NYSBA/LYC Brown v. Board of Education

M.S. Lesson Activity no. 4

The Decision of the United States Supreme Court in *Brown* v. *Board of Education of Topeka (Kansas)*, May 17, 1954

Application

Students - Grades 7 and 8

Lesson Time

Two class periods

Objectives

At the end of this series of lessons, students should be able to:

1. Outline the key facts in the *Brown* case and discuss the issue before the United States Supreme Court
2. Identify the important individuals involved in the *Brown* decision and discuss their roles in the final outcome
3. Summarize the final opinion of the United States Supreme Court in the *Brown* case

New York State Social Studies Learning Standards

Students will describe how ordinary people and famous historic figures in the local, community, State, and the United States have advanced the fundamental democratic values, beliefs, and traditions expressed in the Declaration of Independence, the New York State and United States Constitutions, the Bill of Rights, and other important historic documents.

Materials

Handouts

- **Handout A**, "Background Case Facts And Arguments On The *Brown* Decision" (Secondary Source)
- **Handout B**, "The Story of *Brown* v. *Board of Education*," in Dialogue on *Brown* v. *Board of Education*, American Bar Association, ABA Division for Public Education, pp. 1-2.
- **Handout C**, "Arguments From *Brown* v. *Board Of Education*"
- **Handouts D1** and **D2**, "Chief Justice Earl Warren's Opinion of the Court in the case, *Brown* v. *Board of Education of Topeka*" (1954)

Activities

1. Provide students with copies of Handout A, "Background Case Facts and

Arguments on the *Brown* Decision," and ask them to prepare a timeline of the events leading up to the point when the Brown family appealed their case to the United States Supreme Court. Have students identify the key individuals involved in the Brown case.

2. **Provide students with copies of Handout B, "The Story of *Brown* v. *Board of Education*" and ask students to identify and describe the steps in the process leading up to the *Brown* decision by the Supreme Court. Ask students how the Plessy decision and Jim Crow laws influenced those individuals involved in appealing the cases of Linda Brown and others to the Supreme Court.**
3. **Using Handout C, "Arguments from *Brown* v. *Board of Education*," have students summarize the Constitutional issues before the Supreme Court in the case of *Brown* v. *Board of Education of Topeka*. What were the arguments made by the attorneys in the Brown case? What were the strongest arguments for segregation? What were the strongest arguments for desegregation? Is it ever fair for government to treat people differently because of the ethnicity? Why or why not?**
4. **Provide students with copies of Handouts D1 and D2, "Opinion of Mr. Chief Justice Warren" and have them write a brief summary of the final opinion as delivered by Chief Justice Earl Warren. Ask them to include the key points and reasons that the unanimous verdict supported the decision that "separate but equal" had no place in public education.**

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M.S. Handout 4A

Background Case Facts and Arguments on the *Brown* Decision (Secondary Source)

The *Plessy* v. *Ferguson* decision of 1896 gave legal sanction to the "separate but equal" doctrine.

"Separate but equal" was always separate, but it was almost never equal. "Separate but equal" laws hit blacks in every part of their lives. Men and women were forced to sit in the back of public buses, wait in separate rooms in train stations, and even use separate drinking fountains. Most important, these laws made segregated education the prevailing pattern.

In the twentieth century, these men and women refused to be held down. Some moved from farms to cities. Others moved from the South to the North. Many began to earn more money than before at jobs in factories. Some achieved fame as writers, musicians, or athletes. Others became lawyers and doctors.

By the 1950s, while some gains were made, African-Americans still suffered because of "Jim Crow" laws. They began to form groups to take their causes into the courts. The most important case for them in the twentieth century came in 1954. It was called *Brown* v. *Board of Education of Topeka* (Kansas). *Let's investigate this key case.*

> On school mornings, Linda Brown would wake up early. She had to get up earlier than most of the kids in her neighborhood because even though there was a grade school just five blocks from Linda's house, that school was for white children only. Linda had to take a bus that would carry her twenty-one blocks to the school for black children. This was because Kansas law allowed segregated schools.
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> Linda's parents were angry about this situation. They took their case to a federal court in Topeka. They said that the school that Linda was forced to attend because of her race was not as good as the school in her own neighborhood, which was predominantly white. The black school's building was old. The classrooms were crowded, and there weren't enough teachers. Mr. and Mrs. Brown claimed that their daughter had been denied the "equal protection of the laws" promised by the Fourteenth Amendment.
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> They argued that schools could never by equal so long as they were separate. They argued that segregated schools were harmful to black children. The only cure was to end all segregation.

