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Original Intent:  
*Brown vs. Board of Education*, White Backlash, & the Enduring Power  
of De Facto Segregation

By

Aaron Brand

Submitted in partial fulfillment  
of the requirements for the degree of  
Master of Arts in History, Hunter College,  
The City University of New York

2021

12/10/2021

Date

Professor D'Weston Haywood

Thesis Sponsor

12/10/2021

Date

Professor Jonathan Rosenberg

Second Reader

**Dedication**

To my dad, Walter Brand, who would be so proud.

## **Acknowledgements**

I would like to give my utmost gratitude to my professors at Hunter College, namely Professor D'Weston Haywood, Professor Jonathan Rosenberg, and Professor Benjamin Hett, who piqued my interest in their domains of expertise, and who motivated my own historical inquiry. I would also like to thank my cohort of peers for their support and grounding levity throughout my time in the graduate program, Jason Tom, Harvey A. Sniffen III, and Michael Frank. Most importantly, none of this could be possible without the love and everlasting support of my mom and sister, and especially my wife for pushing me to reach the finish line.

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## **Abstract**

This thesis examines the factors and outcomes surrounding *Brown v. Board of Education of 1954*. The events that predated it and the resistance that followed determined the chain of consequences from this perceived victory over racial bias. The calculated and persistent backlash against integration obscured Brown's intent of educational opportunity.

## **Keywords**

*Brown v Board of Education (Brown)*, Massive Resistance, *Plessy v. Ferguson*, segregation, desegregation, integration, *de jure* segregation, *de facto* segregation, Little Rock Crisis, Little Rock nine, Backlash Thesis

## **Preface**

On May 17, 1954, the Supreme Court handed down *Brown v. Board of Education*, one of the most groundbreaking decisions in American history. The Court voted unanimously to declare segregation of children in public schools unconstitutional. In his brief, yet unwavering opinion, Chief Justice Earl Warren wrote, “Segregation of white and Negro children in public schools solely on the basis of race... deprives children of the minority group of equal opportunities.”<sup>1</sup> *Brown* meant African American communities could integrate public schools and access ample community, state, and federal funding and resources. Access to a good education was one crucial pathway for the children of many African American families to work their way out of cycles of poverty and a low social status. Simply put, better education meant more opportunity, it was thought, forming the crux of *Brown*.

*Brown* would challenge nearly every facet of life in the country because it centered the topic of race relations at the forefront of the public mind, and brought the Black freedom struggle close to home for many White Americans. Indeed, these developments were inextricably linked. The day after *Brown* was ruled, *The Washington Post* emphasized the importance of educational opportunity and what the ruling meant, at least at first. It stated,

Segregation is a hangover from slavery, and its ugliest manifestation has been in the schools. Rooted in a denial of human equality, it has always been, like the evil institution that spawned it, a blight upon American life. Its effect was divisive. It separated Americans into superior and inferior races, and by subordinating one to the other gave the fiction a semblance of reality. Now, at last, the equality of opportunity which is a fundamental premise of the American society is to become a fact in regard to education -- which is, after all, the key to opportunity.<sup>2</sup>

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<sup>1</sup> *Brown et al. v. Board of Education of Topeka et al.*, 347 U.S. 483 (1954). The opinion of the *Brown* case written by Supreme Court Justice Earl Warren would, in the succeeding decades, become the focal point of specific language that was interpreted in many different ways -- inciting critical debate in the world of education and how states would carry out desegregation.

<sup>2</sup> Abby Phillip, “How the Washington Post covered the *Brown v. Board of Education* in 1954,” *The Washington Post*, May 16, 2014, accessed July 25, 2021. <https://www.washingtonpost.com/news/post-nation/wp/2014/05/16/how-the-washington-post-covered-brown-v-board-of-education-in-1954/>.

Overt discriminatory policies and actions against Black people since the end of the Civil War promoted the false notion that African Americans were incapable of intellectual equality with White people. More than anything, *Brown* would turn this on its head.

Opportunity for education was the cornerstone undergirding the Supreme Court's ruling in favor of the plaintiff. Justice Warren cited the importance of education as the primary pathway for young children to succeed later in life. He explained,

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... [I]t is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.<sup>3</sup>

Breaking the color barrier in education was immediately regarded as a triumph of diversity and racial democracy. Black people celebrated the recognition that their education was valued, and many liberal White leaders used it to tout the greatness of American equality. Why then, in the many decades that followed such an historical and racially significant moment, do historians debate the lasting impact that *Brown* had?

This thesis will explore critical events and ideas that led up to, as well as resulted from, the *Brown* decision. The aftermath of *Brown*, from the local to the federal level, stole attention away from the original intention of equal opportunity -- the very meaning of *Brown*.

Consequently, the broader aftermath of *Brown* became the focal point of the ongoing legacy of the case. The consequences that stemmed from *Brown* prolonged the goal of achieving integration and equal educational opportunities. Instead of uniting the country under a shared

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<sup>3</sup> *Brown v. Board of Education*, 347 U.S. 483 (1954).

common interest in education and equality, the *Brown* decision exacerbated divisions in the country, which ultimately resulted in profoundly negative outcomes, which over many decades, hindered the social, racial, and educational standing of African Americans across the United States.

Looking back, historians, legal scholars, and activists have continually reexamined the ramifications of *Brown*, and in doing so, have been forced to reconsider the kind of effect it had, not only on education, but also on racial equality in the United States. Many question the significance of *Brown*, and ask whether it caused more harm than good. While it is clear that there have been both positives and negatives that flowed from the *Brown* decision, certain outcomes were more detrimental than anticipated. For a ruling that should have marked a decisive step forward for African American rights and equality, it instead exposed the glaring racism that would manifest into massive resistance.

*Brown* should not be considered a landmark moment because its overall impact on Civil Rights and educational equality was minimal. But this was no accident. For what *Brown* stands for in theory, and for a ruling that could have changed the foundational structure and goals of the American educational system and everything that that system touches, *Brown* failed to achieve much of what it was intended to do because of fierce and calculated resistance.

## **Introduction**

Constructed in the aftermath of *Brown* was a wall of white resistance that formed a massive backlash. This resistance was advanced by politicians and everyday citizens determined to thwart any seeming victory that *Brown* ensured for African Americans. Their efforts distorted the intention meant to be the fundamental goal of *Brown* -- the goal of better education. Contrary to the belief that African Americans would benefit simply by sharing the same spaces as White people, Black people wanted to have a semblance of ownership over the education their children would receive. More than fifty years later, Cheryl Brown Henderson, daughter of the eponymous Oliver Brown, claimed that the original intention of the *Brown* ruling was opportunity. She asserted, "Education is the most important function of government, and without it, a child cannot expect to succeed. *Brown v. Board* was never just about sitting next to white children -- it was about sharing the same resources they had access to. Education was the down payment on freedom. Education is the down payment on opportunity."<sup>4</sup> But fervent opposition to *Brown* obscured the central point of educational opportunity.

