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Defining and Attaining Equal Educational Opportunity in a Pluralistic Society

*Ernest Q. Campbell**

I. PROBLEMS OF DEFINING EQUAL OPPORTUNITY

We in America have never made peace with the concept of pluralism. As a nation, we are fundamentally committed to the ideal of "equal opportunity"; yet, despite our presumably concomitant dedication to the principle that society should accommodate diverse values and goals, we have not conceptualized any means of determining whether equality of opportunity exists except by measuring people on the same scale. We have an appropriate rhetoric for describing equal opportunity—self-actualization, through which each person develops to the fullest extent in those directions that he or she wishes—but we have no institutionalized standards for determining whether realization of potential has been accomplished more or less evenly across diverse groups. A basic consideration underlying any approach to this problem is whether two peoples, living under the same government, valuing different objects, and enjoying different ventures, can find any bases for comparing their opportunities to express and pursue those distinctive matters most desirable to them? Indeed, can it ever be said that equal opportunity exists between peoples not pursuing the same goals? The purpose of this Article is to offer comment on the nature of equal educational opportunity and the problem of realizing it in the contemporary United States.

In the past, two complex definitional questions have confounded any discussion of the concept and made a simple rendering of it impossible. Each question concerns identity, using that term in the mathematical sense of equivalence. The first question asks whether identity of investment is either necessary for or sufficient to equal educational opportunity. The second question asks whether identity of outcome is a prerequisite for equal educational opportunity. These questions stem from two distinct approaches to the problem of defining equal educational opportunity. The first evolved from the traditional approach, which treats equivalence in facilities and budgets as the measure of

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equality.¹ According to this approach, those children attending classes in older and overcrowded buildings, whose teachers are paid less than those in other schools, and whose texts are not the most modern available, suffer an educational disadvantage. A consequence of using the traditional, input-focused view is that per capita expenditures are regarded as convenient indices of equality. Thus, according to the traditional view, educational opportunities among school children are equal only when the expenditures per child are also equivalent.

Two newer perspectives both challenge and augment the traditional view. The first, which is essentially a reparations argument, reasons that blacks lag behind whites in income, education, occupation, and prestige because of historic abuses and exploitation; therefore, the argument concludes that equal opportunity requires extra investment on their behalf. The second perspective distinguishes between allotted and delivered resources. For example, when the windows in one school are frequently broken and those in another school are rarely broken, a child attending the latter school receives more delivered resources, although the resources allotted to the two schools are equal. Similarly, when disciplinary problems require a well-trained, well-paid, experienced teacher to spend an inordinate amount of time on noninstructional matters, her counterpart in a trouble-free school can deliver her training to her students more efficiently. Although the resources available through the two teachers are equal, the educational opportunities of the latter teacher's students are greater.

The second question—whether equal educational opportunity requires identity of outcome—dates from July 1966, when the United States Office of Education issued *Equality of Educational Opportunity*, generally known as the *Coleman Report*.² The *Report* treats the schools' products as the measure of equal opportunity. It takes the position that

1. See, e.g., H. ASHMORE, *THE NEGRO AND THE SCHOOLS* (1954). One difficulty with the approach is that varying the school facilities apparently has modest effects on how much students learn. One commentator says with respect to the traditional view: "The overall results should be clear to policy-makers and researchers alike. With regard to the differences among schools in resources that we conventionally measure and consider in making policy, there are few that give us any leverage over students' achievement. Within the fairly broad boundaries of existing variations, the simple manipulation of per-pupil expenditure or the hiring of more experienced teachers or the instituting of a new curriculum does not lead to dramatic changes in students' verbal achievement. The myth that the reallocation of conventional inputs will lead to a redistribution of achievement outputs can no longer be accepted." Smith, *Equality of Educational Opportunity: The Basic Findings Reconsidered*, in *ON EQUALITY OF EDUCATIONAL OPPORTUNITY* 230, 315 (F. Mosteller & D. Moynihan eds. 1972).

2. J. COLEMAN, E. CAMPBELL, C. HOBSON, J. MCPARTLAND, A. MOOD, F. WEINFELD & R. YORK, *EQUALITY OF EDUCATIONAL OPPORTUNITY* (1966) (hereinafter cited as *COLEMAN REPORT*).

equality of opportunity has been shown to exist only when the graduates of schools, as large groups, evidence an equivalence in their skills and knowledge. Reporting vast data on the public schools and their students gathered in the fall of 1965, the *Report* stated the underpinnings of its view in these terms:

Taking all these results together, one implication stands out above all: That schools bring little influence to bear on a child's achievement that is independent of his background and general social context; and that this very lack of an independent effect means that the inequalities imposed on children by their home, neighborhood, and peer environment are carried along to become the inequalities with which they confront adult life at the end of school. For equality of educational opportunity through the schools must imply a strong effect of schools that is independent of the child's immediate social environment, and that strong independent effect is not present in American schools.³

It showed, on the basis of standardized achievement and ability test scores, that black students lag far behind white students in academic performance, thus indicating that they are less well prepared by the schools to compete for jobs, scholarships, and other societal rewards. The *Report* concluded, therefore, that blacks have not experienced equal educational opportunity.

Two of the *Report's* findings are major concerns of the remainder of this Article, which adopts outcomes as the significant indicators of equal educational opportunity. The first set of findings is that there are very large differences between the test performances of blacks and whites. Expressing these differences in terms of grade-level differences, the accompanying table shows, within regions and residential locations, the extent to which black students lag behind white students.

TABLE 1⁴
WITHIN REGION GRADE-LEVEL LAG OF BLACK STUDENTS
COMPARED TO WHITE STUDENTS ON THREE ACHIEVEMENT
TESTS, GRADES 6, 9, AND 12. (FALL 1965).

Test: Grade in School:	Verbal Ability			Reading Comprehension			Math Achievement		
	6	9	12	6	9	12	6	9	12
<u>Non-Metro</u>									
South	1.8	2.9	3.7	2.2	2.9	3.9	1.9	2.8	4.8
Southwest	1.7	2.9	3.9	2.3	3.0	4.0	2.1	2.9	4.8
North	1.7	2.3	3.3	2.0	2.3	3.3	2.0	2.7	4.4
<u>Metro</u>									
Northeast	1.6	2.4	3.3	1.8	2.6	2.9	2.0	2.8	5.2
Midwest	1.6	2.2	2.9	1.7	2.2	2.5	2.0	2.5	4.6
South	1.5	2.5	3.3	1.8	2.6	3.5	2.0	2.5	4.4
Southwest	1.4	2.3	3.6	1.7	2.3	3.7	1.7	2.3	5.1
West	1.6	2.3	3.4	1.9	2.6	3.0	2.1	2.8	4.5

3. *Id.* at 325.

