

Brown v. Board of Education Study Guide

Brown v. Board of Education by James T. Patterson

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Summary

The lead up to the Supreme Court decision on May 17, 1954, known as *Brown v. Board of Education* was preceded by literally decades of discrimination against black Americans. While discriminatory practices were evident in all states of the union, the most egregious violations of human rights were found in the Deep South. Black men who had served in World War II and risked their lives defending America were met with only dim futures when they returned. Discrimination was found across the board from employment opportunities to housing restrictions. It was partly this egregious treatment of military men that sparked the dawn of activism.

The bias was more “polite” and subtle in the northern and border states. In the south, the discrimination against blacks was overt and ugly. Blacks had to live with Jim Crow and deal with the specter of *Plessy v. Ferguson* that loomed over them as well as other methods and practices devised by white supremacists that repressed black people. By keeping blacks from voting, disallowing them to live in neighborhoods where their children could go to good schools and forcing restrictions on them that prevented them from having free and prosperous lives, blacks would not be a threat. Under-educated blacks would not take jobs away from whites. Black men, who were forced to stay away from white women, would not tamper with the superiority of the white race and would not stain it with “mixed” children.

While adult blacks suffered throughout their lives with low pay, racism in all forms, struggles to support their families and little hope for a future that would be any better for their children, there came a point starting in the 40s and growing in the 50s that they began to demand a better life for their children in the golden land of prosperity and opportunity. Black activism was on the rise in the late forties and early fifties. The activists and parents of black children didn’t have to think long and hard about how to ensure that black children would have an better and more prosperous life than they had -- in a word: education.

Looking back from 2015, it’s difficult to believe that black children were not allowed to attend “white” schools in a time that what is really just the recent past. But it was true and despite the passage of *Brown v. Board of Education* in 1954, desegregation lingered on well into the 60s and 70s and beyond.

Attorney Thurgood Marshall was an attorney during the years of open discrimination and desegregation. He founded the Legal Defense and Education Fund of the NAACP (or Fund) in 1940 and began to gather evidence of discrimination. Initially, the goal in the litigation of the five cases he and his team of Fund lawyers focused was to rectify minor injustices. They realized that what they had was much bigger than a kid not being able to ride a bus or a black college student having to sit in an ante-room while white students sat in the classroom. They finally wrapped their minds around the core issue. In order for black children to have the chance for the golden ring, a fair chance to have a bright future they had to have a good education and that was not possible under current segregation laws and practices.



But segregation went far beyond schools. Marshall and his team decided to take on segregation en masse by going after it in the nation's educational system. The only answer that would rectify the current state of education for black children was to outlaw segregation in the schools. It was a huge undertaking and challenge. They felt they had a winner by basing their case on constitutional law. Under the Fourteenth Amendment of the U.S. Constitution, it was unlawful for any person to not be treated equally by any government entity in any state in the nation. Everyone was entitled to equal protection by the Federal government. Marshall and his team of lawyers grabbed onto that defense and carried it through all the way to the Supreme Court.

Five lawsuits were combined by the Supreme Court which came to be known as *Brown v. Education*. While there was apprehension and uncertainty about how to proceed even among the justices, in the end they knew it was their duty to intervene and take this first giant step that would lead to desegregation in schools and ultimately bleed over into other areas of American life like employment and housing. On May 17, 1954, the Supreme Court ruled that segregation of any group of people in public school systems was a violation of the Constitution. The decision met with great resistance as did *Brown II* which was the implementation phase of the decision. Violence, intimidation, bombs and death threats were all part of the reaction to the decision. In the end the rule of law was victorious but it wasn't an easy victory and struggles go on even in current times.



Chapter 1: Race and the Schools Before Brown

Summary

Blacks and white liberals in the 40s and 50s challenging racism saw the race relations in the United States in a new way. Early influence voices included Gunnar Myrdal, President Harry Truman and Thurgood Marshall. The most powerful forces behind change were the rise of black militancy; the activism of Thurgood Marshall and the NAACP; and, the white voices like Truman and Myrdal speaking out.

Membership in the NAACP grew from 50,000 in 1940 to 450,000 in 1946. Fair employment practices laws were implemented in eleven states and numerous cities. Eighteen states formally called for the end of racial discrimination in public facilities. Blacks made progress in elections in the south, winning campaigns for councilmen in Richmond and Nashville. Atlanta hired the first black policemen in 1948.

Truman had been reticent to rile up powerful politicians in the south but in 1947 he became bolder. He felt the U.S. should practice what it preached. He asked Congress to outlaw poll taxes which prevented blacks from voting. Lynching was made a federal crime. In 1944, the Supreme Court declared “white” primaries to be unconstitutional. Restrictive housing practices, discrimination at the graduate level of education and segregated dining facilities on trains were all struck down.

With all this progress and the happy talk of idealists, no one knew how entrenched in racism many Americans were. Blacks and other minorities continued to suffer under discrimination. Many blacks including Medgar Evers became militant after returning from military service. They had risked their lives to defend America abroad and were treated like second class citizens when they returned. Opposition to racism began to break out on the college campus.

Blacks made progress and achieved a better lifestyle through hard work and determination. However, whites still didn't want them in their neighborhoods which sometimes resulted in violence and intimidating actions. Blacks weren't allowed to teach in San Francisco and Philadelphia. Unfair zoning practices created segregated school districts. Blacks were allowed to teach in schools in Chicago but only black schools. Although made a federal crime, lynchings still occurred in the south. Whites in the south feared the “mixing” of racists. They feared that blacks would take their jobs and their women.

There was hope that unions that welcomed black members would help fight discrimination but employers fought against union intervention. Thurgood Marshall was in favor of acting aggressively in the judicial system against discrimination but other members of the NAACP favored a conservative approach. Polls indicated that whites in



the north were in favor of ending discrimination but actions speak louder than words. Many in the north claimed that racism existed exclusively in the South and turned their head to the bias that existed in their communities. Whites didn't want to "mix" and blacks were becoming increasingly angry. Many wondered why it was wise to push integration. It was suggested that black schools be built to be as good as white schools in every way. The "separate-but-equal" remained a dream especially in the Deep South in the 50s. Activists believed that integration would promote tolerance. Segregation in education violated the 14th Amendment which guarantees equal protection under the law. Some opponents of segregation wanted to keep blacks under educated so they wouldn't aspire to jobs beyond servile positions. Black schools in the south were dreadful; many communities had no high schools for black students to attend.

It was Thurgood Marshall who emerged as the leading black voice against education discrimination. A charismatic attorney who founded and led the NAACP Legal Defense and Educational Fund. The Fund was focused on racial discrimination in all forms but with a special emphasis on matters of public school segregation. The outspoken raconteur was risking his life traveling thousands of miles in the south and speaking out about Jim Crow practices. His common touch and charm earned him the nickname of, "Mr. Civil Rights." Efforts had been made by the NAACP since 1931 to eliminate discrimination in public education with little to show for it.

Analysis

The author wanted to include the years of racism and discrimination especially in schools leading up to the 1950s when black activism spurred on more action. It's important information for understanding the times and the conditions under which black citizens were forced to live. The author wanted to convey the hardship that blacks had to contend with for just being black. He wanted his white readers to stop and think how white people don't have to go through everyday scenarios in their mind on how they will defend themselves for being white, how they must ignore being called names and how - prior to the 50s - they must be happy with being secondary citizens. Every American and others in developed and developing countries will take heart that even in the land of the free that discrimination had a debilitating effect on its targets, especially its very young targets.

Vocabulary

egalitarian, plummeted, activism, militancy, covenants, gerrymander, monolith, bulwark, raconteur



Chapter 2: The Grass Roots and Struggling Lawyers

Summary

Marshall could not give up the fight against discrimination in schools. In 1950, he challenged the constitutionality of segregated public schools. The results a few years later would be *Brown v. the Board of Education*. Most of the early discrimination cases instituted by the Fund involved plaintiffs who were poorly educated and poor. By the 1950s, Marshall was in a position to transform this early litigation into suits against segregation.

Lawsuits involving discrimination due to segregation in Delaware, Kansas, Washington, D.C., South Carolina and Virginia were brought by the fund and became the main players in *Brown v. The Board of Education*. The plaintiffs and their supporters for the most part took personal risks in deciding to participate in the legal proceedings. Many were parents just wanting their children to be treated fairly and have a brighter future. Until 1950, most parents and activists had asked for better facilities and improved educational standards. After 1950, the effort was refocused on desegregation.

The lawsuits were all filed in 1951. For the plaintiffs it was a waiting game for the lawsuits to progress to the federal courts. At no time during the process did a district court elect to reverse *Plessy* – separate but equal was the law of the land. Oral arguments were scheduled for December 1952 in the Supreme Court. Fund lawyers gathered in preparation for the arguments. Many from the south warned that southerners were not ready to give up their white schools. Governor Byrnes of South Carolina approved additional money for improvements at black schools but said he'd rather close down all the schools that mix whites with blacks.

Although the lawyers considered abandoning their quest for desegregation, in the end it was decided that the time was right. There were still justices on the court from Roosevelt and Truman. What chances would they have in the future with a more conservative panel? The Supreme Court procrastinated by demanding a rehearing of some of the cases. The final opinion wasn't handed down until May 1954 and not implemented until 1955.