The federal court in Topeka ruled against the Browns. This court maintained that separate schools reflected community values and that the mixing of races in public schools would "alienate public support of the schools."

Linda's parents took their case to the (United States) Supreme Court.

Source: National Center for History in the Schools, The Regents, University of California, 1991, pp. 16-17.

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M.S. Handout 4B

The Story of *Brown* v. *Board of Education*

The case known as Brown v. Board of Education of Topeka, Kansas actually included appeals from decisions in four separate states: Kansas, Delaware, South Carolina, and Virginia. Each case represented individual acts of courage by families willing to face local resistance- even hostility- to bring an end to segregation.

School conditions in these four test cases varied, from stark differences in South Carolina between the "colored" and "white" schools to a closer parity in the Topeka, Kansas, schools. In all four states, however, the schools were segregated by law, and the NAACP's (National Association for the Advancement of Colored People) position was that equality could not be achieved until segregation was brought to an end.

Although the four decisions went against the NAACP in the trial courts, its position was strengthened by some of the decisions. In South Carolina, Judge Julius Waties Waring dissented from the opinion of his two colleagues who also heard the case, declaring that "segregation is per se inequality." An in Kansas, the three-judge panel attached to its opinion a finding of fact that segregation has a detrimental effect on colored children, especially when it is enforced by law.

The four cases were argued on appeal to the United States Supreme Court in 1952, with the issue being whether segregation deprived students of equal protection under the law as guaranteed by the Fourteenth Amendment. The Court requested reargument of the case in 1953. Before the reargument could occur, Chief Justice Vinson died and was replaced by Chief Justice Earl Warren. Under his guidance, a unanimous Court on May 17, 1954 issued its decision declaring that segregation of the public schools was unconstitutional. A landmark in the struggle for equality under the law for all Americans had been achieved.

Source: "The Story of *Brown* v. *Board of Education*," in *Dialogue on Brown v. Board of Education*, American Bar Association, ABA Division for Public Education, pp. 1-2.

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M.S. Handout 4C

Arguments from *Brown* v. *Board of Education*

1. Equal Protection Clause of the Fourteenth Amendment to the Constitution states: “No State shall…deny to any person within its jurisdiction the equal protection of the laws.” The Fourteenth Amendment precludes a state from imposing distinctions based upon race. Racial segregation in public schools reduces the benefits of public education to one group solely on the basis of race and is unconstitutional.
2. The Fourteenth Amendment states that people should be treated equally; it does not state that people should be treated the same. Treating people equally means giving them what they need. This could include providing an educational environment in which they are most comfortable learning. White students are probably more comfortable learning with other white students; black students are probably more comfortable learning with other black students. These students do not have to attend the same schools to be treated equally under the law; they must simply be given an equal environment for learning. The United States District Court found that the facilities provided for black children in Topeka, Kansas were equal to those of white children.
3. Psychological studies have shown that segregation has negative effects on black children. By segregating white students from black students, a badge of inferiority is placed on the black students, a system of separation beyond school is perpetuated, and the unequal benefits accorded to white students as a result of their informal contacts with one another is reinforced. The United States District Court found that segregation did have negative effects on black children.
4. No psychological studies have been done on children in the Topeka, Kansas school district. The findings of the psychological studies that demonstrate the negative effects of segregation cannot be stretched to the Topeka school district. There is no indication of personal harm to the appellants.
5. In 1896 the Supreme Court of the United States decided the case of Plessy v.Ferguson. In this case, Homer Plessy sued, alleging that his Fourteenth Amendment rights were violated by a Louisiana law requiring the railroad companies to provide equal, but separate, facilities for white and black passengers. The Court decided that segregation was legal as long as facilities provided to each race were equal. The Court declared that the legal separation of the races did not automatically imply that the black race was inferior. Legislation and court rulings could

not overcome social prejudices, according to Justice Brown. "If one race be inferior to the other socially, the constitution of the United States cannot put them on the same plane."

