

# The Challenge

The newsletter of the Illinois State Bar Association's Standing Committee on Racial and Ethnic Minorities and the Law

## Letter from the editor on the summer of 1919

BY KHARA COLEMAN

As spring 2019 turns into summer, before the temperatures in Chicago reach “scorching” levels and we all take to the beautiful shores of Lake Michigan, I have been thinking—reading, browsing, learning—about Chicago in the summer of 1919, exactly one hundred years ago. This is my version of beach reading this year—the word “beach” being the operative word.

The year 1919 had a real beast of a summer. Across the nation, it was known as the Red Summer, because there was so much civil unrest. That summer saw race riots in Washington, D.C., Tennessee, Texas, Arkansas, and Nebraska.<sup>2</sup> I have been reading about it all, but with a particular emphasis on Chicago—simply

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## Spotlight on Bianca B. Brown, ISBA Diversity Leadership Fellow

BY MASAH S. SAMFORAY

At first glance, the legal profession appears to be growing ever diverse. And undeniably it is. At the same time, as a whole, law continues to be one of the least diverse professions and the strides made in the past twenty years can be described more as “a trickle” than as “growth by leaps and bounds.” Part of the problem is a *lack* of agreement on the importance

of diversity. But the ISBA has made its commitment to diversity very clear.

In its annual report on U.S. law firm diversity, the National Association for Legal Placement reported that merely 4.48 percent of law firm associates were African-American in 2017. And in 2018, while the employment of Asian and Hispanic associates increased, the

percentage of black and African-American associates remains lower than it was in 2009, the infamous year when the recession resulted in unprecedented law firm layoffs.<sup>1</sup>

With the historical 2016 election of Past President Vincent F. Cornelius, and an increase in the diversity committees, ISBA stands as a national leader in legal

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## Letter from the editor on the summer of 1919

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because I call the Chicago area my home. I did not know before recently that Chicago had experienced race riots, although I knew that another Illinois city had been scarred by race riots only two years before, in East Saint Louis in 1917.<sup>3</sup> In Chicago, the proverbial pot finally boiled over at a south shore beach in July 1919.

The basic story is that, on July 27, 2019, a small group of unarmed black teenage boys unknowingly crossed an invisible (and unofficial) racial boundary while cooling off on a beach off of 29th street, along Lake Michigan. After being attacked by a white male bather, one of the boys drowned.<sup>4</sup> The Chicago Police never arrested the attacker, though he had been identified by the surviving boys and witnesses. Nevertheless, the incident kicked off nearly a week of race riots in Chicago, including arson, beatings, and plain, cold-blooded murder.<sup>5</sup> All this happened at a time of deep ethnic divisions and tensions, paralyzing union strikes, and widespread angst amongst the working classes of all ethnicities. Notably, in 1919, even if the working-class white ethnic Chicagoans (including Polish, German, Irish and Italians) did not want to compete for jobs with each other, there was an apparent consensus that none of them would tolerate African Americans walking across the union picket lines, living in their neighborhoods, or working the same jobs. Rage and resentment boiled over. With City Hall unable to restore order, the National Guard was called. Thirty-eight people died in the Chicago riots of 1919.<sup>6</sup>

At a minimum, my goal in reading about the events of the summer of 1919 has been to remember the young man who lost his life (Eugene Williams), and then to learn about a race riot that Chicago seemed to have forgotten altogether. Given that this has been called one of the largest race riots in America, it seemed odd (and sad) that I had never learned about it or heard about it. Somehow, I have managed to call Chicagoland my home for nearly 15 years without ever hearing a word about this particular history. However, based on my

reading so far, my experience is not unique, because this is not a history that Chicago has straightforwardly addressed at any time.<sup>7</sup>

On the 100th anniversary of those riots, the situation appears to be changing, and Chicago is looking frankly, honestly, and intentionally at the summer of 1919, through a collaborative project called “Chicago 1919: Confronting the Race Riots.”<sup>8</sup> I can’t do honor to what this initiative is doing with my 750 words or less, so I strongly encourage you to go to the website ([www.chicago1919.org](http://www.chicago1919.org)), read up, and try to attend some of the events going on throughout the year.

