

1952 WL 47265 (U.S.) (Appellate Brief)
Supreme Court of the United States.

Oliver BROWN, Mrs. Richard Lawton, Mrs. Sadie Emmanuel, et al., Appellants,
v.
BOARD OF EDUCATION OF TOPEKA, SHAWNEE COUNTY, KANSAS, et al.

No. 1.
October Term, 1952.
September, 1952.

Appeal from the United States District Court for the District of Kansas

Brief for Appellants

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***1 Opinion Below**

The opinion of the statutory three-judge-District Court for the District of Kansas (R. 238-244) is reported at [98 F. Supp. 797](#).

Jurisdiction

The judgment of the court below was entered on August 3, 1951 (R. 247). On October 1, 1951, appellants filed a petition for appeal (R. 248), and an order allowing the appeal was entered (R. 250). Probable jurisdiction was noted on June 9, 1952 (R. 254). Jurisdiction of this Court rests on [Title 28, United States Code, §§ 1253 and 2201\(b\)](#).

***2 Questions Presented**

1. Whether the State of Kansas has power to enforce a state statute pursuant to which racially segregated public elementary schools are maintained.

2. Whether the finding of the court below-that racial segregation in public elementary schools has the detrimental effect of retarding the mental and educational development of colored children and connotes governmental acceptance of the conception of racial inferiority-compels the conclusion that appellants here are deprived of their rights to share equally in educational opportunities in violation of the equal protection clause of the Fourteenth Amendment.

The Law of Kansas and the Statute Involved

All boards of education, superintendents of schools and school districts in the state are prohibited from using race as a factor in affording educational opportunities in the public schools within their respective jurisdictions unless expressly empowered to do so by statute. *Knox v. Board of Education*, 54 K. 152, 25 P. 616 (1891); *Cartwright v. Board of Education*, 73 K. 32,

84 P. 382 (1906); *Rowles v. Board of Education*, 76 K. 361, 91 P. 88 (1907); *Woolridge, et al. v. Board of Education*, 98 K. 397, 157 P. 1184 (1916); *Thurman-Watts v. Board of Education*, 115 K. 328, 222 P. 123 (1924); *Webb v. School District*, 167 K. 395, 206 P. 2d 1066 (1949).

Segregated elementary schools in cities of the first class are maintained solely pursuant to authority of Chapter 72-1724 of the General Statutes of Kansas, 1949, which reads as follows:

“Powers of board; separate schools for white and colored children; manual training. The board of education shall have power to elect their own *3 officers, make all necessary rules for the government of the schools of such city under its charge and control and of the board, subject to the provisions of this act and the laws of this state; to organize and maintain separate schools for the education of white and colored children, including the high schools in Kansas City, Kans.; no discrimination on account of color shall be made in high schools except as provided herein; to exercise the sole control over the public schools and school property of such city; and shall have the power to establish a high school or high schools in connection with manual training and instruction or otherwise, and to maintain the same as a part of the public-school system of said city. (G. S. 1868, Ch. 18, § 75; L. 1879, Ch. 81, § 1; L. 1905, Ch. 414, § 1; Feb. 28; R. S. 1923, § 72-1724.)”

Statement of the Case

Appellants are of Negro origin and are citizens of the United States and of the State of Kansas (R. 3-4). Infant appellants are children eligible to attend and are now attending elementary schools in Topeka, Kansas, a city of the first class within the meaning of Chapter 72-1724, General Statutes of Kansas, 1949, hereinafter referred to as the statute. Adult appellants are parents of minor appellants and are required by law to send their respective children to public schools designated by appellees (R. 3-4). Appellees are state officers empowered by state law to maintain and operate the public schools of Topeka, Kansas.

For elementary school purposes, the City of Topeka is divided into 18 geographical divisions designated as territories (R. 24). In each of these territories one elementary school services white children exclusively (R. 24). In addition, four schools are maintained for the use of Negro children exclusively (R. 11, 12). These racial distinctions *4 are enforced pursuant to the statute. In accordance with the terms of the statute there is no segregation of Negro and white children in junior and senior high schools (R. 12).

On March 22, 1951, appellants instituted the instant action seeking to restrain the enforcement, operation and execution of the statute on the ground that it deprived them of equal educational opportunities within the meaning of the Fourteenth Amendment (R. 2-7). In their answer, appellees admitted that they acted pursuant to the statute, and that infant appellants were not eligible to attend any of the 18 white elementary schools solely because of their race and color (R. 12). The Attorney General of the State of Kansas filed a separate answer for the specific purpose of defending the constitutional validity of the statute in question (R. 14).