Marshall and his team struggled to develop compelling arguments relative to the constitutional history of Jim Crow in the schools. It was not clear if they could reference the Civil Rights Act of 1866. They were uncertain about the scope of the Act and if the framers intended to include schools in the law. In 1866 there weren't school systems. And the same Congress that wrote the 14th Amendment also passed legislation supporting segregated schools.



The Fund lawyers decided that the Civil Rights Act did cover schools and that Plessy was enacted in a much more racially divisive time. The Supreme Court asked them for more evidence which caused the lawyers to embark on major research to support their case. The lawyers were most worried about the precedent set by Plessy. There were other cases that supported white officials in cases charging school discrimination. But they all avoided the central point of Brown: did state-sponsored school segregation deny black children equal protection under the 14th Amendment? The lawyers didn't give much thought to implementation and how "racial balance" would be achieved. The implementation ultimately led to redistricting plans, court-ordered busing and methods of achieving racial balance all of which were met with resistance from whites. Kenneth Clark, a psychologist joined the team, for his expertise in the psychological damage that black children suffer from segregation.

In 1954 when the district court battles ended the cases went to the Supreme Court. The Supreme Court's motto was, "Equal Justice Under Law" was inscribed on the outside of the venerable marble building.

Analysis

This is a very important chapter because it lays out the five cases that collectively came to be known as Brown v. Board of Education, one of the most profound and far-reaching decisions ever made by the U.S. Supreme Court. This information is significant because the five cases from five different regions had much in common showing that the impacts of segregation were hurting people all over the nation. The author is providing a tick-tock of the march to the Supreme Court and the battle that it would wage on segregation in public schools. The reader should know the history of this important court ruling. Young readers will be amazed that the kind of racism described in the cases ever existed. It will be jarring to many.

Vocabulary

litigation, solidarity, irascible, condescending, utilitarian, desegregation, vanguard, prophetic, ostracism, procrastinated, rudimentary, antebellum



Chapter 3: The Court Decides

Summary

Although foes of President Franklin Roosevelt claimed he stacked the Supreme Court with liberals, the court was supposed to be non-partisan. There is evidence that he was never non-partisan. Chief Justice Roger Taney was a southern sympathizer who handed down the decision in the Dred Scott case which incited the Civil War. The Court had imposed its racist interpretations on Plessy. Conservative justices during Roosevelt's presidency threatened to sabotage the advancements under the New Deal. When Brown arrived at the Supreme Court, the panel consisted of liberals and moderates all appointed by Roosevelt and Truman. There were bitter internal conflicts and strong philosophical differences within the court. Most followed the policy of judicial restraint and were careful not to strike down state or federal laws. Justice Hugo Black was a strong advocate of constitutionally-guaranteed rights and carried a worn copy of the Constitution around with him. Black annoyed many of the other justices with his high energy and argumentative nature.

Fred Vinson was Chief Justice of the Supreme Court when the court took on the five desegregation cases that made of Brown v. Board of Education. The courtroom was jammed. Thurgood and the Fund lawyers prepared all night for the hearing. They took turns arguing the five cases allowing an hour for each one. The lead lawyer on the opposing side was John W. Davis and outstanding courtroom lawyer and former congressman from West Virginia and the solicitor general during the Wilson administration. Thurgood and company did well. The crux of their argument was that the state-imposed segregation allowed in Plessy was discriminatory and a violation of the 14th Amendment of the Constitution.

Thurgood et al believed that Justices Burton, Minton, Black and Douglas was on their side. As a southerner, Black privately worried about white backlash in a decision favoring Brown. Frankfurter and Jackson were concerned how a rule against Plessy could be enforced. It was strongly assumed that Justice Stanley Reed would come down against them. He thought changes should be left to the states. Personally, he was against the mixing of races. They feared that Vinson and Clark would agree. Clark was a Texan who had no racist tendencies himself but he knew that many in the South, including those in his state, did. The court had more to weigh than merely legal matters. They had concern for social and political ramifications. There was uncertainty were Frankfurter and Jackson would come down. Jackson didn't think that putting kids together in schools would cure racism. Frankfurter was Jewish and a victim of bias himself. However, he was reluctant to overturn school segregation which had been established by state legislatures. But the court didn't decide in 1952. It stalled and then ordered a rehearing of some of the cases. They also wanted more evidence from the lawyers, such as what the original intent of the framers of the Civil Rights Act was.



Dwight Eisenhower was the new president when the Court held the rehearing. Chief Justice Vinson had died in the interim and Eisenhower had named Earl Warren as the new Chief Justice. Warren faced inner conflicts in the Court, a reluctance to tackle the huge issue and worries about the implementation of a ruling that called for broad-based desegregation. The justices saw generations of litigation as a result of the decision. Although there was dissension initially, in the end Warren was able to gain support for his belief that segregation was unconstitutional. The ruling was unanimous in favor of Brown. In his verbal announcement, Warren expressed the opinion of the court that the segregation of children in public schools based on race deprived those children equal educational opportunities. Warren shot down Plessy by stating that the court believed that “separate but equal” has no place in public education. He ended the reading by indicating that the Court would devote time on the matter of implementation. In case there was any doubt, Warren stressed that the decision was for ALL states.

Analysis

This chapter covers the make-up of the Supreme Court when Brown v. Board of Education reached the hallowed chambers. It also describes the role that conservative President Dwight Eisenhower had in this monumental decision. It also gives insight into what the Fund lawyers based their case on. Chief Justice Earl Warren had just been named to replaced the prior Chief Justice who had passed away. Warren was a Republican and had been elected to three terms as Governor of California. When he appointed Warren, he was fairly certain he had a conservative Chief Justice. However, he was a disappointment to Eisenhower but a brilliant surprise to liberal activists. Warren became a champion of desegregation and led the court in a unanimous decision against segregation in public schools. Perhaps it was fortunate that Warren arrived in court just in time – three months before – to hear Brown. It is said that a leader will emerge for the times. This historic information is vital to anyone interested in the advancements made in the U.S. through judiciary.

Vocabulary

vicissitudes, jettisoned, laissez-faire, animosities, indolent, disputatious, professorial, contemptuous, assiduously, linchpin, ephemera, jurisprudence, de jure

Chapter 4: Crossroads, 1954-55

Summary

Blacks across the nation were excited about the Brown decision. There was jubilation, hope and optimism. The NAACP staff in New York was speechless and in awe. Marshall warned them that their work had just begun. He felt school segregation could be eradicated in five years. Others felt it had broader and longer reaching influence including an impact on the Cold War and foreign policy. Black leaders hoped that the decision would positively impact all areas of American life. The decision propelled strong anti-racist voices into the 1960s and ultimately toward the civil rights movement. Many blacks were skeptical due to their experiences and remained in a wait and see stature.

Some southern politicians were resigned to the change. Border state governors proclaimed they would stand by it. But trouble was brewing. Based on a few events that alleged occurred between white and black kids at the high school in Milford, Delaware, a meeting of white parents was held with 800 parents signing a petition against desegregation. After years in courts, blacks were not allowed in the Milford high school until 1962. There were victories in many communities across the nation that were complying with the decision. In Marshall's hometown of Baltimore, MD, there were mixed results. Immediately following the decision, class differences still separated blacks and whites everywhere in the United States.

Marshall felt that bottom line the opposition was beaten and that it would be just a matter of time until things settled down and there was full compliance. He recognized that the Deep South would come around much slower than the rest of the country. Southern politicians and governors confirmed Marshall's sentiment. The South in general advocated segregation and leaders vowed to fight it with whatever means possible.

Black leaders called on President Eisenhower to speak out in support of Brown. The president was seen as a moderate and racially tolerant. He issued executive orders desegregating federal facilities and his attorney general supported the Fund's efforts. Eisenhower signed two civil rights bills in his second term. However, he'd grown up in a white world and had very little contact with blacks.

Eisenhower moved cautiously and believed that the government could do little to change hearts and minds. He felt that appeals to reason would be more beneficial than the enactment of laws against racism. Publicly he would only say that, as President, he was duty-bound to support the decision. He never gave it a full endorsement. Privately, he felt the decision set back change in the South by 15 years. He could have used his position to strengthen the decision but maintained a hands-off approach.



The court moved slowly on implementation. It wasn't until May, 1955 - a full year after the decision - that the court began discussions on implementation. The session was referred to as Brown II. There were still worries and conflict within the court about implementation and its consequences, especially in the South. The court did not want to stir the pot and antagonize the South. Congress was in no frame of mind to legislate compliance. Warren felt it crucial that the court speak as one voice as it had in the decision. The court issued a statement that place the onus of implementation on the courts. Defendants sued for non-compliance were to be required by district and federal courts to be required to take steps toward compliance. The only reference to a time line was the vague "all deliberate speed" which was hotly disputed.

Defenders of Brown II pointed out that social change takes time, something that the court had no control over. And importantly, the court reaffirmed its support of their decision in Brown I. Marshall felt that white resisters would eventually tire of the conflict and accept the decision's inevitability. A lower court ruling in South Carolina jarred Marshall. It ruled that the Constitution did not require integration that it merely prohibited the government to enforce segregation. Marshall and his team faced the beginning of the school year 1955 with uncertainty.