4. The data in this table are adapted from the COLEMAN REPORT, *supra* note 2, at 274-75

Several conclusions flow from a careful perusal of the table.⁵ For example, racial differences increase during the school years, so that the time required for blacks to "catch up"—a useful if inexact meaning of "grade-level lag"—is greater in the twelfth grade than in the ninth grade, and greater in the ninth grade than in the sixth grade. The lag is particularly severe in mathematical competence. Moreover, the South, which is traditionally viewed as the epicenter of racial abuse and discrimination, is not glaringly different from the rest of the nation in magnitude of racial differences in academic achievement. The general conclusion to be stressed from the table is that blacks as a group perform far less well on these measures of academic competence than whites. By the time school children have reached the twelfth grade, the smallest racial gap in any region on the verbal ability test is 2.9 grades and the largest is 3.9 grades. The smallest gap on the reading comprehension test is 2.5 grades and the largest 4.0. On the mathematics achievement test the smallest gap is 4.4 grade levels and the largest 5.2. These gaps are stupendous and alarming. If the data included school dropouts as well, the gaps probably would be somewhat larger. They are nevertheless large enough to invite speculation that the average white high school graduate would perform as well on standard achievement tests as the average black college graduate.

The second pertinent set of findings from the *Report* is that racial differences are not produced by the schools; racial differences already exist in substantial magnitude when children enter the first grade. Expressed in terms of standard scores and standard deviation units rather than grade levels,⁶ the racial gap when children enter school in the first

(tables 3.121.1 to .3). The data were taken from performances on the Inter-American Tests of General Ability and the Educational Testing Service Sequential Tests of Educational Progress. Two other tests, the Non-Verbal Ability and the General Information including Practical Arts, show differences of the same order and magnitude.

5. Two examples will clarify the use of Table I. First, the figure in the upper left corner of the body of the table should be read as follows: black students in the sixth grade in the nonmetropolitan South were 1.8 grades behind white sixth-grade students in the nonmetropolitan South on a standard verbal ability test in the fall of 1965. Secondly, the lower right-hand figure in the body of the table should be read as follows: black students in the twelfth grade in the metropolitan West were 4.5 grades behind white twelfth-grade students in the metropolitan West on a standard mathematics achievement test in the fall of 1965.

6. Standard scores and standard deviations are useful tools for reducing disparate events to comparable terms. Thus, if a runner wins a 100-yard dash by 3 yards, he wins easily; but if he wins the 2-mile run by 3 yards the race was extremely close. In absolute terms, his margin is the same, but relative to the distance covered, the gap is much narrower. Similarly, a 0.4 grade level gap at the first grade may be as substantial, relatively speaking, as a 3.8 grade level gap in the twelfth grade.

grade is nearly as large as when they graduate from high school. The vast differences in readiness for academic training among the groups and categories of individuals entering the school system imply that conditions and experiences external to the schools largely determine the eventual effect of experiences internal to the schools.⁷ Among the enormous implications of this conclusion is a fundamental dilemma for creating opportunity structures: if the schools treat various groups the same, they will not remove inequalities between groups that existed at the first grade. Consequently, the groups will not be equal when they finish school. Thus there cannot be equal opportunity⁸ in the schools and at the same time equal opportunity⁹ upon the completion of training in them. The older, input-focused concept of equal resources and the newer, output-focused concept of equal products are therefore contradictory: they cannot both be measures of equal opportunity, since if you have the one you will not have the other.

The great diversity in American life complicates the problem of defining equal educational opportunity. For example, if equal expenditures are a prerequisite to equal opportunity, must all funds be spent in the same manner, regardless of the talents and interests of the receiving populations? If a black school emphasizing Latin and a white school emphasizing auto mechanics both reflect the relative interests of the two groups, and if both expend roughly equivalent sums per pupil, does equal opportunity therefore exist—or does equal opportunity also require equivalence in educational environment and curricula offerings? If equal opportunity requires an equivalence in environment and curricula, one group may be well prepared, and the other ill prepared, to respond to the resultant offerings. Opportunity cannot truly exist for a group neither prepared nor desirous of seizing it. Yet tailoring a curriculum specifically to the interests, talents, and readiness of particular groups only opens a Pandora's box of problems in defining equal opportunity. Different treatment for students presents two immense difficulties. First, it abandons equivalence in environment and curricula as the measures of equal input and demands a more sophisticated and delicate conception of equivalence. Secondly, it implies that different groups of people are being prepared for different societal roles upon the

7. Other statistical data support the conclusion. For example, the correlation between test achievement and characteristics of a child's home is substantially stronger than is the correlation between test performance and school characteristics. See COLEMAN REPORT, *supra* note 2, at 295-302.

8. Meaning same treatment, equivalent resources.

9. Meaning similarly trained and equally equipped competitively.

completion of their training; this in turn bears the threat that one group is prepared, or seems to be prepared, for superior, prestigious activities and social positions, while the other is prepared for menial, nonprestigious undertakings. Taking into account the diversity of American life does not, however, resolve the conceptual problem in favor of using the newer, output-focused view of equal opportunity. Diverse personal backgrounds bring children into the schools at vastly different stages of educational readiness, while diverse adult undertakings require the development of many different skills under the formal tutelage of the schools. Coupled with the great diversity in our values and life styles, these two factors make the task of defining equal opportunity in terms of outcomes very difficult. If our nation was substantially agreed about those things that are good or desirable, then by looking at outcomes we could reasonably say that equal educational opportunity exists when various racial groups are equally well equipped to succeed in the more desirable ventures and are not clumped or forced into the less desirable categories. We are not, however, agreed upon those things that are good or desirable. For example, is it good to make money? To be a professional person? To have savings and invest in the stock market? To be well educated? To have authority and power? To perform well on tests? To attend prestigious private universities? To live close to nature? To do manual work creatively and well? To escape the metropolis and the rat race? To be unscheduled and have leisure time? To use the English language well?

The extent of our disagreement over what is good or desirable is a measure of the extent to which our society is pluralistic, or segmented.¹⁰ When the schools prepare all children for a single way of life, and all adults agree upon one desirable outcome, then there are "good jobs" and "poor jobs," "valuable citizens" and "bad citizens." In such a situation, the only prerequisite for attaining equal educational opportunity is an assurance from society that it will not erect barriers denying certain groups fair access to the public means of acquiring the skills necessary for obtaining a "good job" or becoming a "valuable citizen." It is actually the case, however, that various groups of people neither desire the same goals nor value the same conditions. Thus the conceptual and technical task of defining equal opportunity in terms of outcomes is immensely larger.¹¹

10. For a good discussion of a plural society see M. SMITH, *THE PLURAL SOCIETY IN THE BRITISH WEST INDIES* (1965). See also H. HOETINK, *THE TWO VARIANTS IN CARIBBEAN RACE RELATIONS: A CONTRIBUTION TO THE SOCIOLOGY OF SEGMENTED SOCIETIES* (1967).

11. Any discussion of equal educational opportunity—especially discussion about the relevance of racial desegregation to attaining equal opportunity—requires an expression of those goals

II. DIVERSITY AND COMPARABILITY: ACCESS AND RESPONSE TO EQUAL OPPORTUNITY

During the past two decades, blacks protesting racial conditions in America have been asked incessantly, "What is it that you really want? What are you after?" Blacks frequently have given a simple, straightforward answer: "We want what the white man has—jobs, education, position, comfort, security, power. In a word, we want a full, fair share in America's bounty."