Thereupon, the court below was convened in accordance with [Title 28, United States Code, § 2284](#). On June 25-26, a trial on the merits took place (R. 63 *et seq.*). On August 3, 1951, the court below filed its opinion (R. 238-244), its findings of fact (R. 244-246), and conclusions of law (R. 246-247), and entered a final judgment and decree in appellees' favor denying the injunctive relief sought (R. 247).

Specifications of Error

The District Court erred:

1. In refusing to grant appellants' application for a permanent injunction to restrain appellees from acting pursuant to the statute under which they are maintaining separate public elementary schools for Negro children solely because of their race and color.
2. In refusing to hold that the State of Kansas is without authority to promulgate the statute because it enforces *5 a classification based upon race and color which is violative of the Constitution of the United States.
3. In refusing to enter judgment in favor of appellants after finding that enforced attendance at racially segregated elementary schools was detrimental and deprived them of educational opportunities equal to those available to white children.

Summary of Argument

The Fourteenth Amendment precludes a state from imposing distinctions or classifications based upon race and color alone. The State of Kansas has no power thereunder to use race as a factor in affording educational opportunities to its citizens.

Racial segregation in public schools reduces the benefits of public education to one group solely on the basis of race and color and is a constitutionally proscribed distinction. Even assuming that the segregated schools attended by appellants are not inferior to other elementary schools in Topeka with respect to physical facilities, instruction and courses of study, unconstitutional inequality inheres in the retardation of intellectual development and distortion of personality which Negro children suffer as a result of enforced isolation in school from the general public school population. Such injury and inequality are established as facts on this appeal by the uncontested findings of the District Court.

The District Court reasoned that it could not rectify the inequality that it had found because of this Court's decisions in *Plessy v. Ferguson*, 163 U. S. 537 and *Gong Lum v. Rice*, 275 U. S. 78. This Court has already decided that the *Plessy* case is not in point. Reliance upon *Gong Lum v. Rice* is mistaken since the basic assumption of that case is the existence of equality while no such assumption *6 can be made here in the face of the established facts. Moreover, more recent decisions of this Court, most notably *Sweatt v. Painter*, 339 U. S. 629 and *McLaurin v. Board of Regents*, 339 U. S. 637, clearly show that such hurtful consequences of segregated schools as appear here constitute a denial of equal educational opportunities in violation of the Fourteenth Amendment. Therefore, the court below erred in denying the relief prayed by appellants.

ARGUMENT

I

The State of Kansas in affording opportunities for elementary education to its citizens has no power under the Constitution of the United States to impose racial restrictions and distinctions.

While the State of Kansas has undoubted power to confer benefits or impose disabilities upon selected groups of citizens in the normal execution of governmental functions, it must conform to constitutional standards in the exercise of this authority. These standards may be generally characterized as a requirement that the state's action be reasonable. Reasonableness in a constitutional sense is determined by examining the action of the state to discover whether the distinctions or restrictions in issue are in fact based upon real differences pertinent to a lawful legislative objective. *Bain Peanut Co. v. Pinson*, 282 U. S. 499; *Lindsley v. Natural Carbonic Gas Co.*, 220 U. S. 61; *Asbury Hospital v. Cass County*, 326 U. S. 207; *Metropolitan Casualty Insurance Co. v. Brownell*, 294 U. S. 580; *Dominion Hotel v. Arizona*, 249 U. S. 265.

When the distinctions imposed are based upon race and color alone, the state's action is patently the epitome of *7 that arbitrariness and capriciousness constitutionally impermissible under our system of government. *Yick Wo v. Hopkins*, 118 U. S. 356; *Skinner v. Oklahoma*, 316 U. S. 535. A racial criterion is a constitutional irrelevance, *Edwards v. California*, 314 U. S. 160, 184, and is not saved from condemnation even though dictated by a sincere desire to avoid the possibility of violence or race friction. *Buchanan v. Warley*, 245 U. S. 60; *Morgan v. Virginia*, 328 U. S. 373. Only because it was a war measure designed

to cope with a grave national emergency was the federal government permitted to level restrictions against persons of enemy descent. *Hirabayashi v. United States*, 320 U. S. 81; *Oyama v. California*, 332 U. S. 633. This action, “odious,” *Hirabayashi v. United States*, *supra*, at page 100, and “suspect,” *Korematsu v. United States*, 323 U. S. 214, 216, even in times of national peril, must cease as soon as that peril is past. *Ex Parte Endo*, 323 U. S. 283.

