

OXFORD IB DIPLOMA PROGRAMME



RIGHTS AND PROTEST

COURSE COMPANION

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2 CIVIL RIGHTS MOVEMENT IN THE UNITED STATES (1954–1965)

2.1 Introduction to the Civil Rights Movement

Conceptual understanding

Key concept

- Consequence
- Continuity
- Change
- Perspective

Key questions

- How were African Americans discriminated against socially, economically, and politically?
- What methods, and with what effects, did opponents of desegregation employ to maintain the status quo?



▲ Civil Rights leaders in 1963 at the March on Washington for Jobs and Freedom

The US Supreme Court agrees to hear public school segregation cases brought by the National Association for the Advancement of Colored People (NAACP) in what will become known as *Brown v. Board of Education*. Malcolm X joins Nation of Islam.

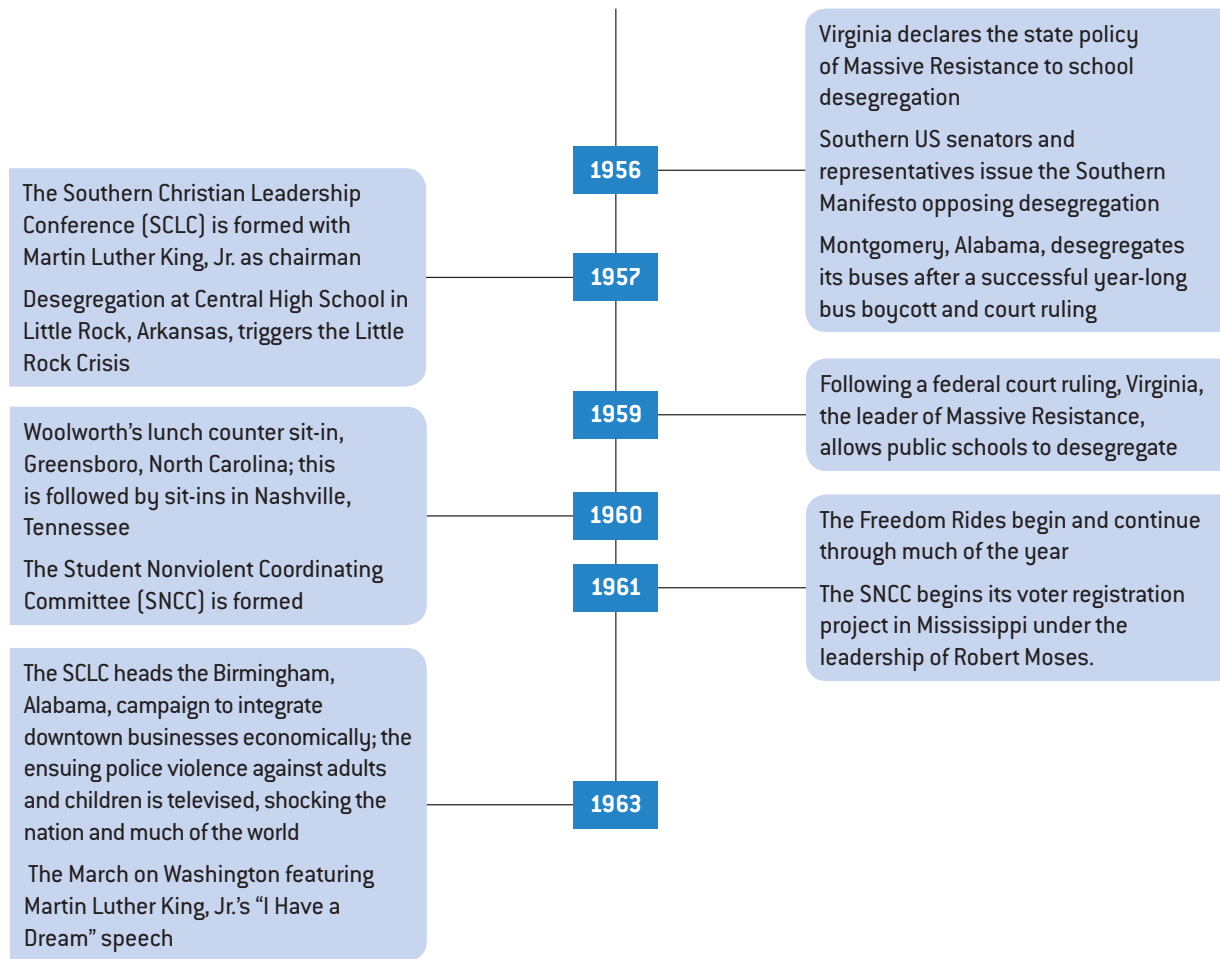
The issue of remedy in *Brown II* is announced by the US Supreme Court, which declares that schools should desegregate with “all deliberate speed”. Rosa Parks refuses to give up her bus seat, beginning the Montgomery Bus Boycott.