Personally, as a lawyer of color, I want to know all about it. I want to know more about what has always appeared to me (as an outsider) as a longstanding history of ethnic divisions and hostility in Chicago. I want to know whether any white persons were prosecuted in 1919 for battery, property damage, or for murder. I want to know if Chicago took any steps to protect its black citizens in 1919. I want to know how and if Chicago healed after the National Guard quelled the violence. I want to know if the Chicago race riots of 1919 had any effect on the laws enacted after that time, or the way that existing laws were enforced.

In short, I will be following the Chicago 1919 initiative and attending as many events as I can, while reading a couple more books on the subject. I hope you will join me. Let’s talk about this history with the kind of detail and respect that such truth deserves. ■

1. <https://www.law.com/americanlawyer/2019/01/09/law-firms-took-steps-forward-in-diversity-in-2018-not-leaps-report/>.
2. <https://eji.org/reports/online/lynching-in-america-targeting-black-veterans/red-summer>.
3. <https://www.smithsonianmag.com/smithsonian-institution/east-st-louis-race-riot-left-dozens-dead-devastating-community-on-the-rise-180963885/>.
4. <https://chicago1919.org/summary-1919>.
5. <https://www.history.com/topics/black-history/chicago-race-riot-of-1919>.
6. <https://interactive.wttw.com/dusable-to-obama/1919-race-riot>.
7. <https://chicago1919.org/summary-1919>; <http://www.chicagotribune.com/entertainment/museums/ct-ent-chicago-1919-race-riots-project-0122-story.html>.

## The Challenge

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## Spotlight on Bianca B. Brown, ISBA Diversity Leadership Fellow

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diversity initiatives. During the past several years, the ISBA published a report card, publicly acknowledging its lack of diversity, which then prompted the restructuring of committees, and other activities geared toward addressing the issue.

And aside from the 2016 bar election, perhaps the most notable evidence of the ISBA's commitment to diversity and inclusion was the establishment of the Diversity Leadership Fellowship Award, which serves as a conduit for diverse attorneys to become involved at all levels of ISBA membership. ISBA member **Bianca Brown** has been re-appointed as a coveted ISBA Diversity Leadership Fellow.

Currently, Bianca serves as an assistant state's attorney with the Cook County State's Attorney's Office Civil Actions Bureau, where she represents Cook County and its agencies in civil rights section 1983 claims, wrongful convictions, and personal injury cases. Prior to joining the State's Attorney's office, Bianca served as a regional director and assistant attorney general for the Illinois Attorney General's Office in its Consumer Fraud and Protection Division, where she oversaw the south regional office. She represented litigants in civil litigation matters in trade and commerce involving violations of the Consumer Fraud Act.

Recently, Ms. Brown was appointed to be the American Bar Association Young Lawyer Division's District Representative for Illinois and Indiana. In 2018, Ms. Brown was elected by the ISBA Board of Governors to fill the ABA House of Delegate "Under 35" seat in Cook County. Additionally, Ms. Brown has evidenced a passion for diversity by being heavily involved in other bar associations. She has been the Black Women Lawyers Association's Recording Secretary and Judicial Evaluation Committee Chair. She also serves as a mentor with Chicago Bar Association's Project Law Track Program in conjunction with the Girl Scouts of Greater

Chicago.

### Q & A with Bianca B. Brown

#### **What is the purpose of the Diversity Leadership Fellows Program?**

**Brown:** To increase diversity and genuine inclusion in the active membership of the ISBA- with an emphasis on "active." And the ultimate purpose is to provide a diverse group of future leaders of the ISBA.

#### **How has the Diversity Leadership Fellows Program been beneficial to you?**

**Brown:** I was appointed as a fellow in 2017. Primarily due to this exposure, I have been afforded opportunities that I did not otherwise think would be available to me. In particular, I have been appointed to be the American Bar Association Young Lawyer Division's District Representative for Illinois and Indiana. I was also elected by the ISBA Board of Governors to fill the ABA House of Delegate "Under 35" seat in Cook County. So, my role as Fellow has given me a national platform.

#### **How do you view the ISBA's Commitment to Diversity?**

**Brown:** The ISBA is intentional about being more inclusive not only among its general membership, but more importantly among the leadership. I am extremely proud to be a member of a bar association with such a strong commitment to inclusion.

#### **What are your words of advice to minority attorneys?**

**Brown:** Be a change agent. Be an example of what you want to see in the legal profession. Do not be afraid to be present and visible in the "Big Bar" associations. Being a Fellow has allowed me to make my presence known and given me an opportunity to have a seat at the table. As far as professional development, being a member of the ISBA has unequivocally been one of the best career moves for me. Being a Fellow and subsequently an ABA Delegate has made me feel like I am truly moving the needle on a larger scale. I am

forever grateful.