This response reflects a beguiling yet treacherous vision. It obviously suggests quotas; whatever whites have, blacks should have in equal proportion. The idea of quotas often proves strategically useful in establishing a principle of full access and bringing pressure for needed change, but in the long run quotas are not a useful measure of fair opportunity. They are contrived, and they encourage sameness—thereby threatening the diversity within our culture. Although a pattern of strict racial distinction in occupational pursuits is clearly an unwise strategem for establishing equality, it is not necessarily true that blacks will prosper most if they acquire skills and tastes in the same proportion as whites. For example, blacks entering technical areas already saturated with whites would probably find fewer opportunities for

assumed to be the purposes of education. The question is particularly important in the context of this Article, which relies heavily on achievement test scores to buttress its argument that outcomes must carry substantial weight in any decision concerning equal opportunity. Using achievement test scores as the measure of a school's effectiveness risks the conclusion that education means nothing more than what a child scores on an achievement test. Achievement test scores are beguiling for another reason as well—they seem tangible and explicit, whereas other traits that schools seek to develop are elusive and illdefined. The wise of every age have known that scholastic achievement is not all that makes a person valuable to his community and country. The schools conceivably might equalize the races as to their formal academic training, yet spawn major inequalities in other areas that nevertheless require development under the aegis and guidance of the schools. Good citizenship, leadership and participation skills, personal creativity and expressivity, self-awareness and self-confidence, skills in interpersonal relationships, personal happiness and adjustment, a disciplined competitive spirit, experience with the myriad components of community life, continuing intellectual curiosity, and strong aspiration levels—no less than good test performance—are among the desirable goals of education. An individual may excel in one endeavor and not do well in others; similarly, schools excellent in the development of one educational goal are not necessarily excellent in the development of others. This Article's frequent reliance on achievement test scores is not intended as a representation that test performance is the only proper aim of education. Test performance is, however, the most adequately studied and quantified component of educational development. Indeed, no other clear data suggest that blacks or other dispossessed peoples fare any better on measures of other expressed aims of education than they do on achievement tests. Test scores, therefore, are at least useful as surrogate measures of educational attainment. One nevertheless should appreciate that this Article has selected only one from among several measures of educational attainment. There is no assurance that it is the best selection, nor does it correspond fully with unused measures. This Article, moreover, does not intend to encourage a narrow view of the goals of education.

success than were they to venture along freshly cut occupational paths. An author can easily be misunderstood on this point, because it may revive older concerns about vocational training and industrial education for blacks. That is neither the message nor the intent here. Even American ethnic groups, which generally do not view themselves as victims of unequal opportunity, show considerable variation in average amounts of education, distribution of occupational types, unique occupational and technical skills, and income levels. Anyone believing that ethnic and racial diversity add color, flavor, and strength to American life will view with abhorrence the image of flatness and sameness evoked by a national policy that trains and qualifies everyone in the same proportions.

A modern industrial and metropolitan society like ours requires a minimum amount of knowledge and skill for efficient survival in and contribution to it. Consequently, everyone must master certain basic educational components or suffer enduring handicaps.¹² Once the basics are established, however, opportunity means choice—wide choice and open access. We must somehow arrange structures of opportunity, access, and choice that reasonable observers would regard as fair and just, and that allow, or perhaps even encourage, diversity in skill and activity between racial and ethnic groups. The final result may be that too many Swiss are watchmakers, too many Jews are psychiatrists, too many Italians are tile layers, too many blacks are blues and jazz musicians, and too many Yankees are merchants, but disparities are tolerable—indeed, they are highly desirable.

How can we recognize equal educational opportunity according to this open-ended perspective? Must blacks and whites complete the same average number of years in school, be trained in the same proportions for given vocations, have the same average scores on achievement tests, enter and complete college in the same proportions, enter the academic track proportionally, and share academic honors and scholarships proportional to their numbers? Must we curtail or abolish all activities and educational arrangements in which one group appears to excel or concentrate relative to another at a given time?¹³ The argument of this

12. For a list and discussion of the required skills see Gordon, *Toward Defining Equality of Educational Opportunity*, in *ON EQUALITY OF EDUCATIONAL OPPORTUNITY*, *supra* note 1, at 432-33.

13. Achievement tests and academic tracking are often attacked because blacks fare poorly on them, and the experience causes stigmatization. It seems at times that any standard on which blacks do not perform as well as whites is subject to the charge of cultural bias and the risk of elimination. According to this view, we would define an unbiased test as one on which blacks and whites score the same. The extent to which one must go to prepare such a test shows how foolish the viewpoint is.

Article is clearly negative. If blacks and whites freely value different goals and elect to spend their time in different ways, the important task is to ensure that each comes freely to choose its own goals and has broad awareness of options concerning how time may be spent. The wider the choices and the more open the access, the greater the opportunity; the more equal the choice and the access across groups, the more equal the opportunity across groups.

The question of opportunity can be separated from the question of personal response to opportunity for analytic purposes. A myriad of historic barriers—including racist attitudes and institutions, concentration of political power and decision centers in the hands of whites, residential segregation, and the persistence of established conventions and habits—have restricted the opportunities of black children in the United States. Although they are substantial, the task of eliminating these barriers will probably be easier than the one of ensuring an adequate response to the increased access that will result from their elimination. Broad experience and supportive familial and community environments are apparent prerequisites to the informed, wide choice advocated in this Article. A simple example helps to illustrate the point: thousands of travelers have discovered that there are cheaper ways to go to Europe than by purchasing a standard ticket at a standard airline counter. Charter flights, club rates, and nonscheduled airlines are open to all and do not discriminate in any way. Doubtlessly included among those who travel the standard way are individuals who know the alternatives and find them personally unsuitable. Some travelers, however, are simply unaware that other options exist. By analogy from travel opportunity to educational opportunity, individuals with the broadest awareness—those whose social milieus provide the broadest range of pertinent information—are best positioned for intelligent choice. Not all persons are ready to walk through fully opened doors of access. Equivalence of response and opportunity would not come about in the United States even if every vestige of racism and discrimination were removed with a magic wand. Long after we have managed as a nation to remove race as a criterion for access to opportunity, we will be confronting the problem of how to ensure equivalence in response to opportunity.¹⁴

III. ACHIEVEMENT TESTS AND A PLURALISTIC SOCIETY

Achievement tests have been a favorite target of the civil rights movement, which charges that they discriminate in favor of whites, who

14. A broad background for understanding this dilemma is provided in G. BECKFORD, *PERSISTENT POVERTY* (1972).

more often come from middle-class homes and use standard English. Tests constructed to reflect the life of the black masses, it argues, would place blacks rather than whites in an advantageous light. The charge adds that the information required for successful performance on tests is largely irrelevant to basic competence. Thus we rely too heavily, the charge states, on the formal credentials expressed in test scores and years of school completed when considering candidates for job appointments and college scholarships. For example, one author concludes from his data that persons unqualified for certain jobs according to standard test criteria actually perform as well as those with official credentials.¹⁵

These arguments abound with populism and anti-elitism. With respect to education, they say that the schools place too much emphasis on the wrong things, and at least imply that if the schools and their tests stressed a more appropriate knowledge, racial differentials on test performance would disappear. Stated in this manner, the argument suggests that there is no problem greater than the one of illegitimate and unfair standards. If the standards were appropriate and fair, the problem of differential academic attainment would evaporate. According to the argument, there is more need to change the expectation of the judges than to change the behavior of the judged.

