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# School Desegregation In Buffalo: The Hold Of History

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Judy Scales-Trent\*

I was thirteen when the Supreme Court handed down its decision in *Brown v. Board of Education* in 1954.<sup>1</sup> And my son was thirteen when we moved to Buffalo in 1984 and began looking for the right school for him. My new colleagues at the law school were most encouraging. "He could go to the public schools in Buffalo. They are great now. They're under court order to desegregate. Integration has been successful here."<sup>2</sup> I was shocked. Why was it "great" that in 1984, thirty years after the *Brown* decision, the schools in Buffalo were still under court order to desegregate? What did it mean with respect to my new home? With respect to my son's education? And what did they mean when they said that the desegregation of the Buffalo school system had been "successful"? "Successful" for whom? How could court-ordered integration thirty years after *Brown* ever be considered a "success"?

In order to explore these questions, I created and taught a seminar on law and social change as seen through the process of school desegregation in Buffalo, with Dr. Adeline Levine, a Professor of Sociology at the University.<sup>3</sup> We started the seminar with the history of the struggle of Black Americans for good education. We read about the school desegregation litigation in the South, then saw the struggle transformed in the West and North. Finally, we studied the history of the Buffalo struggle.

We learned that Black parents in Buffalo, frustrated by the inaction of both state and city school authorities with respect to their complaints about segregated schooling, filed suit in 1972 charging both city and state with violating the constitutional rights of Black students. In 1976, Judge Curtin of the Western District of New York agreed, and ordered the desegregation of the schools.<sup>4</sup> Although complete desegregation of the school system did not take place for another five years, the schools were in fact integrated, and with very little of the violence which had marked other desegregation efforts, as had happened in Boston.

We invited participants in the 1972 litigation to class to present a historical context, as well as their views on the relative success of the desegregation efforts. We sent the students into the Buffalo public school system to see for themselves

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1. 347 U.S. 483 (1954).

2. Indeed, Buffalo has been called a "national model of integration." N.Y. Times, May 13, 1985, at A1, col. 5.

3. For further discussion of this study, see Scales-Trent, *A Judge Shapes and Manages Institutional Reform: School Desegregation in Buffalo*, 17 N.Y.U. REV. L. & SOC. CHANGE 119 (1989).

4. *Arthur v. Nyquist*, 415 F.Supp. 904, 960 (W.D.N.Y. 1976), *aff'd in part, rev'd in part, remanded in part*, 573 F.2d 134 (2d Cir. 1978), *cert. denied*, 439 U.S. 860 (1978).

whether the schools were integrated in a meaningful way. After teaching the seminar twice, we concluded that some things had indeed changed for the better in the Buffalo public school system. Test scores for all schools were remarkably improved. The student body, faculty and administration were in fact integrated. And there was a lot of pride about the integrated school system. On the other hand, there were new problems appearing within these integrated schools, specifically, disproportionate numbers of Black students either were placed in special education classes, were suspended, or dropped out of school altogether. Clearly some things were better for Black students, and some things were not.

This was an important education for me and, hopefully, for the students. But what struck me the most in the course of that study, and what continues to haunt me, is the fact that the struggle of Buffalo's Black community to desegregate its schools in the mid-twentieth century is only a new version of the desegregation struggle it engaged in—and won—in the mid-nineteenth century.

The Black population in Buffalo was small in those days. In 1828, the Black population was only 58; by 1865, it had grown to 713.<sup>5</sup> Most were former slaves who had left the South by way of the Underground Railroad, which had a major terminal in Buffalo. It was a small group, but one which was seeing some successes. During this period there were Black shop owners and Black property holders. The Black citizens of Buffalo built churches and community. Blacks also intermarried with Buffalo's German-American settlers, one of the most successful immigrant groups of this period.

In 1830, as the free school movement came to western New York, Black parents petitioned the school board for a free school for their children. The school board granted their petition, and opened Buffalo's "African" school in 1830.<sup>6</sup> Almost immediately Blacks discovered the fraud that this school represented: the building itself was in appalling condition; the children were not given public transportation to the schools; the curriculum was weak, and limited only to the lower grades; and the teacher salaries were lower than those in the (white) district schools.

Prompted by this situation, in the early 1840s Black parents began to push for integration. They held public meetings. They sent their children to the district schools in defiance of the school policy on segregation. In 1847, some petitioned the Common Council to allow the Black children to attend the district schools. The Council refused.<sup>7</sup> The struggle abated for a while. Then, in 1866, after Congress passed a civil rights act which granted Blacks the equal protection of the laws,<sup>8</sup> Black parents renewed their struggle.

In June 1867, a prosperous Black barber in Buffalo, Henry Moxley, petitioned the Common Council to have his children admitted to the district school in the district where they lived.<sup>9</sup> On September 1st, when classes reopened for the fall, many Black parents sent their children to the white district schools in support of Moxley's action. On September 16th, the school committee of the Common Council recommended rejecting Moxley's petition. And on September 24th, the school superintendent began to physically expel Black children from the schools. By October 8th, the superintendent claimed complete success. On October 11, 1867, however, Moxley filed suit against the superintendent, charging him with

5. M. SELLER, *ETHNIC COMMUNITIES AND EDUCATION IN BUFFALO, NEW YORK: POLITICS, POWER AND GROUP IDENTITY 1838-1979*, at 99 (1979).

6. *Id.* at 100.

7. *Id.* at 101. See also White, *The Black Movement Against Jim Crow Education in Buffalo, New York, 1800-1900*, 30 *PHYLON* 375, 380 (1969).