1952

1954

1955

The US Supreme Court overturns *Plessy v. Ferguson*’s “separate but equal” doctrine in *Brown v. Board of Education of Topeka*; Mississippi responds by abolishing all public schools, starting the reaction to *Brown* that culminates in Massive Resistance. The White Citizens’ Council is formed in Mississippi.



The African American Civil Rights Movement began long before the years covered by this case study. Its origins can be traced back to abolitionism during the antebellum period in the United States. However, the years beginning with the US Supreme Court's unanimous ruling in *Brown v. Board of Education* in 1954, which largely overturned the "separate but equal" doctrine firmly established in the *Plessy v. Ferguson* decision of 1896, set forth a period of mass action by African Americans. This marked a significant change in the quest for civil rights. In the first half of the 20th century, organizations such as the National Association for the Advancement of Colored People (NAACP) and the Congress of Racial Equality (CORE) formed in order to fight for the rights, and often the lives, of African Americans. The NAACP led the decades-long legal fight to overturn *Plessy v. Ferguson* and CORE organized small-scale "freedom rides" just after the Second World War, but the era of the Civil Rights Movement was one of protests of all sizes. These protests interacted with institutions in the United States that largely resisted both change and the legal, political, economic and social equality of African Americans.

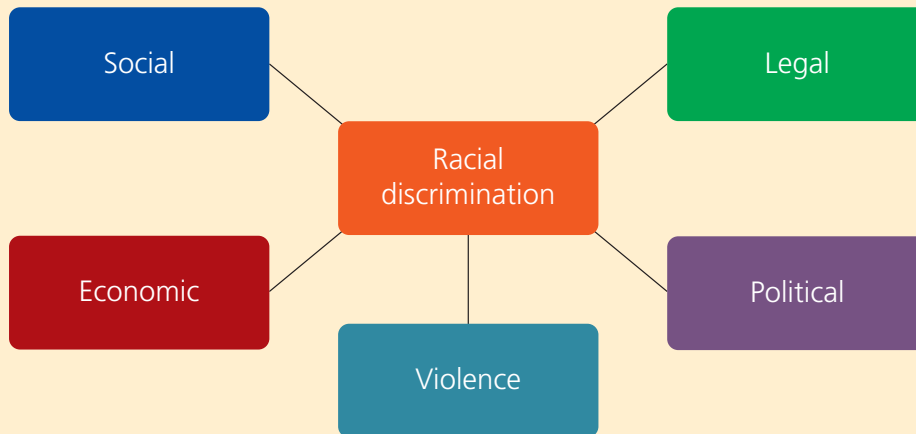


To understand the importance of this chapter, which begins with *Brown v. Board of Education* and ends with the Voting Rights Act of 1965, it is helpful to know some of the history and the geography of the United States. The background to this can be found in Chapters 8 and 9 of the *History of the Americas* Course Companion and will briefly be reviewed here.

Source skills

As you read through this chapter, identify motives, actions and events that provide evidence in support of each of these five factors of racial

discrimination. Copy the spider diagram and add any evidence you find.