Analysis

This section focuses on the aftermath of Brown I and Brown II, Brown II being the implementation phase of the decision. While blacks were dazzled by the ruling and felt that had hope for a bright future for their youngsters, there was revolt and even violent protest against the rulings in the Deep South. The author is drawing a picture of the ramifications of judicial activism and that it's impossible to please everyone. The judges and justices have to follow the law and act on what they perceived to be the best interests of the country. The author is telling the reader that, while victory was sweet, the fight was far from over. In fact, in some cases things got worse. The reader will continue to enjoy this historical aspect of the fight to rid public schools of segregation.

Vocabulary

enumeration, obdurate, ardent, demagogic, sanguine, stonewalling, incendiary, intransigence, obtuse



Chapter 5: Southern Whites Fight Back

Summary

Shortly after the Brown II ruling, Emmett Till, a 14-year-old black boy from Chicago, was murdered by white men in retaliation for allegedly flirting with a white woman. The two men were tried and found not guilty by an all white male jury. The tragic death of the young boy caused a surge in black and liberal activism. There was unbending non-compliance from intransigent whites, especially in the Deep South.

After years of fighting to be accepted, Autherine Lucy was finally admitted into the University of Alabama as a graduate student. She was literally run off campus. Dorothy Counts was admitted into an all-white high school in Charlotte, NC. On the way home from her first day at school other student threw sticks and rocks at her and spat on her. Six-year-old Ruby Bridges was escorted to school by U.S. Marshals but she was pelted with tomatoes anyway. Ruby continued going to school but by her fifth day there white students had all been withdrawn. Other students told her they were going to poison her. As a result, she didn't eat her lunch. Her father had been a hero in the Korean War. After the trouble with Ruby started, he was fired from his job. There were heated protests in New Orleans and resistance to compliance in Arkansas. Although it seemed broader, Brown did not require integration, it only ended government-sponsored segregation.

Governor Orval Faubus of Arkansas rallied support of the Southern Manifesto. Black students, called the Little Rock Nine, trying to enter Central High, the school they were enrolled, were met with vicious verbal attacks and threats of hanging. After two weeks the Little Rock nine were prevented from entering school. A federal court judge enjoined Faubus from preventing the attendance of the students. However, after being allowed to enter, violence broke out and the students were sent home. After President Eisenhower rather reluctantly stepped in with federal troops, things only got worse. There were bombings and death threats. National guardsmen stayed at the school all year. Eight of the black students stuck it out for the entire term. One went on to graduate and attend college at Michigan State.

Marshall led a law suit, Cooper v. Aaron, in protest of Arkansas' delays in implementing Brown II. Their defense was that the violence associated with implementation delayed their compliance. The matter went to the Supreme Court who didn't buy their claims and ruled that threats of violence could not be used by public officials who did not comply with desegregation. Still Arkansas dragged its feet. By 1963, only 69 black students were in Little Rock's all white junior and senior high schools which collectively had a population of 7,700.

Advocates of desegregation in the late 1950s and early 1960s criticized the Court's reliance on their "with all deliberate speed" clause. There was hindsight that perhaps the Warren Court had been naïve to rely on gradual implementation. Very little changed



between 1955 and the late 60s. One scholar compared the movement to that of an “extraordinarily arthritic snail.” Many felt it would have been better if the Court had forsaken gradualism in favor of “shock therapy.” In other words, order implementation by a date certain. Some lamented that Brown aroused the demagogues resulting in an angry and violent backlash. But there was a backlash to the backlash resulting in the Civil Rights legislation in 1964. In the end, Warren and the other justices recognized that courts cannot change American society overnight. Only a politically backed civil rights movement could ultimately spark real change.

Analysis

This chapter outlines some progress made toward desegregation. The Deep South continued to present the most challenging barriers to compliance. Brown I and II resulted in more law suits claiming segregation being filed. White politicians dragged their feet on implementation of the ruling. This is more evidence supplied by the author that after the decision things hadn't got much better and sometimes worse. But there were little green sprouts popping up across the nature that promised a turn for the better. The details of the civil rights struggles will be of interest to most Americans.

Vocabulary

vehemently, paternalistic, egregious, resonate, amalgamation, forestall, manifesto, compulsory, effigy, stoically, amelioration, circuitous, recalcitrant

Chapter 6: Striving for Racial Balance in the 1960s

Summary

Thurgood Marshall admitted to reporters that litigation was not the sole answer to racism and discrimination. The lawsuits against segregation in schools were piling up for him and the Fund lawyers. He privately questioned whether *Brown* had set back the civil rights movement in general. Black activism was steadily arousing some veteran players like Medgar Evers to continue protests. Martin Luther King, Jr., held a prayer vigil on the anniversary of *Brown* in 1957 although he was less inspired by *Brown* than he was with Christianity and non-violence. However, *Brown* did not inspire northern whites who were largely disinterested in integration or in improving the lives of blacks. Southern blacks were uneasy about sending their kids to white schools. The number of public protests against segregation declined after *Brown*.

Just when Marshall was struggling with the failure of *Brown*, a sit-in was staged by four black college students. They protested the policy of a local department store that didn't allow blacks to eat at the lunch counter. The four students sat at the counter in protest. The incident gained a lot of attention and within the next two weeks 54 additional sit-ins occurred around the nation. The sit-ins sparked an accelerated civil rights movement. One major reason for this surge was that young blacks demanded quicker results.

Marshall and Fund lawyers were surprised by the black activism and the rate of arrested protestors and activists that they were asked to represent. Marshall left the Fund after 22 years and accepted a federal judgeship offered to him by President Kennedy.

President Kennedy had been an inspiration to liberal and black activists and the youth of the country. But he was tied up in knots over foreign concerns and did not have the time or take the time to devote his energy to the civil rights movement although he supported it. However, in 1963, he introduced legislation that was designed to eradicate racism and discrimination in public accommodations. After his assassination, President Johnson took up the reins and signed into law the Civil Rights Act of 1964. Blacks were inspired and heartened by the act. Moderate whites even in the South began to accept the inevitable.

The progress made by black Americans inspired similar movements by Native Americans, Hispanics, women, gays, the elderly and the disabled. It was during this liberal period that Congress passed social programs such as Medicaid and Medicare and the expansion of Social Security. The amount of federal dollars allocated to education increased which greatly benefited black children throughout the nation. Black students stayed in school longer and more went on to attend college. However, due to continued segregation in the South, black students still lagged behind. Studies showed that black children did better in white schools due to better facilities, more resources



and better teachers. Brown wasn't being adhered to, but the South was even falling short of Plessy's "separate but equal" mantra.

Sociologist James Coleman's report in 1996 entitled, "Equality of Educational Opportunity" concluded that the home life of a child weighed heavily on his ability to excel at school. Further, these influences carried on into adult life and became barriers to equality. People were in a quandary over whether desegregation helped or hurt black students. Some black activists began to support the idea of well-funded black schools. Calls for affirmative action told Marshall and his colleagues that there was not an expectation of a color-blind America in the near future.

Federal programs like the one demanding "racial balance" in schools saw some success in the south. However, there weren't "changes of heart." The threat of cutting off federal funds was the impetus for compliance or quasi-compliance in most cases. It was difficult to measure the success of federally mandated racial balance requirements due to lack of funds for federal oversight. Growing supports was seen throughout the nation in the courts.

Racial violence increased in the late sixties with devastating riots in Detroit and Newark. Martin Luther King was assassinated in 1968.

Analysis

JFK, the new young president, inspired a nation. He was disappointing on some levels to black activists who wanted more from the moderate Democrat, but he was tied up with foreign issues and didn't focus on domestic issues. He did introduce the first bill for a civil rights act. After his tragic assassination, President Johnson saw the legislation through and signed it into law. The author provides this information as part of Brown's legacy. Civil rights abuse had been brought to the nation's attention by Brown. Brown proved to have tentacles that were attaching themselves around other forms of discrimination and racism.

Vocabulary

indomitable, transcendent, mandated, emasculated, compensatory, egalitarian, auspices, ardent, brandished



Chapter 7: The Burger Court Surprises

Summary

Chief Justice Earl Warren retired in 1971. Johnson nominated Abe Fortas to replace him but could not get him confirmed though due to Republican opposition, and he withdrew his name. When Nixon became president he nominated Warren Burger, a Republican who had been appointed by Eisenhower in 1956 to the Court of Appeals in DC, as Earl Warren's replacement. He was confirmed by the Senate without major problems. Nixon also appointed Harry Blackmun of Minnesota to take another open seat on the bench.

Two more vacancies occurred at the end of 1971 which Nixon filled with Lewis Powell and William Rehnquist. One more conservative appointed by Nixon would swing the court to what liberals worried would be a Supreme Court stacked with conservatives. Marshall was still on the court but didn't seem fully engaged although he always voted with the liberals.

Led by Nixon, the country had grown tired of the excessive liberalism of the 1960s. Burger, while conservative, did not want to act in haste to reverse the decisions of his predecessor. Between 1969 and 1974 the court rejected the Nixon administration's efforts to ban the publication of the Pentagon Papers. The corporate world was stunned by the Court's support of affirmative action and the monumental decision put forth in *Roe v. Wade*. The court bypassed the chance to reverse part of *Brown*. It also ruled that Nixon must turn over his Watergate tapes. Two weeks later, he resigned as president. Nixon had to scratch his head. The Burger court was truly not a conservative one which he was obviously trying to establish. The court's decision brought more anger from the Deep South who thought they had a conservative court that would favor them.