This Court has found violation of the equal protection clause in racial distinctions and restrictions imposed by the states in selection for jury service, *Shepherd v. Florida*, 341 U. S. 50; ownership and occupancy of real property, *Shelley v. Kramer*, 334 U. S. 1; *Buchanan v. Warley*, *supra*; gainful employment, *Takahashi v. Fish and Game Commission*, 334 U. S. 410; voting, *Nixon v. Condon*, 286 U. S. 73; and graduate and professional education. *McLaurin v. Board of Regents*, *supra*; *Sweatt v. Painter*, *supra*. The commerce clause in proscribing the imposition of racial distinctions and restrictions in the field of interstate travel is a further limitation of state power in this regard. *Morgan v. Virginia*, 328 U. S. 373.

Since 1940, in an unbroken line of decisions, this Court has clearly enunciated the doctrine that the state may not validly impose distinctions and restrictions among its citizens based upon race or color alone in each field of governmental activity where question has been raised. *8 *Smith v. Allwright*, 321 U. S. 649; *Sipuel v. Board of Education*, 332 U. S. 631; *Sweatt v. Painter*, *supra*; *Pierre v. Louisiana*, 306 U. S. 354; *Hill v. Texas*, 316 U. S. 400; *Morgan v. Virginia*, *supra*; *McLaurin v. Board of Regents*, *supra*; *Oyama v. California*, *supra*; *Takahashi v. Fish and Game Commission*, *supra*; *Shelley v. Kraemer*, *supra*; *Shepherd v. Florida*, *supra*; *Cassell v. Texas*, 339 U. S. 282. On the other hand, when the state has sought to protect its citizenry against racial discrimination and prejudice, its action has been consistently upheld, *Railway Mail Association v. Corsi*, 326 U. S. 88, even though taken in the field of foreign commerce. *Bob-Lo Excursion Co. v. Michigan*, 333 U. S. 28.

It follows, therefore, that under this doctrine, the State of Kansas which by statutory sanctions seeks to subject appellants, in their pursuit of elementary education, to distinctions based upon race or color alone, is here attempting to exceed the constitutional limits to its authority. For that racial distinction which has been held arbitrary in so many other areas of governmental activity is no more appropriate and can be no more reasonable in public education.

II

The court below, having found that appellants were denied equal educational opportunities by virtue of the segregated school system, erred in denying the relief prayed.

The court below made the following finding of fact:

“Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating *9 the races is usually interpreted as denoting the inferiority of the negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to retard the educational and mental development of negro children and to deprive them of some of the benefits they would receive in a racially integrated school system.”

This finding is based upon uncontradicted testimony that conclusively demonstrates that racial segregation injures infant appellants in denying them the opportunity available to all other racial groups to learn to live, work and cooperate with children representative of approximately 90% of the population of the society in which they live (R. 216); to develop citizenship skills; and to adjust themselves personally and socially in a setting comprising a cross-section of the dominant population (R. 132). The testimony further developed the fact that the enforcement of segregation under law denies to the Negro status, power and privilege (R. 176); interferes with his motivation for learning (R. 171); and instills in him a feeling of inferiority (R. 169) resulting in a personal insecurity, confusion and frustration that condemns him to an ineffective role as a citizen and member of society (R. 165). Moreover, it was demonstrated that racial segregation is supported by the myth of the Negro's inferiority (R.

177), and where, as here, the state enforces segregation, the community at large is supported in or converted to the belief that this myth has substance in fact (R. 156, 169, 177). It was testified that because of the peculiar educational system in Kansas that requires segregation only in the lower grades, there is an additional injury in that segregation occurring at an early age is greater in its impact and more permanent in its effects (R. 172) even though there is a change to integrated schools at the upper levels.

*10 That these conclusions are the consensus of social scientists is evidenced by the appendix filed herewith. Indeed, the findings of the court that segregation constitutes discrimination are supported on the face of the statute itself where it states that: “*** no discrimination on account of color shall be made in high schools *except as provided herein* ***” (emphasis supplied).

Under the Fourteenth Amendment equality of educational opportunities necessitates an evaluation of all factors affecting the educational process. *Sweatt v. Painter, supra; McLaurin v. Board of Regents, supra*. Applying this yardstick, any restrictions or distinction based upon race or color that places the Negro at a disadvantage in relation to other racial groups in his pursuit of educational opportunities is violative of the equal protection clause.

In the instant case, the court found as a fact that appellants were placed at such a disadvantage and were denied educational opportunities equal to those available to white students. It necessarily follows, therefore, that the court should have concluded as a matter of law that appellants were deprived of their right to equal educational opportunities in violation of the equal protection clause of the Fourteenth Amendment.