### Requirements of the ISBA Diversity Fellowship Program

- A nomination process will be conducted to select the new fellows. Candidate nominations will come from attorneys who recognize leadership potential in a candidate. Self-nominations are also encouraged in this selection process. Nominations require the submission of the candidate's name, place of employment, type of practice, year of bar admission, and a brief description of the candidate's leadership potential.
- A candidate must be a non-member of the ISBA for at least three fiscal years.
- It is envisioned that the nomination class be a group of diverse attorneys, emphasizing candidates who are lawyers who have practiced less than 10 years and are part of an under-represented group. Under-represented groups include women, lawyers with disabilities, and lawyers from under-represented racial, ethnic, sexual orientation or gender identity groups.
- The ISBA president-elect, based on the recommendations of the Diversity Leadership Council, will select three candidates from the nomination class to serve as Fellows for two years.

### Privileges of Fellows

The fellows will receive two years of complimentary ISBA membership. Fellows are expected to attend the ISBA Mid-Year and Annual Meetings. The registration fees for these meetings are complimentary, as are admission to meal functions at these conventions during their two-year fellowship. For business meetings other than those conducted at the Mid-Year and

Annual Meetings, Fellows will be reimbursed according to the ISBA reimbursement policy.

REM applauds the ISBA, along with diverse leaders like Bianca C. Brown, who now joins the ranks of fellows who include 2010-2011 Fellow Kim Foxx, who has since been elected as Cook County state's attorney. For more information on the Diversity Leadership Fellows Program, please contact the ISBA. ■



Bianca C. Brown

1. <http://chicago1919.org/about>.

# Diversity and inclusion in nonprofit organizations

BY BEVERLY A. ALLEN

According to the National Council of Nonprofits, public charities or community foundations are nonprofit organizations that are tax exempt under the Internal Revenue Code Section 501(c) (3). Most charitable nonprofits include groups providing food, shelter, disaster assistance, services for children and the elderly, and many more services. Private foundations include arts organizations, education groups, nonprofits dedicated to health, community and civil rights groups, religion-related organizations, environmental, and animal protection groups and those focused on international development and human rights.<sup>1</sup> Nonprofit organizations significantly impact millions of individuals and families daily by providing protection, food, healthcare, shelter, education, and nurturing our bodies and spirits.<sup>2</sup> Nonprofits contribute significantly to the American economy. In the United States alone, the nonprofit sector contributed \$878 billion to the economy. Nonprofits are also one of the greatest sources of employment throughout the country. According to the Bureau of Labor Statistics, 11.4 million people are employed by nonprofit organizations, which is 10.2 percent of the American workforce.<sup>3</sup>

The mission of nonprofit organizations is to improve the world and to serve those less fortunate and those in marginalized communities. To best serve their constituents, nonprofit organizations must be able to understand and relate to people of diverse backgrounds including race, ethnicity, gender, sexual orientation and other characteristics. Due to the significant impact that these organizations have on the lives of millions, whether it's because of the services they provide, as an employer, or as a leader in the fight for social justice, nonprofits must be forward thinking, innovative, and inclusive to maintain their viability. Acquiring a diverse employee pool is the only way to achieve this goal.

Diversity is the wide range of national, ethnic, racial and other backgrounds of U.S. residents and immigrants as social groupings, co-existing in American culture. Inclusion authentically brings traditionally excluded individuals and/or groups into processes, activities, and decision- and policy-making.<sup>4</sup>

The National Council of Nonprofits, along with many charitable nonprofit organizations support the notion that embracing diversity and inclusion as organizational values, is a

way to intentionally make space for positive outcomes to flourish.<sup>5</sup> Studies suggests that diversity can boost the quality of decision-making and that a diverse workplace encourages people to be more creative, diligent and hard-working. Studies also show that a more diverse staff can foster enhanced innovations and outperform other companies by 35 percent.<sup>6</sup>

When board members and employees of nonprofit organizations whose values come from various backgrounds, each brings a unique perspective that shapes how their mission is advanced, problems are solved, and innovation is achieved.<sup>7</sup> Organizations should mirror the constituents they serve. For those marginalized communities served by non-profits, diversity will increase the organization's ability to listen to and empower the communities.<sup>8</sup>