After the Burger court's decision in *Alexander v. Holmes County Board of Education*, southern schools that were not in compliance with *Brown* had to move quickly to establish desegregated schools. In *Swann*, the justices handed down a decision that the busing of students was a method to ensure racial equality in still-segregated schools. Governor Jimmy Carter of Georgia pointed out the hypocrisy of the court in that it avoided discrimination in the north and put it all at the doorstep of the south. But *Swann* was a big step forward despite its uneven implementation and vague guidelines. Denver was forced in a case brought before them to institute busing throughout the city. Cities in the north found busing compliance too expensive to implement.

There was guarded optimism in some cases where the mixing of students seemed to be working. Black students attending white schools saw the improvement in education standards in comparison to the black schools they came from. Liberals believed that early exposure to blacks by whites in schools would help prevent ugly racism when the whites become adults. On the 20th anniversary of *Brown* there was disappointment about "white flight" of northern families especially after the busing decision. In the south,



many parents placed their kids in private schools. School boards and staffs were largely populated by whites.

Black students still had to deal with name calling and intimidation by white students. The toughest transition to mixed classrooms was in junior and high school levels. White leaders on the local level in the South were responsible for most of the delays in full implementation. There was uncertainty about whether black students were faring better in mixed classes. White parents thought blacks pulled down academic progress. Some black leaders recalled the words of W. E. B Du Bois when he questioned whether black kids had to be in white schools. And the big question that remained in many minds was whether the desegregation of schools could promote understanding between the races.

Analysis

This chapter describes the continuing impact of *Brown v. Board of Education*. Once again, a Republican president nominated a conservative to become Chief Justice. And once again, the president was disappointed. Chief Justice Burger turned out to be as much of a liberal activist as his predecessor, Earl Warren, who was also a Republican who turned liberal once on the bench and responsible for all the people in the country. Unfortunately, even after 20 years, there was still resistance to desegregation and black students still faced intimidation and racism. The reader can relate to the changes, progress and lack of progress that is described here.

Vocabulary

hypocrisy, frenetic, nostalgia, impressionistic, repositories, interracial



Chapter 8: Stalemates

Summary

Many Americans were doubted the efficacy of government intervention. Vietnam and Watergate didn't help that view. What was perceived as the extreme liberal activism of the 1960s that included the war on poverty, federal aid to schools and Medicare and Medicaid, was also in the mix. This attitude fostered stalemates in the implementation or continuation of some federal programs. Nixon voiced his dissatisfaction with mandated busing and was against any form of social engineering. There was high unemployment and high inflation. Taxpayers were angry. Frustrated white workers struck out at blacks who were behind riots that destroyed cities and cost taxpayers huge amounts of money to rebuild. Working class whites, including those in the North, were not in the mood for more activism or pushes for civil rights.

President Carter tried to revitalize some governmental programs. President Reagan declared that government was not the answer to all problems. In fact, it was government that was the problem. Reagan denounced court-ordered busing and tried to abolish the Department of Education established under Carter. Reagan was against affirmative action and other programs that helped women or minorities. His administration was cool toward the Civil Rights Act. Black and liberal activism was fragmented over internal disagreements.

Court-ordered busing was one of the biggest sticking points for conservative politicians. In Boston, poor and middle class whites protested against wealthy whites who they called "limousine liberals" who lived in the suburbs and weren't effected by busing regulations. There was fury against Senator Ted Kennedy who many felt had been responsible for the death of a member of his staff when he drove off a bridge in Chappaquiddick. Proponents of busing did not back off. They didn't buy the claims that busing was costing cities and counties exorbitant amounts of tax dollars. Busing was the only way to get black kids out of a ghetto school and into a good one. Black parents weren't 100 percent behind busing because of the potential for harassment and violence. Blacks were tired of being guinea pigs.

The debate between to bus or not to bus raged on. Supporters insisted that the situation varied from city to city. Opponents claimed that neighborhood schools were the most beneficial for children. There was consensus that court-ordered busing had sped up the white flight to the suburbs. Busing did not seem to further the civil rights movement along. It was causing more tension.

In March 1973, the Burger Court heard the case of Demetrio Rodriguez and his neighbors who lived in a poor area of San Antonio, Texas. Good schools rich in resources and were supported by local taxes while the dilapidated schools in the poor areas were ignored. The Court ruled against Rodriguez advocating that local tax dollars being used for local schools was constitutional. The court ruled that the Equal



Protection Clause did not apply absolutely. In 1974 in *Miliken v. Bradley* a lower court judge had ruled that Detroit could count the suburbs into their desegregation program which would draw whites back into the mix. The Supreme Court overruled the earlier decision. Marshall wrote a sharp dissension. The NAACP denounced the decision while the mayor of Detroit agreed that cross-district busing was not the answer to desegregation. All agreed that cross-district busing would not have benefited race relations. The Burger majority believed that they had showed judicial restraint in a hotly contested issue. In the 80s and 90s, there was little appetite for advancing civil rights. The Burger Court had shot down a lawsuit that called for racial quotas at the University of California. To soften the blow to liberals, the Court declared that racial diversity was highly desirable. The decision disheartened Marshall who sometimes called his colleagues on the Court, "Massa." The court mainly stepped aside in the 70s and 80s and let communities solve their own public school issues.

On the thirtieth anniversary of *Brown*, Linda Brown whose name appeared on the famous decision, stated that she was dismayed with the state of integration. It was not the quick fix she thought it would be.

Analysis

This chapter focuses on court-ordered busing and how it was received across the country. It also describes the sharp right turn that the Burger court took after the reaction to busing. The country had grown bored with the pursuit of broader civil rights and the court was reflecting that ennui. Marshall was still a justice and became dismayed with the lack of progress. The author is describing a country that had grown weary of change and that just wanted to be left alone. President Reagan was a very popular leader and set the tone. He was against much of the progress that had been made in the 60s, viewing it as extreme liberalism. The author provides this information to the reader to illustrate how the ebb and flow of public opinion is eventually reflected in the nation's leaders. Readers can relate to this information in their dealings with or knowledge of government and political leaders.

Vocabulary

exemplified, vociferous, reinvigorate, ambivalent, salient, de facto, deleterious, logistical, ardor, benignly, ancillary



Chapter 9: Resegregation?

Summary

In the 1990s, blacks dealt with racial profiling – being stopped for just being black. Many racial controversies broke out in the early 90s including at a Selma school that had refused to renew the contract of their black principal when he wanted honors courses to be opened up to more blacks. The riot in Los Angeles in 1992 and the O. J. Simpson murder trial in 1995 are two more events that drew the nation's attention.

Most black college students believed that racism would always be part of the American experience. Unemployment and poverty was always higher among blacks. Some were more optimistic observing that there were more positive interactions between whites and blacks. Some blacks wondered if Brown had been a good decision. Black leaders quickly shot that notion down. Blacks had become disillusioned when the fast track after Brown slowed to a snail's pace. Marshall retired from the court after serving 24 years a very frustrated man.

The Court took on school redistricting in the 90s. The Court had a decidedly right leaning with three appointments by Ronald Reagan, two of whom were moderates and one who was a staunch conservative. President George H. W. Bush appointed two conservatives, David Souter and Clarence Thomas. The court surprised everyone by not reversing Roe when it had the chance. The justices took a decidedly conservative view of affirmative action and voting rights cases. The Court did outlaw some mandated busing rulings. They also ruled that resegregated cities could be excused from desegregation demands. It was not within the ability of the Court to control demographic shifts.

The court rulings involving public schools left many blacks feeling ambivalent. Blacks had grown weary of the fight. Kenneth Clark feared that the country was whittling down Brown and heading back to Plessy. In 1995, the Court heard Missouri v. Jenkins. The make-up of the Court had changed again. President Clinton appointed two new justices who were more liberal: Ruth Bader Ginsburg and Stephen Breyer.

Kansas City, MO, had tried to comply with desegregation by creating magnet schools. However, white students were drawn to the schools and the student body was mainly black. The city had spent millions on attempts at desegregation. The performance of black students had not substantially improved. The city wanted to return control of the schools to the district and to parents. The Court in a 5-4 decision found in favor of the city although there was vague, unclear language in the decision that left the situation somewhat up in the air.

Justice Thomas was black but proved to be ultra-conservative. Black politicians and activists resented his presence on the bench. They found him condescending and a shield for white racism. A debate still raged about the performance of black children in white



schools. Liberals stuck to their theory that for whites to become understanding of blacks they had to be around them at a young age.

Thurgood Marshall died at the age of 84 on January 21, 1993. Twenty-thousand people – most of them black – made their way through wintry weather to pay their respects. His flag-draped coffin was in state at the Supreme Court building. Marshall had stood for so many things that were important to black lives. In the end his efforts were deeply appreciated. And his legacy was that most African Americans hoped for the progress that he had strived to achieve.

Marshall had worked for desegregation because he believed in equality and felt that the desegregation of schools was a pathway for equality and the acceptance of blacks by whites. His work toward striking down Plessy and Jim Crow was monumental in the lives of black people. Brown, of course, was a life-changing ruling that had profound impact on the nation. But Marshall always wanted more. He saw so many things that were wrong and that needed to be fixed. He just didn't have the time to address them all.