This paper will analyze a number of legal texts and their evaluations of the backlash, as well as the social consequences and legacy of the *Brown* decision. Though historians often point to the *Brown* case as a springboard to the Civil Rights Movement and a catalyst for the general expansion of educational opportunities, it has more so reflected the nation's difficulties in dismantling systemic racism and discrimination. What ensued in the post-*Brown* era was a continued struggle for educational equality that undermined the original intent of the ruling amid

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<sup>4</sup> Joseph Serwach, "Brown Sisters Explore Half-Century of Desegregation," The University Record Online, University of Michigan, accessed August 1, 2021. [https://www.ur.umich.edu/0304/Jan19\\_04/06.shtml](https://www.ur.umich.edu/0304/Jan19_04/06.shtml).

a sweeping undercurrent of resistance to racial equality in public schools and in society more broadly.<sup>5</sup>

Chapter one addresses how World War II and the Cold War influenced civil rights activists and how the government came to view race relations as part of the national agenda. As America emerged from World War II, issues of race moved to the forefront. The implications of the Cold War bore significant weight in the *Brown* ruling as well. The convergent dilemmas of national security and racial equality coalesced between the two agendas. Chapter two briefly identifies the constitutional interpretation of the fourteenth amendment as it related to the 1896 Supreme Court ruling in *Plessy v. Ferguson*, which declared segregation legal. In order for the court to overturn the segregationist policy, both a major Supreme Court ruling and the Constitution would need to be redefined. Chapter three follows the immediate and extreme response to *Brown*, known as, “massive resistance.” This reaction to *Brown* set into motion an oppositional movement of white resistance that fought staunchly against integration. From deliberate delays, to local and state legislative obstructions, to targeted and extreme racial violence, there emerged myriad ways in which mostly Southern districts combatted African Americans’ efforts to gain entry into White schools. The Little Rock crisis in 1957 exemplified how far to the resistance would go to deter integration. Chapter four traces the binary between *de jure* and *de facto* segregation. *De jure* segregation denoted the discriminatory laws, largely found in the South, that intentionally separated races under *Plessy v. Ferguson*. *De facto* segregation is distinguished from *de jure* segregation because it emanated, for example, from “the innocuous

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<sup>5</sup> Sonja Ramsey, “The Troubled Legacy of American Education after the Brown Decision,” *Organization of American Historians*, accessed July 22, 2021. <https://www.oah.org/tah/issues/2017/february/the-troubled-history-of-american-education-after-the-brown-decision/>.

result of free-market forces” that led to the unintentional separation of races by neighborhood.<sup>6</sup> Veiled as an accidental racial imbalance, school districts in places like the North could avoid the stigma of outright racial bias exhibited in the South.<sup>7</sup> Yet, *de facto* segregation reflected the largely unspoken rules and customs of a Jim Crow regime that was not regional but national in character. Despite their extra-legal nature, these rules and customs were still enforced by the state, private entities, and institutions. The difference in these forms of segregation would undermine the execution of *Brown*. *De jure* segregation could be reversed by positive law, but *de facto* segregation helped maintain the structures of segregation while simultaneously helping absolve segregationist politicians and communities. This perpetuated a subtler expression of racism that persisted in school communities throughout the country, and helps preserve racial inequality in schools to this day. The Epilogue will show that while undoubtedly positive in nature and intention, *Brown v. Board* ultimately led to outcomes that backfired and reverberated since -- not only in the world of education, but also within the ongoing Black freedom struggle, representing a pivotal example of how the movement took one step forward with *Brown*, and yet, two steps back.

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<sup>6</sup> Michael R. Glass, “From Sword to Shield to Myth: Facing the Facts of De Facto School Segregation,” *Journal of Urban History* 44, no. 6 (2016): 1197-1226.

<sup>7</sup> Robert L. Carter, “De Facto School Segregation: An Examination of the Legal and Constitutional Questions Presented,” *Case Western Reserve Law Review* 16, no. 3 (1965): 502-31.

## Where War and Civil Rights Meet

During World War II, the country experienced major changes abroad and at home. The United States became the center of the global stage, a stage upon which African Americans could leverage their fight to advance racial equality. The fight for democracy abroad intensified their fight for equal freedoms at home. This position was magnified during the Cold War. For the U.S. government, *Brown* was the perfect high-profile event to help advertise American democracy to the world. This backdoor incentive to promote equality for Black people can be seen more as a way to promote U.S. foreign policy interests, rather than to help advance the cause of racial justice in the U.S.<sup>8</sup> As a result though, the U.S. was not as dedicated to carrying out desegregation after *Brown*.

For Black people, the eruption of World War II meant that U.S. involvement in a war against totalitarianism would aid African Americans' fight against oppression at home. Civil Rights leaders launched the "Double V" campaign, which stood for two victories, victory against fascism overseas and victory against racism in the U.S.<sup>9</sup> The National Association for the Advancement of Colored People (NAACP) and the 1941 March on Washington Movement declared that in order for all peoples of America to be loyal to their country they would need their rights secured. Statements by Arthur Spingarn, legal counsel of the NAACP, reflected the deep links between the fight for civil rights and the fight against fascism when he invoked the language of Woodrow Wilson, declaring, "We cannot make the world safe for democracy until we first make democracy safe in America."<sup>10</sup> The U.S. could no longer claim total victory until

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<sup>8</sup> Mary L. Dudziak, *Cold War Civil Rights: The Relationship Between Civil Rights and Foreign Affairs in the Truman Administration* (Princeton: Princeton University Press, 2000), 12-15.

<sup>9</sup> Ronald T. Takaki, *Double Victory: A Multicultural History of America in World War II* (Boston: Little, Brown and Company, 2001), 4.

<sup>10</sup> Jonathan Rosenberg, *How Far the Promised Land?: World Affairs and the American Civil Rights Movement from the First World War to Vietnam* (Princeton: Princeton University Press, 2006), 134.

certain measures were made on the homefront to spread equality and democracy throughout the entire country.

African American activists bolstered their argument by mobilizing around the notions expressed by the government itself. As historian Ronald Takaki has noted, “The fervent defense of freedom was accompanied by a hypocritical disregard for our nation’s declaration that ‘all men are created equal.’”<sup>11</sup> When the Black scholar and activist, W. E. B. DuBois, referred to World War II as the “War for Racial Equality,” he also shined a spotlight on American duplicity to the international community, which would end up tying the hands of U.S. governmental officials.<sup>12</sup> Black activists reasoned that if the ideals for which the U.S. fought in World War II could indeed be transformed to shift the focus onto racial equality, then a “Double Victory” could actually be achieved.

What made this argument even more compelling for African Americans was that they were fighting on the premise of defending democracy. Yet, while fighting abroad, Black soldiers were forced to fight in segregated military units. For many Black activists, questions emerged about how African Americans could commit to making the ultimate sacrifice for a country that treated them as second-class citizens at home *and* abroad, during peace *and* war. As Takaki notes, Dorie Miller, a Black soldier in the U.S. Navy, remarked, “The Negro people for a long time have wondered what kind of war for democracy it is that must be fought by a Jim Crow navy.”<sup>13</sup> Segregation in the army directly mirrored Jim Crow segregation in the U.S. The clear double standard compromised the democratic values the U.S. exalted on the world stage.

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<sup>11</sup> Takaki, *Double Victory*, 5.

<sup>12</sup> *Ibid*, 7.

<sup>13</sup> *Ibid*, 19.

The linkages that were made between WWII and race relations would be critical for Black activists, but also for U.S. policy on the international stage. Eighteen years after the *Brown* decision, Chief Justice Warren reflected on why WWII was crucial to the path for the eventual ruling on *Brown*. He commented,

The reversal of race relation policies in the United States was fostered primarily by the presence of World War II itself. First, the primary enemy of the Allies, Nazi Germany, was perhaps the most conspicuously and brutally racist nation in the history of the world... The segregation and extermination of non-Aryans in Hitler's Germany were shocking for Americans, but they also served as a troublesome analogy. While proclaiming themselves inexorably opposed to Hitler's practices, many Americans were tolerating the segregation and humiliation of nonwhites within their own borders. The contradiction between the egalitarian rhetoric employed against the Nazis and the presence of racial segregation in America was a painful one.<sup>14</sup>

Even as Civil Rights leaders were utilizing World War II to bolster their own rhetoric, the U.S. government began to believe that progress on civil rights for African Americans could benefit the country's new-found international role. The vacuum left in Europe at the end of World War II ushered in a new international conflict with the Soviet Union, but the same questions about the meaning of American freedom *vis-a-vis* Black people remained. In "Brown as a Cold War Case," Mary L. Dudziak articulates the growing interconnectedness between the progress in race relations and the national incentives brought on by the Cold War.<sup>15</sup> In a series of *amicus curiae* briefings just before *Brown*, the U.S. government insisted on its participation on such matters because segregation was harmful to foreign affairs. The U.S. argued,

[T]he existence of discrimination against minority groups has an adverse effect upon our relations with other countries. Racial discrimination furnishes grist for the Communist propaganda mills, and it raises doubts even among friendly nations as to the intensity of our devotion to the democratic faith.<sup>16</sup>

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<sup>14</sup> "Brown v. Board of Education in International Context Centre for Human Rights. University of Pretoria, South Africa, February 7, 2006. Ruth Bader Ginsburg Associate Justice Supreme Court of the United States," Supreme Court of the United States, accessed August 4, 2021.

