



Supreme Court Case Study 29

Nullifying the Separate but Equal Principle

Brown v. Board of Education of Topeka, Kansas, 1954

***** Background of the Case *****

Linda Brown, an African American teenager, applied for admission to an all-white public school in Topeka, Kansas. The board of education of Topeka refused to admit her. In a 1950 case, *Sweatt v. Painter*, the Supreme Court had for the first time questioned the constitutionality of the *Plessy* decision. The Court had held in that case that African Americans must be admitted to the previously segregated University of Texas Law School because no separate but equal facilities existed in Texas. The National Association for the Advancement of Colored People (NAACP) now saw denying admission to Linda Brown and other young African Americans as an opportunity to challenge segregation in the public schools, even though the facilities in other segregated schools for African Americans were equal to those for white students.

Brown represents a collection of four cases, all decided at one time. The cases had one common feature: African American children had been denied admission to segregated, all-white public schools. The cases reached the United States Supreme Court by way of appeals through lower courts, all of which had ruled in accordance with the 1896 *Plessy* decision.

Constitutional Issue *****

The *Brown* case called for an explicit reappraisal of the *Plessy* decision. Did separate but equal public facilities violate the equal protection clause of the Fourteenth Amendment? In the case of *Plessy v. Ferguson*, the Supreme Court had established the separate but equal principle, which allowed the continuation of segregated schools and public facilities. During the 56 years since the *Plessy* decision, however, Americans' views on segregation had changed. To many people, the very idea of segregated schools as well as other segregated public facilities seemed to be out of step with the times. In the years after World War II, the NAACP and other civil rights groups began pressing for nullification of the separate but equal idea. The justices were not immune to the changing social forces in the United States. Still, if in fact they wished to overturn *Plessy* in the *Brown* case, they faced the challenge of finding a constitutional basis for their decision.

***** The Supreme Court's Decision *****

The Court ruled unanimously to overrule the separate but equal principle. Chief Justice Earl Warren, who wrote the decision, was keenly aware that in overruling *Plessy*, an act of enormous social and political consequences, it was important for the entire Court to be in agreement. The *Brown* ruling was thus issued by a unanimous Court.

In his decision, Warren explained that since the relation of the Fourteenth Amendment to public schools was difficult to determine, the Court would "look instead to the effect of segregation itself on public education." The chief justice explained, "We must consider public education in the light of its full development and its present place in American life

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throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the law.”

The Court concluded that segregation of African American schoolchildren “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.” To bolster his claim about the huge psychological impact of segregation, Warren quoted the finding of a lower court, even though the lower court ruled against the African American children. That court had stated: “Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has the tendency to [retard] the education and mental development of Negro children and to deprive them of some of the benefits they would receive in a racially integrated school system.”

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

On this basis the Court concluded “that in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal. Therefore we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the law guaranteed by the Fourteenth Amendment. This disposition makes unnecessary any discussion whether such segregation also violates the due process clause of the Fourteenth Amendment.”

In a follow-up to the *Brown* case, in 1955 the Court ordered that the integration of the public schools was to go forward “with all deliberate speed.”



Questions

DIRECTIONS: Answer the following questions on a separate sheet of paper.

1. Why do you think the Court recognized the huge psychological impact that segregated schools had on children who attended them?
2. A constitutional scholar has called the Court’s ruling in the *Brown* case “the Supreme Court’s most important decision of the twentieth century.” Why do you think he would make this claim?
3. Do you agree or disagree with the Court’s ruling in the *Brown* case? Give reasons for your answer.
4. How do you think the Court’s *Brown* ruling was received in the South?
5. Initially all the justices may not have agreed that separate but equal schools were unconstitutional. Why then do you think they ultimately agreed with the chief justice?

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Supreme Court Case Study 51



Limitation on Affirmative Action

Regents of the University of California v. Bakke, 1978

***** Background of the Case *****

In the 1960s, many organizations established programs, called affirmative action, to improve opportunities for minorities and the disadvantaged. Objections to affirmative action arose when organizations, such as universities and colleges, set aside a certain number of places for minorities or disadvantaged persons. The question of the constitutionality of such practices came before the United States Supreme Court in the *Regents of the University of California v. Bakke* case.

In 1973 the Medical School of the University of California at Davis admitted 16 minority students through a special admissions process. This group of minority students collectively had substantially lower science grade point averages and Medical College Aptitude Test scores than those in the other group.

Alan Bakke, a white applicant, had a grade point average slightly below all the regular admission applicants, but his aptitude tests were substantially higher. When Bakke's 1973 and 1974 applications to the medical school were rejected, he sued the Regents, the university's governing board, for a place at the medical school. The California Superior Court found that the school's special admissions program violated the federal and state constitutions, Title VI, and the Civil Rights Act of 1964, but it declined to order Bakke admitted to the school, holding that Bakke had not proven that he "would have been admitted but for the existence of the special program."

Bakke appealed the decision to the California supreme court. Citing the equal protection clause of the Fourteenth Amendment, the court ordered him admitted to the medical school. The Regents then took their case to the United States Supreme Court.

Constitutional Issue *****

The Supreme Court had to resolve two questions. First, did the establishment of special admissions criteria for minority students violate the equal protection clause of the Fourteenth Amendment? Second, are racial preference considerations always unconstitutional?

***** The Supreme Court's Decision *****

The Court held that the university's special admissions program for minorities violated the equal protection clause of the Fourteenth Amendment, although Justice Powell indicated that a properly devised program might well be constitutionally valid. Justice Lewis F. Powell, Jr., wrote for each of the two different five-member lineups.

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Powell explained that it is “no longer possible to peg the guarantees of the Fourteenth Amendment to the struggle for equality of one racial minority. . . . Although many of the Framers of the Fourteenth Amendment conceived of its primary function as bridging the vast distance between members of the Negro race and the white ‘majority,’ the Amendment itself was framed in universal terms, without reference to color, ethnic origins, or condition of prior servitude.” He stated, “The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal.”

The Court refused to adopt the view that unless it could be shown that some proven constitutional or statutory violation existed, or that the government had some compelling justification in inflicting a burden on one individual in order to help another, the Court concluded, “the preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake. This the Constitution forbids.”

The University program failed this test because it “imposes disadvantages upon persons like respondent [Bakke], who bear no responsibility for whatever harm the beneficiaries of the special program are thought to have suffered.” On the other hand, a university might well use racial criteria in an effort to ensure diversity in its student body. Racial identity, however, could not be the sole criterion for admission. The University would still be free to devise an admissions program “involving the competitive consideration of race and ethnic origin” by making race one factor among others in the competition for all available places.

The Court concluded, “the fatal flaw in the petitioner’s preferential program is its disregard of individual rights as guaranteed by the Fourteenth Amendment. Such rights are not absolute. But when a State’s distribution of benefits or imposition of burdens hinges on ancestry or the color of a person’s skin, that individual is entitled to a demonstration that the challenged classification is necessary to promote a substantial state interest.”



Questions



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DIRECTIONS: Answer the following questions on a separate sheet of paper.

1. On what grounds did the Court reject the university’s affirmative action program?
2. What did the Court suggest as a way for the university to use racial criteria and not violate the Constitution?
3. Was the Court ruling a victory for Bakke? Explain.
4. If you were an African American applying for admission to the university’s medical school, would you stand a better chance for admission under the system that Bakke attacked or under the program suggested by the Court? Explain.
5. Some people complained that the Court’s ruling in the *Bakke* case marked the end of affirmative action. Do you agree with this judgment? Give reasons for your answer.