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Brown v. Board of Education at 50—Where Do We Stand?

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Most Americans would have a hard time imagining life in America before the Brown decision. The world of forced racial segregation and "separate but equal" facilities is unknown to most Americans living today, but it was the America experienced by millions of African-Americans, and we dare not let this anniversary pass without moral reflection.

The particulars of the Brown v. Board of Education decision brings the issue into clearer focus. The case emerged first from Topeka, Kansas and its local school district. In the early years of the 1950s, Linda Brown was a little girl living in Topeka and attending the all-black Monroe School. With her sister Terry Lynn, Linda Brown had to walk through the Rock Island Railroad Switchyard every day, just in order to reach the bus stop for a ride to her segregated elementary school.

The all-white Sumner School was closer to the Brown home, but Linda Brown's application to attend that school was denied by the Board of Education of Topeka because she was black. A Kansas statute permitted local school districts to maintain separate facilities for black and white students, and the Topeka district chose to do so at the elementary level. When Linda Brown was denied admission to the Sumner school, her case was taken up by the National Association for the Advancement of Colored People [NAACP] and its lead attorney, Thurgood Marshall.

Before the Brown decision was handed down in 1954, the law of the land had been set down by the 1896 Supreme Court case, Plessy v. Ferguson. In that case, a black man named Homer Plessy had appealed a Louisiana law that required railroad companies to provide equal, but separate, accommodations for black and white Americans. Plessy argued that the law violated the Fourteenth Amendment of the United States Constitution which stipulates that states must insure "equal protection of the laws" for all citizens. At that time, however, the Supreme Court ruled that in so far as segregated facilities were qualitatively equal, forced segregation did not violate the Fourteenth Amendment. As the court's decision infamously stated: "If one race be inferior to the other socially, the constitution of the United States cannot put them on the same plane." Segregation, they argued, was a matter of social inequality, not of unconstitutional prejudice before the law.

Thurgood Marshall and his colleagues at the NAACP had been looking for cases that could break the segregation barrier when brought to the nation's highest court. By the time the Brown v. Board of Education case had been decided, legal challenges had been combined from the states of Kansas, South Carolina, Virginia, and Delaware. As the court was to declare, the cases "are premised on different facts and different local conditions, but a common legal question justifies their consideration together in this consolidated opinion."

Oral arguments for the case were actually delivered twice, with Thurgood Marshall representing the plaintiffs in the second round of arguments. In the end, the court accepted Marshall's arguments and its unanimous decision still

reverberates through the nation's courts—and its conscience.

The court found that forced racial segregation was inherently unconstitutional with regard to public facilities and public education. “Segregation of white and Negro children in the public schools of a State solely on the basis of race, pursuant to state laws permitting or requiring such segregation denies to Negro children the equal protection of the laws guaranteed Fourteenth Amendment—even though the physical facilities and other ‘tangible’ factors of white and Negro schools may be equal.”

Chief Justice Earl Warren delivered the opinion of the court. Referring to the combined cases from four states, the Chief Justice set the issue clearly: “In each of the cases, minors of the Negro case through their legal representatives seek the aid of the courts in obtaining admission to the public schools of their community on a non segregated basis. In each instance they had been denied admission to schools attended by white children under laws requiring or permitting segregation according to race. This segregation was alleged to deprive the plaintiffs of the equal protection of the laws under the Fourteenth Amendment.”

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

Framing the issue in that way, the court had already signaled the direction of its decision. In the end, the question was decided in terms all could understand. “We come then to the questions presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other ‘tangible’ factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.”

The case became a legal landmark. Thurgood Marshall would later serve as a federal appeals court judge, Solicitor General of the United States, and eventually sit as an associate justice of the United States Supreme Court. Linda Brown would eventually graduate from the Topeka Public Schools and then go on to study at Washburn University. She would later teach in a Head Start preschool program in the school district she had once taken to court.

The *Brown v. Board of Education* decision, though specifically targeted at segregated schools, would eventually lead to the desegregation of other institutions and facilities as well. The days of separate black and white water fountains, lunch counters, and restrooms would be gone, but the vexing issues of race would continue to trouble the nation.

The true historical significance of the *Brown v. Board of Education* decision is notoriously difficult to measure. In the most basic sense, the question is clarified when it is reversed. What would have happened if the decision had gone the other way? How would America lived up to its own ideals if it had accepted “separate but equal” as the national ideal? Can we even imagine an America in which drinking fountains and classrooms are designated by race or ethnicity?

At the same time, the legacy of *Brown* points to the limitations inherent in the political and legal process. Under the leadership of Chief Justice Earl Warren, the Supreme Court entered a period of radical experimentation and social engineering. The federal courts followed the *Brown* decision with the imposition of forced busing—a judicially-imposed experiment that nearly tore the nation apart and inflicted grave injury on neighborhoods, communities, and families.

From the right, economist Thomas Sowell argues that the *Brown* decision “set a pattern of judicial activism that has put American law in disarray on all sorts of issues that extend far beyond racial cases.” From the left, Pulitzer Prize-winning historian David Garrow celebrates *Brown* as the forerunner of later decisions including *Roe v. Wade*, legalizing abortion, and *Lawrence v. Texas*, striking down laws against homosexual acts. *Brown*, he asserts, “launched a 50-year phase in which the U.S. Supreme Court has ordered revolutionary changes in many other aspects of life.” Once the federal courts had tasted this kind of political power, judges grew accustomed to legislating from the bench. Subsequent years have taught difficult lessons about the dangers of judicial activism, utopian social policies, and social engineering.

The legacy of racial discrimination still troubles the American conscience. The fiftieth anniversary of the Brown v. Board of Education decision is a good and healthy opportunity for Americans to look themselves in the mirror and to contemplate what remains to be done in realizing the American dream.

America is a very different nation fifty years after the Brown decision. African-Americans no longer represent the nation's largest minority group. As of the 2000 census, Hispanics now outnumber African-Americans in the population. Today, race and ethnicity are issues of even greater complexity than the Brown decision took into account.

This anniversary should prompt a process of national reflection. Christians must recognize that we are called to a far higher standard than that required by the United States Supreme Court. We also understand the basic importance of family and church in the larger context of neighborhoods and communities. We must learn to value racial and ethnic differences, cherish the institutions that bind communities together, and hold each other accountable to the richness of the American dream. Beyond that, we must acknowledge that the law—any system of law—can go only so far. In the end, this matter can be resolved only in the human heart.

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