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How *Brown v. Board of Education* Throttled Black Schooling **by Sheldon Richman**

The Law of Unintended Consequences is always in force. Given the inherent uncertainty of the future and the interconnectedness of things, any action is subject to the likelihood that some effects will be unexpected. Among these, some will be welcome, others distasteful. There is, in this law, a practical argument for individual freedom, which has been developed extensively by F.A. Hayek in particular. It is this: given the probability of negative unintended consequences, decision-making is best left to a decentralized process. In a centralized social system, where the few make highly consequential decisions for the many, the potential is great that unintended negative effects will reverberate throughout society. Conversely, in a decentralized process the unintended negative effects of decisions tend to be local and mitigated or offset by other decisions made by other actors.

A system of private property permits maximum decentralization because decision-making authority resides at the individual level. Even combinations such as corporations originate in decisions made by individuals, who always retain their freedom to dissociate from the group. It should be no mystery why a system of private property — free-market capitalism — is superior to all alternative social systems.

This year marks the 50th anniversary of a U.S. Supreme Court decision that is a textbook example of the law of unintended consequences: *Brown v. Board of Education*, the landmark school desegregation case. *Brown* reversed the 1896 holding in *Plessy v. Ferguson*, in which the Court's majority ruled that the government did not run afoul of the U.S. Constitution when it mandated "separate but equal" facilities for blacks and whites. (That ruling, which upheld a state law requiring separate railway cars, came out of a test case contrived by a light-skinned black man and a white railroad owner who did not want to incur the costs of enforcing the segregation law.)

In *Brown* the unanimous court ruled that "separate educational facilities are inherently unequal" and therefore do not satisfy the Fourteenth Amendment's requirement of "equal protection of the laws." It is not my intention here to examine the decision itself. Suffice it to say that many believe the decision was not rooted in the Constitution or other law, but rather in

doubtful sociological and psychological considerations. Chief among these is the assertion that black children cannot get a quality education if surrounded only by other black children. (As the Court put it, “To separate ... solely because of race generates a feeling of inferiority....”) The idea that blacks can learn only when sitting near whites has been described by Supreme Court Justice Clarence Thomas, among others, as a racist idea. The consequences of this assertion will be discussed below.

I will also resist the temptation to discuss the Fourteenth Amendment here. This brief article is not the place to take up the question whether that post–Civil War amendment nullified the Tenth Amendment (regarding state powers) and authorized the federal courts to tell state governments how to manage their “public” school systems. Although it is an interesting question, it evades a better question: Should states have had school systems at all, considering that they inherently violate individual rights?

Instead, I wish to focus on the unintended consequences of the *Brown* decision. I do so because they are largely unappreciated and monumental. *Brown* quickly came to be regarded as sacred doctrine, although some prominent black Americans, such as the writer Zora Neale Hurston, denounced it as “insulting rather than honoring my race.” This veneration is understandable: it was abhorrent for governments to classify people according to race and to use coercion to keep children of different races apart. (The entire collection of laws known as Jim Crow massively violated individual rights.) But unfortunately, *Brown*’s sacred status has made criticism of it, at best, limited. Because of this, it is little understood that the ruling has had devastating consequences for the education of *black* children. Considering that the “achievement gap” in education between black and white is real and widely lamented, the neglect of *Brown*’s culpability is unfortunate. Indeed, most people who study such matters believe the gap exists *despite* the decision. This leads them to blame persistent racism for the lack of progress in black education. On the contrary, I will summarize evidence that the gap exists, in part, *because of Brown*.

It should be noted that the ruling specified no remedies for school segregation. A later Supreme Court decree authorized the lower courts to end it without saying how. Until 1968, a school district could satisfy *Brown* simply by having an open-enrollment policy. But in that year the Supreme Court changed interpretations and invoked a new “affirmative duty” to end racial separation (even if voluntary) in schools. (The case was *Green v. County School Board of New Kent County*.) This led to the forced busing of students to achieve racial balance, a policy that has done incalculable damage in many places. “Children were to be assigned to schools by race instead of *without regard* to race,” Thomas Sowell wrote in *Civil Rights: Rhetoric or Reality*. Busing was ordered even for districts that had never used a racial criterion for school assignments.