Analysis

In this chapter, the author describes more current race relations and how blacks are still struggling for equality in education and many other areas. The Court took on school segregation and redistricting cases again. The right-leaning court disappointed black and liberal activists with what was considered progress in reverse by some. But blacks like the rest of the country was growing weary of the fight and many thought even young black college students thought they would never enjoy true equality. The author includes the legacy of Thurgood Marshall who was a hero of black people. He had worked long and hard to make life in America better for blacks. He died in 1993, frustrated that he couldn't do more. Readers will enjoy reading about the admiration that blacks had for Marshall.

Vocabulary

ubiquity, doorest, stalwarts, vestiges, unprecedented, compatriot

Chapter 10: Legacies and Lessons

Summary

There were many victories and disappointments on the road since Brown. There was real change in the country that was designed to help black people have better and more successful lives. There were positive decisions by the Court and negative ones that seemed to stop and even reverse progress. The divide in the country between conservatives and liberals seemed to grow wider with every decision.

In Summerton, South Carolina, where one of the original Brown cases had taken place showed that throwing money at the problem didn't work. Although black students were the benefactors of more spending in that small town, their performance did not improve over the years. White students were still attending private schools. Most black students were not in college prep programs. Blacks and whites that were in the same schools did not socialize.

In 1994 in Topeka a federal district court approved a new city plan to desegregate the schools. After 40 years, the city was still not in compliance with Brown. There was progress in desegregation in Alabama and in Little Rock where troops had patrolled the ground in 1957. One of the Little Rock Nine had gone on to earn his master's degree. The other eight had also attended college and were glad that they had challenged segregation. All but one of these men left Little Rock and was glad to do so.

Many Americans felt that Brown's constitutional guarantee that all children would have the same education had been just rhetoric. Some thought Brown had no effect at all. There was a backlash against affirmative action standards. Many whites and Asian Americans felt violated when they were rejected by schools in favor of blacks or Hispanics who did not score as well as they did. Advocates of affirmative action stood tough right through the turn of the century. Liberals deplored the conservative bias that they felt came from the Supreme Court.

In the early 21st century it was blatantly clear that the country had not in total been able to comply with Brown. There were many neighborhoods and communities that were still segregated and represented the failure of all those years of effort. In Detroit, the schools were 90 percent black and poor. The majority did not graduate from high school much less go on to higher education. Many large cities were excused from federal monitoring and oversight.

With less intervention from the federal government, white flight was somewhat stemmed and the hope for racial mixing in schools was greatly diminished. The liberal pursuit of racial balance had lost its steam.

Proponents of desegregation were troubled that federal court decisions, including those from the Supreme Court, soundly rejected the concept of racial balance. The



conservative reputation of the Supreme Court put off the filing of lawsuits by many who feared that their efforts would be futile. In fact, a decision in a case in Virginia proclaimed that the Constitution prohibited racial balance being used in school assignments. The courts were giving more value to the choices of parents rather than government-mandated strategies. The Rehnquist Court was interested in enforcing desegregation.

The gaps between the performance by white students and black students continued to be wide even in districts that complied with *Brown* and other court rulings. The poor performance of blacks did not seem to be related to the family's wealth or social standing. Black children from single-parent homes fared no better than kids from wealth families with two parents. Some feel that the tests are flawed and favor white students. Others feel that racial oppression is the reason for low test scores.

There have been positive changes for American blacks. There have been mass movements of blacks from the south, broad expansion of educational opportunities, improving relations with whites and literally millions of blacks moving in to middle-class status. Much of the progress made is thanks to the lawyers and plaintiffs and justices who together produced a shining light that ignited the push for equality: *Brown v. Board of Education* was, by anyone's measure, monumental. However, courts and lawyers can only do so much. In the end, it is up to society to make real and lasting changes.

Analysis

The author summarizes some of the victories and missteps since the *Brown v. Board of Education* decision. He takes the book up through the early 2000s and describes the debates that still rage including the performance of black vs. white students; cities and communities taking back control of school districts; as well as positive changes in the lives of black Americans. He connects the progress and the failures to *Brown* which gave a lethargic civil rights movement new life. There is much progress to make but there are signs that blacks and whites have more interaction. This book is important to the reader because it's a part of American history and may spur some readers on to get involved in the advancement of society in some small or even big way.

Vocabulary

proponents, anecdotal, incalculable, apostles, sanctioned, interracial, genetic



Important People

Thurgood Marshall

Thurgood Marshall was the head of NAACP's Legal Defense Fund, also known as the Fund. Following this role he became the Solicitor General of the United States and the first black justice on the United States Supreme Court. Marshall became deeply involved in the cases of segregation that the Fund investigated and that one day would collectively be referred to as *Brown v. Board of Education*.

Marshall served as the lead attorney for the black families that filed the original lawsuits. Marshall had worked tirelessly for years in the fight against discrimination and racism. His vast experience made him acutely aware that *Brown* would meet with derision, anger and resistance. The challenge was a huge one and the subject was one that went well beyond segregation in public schools. He knew that the segregation of schools could not be seen in a vacuum. Its ramifications went far beyond the schoolyard. He understood that other social matters of racism and segregation would be natural targets once *Brown* passed. He knew it was destined to touch housing, employment, segregation in public places and ultimately the mixing of the races.

Knowing that the transition to the complete desegregation of public schools throughout the nation would be a difficult one, he demanded that the court set a date certain for its implementation in *Brown II*. The justices moved slower than Marshall hoped for and, in the end, there was no time line. Marshall knew that the vague reference to a time line, "with all deliberate speed" would give an opening to those who were against the ruling and wanted to delay or avoid it.

Marshall is one of the heroes in the eradication of segregation. He understood that *Brown* would not be the ending of bias and racism in America but he considered it a good first step and one that wax in compliance with the 14th Amendment of the U.S. Constitution that guarantees equal protection under the law.

Chief Justice Earl Warren

The cases that were collectively known as *Brown v. Board of Education* were originally brought the Supreme Court in 1952, when Fred Vinson was Chief Justice. When the court reconvened in December 1953 for the rehearing that was ordered by Vinson, Dwight Eisenhower was the new president. Chief Justice Vinson had died in September. Eisenhower named Earl Warren to replace Vinson. Earl Warren has been elected as Governor of California three times. Critics complained that he was a politician and not a jurist. But many people saw him as a fair-minded man who had been a loyal public servant.

Ultimately, the conservative Eisenhower was sorry for his selection when Warren proved to a liberal activist. His open and gregarious personality was said to heal some of the



conflict within the court when he was named Chief Justice, and the court was said to be more harmonious when the segregation cases were heard again. Warren was known to make decisions from the gut rather than legal precedent. The rehearings lasted three days. Plaintiff's attorney Marshall and his team argued that the framers intended to include schools in the protection provided under the 14th Amendment. Defense counsel Davis did his best to destroy their case with an hour-long presentation. Lee Rankin, Assistant U.S. Attorney General, filed an amicus curiae in support of the Fund attorneys and provided a plan for implementing the possible reversal of Plessy. Warren had to deal with the concerns of the jurists but he hung tough on his own deeply held beliefs that segregation was illegal under the Constitution. Frankfurter was doubtful that the implementation of desegregation could be a smooth one. Jackson saw generations of litigation as a result of the decision.

In conference, Warren expressed his strong belief that segregation was unconstitutional. The issues were moral ones he felt. Warren gathered that there would be no unanimous decision and that the decision could be a close one. The justices thought the case over for three months. Ultimately, Justice Reed was the sole holdout. The decision that came down found segregation in schools to be unconstitutional. They announced that they would hold another hearing later that year to decide on implementation methods. After Warren drafted up the opinions on the five cases, Reed finally acquiesced making the decision unanimous.

President Dwight Eisenhower

President Dwight Eisenhower was elected as the U.S. President in 1952 when the Supreme Court began hearing arguments on *Brown v. Department of Education*. He was considered a moderate conservative and a political leader who saw the need to expand the rights of black Americans. During his administration, he advocated the passage of several bills that expanded and protected the rights of blacks. When *Brown* was decided by the court, he was reluctant to voice his support. He tried to stay neutral because he was aware of the derisive nature of the ruling. Eisenhower was a kind man who respected black people but he'd been born and raised in a white world. Black culture and racism had never touched him. He recognized that blacks deserved the same rights as whites, yet he also understood why white parents may not want their daughter sitting next to a large black boy in the classroom. He did nothing to counter the Court's decision but he didn't use bully pulpit to help the country accept it and adjust to the changes.

Harry Truman

President Harry Truman was an early advocate of civil rights. He wanted equality for all Americans and he always emphasized "all" Americans. He was the first U.S. president to show concern about the civil rights of blacks. He became aggressive in his quest for change in 1947. He called for Congress to outlaw poll taxes. Lynching was made a federal crime under his presidency.



Gunnar Myrdal

Gunnar Myrdal was a Nobel Laureate, sociologist and economist who believed that race relations in the U.S. were destined to be resolved in a swift manner. In his study, "An American Dilemma, 1944," Myrdal was optimistic about the chances for real change in America vis-à-vis racism. He anticipated fundamental changes in American race relations that would be positive and be in line with American ideals. Myrdal was a progressive idealist who was overly confident about America's problems with race.

