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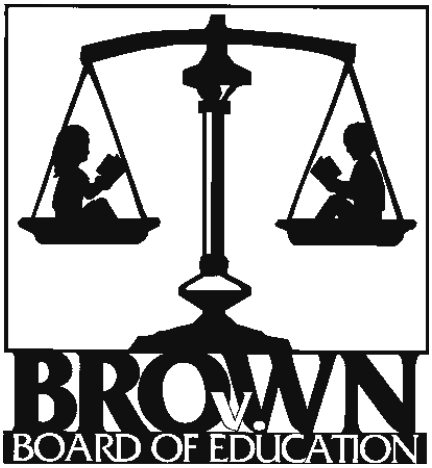
BROWN VS BOARD OF EDUCATION & CIVIL RIGHTS

On May 17, 1954, U.S. Supreme Court Justice Earl Warren delivered the unanimous ruling in the landmark civil rights case Brown v. Board of Education of Topeka, Kansas. State-sanctioned segregation of public schools was a violation of the 14th Amendment and was therefore unconstitutional. This historic decision marked the end of the "separate but equal" precedent set by the Supreme Court nearly 60 years earlier and served as a catalyst for the expanding civil rights movement during the decade of the 1950s.

While the 13th Amendment to the United States Constitution outlawed slavery, it wasn't until three years later, in 1868, that the 14th Amendment guaranteed the rights of citizenship to all persons born or naturalized in the United States, including due process and equal protection of the laws. These two amendments, as well as the 15th Amendment protecting voting rights, were intended to eliminate the last remnants of slavery and to protect the citizenship of black Americans. In 1875, Congress also passed the first Civil Rights Act, which held the "equality of all men before the law" and called for fines and penalties for anyone found denying patronage of public places, such as theaters and inns, on the basis of race. However, a reactionary Supreme Court reasoned that this act was beyond the scope of the 13th and 14th Amendments, as these amendments only concerned the actions of the government, not those of private citizens. With this ruling, the Supreme Court narrowed the field of legislation that could be supported by the Constitution and at the same time turned the tide against the civil rights movement.

By the late 1800s, segregation laws became almost universal in the South where previous legislation and amendments were, for all practical purposes, ignored. The races were separated in schools, in restaurants, in restrooms, on public transportation, and even in voting and holding office. In 1896 the Supreme Court upheld the lower courts' decision in the case of Plessy v. Ferguson. Homer Plessy, a black man from Louisiana, challenged the constitutionality of segregated railroad coaches, first in the state courts and then in the U. S. Supreme Court. The high court upheld the lower courts noting that since the separate cars provided equal services, the equal protection clause of the 14th Amendment was not violated. Thus, the "separate but equal" doctrine became the constitutional basis for segregation. One dissenter on the Court, Justice John Marshall Harlan, declared the Constitution "color blind" and accurately predicted that this decision would become as baneful as the infamous Dred Scott decision of 1857.



In 1909 the National Association for the Advancement of Colored People (NAACP) was officially formed to champion the modern black civil rights movement. In its early years its primary goals were to eliminate lynching and to obtain fair trials for blacks. By the 1930s, however, the activities of the NAACP began focusing on the complete integration of American society. One of their strategies was to force admission of blacks into universities at the graduate level where establishing separate but equal facilities would be difficult and expensive for the states. At the forefront of this movement was Thurgood Marshall, a young black lawyer who, in 1938, became general counsel for the NAACP's Legal Defense and Education Fund. Their significant victories at this level included Gaines v. University of Missouri in 1938, Sipuel v. Board of Regents of University of Oklahoma in 1948, and Sweatt v. Painter in 1950. In each of these cases, the goal of the NAACP defense team was to attack the "equal" standard so that the "separate" standard would in turn become susceptible.

By the 1950s, the NAACP was beginning to support challenges to segregation at the elementary school level. Five separate cases were filed in Kansas, South Carolina, Virginia, the District of Columbia, and Delaware: Oliver Brown et al. v. Board of Education of Topeka, Shawnee County, Kansas, et al.; Harry

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Briggs, Jr., et al. v. R.W. Elliott, et al.; Dorothy E. Davis et al. v. County School Board of Prince Edward County, Virginia, et al.; Spottswood Thomas Bolling et al. v. C. Melvin Sharpe et al.; Francis B. Gebhart et al. v. Ethel Louise Belton et al. While each case had its unique elements, all were brought on the behalf of elementary school children, and all involved black schools that were inferior to white schools. Most important, rather than just challenging the inferiority of the separate schools, each case claimed that the "separate but equal" ruling violated the equal protection clause of the 14th Amendment. The lower courts ruled against the plaintiffs in each case, noting the Plessy v. Ferguson ruling of the United States Supreme Court as precedent. In the case of Brown v. Board of Education, the federal district court even cited the injurious effects of segregation on black children, but held that "separate but equal" was still not a violation of the Constitution. It was clear to those involved that the only effective route to terminating segregation in public schools was going to be through the United States Supreme Court.