[https://www.supremecourt.gov/publicinfo/speeches/viewsspeech/sp\\_02-07a-06](https://www.supremecourt.gov/publicinfo/speeches/viewsspeech/sp_02-07a-06).

<sup>15</sup> Mary L. Dudziak, "Brown as a Cold War Case," *Journal of American History* 91, no. 1 (2004): 32–42.

<sup>16</sup> *Ibid*, 34.

If Cold War objectives were being compromised due to racial problems, then it is conceivable to believe that the U.S. would intervene for the benefit of its own international agenda. Dudziak credits legal scholar Derrick A. Bell Jr. with the notion that civil rights reform was not advanced to achieve rights for all; rather, it was advanced based on the “self-interest and limited commitment” of the government -- a reality that would be exploited by opponents of *Brown*.<sup>17</sup>

While the U.S. government was promoting its brand of democracy to the world, increasing concerns emerged among power-brokers that the race problem at home would impact the way the country was perceived overseas. Once again, this gave Black activists the platform to leverage American rhetoric into advancements for racial equality. By this time, the U.S. was willing to meet some of the demands of Civil Rights leaders because political officials “worried about the impact of race discrimination on U.S. prestige abroad,” and as a result, “civil rights reform came to be seen as crucial to U.S. foreign policy.”<sup>18</sup> Though it could be argued that civil rights reforms took hold based purely on the recognition that democratic rights belonged to all citizens, Dudziak states that Cold War pressures for the U.S. to uphold its sense of international prestige was, in part, why civil rights advancements were made. The U.S. needed to demonstrate to the world that it could integrate African Americans into its democracy in order to legitimize the image as the beacon of democracy it claimed before the world.

Because it was in the best interest of the United States to further its credibility as it related to the Cold War, the advancement of civil rights took priority. Thus, the major breakthrough came in 1954 with the *Brown* decision. Had the Supreme Court justices sided with the Board of Education, then the U. S. would surely have been discredited as the champion of

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<sup>17</sup> Ibid, 34.

<sup>18</sup> Dudziak, *Cold War Civil Rights*, 6. Dudziak has led the breakthrough in tying together these two eras.

democracy in the eyes of the world. This ruling foregrounded the deep linkages made between Cold War objectives and civil rights interests.

Dudziak asserts that while members of the court were expected to be impartial, they were shaped by the Cold War environment in which they were living. They were inclined to make decisions based on an outcome that might benefit the United States regarding its reputation and sense of security, both overseas and at home. “Within [the justices’] world, national security was at risk, and national security would be enhanced by racial equality.”<sup>19</sup> Indeed, it was easy to cover up racial oppression by eliminating segregation, and because *Brown* involved children, it also appealed to the hearts and minds of those it concerned. The decision in *Brown* became the premier example of the democracy that existed in the United States. It offered proof that democratic processes allowed America to resolve its problems through social change.<sup>20</sup>

Legal scholar Derrick A. Bell has written what he believed Warren’s opinion should have addressed. Bell acknowledged that assessing the case from a strictly domestic perspective elevates the role the U.S. government played in seeking progressive social change. But more broadly, *Brown* was the product of converging and mutually beneficial developments abroad and at home.<sup>21</sup> According to Bell, one of the major components of racial segregation that the court failed to address was that “[n]egro rights are recognized and protected for only so long as they advance the nation’s interests.”<sup>22</sup> He drew from then Secretary of State Dean Acheson, who addressed the court at the time just before *Brown* was decided. Acheson declared,

[D]uring the past six years, the damage to our foreign relations attributable to [race discrimination] has become progressively greater. The United States is under constant

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<sup>19</sup> Ibid, 104.

<sup>20</sup> Dudziak, *Cold War Civil Rights*, 104.

<sup>21</sup> Dudziak, “Brown as a Cold War Case,” 40

<sup>22</sup> Derrick A. Bell, “Derrick A. Bell (dissenting),” *What Brown V. Board of Education Should Have Said: The Nation's Top Legal Experts Rewrite America's Landmark Civil Rights Decision*, ed. Jack Balkin (New York University Press, 2001), 187.

attack in the foreign press, over the foreign radio, and in such international bodies as the United Nations because of various practices of discrimination against minority groups in this country... [s]chool segregation, in particular, has been singled out for hostile foreign comment in the United Nations and elsewhere... [R]acial discrimination in the United States remains a source of constant embarrassment to this government in the day-to-day conduct of its foreign relations; and it jeopardizes the effective maintenance of our moral leadership of the free and democratic nations of the world.<sup>23</sup>

This plea explicitly demonstrated how central race relations were to U. S. foreign affairs.

Subsequently, *Brown* was only relevant as it pertained to global affairs, and not necessarily to the rights of African Americans. The *Brown* decision effectively provided a symbolic victory for the Civil Rights movement, while at the same time refurbishing America's reputation in the eyes of other nations. So long as it was beneficial for foreign relations, progress on race relations could be pursued.

If Dudziak and Bell are correct in their assessments of these international factors, then one might raise questions concerning the legitimacy and intention of *Brown*. If *Brown* was won as a result of Cold War objectives, then how might that have affected the ways the new law was enforced? Did it open pathways for forms of resistance? Was the U.S. government invested in the decision, or was it simply a means of covering up a bad public and international image? Additionally, if historians are to believe that war and foreign policy affected the outcome of *Brown*, then it can be discerned that the intention of the ruling was, in some ways, disingenuous. Without an earnest federal agenda to root out racial inequality, resistance to the decision could take place in myriad forms. The Supreme Court alone could not have possibly enforced desegregation because it lacked the constitutional power. A genuine commitment to

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<sup>23</sup> Ibid, 195.

desegregation would have helped to topple the longstanding legal and social power that Jim Crow held.<sup>24</sup>

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<sup>24</sup> John Rosales, “Fulfilling the Promise of Brown v. Board: From School and Housing Policies to the Courts,” NEA News, May 10, 2019, accessed August 5, 2021. <https://www.nea.org/advocating-for-change/new-from-nea/fulfilling-promise-brown-v-board-school-and-housing-policies>.

## **Plessy v Ferguson Redefined**

Beyond the existential crisis the U.S. confronted during WWII and the Cold War, it also had to clear the hurdle of re-interpreting the Constitution itself. In order to rule in favor of desegregation, the Supreme Court would have to challenge a cornerstone decision that had guided the country for nearly sixty years: *Plessy v. Ferguson*. In 1896, the Supreme Court upheld segregation, declaring that “equal, but separate” accommodations were legal under the fourteenth amendment’s “equal protection” clause.<sup>25</sup> Before *Brown*, many viewed public school education as a sector of public life that state governments did not need to provide equally for minority groups.

The interpretation of *Plessy v. Ferguson* was central to the *Brown* case because it would need to be overturned in order to achieve *Brown*’s goals, as well as America’s Cold War concerns. Chief Justice Warren held that *Plessy* was an outdated judgment and should be interpreted by the standard of the current day:

The question presented in these cases must be determined, not on the basis of conditions existing when the Fourteenth Amendment was adopted, but in the light of the full development of public education and its present place in American life throughout the Nation” and that “[t]he ‘separate but equal’ doctrine adopted in *Plessy v. Ferguson*... has no place in the field of public education.<sup>26</sup>

At a time when the Civil Rights movement was gaining significant momentum amid the heightening pressures of the Cold War, *Brown* came at a pivotal moment in the country’s history. No longer could the plight of African American communities be ignored, for the world was watching. Southern politicians, however, disagreed with the Supreme Court’s new interpretation of *Plessy* and held fast to the old one. They took it upon themselves to help form a united front,

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<sup>25</sup> Supreme Court Of The United States. U.S. Reports: *Plessy v. Ferguson*, 163 U.S. 537. 1895. Periodical, accessed August 10, 2021. <https://www.loc.gov/item/usrep163537/>.