An alternative view

In all the words written to commemorate the *Brown* decision at its half-century mark, one article stood out for its contrariness. Jonathan Tilove of Newhouse News Service, began his article this way:

As America marks the 50th anniversary of the Supreme Court's *Brown v. Board of Education* decision, the ruling is celebrated as a freedom song, the death knell for legally segregated schools and, with them, an order of racial apartheid that dictated the rules of black-and-white relations in the American South and beyond.

But to many, *Brown* — handed down May 17, 1954 — was also a dirge for something precious and irreplaceable: a network of black schools almost sacred to those they served and wholly devoted in their belief in black ability and pursuit of black advancement.

Little known today is the fact that in many cities, black Americans did not simply accept the inferior facilities foisted on them by white-run school districts and resign themselves to a bleak future for their children. On the contrary, they did what people do when their values are threatened: they acted with resourcefulness. Rather than waiting for the white power establishment to toss a few additional crumbs, black parents and educators overcame their constraints and managed to prepare their kids for adulthood and advancement. As Tilove put it,

Absent from the standard telling of *Brown*, the superior education that many black schools provided is a source of fierce pride for alumni, and the subject of a growing body of scholarship.... It is a remarkable tale of how black communities, under the thumb and under the radar of oppression, created schools that imbued black children with a sense of confidence and possibility in the very midst of a system determined to limit them.

He quotes an alumnus from Risley High School in Brunswick, Georgia, Elias Blake Jr., who said, "*Brown* was turned against us. We lost our schools."

Tilove acknowledges that "as early as the 1970s, economist Thomas Sowell ... was writing about 'patterns of black excellence' at segregated schools" in Atlanta, Baltimore, New Orleans, and Washington, D.C.

The Dunbar experience

According to Sowell, all-black Dunbar High School in Washington, D.C., was the epitome of excellence from 1870 to 1955:

Approximately three-quarters of all Dunbar graduates went on to college over this eighty-five year span, even though college attendance was the exception rather than the rule for most white Americans for most of the period, and was extremely rare among blacks. Most Dunbar graduates could afford to go only to the local teacher's college or to Howard University, but each year Dunbar sent a contingent off to some of the leading colleges in the nation as well. As far back as 1918–1923, Dunbar graduates earned 14 degrees at Harvard and Amherst.

Sowell points out that the Dunbar story has been of no interest to the mainstream academics and activists who lament “the race problem” and its educational aspects.

Bear in mind that Dunbar did not have large amounts of money showered on it by the local authorities. The student-teacher ratio was large. The building was in bad repair. Yet, refuting modern educational theory, Dunbar succeeded anyway. “By all accounts,” Sowell writes, “it inspired students with *confidence* that they could do anything, in spite of anything.”

What happened to Dunbar? Sowell:

The massive overhauling of the District of Columbia's segregated educational system following [*Brown*] had the net effect of quickly turning Dunbar into just another ghetto high school with all the usual problems.

Similar stories can be told of schools throughout the United States, such as Dunbar Junior High in Little Rock, Arkansas, whose school district is under court supervision to this day. To be sure, these were government-sponsored schools. But more important, they were government-*neglected* schools. As such, they provided room by default for dedicated educators, largely unencumbered by the bureaucracy and teachers' union (which had not come into its own yet), to inspire the children. (Highly motivated parents were integral to the success.) Contrary to fashionable social science, being all-black did not hold these schools back. “If we had kept control of all those high schools in the South,” Elias Blake said, “there would have been no way that 20, 30, 40 percent of the students would have been classified in the lowest tracks, in special education as mentally retarded.”

Considering how well these schools did under the circumstances, imagine what would have happened had they been entirely free of the political establishment. True, these communities did not have lots of discretionary income, but schooling, as we've seen, does not need to be very expensive. As education scholar James Tooley has found, competent private schools operate today in the poorest neighborhoods of the developing world.

Brown and the follow-on cases, despite presumably good intentions, moved many black children from excellent schools filled with dedicated adults into schools where they were regarded as alien invaders and where teachers often thought of them as fit only for low-level jobs.

In the social engineer's eyes, this was racial progress. (Today fewer than half of black students graduate.) Black Americans are still recovering from such beneficence.

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