Medgar Evers

An early militant activist, Medgar Evers was disheartened when he returned from serving in the military and risking his life for America to find that racial discrimination was alive and well. He recalled the time he tried to vote and was chased away by white men wielding pistols.

Herman Sweatt and George McLaurine

As a precursor to Brown, in 1950, the Supreme Court ruled in the favor of two higher education cases brought by the Fund. Herman Sweatt, a Houston mail carrier, had been rejected from Texas' all-white law school. The Supreme Court ruled that Sweatt be admitted to the University of Texas Law School. The second case involved George McLaurin who was admitted to the University of Oklahoma but had to stay in an ante-room during class and could not eat in the cafeteria. The school was ordered to cease its discriminatory practices against McLaurin. The court also concluded that racially separate schools for blacks could not be equal to white schools. Sweatt was admitted to the University of Texas but had to deal with white intimidation. A cross was burned next to his car and his tires were slashed. He became ill and flunked out. It was all very frustrating to Marshall and his colleagues. He thought of taking another direction – of giving up.

Elmer Henderson

Elmer Henderson was a black man who had sued Southern Railway for their segregated dining room facilities. Blacks were made to sit in a small area that was separated from white passengers by a curtain. If rooms ran out for whites, the blacks had to give up their area until all the white people were fed.

W.E.B. Du Bois

W.E.B. Du Bois was one of the original founders of the NAACP. When the topic of the desegregation of public schools came to the forefront of national discourse, he wrote a controversial essay entitled, "Does the Negro Need Separate Schools." Later, he



reversed his opinion and stated that it was "impossible, given racism and current conditions, for a black child to get a good education in a white school."

Mae Bertha Carter

Mae Bertha Carter recalled growing up in the 1930s on a plantation in Mississippi. She was the daughter of a sharecropper and was only allowed to go to school during winter when there were no crops to tend to. She left school after the fifth grade and it was her vow that her children would have a better life and education than she did.

Lloyd Gaines

Lloyd Gaines was a young black man who graduated from Missouri's state-supported black college in 1935. He was rejected from attending Missouri Law School blatantly denying him on the basis of race. He brought a lawsuit that wound up in the Supreme Court which found in favor of him in a 6 to 2 decision. However, Gaines was not accepted into the law school. Later, Missouri worked at establishing a law school for black students that was ill-funded and ill-equipped.

Kenneth Clark

Thurgood Marshall and the other Fund attorneys relied on psychologist Kenneth Clark to support the *Brown v. Board of Education* case before the Supreme Court. It was Clark's contention that black children were psychologically and socially damaged by segregation and made to feel inferior which had a hugely negative impact on the child for the rest of his life. Conservatives mocked these arguments and Clark's findings. Years later, out of frustration, Clark remarked that the best thing for blacks to do was to claim that they were white.

Bryant Bowles

Bryant Bowles, founder of the National Association for the Advancement of White People, got involved in the Milford, Delaware High School protests after the Supreme Court rules. His actions caused temperatures to rise and exploited the conflict. In the end, the school board caved to the protestors and stood in defiance of *Brown*. Bryant vowed that he would never allow his daughters to attend a school with "Negroes so long as there is breath in my body and gunpowder will burn."



Objects/Places

Brown v. Board of Education

Brown v. Board of Education was a landmark case that was brought before the U.S. Supreme Court in 1952. The Supreme Court delayed taking on the case until 1953 when Earl Warren was the Chief Justice. The Court combined five cases of segregation in public schools that was brought to them by the NAACP's Legal Defense and Education Fund led by founder and lead attorney Thurgood Marshall. The unanimous decision came down in May 1954 that the segregation of public schools was a violation of the 14th Amendment's guarantee of equal protection and therefore unconstitutional. Desegregation was to be enforced throughout the nation's public school systems. In Brown II, the court addressed the implementation of the ruling.

Jim Crow Laws

Jim Crow laws were established after the Civil War during Reconstruction. Jim Crow laws were predominantly found in the Deep South and were all focused on ways to segregate white people from black people including in schools, housing, public venues and on public transportation.

Poll Taxes

Poll taxes were part of Jim Crow "laws" which were fixtures in southern society for decades since their inception in the late 19th century. Black people were told or led to believe that they had to pay a tax to vote. Of course, it wasn't true. It was an effort by white leaders and politicians to keep blacks from voting. African-Americans attempting to vote were intimidated by the situation and if they doubted the veracity of "poll taxes" they were too fearful to object. Many couldn't afford to pay the taxes and, therefore, didn't vote.

Plessy v. Ferguson

Plessy v. Ferguson was a case brought before the Supreme Court in the last 19th century. The court came down with a decision that basically skirted the requirements of the 14th Amendment of the U.S. Constitution that required equal protection under the law for all. In the Plessy decision, the justices ruled that as long as schools and educational programs for black students were on a par with those for white students, they were considered equal under the law. Plessy is where the phrase, "separate but equal" originated. School systems used Plessy to keep black kids out of white schools until the Brown v. Board of Education decision in 1954.



Restrictive Housing Covenants

Prior to Brown, Thurgood Marshall filed lawsuits on a variety of discrimination cases. The courts were beginning to have a more liberal and progressive approach toward discriminatory practices and recognized the impact that segregation and racial bias had on black people and other minorities. In 1948, the court came down with a decision that found restrictive housing covenants to be unconstitutional. These private pacts between white people and real estate companies were designed by white people to keep blacks and, as they put it, other “undesirables” out of their neighborhoods.

American Creed

It was the dream of Gunnar Myrdal, Swedish economist and sociologist, that America would advance past its ugly history of discrimination and racism. He referred to that rarefied state that people would emerge as one race or the “American Creed.” In this utopia, Myrdal saw future Americans as color blind and that the nation would, as advertised, have equality and justice for all. Most critics felt that Myrdal, while well-intended, was too idealistic and unrealistic because he exaggerated the probability of rapid change. Time has proven Myrdal’s critics to have been prophetic.

“Does the Negro Need Separate Schools?”

An early black leader and icon and one of the founders of the NAACP, W. E. B. Du Bois was concerned about the consequences of fighting desegregation. He expressed those doubts in a controversial essay written in 1935 and entitled, “Does the Negro Need Separate Schools?” He believed that the focus should be on education and not on “white” schools or “black schools.” In later years, he backed off of his comments a bit by adding another dimension to his concerns. He recognized that black children could not get a good education in white schools because of the racism that existed across the nation.

14th Amendment

The 14th Amendment of the U.S. Constitution was enacted in 1868 following the Civil War. It was added to the Constitution to ensure that everyone in the nation was treated fairly and equally. It had sweeping range in that it struck down state and county laws that perpetuated discrimination, especially of black people. It was good intentions on the part of lawmakers, but it took a long time before the ruling was adopted and it probably still has a ways to go. The 14th Amendment guarantees equal protection under the law. The amendment was the crux of Brown v. Board of Education that was heard by the Court.

Footnote Eleven

When the Brown decision came down, Chief Justice Warren wrote of the psychological damage of Plessy and that segregation leads to life-long feelings of inferiority and diminishes the desire to learn. In his eleventh footnote, he cited the opinions of social scientists that supported his claims. This segment of the decision became known as Footnote Eleven and was excoriated by conservative critics who believed that the Warren court had over-emphasized the psychological and sociological citations in Footnote Eleven. It angered and antagonized advocates of segregation.

“With all deliberate speed”

If the Warren Court could take back any statement in Brown I or Brown II, it would have been the lined, “with all deliberate speed” in Brown II. Brown II was a ruling issued by the Court relative to the actual implementation of Brown I; that is, the complete eradication of segregation in public schools. The justices had always been concerned with implementation of their ruling and the political and social reaction to it. They feared, and rightly so, that there would be widespread protest and even violence. In order to soften the monumental task for states and cities to be in compliance, the court was decidedly vague in a time frame. Desegregation had to be implemented, according to the Court, “with all deliberate speed.” As one can imagine, that line was glommed onto by those who disagreed with the ruling and were determined to delay and circumvent it. In hindsight, many critics believed it would have been more beneficial for the court to have issued a date certain for final implementation.



Themes

Resistance

Some southerners who opposed Brown had a paternalistic feeling toward blacks and did not advocate the violence of racist groups like the Ku Klux Klan. Some in Birmingham were willing to spill blood in their opposition. By the 1960s, moderate whites overcame racist voices and cracked down on Jim Crow. Conservatives were in control in the South; liberals were weak and ineffective. The majority of blacks in the South lacked the vote in the 50s. Blacks were underrepresented in Congress. Much of the judiciary in the South was to emerge as defenders of desegregation. These judges faced anger and even violent reactions from whites in their communities. The Richmond News Leader ran an editorial declaring that Brown had changed nothing. Most white business owners and professional people supported the concept of white supremacy. Governor George Wallace of Alabama was fond of saying, "Segregation now! Segregation tomorrow! Segregation forever!" (110)

Brown did have influence beyond education. White southerners lost cases against segregated golf courses and public transportation with plaintiff citing Brown. In cases strictly involving schools, southern whites had the advantage. The pressures caused internal conflicts among the attorneys at the Fund which had split from the NAACP. Marshall and his team were constantly deluged with imaginative offensives from their white counterparts. Compliance was slowed by references to the "all deliberate speed" time frame.