<sup>26</sup> *Brown v. Board of Education*, 347 U.S. 483 (1954).

buoyed by individual citizens who were prepared to organize and deploy violence to preserve segregation in the wake of *Brown*. What followed was massive resistance. On the one hand, *Brown* meant that African Americans would now have equal protection under the law, and should no longer fear that they were the target of segregationist policies in public schools. On the other hand, a critical question remained: what would happen if state authorities refused to enforce the new law of the land? Indeed, because systemic racism was not dealt with at its root, African Americans would continue to face intense racism, discrimination, and even violence, in spite of the new ruling. And massive resistance made this clear. In fact, it helped ignite a constitutional crisis.

## “Massive Resistance”

Massive resistance on the part of various Southern states, Southern politicians, and White activists ensured that efforts to deny school integration proceeded on a grand scale and in near uniformity. On May 18, 1954, newspaper headlines around the South cried out against the ruling.

The *Charleston News and Courier* in South Carolina expressed its concern over states’ rights,

In depriving the states of the right to administer public schools according to their own regional customs, the Supreme Court has cut deep into the sinews of the Republic... the court decision drove another nail into the coffin of states’ rights... In most parts of the South, whites and Negroes live in harmony. We do not look for rupture of this harmony as a result of the court’s decision.<sup>27</sup>

In Charlottesville, Virginia, the *Cavalier Daily* voiced concern about the impact of segregation and the toll it would take on the way of life to which Virginians had become accustomed. “It is too early to tell what effect the Supreme Court decision to abolish segregated schools will have on the South.... we feel that the people of the South are justified in their bitterness concerning this decision. To many people, this decision is contrary to a way of life and violates the way in which they have thought since 1619.”<sup>28</sup> *The Atlanta Constitution* assured that no immediate action to integrate schools would take place. It declared that the “Supreme Court has given us time” and the “decision does not mean that Negro and white children will go to school together this fall.”<sup>29</sup> Perhaps no other rebuke was more overtly racist than that of the *Daily News* of Starkville, Mississippi, which anticipated a staunch and violent reaction from its citizens:

Human blood may stain Southern soil in many places because of this decision but the dark red stains of that blood will be on the marble steps of the United States Supreme Court building. White and Negro children in the same schools will lead to miscegenation.

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<sup>27</sup> “Brown Reactions: Editorials,” PBS Learning Media, August 24, 2021, accessed August 12, 2021. <https://ny.pbslearningmedia.org/resource/osi04.soc.us.h.civil.editorial/ibrowni-reactions-editorials/>.

This is the first of a series of four excerpted quotations pulled from an aggregated compilation of newspaper editorials written on May 18, 1954, the day after the *Brown* decision. The collection of primary source documents captures the wide range of opinions about the ruling from that day.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

Miscegenation leads to mixed marriages and mixed marriages lead to the mongrelization of the human race.<sup>30</sup>

These four examples represent what became the four main pillars of massive resistance to *Brown*: states' rights, community backlash, deliberately delayed integration, and racial violence. While it was generally understood that there would be some fallout from the ruling, the Supreme Court overestimated the power of federal law to achieve social change and underestimated the pervasiveness of racism that came in both overt and subtle forms.<sup>31</sup> Though schools from border states and in the peripheral south were beginning to adhere to integrationist policy, such as in Kentucky, Oklahoma, Texas, and Arkansas, massive resistance in the South took hold and spread as a damning representation of the racism the U.S. still bore.<sup>32</sup>

With such a clear and firm public rejection of *Brown*, neither branch of the federal government was willing to take the political risk of supporting the new law. Southern states maintained the belief in the decision outlined in *Plessy v. Ferguson*, despite *Brown*. Additionally, some Southern state governments resisted integration by claiming that the decision did not outline a specific plan for integration, nor did it give a time frame to do so.

The Supreme Court issued a follow-up ruling, dubbed *Brown II*. On May 31, 1955, in the hopes of setting a standard for compliance, Justice Warren declared that schools were required to

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<sup>30</sup> Ibid.

<sup>31</sup> Bell, "Derrick A. Bell (dissenting)," 185-200.

<sup>32</sup> Michael J. Klarman, "How Brown Changed Race Relations: The Backlash Thesis," *The Journal of American History* 81, no. 1 (1994): 81-118.

submit desegregation proposals “with all deliberate speed.”<sup>33</sup> The language of *Brown II* was so vague, however, that it only bolstered Southern determination to defy the order.<sup>34</sup>

This ambiguous language ironically emboldened continued resistance, thus allowing southern states to respond with all deliberate delay. In *The Southern Manifesto: Massive Resistance and the Fight to Preserve Segregation*, John Kyle Day argues that the vague language of *Brown II* “allowed the white South to dictate the interpretation of *Brown II*, setting the slothfully circumspect timetable for the implementation of public school desegregation.”<sup>35</sup> The members of the Southern Congressional District banded together to form a united response, claiming *Brown* was decided in contradiction to the Constitution and that it stripped the rights of states to oversee school districts independently from federal involvement.<sup>36</sup> As a result, lawmakers from seven Southern states coalesced and issued *The Southern Manifesto* in 1956.

Most members of the Southern Congressional District wanted to claim credit for writing the document.<sup>37</sup> The manifesto vehemently accused the Supreme Court of exercising power above the Constitution. Shockingly, the document warned that the effect *Brown* would have on communities would be the destruction of “amicable relations between the white and Negro races,” and that it had “planted hatred and suspicion where there has been heretofore friendship

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<sup>33</sup> Judgment, *Brown v. Board of Education*; 5/31/1955; Case File for *Brown et al. v. Board of Education of Topeka et al.*; Appellate Jurisdiction Case Files, 1792 - 2010; Records of the Supreme Court of the United States, Record Group 267; National Archives, accessed August 11, 2021.

<https://www.docsteach.org/documents/document/judgment-brown-v-board>.

<sup>34</sup> Derrick A. Bell, “The Unintended Lessons in *Brown v. Board of Education*,” *NYLS Law Review* 49, no. 3 (2005): 1053-1067.

<sup>35</sup> John Kyle Day, *The Southern Manifesto: Massive Resistance and the Fight to Preserve Segregation* (Jackson: University Press of Mississippi, 2014), 3-5.

<sup>36</sup> *The Southern Manifesto, 1956*, accessed July 24, 2021. <https://d11exza0zk46za.cloudfront.net/history/am-docs/southern-manifesto.pdf>. The original document declared, “We regard the decision of the Supreme Court in the school cases as clear abuse of judicial power. It climaxes a trend in the Federal judiciary undertaking to legislate, in derogation of the authority of Congress, and to encroach upon the reserved rights of the states and the people.”

<sup>37</sup> Day, *The Southern Manifesto*, 3-5.

and understanding.”<sup>38</sup> The manifesto also implied that Black people should be grateful for the rights they have and not make more demands. They believed “separate but equal” was a functional policy, and that *Brown* threatened to disrupt the peace. In a final ominous statement, it urged state and local governments to condemn desegregation, and encouraged rioting as a form of resistance.<sup>39</sup>

Why were so many white Southerners motivated to resist *Brown* so strongly? In his essay, *Why Massive Resistance?*, legal scholar Michael Klarman argues that the balance of power between moderate and conservative politicians played a major role in stoking massive resistance. While there was a relatively large base of moderate sentiment within the South, conservatives held stronger convictions and were better equipped to mold public opinion toward extremism. Their commitment and capacity to use repressive tactics against moderates (who were by no means fervent integrationists, to be sure) created the appearance that southern Whites were united behind massive resistance.<sup>40</sup> According to Klarman, one way this was achieved was through the veiled threat to shut schools down before integration could take place. In this sense, “many southern whites... preferred token integration to school closures, but very few favored token integration over segregation. Thus, opinion polls on *Brown* revealed minimal support among southern whites... The difference between white ‘moderates’ and ‘extremists’ was in the costs they were prepared to bear to maintain segregation”<sup>41</sup> Suppressing any voice of tolerance toward integration was pivotal to maintaining the facade of solid support against *Brown*, which in turn, preserved segregationist policy.