The argument contains both a solid insight and a distressing irrelevancy. If the United States were a different kind of society—if it did not emphasize entrepreneurial skills and technology, if it were not metropolitan and industrial, if it did not revere the secular so much and the sacred so little—then different skills would be desired and different kinds of people would be rewarded. As our society exists in fact, however, the verbal and mathematical skills and the substantive knowledge tested on achievement tests have unquestioned importance. If middle-class values were not a pervasive determinant of American life, then middle-class skills and perspectives would be irrelevant to achievement test performance. For the most part, however, the “outs” in America want a redistribution of those things presently valued rather than a different set of goods and rewards. The changes that the “outs” want to effect in our system represent variations on a continuing theme rather than a new orchestration. It is in this sense that the argument is a distressing irrelevancy. If blacks are to secure a fuller share of the rewards that America offers, they must acquire more of the skills that America expects; blacks are not in a position, either numerically or

15. See I. BERG, *EDUCATION AND JOBS: THE GREAT TRAINING ROBBERY* (1970).

from the standpoint of power and influence, to have a decisive effect on the nature of those expected skills. Thus the future well-being of blacks in the American class and income structure requires their increasing mastery of the skills and knowledge offered and represented by the schools. It also requires conceptually, that we attend closely to measures of academic competence when we determine whether blacks have equal educational opportunity. Opportunity is not simply an external arrangement to which "access" is given; it is also an internal competence.

It is necessary to ask again whether a pluralistic society with one dominant sector, such as the United States, can accomplish even theoretically a state of equal opportunity. The problem can be considered by imagining that a pluralistic society contains two groups, Group *X* and Group *Y*. Group *X* values diligence and the activities associated with formal education. Group *Y*, on the other hand, values family, conversation, leisure, and sports. While Group *Y* "takes it easy" and "enjoys life more," Group *X* expresses its diligence in reading, intellectual debate, zest in mathematics, and generally in "hard work." Group *X*'s characteristics cause it to acquire social and political control. Because assiduous Group *X* produces those who write the books, articles, and newspapers, the written words refer to Group *Y* with such terms as "shiftless" and "problem." Similarly, individuals from Group *X* wonder aloud why Group *Y* cannot be "well motivated" and "well behaved" in the style of Group *X*. Because Group *X* likes to study, it causes more to be spent on schools than on the recreational facilities that Group *Y* prefers. When academic tests are administered, *X* outperforms *Y* by a wide margin.¹⁶ If Group *X* and Group *Y* have equal access to education, Group *X*'s preference for education relative to Group *Y* accounts entirely for differences in educational attainment between the two groups.¹⁷ The society's rewards of wealth and prominence, moreover, harmonize with its educational system. If the national policy is to eliminate all differences between *X* and *Y* by making *Y* like *X*, then any circumstantial difference in Group *Y* and Group *X* would

16. Assuming that Group *X* has greater social and political power than Group *Y*, Group *X* could also use *Y*'s lesser interest in education to justify investing more educational resources in Group *X* than in Group *Y*. The hypothetical situation in the text, however, assumes that every educational opportunity available to Group *X* is also available to Group *Y*.

17. The Old Order Amish receive unwanted, periodic newspaper attention because their belief that the skills necessary for successful farming require no more than 8 years of schooling brings them into conflict with education officials who seek to enforce school attendance laws. The Amish are, in fact, successful farmers leading and valuing lives substantially distinct from the dominant American motif. Do Amish children, therefore, have equal educational opportunity when, on the basis of their values, they refuse to attend high school and college, although high school and college are freely available to them?

arguably represent an impediment to Group *Y*'s opportunity. "Opportunity" in such a situation would mean, very explicitly, opportunity to be like Group *X*. Group *Y*, however, might value its distinctiveness and not wish to spend as much money on, or as much time in, the schools as Group *X*. When Group *Y* does not desire a dose of education equal to Group *X*'s, grave questions concerning the possibility and wisdom of equalizing the educational opportunities of the two groups emerge. It may be necessary to look beyond the area of education—to something that Group *Y* values as highly as Group *X* values education—and attempt to ascertain whether an over-all state of equity exists. Moreover, coercing or manipulating Group *Y* to emulate Group *X* may cause Group *Y* to respond with a resistance taking the form of ineptness. Yet, if Group *Y* maintains its values, it forfeits, or at least reduces, its chance of receiving a proportionate share of its nation's bounty.¹⁸

Blacks who reject those standards of academic performance by which whites excel argue, in effect, that the standards of a wholistic society are being imposed on what is in fact a pluralistic situation.¹⁹ They believe that black education is a matter for consideration by black decision makers operating community-controlled black schools, in which black teachers teach a black curriculum to black students using standards of evaluation determined by the black community. Because policies derived from the *Coleman Report* would place blacks in a

18. If Group *Y* wishes to escape subordinate status and extend the range of its available choices, it might decide to subordinate all values to its impulse for political and social power. The sophistication necessary for utilizing political and social gains, however, probably requires an extensive formal education of good quality. Thus, in order to secure conditions for sustaining its secular values, Group *Y* must compete in the educational system under the same standards with Group *X*, unless Group *Y* is a small, rural group like the Old Order Amish that can escape the pressures of a national society.

19. The concept of the plural society, which developed during the colonial period, applies to situations in which 2 groups of people—for example, the colonizer and the colonized—exist under the discipline of a single government and exchange goods in the market place, but otherwise lead separate lives, operate separate institutions, and maintain different traditions. See, e.g., M. SMITH, *supra* note 10. Although the concept does not envision a stratified society with one group distinctly superior in terms of power and wealth to another, the concept nevertheless originated in severely stratified societies. Moreover, when the parties have equal strengths, a plural society is unworkable unless a high degree of mutual consensus also exists.

Examined carefully, the concept of a plural society probably does not have sufficient specificity to be a useful, descriptive term. Societies are often pluralistic with respect to some characteristics and nondistinct with respect to others. American Jews, for example, are integrated fully into the national economy and follow completely nondistinct leisure and recreational patterns, yet they have distinct religious structures and encourage endogamous marriage. Similarly, another group might have an ethnic tradition and live in separate neighborhoods, but in other ways be nondistinct. Whether pluralism arises voluntarily from a sense of unity or involuntarily through enforced exclusion by a more powerful group is a different question.

minority situation, remove control over the educational process from the black community, and eliminate the possibility of maintaining different criteria for evaluation, they similarly dispute its application.

The aspects of black culture that differ substantially from American culture in general, however, are few. Thus much that happens in the schools would happen regardless of whether they were operated by and for blacks. There is, of course, a serious need to revise our schools' literary and cultural materials to represent better the black experience in America. Moreover, black schools could do some things—for example, the teaching of black pride and group identity—better than they are done now. In the long run, however, the skills and values that children need to learn are remarkably alike where black and white in America are concerned. Judging blacks educationally by standards different from those applied to whites renders an ultimate disservice to the black cause. It is possible that school systems should be designed to teach those things that Appalachian hillfolk, or residents in wilderness communes, or the Amish, or those who survive in the streets know best. Nevertheless, those things are not what the current mainstream of American society finds pertinent, and it is hard to see that a dispossessed minority group should choose such a strategy for getting ahead.

