., *Racial and Class Isolation in Magnet Schools*, 13 J. RES. CHILDHOOD EDUC. 77, 82 (1998).

79. *See* Kimberly West, *A Desegregation Tool that Backfired: Magnet Schools and Classroom Segregation*, 103 YALE L.J. 2567, 2577–78 (1994).

80. *Id.*

81. Boston Latin School, founded in 1935, requires students to take four years of Latin during their six years at the school. Students are admitted based on test and academic performance. Girls and minorities were admitted in the seventies. In a 1998 reverse discrimination suit, the United States Court of Appeals for the first circuit held that Boston Latin School's race conscious admissions policy did not meet the *Bakke* standard. *See* Wessmann v. Gittens, 160 F.3d 790, 800 (1st Cir. 1998).

82. BRUCE FULLER, INSIDE CHARTER SCHOOLS: THE PARADOX OF RADICAL DECENTRALIZATION 93 (2000).

C. *Charter Schools*

Since the early 1990s many parent groups have started charter schools to avoid sending their children to so-called "regular public schools." The purpose of a charter school is to create an autonomous school within the public school system with a special curriculum. In addition, charter schools are supposed to be free of bureaucratic constraints brought on by the central board's supervision. Armed with a special charter, these schools are designed to have the freedoms of private schools.

There are approximately 2,700 charter schools in 37 states and Washington D. C.[83] Minnesota was the first to pass a charter school law, in which schools were designed to meet the needs of high-risk, minority and disabled students. Different states have different charter laws. Some states grant charters directly to groups, while others allow the local board to grant charters.[84] The Center for Education Reform, an advocate group for charter schools, considers some state charter laws stronger than others.[85] Arizona, New Jersey and Colorado laws are stronger than those in Illinois, Connecticut and Virginia.[86] One of the criteria for making the

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83.   The Center for School Reform, Washington, D.C. *at* http://edreform.com/charter_schools/ (on file with the Michigan Journal of Race & Law).

84.   The flexibility of the school charter law is key to understanding expansion of such schools. In *The State of Charter School Report*, the Office of Educational Research and Improvement observed, "The number and types of agencies allowed to grant charters differ by state. In 14 states, only the local board can grant charters and in 8 of those states, the decision of the local board can be appealed to a higher authority. In seven states, some state level agency (usually the State Board of Education) is the only charter-granting agency. In the remaining 16 states, multiple agencies are authorized to grant charters—usually local boards and a state body. In five states with multiple charter granting agencies, universities also can grant charters." Office of Educational Research and Improvement, U.S. Dept. of Ed., *The State of Charter Schools: National Study of Charter Schools 2000—Fourth-Year Report* (2000) *at* http://www.ed.gov/PDFDocs/4yrrpt.pdf (on file with the Michigan Journal of Race & Law).

85.   According to the Center for Education:

> Strong laws foster the development of numerous, genuinely independent charter schools, [while] [w]eak laws provide fewer opportunities for charter school development. Legislators who enact strong laws protect the elements of legislation that are most likely to have the intended consequence—the creation of a plentiful number of autonomous public schools available to a wide array of children and families.

Center for Education Reform, Washington, D.C., *Charter School Laws: State-by-State Ranking and Profiles at* http://edreform.com/charter_schools/laws/rankingintro.pdf (on file with the Michigan Journal of Race & Law). For example, Florida makes it difficult for private schools to be come charter school and has a cap of 974 for the state. Idaho, New Mexico and New Hampshire limit the annual number of new charters each year. Missouri limits such schools to districts in St. Louis and Kansas City. Oregon allows charter schools only in districts enrolling 5,000 or more students. *Id.*

86.   *Id.*

ranking is whether or not the state funds a high percentage of charter schools.

Charter schools are among the fastest growing reform movement, due in part to the marketing skills of companies like Edison, Inc., which operates, under management contracts, 150 public schools, including many charter schools.[87] Edison claims to serve 80,000 students.[88] Michigan has 184 charter schools and 75% of them are operated by 44 different for-profit organizations.[89] Carol Furtwengler calls these for-profit organizations educational management organizations (EMOs).[90] EMOs such as Edison Schools, Inc, believe that public schools will eventually lose their monopoly over the education of poor children and are telling their investors that the whole educational market will be up for grabs.[91]

Why are EMOs so bullish on the educational market? The education services business is the second largest sector in the U.S. economy, totaling approximately $600 billion dollars.[92] Most of the money, $310 billion, is concentrated in K–12 education.[93] Big cities, even those with serious fiscal problems, spend millions on education. For examples, New York City alone has a budget that exceeds $11.4 billion.[94] This is serious money, and several players are chasing those dollars.