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<sup>38</sup> *The Southern Manifesto*.

<sup>39</sup> Clare Cushman and Melvin I. Urofsky, *Black, White, and Brown: The Landmark School Desegregation Case in Retrospect* (Washington, D.C.: Supreme Court Historical Society/CQ Press, 2004), 194-97.

<sup>40</sup> Michael J. Klarman, “Why Massive Resistance?,” in *Massive Resistance: Southern Opposition to the Second Reconstruction*, ed. Clive Webb (New York: Oxford University Press, 2005), 21-38.

<sup>41</sup> *Ibid*, 29.

Historian Tony Badger agrees with Klarman that successful political infighting from the White backlash silenced racially moderate politicians, despite their having developed a foothold with voters. Badger places equal blame, however, on poor leadership from the NAACP in targeting school segregation for racial advancements. As Badger observes, “in singling out schools, they challenged the area the white South would defend most vigorously. It would have been better and less provocative if they had addressed voting rights or the economic goals of the class-based civil rights movement of the 1940s.”<sup>42</sup> Although Black activists were appealing to the hearts and minds of their adversaries through the issue of schooling, they instead inspired the opposite effect -- many considered children to be the most precious and untouchable of areas when it came to issues regarding racial equality. Throughout the 1950s, Badger asserts, the Civil Rights movement would have been better served had it addressed other concerns that were already gaining some momentum, such as voting rights.<sup>43</sup>

Klarman takes Badger’s claims a step further, contending that *Brown* was not as instrumental in helping to energize the Civil Rights Movement. Indeed, Klarman argues that the positive influence of *Brown* on the Civil Rights Movement was exaggerated. For Klarman, *Brown* itself did not inspire civil rights leaders to act; rather, it was the backlash to *Brown* that inspired Black activists to organize.<sup>44</sup> This distinction is important in determining *Brown*’s overall impact *vis-a-vis* the chain of events that led to the most significant protests and gains of

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<sup>42</sup> Tony Badger, “Brown and Backlash,” in *Massive Resistance: Southern Opposition to the Second Reconstruction*, ed. Clive Webb (New York: Oxford University Press, 2005), 39-55.

<sup>43</sup> Ibid, 40. Badger also cites the positive backlash from *Brown*, stating that extreme pushback and violence from Southern whites placed race relations more directly in the national spotlight, leading to government intervention in the form of the Civil Rights Acts of 1964 and 1965.

<sup>44</sup> Michael Klarman, “How Brown Changed Race Relations: The Backlash Thesis,” *The Journal of American History* Vol. 81, No. 1 (Jun., 1994): 81-118.

the civil rights era. Many historians mark *Brown* as the beginning of the civil rights Era, but Klarman believes that WWII provided a larger impetus to civil rights consciousness and protest.

In the wake of *Brown*, massive resistance metastasized, solidifying the determination of Southern communities and politicians to act by whatever means necessary to prevent Black integration into white society. The lynching of Emmitt Till in 1955 exemplified this, as did violent attacks on the Montgomery Bus Boycott in the same year, in which segregationists bombed the homes of the boycott's leaders.<sup>45</sup>

Klarman's "Backlash Thesis" is crucial for two reasons. First, while acknowledging the importance of *Brown*, it downplays the direct role it played in the larger civil rights movement at that time. Secondly, Klarman measures the impact of the ruling based more on the repercussions that followed the decision; that is, massive resistance shifted the agenda of activists and accelerated their activism. Other aspects of civil rights garnered attention as a result of the backlash, such as voting rights and issues around public transportation, while education was largely adversely affected and ignored. Thus, for Klarman, *Brown's* importance in education and as a pillar for civil rights, serves merely as a distraction for historians. He concludes that *Brown* "elicit[ed] greater violence and intransigence" among white southerners in an aspect of life certain to be met with the most resistance.<sup>46</sup>

Although, at the time, *Brown* could be touted as an exemplar of American freedom and opportunity, Southern politicians viewed the ruling as an excuse to further solidify the socio-economic injustices most Black communities already faced. Because *Brown* levelled the playing field for educational access under the law, racist political leaders could take advantage by blaming African Americans for their struggles to succeed, and not for the systemic lack of access

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<sup>45</sup> Ibid, 91.

<sup>46</sup> Ibid, 118.

to real social, political, and economic power. Derrick Bell concludes that this argument effectively cemented the unequal status of Black people. *Brown* had succeeded in bringing about a transformation without genuine or tangible change.<sup>47</sup>

Three years after *Brown*, nine African American students were granted entry to Little Rock Central High School. However, Arkansas Governor Orval Faubus, once a moderate, who had now moved to the hard right in response to *Brown* and voters, ordered the state's National Guard to forcefully prevent admission of the nine Black students. Guardsmen with drawn bayonets prevented the entry of the students. Making matters worse was a violent mob that formed outside the school, threatening to lynch them.<sup>48</sup> President Eisenhower, who had indicated that he did not agree with *Brown*, was compelled to send federal troops to Little Rock to stop the blockade and to escort the nine Black students into the school. What became known as the Little Rock crisis quickly turned into worldwide news of a constitutional crisis, which dramatized a showdown between President Eisenhower, Governor Faubus, Black activists, and violent segregationists. The nine students had the protection of law under *Brown*. Still, the Supreme Court ruling was not enough to shake segregationists' commitment to Jim Crow. And the Little Rock nine knew that the intention of *Brown* was not being met. Daisy Bates, leader of the Arkansas branch of the NAACP and an adviser to the nine students, who helped them navigate the integration of the school, wrote of her "shock at the utter disregard of all humanity by the segregationists, who did not shrink from using violent methods against innocent children in their struggle to maintain racial inequality."<sup>49</sup>

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<sup>47</sup> Bell, "The Unintended Lessons in *Brown v. Board of Education*," 1059-1060.

<sup>48</sup> Henry Hampton, Steve Fayer, and Sarah Flynn, *Voices of Freedom: An Oral History of the Civil Rights Movement from the 1950s through the 1980s* (New York, NY: Bantam Books, 1990), 35.

<sup>49</sup> Daisy Bates, *The Long Shadow of Little Rock: A Memoir* (Fayetteville, AR: University of Arkansas Press, 1987), 220.

Some of the students felt the same way. In interviews they would give years later, Ernest Green recalled how baffled he was that Faubus claimed to have called out the National Guard as a safety measure for the students. Faubus insisted, “my objective in the Little Rock crisis was to prevent violence and death in the disorders that became imminent.”<sup>50</sup> Malba Pattilla Beals, another student, remembered the fear she felt when even police “were not willing to fight their own [the white mob] in order to protect us” and that the offer was made that “if they allowed the mob to hang one [black] kid, they could then get the rest out.”<sup>51</sup> Despite threats of violence that day, both Green and Beals maintained that they remained focused on obtaining the better education they believed they could get at Central High. After being chosen to be the first to integrate that school, Beals recalled that her mother told her that an “education is the key to survival.” Green reflected that on graduation day, nobody clapped for him when he received his diploma. To Green, it did not matter, “I had accomplished what I had come there for.”<sup>52</sup> Though massive resistance exposed the idea that violence could triumph over federal law and the Supreme Court, *Brown*’s intention, after all, was not lost on these students.

The perceived aid from the federal government converged yet again with Cold War implications. Because the Little Rock crisis made international news, President Eisenhower's decision to ensure entry for the nine students won praise across the globe; the US succeeded in its goal of promoting its image as a beacon of democracy. It demonstrated that the federal government was behind *Brown*, even if some state governments were unwilling to comply. As Dudziak asserts, “The abstract principle of *Brown* seemed to be the thing needed to maintain

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<sup>50</sup> Hampton, *Voices of Freedom*, 41.

<sup>51</sup> *Ibid*, 46.

<sup>52</sup> *Ibid*, 52.