IV. BUSING, DESEGREGATION, AND EDUCATIONAL OPPORTUNITY

Busing is a device for increasing interracial contact in the public schools; the occasionally emotional debate over its implementation has perhaps obscured questions relevant to the controversy. The pertinence of busing to the problem of attaining equal educational opportunity hinges upon two factors—whether desegregation is a socially valuable and desired concept and whether adverse consequences would flow from the further utilization of busing as a tool for desegregation. With these two considerations in mind, an analysis of the issue is perhaps warranted.

A. *The Advantages of Desegregation*

Another major finding reported in the *Coleman Report* was that black students do better in school—as measured by test performance—when the school has a majority of white students than when the majority is black. Thus, going to school with whites seems educationally advantageous to blacks. Further, the academic performance of whites was found not to be impaired by attending school with blacks, at least as long as whites constitute a distinct majority. This finding has been widely used to support probusing arrangements.

It is fair to conclude that these data demonstrate "separate but equal" to be impossible of realization under the condition of horizontal racial segmentation existing in the United States. Equality is impossible because too many blacks are exposed to too little peer competition and challenge of an academic nature in the classroom, a circumstance presently irremediable under racial segregation.

The substantial ways in which a black's fellow students differ from those of the white students have been stated elsewhere:

The average Negro student in the United States, compared to the average white student, is more likely to have classmates

- whose parents are not high school graduates
- who come from large families
- whose homes are not intact because of the absence of at least one parent
- whose homes lack such material possessions as telephones, vacuum cleaners, and automobiles
- who are Negro
- who have less reading matter in the home, specifically who less often have daily newspapers, encyclopedias, and a large number of books
- who are more likely to drop out of school before graduating
- who, when they graduate, are less likely to continue their education into college
- who are not in a college preparatory curriculum and are not taking those courses ordinarily required for college
- who have never read a college catalog nor talked with a college official about post-high-school plans
- who report low overall grade averages
- whose rates of absence from school are high
- who score low on standard subject matter achievement tests
- who engage in behaviors that distract from concentration and learning, based on principal's reports of disciplinary and behavior problems
- who believe that the fates are against them, as indicated by agreement with the statement, "People like me don't have much of a chance to be successful in life."²⁰

Because residential segregation occurring within cities and between suburbs and cities along class and racial lines has the effect of isolating poor black children from the academic models of the middle-class white, abolishing state-imposed racial segregation will not automatically or instantaneously remedy the educational problems of blacks. Thus the advocates of extensive cross-city busing focus upon the importance of bringing black students specifically into contact with white middle-class classmates rather than with white classmates generally.

There is, however, no basis in the *Coleman Report's* analysis for believing that enrolling blacks in majority white schools would reduce more than a minor proportion of the very substantial racial gap in educational performance; perhaps after twelve years of integrated

20. Campbell, *Adolescent Socialization*, in *HANDBOOK OF SOCIALIZATION THEORY AND RESEARCH* 821, at 846 (D. Goslin ed. 1969).

schooling the gap would be one-half to three-fourths of a grade less than it is presently. Although a half-grade reduction is not insignificant, it fails to warrant the claim that racial balance within the public schools will eliminate racial inequality in educational performance.

Even the modest gains observed in the *Report's* data may only be statistical artifacts. The *Report's* analytical technique introduced statistical controls permitting the comparison of groups that appeared similar except for different experiences on the variable to which causation was attributed or from which it was implied; specifically, comparisons were made between groups of black students with similar characteristics (region, parents' education, father's occupational level, etc.), except that each had different proportions of white classmates. That the test scores of blacks in schools with many white students were higher than the scores of similar blacks in all or nearly all black schools led to the conclusion that race of classmates appears to be a variable affecting academic performance. When cross-sectional rather than sequential data are used and individuals have not been assigned randomly to one or the other analytical condition, no stronger conclusion is warranted. It could have been (we have no way of knowing) that the black students who attended majority white schools under more or less voluntary conditions possessed a distinct, unmeasured characteristic that accounts for their higher test scores relative to blacks in black schools. After all, they accomplished a singular feat—they attended schools with whites. Whatever produced that difference also may have elevated them academically. Thus the effects observed under voluntary conditions may not occur when official decrees, such as court orders and school administrative decisions, bring into largely white classrooms blacks who would remain in largely black schools if left to their own designs. There may be important reasons why substantial efforts should be made to maximize the mix of blacks and whites in the public schools (I personally think there are), but a substantially reduced racial differential in academic performance is very likely not one of them.²¹ If equal educational oppor-

21. A great virtue of the COLEMAN REPORT is the large number of student cases with parallel information on teachers and schools that it reported. Its great limitation was its use of cross-sectional data with not a modicum of experimental design. Several newer studies employing a before/after design that comes somewhat closer to an experimental design are now available. The great value of such a comparison is its control of selective factors that may draw certain kinds of students into certain kinds of schools. Its use thus occasionally permits statements comparing the level students attain before entering a desegregated school situation with their level attained afterwards. That is, if we know the test achievement level of a black student before he is bused to a majority white school, we can see whether his rate of academic progress following busing is more substantial than when he attended a black school. Although the studies available are not definitive, they encourage the conclusion that large-scale administrative mixing of blacks and whites in school

tunity means an eventual equality of academic performance, desegregation is not a foolproof method for attaining it.²² We simply do not know how equal educational opportunity is to be attained, and we have little reason to expect a substantial contribution from racial balance. If, instead of the educational problems of blacks, we considered those of the lower class, or of Appalachia, or of Southern children, we would make the corresponding statement that we do not know how to bring these groups to parity.²³

Although the academic benefits accruing from desegregation do not weigh strongly in its favor, other more compelling advantages may obtain from intermixture of the races. A virtue sometimes claimed for desegregated schools is their supposedly increased opportunity for interracial friendships; students meet each other on equal status in informal settings, appreciate each other's virtues, and thereby forge warm friendships. Evidence from desegregated schools, however, indicates that many persons of both races have friends only of their own race, and that most persons select most of their friends from their own race.²⁴ These data require some standard or comparison point before conclusions can be drawn from them. It is, of course, true that blacks and whites do not forge large numbers of interracial friendships when they attend school together. It is, on the other hand, also true that the number of interracial friendships is greater when the races attend school together than when they do not. In desegregated schools, most blacks spend their casual or free time mostly or exclusively with other blacks, and most whites associate mostly or exclusively with other whites. In other words, most students in desegregated schools remain largely within racially bounded

does not improve the academic performance of blacks. See Armor, *The Evidence on Busing*, THE PUBLIC INTEREST, No. 28, Summer 1972, at 90. For a detailed criticism and Armor's reply see Pettigrew, Useem, Norman & Smith, *Busing: A Review of "The Evidence,"* THE PUBLIC INTEREST, No. 30, Winter 1973, at 88; Armor, *The Double Double Standard: A Reply*, THE PUBLIC INTEREST, No. 30, Winter 1973, at 119.