Under the mistaken notion that *Plessy v. Ferguson* and *Gong Lum v. Rice* were controlling with respect to the validity of racial distinctions in elementary education, the trial court refused to conclude that appellants were here denied equal educational opportunities in violation of their constitutional rights. Thus, notwithstanding that it had found inequality in educational opportunity as a fact, the court concluded as a matter of law that such inequality did not constitute a denial of constitutional rights, saying:

“*Plessy v. Ferguson*, 163 U. S. 537, and *Gong Lum v. Rice*, 275 U. S. 78, uphold the constitutionality
*11 of a legally segregated school system in the lower grades and no denial of due process results from the maintenance of such a segregated system of schools absent discrimination in the maintenance of the segregated schools. We conclude that the above-cited cases have not been overruled by the later case of *McLaurin v. Oklahoma*, 339 U. S. 637, and *Sweatt v. Painter*, 339 U. S. 629.”

Plessy v. Ferguson is not applicable. Whatever doubts may once have existed in this respect were removed by this Court in *Sweatt v. Painter, supra*, at page 635, 636.

Gong Lum v. Rice is irrelevant to the issues in this case. There, a child of Chinese parentage was denied admission to a school maintained exclusively for white children and was ordered to attend a school for Negro children. The power of the state to make racial distinctions in its school system was not in issue. Petitioner contended that she had a constitutional right to go to school with white children, and that in being compelled to attend school with Negroes, the state had deprived her of the equal protection of the laws.

Further, there was no showing that her educational opportunities had been diminished as a result of the state's compulsion, and it was assumed by the Court that equality in fact existed. There the petitioner was not inveighing against the system, but that its application resulted in her classification as a Negro rather than as a white person, and indeed by so much conceded the propriety of the system itself. Were this not true, this Court would not have found basis for holding that the issue raised was one “which has been many times decided to be within the constitutional power of the state” and, therefore, did not “call for very full argument and consideration.”

*12 In short, she raised no issue with respect to the state's power to enforce racial classifications, as do appellants here. Rather, her objection went only to her treatment under the classification. This case, therefore, cannot be pointed to as a controlling

precedent covering the instant case in which the constitutionality of the system itself is the basis for attack and in which it is shown the inequality in fact exists.

In any event the assumptions in the *Gong Lum* case have since been rejected by this Court. In the *Gong Lum* case, without “full argument and consideration,” the Court assumed the state had power to make racial distinctions in its public schools without violating the equal protection clause of the Fourteenth Amendment and assumed the state and lower federal court cases cited in support of this assumed state power had been correctly decided. Language in *Plessy v. Ferguson* was cited in support of these assumptions. These assumptions upon full argument and consideration were rejected in the *McLaurin* and *Sweatt* cases in relation to racial distinctions in state graduate and professional education. And, according to those cases, *Plessy v. Ferguson*, is not controlling for the purpose of determining the state's power to enforce racial segregation in public schools.

Thus, the very basis of the decision in the *Gong Lum* case has been destroyed. We submit, therefore, that this Court has considered the basic issue involved here only in those cases dealing with racial distinctions in education at the graduate and professional levels. *Missouri ex rel. Gaines v. Canada*, 305 U. S. 337; *Sipuel v. Board of Education*, *supra*; *Fisher v. Hurst*, 333 U. S. 147; *Sweatt v. Painter*, *supra*; *McLaurin v. Board of Regents*, *supra*.

In the *McLaurin* and *Sweatt* cases, this Court measured the effect of racial restrictions upon the educational development of the individual affected, and took into account the *13 community's actual evaluation of the schools involved. In the instant case, the court below found as a fact that racial segregation in elementary education denoted the inferiority of Negro children and retarded their educational and mental development. Thus the same factors which led to the result reached in the *McLaurin* and *Sweatt* cases are present. Their underlying principles, based upon sound analyses, control the instant case.

Conclusion

In light of the foregoing, we respectfully submit that appellants have been denied their rights to equal educational opportunities within the meaning of the Fourteenth Amendment and that the judgment of the court below should be reversed.

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IN THE Supreme Court of the United States

October Term, 1952

No. 1

OLIVER BROWN, MRS. RICHARD LAWTON, MRS. SADIE EMMANUEL, *et al.*, Appellants,

VS.

BOARD OF EDUCATION OF TOPEKA, SHAWNEE COUNTY, KANSAS, *et al.*

No. 2

HARRY BRIGGS, JR., *et al.*, Appellants,

VS.