Although the data supports the importance of diversity and inclusion, in the non-profit sector, there remains a significant gap in the quest for diversity and inclusion. A 2015 study discovered that only 8percent of nonprofit executive directors were racially diverse. A 2013 study found 92 percent of foundation executive directors were white. While 64 percent of the country is white,



according to the U.S. Census, 89 percent of CEOs and 80 percent of board members of nonprofits are white.<sup>9</sup>

While the U.S. becomes progressively diverse, the number of people of color in executive director/CEO roles remains under 20 percent for the last 15 years. The leadership of nonprofit organizations does not denote the racial/ethnic diversity of the country.<sup>10</sup> To address the lack of diversity in the nonprofit sector, organizations must be willing to redistribute power. Most charitable organizations exist to reshape social norms and values in ways that increase equity and social unity.<sup>11</sup> So, why is it so difficult for these organizations to promote equity within?

Many larger organizations have diversity officers, yet they lack any power or authority to bring about real change. These officers are hired only to make the organizations appear to be forward-thinking and addressing diversity and inclusion issues. In some areas, there has been regression in the pursuit of diversity over the past few years.<sup>12</sup> Research indicates that diverse board recruitment is not a priority for these organizations. There are few people in these organizations that want to make changes. Their excuse is other organizational priorities and more urgent needs.<sup>13</sup> Nonprofit organizations are inclined to diminish issues rather than dealing with them directly. A clear example of this is the common use of the term “implicit bias” when dealing with racial issues in the workplace, rather than calling the situation what it really is -discrimination.<sup>14</sup> A leadership report, “Race to Lead: Confronting the Racial Leadership Gap,” released by Building Movement Projects, found that to increase the number of people of color leaders, the nonprofit sector must address the practices and biases of those governing nonprofit organizations.<sup>15</sup>

A survey conducted by BoardSource found people of color have the same or similar backgrounds or qualifications as their white counterparts. Thirty-one percent of people of color had a bachelor’s degree, compared to 33 percent of white respondents; 49 percent of respondents of color had a Master’s degree and 53 percent of whites; nine percent of people of color

had a Ph.D., JD, MD or other degree to eight percent of whites. This data eradicates the idea that there are no qualified people of color to hold top positions in nonprofit organizations.<sup>16</sup>

To overcome this disturbing state, nonprofit organizations must develop a collective will to share power, embrace diversity and hold themselves accountable for achieving these goals.<sup>17</sup> Nonprofits must hire, retain and promote people of color throughout the entire organization, at every level, and avoid the appearance of tokenism. Nonprofits and foundations should prioritize diversity organization-wide, from staff, to vendors and suppliers, to the community organizations they partner with. It is imperative that organizations establish professional development and inclusive leadership training programs to help diverse employees see the organization as a place to grow, which in turn will increase retention of a diverse staff. Organizations must proactively prepare diverse staff for promotion and encourage diverse candidates to express an interest in moving up. To attract and retain a diverse staff, organizations need to create a culture of inclusiveness that truly embraces diverse opinions, perspectives, and lifestyles.<sup>18</sup>

Research shows that diverse boards are more likely to have effective governance practices, including policies and procedures that promote diversity and inclusion.<sup>19</sup> Nonprofits can start by appointing diverse board members. Employing diversity officers and equipping them with the power and authority to create real positive change within the organization would be the next step. Subsequently, nonprofits should develop diversity committees with members from all levels of the organizational hierarchy and make diversity goals a transparent part of the organization’s strategic plan. The members of this committee must be dedicated to the goal of achieving diversity and inclusion. The committee should be involved in goal setting around hiring, retaining and advancing a diverse staff and addressing any employee engagement problems among underrepresented employee groups.<sup>20</sup>

Leaders must be accountable for results,

by structuring meetings, allocating resources and using language that advocates for inclusion.<sup>21</sup> Other methods to promote inclusiveness include: celebrating employee differences, celebrating different cultures, developing a newsletter to showcase the achievements of diverse members of the organization or members of the communities they serve, or creating a meditation room for prayer or reflection.<sup>22</sup> Organizations must communicate specific, measurable and time-certain goals to achieve diversity and inclusion.<sup>23</sup>

Conclusively, nonprofit organizations significantly contribute to the country’s economy; nonprofits employ over 11 million people in the U. S. and impact the lives of millions of individuals and families they serve daily. Their role in America’s economic and social structure is invaluable. Thus, it is imperative that nonprofits continue to exist and flourish. The ability to continue to thrive, provide the best level of service to their growing diverse constituents, and influence social justice, mandates their willingness to promote diversity and inclusiveness in their nonprofit organizations. ■

1. <https://www.councilofnonprofits.org>.