American prestige. In that sense, *Brown* and the Little Rock crisis successfully protected the image of American democracy, despite not actually desegregating schools.”<sup>53</sup>

For historian Karen Anderson, the event illustrated how the White appeal to segregation provoked state recalcitrance in the face of federal intervention. “The idea of outside [federal] interference allowed locals to deny any responsibility for events occurring in their midst... it allowed them to believe their actions and political commitments were not an issue... it also justified a politics of inaction.”<sup>54</sup> Politicians fortified their position of state autonomy by claiming the federal government was literally forcing desegregation upon states. Those responsible for denying the nine Black students’ entry could stand their ground by invoking the state’s right to act in what they believed to be their best interest. Paradoxically, Black activists sought intervention from the federal government to counter massive resistance and enforce *Brown*, but federal involvement only further motivated segregationists already determined to mobilize.<sup>55</sup>

Other instances of local resistance against the ruling evaded international scrutiny. Without worldwide attention, the federal government was less likely to intervene. Derrick Bell notes that “[Southern states’] predictable outraged resistance will undermine and eventually negate judicial enforcement efforts, while political support for the Court’s decision, like virtually every other racial rights measure adopted basically to serve white interests once those interests have been served, will become irrelevant.”<sup>56</sup> So long as broader interests between the federal government and civil rights measures did not overlap, the effect was twofold: U.S. officials

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<sup>53</sup> Dudziak, “Brown as a Cold War Case,” 40.

<sup>54</sup> Karen Anderson, *Little Rock: Race and Resistance at Central High School* (Princeton, NJ: Princeton University Press, 2014), 6.

<sup>55</sup> Klarman, “Why Massive Resistance?,” 23.

<sup>56</sup> Bell, “Derrick A. Bell (dissenting),” 185-200.

could avoid more conflicts of a similar nature, and Southern states could get away with maintaining segregation by passing elusive laws that were no less effective.

Historian Carol Anderson considers this cloaked approach to be “white rage,” marking the ways in which federal and state governments intentionally operated to combat the advancement of Black people in any capacity but often in imperceptible ways. “White rage is not about visible violence,” Anderson observes, “but rather it works its way through the courts, the legislatures, and a range of government bureaucracies. It wreaks havoc subtly, almost imperceptibly. Working the halls of power, it can achieve its ends far more effectively, far more destructively.”<sup>57</sup> “White rage” has been a crucial tactic used by white elites to avoid the overt racism of violent segregationists and instead enact legislation targeting Black people economically, socially, politically, and within the realm of education. A key application of “white rage,” Anderson points out, was the ways in which political leaders manipulated the *Brown* ruling in order to destroy this moment in Black advancement.

White rage emerged in ways that went beyond the typical scope of education to re-shape the impact of the *Brown* decision. Mississippi’s enforcement of literacy tests as a requirement for voting was related to *Brown* because *Brown* meant giving equal educational opportunities to Black children. The Mississippi state government concluded that Blacks should be held accountable for their new access to education, and imposing literacy tests on Black voters was one way, proponents argued, though the move was actually intended to suppress Black voters. As Southern states manipulated their interpretation of *Brown* to justify opposing school integration, they passed new legislation that stripped Black people of their right to vote.<sup>58</sup> Similarly, Alabama adopted a gauntlet of literacy tests and heavily enforced them in the area of

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<sup>57</sup> Carol Anderson, *White Rage: The Unspoken Truth of Our Racial Divide* (New York: Bloomsbury, 2016), 3.

<sup>58</sup> *Ibid*, 76-77.

the state known as the “Black Belt,” where the Black population was the majority. There, less than two percent of the Black population was registered to vote as a result of the tests. The large disparity between educated Blacks and Whites ensured the suppression of the Black vote, while white state officials could maintain the pre-*Brown* status quo.

The reach and effect with which massive resistance was able to suppress Black people not only in education, but also at the expense of other civil liberties has led historians to reassess the effectiveness of *Brown*. Unfortunately for African Americans looking for educational opportunities, equal access would be frustratingly denied in areas of the country that perhaps needed change the most. In an article written thirty years after *Brown*, the *New York Times* quoted James Nabrit, counsel for the NAACP Legal Defense and Education Fund, who recalled that there was still not a single black child in a white school in Virginia, Alabama, Mississippi, Georgia, Florida, and South Carolina.<sup>59</sup> Massive resistance became the way of the South, and there was little that the Supreme Court could do about it. In an article from the National Education Association, John Rosales determined that “For school... laws to be implemented in the spirit of *Brown*, local and federal judges would have to carry the torch,” something unequivocally antithetical to Southern policy makers determined to hold on to power and privilege.<sup>60</sup>

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<sup>59</sup> Walter Goodman, “Brown v. Board of Education: Uneven Results 30 Years Later,” *The New York Times*, May 17, 1984, accessed August 20, 2021. <https://www.nytimes.com/1984/05/17/us/brown-v-board-of-education-uneven-results-30-years-later.html>.

<sup>60</sup> Rosales, “Fulfilling the Promise of Brown v. Board.”

## **De Jure vs. De Facto Segregation**

Perhaps the most frustrating debate that derived from the language of *Brown* was over the definition of segregation itself. In the deep South, segregation was easy to identify, and southerners were willing to combat desegregation tooth and nail in order to uphold what they believed to be their right to separate facilities under the Jim Crow regime. Such purposeful policies of discrimination enacted through legal means, constituted *de jure* segregation. A much more complicated web to untangle was characterized primarily by schools segregated by neighborhood in the North and the West, known as *de facto* segregation, where the “racial imbalance derived from unintentional or ‘fortuitous’ actions by state and private entities.”<sup>61</sup>

In exploring the use of *de facto* segregation as a tactic of obfuscation used by school districts to reject integration, Michael Glass posits that the term *de facto* segregation was first conceived of and utilized by civil rights advocates as a means to expose continued segregation. The term was originally intended to shine a light on other forms of segregation in schools. However, it quickly framed a defense that claimed segregation existed only as a phenomenon of personal choice to live in racially homogenous neighborhoods.<sup>62</sup> Glass notes that “civil rights advocates brandished the phrase as a sword to combat racial inequality [while] their opponents embraced it as a shield to defend the status quo.”<sup>63</sup> Despite its origins, *de facto* segregation provided a convenient cover for discriminatory practices to flourish not only in the South, but also across the North and West.

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<sup>61</sup> Elise C. Boddie, “The Muddled Distinction Between De Jure and De Facto Segregation,” ed. Kristine L. Bowman, *The Oxford Handbook of U.S. Education Law* (February 2020): 252.

<sup>62</sup> Glass, “From Sword to Shield to Myth,” 1198.

<sup>63</sup> *Ibid*, 1199.

While the *Brown* decision could eradicate *de jure* segregation, particularly in the South, in the North and West, *de facto* segregation became the center of a new debate. Even at the highest level, President Nixon aimed to clarify his administration's school desegregation policy by making a distinction between the two. "There is a fundamental distinction between so-called 'de jure' and 'de facto' segregation," Nixon declared in 1970. "De jure segregation arises by law or by the deliberate act of school officials and is unconstitutional; de facto segregation results from residential housing patterns and does not violate the Constitution."<sup>64</sup> In contrast, United States District Judge Robert L. Carter, appointed during the Nixon presidency, described a "[vast gulf] between equality as a concept of the law and equality in actual life."<sup>65</sup> Factions within government and judicial skepticism further obscured the central aims of *Brown*. The idea of *de facto* segregation raised an important question: was this form of segregation constitutional under *Brown*? Neighborhood and school districting became a means of covertly perpetuating racial segregation, eroding the goal to increase educational opportunities. Education historians Erica Frankenberg and Kendra Taylor argue that this circumstance lies at the root of existing educational inequalities to this day.<sup>66</sup>

As a result of federal indifference, school board zoning decisions, and residential patterns, *de facto* segregation was as pervasive in the North and West as it was in the South. Lower level courts were divided on the constitutionality of such decisions, and it was difficult to prove underlying racially motivated intentions as a means of upholding *Brown*. Any school board that was pressed could claim that their choices were made strictly to benefit their students.