Charter schools do provide choices to those who want to remain in the public school system. This is why they have received some support from the teacher unions. However, the problem with charter schools is that there is no uniform design; instead, designs and missions can vary greatly. As with any reform movement there is a great range in the quality of charter schools. There are some famous charter schools such as Mesa Arts Academy (Mesa, Arizona), Vaugh Charter (Los Angeles) and Bowling Green Charter School (Sacramento), that appear to be successful, but many are not working.[95]

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87. *See* Edison Schools home page *at* http://www.edisonschools.com/home/home.cfm (on file with the Michigan Journal of Race & Law).

88. *Id.*

89. Gary Miron & Christopher Nelson, *What's Public About Charter Schools: Evidence From Michigan* EDUC. WEEK, May 15, 2002, at 38. [hereinafter Miron & Nelson, *What's Public About Charter Schools*]. Sixteen of Michigan's charter schools are operated by Edison Schools. http://www.edisonschools/schools.asp?STATE=MI (on file with the Michigan Journal of Race & Law).

90. Carol Furtwengler, *Heads Up! The EMOs are Coming*, 56 EDUC. LEADERSHIP 44 (1998).

91. *See* Irving Buchen, *Business Sees Profit in Education: Challenging Public Schools*, 33 FUTURIST 38 (1999).

92. *Id.* at 38.

93. *Id.*

94. Abby Goodnough, *As Schools Open in New York, Mayor Sits Front and Center*, N.Y. TIMES, Sept. 5, 2002, at 3B.

95. Joe Nathan, *A Charter School Decade*, EDUC. WEEK, May 29, 2002, at 32.

Supporters of charter schools see these schools as a new choice for minority children, however, charter schools do very little to breakdown racial segregation within schools. A study by A.S. Wells studied 17 charter schools in California and found 10 of the 17 had one racial or ethnic group, which were under-represented or over-represented by 15%.[96] Arizona charter schools were also found to have ethnic segregation of students.[97]

Besides the inability to maintain a racially balanced student body, there is also the problem of student performance. Researchers, Miron and Nelson, stated, "We found little relationship between a school's ability to satisfy its customers and its achievement gains."[98] In other words, the parents and the students are satisfied with the schools, but there is little overall change in the student's performance on achievement tests. Although charter schools are supposedly free of the supervision of the central board and the district superintendent, they are not exempted from state mandated achievement testing.

Critics claim that charter schools are stuck in a promotional mode and are not able to measure their effectiveness. Researchers attribute the lack of improvement in student performance to the absence of specific goals.[99] However, once the energy is invested in creating a charter school, it usually remains open even if there is no evidence of improved academic performance, which is one of the marketing tools of voucher advocates.

D. *Vouchers*

From its inception, the voucher debate has been a political one. Like charter schools, vouchers are thought to be a sure way to breakdown the monopoly of the public school system.[100] Voucher advocates argued that public schools encourage poor educational services because they have no competition. Therefore, if the parents of poor children were to have the same types of choices as the middle-class parents, than schools would have to compete for children; public schools would have to improve their services or go out of business. Most importantly, parents would be given a choice of where to enroll their children.

Vouchers remain the bugbear of educational interest groups. Both the AFT and NEA have opposed vouchers because they feel vouchers will undermine the public schools and their system of accountability.[101]

96.   E. Wayne Ross, *Resegregating Schools in the name of Educational Reform* 27 THEORY & RES. SOC. EDUC. 6 (1999).

97.   *See id.*

98.   Miron & Nelson, *What's Public About Charter Schools, supra* note 89.

99.   Janet A. Weiss, *Policy Theories of School Choice,* 79 SOC. SCI. Q. 523, 535 (1998).

100.   *See* JOHN CHUBB & TERRY MOE, POLITICS, MARKETS AND AMERICAN SCHOOLS 217–18 (1990).

101.   David Masci, *School Choice Debate,* 7 CQ RESEARCHER 639 (1997).

Two books are widely quoted as the source of the choice debate. The first is Milton Friedman's article entitled, *The Role of Government in Education*, which suggests that vouchers give poor children the same choices as affluent children.[102] The second is John Chubb and Terry Moe's *Politics, Markets and American Schools*, which also makes a case for choice and vouchers for poor students so they can get out of failing schools.[103]

In 1990, Milwaukee created much controversy when it launched the nation's first voucher program. It has caused leading academics to disagree publicly over the efficacy of school vouchers.[104] The efficacy of school vouchers, as measured by the academic performance of the children receiving vouchers, has occupied the center of the voucher debate. Although several academics are monitoring the Milwaukee experiment, no one has called it a total success.