6. **The United States has a federal system of government that leaves educational decision making to state and local legislatures.**
7. **At the time the Fourteenth Amendment of the Constitution was drafted, widespread public education had not yet taken hold. Education was usually in the hands of private organizations. Most black children received no education at all. It is unlikely that those involved with passing the Fourteenth Amendment thought about its implications for education.**

Adapted from: Brown v. Board of Education. Copyright. Street Law, Inc., and the Supreme Court Historical Society, 2000 as found in "Examining the Arguments in Brown v. Board of Education (1954)", Chicago Historical Society, pp. 21-22.

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M.S. Handout 4D1

Opinion of Mr. Chief Justice Warren and Supreme Court Decision

Brown v. Board of Education of Topeka

Citation: 347 U.S. 483 (1954)

Concepts

School Segregation; Equal Protection v. State Rights

Facts

Four black children sought the aid of the courts to be admitted to the all-white public schools in their community after having been denied admission under laws which permitted racial segregation. The youths alleged that these laws deprived them of the equal protection of the law under the Fourteenth Amendment, even though their all-black schools were equal to the all-white schools with respect to buildings, curricula, qualifications and salaries of teachers, and other "tangible" factors.

Issue

Whether segregation of children in public schools denies blacks their Fourteenth Amendment right of equal protection under the law.

Opinion

The Supreme Court of the United States looked not to the "tangible" factors but the effect of segregation itself on public education. The Court decided unanimously that segregation of black children in the public school system was a direct violation of the equal protection clause of the Fourteenth Amendment. It rejected the "separate but equal" doctrine of Plessy v. Ferguson, 164 U.S. 537 (1896), and stated that this doctrine had no place in education. According to the Court, even if the facilities were physically equal, the children of the minority group would still receive an inferior education. Separate educational facilities were held to be "inherently unequal."

Source: *United States Supreme Court Decisions*, Law, Youth and Citizenship Program, p. 24.

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Opinion

MR. CHIEF JUSTICE WARREN delivered the opinion of the Court.

These cases come to us from the States of Kansas, South Carolina, Virginia, and Delaware. They are premised on different facts and different local conditions, but a common legal question justifies their consideration together in this consolidated opinion.

In each of the cases, minors of the Negro race, through their legal representatives, seek the aid of the courts in obtaining admission to the public schools of their community on a nonsegregated basis. In each instance, they had been denied admission to schools attended by white children under laws requiring or permitting segregation according to race. This segregation was alleged to deprive the plaintiffs of the equal protection of the laws under the Fourteenth Amendment. In each of the cases other than the Delaware case, a three-judge federal district court denied relief to the plaintiffs on the so-called "separate but equal" doctrine announced by this Court in **Plessy v. Fergson, 163 U.S. 537**. Under that doctrine, equality of treatment is accorded when the races are provided substantially equal facilities, even though these facilities be separate. In the Delaware case, the 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.

The plaintiffs contend that segregated public schools are not "equal" and cannot be made "equal," and that hence they are deprived of the equal protection of the laws. Because of the obvious importance of the question presented, the Court took jurisdiction. Argument was heard in the 1952 Term, and reargument was heard this Term on certain questions propounded by the Court.

Reargument was largely devoted to the circumstances surrounding the adoption of the Fourteenth Amendment in 1868. It covered exhaustively consideration of the Amendment in Congress, ratification by the states, then-existing practices in racial segregation, and the views of proponents and opponents of the Amendment. This discussion and our own investigation convince us that, although these sources cast some light, it is not enough to resolve the problem with which we are faced. At best, they are inconclusive. The most avid proponents of the post-War Amendments undoubtedly intended them to remove all legal distinctions among "all persons born or naturalized in the United States." Their 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. What others in Congress and the state legislatures had in mind cannot be determined with any degree of certainty.