**R. W. ELLIOTT, Chairman, J. D. CARSON, *et al.*, Members of Board
of Trustees of School District No. 22, Clarendon County, S. C., *et al.***

No. 3

DOROTHY E. DAVIS, BERTHA M. DAVIS and INEZ D. DAVIS, etc., *et al.*, Appellants,

VS.

COUNTY SCHOOL BOARD OF PRINCE EDWARD COUNTY, VIRGINIA, *et al.*

APPENDIX TO APPELLANTS' BRIEFS

The Effects of Segregation and the Consequences of Desegregation: A Social Science Statement

Statement of Counsel

The following statement was drafted and signed by some of the foremost authorities in sociology, anthropology, psychology and psychiatry who have worked in the area of American race relations. It represents a consensus of social scientists with respect to the issue presented in these appeals. As a summary of the best available scientific evidence relative to the effects of racial segregation on the individual, we file it herewith as an appendix to our briefs.

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***1 IN THE Supreme Court of the United States**

October Term, 1952

No. 8

OLIVER BROWN, MRS. RICHARD LAWTON, MRS. SADIE EMMANUEL, *et al.*, Appellants,

VS.

BOARD OF EDUCATION OF TOPEKA, SHAWNEE COUNTY, KANSAS, *et al.*

No. 101

HARRY BRIGGS, JR., *et al.*, Appellants,

VS.

**R. W. ELLIOTT, Chairman, J. D. CARSON, *et al.*, Members of Board
of Trustees of School District No. 22, Clarendon County, S. C., *et al.***

No. 191

DOROTHY E. DAVIS, BERTHA M. DAVIS and INEZ D. DAVIS, etc., *et al.*, Appellants,

VS.

COUNTY SCHOOL BOARD OF PRINCE EDWARD COUNTY, VIRGINIA, *et al.*

APPENDIX TO APPELLANTS' BRIEFS

The Effects of Segregation and the Consequences of Desegregation: A Social Science Statement

I

The problem of the segregation of racial and ethnic groups constitutes one of the major problems facing the *2 American people today. It seems desirable, therefore, to summarize the contributions which contemporary social science can make toward its resolution. There are, of course, moral and legal issues involved with respect to which the signers of the present statement cannot speak with any special authority and which must be taken into account in the solution of the problem. There are, however, also factual issues involved with respect to which certain conclusions seem to be justified on the basis of the available scientific evidence. It is with these issues only that this paper is concerned. Some of the issues have to do with the consequences of segregation, some with the problems of changing from segregated to unsegregated practices. These two groups of issues will be dealt with in separate sections below. It is necessary, first, however, to define and delimit the problem to be discussed.

Definitions

For purposes of the present statement, *segregation* refers to that restriction of opportunities for different types of associations between the members of one racial, religious, national or geographic origin, or linguistic group and those of other groups,

which results from or is supported by the action of any official body or agency representing some branch of government. We are not here concerned with such segregation as arises from the free movements of individuals which are neither enforced nor supported by official bodies, nor with the segregation of criminals or of individuals with communicable diseases which aims at protecting society from those who might harm it.

Where the action takes place in a social milieu in which the groups involved do not enjoy equal social status, the group that is of lesser social status will be referred to as the *segregated* group.

*3 In dealing with the question of the effects of segregation, it must be recognized that these effects do not take place in a vacuum, but in a social context. The segregation of Negroes and of other groups in the United States takes place in a social milieu in which "race" prejudice and discrimination exist. It is questionable in the view of some students of the problem whether it is possible to have segregation without substantial discrimination. Myrdal¹ states: "Segregation *** is financially possible and, indeed, a device of economy only as it is combined with substantial discrimination" (p. 629). The imbeddedness of segregation in such a context makes it difficult to disentangle the effects of segregation *per se* from the effects of the context. Similarly, it is difficult to disentangle the effects of segregation from the effects of a pattern of social disorganization commonly associated with it and reflected in high disease and mortality rates, crime and delinquency, poor housing, disrupted family life and general substandard living conditions. We shall, however, return to this problem after consideration of the observable effects of the total social complex in which segregation is a major component.

II

At the recent Mid-century White House Conference on Children and Youth, a fact-finding report on the effects of prejudice, discrimination and segregation on the personality development of children was prepared as a basis for some of the deliberations.² This report brought together the available social science and psychological studies which were related to the problem of how racial and religious prejudices *4 influenced the development of a healthy personality. It highlighted the fact that segregation, prejudices and discriminations, and their social concomitants potentially damage the personality of all children—the children of the majority group in a somewhat different way than the more obviously damaged children of the minority group.

