



Brown Amicus Curiae October 1952 Summary

In October 1952, the Attorney General of the United States prepared a brief on behalf of the United States regarding the separate cases filed in the appellate courts regarding racial segregation in public schools. These cases were collectively known as *Brown v. Board of Education*. The United States submitted the brief to the United States Supreme Court due to the significance of the constitutional questions presented in these cases.

The interest of the United States in these cases comes directly from the duty of the Federal Government to ensure the fundamental rights provided for in the Constitution. The constitutional right invoked in these cases is the basic right to equal treatment before the law. The brief discusses how these cases do not involve isolated incidents of racial discrimination by private individuals, but, rather, that public school systems in various states unconstitutionally discriminate against African Americans simply because of their race. This contention raises the issue that racial discrimination imposed by law and having the support of government undermines the basic foundations of freedom, justice and equality. This issue can potentially damage the credibility and integrity of the United States in the pursuit of true democracy with foreign governments and in the world community.

The brief discusses that in reviewing these cases, the Court may not find it necessary to reach the question whether the “separate but equal” doctrine should be reaffirmed or overruled. In other words, the brief questions whether the Court should review the meaning of “separate but equal” and uphold it in light of contemporary knowledge respecting the purposes of the Fourteenth Amendment and the effects of racial segregation. The United States refers to *Sweatt v. Painter* and other authority in discussing its position. It is discussed that the mere fact that there were inequitable findings in the Virginia, South Carolina, and Delaware cases indicates a violation of the Fourteenth Amendment rights due to the fact that the children were denied access to “equal” educational facilities based on their color and the remedy to make educational facilities equal should occur in the present and not the future. Educational facilities should be provided for African Americans as soon as they are provided for anyone else. In Virginia and South Carolina, immediate relief is the entitlement of the students discriminated against. In the Kansas case, it was a finding of fact that segregation has a detrimental effect on African American students because it affects their motivation to learn, makes them feel inferior, and has the tendency to hinder their educational development.

The brief also reviews *Plessy v. Ferguson*, the case that indoctrinated “separate but equal” and indicates that the doctrine was not purported to be an unchangeable rule of law that could not be challenged in the future. It is being interpreted as a law that states that because the children are separated because of race does not necessarily indicate that the facilities are not equal and that either race is inferior.

The District of Columbia case is discussed as infringing upon the Fifth Amendment rights of the petitioners. Respondents assert that the segregation is compelled by certain Acts of Congress and that the language in the Acts of Congress is significantly different from the constitutional and statutory provisions involved in these cases. This raises the question of how statutes and Acts are constructed so they are not misinterpreted or considered unconstitutional.

The United States then discussed what might happen if the Court reached the question that the “separate but equal” doctrine should be reexamined or overruled. The Government argued that racial segregation imposed or supported by law is, per se, unconstitutional. The language of the Fourteenth Amendment does not support racial segregation and the Government indicates that “separate but equal” is a contradiction in terms. The United States cites authorities such as *Strauder v. West Virginia*, *the Slaughter House Cases*, and *Virginia v. Rives*, among others, in supporting their position.

Finally, the brief discusses that if, in any of these cases, the Court should hold that a system of “separate but equal” public schools is unconstitutional, it should remand the case to the district court with directions to devise and execute such program for relief as appears most likely to achieve orderly and

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expeditious transition to a non-segregated system.

The conclusion of the United States is that governmental discriminations have placed African Americans in a subordinate position in society and presented a problem in reaching and maintaining true democracy in the United States. It is essential to affirm that the Constitution of the United States places no limitation on the principle of equality of all men before the law. The Government and the people of the United States must prove dedication to this principle by their actions.

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