Background

Following the end of the American Civil War, the 13th, 14th and 15th Amendments were added to the US Constitution. The 13th Amendment abolished slavery, the 14th Amendment established citizenship and stated

nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws

and the 15th Amendment provided for the right to vote regardless of “race, color, or condition of previous servitude [slavery]”. The intent of these Amendments was, along with the abolition of slavery, to provide for the legal and political equality of African Americans. Additionally, several civil rights laws were passed to guarantee rights further, regardless of race. The Civil Rights Act of 1866 added equal rights in contracts and employment, attempting to provide for equality of economic opportunity. White opposition to racial equality found many forms, including the intimidation and violence implemented by groups such as the Ku Klux Klan (KKK). Whatever gains African Americans had made in the states comprising the Confederacy during the Reconstruction period, these eroded quickly following the withdrawal of federal troops in 1877 in the deal that resulted in Rutherford B Hayes becoming president. Combined with US Supreme Court decisions that weakened and narrowed the 14th Amendment so that states had a great deal of latitude in application and enforcement, the

The **Great Migration** was the movement of many rural southern African Americans to northern cities, beginning a transition to the urban centers that would continue through much of the 20th century. By 1970, approximately 7 million African Americans had moved out of the South.

Peonage

Debt slavery, in which business owners required workers to labor until they paid off a debt. The wages paid were often so low that it took years or decades to pay the debt.

end of Reconstruction meant legal, economic and political inferiority for African Americans in the South. The legal and social structure that upheld the system of apartheid was known as Jim Crow. Laws defined a system that designated almost every area as “white” or “colored”. Police, courts and groups such as the KKK punished any violation as a challenge to the system. (It should be noted that African Americans living in the northern states did not enjoy political or economic equality either, although there were significantly fewer legal obstacles and less racial violence in the North. However, the great majority of African Americans lived in the southern states, even after the first **Great Migration** of 1910–1930.)

African Americans in many places in the United States, but more so in the South, lived under a legal system that supported white supremacy, the constant threat of economic coercion and violence, state backed, individual, and mob. The legal system was used for the maintenance of political power and the economic gain of white Americans. According to Douglas A Blackmon (2009), shortly after the beginning of the 20th century approximately half of all African Americans lived in virtual servitude. Many were sharecroppers and worked in a system in which the owner of the land retained complete control over what African Americans produced, setting prices, rents and loan rates, and keeping African Americans in **peonage**, even though this was against federal law. The federal government did not enforce this law in the South. Southern states also used the penal system to set up and run a system of slavery. Black men were arrested for crimes such as vagrancy, drunkenness, or other minor violations, and were quickly convicted. The penalty was usually a choice between six months to a year in prison or a fine that was too high to pay. Imprisonment resulted in forced labour, where convicts were rented out by the prison system to private enterprises in agriculture or industry; the prison officials were monetarily compensated and the businesses gained labour at a rate well below going wages, while working conditions were often deplorable. In the case of a fine, either the fine-payer or the judge could opt for the fine to be worked off; either way the convict worked for months with no pay and usually in miserable working conditions. This system kept farms, factories and mines supplied with cheap labour.

One example Blackmon (2009) points to is the Tennessee Coal, Iron and Railroad Company (TCI), which was purchased by US Steel in 1907. The founder and chairman of US Steel, Elbert H Gary, was an abolitionist and was opposed to convict labour, ordering it to be stopped. However, TCI maintained the system for two reasons: it had contracts for the next four years to use thousands of such workers, and the prison contracts forestalled labour union difficulties. US Steel did implement modest improvements in the mines’ working conditions, but TCI nonetheless signed new contracts for more convict labour. In fact, when the prison system cut the number of labourers available for the mines, US Steel complained. Thus, there was a substantial integration of northern economic interests with institutionalized involuntary servitude of African Americans in the South. However, since the federal government did not view these practices as involuntary servitude, it was able largely to ignore them.



TOK connections

Historian Robert Weisbrot (1990) explains:

Daily humiliation of Negroes was woven into the fabric of Southern life in patterns as variegated as a community's imagination permitted. In 1905 Georgia prohibited Negroes and whites from using the same park facilities; donors of land for playgrounds had to specify which race could use them. Until 1940 Negroes and whites in Atlanta, Georgia, were not able to visit the municipal zoo at the same time. In 1915 Oklahoma authorized separate telephone booths for white and Negro callers... Many public libraries permitted black and white to mingle only in the pages of books, while otherwise reserving the buildings exclusively

for white use. Separate Bibles for oath-taking in courts, separate doors for whites and Negroes, separate elevators and stairways, separate drinking fountains, and separate toilets existed even where not required by law.

TOK guiding questions

- From what perspective does Weisbrot write? How does this perspective guide his construction of the paragraph?
- How does Weisbrot use vocabulary and the listing of evidence to help readers understand life in the Jim Crow South?