In 1996, the Ohio state legislature added to the voucher debate by providing $2,250 for tuition at private or parochial schools. The leading researchers in education continue to disagree upon the effectiveness of the program. Notwithstanding their efficacy, in 2002, the U.S. Supreme Court in a 5-4 decision found that vouchers for religious schools were constitutional.[105] Chief Justice Rehnquist stated, "We believe that the program challenged here is a program of true private choice."[106]

Even though some states have been successful with voucher referendums, other states, such as Colorado and California, have failed. State legislatures are expected to generate more state laws funding vouchers, with several states now debating vouchers as the ultimate reform package. For example, Florida has joined Ohio as a voucher funding state. The *Zelman* ruling has taken a strong legal argument away from the opponents of vouchers. A poll taken in 2002 before the *Zelman* ruling found that 46% of parents support voucher programs, up from 34 percent in a 2001 poll.[107] An earlier poll commissioned by the Joint Center for Political and Economic Studies, a Black think tank, found that 60% of Blacks support vouchers.[108]

The once venerated public schools are no longer the great mobility vehicle of our society. Only middle-class suburban schools are thought to

102.   *See* Milton Friedman, *The Role of Government in Education, in* ECONOMICS AND THE PUBLIC INTEREST (R.A. Solo ed. 1955).

103.   *See* CHUBB & MOE, POLITICS, MARKETS AND AMERICAN SCHOOLS, *supra* note 100.

104.   *See generally* JOHN WITTE, THE MARKET APPROACH TO EDUCATION: AN ANALYSIS OF AMERICA'S FIRST VOUCHER PROGRAM (2000). *See also* BROOKINGS INSTITUTION PRESS, CHARTERS, VOUCHERS AND PUBLIC EDUCATION (Paul E Peterson & David E. Campbell eds. 2001).

105.   Zelman v. Simmon-Harris, 122 S.CT 2460.

106.   *Id.* at 2467.

107.   Reuters, *Poll: Most Oppose School Vouchers,* WASH. POST, Aug. 21, 2002, at A4.

108.   Jodi Wilgoren, *Turn to School Vouchers as Civil Rights Issues,* N.Y. TIMES, Oct. 9, 2000, at A1; *see also* Lowell C. Rose, & Alec M. Gallup, *The 32nd Annual Phi Delta Kappa/Gallup Poll of the Public's Attitudes Toward the Public Schools,* 84 PHI DELTA KAPPAN 41 (2000) [hereinafter Rose & Gallup, *The 32nd Annual Phi Delta Kappa Gallup Poll*].

be effective preparatory institutions. Conservatives are obviously intrigued by the possibilities of choice. Fears about a dawn of class-based segregated schools do not seem to bother choice advocates. However, the 1992 Carnegie Foundation for the Advancement of Teaching survey found that 62% of respondents opposed vouchers in education. A close analysis of the choice model has led some scholars to question its validity.[109] Other scholars offer a more positive interpretation of the data and see an upswing of interest in choice.[110]

The "Minnesota Plan" (inter-district options) and "Cambridge Plan" (intra-district options) have experimented with open enrollment and controlled choice respectively. Open enrollment that would provide tuition vouchers for poor students to go to any school, even one outside the child's district of residence, has stirred up quite a controversy. Teachers unions (e.g., AFT and NEA) have vehemently opposed such programs where the vouchers would be used to allow students to attend private or parochial schools. In Wisconsin, where vouchers have been attempted, parochial schools were prohibited from participating.

Advocates of vouchers believe that, once that amount of money is in the market, new education vendors will emerge. This new market is going to cost a large sum of money to create and to maintain. Some school activists wonder if this new money would be better spent on improving existing schools. For them, the problem has always been a lack of funding. In order to get at those dollars, school districts have to sign onto the idea of choice. A thousand flowers may bloom, but will this improve the achievement scores for minorities?

V. REFORMS IN THE FOUR CITIES

Cleveland, Detroit, Gary and Newark are cities that have gone through several cycles of school reform. I chose these cities because they have had high profile Black leadership within their public schools. During the tenure of Black school leaders, all types of reforms have been attempted, but none have lasted beyond a one or two year period. This has led me to conclude that school reform failures were not the result of the lack of political will, but rather Black leaders are victims of an attention deficit among school policymakers. Given all the economic challenges the city faced, there was simply no follow through on any of the politically suggested reform measures. In other words, school reform

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109.   *See* KEVIN B. SMITH & KENNETH J. MEIER, THE CASE AGAINST SCHOOL CHOICE: POLITICS, MARKETS, AND FOOLS, (1995); *see also* JEFF HENIG, RETHINKING SCHOOL CHOICE (1994).