The report indicates that as minority group children learn the inferior status to which they are assigned—as they observe the fact that they are almost always segregated and kept apart from others who are treated with more respect by the society as a whole—they often react with feelings of inferiority and a sense of personal humiliation. Many of them become confused about their own personal worth. On the one hand, like all other human beings they require a sense of personal dignity; on the other hand, almost nowhere in the larger society do they find their own dignity as human beings respected by others. Under these conditions, the minority group child is thrown into a conflict with regard to his feelings about himself and his group. He wonders whether his group and he himself are worthy of no more respect than they receive. This conflict and confusion leads to self-hatred and rejection of his own group.

The report goes on to point out that these children must find ways with which to cope with this conflict. Not every child, of course, reacts with the same patterns of behavior. The particular pattern depends upon many interrelated factors, among which are: the stability and quality of his family relations; the social and economic class to which he belongs; the cultural and educational background of his parents; the particular minority group to which he belongs; his personal characteristics, intelligence, special talents, and personality pattern.

Some children, usually of the lower socio-economic classes, may react by overt aggressions and hostility *5 directed toward their own group or members of the dominant group.³ Anti-social and delinquent behavior may often be interpreted as reactions to these racial frustrations. These reactions are self-destructive in that the larger society not only punishes those who commit them, but often interprets such aggressive and anti-social behavior as justification for continuing prejudice and segregation.

Middle class and upper class minority group children are likely to react to their racial frustrations and conflicts by withdrawal and submissive behavior. Or, they may react with compensatory and rigid conformity to the prevailing middle class values and standards and an aggressive determination to succeed in these terms in spite of the handicap of their minority status.

The report indicates that minority group children of all social and economic classes often react with a generally defeatist attitude and a lowering of personal ambitions. This, for example, is reflected in a lowering of pupil morale and a depression of the educational aspiration level among minority group children in segregated schools. In producing such effects, segregated schools impair the ability of the child to profit from the educational opportunities provided him.

Many minority group children of all classes also tend to be hypersensitive and anxious about their relations with the larger society. They tend to see hostility and rejection even in those areas where these might not actually exist.

*6 The report concludes that while the range of individual differences among members of a rejected minority group is as wide as among other peoples, the evidence suggests that all of these children are unnecessarily encumbered in some ways by segregation and its concomitants.

With reference to the impact of segregation and its concomitants on children of the majority group, the report indicates that the effects are somewhat more obscure. Those children who learn the prejudices of our society are also being taught to gain personal status in an unrealistic and non-adaptive way. When comparing themselves to members of the minority group, they are not required to evaluate themselves in terms of the more basic standards of actual personal ability and achievement. The culture permits and at times, encourages them to direct their feelings of hostility and aggression against whole groups of people the members of which are perceived as weaker than themselves. They often develop patterns of guilt feelings, rationalizations and other mechanisms which they must use in an attempt to protect themselves from recognizing the essential injustice of their unrealistic fears and hatreds of minority groups.⁴

The report indicates further that confusion, conflict, moral cynicism, and disrespect for authority may arise in majority group children as a consequence of being taught the moral, religious and democratic principles of the brotherhood of man and the importance of justice and fair play by the same persons and institutions who, in their support of racial segregation and related practices, seem to be acting in a prejudiced and discriminatory manner. Some individuals may attempt to resolve this conflict by intensifying their hostility toward the minority group. Others may react by guilt feelings which are not necessarily reflected in more humane attitudes toward the minority group. Still *7 others react by developing an unwholesome, rigid, and uncritical idealization of all authority figures-their parents, strong political and economic leaders. As described in *The Authoritarian Personality*,⁵ they despise the weak, while they obsequiously and unquestioningly conform to the demands of the strong whom they also, paradoxically, subconsciously hate.

With respect to the setting in which these difficulties develop, the report emphasized the role of the home, the school, and other social institutions. Studies⁶ have shown that from the earliest school years children are not only aware of the status differences among different groups in the society but begin to react with the patterns described above.

Conclusions similar to those reached by the Mid-century White House Conference Report have been stated by other social scientists who have concerned themselves with this problem. The following are some examples of these conclusions:

Segregation imposes upon individuals a distorted sense of social reality.⁷

*8 Segregation leads to a blockage in the communications and interaction between the two groups. Such blockages tend to increase mutual suspicion, distrust and hostility.⁸

Segregation not only perpetuates rigid stereotypes and reinforces negative attitudes toward members of the other group, but also leads to the development of a social climate within which violent outbreaks of racial tensions are likely to occur.⁹

We return now to the question, deferred earlier, of what it is about the total society complex of which segregation is one feature that produces the effects described above-or, more precisely, to the question of whether we can justifiably conclude that, as only one feature of a complex social setting, segregation is in fact a significantly contributing factor to these effects.