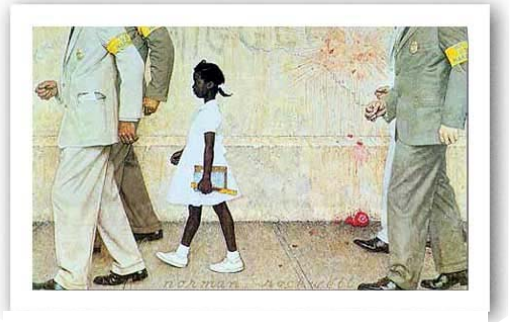
In 1952 the Supreme Court agreed to hear all five cases collectively. This grouping was significant because it represented school segregation as a national issue, not just a southern one. Thurgood Marshall, one of the lead attorneys for the plaintiffs (he argued the Briggs case), and his fellow lawyers provided testimony from more than 30 social scientists affirming the deleterious effects of segregation on blacks and whites. These arguments were similar to those alluded to on pages 18 and 19 in the first featured document, the Dissenting Opinion of Judge Waites Waring in Harry Briggs, Jr., et al. v. R. W. Elliott, Chairman, et al. The lawyers for the school boards based their defense primarily on precedent, such as the Plessy v. Ferguson ruling, as well as on the importance of states' rights in matters relating to education. Realizing the significance of their decision and being divided among themselves, the Supreme Court took until June 1953 to decide they would rehear arguments for all five cases. The arguments were scheduled for the following term, at which time the Court wanted to hear both sides' opinions of what Congress had in mind regarding school segregation when the 14th Amendment was originally passed.

In September 1953, President Eisenhower appointed Earl Warren, governor of California, the new Supreme Court chief justice. Eisenhower believed Warren would follow a moderate course of action toward desegregation; his feelings regarding the appointment are detailed in the closing paragraphs of the second featured document, Letter from President Eisenhower to E. E. "Swede" Hazlett. In his brief to the Warren Court that December, Thurgood Marshall described the separate but equal ruling as erroneous and called for an immediate reversal under the 14th Amendment. He argued that it allowed the government to prohibit any state action based on race, including segregation in public schools. The defense countered this interpretation pointing to several states that were practicing segregation at the time they ratified the 14th Amendment. Surely they would not have done so if they had believed the 14th Amendment applied to segregation laws. The U.S. Department of Justice also filed a brief; it was in favor of desegregation but asked for a gradual changeover.

Over the next few months, the new chief justice worked to bring the splintered Court together. He knew that clear guidelines and gradual implementation were going to be important considerations, as the largest concern remaining among the justices was the racial unrest that would doubtless follow their ruling. Finally, on May 17, 1954, Chief Justice Earl Warren read the unanimous opinion; school segregation by law was unconstitutional. Arguments were to be heard during the next term to determine just how the ruling would be imposed. Just over one year later, on May 31, 1955, Warren read the Court's unanimous decision, now referred to as Brown II, instructing the states to begin desegregation plans "with all deliberate speed." The third featured document, Judgment, Brown v. Board of Education, shows the careful wording Warren employed in order to ensure backing of the full Court.

Despite two unanimous decisions and careful, if not vague, wording, there was considerable resistance to the Supreme Court's ruling in Brown v. Board of Education. In addition to the obvious disapproving segregationists were some constitutional scholars who felt that the decision went against legal tradition by relying heavily on data supplied by social scientists rather than precedent or established law. Supporters of judicial restraint believed the Court had overstepped its constitutional powers by essentially writing new law.

However, minority groups and members of the civil rights movement were buoyed by the Brown decision even without specific directions for implementation. Proponents of judicial activism believed the Supreme Court had appropriately used its position to adapt the basis of the Constitution to address new problems in new times. The Warren Court stayed this course for the next 15 years, deciding cases that significantly affected not only race relations, but also the administration of criminal justice, the operation of the political process, and the separation of church and state.



Linda Brown being escorted to her first day at a previously all white school.

Source:
National Archives and Records Administration (NARA)
http://www.archives.gov/digital_classroom/lessons/brown_v_board_documents/brown_v_board.html

Internet Resources

Brown V. Board of Education

Brown v. Board of Education 50th Anniversary Commission
http://www.ed.gov/about/bdscomm/list/brownvboard50th/index.html
On September 18, 2001, Public Law 107-41 established the Brown v. Board of Education 50th Anniversary Commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education.

A Half Century After Brown, 57 Titles Celebrate Black Achievement: African American Reflections
http://usinfo.state.gov/usa/blackhis/lj2003.htm
On May 17, 1954, the U.S. Supreme Court ruled in Brown v. Board of Education that having separate public schools for blacks and whites was unconstitutional. This landmark case set the stage for the Civil Rights Movement of the 1960s. Now, in honor of its 50th anniversary, Brown v. Board of Education has been made the theme of African - American History Month in February.

Education Secretary Paige Discusses Brown v. Board of Education
http://usinfo.state.gov/usa/civilrights/s010704.htm
As the 50th anniversary of Brown v. Board of Education approaches, Secretary Paige discussed the importance of this 1954 Supreme Court decision & its impact on American education.