110.   *See* Jay Greene, *Education Dilemmas, Old and New: The Surprising Consensus on School Choice,* 144 PUB. INT. 19 (2001).

never took root in the system. The organizational culture of the schools precluded integrating these new innovations.[111]

As of this writing, most of the reforms have sunk in the quicksand of politics. Although all of the causes of school reform failure cannot be entirely traced to politics, I have suggested that school politics accelerates the shelf life of school reform measures. In my research, I have character-ized school politics as being dominated by a public school cartel (PSC) made up of administrators, school activists and teacher union leaders. Any reform, however innocuous, is viewed as a frontal attack on teacher pre-rogatives.

This lack of cooperation was most apparent in the Cleveland schools. The district had struggled with budget deficits in the 1980s, lead-ing the federal court to mandate that the state take over the district.[112] This was short-lived as the Ohio state legislature passed a law that granted the mayor the power to appoint the school board members and the school CEO.[113] Former Mayor Michael White appointed Barbara Bryd-Bennett as the CEO. Retained by Jane Campbell, Bennett worked hard to reverse the fiscal and educational problems of the system and over a four-year period, several administrative changes were made. Local opinion of the Cleveland public school system has improved, but the system is still struggling with improving test scores.[114]

In 1988, Detroit elected a school reform slate called HOPE (an ac-ronym using the first letter of the reform candidate names) to its school board. Part of their platform included school based management, which sought to free schools from the bureaucratic control of the central ad-ministration allowing schools to operate under a contract with the board.[115] A variant of contracting out, school-based management would allow schools to use vendors for other school services (e.g. dropout and remedial services). Principals, teachers and parents at each school building would be the decision-makers. However, the teacher unions reached a formal agreement with the central board that school-based management would be an experimental project and that participating schools needed support from the majority of teachers before starting such a program.[116] Meanwhile, the program became the butt of jokes and teachers unions campaigned against the idea.

In the end, the Detroit PSC retained power. The reform never took root in the organizational culture of the Detroit schools because the un-ion had in effect vetoed a school-reform election. The HOPE team was

111.   *See* SEYMOUR SARANSON, THE CULTURE OF THE SCHOOL AND THE PROBLEM OF CHANGE 8–9 (1969).

112.   *See* JEFF HENIG & WILBUR RICH, MAYORS IN THE MIDDLE 254 (forthcoming 2003).

113.   *See id.* at 256.

114.   *See id.* at 274.

115.   RICH, BLACK MAYORS AND SCHOOL POLITICS, *supra* note 19, at 41.

116.   HENIG & RICH, MAYORS IN THE MIDDLE, *supra* note 112, at 178.

not able to keep their reform agenda before the public and found itself bickering over budgets and personnel issues.[117] In the next school election, all but one member of the HOPE reform team was defeated.

In 1999, the Michigan legislature granted the mayor control over the public schools and Mayor Dennis Archer reluctantly took over the Detroit school system.[118] With an appointed board, the new CEO has control over the entire system. It is too soon to make a judgment of how this will turn out, but there are emerging patterns of administrative bickering that might undermine the new structure.[119]

Gary, Indiana, a smaller system than Detroit, has many of the same problems. In the 1970s, Gary employed an outside contractor, Behavioral Research Laboratories (BLR), to teach children to read at Benjamin Banneker Elementary School. The school board, led by Dr. Alfonso Holliday II, supported the move and the city received much publicity. However, the teacher unions and their allies in the central board of education never accepted the idea.[120] Despite the promise of BLR, there was very little improvement in reading scores,[121] and the city finally abandoned the contract. When Hatcher left office, his two successors were not as active in school politics.

In Newark, school reform never saw the light of day. In 1982, the unions mobilized publicly to eliminate the mayoral appointed school board. The so-called conversion to an elected board, thought to be a reform, redounded to the advantage of the teachers unions.[122] The unions and their supporters have dominated school board elections, with a low voter turnout.[123] Under Newark's elected board, school politics resembled a political machine. In 1995, the state of New Jersey took over the Newark school system, which was thought to be a first step in reforming the city's schools, but many of the same teachers and administrators remained in place.[124] Although the controversy over the state takeover has died down, there is little evidence that schools have improved. Of the four systems, Newark's school system seems to be marked most by secrecy and corruption.

Throughout all these takeovers, failing school teachers and administrators in these cities have held their own against reformers. Part of the reason the local PSC can resist change is the relative powerlessness of Black and Latino parents, because they have little voice and no exit.