To answer this question, it is necessary to bring to bear the general fund of psychological and sociological knowledge concerning the role of various environmental influences in producing feelings of inferiority, confusions in personal roles, various types of basic personality structures and the various forms of personal and social disorganization.

On the basis of this general fund of knowledge, it seems likely that feelings of inferiority and doubts about personal worth are attributable to living in an underprivileged environment only insofar as the latter is itself perceived as an indicator of low social status and as a symbol of inferiority. In other words, one of the important determinants in producing such feelings is the awareness of social status difference. While there are many other factors that serve as reminders of the differences in social status, there can be little doubt that the fact of enforced segregation is a major factor.¹⁰

*9 This seems to be true for the following reasons among others: (1) because enforced segregation results from the decision of the majority group without the consent of the segregated and is commonly so perceived; and (2) because historically segregation patterns in the United States were developed on the assumption of the inferiority of the segregated.

In addition, enforced segregation gives official recognition and sanction to these other factors of the social complex, and thereby enhances the effects of the latter in creating the awareness of social status differences and feelings of inferiority.¹¹ The child who, for example, is compelled to attend a segregated school may be able to cope with ordinary expressions of prejudice by regarding the prejudiced person as evil or misguided; but he cannot readily cope with symbols of authority, the full force of the authority of the State-the school or the school board, in this instance-in the same manner. Given both the ordinary expression of prejudice and the school's policy of segregation, the former takes on greater force and seemingly becomes an official expression of the latter.

Not all of the psychological traits which are commonly observed in the social complex under discussion can be related so directly to the awareness of status differences-which in turn is, as we have already noted, materially contributed to by the practices of segregation. Thus, the low level of aspiration and defeatism so commonly observed in segregated groups is undoubtedly related to the level of self-evaluation; but it is also, in some measure, related among other things to one's expectations with regard to opportunities for achievement and, having achieved, to the opportunities for making use of these achievements. Similarly, the hypersensitivity and anxiety displayed by many minority group children about their *10 relations with the larger society probably reflects their awareness of status differences; but it may also be influenced by the relative absence of opportunities for equal status contact which would provide correctives for prevailing unrealistic stereotypes.

The preceding view is consistent with the opinion stated by a large majority (90%) of social scientists who replied to a questionnaire concerning the probable effects of enforced segregation under conditions of equal facilities. This opinion was that, regardless of the facilities which are provided, enforced segregation is psychologically detrimental to the members of the segregated group.¹²

Similar considerations apply to the question of what features of the social complex of which segregation is a part contribute to the development of the traits which have been observed in majority group members. Some of these are probably quite closely related to the awareness of status differences, to which, as has already been pointed out, segregation makes a material contribution. Others have a more complicated relationship to the total social setting. Thus, the acquisition of an unrealistic basis for self-evaluation as a consequence of majority group membership probably reflects fairly closely the awareness of status differences.

On the other hand, unrealistic fears and hatreds of minority groups, as in the case of the converse phenomenon among minority group members, are probably significantly influenced as well by the lack of opportunities for equal status contact.

With reference to the probable effects of segregation under conditions of equal facilities on majority group members, many of the social scientists who responded to the poll in the survey cited above felt that the evidence is *11 less convincing than with regard to the probable effects of such segregation on minority group members, and the effects are possibly less widespread. Nonetheless, more than 80% stated it as their opinion that the effects of such segregation are psychologically detrimental to the majority group members.¹³

It may be noted that many of these social scientists supported their opinions on the effects of segregation on both majority and minority groups by reference to one or another or to several of the following four lines of published and unpublished evidence.¹⁴ First, studies of children throw light on the relative priority of the awareness of status differentials and related factors as compared to the awareness of differences in facilities. On this basis, it is possible to infer some of the consequences of segregation as distinct from the influence of inequalities of facilities. Second, clinical studies and depth interviews throw light on the genetic sources and causal sequences of various patterns of psychological reaction; and, again, certain inferences are possible with respect to the effects of segregation *per se*. Third, there actually are some relevant but relatively rare instances of segregation with equal or even superior facilities, as in the cases of certain Indian reservations. Fourth, since there are inequalities of facilities in racially and ethnically homogeneous groups, it is possible to infer the kinds of effects attributable to such inequalities in the absence of effects of segregation and, by a kind of subtraction to estimate the effects of segregation *per se* in situations where one finds both segregation and unequal facilities.