2. *Id.*

3. *Id.*

4. <http://www.racialequityresourceguide.org/about/glossary>.

5. <https://www.councilofnonprofits.org/tools-resources/why-diversity-equity-and-inclusion-matter-nonprofits/print/1622>.

6. Anika Rahman, *Diversity and Inclusion: Essential to All Non-Profits*, Huffington Post, available at [https://www.huffpost.com/entry/diversity-and-inclusion-essential-to-all-non-profits\\_b\\_5988c06ce4b0f25bdfb31ecb](https://www.huffpost.com/entry/diversity-and-inclusion-essential-to-all-non-profits_b_5988c06ce4b0f25bdfb31ecb).

7. *Id.*

8. *Id.*

9. *Id.*

10. <https://nonprofitquarterly.org/2017/06/08/nonprofit-racial-leadership-gap-flipping-lens/>.

11. <https://nonprofitquarterly.org/2018/11/20/why-are-we-still-struggling-with-diversity-equity-and-inclusion-in-nonprofit-governance/>.

12. *Id.*

13. *Id.*

14. *Id.*

15. See *supra* note 10.

16. *Id.*

17. See *supra* note 11.

18. <https://pndblog.typepad.com/pndblog/2017/06/the-diversity-gap-in-the-nonprofit-sector.html>.

19. See *supra* note 10.

20. <https://www.shrm.org/hr-today/news/hr-magazine/0418/pages/6-steps-for-building-an-inclusive-workplace.aspx>.

21. *Id.*

22. *Id.*

23. *Id.*

# Reflections on *Brown v. Board* after 65 years

BY KHARA COLEMAN

May 2019 marked **65 years** since the passage of the seminal case on access to public education in the United States – a little case you might know as *Brown v. the Board of Education of Topeka*, 347 U.S. 483 (1954). On May 17, 1954, in a unanimous opinion authored by then Chief Justice Earl Warren, our nation’s highest court reexamined the doctrine of “separate but equal,” previously affirmed in cases such as *Plessy v. Ferguson*, 163 U.S. 537, and held that segregation in public schools deprived children of the minority race of equal educational opportunities.

As members of the legal profession, we all recognize the name of this case and the principles for which it stands. But what do we remember of the details? Moreover, despite the significance and magnitude of this decision, 65 years later, American public schools today are largely segregated by race, with unequal opportunities and outcomes. How is that even possible?

There is no easy answer to the latter question. But we might begin a discussion through examination of some of the details of *Brown* that are easy to forget after our 11 year. Here are a few points, interspersed with a bit of my own reflection and commentary as a lawyer of color.

1. *Brown* was actually a consolidated action, presenting appeals from four different states. *Id.* at 486. In Kansas, South Carolina, Delaware and Virginia, black children sought “admission to the public schools of their community on a nonsegregated basis,” and such admission was denied based on their race. The decisions of three states were upheld based upon the doctrine of separate-but-equal.
2. The issue before the United States Supreme Court, as phrased by

Chief Justice Warren, was whether “segregation of children in public schools solely on the basis of race, even though the physical facilities and other ‘tangible’ factors may be equal, deprive the children of the minority group of equal educational opportunities.” *Id.* at 493. The wording of this question, as presented, is significant, because it assumed, presumed, or perhaps refused to question, whether the education being provided to the black children in the legally segregated schools was, in fact, equal. In *Brown*, the Supreme Court noted that there had been findings that the facilities and provisions were equal. *Id.* at 492. The Supreme Court did not address this purported “equality” of the schools despite the fact that one of the lower courts (in Delaware) had ruled in favor of the black child based on its finding that the white schools were “superior” to the colored schools. *Id.* at 488 (“[T]he Supreme Court of Delaware adhered to that doctrine, but ordered that the plaintiffs be admitted to the white schools because of their superiority to the Negro schools”).