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117.   RICH, BLACK MAYORS AND SCHOOL POLITICS, *supra* note 19, at 49.

118.   HENIG & RICH, MAYORS IN THE MIDDLE, *supra* note 112, at 194.

119.   *See id.*

120.   RICH, BLACK MAYORS AND SCHOOL POLITICS, *supra* note 19, at 73–74.

121.   *Id.* at 74–75.

122.   *Id.* at 112.

123.   *Id.*

124.   Maria Newman, *After Four Years in Newark, Schools Chief Takes Atlanta Post*, N.Y. TIMES, Feb. 20, 1999, at 1.

Although their community leaders have been elected to public office, Black- and Latino-led cities lack the financial resources and vision to make fundamental changes in the way schools are operated. This may explain why school choice and other privatization schemes are gaining some supporters in the inner cities.[125] Yet liberals keep promoting the idea that if schools had enough financial resources, most of the school system problems would disappear.

VI. EQUAL FINANCING

School finance reform is thought to be the best possible way to eliminate fiscal disparities between affluent and poor school districts. Teacher union leaders believe that the lack of money is the taproot of the underachievement problems in inner-city public schools. However, Eric Hunushek's statistical analysis found that increased spending does not result in higher student achievement.[126] This finding received a warm response from conservative policy makers, but it was later challenged on methodological grounds.[127] Nevertheless, there are still people who believe that simply throwing money at inner-city schools will solve the problem. Notwithstanding the disagreement, it is clear that money does matter. In the four cities examined above, the school systems had larger classes, outdated instructional materials, and less supportive services than suburban schools. These problems could have been rectified with greater funding. This is why there is some support for a state equalization formula.

In a Gallup Poll, 60% of Americans supported increased funding for minority schools.[128] State equalization schemes emerge almost annually from state legislatures, however, few schools seem to meet the standard definition of equity:

> Equity for students means that the spread in spending should be minimized by ensuring both horizontal and vertical equity, that is, wealth neutrality, and each student should have equal opportunity to a quality education without regard to ability to pay. This does not necessarily require equality of per pupil spending in every district. Horizontal equity requires equal dollar spending per pupil

125.   Wilgoren, *Turn to School Vouchers as Civil Rights Issues, supra* note 108.

126.   *See* Eric Hunushek, *The Impact of Differential Expenditure on School Performance*, 18 EDUC. RESEARCHER 45 (1989).

127.   *See* Rob Greenwald et al., *The Effect of School Resources on Student Achievement*, 66 REV. EDUC. RES. 361, 362 (1996).

128.   MARK GILLESPIE, THE GALLUP ORGANIZATION, AMERICANS WANT INTEGRATED SCHOOLS, BUT OPPOSE SCHOOL BUSING 1–2 (1999) [hereinafter GILLESPIE, AMERICANS WANT INTEGRATED SCHOOLS].

on those with the same relevant characteristics; vertical
equity is satisfied if spending differences reflect different
student need characteristics. When achieved the result is that
all students have equal opportunities for a quality education
and the financing system is wealth neutral.[129]

We know that the much-maligned property tax, the major source
revenue for schools, has had a disparate impact on poor school districts.
California[130] and New Jersey Courts[131] agreed and overruled the state
education funding system. For a short time, it seemed that a new struc-
ture of school finance would be created. Children in poor school districts
would no longer be penalized for their families' low incomes. However,
in *San Antonio Independent School District v. Rodriguez*, the U.S. Supreme
Court overruled the state courts when Justice Powell declared that "edu-
cation ... is not among the rights afforded explicit protection under our
federal Constitution. Nor do we find any basis for saying it is implicitly so
protected ..."[132] *Rodriguez* does not preclude state courts or legislatures
from finding a fundamental interest in their constitutions.[133] Even if the
property tax were eliminated, a new financing system may not remove
disparities. In order to obtain true parity, parent groups must be prohib-
ited from supplementing the state aid for each child. It would be difficult,
if not impossible, to write a law that prohibits parents or community
groups from supplemental state aid for public schools.

There is a recurrent fiscal crisis in American schools. The call for
more money has been mainly directed at the federal government. Cur-
rently, the federal government only contributes 7% of the total education
budget. President George W. Bush and Congress have agreed to appropri-
ate more money, but Bush believes that what is needed are higher
standards and greater incentives to achieve the goals of education re-
form.[134] He believes testing is the first step in achieving higher standards.
Accordingly, the discourse has shifted from school financing to testing
minority children to insure teacher accountability.