22. The failure of compensatory education, for example, gives us every reason to feel totally discouraged. See H. AVERCH, S. CARROLL, T. DONALDSON, H. KIESLING & J. PINCUS, *HOW EFFECTIVE IS SCHOOLING?* (1972).

23. Indeed, it may be easier to attain racial equality than to attain regional equality, although present regional differentials are substantially less than racial ones.

24. See Armor, *The Evidence on Busing*, note 22 *supra*. Armor is particularly critical of the "equal contact" thesis of racial harmony. In 1954-56, I found that, following the elimination of black schools in Oak Ridge, Tennessee, white students' attitudes toward both blacks and integration was less favorable after a year's experience. The research used a before/after design. See E. Campbell, *The Attitude effects of Educational Desegregation in a Southern Community*, August, 1956 (unpublished dissertation on file at Vanderbilt University). The equal status thesis was developed by Gordon W. Allport. See G. ALLPORT, *THE NATURE OF PREJUDICE* (1954). There is no better present day defense and extension of this thesis than T. PETTIGREW, *RACIALLY SEPARATE OR TOGETHER?* (1971).

social spheres. Although the proclivity of students to associate only with members of the same race leads at first to the dismaying conclusion that school desegregation fails to produce the informal interracial groups necessary for racial harmony and understanding, an equally significant point is that, compared to those whose school experience is segregated, more students who attend desegregated schools venture outside their racially bounded social spheres. Moreover, even if friendships are not easily and commonly formed, blacks and whites are no longer strangers and mysteries to each other, patterns of mutual accommodation and tolerance develop, and the tone of school life invariably reflects contributions from each racial group. These experiences in biracial living reflect the national society and are important preparation for living in and contributing to it. Such a contribution is truly significant, even when the price paid is tension-filled schools and sometimes hostile racial relationships.

Race, on the one hand, is and will remain indefinitely a massive determinant of associational patterns and friendship choices, even when schools are desegregated. On the other hand, some individuals reach across the racial boundaries to associate with members of another race while retaining contacts and esteem with members of their own. Although research data are not available, it seems probable that from these students come certain adult leaders who have credibility on both sides of the racial street, who can understand each side, who can help interpret each to the other, and who can in other ways dampen conflicts and expand areas of common endeavor at the community level. Whether these adults are called linkage agents, race mediators, brokers, conflict managers, or bridge people, they are needed desperately—especially in the cities of a national society that has no immediate prospect for merging the black and white elements in its population. The important point is that attendance at desegregated schools facilitates the development of these vital roles, a circumstance that is a major positive element in a generally bleak picture of the interracial hostility and avoidance apparent in children who attend desegregated schools.

Desegregated schools also furnish blacks direct evidence that no educational advantages are being given to whites and withheld from blacks. When white and black students share the same buildings and classrooms, teachers and administrators find it virtually impossible to offer better facilities and curricula to whites than blacks. This is a major gain for blacks. Their past treatment in the schools does not nourish any trust toward the white man's disposition to deal fairly with the interests of blacks. As long as most decision makers, administrators, and teaching personnel are white, blacks justifiably may question the whites'

disposition to give to black children everything given to white children. Placing black and white children together in the same school is one way of gaining an assurance of equal treatment. The new and growing political power of blacks, their increasing participation on school boards and city councils, and within mayors' and school administration offices, may sufficiently thwart white skullduggery. More likely, however, blacks will continue to fear that wily whites will somehow contrive to give white children a better education than black children and will believe that placing black students wherever white students are found is the only sure way to remove that belief.

B. Busing as a Symbol System

Busing has implications that go beyond the proper concerns of the school. During its hot debate, the busing issue has acquired meanings that seem to have little relevance for the education of children in any direct sense. Some proponents of racial balance believe that the failure to establish busing as a major tool for desegregation will signify the end of an era of expanding civil rights. The outcome of the busing debate thus symbolizes a major test of our nation's continued will—do we remain committed to expanding the opportunities of our minorities, or are we content with our previous accomplishments? The use of busing as a bellwether means that any retardation of its use also means, in effect, that we have abandoned our commitment to an integrated society. It means a sealing in of the black community, a reduced access to whites, a return to segregation, and an increase in the structural opportunities to be cheated upon.

Secondly, busing symbolizes a major test of black political strength. If black leaders advocate busing and fail to get it, their failure will interrupt an unbroken line of major judicial and administrative decisions that substantially has expanded the civil rights and personal opportunities of blacks in the post-World War II period. Thus, the demise of busing would undercut the political muscle of the black community.

There is yet a third way in which a retreat on the busing issue is a symbolic admission of defeat. In the large cities, housing segregation means that there is no way other than large-scale busing to bring children of all races together in the significant numbers needed to advance an ideology that has been widely accepted in liberal circles. This ideology holds, among other tenets, that racial integration and peace would occur if children could be brought together in the schools: friendships would form, tolerances grow, prejudices disappear, acceptance and appreciation flourish. Further, blacks would acquire the academic skills

whites now possess. These beliefs probably are false; certainly their probative value is limited.²⁵ Nevertheless, busing has come to be so intimately linked with the ideology that to retreat from its standard would be to admit the failure of a major dream.

Finally, busing serves as a symbolic safeguard against white duplicity. Although some may argue that the "separate but equal" standard was impossible to realize only because of black political impotence, and that the current existence and continued growth of black political power mean that segregation today need not, and would not, result in resource inequality, the suspicion remains that somehow the whites will connive to bring extra educational benefits and resources to white children. Busing, then, symbolizes the opportunity for blacks to discover what it is that whites have in their schools and to share fully in it—whatever "it" is. Blacks have experienced too much duplicity and manipulation by whites to accede willingly to proponents of diversity in educational, occupational, and economic matters; in these spheres whites are exemplars and role models for black life style and consumptive behavior. "We want what you've got" is in an important sense both a constraint on the freedoms of blacks and a remarkably strong tribute to whites.²⁶

C. *The Future of Busing*

This Article treats busing as a device designed to secure substantial desegregation of the races in schools when metropolitan size and residential segregation largely have sent blacks to school with blacks, and whites with whites. The fate of busing, then, will be substantially determined by the responses of both whites and blacks specifically to this particular device and generally to the social issue of desegregation. If the commitment to and thrust toward major degrees of desegregation are not strong and healthy, an adverse fate for busing is certain; even if support for desegregation is firm and vigorous, busing may or may not be discarded, depending on public and legal assessments of whether it is a desirable means toward the desired goal. Assessment of whether busing is useful to equal educational opportunity requires both an initial assumption that major desegregation is useful to equal educational opportunity and a subsequent examination of the character of major desegregation in the nation's schools and the obstacles that might block its achievement.

25. See text accompanying note 21 *supra*.

26. An interesting tension exists between the psychologies expressed in 2 common expressions that black leaders have used: "We want what you've got," and "We want to be what we are." The tension reflects much of what is ambiguous about being black in America.

