***Brown v Board of Education of Topeka, Kansas (1954)***

As a condition of re-joining the Union after the Civil War, former Confederate states had to ratify what have become known as the “Civil War” Amendments. The Thirteenth Amendment ended slavery; the Fourteenth Amendment granted citizenship to and protected the civil rights of former slaves; and the Fifteenth gave adult black men the right to vote. Unfortunately, the amendments alone proved insufficient to protect African Americans’ rights.

Beginning in 1877, laws curbing the civil rights of Blacks began sweeping through Southern state legislatures. These laws became known as “Jim Crow” laws after a black minstrel character. Segregation became a legal requirement and not merely a cultural norm in every Southern state as well as some Northern ones. In 1896, Homer A. Plessy challenged a Louisiana statue necessitating separate rail cars for black and white passengers. Plessy claimed the law violated the Fourteenth Amendment’s Equal Protection clause, which requires that a state must not “deny to any person within its jurisdiction the equal protection of the laws.”

The Supreme Court disagreed with Plessy’s argument and instead upheld the Louisiana law. In the process, the Court established the doctrine of “separate but equal.” Though the *Plessy v. Ferguson (1896)* decision never actually used that famous phrase, the ruling upheld the constitutionality of racially separate public accommodations as long as those accommodations were otherwise equal. The lone dissenting Justice in *Plessy,*John Harlan, objected to the majority’s decision: “[I]n view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law.”

Public schools were able to remain segregated under the *Plessy* ruling. As public education became more common in the Twentieth Century, the Supreme Court’s “separate but equal” doctrine began to have more of an effect on children. Black schools and white schools often received disproportionate funding from state and local governments. In Washington DC, lack of new construction caused overcrowding in black schools, while nearby white schools were under-used. In the Twentieth Century, community-based groups paired with the NAACP to conduct targeted legal challenges to the “separate but equal” doctrine. Their goal was to overturn the “separate but equal” doctrine by building a case that would force the Supreme Court to declare that even if accommodations were “equal” in other ways, segregation itself was unconstitutional. One of the most promising fronts was in the arena of public education.

Topeka, Kansas’ school system provided the perfect case because the school buildings, textbooks, materials and teacher salaries were virtually equal in black and white schools. Topeka’s Board of Education operated under an 1879 law, “Schools in Unorganized Counties,” that permitted, but did not require, segregation. In 1951, thirteen parents sued on behalf of their twenty children. Oliver Brown, father of third-grader Linda Brown, became the named plaintiff. After making its way through the District Courts, the *Brown* case went to the Supreme Court.

In 1954, sixty years after *Plessy v. Ferguson*, the Supreme Court ruled unanimously in *Brown v. Board* *of Education* that “separate but equal” was unconstitutional under the Equal Protection Clause of the Fourteenth Amendment. The Court cited a series of tests performed by two psychologists, Kenneth and Mamie Clark, demonstrating that segregation had a negative effect on the psyche of black children, instilling in them a sense of inferiority: “To separate [children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.” *Plessy* was officially overturned, as separate accommodations were judges to be “inherently unequal.” Writing for the unanimous Court, Justice Earl Warren stated, “Segregation of children in public schools solely on the basis of race deprives children of the minority group of equal educational opportunities, even though the physical facilities and other ‘tangible’ factors may be equal. The ‘separate but equal’ doctrine adopted in *Plessy v. Ferguson* has no place in the field of public education.”

After the 1954 decision in *Brown v. Board of Education* declared state-mandated segregation in public schools unconstitutional, the case was re-argued to determine how to correct the violations. In a directive known as *Brown* *II*, the Supreme Court ordered District Courts to determine whether local governments were pursuing integration “with all deliberate speed.” Some states and localities began earnest efforts to integrate, while others used the “deliberate speed” provision to delay integration. In the case of Little Rock Arkansas, integration came only after the President mobilized the National Guard to enforce it.

**Discussion Questions**

1. What Supreme Court decision established the doctrine of “separate but equal”?
2. What Kansas law did the *Brown*plaintiffs want struck down?
3. How did the Court rule, and what was the constitutional reasoning?
4. What was the *Brown II* ruling?
5. What role was there for other branches and levels of government in enforcing *Brown* *II*?
6. Why might it have taken nearly sixty years to the Supreme Court to get to its current interpretation of the 14th Amendment?
7. What might this suggest about the importance of looking at the historical context of Supreme Court rulings?