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129.   Kalman Goldberg & Robert Scott, *School Finance Reform in a Growing Economy:
Using the Growth Dividend* 26 J. EDUC. FIN. 39, 41–42 (2000).

130.   Serrano v. Priest, 18 Cal. 3d 728 (1976).

131.   Robinson v. Cahill, 360 A.2d 400 (1976).

132.   San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 37 (1971).

133.   *See* Preston Green, *Can State Constitutional Provisions Eliminate De Facto Segregation
in the Public Schools*, 68 J. NEGRO EDUC. 138, 138–40 (1999).

134.   George W. Bush, *Gov. George W. Bush's Plans for Education in America*, 82 PHI DELTA
KAPPAN 122, 125–126 (2000).

VII. Testing and Teacher Accountability

Testing, particularly so-called "high stakes testing," has become a part of the school reform debate.[135] Can we use high stakes testing to force teachers to do a better job and students to improve their performance? Some believe that if the stakes and the consequences are severe enough, then inner-city students may respond positively to the challenge.[136] High stakes testing refers to the practice of requiring a state examination for grade promotion or high school graduation. Testing, considered an efficient and an objective way to chart a student's learning, is now seen as the last great hope for school reform. Currently, American students devote 20 million school days to taking 127 million separate tests a year.[137] A *USA Today* poll found that student views vary about standardized tests: 40% of respondents felt that they should be eliminated; another 39% felt that, although necessary, standardized tests are not good predictors of a student's ability; and another 13% felt that they should be improved.[138] However, only 6% felt that standardized tests are good indicators of a student's ability.[139] E. Wayne Ross makes an interesting observation concerning this point. He states:

> In the current discourse and practice of educational reform, test scores are understood as the repository of educational value. This fetishism is so strong in mainstream reform efforts that virtually any practice thought to increase test scores is justifiable, even the re-segregation of schools. The challenge for people concerned about equality, democracy, and social justice in schools and society is to both resist and redirect the education reform movement . . .[140]

President George W. Bush believes that testing is essential in charting the progress of public schools. When Bush was the Governor of Texas, he promoted a testing program (Texas Assessment of Academic Skills) that showed progress by minority students. This program was called the "Texas Miracle," and Bush used this "success" story heavily in his 2000 Presidential campaign.[141] In January 2002, with much fanfare, Bush signed the .

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135. James Donlevy, *The Dilemma of High Stakes Testing: What are Schools For?*, 27 Int'l J. Instruction Media 331–337 (2000); *see also* Alfie Kohn High *Stakes Testing As Education Ethnic Cleansing*, 66 Educ. Dig. at 13–18 (2000).

136. *See* Brenda Townsend, *Testing While Black: Standards-Based School Reform and African American Learners*, 23 Remedial & Special Educ. 222 (2002).

137. Dennis Kelly, *Testing Chief Tallies the Results of a Long Career*, USA Today, Mar. 16, 1993, at 8D.

138. *Students' Views Vary on Standardized Tests*, USA Today, Mar. 30, 2001, at 1.

139. *Id.*

140. Ross, *Resegregating Schools in the Name of Education Reform, supra* note 96.

141. Editorial, *Miracle or Myth*, Wash. Post, Oct. 30, 2000, at A.26.

Education Bill known as the "No Child Left Behind Act."[142] The new reform includes more Title I money—more than $8 billion more than last year.[143] Funding under Title I will be increased 20% to $22.6 billion and big-city schools will receive most of the money (e.g. New York $636 million, L.A. $308 million and Chicago $220 million).[144] There is also mandated testing of all students in grades three through eight in math and in reading.

Testing generates numbers and numbers can be correlated with a variety of preconceived notions of group abilities. Proponents of testing assert that improvements in reading and in math skills can be monitored and measured with great precision. The numbers generated from testing sound scientific and make for great visual reports.[145] While winning converts in state legislatures, the testing movement has generated its critics—we have been told that testing cannot be bad if there are multiple opportunities to pass.[146]

Faith in tests has a storied history in the American education system. Nicholas Lemann's book, *The Big Test*, tries to unravel the history of the testing movement.[147] According to Lemann, testing was closely related to the development of California's public colleges. It was a scheme developed by a few men to create a new elite class based on scholarship.[148] Now testing is promoted as a motivational tool for poor children. The testing industry has grown exponentially since its infancy. It is a multi-billion dollar business employing thousands of people who make and validate testing instruments. The industry has consistently denied charges that their tests are class or culturally biased. Normally, the testing industry has stayed relatively clear of the debate about the linkages between tests and school reform. Several states now have high stakes testing and we now have more documentation that inner-city schools are not adequately preparing students. The new test data will probably find that minority children lag behind their counterparts. Once we have longitudinal data, we will be able to say whether or not there is any narrowing of the gap between the groups.