The killing of African Americans was commonplace from 1888 to 1923. In this period, more than 2,500 African Americans were **lynched** by white mobs. Individual African Americans were often hanged or burned for alleged crimes. A common accusation was sexual assault, or even the flirtation of an African American man with a white woman. Indeed, in 1955, African American teenager Emmitt Till was lynched simply for saying a few words to a white woman. While lynchings were not reserved for African Americans (white Americans had been lynched in the West for alleged horse theft or cattle rustling), the overwhelming majority of victims of lynchings during this period were African Americans.

The group most infamous for its racial violence was the Ku Klux Klan, or KKK. The Klan was formed in Tennessee in the winter following the end of the American Civil War. It was initially formed as a secret social organization but in a short time evolved into a vigilante group whose principal goal was to negate Reconstruction; beginning in 1869, the organization intimidated, assaulted and murdered African Americans and white Americans who were sympathetic to them. The Klan became active in all southern states and targeted African American political leaders and office holders. Acts of brutality were common, including the whipping of senior citizens and adults who refused to work for white Americans, lynchings, even in front of children, and the burning of churches. Many white government officials and police employees were Klan members. African Americans in the South lived in constant fear of extreme racial violence.

The Enforcement Acts of 1870 and 1871 were used by federal officials to crack down on Klan activity, and the states of Arkansas, Tennessee and Texas did organize police to target violent Klan actions. Government enforcement had some effect and, as Jim Crow laws achieved success in disenfranchising African Americans as well as forcing them into peonage, the Klan lost its reason for being and largely faded away.

In 1915, however, in light of the great wave of immigration that began in 1890, the Klan appeared again, this time as a patriotic and anti-Catholic, anti-Semitic and anti-African American organization. It grew

Lynching

Extra-judicial homicide. Sometimes referred to as "Frontier Justice" when a group of people take law into their own hands and hand down, then carry out, a death sentence.



to its largest membership within a decade. Interestingly, the film *Birth of a Nation*, which glorified the Reconstruction-era KKK and was screened in the White House for an enthusiastic President Woodrow Wilson, became effective pro-Klan propaganda, motivating more sympathizers to join. By 1925, the Klan counted an estimated four million adherents, including numerous elected officials. However, due to a combination of infighting, unfavourable newspaper coverage and public disapproval, the Klan faded once more as the United States became a combatant in the Second World War. The Klan was revived a decade later by the Brown decision.

◀ By the first decades of the 20th century the Ku Klux Klan had expanded beyond the South, rallying in Long Branch, New Jersey 7th April 1924.

Source skills

Source A

Sam Kilgore, a former slave, was interviewed and recorded as part of the Federal Writers' Project (FWP), 1936–1938. He was 92 when he gave his narrative.

Befo' we moved to Texas de Klu [sic] Kluxers done burn my mammy's house and she lost everything. Dey was 'bout \$100 in greenbacks in dat house and a three hundred pound hawg in de pen, what die from de heat. We done run to Massa Rodger's house. De riders gits to bad dey come most any time and run de cullud folks off for no cause, jus' to be orn'ry and plunder de home. But one day I seed Massa Rodgers take a dozen guns out his wagon and he and some white men digs a ditch round de cotton field close to de road. Couple nights after dat de riders come and when dey gits near dat ditch a volley am fired and lots of dem drops off dey hosses. Dat ended de Klux trouble in dat section.

Born in Slavery: Slave Narratives from the Federal Writers' Project, 1936–1938. Texas Narratives, Volume XVI, Part 2, p. 258.

Source B

A description from the Public Broadcasting Service (PBS): *The Rise and Fall of Jim Crow: Jim Crow Stories: The Ku Klux Klan (1866)*.

The Klan spread beyond Tennessee to every state in the South and included mayors, judges, and sheriffs as well as common criminals. The Klan systematically murdered black politicians and political leaders. It beat, whipped, and murdered thousands, and intimidated tens of thousands

of others from voting. Blacks often tried to fight back, but they were outnumbered and outgunned. While the main targets of Klan wrath were the political and social leaders of the black community, blacks could be murdered for almost any reason. Men, women, children, aged and crippled, were victims. A 103-year-old woman was whipped, as was a completely paralyzed man. In Georgia, Abraham Colby, an organizer and leader in the black community, was whipped for hours in front of his wife and children... In Mississippi, Jack Dupree's throat was cut and he was disemboweled in front of his wife, who had just given birth to twins. Klansmen burned churches and schools, lynching teachers and educated blacks. Black landowners were driven off their property and murdered if they refused to leave. Blacks were whipped for refusing to work for whites, for having intimate relations with whites, for arguing with whites, for having jobs whites wanted, for reading a newspaper or having a book in their homes.