Woodrow Wilson International Center for Scholars
http://wwics.si.edu/index.cfm?topic_id=1427&fuseaction=topics.publications&group_id=15803
Publications.

Civil Rights

Affirmative Action and Diversity in Public Education - Legal Developments
http://usinfo.state.gov/usa/civilrights/affirm.pdf
Nearly a quarter century after the Supreme Court ruling in Regents of the University of California v. Bakke, the diversity rationale for affirmative action in public education remains a topic of political and legal controversy.

One America in the 21st Century: Forging a new future
http://clinton2.nara.gov/Initiatives/OneAmerica/PIR.pdf
America's greatest promise in the 21st century lies in our ability to harness the strength of our racial diversity. The greatest challenge facing Americans is to accept and take pride in defining ourselves as a multiracial democracy.

A Multiracial Society with Segregated Schools: Are We Losing the Dream?
http://www.civilrightsproject.harvard.edu/research/reseg03/reseg03_full.php
At the beginning of the twenty-first century, American public schools are now twelve years into the process of continuous resegregation. The desegregation of black students, which increased continuously from the l950s to the late l980s, has now receded to levels not seen in three decades.

Timeline: Human Rights in America
http://usinfo.state.gov/products/pubs/hrintro/timeline.htm
Americans consider human rights to be a defining feature of their national heritage. And in the almost 300 years since the country was first settled, significant strides have been made toward ensuring that all Americans - and people the world over - enjoy those rights that are theirs as human beings.

Civil Rights: A Chronology
http://www.civilrights.org/library/permanent_collection/resources/crchron.html

Civil Rights Timeline: Milestones in the modern civil rights movement
http://www.infoplease.com/spot/civilrightstimeline1.html

Court Decisions
http://usinfo.state.gov/usa/civilrights/court.htm
Rulings concerning individual civil rights.

Internet Resources

Laws & Legal Resources
http://usinfo.state.gov/usa/civilrights/laws.htm
Primary Resources on legal issues.

An overview of Civil Rights
http://usinfo.state.gov/usa/infousa/crights/crights.htm

Weblinks
http://usinfo.state.gov/usa/civilrights/sites.htm

Civil Rights in the United States
An Annotated Bibliography

1. Epstein, Lee**. Constitutional law for a changing America: rights liberties and justice.** 4th ed. Washington, D.C.: CQ Press, 2001. 859 p.

   Widely praised by students and professors alike, this innovative text deftly synthesizes the best of legal and political science approaches to constitutional law. It excerpts in the traditional manner new and classic Supreme Court cases, but an important focus of the book is the rich political context in which decisions are reached.

2. Sigler, Jay A. **Civil rights in America: 1500 to the present.** Detroit: Gale, 1998. 710 p.

   The history of American rights is both an old and a new story. The origins of our rights can be said to reach back as far as thirteenth-century England. On the other hand, the nationalization of rights to all American men, women, and children is largely a twentieth-century event.

3. Sowell, Thomas. **Civil rights, rhetoric of reality?** 1st ed. New York: Morrow, 1984. 164 p.

   Economist Thomas Sowell takes a tough, factual look at what has actually happened over these decades - as distinguished from the hopes with which they began or the rhetoric with which they continue. Who has gained and who has lost? Which of the assumptions behind the civil rights revolutions have stood the test of time and which have proven to be mistaken or even catastrophic to those who were supposed to be helped?

4. Birkly, Robert H. **The court and public policy.** Washington, D.C.: Congressional Quarterly Press, 1983. 462 p.

   Any judge faced with a choice between two or more interpretations and applications of a legislative act, executive order, or constitutional provision must choose among them because the controversy must be decided. And when the judge chooses, his or her interpretation becomes policy for the specific litigants.

5. **The rights of Americans: what they are – what they should be.** 1st ed. New York: Patheon Books, 1971. 679 p.

   The thirty-one essays in this book define the range of rights recognized by the Supreme Court and legislative bodies, and explore the potential for doctrinal development in light of constitutional principles and political realities.

6. **The Negro in American history.** Encyclopaedia Britannica Educational Corporation. New York: Encyclopaedia Britannica Educational Corporation, 1969. 3 Vols.

   This set of books contains 186 selections by 134 different authors ranging over almost exactly 400 years of American history. Some of the authors are Black and some are White, but their subject is always the role of the Black man in the life of this continent or-in a few cases-of this hemisphere.

7. Witt, Elder. **La Suprema Corte de Justicia y los derechos individuales.** 2da ed. México: Ediciones Gernika, 1995. 422 p.

   La Declaración de los Derechos del Individuo sólo se aplicaba contra actos federales hasta que se adoptó la Decimocuarta Enmmienda, en 1868. Pero no fue sino hasta medio siglo después de su ratificación que esta enmienda vio cumplido su propósito. En la década de 1920, la Suprema Corte por fin empezó a interpretar estas garantías de acuerdo con la intención de sus autores.