An additional reason for the inconclusive nature of the Amendment's history with respect to segregated schools is the status of public education at that time. In the South, the movement toward free common schools, supported by general taxation, had not yet taken hold. Education of white children was largely in the hands of private groups. Education of Negroes was almost nonexistent, and practically all of the race were illiterate. In fact, any education of Negroes was forbidden by law in some states. Today, in contrast, many Negroes have achieved outstanding success in the arts and sciences, as well as in the business and professional world. It is true that public school education at the time of the Amendment had advanced further in the North, but the effect of the Amendment on Northern States was generally ignored in the congressional debates. Even in the North, the conditions of public education did not approximate those existing today. The curriculum was usually rudimentary; ungraded schools were common in rural areas; the school term was but three months a year in many states, and compulsory school attendance was virtually unknown. As a consequence, it is not surprising that there should be so little in the history of the Fourteenth Amendment relating to its intended effect on public education.

In the first cases in this Court construing the Fourteenth Amendment, decided shortly after its adoption, the Court interpreted it as proscribing all state-imposed discriminations against the Negro race. The doctrine of "separate but equal" did not make its appearance in this Court until 1896 in the case of **Plessy v. Ferguson**, supra, involving not education but transportation. American courts have since labored with the doctrine for over half a century. In this Court,

there have been six cases involving the "separate but equal" doctrine in the field of public education. In **Cumming v. County Board of Education, 175 U.S. 528**, and **Gong Lum v. Rice, 275 U.S. 78**, the validity of the doctrine itself was not challenged. In more recent cases, all on the graduate school level, inequality was found in that specific benefits enjoyed by white students were denied to Negro students of the same educational qualifications. **Missouri ex rel. Gaines v. Canada, 305 U.S. 337; Sipuel v. Oklahoma, 332 U.S. 631; Sweatt v. Painter, 339 U.S. 629; McLaurin v. Oklahoma State Regents, 339 U.S. 637**. In none of these cases was it necessary to reexamine the doctrine to grant relief to the Negro plaintiff. And in **Sweatt v. Painter**, supra, the Court expressly reserved decision on the question whether **Plessy v. Ferguson** should be held inapplicable to public education.

In the instant cases, that question is directly presented. Here, unlike **Sweatt v. Painter**, there are findings below that the Negro and white schools involved have been equalized, or are being equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other "tangible" factors. Our decision, therefore, cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases. We must look instead to the effect of segregation itself on public education.

In approaching this problem, we cannot turn the clock back to 1868, when the Amendment was adopted, or even to 1896, when **Plessy v. Ferguson** was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

We come then to the question presented: Does 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? We believe that it does.

In **Sweatt v. Painter**, supra, in finding that a segregated law school for Negroes could not provide them equal educational opportunities, this Court relied in large part on "those qualities which are incapable of objective measurement but which make for greatness in a law school." In **McLaurin v. Oklahoma State Regents**, supra, the Court, in requiring that a Negro admitted to a white graduate school be treated like all other students, again resorted to intangible considerations: ". . . his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession." Such considerations apply with added force to children in grade and high schools. 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. The effect of this separation on their educational opportunities was well stated by a finding in the Kansas case by a court which nevertheless felt compelled to rule against the Negro plaintiffs:

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.

Whatever may have been the extent of psychological knowledge at the time of **Plessy v. Ferguson**, this finding is amply supported by modern authority. Any language in **Plessy v. Ferguson** contrary to this finding is rejected.

We conclude that, in the field of public education, the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment. This disposition makes unnecessary any discussion whether such segregation also violates the Due Process Clause of the Fourteenth Amendment.

Because these are class actions, because of the wide applicability of this decision, and because of the great variety of local conditions, the formulation of decrees in these cases presents problems of considerable complexity. On reargument, the consideration of appropriate relief was necessarily subordinated to the primary question — the constitutionality of segregation in public education. We have now announced that such segregation is a denial of the equal protection of the laws. In order that we may have the full assistance of the parties in formulating decrees, the cases will be restored to the docket, and the parties are requested to present further argument on Questions 4 and 5 previously propounded by the Court for the reargument this Term The Attorney General of the United States is again invited to participate. The Attorneys General of the states requiring or permitting segregation in public education will also be permitted to appear as amici curiae upon request to do so by September 15, 1954, and submission of briefs by October 1, 1954.

It is so ordered.