First question, part a – 3 marks

According to Source B, what were the implied and stated reasons for Klan violence against African Americans?

First question, part b – 2 marks

What is the message of Source A?

Second question – 4 marks

With reference to its content, origin and purpose, what are the values and limitations of Source B for a student studying the effects of KKK violence during and just following Reconstruction?



Race riots took hundreds of lives. There were numerous race riots, or acts of race-based mob violence, from the last decade of the 19th century into the first decades of the 20th century. These riots were sparked by a variety of circumstances, from alleged black on white crime to African American or African American-supported candidates being elected to office. Among the notable events of mass violence were: Wilmington, North Carolina (1898); Atlanta, Georgia (1906); Elaine, Arkansas (1919); and Tulsa, Oklahoma (1921).

In Wilmington, a city with a majority African American population, the catalyst for the riot was the electoral defeat of the segregationist Democratic Party in 1896 by a coalition of the white Populist Party “Fusionists” and African American Republicans. Democrats vowed revenge in the next election by appealing to white racial identity and fear of black males, in particular by playing on the idea that white women were constantly under the threat of rape by African American men. A Wilmington newspaper published a speech from a Georgia feminist, Rebecca Felton, in which she proposed,

If it requires lynching to protect a woman's dearest possession from ravening, drunken human beasts, then I say lynch a thousand negroes a week.

The 1898 election included the stuffing of ballot boxes by Democrats to ensure victory. Following the election, white Americans physically removed African American government officials, set the African American-owned newspaper office on fire and shot at African Americans on city streets; members of the mob asserting that they were protecting their rights. In the 24 hours after the election, at least 25 African Americans were killed and the actual number could have been well over 100 dead. Some African Americans and white Fusionists were loaded onto trains and banished from the city. Eventually, over 2,000 African Americans emigrated because of the effects of the race riot.

In September 1906, there was white mob violence in Atlanta, Georgia. The city had undergone rapid population expansion and had, as a result, become a leading economic city in the South. Racial tensions rose over several factors, including a mayoral election campaign in which the white candidates portrayed each other as pandering to African Americans, and stories carried by major newspapers telling of alleged assaults by African American males against white women. Other news stories discussed “uppity” black elites wanting to achieve social, economic and political equality.

On 22 September, four alleged assaults by African American men on white women were reported in the newspapers. Within hours, thousands of white men had assembled downtown. After midnight, the mob attacked hundreds of African Americans, destroyed businesses and even boarded street cars to beat black men and women. The next day, many African Americans armed themselves and law enforcement and militias patrolled; nonetheless, white vigilante groups attacked some African American areas of Atlanta and African Americans defended themselves. A third day brought more vigorous police enforcement and a confrontation between armed African Americans and law enforcement

officers that resulted in the death of one policeman and the arrest of 250 African American men. Estimates of the total number of deaths range from 25–40 for African Americans, with two white Americans losing their lives. The riot received national press coverage and threatened Atlanta’s reputation as a prospering city. As a result, Atlanta became much more segregated, Georgia restricted black suffrage two years later, and there emerged a motivation for more forceful African American advocacy of rights.

The race-based mob violence in Elaine, Arkansas, and Tulsa, Oklahoma, is considered to be the most violent of the period. According to the Encyclopedia of Oklahoma History and Culture, the Tulsa Race Riot is the “*single worst incident of racial violence in American history*”. Occurring over 18 hours, the white mob violence was responsible for the deaths of 50–300 African Americans (official records are inaccurate) and the destruction of more than 1,000 homes and businesses in Greenwood, (the African American neighbourhood in Tulsa).