An important first point is that there are not only quantitative but qualitative differences between the "token integration" of past decades and the massive integration advocated now. In the past, both the receiving school and the incoming blacks tended to be selected—the former on the basis of relative tolerance (for example, border states, large cities, middle-class areas), and the latter on the basis of scholastic aptitude and strong character. Under current plans of intensive integration, both receiving schools and incoming students are broadly representative, a situation that increases the contrast of cultures and the levels of hostility. Simplistic verisimilitudes—such as "The kids will work it out," or "When children know each other, especially from an early age, prejudices will disappear"—apply much better to token than to massive integration, and the latter produces a larger disillusionment. This disillusionment must be reckoned as a *cost* in desegregation, and the language of costs and benefits is useful in this analysis.

As noted earlier, research data indicate that, although racial mixture apparently offers some educational gain to blacks, this gain seems really to derive principally from the intermixture of social classes rather than races. Thus, it would be important, not that blacks attend school with just any set of whites, but that their white classmates be middle class; mixing blacks with lower-class whites might even depress black academic performance and in any event could not be counted on to affect it favorably. Yet certain costs of busing are especially high when the white middle classes and the black lower classes are mixed in the school. If we think simply of four groups—white middle class, white lower class, black middle class, and black lower class—the greatest extremes in educational performance occur when the white middle class and the black lower class are mixed. If we reckon the costs in such a situation, it is quickly apparent that a fear of academic failure inevitably will be activated among blacks and a corresponding fear of reduced academic opportunities will be awakened among whites. Also, this mixture threatens the wish of the white middle class to be tolerant and accepting, since the daily experiential world of contrasting life styles, academic disinterest, and what may appear by middle-class standards to be aggressive uncouthness strains and bruises this abstract wish. Correspondingly, the black lower class has the recurrent experience of incompetence and failure by the standards of the school; academic success is elusive, and hostility and withdrawal are common coping mechanisms.

A program that integrates the lower classes of the two races would lessen the cultural contrast between the incoming blacks and receiving whites, thereby reducing the social costs of desegregation. Since lower-

class whites typically do not wish or intend to be racially tolerant, they do not experience disillusionment upon encountering educational malapitude and disinterest among blacks; indeed, such encounters may confirm their expectations and furnish a sense of fulfillment. Lacking the high educational standards of the middle class, lower-class whites do not find the prospect of lowered academic content in the curriculum as threatening. Similarly, lower-class blacks experience incompetence and failure less often, and the vigorous, physical, and unsubtle modes of racial rejection and abuse typically employed by lower-class whites are easier for blacks to recognize, understand, and deal with than the more subtle, clever, and cutting snobberies of the middle class. Of course, the difficulty that cancels this apparent reduction in social cost is the inability of lower class whites to elevate by association the academic performance of lower-class blacks.

If whites refuse to attend the public schools, no substantial mixing of blacks and middle-class whites in the metropolitan public schools will be possible. In order that busing be an effective device for balancing educational opportunities, interracial circumstances that drive middle-class whites from the public schools must be avoided. The protected suburban school, however, has managed not only to isolate suburban whites from blacks but also to isolate them from most other whites. Some large segment of what commonly passes as racial aloofness is really class intolerance.²⁷ Powerful values and moral virtues underlie the class and racial separation impulse, so that it is naive to attribute catchwords such as "prejudice," "racism," and "snobbery" to the phenomenon. Sending their children to the stereotypical suburban school, with its spacious grounds and cadenced pace, assures parents that they are providing well for their children, giving them a good education, creating a sense of order and security for them, and helping them meet the right people. Their feelings, moreover, are not rooted in a mythical middle-class theology; they are solidly grounded in observation and experience. The students in a suburban school are eager, well motivated, and well mannered. Suburbia, moreover, offers an appealing symmetry between the life of the school, the neighborhood, the club, and the church. It is folly to believe that only bigots enjoy this symmetry. The busing of lower-class whites or blacks into suburban schools and the busing of suburban whites to black schools perceptually, perhaps even factually, threaten to impair the virtues of suburban life. Those who can afford

27. Indeed, it could be argued that if the urban public school systems had given their students intraracial experiences of an interclass nature, the response to racial integration would have been better.

to do so, and who can find attractive alternatives, react to the threat by fleeing the public school entirely.

Cost-benefit analysis points to a condition under which a middle-class exodus from the public schools would not occur: if the costs of leaving the public school, measured by the difference in resources between the public and private schools, exceed the perceived costs of busing, whites will have nothing to gain by flight. Olympic-size swimming pools, diversified sports programs, and diverse and exotic curricular offerings illustrate means the public system may use to diminish the attractiveness of private schools. Thus, if the public schools offer experiences and facilities that are unavailable in private schools, they will continue to attract middle-class whites even though the presence of blacks may be distasteful. The possibility that public schools will ever make this type of educational offering, however, is slim. Funds are scarce, and truly innovative programs are rarer; moreover, populism and anti-intellectualism are values competing with the pursuit of academic excellence in our society.

Integrationists who advocate busing frequently argue that there is ample precedent for busing in the historic pattern of rural school consolidation. When race has not been involved, Americans have commonly given up local community schools and traveled long distances to consolidated schools. Since it is not busing that is new, but rather increased interracial contact, they argue that the roots of opposition lie not in busing itself but in prejudice and bigotry. It cannot be questioned that directly racist attitudes are sometimes an important element in the reactions of some whites to proposed or actual busing, but to offer racism as the only explanatory source is a gross distortion.

The consolidation of rural schools, and consequent busing, was defended and accepted because of economies of scale. The economies of scale provided benefits greater than the costs involved in the inconveniences of travel and the loss of local community schools. Economies of scale allowed curricular diversity, specially tailored programs, better sports programs, and other increased benefits. The general principle is this: The greater the distance the student travels to get to the school, relative to options available to him, the more the school should offer him when he arrives.

An extension of this principle points to both a problem and a solution. It is clear that busing to approximate racial balance or establish unitary school systems does not provide new economies of scale, nor does it offer new educational opportunities not furnished under prior arrangements, except as the opportunity for increased interracial contact is shown or believed to be a new educational opportunity. The

educational program is not newer, or more diverse, or more innovative, or in any other way more attractive following the longer journey than it was under prior, more convenient arrangements. It is difficult to argue that the benefits from such a situation outweigh the costs of achieving it. There are no tangible rewards for the additional investment of time, and indeed there may be other costs that both whites and blacks experience: blacks incur social costs from being placed in a minority position and losing their "own" school; whites, from the status loss of acquiring classmates they regard as undesirable and from whom they feel they can learn little. Thus many students, and many parents, are likely to feel that they are incurring a cost without gaining a benefit. If the public schools, however, follow the logic of rural consolidation by improving educational opportunity through extensions of the educational and activity options that accompany busing, such schools can be magnets to which students go freely rather than repellents that students approach with trepidation and avoid when possible.²⁸ Yet achieving new economies of scale means increasing two- or threefold the size of even the largest present schools, along the lines of proposed educational parks. An alternative is to improve the quality and range of activities through increased per capita expenditures.