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<sup>64</sup> "Text of the President's Statement Explaining His Policy on School Desegregation," *New York Times*, March 25, 1970, accessed August 22, 2021. <https://www.nytimes.com/1970/03/25/archives/text-of-the-presidents-statement-explaining-his-policy-on-school.html>.

<sup>65</sup> Carter, "De Facto School Segregation," 502.

<sup>66</sup> Erica Frankenberg and Kendra Taylor, "De Facto Segregation: Tracing a Legal Basis for Contemporary Inequality," *Journal of Law and Education* 47, no. 2 (2018): 189-233.

The violation of the fourteenth amendment's equal protection clause could be scarcely established without the ability to point to concrete examples of racial bias.<sup>67</sup> Legal scholar, Elise C. Boddie insists that the legal skepticism invoked by school boards "widened the gap between de jure and de facto segregation and narrowed the field of possible constitutional claims for achieving integration."<sup>68</sup>

Judge Robert Carter has pointed to the South Carolina case, *Briggs v. Elliott*, as the juncture in the *de jure-de facto* divide. *Briggs* relied on the interpretation that *Brown* did not require integration, it merely forbade segregation, which meant schools did not have an "affirmative duty" to make integration a priority. Writing in 1965, Carter described this as a "meaningless distinction, however, unless the fourteenth amendment guarantee of equality to Negroes is once again, as in the 'separate but equal' era, to be reduced to a legal abstraction - an arid promise having no application to social reality."<sup>69</sup> Nevertheless, the distinction was upheld in *Briggs*, which helped set the precedence for other communities to follow.

Virginia Senator Harry F. Byrd threatened to shut down public schools that complied with *Brown*. Furthermore, he stated that desegregation was unnecessary because *de facto* residential segregation was already in place.<sup>70</sup> Integration would have required geographical shifts of educational districts in order to implement integration. The split in community lines lent itself to government officials who appeared to side with integration, while simultaneously insisting that achieving it would be harmful for their community. The superintendent of the

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<sup>67</sup> Boddie, "The Muddled Distinction Between De Jure and De Facto Segregation," 256.

<sup>68</sup> Ibid, 5.

<sup>69</sup> Carter, "De Facto School Segregation," 518.

<sup>70</sup> "Virginia's 'Massive Resistance' to School Desegregation," The University of Virginia Digital Resource for United States History, accessed October 20, 2021.

[http://www2.vcdh.virginia.edu/xslt/servlet/XSLTServlet?xml=/xml\\_docs/solguide/Essays/essay13a.xml&xsl=/xml\\_docs/solguide/sol\\_new.xsl&section=essay](http://www2.vcdh.virginia.edu/xslt/servlet/XSLTServlet?xml=/xml_docs/solguide/Essays/essay13a.xml&xsl=/xml_docs/solguide/sol_new.xsl&section=essay).

Norfolk school board portended, “It is just a question of what is the best plan... I’m in favor of carrying out the Supreme Court decree with the least harm to the pupils... and the schools.”<sup>71</sup>

This tactic of evasion proved useful for many communities around the nation to utilize. Though pushback from African American communities persisted, “[t]hese extended legal battles allowed for year after year to drizzle by while the continued existence of separate and decidedly unequal schools consigned black children to some of the worst education that America had to offer.”<sup>72</sup>

Consider the Chicago school system as an example of the complex tensions between two opposing camps -- those who stood for maintaining the status quo of *de facto* segregation, and those who opposed it, and whose response was met even more backlash. In 1965, nearly ninety percent of Black students within Chicago Public Schools attended all-Black schools.

Superintendent Benjamin C. Willis testified in front of the Committee on Education and Labor in the House of Representatives that Chicago “has never segregated children as such on any basis” and that “segregated housing patterns” were to blame for the composition of public schools.<sup>73</sup> In addition, Mothers Opposed to Meddling in Schools (MOMS), a group of white mothers against desegregation, stated, “I do not think we are even morally bound to end *de facto* segregation in the schools. *De facto* segregation is a happenstance caused by living patterns and not a deliberate attempt to segregate or isolate Negro children.”<sup>74</sup> Glass cites this example as a classic instance of the *de facto* defense.

Despite the success of the Civil Rights Movement in winning crucial legislation in the 1960s, it became increasingly clear that school integration remained an undelivered promise.

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<sup>71</sup> Jeffrey L. Littlejohn, “The Brown Decision In Local Context: Race and Public Education In Norfolk, Virginia,” in *Brown v. Board of Education: Its Impact on Public Education, 1954-2004*, ed. Dara N. Byrne (Brooklyn, NY: Word for Word Publication Co. Inc, 2005), 166-67.

<sup>72</sup> Carol, *White Rage*, 80.

<sup>73</sup> Glass, “From Sword to Shield to Myth,” 1199.

<sup>74</sup> *Ibid*, 1199.

Rosie Simpson, a leading Black education reformer in Chicago, reflected on her evolving role in realizing integration in schools, “equal opportunity was what we were fighting for, even though we talked about integration. I think they took that as meaning that we wanted to go to school with White kids, and [Black kids] would automatically learn, which was not true. We were talking equal opportunity.”<sup>75</sup> From this thinking about how Black communities ought to take the reins in educating Black youth, came the radical notion that they should have been in control all along. Thus, Black education reformers invoked their right to control majority Black schools, launching a new political movement among certain Black communities.

In *A Political Education: Black Politics and Education Reform in Chicago since the 1960s*, Elizabeth Todd-Breland illustrates the significance of Black education reformers in charge of controlling their own educational opportunities. This new wave of political thought embraced the plain fact that Whites were unwilling to truly integrate in an equitable way. Ironically, Black education reformers could quote from *The Southern Manifesto* that had so vehemently opposed desegregation, which stated, “[communities] should not be deprived by Government of the right to direct the lives and education of their own children.”<sup>76</sup> Essentially, African American school leaders simply wanted to have control over their own educational institutions through the constructs of self-empowerment and self-determination. As white elites were determined to preserve “separate but equal” via white rage and *de facto* segregation, many Black communities became determined to work with local governments by gaining funding for their institutions in order to achieve some semblance of equality through their own vision of educational opportunity.

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<sup>75</sup> Elizabeth Todd-Breland, *A Political Education: Black Politics and Education Reform in Chicago since the 1960s* (Chapel Hill, N.C.: The University of North Carolina Press, 2018), 22.

<sup>76</sup> *The Southern Manifesto*.

Shaped by the emergence of Black Power politics in the late 1960s, especially in the urban north, Black education reformers decided that it was up to them to take control of their respective educational institutions. In Todd-Breland's words, "The shift from desegregation to community control was not solely a response to the state's failure to desegregate schools. It also reflected the prominence of a strain that foregrounded Black empowerment and self-governance in efforts to increase Black achievement."<sup>77</sup> At first, communities sought to work within the federal framework of public education to access funds for resources that would improve schools. Yet, a persistent racist agenda, especially at the local and state levels, limited the impact that Black education reformers were able to make. Although a strong presence of teachers and students lobbied and protested, their limited access to political power meant their ideals could not be realized.

Without the ability to access a strong public educational system within Black majority communities, a second strand of political thought for Black achievement emerged in the form of independent institutions. These "African-centered educational institutions insisted on independence from the state and the creation of a unique African diasporic subjectivity, curriculum, and worldview that resonated with the cultural currents of the Black Power era."<sup>78</sup> Even if independent Black institutions could thrive, questions about integration and access remained. One Black student, Imani Perry, decided to attend public school after ten years in an all-Black private school. She felt that to be a part of American society, she needed to be in a setting that would best reflect the environment she would one day have to engage.<sup>79</sup> She acknowledged, however, that her education in the private school felt far superior to that of the

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<sup>77</sup> Todd-Breland, *A Political Education*, 11.

<sup>78</sup> *Ibid*, 83.