It was estimated that more than 200 hearings on school desegregation were held in federal courts between 1955 and 1960. Progress was made but in most cases it was just token progress. Membership in the KKK grew and other white racists groups were formed. They felt they were resisting a second reconstruction. Southern U.S. senators accused the Supreme Court of judicial activism. Senator Lyndon Johnson was one of the few Southern senators who did not sign the manifesto that was circulated. Most resistance to Brown was found in state legislatures in the South. Senator Byrd of West Virginia organized an opposition movement called Massive Resistance in 1956 which advocated the closing of any school that was ordered to desegregate.

The Resistance also supported state tuition grants for white students to attend private schools. Black parents had to scramble to find a school for their children. There were laws in southern states that allowed the placement of certain children in schools over others without mentioning race. Other laws disguised discrimination with "freedom of choice" statutes. Black parents worried about violence when given the opportunity to place their children in white schools. There were small victories on both sides. And there was dissension and violence. Activist John Kasper was arrested for inciting a riot in Clinton, TN. Token desegregation was practiced in many communities. The Texas Rangers had to be called in at a protest outside Fort Worth that was turning violent. In 1961, Atlanta finally admitted some black students into high school, seven years after



Brown I. The screening process winnowed out the majority of blacks who applied. There was an exodus to the suburbs in many southern cities.

The Rise of Black Activism

Shortly after the Brown II ruling, Emmett Till, a 14-year-old black boy from Chicago, was visiting relatives in Mississippi. Not knowing the rules of the South, he allegedly bragged to others that he had sex with white women and reportedly openly flirted with a white woman in a store. The woman's husband and brother-in-law tracked Till down, and three days later Till's mangled body was found in the Tallahatchie River. He had been shot in the head and tied to a large fan that had dragged him underwater. Despite evidence and testimony, the all white male jury acquitted the men.

The Till case infuriated black leaders and compelled them to be more militant. White violence against blacks in the South surged. Although there was no direct link between Brown and Till's murder, it brought up the specter of sex and the perceived threat that sexually aggressive black men posed to white women. Speculation also circulated about the fear of "mixed blood" and the mating of black men and white women. Privately whites were worried that their children might like blacks and form relationships with them. It all combined to create reasons for non-compliance to Brown. The South remained uniformly against Brown and Brown II.

The Till murder was at least partially attributed to a reaction to Brown I and Brown II. It was considered part of the white backlash, especially in the Deep South, to the rulings. Although initially the Till case and other incidents of violent protest to the change that intransigent southerners were standing firmly against disillusioned activists supporting desegregation. Would it ever be possible to desegregate the South? How many would have to die for such compliance? As it turned out, the Till murder and other egregious incidents stirred black and liberal activists to demand more than just the desegregation of public schools. Their backlash to the white backlash in the South planted the seeds for the civil rights movement that culminated in the Civil Rights Act of 1964.

The Civil Rights Act of 1964

President Kennedy had inspired the youth of the country but he was distracted from domestic issues by foreign concerns including the Cold War and the Bay of Pigs incident. Kennedy was a moderate liberal and supported the civil rights movement. However, he didn't want to lose the support of southern Democrats and was not a loud voice for change. Black activism and protests continued at a steady pace. Urged by civil rights supporters, Kennedy introduced a civil rights bill in 1963 that would abolish all Jim Crow laws in public accommodations.

After Kennedy's assassination, President Lyndon Johnson surprised everyone with a stronger than expected support of desegregation. In 1964, he carried on where Kennedy left off and signed into law the Civil Rights Act of 1964. The bill was designed to end segregation and to banish Jim Crow practices in the South. Federal lawsuits



would be brought against violators. Blacks were inspired by the passage of the law allowing them to see some light at the end of the long tunnel they had been immobilized in for decades.

Although there was the expected resistance to the Act, passing it gave the government powerful weapons in the struggle for the desegregation of schools. Despite the fact that the Supreme Court was showing favoritism toward desegregation and its implementation, there was always the looming threat that a Supreme Court, the current one or a future court, could sabotage the progress made through federal intervention by declaring the practices and methods unconstitutional.

Progress After Brown

On the tenth anniversary of Brown in May 1964, southern schools were still segregated but there was movement and optimism that there would ultimately be compliance. Blacks were living better lives with more hope. Some declared that while the Emancipation Proclamation freed them, it was the Supreme Court that freed them mentally. Over the course of the decade-plus after Brown, justices grew old and retired from the bench.

In 1967, President Johnson pushed a reluctant Thurgood Marshall to accept a seat on the bench. After a two-month struggle for Congressional confirmation, Marshall was sworn in as the first black Supreme Court justice in September 1967. During the years that Marshall was on the bench, the liberal Court passed a ban on prayer in public schools, struck down laws against contraception, broadened rights of welfare recipients and expanded the rights of defendants in criminal trials.

Johnson had been around the block enough times to know that the Civil Rights Act would cause more heartburn especially in the South. He commented that the Democratic party had lost the Deep South for generations. There were violent outbreaks and angry protests throughout the South. Whites in the North largely supported the Act. But it was a case of NIMB or not in my backyard. They fought the integration of blacks into their neighborhoods. Northern whites were also of the opinion that blacks were now free and able to seek their own success without the intervention of the federal government.

Focus was placed on the black Americans and the devastation that was brought to them by welfare dependency, unemployment and broken families. A 1965 study linked black problems back to slavery which caused advocates to fear that the legacy of bondage had removed a natural drive to take charge of their lives. Militant black leaders rejected the theory. It all came back to better educations for black children. Reports all indicated that black children did not perform as well as white children in school. In response, activists pointed out that most schools were still segregated. Another study indicated that black children fared better in resource-rich white schools.

Racial Balance

The issue of racial balance arose in the late 1960s. Liberal officials in the federal government began to advocate for this ideal. It was a term that became one of the most controversial during the civil rights movement. Some officials were vague about the real definition of the term. However, there were three assumptions that advocates of “racial balance” held onto: all-black schools were essentially dysfunctional and ineffective; low income blacks would benefit by mixing with white students; and, finally mixing would promote racial tolerance in areas beyond education in the years to come.

In order to attain the dream of “racial balance” schools still adhering to segregation standards would be expected to have a mix of the races based on their representative numbers within the community. They were also encouraged to hire teachers using the racial balance ideology. These bureaucrats put their heads in the sand so they couldn’t see the absurdity of these requirements. The southern schools hadn’t accepted Brown yet! And they had been in violation of Brown II for literally years.

The Department of Health, Education and Welfare who held the purse strings began to pressure southern schools to double or triple the number of black children in traditionally “white” schools. School systems that were still segregated were given the deadline of fall 1969 to submit their written plans for racial balance. The southern educators were outraged but they faced the end of federal funds for non-compliance. Some success was claimed. Between 1964 and 1966 pressure from HEW saw an increase in the percentage of black students in white schools. Some scholars doubted that there was real and sustained progress.

Southern schools procrastinated and evaded as much as possible without losing funds. Blacks were assigned to white schools but the reverse, white kids to black schools, never happened, a tacit admission of the contrast in quality. While black kids attended white schools, “testing” often caused segregation within classrooms – there were black classes and white classes in many cases. Lack of federal oversight left the success of the program shrouded in uncertainty. Also in doubt was the value of federal intervention in the education of American youth.

Styles

Structure

Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy,” by James T. Patterson is separated into ten chapters that tell the story of the fight for desegregation of public schools that spurred on an accelerated civil rights movement. He begins the narrative in the decades before Brown with the egregious conditions that black students had to withstand that came to the forefront. Patterson describes the five cases that made up Brown, their circuitous route to the Supreme Court, the aftermath of the decision, white resistance especially in the Deep South and the struggles to implement the difficult transition from segregated to desegregated schools.

There is an extensive appendix that contains the key cases referenced in the book. Another appendix contains tables and figures of student populations and other data from the 1940s going forward. Patterson also includes a “Notes” sections in which he references other resources and finally a bibliography. A Preface summarizes the contents of the book’s narrative.

There are a number of photos and other graphics throughout the book. There are photos of Supreme Court justices and presidents reminding the reader the profound nature of this work.

Perspective

“*Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy,*” by James T. Patterson is written from a historic and scholarly point of view. Author Patterson is a distinguished historian and professor of history at Brown University. He is also the author of other non-fiction books of a historic nature involving America’s struggles for equality and fairness.

Patterson provides the background of Thurgood Marshall, lead attorney in *Brown v. Board of Education*, as it relates to the litigation. Seeing the rising discrimination and segregation in the nation and growing black dissatisfaction with their lot, as a member of the NAACP, Marshall helped found the Defense and Education Fund of the NAACP (or Fund) in 1940. By the time Brown came around in the early 50s, Marshall had had lots of experience with lawsuits claiming racism and discrimination. Marshall and his colleagues at Fund decided to make a real difference in the lives of black Americans by targeting five cases of segregation in public schools that ultimately were combined to become *Brown v. Board of Education*.

Patterson also gives the point of view of other key players in this historical movement including the Chief Justice as well as other justices of the Supreme Court at the time along with reluctant presidents who didn’t want to upset the apple cart and white politicians and white supremacists in the Deep South who wanted no part of the

decision. Patterson gives all sides equal time and tells an interesting story of a profound step toward equality that accelerated the civil rights movement in general.