8. The 1866 Civil Rights Act is now codified at 42 U.S.C. § 1981 (1988).

9. White, *supra* note 7, at 383.

assault and battery for forcibly removing Black children from school, in violation of the 1866 Civil Rights Act.<sup>10</sup> Not surprisingly, Moxley lost in court. However, the pressure of both the Black community and white supporters of integration eventually yielded a favorable result.<sup>11</sup> In 1872, the Common Council agreed that Black children had the right to attend the public district schools.<sup>12</sup> School integration took place without incident.

What struck me about this story is not the courage and tenacity of Black parents in nineteenth century Buffalo to improve their childrens' lives through improved education, though that is a powerful story indeed. No, since learning this history, I have been haunted by the ghosts of those parents and the ghost of their struggle. With those ghosts around me, I am unable to make sense of the "successful" integration of the Buffalo school system in the 1970s and 1980s, after years of struggle, drive and commitment on the part of Black parents, when those very same schools had already been integrated one hundred years earlier. What does this history mean for us? What happened in Buffalo in the intervening hundred years? Why did the schools resegregate? Is there any way to understand it that will not devastate us? Is the history of racism — the power of racism — simply so strong that it cannot be undone?

And let us not omit the rest of Buffalo's "success" story. By 1987 and 1988, plaintiffs were again pointing out that the schools were resegregating, and calling for action to halt this process. They called attention to the problems Black school children were facing within the integrated schools: disproportionately high suspension and drop-out rates, Eurocentric curriculum, too few Black teachers and administrators. Many wondered if anything had really changed within the Buffalo public school system. In 1989, the city of Buffalo elected a school board hostile to funding the desegregation process.<sup>13</sup> Shortly thereafter, the superintendent, who had been a major force in the integration process, resigned.<sup>14</sup> The school budget was drastically cut. As a result, innovative programs which aided the desegregation effort by increasing community interest will now likely be dropped.<sup>15</sup> Buffalo's reputation as a "national model of integration" takes on a dismal meaning in light of this one hundred fifty year history. The hold of history on the lives of Black citizens of Buffalo, the hold of those early lessons in racism, appears impossible to undo.

Thinking about the hold of history on social change led me to think of the hold of our personal history on our lives. I wondered if comparing the two might shed some light on the process of social change in Buffalo. I thought of this comparison because when I think about personal growth and change, my first thought is of how those earliest lessons, too, appear impossible to unlearn. The patterns are created, formed, calcified in our earliest days. Often they are unhealthy patterns which seemed necessary when we were very young. But sometimes we come to recognize the patterns as inappropriate and unhealthy. Sometimes there is suffi-

10. Moxley asserted that his own children could not be designated as plaintiffs because they were too young "to understand the nature of an oath." Moxley's attorney chose John Dallas' daughter Althia as plaintiff, and brought the allegation on her behalf. *Id.* at 388-89.

11. SELLER, *supra* note 5, at 101-03. *But cf.* White, *supra* note 7 (attributing the integration decision exclusively to the passage of the fifteenth amendment).

12. *Id.* at 393.

13. Buffalo News, May 2, 1989, at A7, col. 2; *see also* May 3, 1989, at A1, col. 4.

14. It is worth noting that the superintendent, Eugene Reville, moved to Little Rock, Arkansas, to supervise school desegregation in that city. Buffalo News, May 30, 1989, at A1, col. 2. Those schools have resegregated since 1957, when President Eisenhower captured the attention of the country by sending federal troops into Little Rock to ensure compliance with a federal district court order to desegregate. *See generally* W. RECORD & J. RECORD, LITTLE ROCK USA (1960).

15. Buffalo News, Oct. 31, 1989, at B1, col. 1.

cient pressure to make us want change and to push us to make a self-conscious effort to adopt new patterns. However, we soon learn that the underlying dynamic which led to those unhealthy patterns of behavior is very well learned. It resists change. Our personal growth is therefore tentative, partial, resisted, fought against, longed for, momentarily achieved, and temporarily lost. We fall into old patterns, and find them hard to escape. But if we keep at it, perhaps the next time it is a little easier to get out of those old patterns. Years later, perhaps after many such efforts, the hold of that early history becomes weaker and weaker.

I see certain similarities between the change and growth of a community and the process of change and growth of an individual. I see in both situations that growth is a slow, unending process; that growth is often cyclical, with recurring themes, with a recurring dialogue with "former generations" of oneself; that even if one attains certain goals, overcomes certain obstacles, one is only moved along to the next series of problems; that the outcome is never clear — the only thing that is clear is the certainty of new problems to be faced; that hard-won gains can be lost; and that what appear to be real changes may be only surface changes, leaving one's basic reality somehow unaltered.

It is the cyclical nature of personal change, the constant "four steps forward and two steps back" that I found helpful in thinking about social change. For although I have no way to be clear about what is going on in Buffalo, if I view the process through the lens of personal change I am able to understand the cyclical nature of the school integration process in a way which does not devastate me.

This comparison is only partially helpful. For we all know that not only do some people not change and grow, but others change and grow in a powerfully negative direction. If my comparison holds true, this might well be the same for certain communities. They will never unhook from their negative history; they will never grow in a positive way. Though the comparison may shed some light on understanding social change, it is not a way out of my dilemma.

So there is no way for me to be clear about what is going on in Buffalo. Is the resegregation of the schools a temporary revisit to a powerful theme in a lengthy cycle of positive change? Or does it indicate an absolute refusal to change in a positive way? The most I am sure of is that the hold of history is strong. Some things change, while some things stay the same. It appears that because of the hold of history, our personal lives and the lives of our communities both change and do not change at the same time. Those earliest wounds never completely disappear. We learn to manage them. Perhaps this is the best we can expect.