<sup>79</sup> *Legacies of Brown: Multiracial Equity in American Education* ed. Dorinda Carter, Stella Flores, and Richard Reddick (Cambridge, MA: Harvard Educational Review, 2004), 297.

public school. The split between community control and independent school solutions left Black communities divided in their efforts to enhance educational opportunities. Todd-Breland points to how inconsistent these efforts were, and attributed a lack of success in education reform, in part, to the conflicting ideals among top Black education reformers.

Beyond all the measures that needed to be taken to improve schooling for Black majority communities, it is worth mentioning that teachers themselves were also split in their efforts. On the one hand, their fight was purely on the students' behalf, which required access to resources and money for their schools to better serve those who attended their institutions. On the other hand, teachers fought for better salaries, recognition, and support.<sup>80</sup> This duality embedded in Black education reform was prevalent even when Harold Washington, the first Black mayor of Chicago, was elected in 1983. Washington's loyalties were split as well between working within the political system to advance education standards and acting as a voice for Black education reformers. The lack of a clear path to realize Black achievement in conjunction with the ambivalence of a White political agenda that aimed to preserve the status quo, meant sparse victories for Black education reform during the latter decades of the twentieth century. According to political theorist Michael Hanchard, the exclusion of Black people from political power is a large part of what perpetuates racial divides.<sup>81</sup> Yet, even when there was a Black voice present in the political arena, as in the case of Harold Washington, that voice struggled to gain enough influence, consistently leaving Black communities woefully short of receiving equal benefits and attention.

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<sup>80</sup> Todd-Breland, *A Political Education*, 119.

<sup>81</sup> Michael Hanchard, "Contours of Black Political Thought: An Introduction and Perspective," *Political Theory* 38, no. 4 (2010): 510–36.

In the midst of determining what segregation was and was not, the consequences of the *de facto* debate are what historians point to as the negative outcomes of *Brown*. For many historians, *Brown* was enforced deliberately at the expense of equal educational opportunities for African American children. Judge Robert Carter directed the attention back to the equal protection clause of the fourteenth amendment. He determined that the decisive factor in whether this right was being met should be based on the equal education of Black children. He concluded that if the overall outcome was hindered by legal and political delays, the fourteenth amendment's promises remain unfulfilled and decidedly unconstitutional.<sup>82</sup>

It is clear that the objective of *Brown* was to provide students with the opportunity to develop to their fullest potential. Glass describes the political gaming that resulted from the semantics of the *de jure-de facto* binary as the seminal roadblock in achieving *Brown*'s most core goal. He concludes,

Naming, defining, and framing the issues—these are the building blocks of politics. *De facto* segregation began as a necessary tool in the insurgent campaign against *the fact* of northern school segregation. However, when public officials appropriated the phrase, they redefined segregation as *a fact*, as an inescapable reality. Once it was affirmed by the courts and cemented into national law, the *de jure-de facto* binary cast a deep fog over the public policies that created and maintained segregated landscapes. It is a fog that advocates and scholars have been trying to cut through ever since.<sup>83</sup>

As the *Brown* decision grows older, the consequences are somewhat easier to trace. *De facto* segregation left a detrimental legacy of obfuscation and inequity that persisted for decades.

While not as overt as *de jure* segregation, the lasting power of *de facto* segregation has actively impeded equal educational opportunities.

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<sup>82</sup> Carter, "De Facto School Segregation," 515-18.

<sup>83</sup> Glass, "From Sword to Shield to Myth," 1215.

## **Epilogue**

*Brown* was a monumental decision that forced the nation to consider the role and importance of equality, race, and democracy. But sixty-five years after the ruling, many critical questions remain unanswered for Black communities still trying to gain equal footing in education. For all that *Brown* stood for, the essential tension still boils down to the purported values of American democracy versus the lived realities of Black citizens. Though *Brown* remains a keystone in the long history of Black advancement, its reverberating effect has, in many ways, slowed the progress that African American communities are still trying to achieve -- equal educational opportunities.

There are two primary intentions laid out in the *Brown* ruling that historians must consider when analyzing its lasting effects. Desegregation and educational opportunity were the defining characteristics. Although the former could ultimately be considered a successful endeavor by simply comparing data of integrated school percentages, a recent article describes how *Brown's* core mission of encouraging integration can best be defined as unfinished. It argues that after some “gains through the late 1980s, the public-school system is undergoing a ‘resegregation’ that has left African-American and Latino students ‘experiencing more isolation’ than a generation ago.”<sup>84</sup> Derrick Bell echoes this claim, citing hundreds of school desegregation lawsuits, many lasting for decades, in which most Black and Latino students still attend public schools that are both racially separate and educationally ineffective.<sup>85</sup> Another article published on the 40th anniversary of *Brown* noted how the Supreme Court retreated from signaling

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<sup>84</sup> Ronald Brownstein, “How We're Still Failing, 60 Years after *Brown v. Board of Education*,” The Atlantic. Atlantic Media Company, April 24, 2014, accessed September 18, 2021. <https://www.theatlantic.com/politics/archive/2014/04/how-were-still-failing-60-years-after-brown-v-board-of-education/439050/>.

<sup>85</sup> Bell, “The Unintended Lessons in *Brown v. Board of Education*,” 1055.

desegregation as a priority among the nation's goals and objectives.<sup>86</sup> Even if desegregation was achieved at face value, the intention of *Brown* to secure equal opportunity, the more important goal, remains largely unrealized.

The existing gap, in large part, can be attributed to the lasting effects that *de facto* segregation had in masking racial bias and maintaining white supremacy. Although *de jure* segregation could be effectively eliminated through positive law, *de facto* segregation, represented through long-standing societal norms, flourished almost unchanged. So powerful were these norms that even in the face of a Supreme Court decision, *de facto* segregation has remained intact without accomplishing the intent of educational equality. For a decision that should have transformed America, it could not, however, transform people or institutions intent on maintaining the status quo. As Martin Luther King Jr. would put it in a speech delivered in 1965, “it may be true that morality cannot be legislated” and that “the law cannot change the heart.” He went on to declare that “Old Man Segregation is on his deathbed, but history has proven that social systems have a great last-minute breathing power, and the guardians of the status quo are always on hand with their oxygen tents to keep the old order alive.”<sup>87</sup>

In 2007, in a case that considered whether racial segregation was commensurate with educational equality, Supreme Court Justice Stephen Breyer eloquently reflected on *Brown*'s legacy. He wrote,

In this Court's finest hour, *Brown v. Board of Education* challenged [this country's history of segregation] and helped to change it. For *Brown* held out a promise. It was a promise embodied in [constitutional] Amendments designed to make citizens of slaves. It was the promise of true racial equality—not as a matter of fine words on paper, but as a matter of everyday life in the Nation's cities and schools. It was about the nature of a

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<sup>86</sup> Charles J. Russo, J. John Harris, and Rosetta F. Sandidge, “*Brown v. Board of Education* at 40: A Legal History of Equal Educational Opportunities in American Public Education,” *The Journal of Negro Education* 63, no. 3 (1994): 297–309.

<sup>87</sup> Martin Luther King Jr., “Martin Luther King Jr. at UCLA 4/27/65.” April 4, 1965. The University of California, Los Angeles, 55:21, accessed October 20, 2021. [https://www.youtube.com/watch?v=ny6qP0rb\\_Ag&t=515s](https://www.youtube.com/watch?v=ny6qP0rb_Ag&t=515s).

democracy that must work for all Americans. It sought one law, one Nation, one people, not simply as a matter of legal principle but in terms of how we actually live.<sup>88</sup>

Breyer's plea for recognition of the distinction between integration and educational opportunity exposes the deep imbalances that have shaped the legacy of *Brown*.

Understanding crucial factors and outcomes that relate to *Brown* sheds light on the original intent of what was, on its face, an historic decision. Yet, it can be determined that despite the grand intention of *Brown*, much of the landscape for meaningful educational opportunities remains challenging terrain for Black communities to navigate. Even after so much time has passed and so much effort has been expended to ensure equity in education, Black communities continue to confront a massive wall of resistance.

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<sup>88</sup> Boddie, "The Muddled Distinction Between De Jure and De Facto Segregation," 266.

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