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142.   Mike Bowler, *Hope for Best in 1,200 Pages*, BALTIMORE SUN, Jan. 9, 2002, at 2B.

143.   *Id.*

144.   *Agenda 2001: Education*, DENVER POST, Dec. 19, 2001, at B06.

145.   DAVID BERLINER, THE MANUFACTURED CRISIS: MYTHS, FRAUD AND THE ATTACK ON AMERICAN PUBLIC SCHOOLS (1997).

146.   Students are given multiple chances to pass the Texas Assessment of Achievement Skills (TAAS). *See* Lynn Olson, *Test Debate: What Counts as Multiple?* EDUC. WEEK, Jan. 10, 2001, at 18.

147.   *See* NICHOLAS LEMANN, THE BIG TEST: THE SECRET HISTORY OF THE AMERICAN MERITOCRACY (1999).

148.   *See id.* at 24.

VIII. POVERTY AND PERFORMANCE

The middle-class bias of testing has long been known among educa-
tion scholars. Blacks and Latinos are more likely to attend schools with
high concentrations of poverty among classmates and no amount of test-
ing will overcome the social effects of poverty. The Orfield Report found
strong links between aggregation of race and by poverty. Orfield reports:

> Data from 1998–1999 shows that in schools attended by the
> average Black and Latino students, 39.3% and 44% of the
> students are poor, respectively. In schools attended by the
> average white student, 19.6% of the students are poor. Pov-
> erty levels are strongly related to school test score averages
> and many kinds of educational inequality.[149]

These educational inequalities are closely linked to class position.
Social status differentiations are reproduced and reinforced within the
context of the social learning experience. Pierre Bourdieu captures this
idea with his notion of linguistic and cultural capital by arguing that elites
transfer social advantage to their children through speech patterns, values,
and orientation toward schools.[150] Researchers have also suggested that
middle-class Whites were inclined to put their children in schools com-
patible with their aspirations.[151]

According to Bourdieu, the learning materials in schools contain
linguistic codes that enable middle-class children to interpret them with
little difficulty. Different social classes have different linguistic or language
codes. Black children often employ a language code in school designed to
insulate them from White cultural hegemony. John Ogbu argues that mi-
norities often reject information that challenges their culture, while
White children find more congruency between language used in school
and language used within their communities.[152] Accordingly, the cultural
capital of middle-class Whites assures the reproduction of their class ad-
vantage.

Compensatory teaching of reading, writing and arithmetic may
neutralize the differential cultural capital in the early grades, but by the
time the child reaches middle school, it becomes more and more difficult
to offset those advantages. By the time they reach high school, it becomes
extremely difficult for poor Black adolescents to remain competitive.

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149. Orfield, *Schools More Separate, supra* note 41.

150. PIERRE BOURDIEU, OUTLINE OF THEORY AND PRACTICE 187 (1977).

151. *But cf.* Mark Schneider et al., *School Choice and Culture Wars in the Classroom: What
Different Parents Seek from Education*, 79 SOC. SCI. Q. 489, 498–99 (1998)(arguing that par-
ents of low socioeconomic status value academic performance as reflected in high test
scores, while White and middle-class parents emphasize "more abstract and subjective ways
of evaluating student performance—for example, student portfolios").

152. John Ogbu, *Cultural Problems in Minority Education*, 27 URB. REV. 292 (1995).

Unable to unlock the increasingly complicated coding system, many drift away before graduating from high school.

No one will challenge the fact that the public school system's current curriculum structure contains an implicit middle-class oriented coding system. Middle-class individuals write the textbooks that are used to teach both poor Blacks and middle-class Whites. The question is why do educators continue to use the same learning materials for two different socio-economic populations?

Critics have argued that the gap between White students and minority students continue to exist even when one controls for class. Why is it that poor Black children cannot do as well as poor White children? Why is it that middle-class Black kids fail to do as well as their White cohorts?[153] Is it because of anti-intellectualism of the Black subculture?[154] Or is it because state law requires certain curriculum practices and texts to be used in the schools? Whatever the reason, Blacks and Latinos are generally not educationally competitive with Whites from the same socio-economic background, and standardized tests prove that point.

Other factors that impact minority children are the negative messages they are exposed to about education. Ronald Ferguson's research shows an achievement gap between Black and White middle-class students in the same suburb. I argue that Black children might not do as well as their White counterparts because they receive negative anti-achievement messages from society as well as their peers. Ignoring these messages is extremely difficult.