Tone

The tone in “Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy,” by James T. Patterson is scholarly and without bias or emotion. Like a reporter, historian and author Patterson relates the facts as he found them. He describes the struggle for civil rights beginning with the Big Bang called Brown v. Board of Education. He provides the history leading up to the filing of the lawsuits that made up Brown in a cool, collected manner. He paints a vibrant picture of blatant racism and a general disinterest by whites in the lives of black people and especially black youth.

Black parents had lived under racism their entire lives. The blacks in 1940 and 1950 were becoming more and more dissatisfied with the lives they were forced to live. When black soldiers returned from risking their lives in Europe and the Pacific after World War II, it turned out to be a pivotal time for civil rights. These men woke up – they had just defended a country where they could not eat with white people or ride in the front of a bus or have their kids attend white schools that were close to home. The time was right for change.

The picture that Patterson draws with words is a compelling one. Reading it in the 21st century it’s difficult to grasp that in America the country that preaches civil rights to the rest of the world tolerated such egregious conditions for a segment of their citizenry and not all that long ago!

Quotes

The extension of civil rights today means not protection of the people against the government, but protection of the people by the government.... We just make the federal government a friendly, vigilant defender of the rights and equalities of all Americans. And again I mean all Americans.

-- President Harry Truman (Chapter 1 paragraph Page 22)

Importance: President Harry Truman was one of the first influential people to speak out about racism and acknowledging the government's role in achieving equality.

What the people of this country must realize is that the white race is a superior race, and the Negro race is an inferior race.

-- Senator Eastland (Chapter 1 paragraph Page 26)

Importance: This quote captures what activists were up against. When a U.S. senator expresses such a racist sentiment it was obvious in the early days of the fight for civil rights would not be an easy one.

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.

-- Kansas High Court (Chapter 2 paragraph Page 54)

Importance: In the Brown case brought by the Fund in Topeka, Kansas, the court's opinion stressed the psychological harm that segregation did to black children. It was a breakthrough case. No court opinion had ever referenced the hurt that segregation caused to black children. This case was to go on to be part of Brown v. Board of Education that went to the Supreme Court.

State-sponsored school segregation, therefore, had to be abandoned, replaced by a new system that guaranteed equality of education opportunity. Whether such a new system could come into being however, remained unclear as of late 1952, when the district court battles ended. The cases then went to the Supreme Court of the United States, which had the motto, "Equal Justice Under Law" inscribed under the pediment of its cold and imposing marble building in the Jim Crow city of Washington. It would be up to the High Court to decide.

-- Author (Chapter 2 paragraph Page 65)

Importance: The cases that made up Brown v. Board of Education had been exhausted through the state and district courts and were heading to the Supreme Court. A decision in favor of the complainants would mean a whole new system of education for black children and for white children. Was the country ready for it?



To separate them [black children in grade and high schools] from others of similar age and qualifications 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.

-- Chief Justice Earl Warren (Chapter 3 paragraph Page 85)

Importance: This is an excerpt from the May 17, 1954, decision handed down by the U.S. Supreme Court in *Brown v. Board of Education*. It was the heart of the decision by the justices and the most famous quote from the opinion.

I am convinced that the Supreme Court decision set back progress in the South at least fifteen years.... It's all very well to take about school integration – if you remember that you may also be talking about social disintegration.

-- President Eisenhower (Chapter 4 paragraph 99)

Importance: The above quote contains the actual words that Eisenhower privately expressed to his speechwriter. These beliefs were partly responsible for Eisenhower's reluctance to strongly endorse the decision. He felt government could not change hearts and minds.

It is evident that the decision of the Supreme Court in the school segregation cases was based on the writings and teachings of pro-communist agitators and other enemies of the American form of government.

-- Senator Eastland (Chapter 5 paragraph Page 106)

Importance: Senator Eastland of Mississippi pulled no punches. While his radical comments were not roundly supported by other white Southern leaders, the South remained adamantly against compliance with *Brown I* and *Brown II*.

Kenneth Clark, drawing on his expertise as a psychologist, emerged as an especially vehement articulator of these criticisms. *Brown II*, he complained, 'led to more rather than to less disruption.' He argued that the Court should have demanded full and rapid compliance, thereby giving opponents no time to organization opposition.

-- Author (Chapter 5 paragraph Page 129)

Importance: Kenneth Clark was the psychologist that the Fund used to building their anti-segregation cases which led to *Brown*. *Brown II* was the implementation portion of the decision. Clark and other critics felt that the board gave too general a time frame for implementation. "With all deliberate speed" was the only reference to when schools had to be in compliance with *Brown*.

As late as 1964, by which time white attitudes had become considerably more liberal, a poll of whites indicated that 64 percent favored school desegregation but that only 38 percent believed that Washington should have a role in bringing this about.

-- Author (Chapter 6 paragraph Page 134)

Importance: While white attitudes were becoming more amenable to civil rights for



blacks in 1964, the survey revealed that there was an underlying resentment by the white community about Brown and that they felt the federal government should stay out of state and local practices. Whites had yet to recognize that when left on their own, states and communities had adopted racist laws and practices and without the federal government and the Supreme Court, those laws would have probably still been in effect.

Lyndon Johnson had been prescient in May 1964 to worry that something like a 'mutiny in this goddam country,' at least in the South, would eventually occur. Running in the fall against conservative Senator Barry Goldwater of Arizona, who had defiantly voted against the Civil Rights Act, Johnson failed to carry the five Deep South states... but lost no other. White voters rejected Johnson, Arkansas, North Carolina, Tennessee and Virginia also rejected the president.

-- Author (Chapter 6 paragraph Page 193)

Importance: Being a southerner from Texas, Johnson was acutely aware of the reaction that the Deep South would have on the Civil Rights Act. Brown v. Board of Education had started the trend toward desegregation and against government-related racism. He also stated around that time that the Democrats had lost the South for generations. Today congressional representation in the South is predominantly Republican.

A host of discouraging events, notably defeat in Vietnam and Watergate, combined by 1974 to weaken once high expectations about government, especially as exemplified by the liberalism of Lyndon Johnson's Great Society of the 1960s. Many of these programs, Americans now complained, had fallen far short of the grandiose promises the Johnson and others had made for them. The much-touted 'war on poverty,' they said, had fizzled. Federal aid to public schools had been greatly oversold.... And the activism of liberal judges and bureaucrats on behalf of civil rights – policies such as busing and affirmative action – had become increasingly contest and devise.

-- Author (Chapter 8 paragraph Page 185)

Importance: The country experienced a sea of change during the 1970s. There was disillusionment in government intervention which set the stage for a conservative backlash against liberalism. Sweeping legislation and decisions like Brown were being seen as too progressive and intrusive. In a few years, this backlash resulted in the election a few years later of Ronald Reagan whose justice department fought against affirmative action and other policies that favored women and minorities.

A still bitter Kenneth Clark, when asked in 1995, 'what is the best thing for blacks to call themselves?' answered 'white.'

-- Kenneth Clark/Author (Chapter 10 paragraph Page 223)

Importance: Kenneth Clark who was the psychologist that Thurgood Marshall and the Fund depended on for evidence before the Supreme Court during Brown was bitter over the attacks on liberalism years after Brown. His quip represents his gut feelings and demonstrates that even trained psychologists are frustrated by the unfairness of racism and discrimination.



Topics for Discussion

Topic 1

What was the impact of white voices on racism in the 1940s and 1950s? What steps did President Harry Truman take in effort to see that all Americans were treated fairly and the same?

Topic 2

Describe what restrictive housing practices, Jim Crowe, gerrymandering and poll taxes were and how they impacted the black population. What early steps were taken to eradicate these unfair practices?

Topic 3

What are the five cases that combined to make up Brown v. Board of Education? Why was the complainant identified as “Brown?”

Topic 4

Who appointed Chief Justice Earl Warren to the Supreme Court and under what circumstances? What did Warren’s critics feel disqualified him for appointment? What type of jurist did Warren turn out to be?

Topic 5

What is the 14th Amendment to the U.S. Constitution, and what role did it play in Brown v. Board of Education? What was Plessy v. Ferguson and why was applied in Brown v. Board of Education?

Topic 6

What were the criticisms lodged against the Supreme Court’s Brown v. Board of Education opinion? Why wasn’t the opinion considered sweeping? What racial issues did it avoid? What was the significance of Footnote Eleven?



Topic 7

How did President Eisenhower disappoint advocates of the Brown v. Board of Education decision? What were his true feelings about desegregation? What role did government have in social change according to Eisenhower?

Topic 8

How did the murder of Emmett Till impact the Brown decision? How did the incident make the case for both pro-segregationists and anti-segregationists?

Topic 9

Describe opposition from southern states, border states and northern states to Brown I and II. How did clever southern attorneys use the court's own words against their implementation of the ruling? What were some of the specific reactions of key politicians in the Deep South to the decision and implementation?

Topic 10

Describe the obstacles that the Little Rock Nine faced when they tried to attend Central High School, the school they were enrolled in. What role did Governor Faubus play? How did President Eisenhower and, ultimately, the Supreme Court intervene?

Topic 10

What were the three points of criticisms that desegregation proponents had against the Supreme Court's reliance on its "all deliberate speed" clause in Brown II? Describe the pros and cons of gradualism and "shock therapy" as they relate to Brown II.