In addition, most school boards and administrators probably lack the zeal for working meaningfully and steadfastly to ensure maximum interracial contact in the public schools. Without some "whip" to motivate them, they probably cannot be trusted to seek integration vigorously. Black political power and negotiating skills in recent years have been the whips used to encourage school boards and administrators. The will in the black community today for substantial desegregation, and for using busing as a desegregation device, may, however, be insufficient to provide adequate pressure for social and political change.

*Brown v. Board of Education*²⁹ and the Civil Rights Acts of 1964³⁰ each implicitly rested on a model of a black minority having no common identity or cultural heritage and lacking a distinct will of its own. With nothing to lose, the black minority could only profit from forced exposure to and involvement with whites. The last decade, however, has revealed a black community powerfully capable of articulating a

28. Another proposed means for increasing benefits—specialized schools that are individually distinctive in designated curricular areas such as music, drama, sciences, and mechanics—overlooks the current trend toward comprehensive schools and requires a flexibility in pupil choice and assignment that is incompatible with the goal of racial balance.

29. 347 U.S. 483 (1954).

30. 42 U.S.C. §§ 1971, 1975a-d, 2000a to h-6 (1971).

will—sometimes several wills—of its own, a community that has made the protective model obsolete. With increased political power, an increasingly articulate, independent, and resourceful leadership, and with the old structure of de jure segregation in ruins, the black community may not press for the abolition of majority-black schools and all-black schools with the same determination that it evidenced in establishing its right to equal education. The recent renaissance of black colleges as racial institutions is perhaps an omen for the public schools.

Finally, the advantages of busing—other than as a symbol of the civil rights movement—appear unclear and indistinct. Given its nebulous advantages and its clear and substantial costs, busing probably will not receive enduring and widespread support in either the black or the white community. If blacks and whites view busing negatively, how can the law, which requires the dismantling of dual school systems and supports the use of busing in the quest toward racial balance in the schools, account for their feelings? When the law requires the existence of a certain condition, it presumes that the condition promotes a public good. If it becomes clear, however, that great effort and expense are producing costs and resentment rather than commensurate gains, the law and its interpretation ought and are likely to be rethought.

V. CONCLUSION

It is simply the case that the justification for busing and other extensive efforts to desegregate schools will not be found in major educational gains for either race. This has two important implications. First, substantial racial differences in academic competence will continue as a stubborn national problem. Secondly, something other than a direct educational effect must furnish the warrant for extensive desegregation.³¹ There is, in fact, a compelling reason for substantial public school integration: our nation, as a fact of history and destiny, is of interracial composition, and we are committed unmistakably to a course of increased opportunity and interracial coexistence. Although we have no guarantee—indeed hardly a prospect—that our coexistence will be harmonious, it is nevertheless unavoidable. We simply have to know each other, and knowing each other—in addition to friendship,

31. See C. JENCKS, *INEQUALITY: A REASSESSMENT OF THE EFFECT OF FAMILY AND SCHOOLING IN AMERICA* (1972). Jencks' book was of profound value to me in thinking about this Article. Specifically, Jencks says: "Finally, the case for or against desegregation should not be argued in terms of academic achievement. If we want a segregated society, we should have segregated schools. If we want a desegregated society, we should have desegregated schools. . . . The effects of segregation on test scores are certainly not large enough to justify overriding the preferences of parents and students." *Id.* at 106.

cooperation, and other positive virtues—includes the experience of adversary relationships, and the knowledge of hate, hostility, tension, frustration, diversity, and unsettled circumstances. Given the opportunity to turn back the clock, it is doubtful that either race would be likely to choose an interracial society. Because we cannot, however, segregate our economic, political, and public lives, our schools should offer experiences similar to those that students later will have to contend with in manageable ways. Similarly, we must eventually evolve forms of education that free a child's educational experience from a locus within the walls of a single building. This concept insists that each child taste the total community, with its variety of life and resources, and considers the experience to be integral to education and essential to training for leadership and civic responsibility.

Even assuming general agreement on the need for educational diversity, however, extensive busing to eliminate majority black schools and achieve a racial balance within school systems will soon topple from its own contradictions and inconveniences. Because neither black nor white parents opt for busing in sufficient numbers under voluntary plans, correction of the sometimes severe racial imbalances within the public schools will probably have to await adjustments in housing patterns; it is beyond the capacity of the schools in any effective sense. Indeed, lacking persuasive evidence that extensive racial desegregation provides a substantial thrust toward greater equity in educational resources or performances, our conception of equal educational opportunity should not rely on racial balance or its approximations.

A practical concept of equal opportunity includes three components. The first component is the maximization of choices available to black parents for the education of their children by removing residence as a basis for pupil assignment and permitting the parents to enroll their children in any school within the system. In order to remove financial cost as a factor in making the decision, transportation subsidies also should be available. This would have the effect of maximizing individual choice and of emphasizing that public facilities, including the school system, are not party to any practice of selection, exclusion, or favoritism. Groupings between schools that occur along class or racial lines will result solely from individual and family decisions and not from deliberate state action.

The second component is the application of the same standards of academic competence to white and black students. Although racial and ethnic diversity add important flavor and color to American life, that diversity is typically peripheral rather than central in its nature. The

skills and knowledge that students need to possess regardless of their race totally dwarf the skills and knowledge distinctive to particular racial groups. Thus, the English language will continue to be the language of our public discourse, mathematical and scientific skills will underlie our technological society, and an understanding of history, world affairs, and principles of interpersonal relationships will be required for responsible decision making in our public life. Race provides no exemption from these compelling facts. Whatever form our respect for pluralism and diversity takes, it must emerge within the framework of our common national life, and neither blacks nor the school system should permit a supposed expression of racial values to excuse a lesser intellectual performance.

The third component of equal educational opportunity requires investments to increase the capacity of blacks to respond effectively to expanded educational opportunity. Frankly, the nature of this investment cannot be described, because we do not yet know how to remedy the problem. The problem, however, is urgent and can be stated clearly: Students who do not profit from their first exposures to formal education are not well prepared to profit from further exposure to it, and consequently they fall progressively further behind students whose pre-school experiences prepared them for a positive response to the learning environment of the schools. Although an inability to respond to the schools' offerings is not an inherent racial trait, it is certainly concentrated among blacks in the United States at the present time. Equal educational opportunity is meaningless when comparable propensity for seizing opportunity does not exist. Data previously cited show in a distressingly clear manner that the schools are not able to bring into competitive balance those who enter the schools at an initial disadvantage. It is inadequate, and perhaps even absurd, either to dilute a curriculum so that all students are ready for it, or to offer challenging instruction to all when only some are prepared. Thus new approaches—institutional forms not yet devised, and remedial skills not yet demonstrated—are required for bringing black children into the schools as prepared to seize educational opportunity as are white children. Only when black and white children enter the schools on an equal basis will it be logical to hold the schools responsible for maintaining equality as students progress through the system. It is not now logical, however, to hold the schools responsible for conditions they have not created.³²

32. A special, needed improvement is a counseling or advisory system designed to help students and their parents understand the consequences of given curricular choices and academic accomplishments. For example, the system could offer advice that a given curriculum leads to technical school, that certain grades qualify one for the state university, or that certain courses are needed to get into college.