3. Although briefs and oral arguments focused on the adoption of the Fourteenth Amendment in 1868, the *Brown* Court also did not base its decision of the meaning and intent behind the Amendment. Why not? In large part, because the Court deemed them inconclusive. *Id.* at 489. Chief Justice Warren noted that proponents of post-Civil War Amendments “undoubtedly intended them to remove all legal distinctions” between the races, while the opponents “just as certainly, were antagonistic to both the letter

and the spirit of the Amendments and wished them to have the most limited effect.” *Id.* “What others in Congress and the state legislatures had in mind cannot be determined with any degree of certainty.” *Id.*

4. In *Brown*, the Supreme Court articulated the underlying principle of *Plessy*, pursuant to which, “equality of treatment is accorded when the races are provided substantially equal facilities, even though these facilities be separate.” *Id.* at 487-88. The *Brown* Court also acknowledged that it had previously considered “six cases involving the ‘separate but equal’ doctrine in the field of public education.” *Id.* at 491. At the same time, the *Brown* Court suggested that “[i]n none of these cases was it necessary to re-examine the doctrine to grant relief to the Negro plaintiff.” *Id.* at 492.

I clearly remember asking myself as a law student, “Could that really be true?” Could it be accurate that *no one* in those prior cases questioned the equality of the racial segregated schools? At least one of the lower court cases that were part of the Supreme Court’s *Brown* litigation clearly contained allegations that the schools were not equal. In the Kansas litigation, the district court had noted that “As against the school district of Topeka they contend that the opportunities provided for the infant plaintiffs in the separate all Negro schools are inferior to those provided white children in the all white schools; that the respects in which these opportunities are inferior include the physical facilities, curricula, teaching resources, student personnel services as well as all other services.” *Brown v. Bd. of Educ.*, 98 F. Supp. 797, 797-98 (D. Kan. 1951). And, of court, the lower courts in Delaware

had ruled for the Plaintiff, in spite of *Plessy*, because the schools were not separate, but equal.

5. Regardless, the *Brown* Court did not explain how the decisions of those six cases (upholding racial segregation under *Plessy*) were compatible with its holdings in cases like *Strauder v. West Virginia*, 100 U.S. 303, 307-08 (1880), in which the Supreme Court examined the Fourteenth Amendment and it was “interpreted it as proscribing all state-imposed discriminations against the Negro race.” *Id.* at 490.

How, exactly, would one square state-sanctioned racially separate-but-equal practices with a constitutional proscription against racial discrimination?

6. Notably, at least one of the prior cases involved a Chinese student who was not permitted to attend white schools, but was instead forced to attend black schools as a member of the supposed “colored” races. See *Gong Lum v. Rice*, 275 U.S. 78, 87, 48 S. Ct. 91, 94 (1927). Nearly 25 years before *Brown*, the Supreme Court had held that the *Plessy* doctrine applied to “pupils of the yellow races as well,” and that such segregated education was “within the discretion of the state in regulating its public schools and does not conflict with the Fourteenth Amendment.” *Id.*

7 If not based on either a constitutional proscription against discrimination or measurable factors, and if there was no real examination of the equality of the education, what factors or principles was *Brown* based on? The answer appears to be “intangibles.” *Id.* at 494. The Court decided to look at “the effect of segregation itself on public education.” *Id.* at 492. The *Brown* Court looked at the effect on the children, and concluded that “to separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.” *Id.* at 494. The Supreme Court noted that this finding had also surfaced in a Kansas case (which was

not clearly cited by the Supreme Court in *Brown*):

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

*Id.* at 494-95. The Supreme Court then overruled *Plessy*, stating with finality that “in the field of public education the doctrine of “separate but equal” has no place. Separate educational facilities are inherently unequal.” *Id.* at 495.

\* \* \*

As an African American attorney, educated in public schools (until college), I take this anniversary of *Brown* to reflect on what it has meant for my own education and opportunities. I do not believe that I would be writing this piece if *Plessy* had not been overturned. But, despite undeniable gains, there is one thing about this case that always bothered me – that the decision didn’t simply deem state mandated racial segregation to be inherently unconstitutional, without regard to intangibles.

I keep wondering ...how might history have been different if the United States Supreme Court had been willing to make bold interpretations of the Thirteenth and Fourteenth Amendments? If the Court had been as concerned with a black girl’s right to an equal educational experience as it was moved by proof of the feelings of inferiority allegedly induced by racial discrimination? Was this “intangible” route the only way?

And what would public education look like now if, a hundred years ago, federal courts had forced states to educate all children equally, regardless of race? Because we still haven’t figured that part out...■