*12 III

Segregation is at present a social reality. Questions may be raised, therefore, as to what are the likely consequences of desegregation.

One such question asks whether the inclusion of an intellectually inferior group may jeopardize the education of the more intelligent group by lowering educational standards or damage the less intelligent group by placing it in a situation where it is at a marked competitive disadvantage. Behind this question is the assumption, which is examined below, that the presently segregated groups actually are inferior intellectually.

The available scientific evidence indicates that much, perhaps all, of the observable differences among various racial and national groups may be adequately explained in terms of environmental differences.¹⁵ It has been found, for instance, that the differences between the average intelligence test scores of Negro and white children decrease, and the overlap of the distributions increases, proportionately to the number of years that the Negro children have lived in the North.¹⁶ Related studies have shown that this change cannot be explained by the hypothesis of selective migration.¹⁷ It seems clear, therefore, that fears based on the assumption of innate racial differences in intelligence are not well founded.

It may also be noted in passing that the argument regarding the intellectual inferiority of one group as compared to another is, as applied to schools, essentially an *13 argument for homogeneous groupings of children by intelligence rather than by race. Since even those who believe that there are innate differences between Negroes and whites in America in average intelligence grant that considerable overlap between the two groups exists, it would follow that it may be expedient to group together the superior whites and Negroes, the average whites and Negroes, and so on. Actually, many educators have come to doubt the wisdom of class groupings made homogeneous solely on the basis of intelligence.¹⁸ Those who are opposed to such homogeneous grouping believe that this type of segregation, too, appears to create generalized feelings of inferiority in the child who attends a below average class, leads to undesirable emotional consequences in the education of the gifted child, and reduces learning opportunities which result from the interaction of individuals with varied gifts.

A second problem that comes up in an evaluation of the possible consequences of desegregation involves the question of whether segregation prevents or stimulates interracial tension and conflict and the corollary question of whether desegregation has one or the other effect.

The most direct evidence available on this problem comes from observations and systematic study of instances in which desegregation has occurred. Comprehensive reviews of such instances¹⁹ clearly establish the fact that desegregation *14 has been carried out successfully in a variety of situations although outbreaks of violence had been commonly predicted. Extensive desegregation has taken place without major incidents in the armed services in both Northern and Southern installations and involving officers and enlisted men from all parts of the country, including the South.²⁰ Similar changes have been noted in housing²¹ and industry.²² During the last war, many factories both in the North and South hired Negroes on a non-segregated, non-discriminatory basis. While a few strikes occurred, refusal *15 by management and unions to yield quelled all strikes within a few days.²³

Relevant to this general problem is a comprehensive study of urban race riots which found that race riots occurred in segregated neighborhoods, whereas there was no violence in sections of the city where the two races lived, worked and attended school together.²⁴

Under certain circumstances desegregation not only proceeds without major difficulties, but has been observed to lead to the emergence of more favorable attitudes and friendlier relations between races. Relevant studies may be cited with respect to housing,²⁵ employment,²⁶ the armed *16 services²⁷ and merchant marine,²⁸ recreation agency,²⁹ and general community life.³⁰

Much depends, however, on the circumstances under which members of previously segregated groups first come in contact with others in unsegregated situations. Available evidence suggests, first, that there is less likelihood of unfriendly relations when the change is simultaneously introduced into all units of a social institution to which it is applicable-*e.g.*, all of the schools in a school system or all of the shops in a given factory.³¹ When factories introduced Negroes in only some shops but not in others the prejudiced workers tended to classify the desegregated *17 shops as inferior, "Negro work." Such objections were not raised when complete integration was introduced.

The available evidence also suggests the importance of consistent and firm enforcement of the new policy by those in authority.³² It indicates also the importance of such factors as: the absence of competition for a limited number of facilities or benefits;³³ the possibility of contacts which permit individuals to learn about one another as individuals;³⁴ and the possibility of equivalence of positions and functions among all of the participants within the unsegregated situation.³⁵ These conditions can generally be satisfied in a number of situations, as in the armed services, public housing developments, and public schools.

*18 IV

The problem with which we have here attempted to deal is admittedly on the frontiers of scientific knowledge. Inevitably, there must be some differences of opinion among us concerning the conclusiveness of certain items of evidence, and concerning the particular choice of words and placement of emphasis in the preceding statement. We are nonetheless in agreement that this statement is substantially correct and justified by the evidence, and the differences among us, if any, are of a relatively minor order and would not materially influence the preceding conclusions.

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