> Such messages promote a sense of unworthiness, inadequacy,
> and powerlessness .... Some black students fight an
> ongoing battle to block such messages and an even more
> intense battle to refute them. Some black students do win
> these battles, but too many of them internalize the negative
> messages and wind up taking themselves out of the school
> achievement competition.[155]

The point is that class advantage and negative messages suggests that the taproot of educational inequality is deeper than just integrated schools. However, these findings do not change the basic argument of this Article, and that is that a race and a class segregated school system is inherently unequal, and we cannot close the achievement gap with a dual system.

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153.   *See* Ronald Ferguson, *A Diagnostic Analysis of Black-White GPA Disparities in Shaker Heights, Ohio, in* DIANE RAVITCH, BROOKINGS PAPERS ON EDUCATION POLICY 347, 371–75 (2001) [hereinafter Ferguson, *A Diagnostic Analysis*].

154.   *See* JOHN MCWHORTER, LOSING THE RACE 137 (2000)(arguing that anti-intellectualism among Blacks stems "[from] a sense that school is a 'White' endeavor).

155.   *See* Ferguson, *A Diagnostic Analysis, supra* note 154, at 407–08.

CONCLUSION

Our public schools are certifiably separated by race and glaringly unequal. Current school initiative will not change this situation. Why am I so pessimistic about the prospects of integrated schools and their school reform alternatives? First, I believe the legendary Mr. Doodley was correct—the U.S. Supreme Court follows the election returns and the Court has no intention of forcing school integration. Race has been a difficult problem for the post-Warren Courts and although subsequent Chief Justices have attempted to unify the court on issues of school policy, the opinions continue to remain divided along ideological lines. Since no president has espoused racially integrated schools, the courts have been left to decide these complex issues. The conservative majority on the Court is determined to protect Whites from "reverse discrimination" and racial inconveniences. In espousing a colorblind society, conservative justices read the Constitution as if racism never existed. Claire Kim has called this language "colorblind talk,"[156] which refers to language that claims to be race neutral, but in reality it protects the status quo. Accordingly, some justices try to ignore history and reality and treat everyone the same. John Charles Rogers calls such action "willful colorblindness":

> The emerging heresy is characterized by an implicit claim to moral innocence and an unreflective formal devotion to "colorblind justice" in every setting ... Colorblind justice, the Supreme Court insists, is the fairest way to mediate certain widely shared public values that clash sharply when victims of racial subordination seek legal preferences in redress for America's undeniable history of racial and ethnic injustice.[157]

Choice rhetoric is a part of this colorblind talk. Choice advocates ask rhetorically, "Isn't America about choice?" People should have the right to send *their* children to any school they wish. People, regardless of their race, income or social status have an individual responsibility to make sure their children get the best education possible. Put more obliquely, White Americans are not expected to feel a sense of collective responsibility for the plights of minority children. They are not "their children." This explains why a 1999 Gallup Poll found that 54% of Whites felt that more should be done to integrate schools, but 87 % believed that letting kids go to neighborhood schools, was better than busing them to

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156.   CLAIRE KIM, BITTERFRUIT 17–18 (2000).
157.   John C. Rogers, *Willful Colorblindness: The New Racial Piety and the Resegregation of Public School*, N.C. L. REV. 1719, 1722 (2000).

achieve a racial balance.[158] A year latter the Gallup Polls found support for public schools at an all time high with 75% wanting to reform the existing system,[159] although, many of these respondents were not willing to share their children's schools with inner-city children.[160] Unless there is this sense of shared responsibility for the future of these minority children, the gap between Whites and minorities will widen.

The school integration struggles of the last fifty years have been and will continue to be substantively convoluted, politically divisive, and conceptually bewildering. As this Article has suggested, many of the school reform schemes are doomed to failure and there is no assurance that the ugly reality of school re-segregation can be reversed. America is moving apart racially at a time when it should be coming together. We should not delude ourselves into thinking that a dual school system, even an equitable one, is possible and that socially isolated inner-city children with inferior educations can compete in a changing world economy. Accordingly, the overall message of this Article is that school integration is our best hope for creating a society in which children who do not start on equal footings can catch up and that no single racial group has a built-in competitive advantage.

158.   GILLESPIE, AMERICANS WANT INTEGRATED SCHOOLS, *supra* note 129, at 1.

159.   Miron & Nelson, *What's Public About Charter Schools, supra* note 89.

160.   GILLESPIE, AMERICANS WANT INTEGRATED SCHOOLS, *supra* note 129, at 1.