The violence was apparently started when an African American man, a shoe shiner called Dick Rowland, accidentally stepped on the foot of a white woman, Sarah Page, in an elevator. The incident was reported in the newspapers as attempted rape and a mob gathered the next evening, amid calls to lynch Rowland. African Americans fought against thousands of armed white Americans and were overwhelmed: the entire African American neighbourhood in Tulsa was burned to the ground.

Two years prior to the Tulsa Race Riot, the 1919 Elaine Massacre had occurred in the Red Scare period following the First World War. After white security officers and deputy sheriffs confronted armed African Americans guarding a union meeting at Hoop Spur Church, shots were exchanged, resulting in the wounding of the Phillips County deputy sheriff and the death of a white security guard. The next day, the sheriff led a posse into the black quarter of Elaine to arrest the alleged perpetrators. The posse grew to between 500 and 1000 white men. US troops were also sent to Elaine to put down the “insurrection”. Reports differ on the number of deaths. Close to 300 African Americans were arrested and 122 were charged with crimes; of these, 12 were tried and convicted of murder, motivating scores of others to plead guilty to second degree murder. The murder convictions of the Elaine Twelve were appealed all the way to the US Supreme Court. and, in the decision of *Moore v. Dempsey* the court ordered a rehearing. Political scientist Megan Ming Francis ([year]) argues that *Moore v. Dempsey* was the critical basis for changing the US Supreme Court’s approach from deference to state authority towards more of a federal role in guaranteeing rights of Americans, thus creating a path for the NAACP’s civil rights litigation strategy that culminated in *Brown v. Board of Education*.

These four episodes of race-based mob violence – Wilmington, Atlanta, Elaine and Tulsa – have been largely ignored in mainstream US history texts. It is only within the past several decades that historians and the communities themselves have written these events into state and local histories.



ATL Self-management and research skills

Create a table like the one below to gather and sort important historical evidence about the race riots that took place from 1898–1921. Research may be divided within a student group in which each student investigates one city.

Location/dates	Causes	Participants	Results [e.g. human and property damage/ long term effects]	Source
Wilmington/				
Atlanta/				
Elaine/				
Tulsa/				

Source skills

The following sources are both part of an online exhibit of the Tulsa Race Riot on the Oklahoma Historical Society's website, the *Encyclopedia of Oklahoma History and Culture*.

Source A

A photograph of African Americans sifting through the rubble after the Tulsa Race Riot



Source B

Two excerpts from the *Encyclopedia of Oklahoma History and Culture*.

Over the next six hours Tulsa was plunged into chaos as angry whites, frustrated over the failed lynching, began to vent their rage at African Americans in general. Furious fighting erupted along the Frisco railroad tracks, where black defenders were able to hold off members of the white mob. An unarmed African American man was murdered inside a downtown movie theater, while carloads of armed whites began making “drive-by” shootings in black residential neighborhoods. By midnight fires had been set along the edge of the African American commercial district. In some of the city’s all-night cafes, whites began to organize for a dawn invasion of Greenwood ...

Shortly before dawn on June 1, thousands of armed whites had gathered along the fringes of Greenwood. When daybreak came, they poured into the African American district, looting homes and businesses and setting

them on fire. Numerous atrocities occurred, including the murder of A. C. Jackson, a renowned black surgeon, who was shot after he surrendered to a group of whites. At least one machine gun was utilized by the invading whites, and some participants have claimed that airplanes were also used in the attack.

digital.library.okstate.edu/encyclopedia/entries/T/TU013.html

First question, part a – 3 marks

What evidence is there in Source A to suggest that a race riot occurred and that property was damaged?

Second question – 4 marks

With reference to its content, origin and purpose, what are the values and limitations of Source A for students researching violence against African Americans in the early 1900s?

Third question – 6 marks

Compare and contrast Sources A and B in terms of what they show about anti-African American violence in Tulsa, Oklahoma.

Violent acts carried out against African American women was another way in which some white Americans sought to oppress African Americans. A slave was a chattel (personal possession) and, as such, a slave’s body did not belong to the slave but to the slave’s owner. Danielle L McGuire writes that, after the abolition of slavery, “*former slaveholders and their sympathizers used rape as a ‘weapon of terror’ to dominate the bodies and minds of African-American men and women*”. McGuire also reports that “*sexual and racial violence functioned as a tool of coercion, control, and harassment*” (2010). The rape of African American women continued into the 20th century, usually without legal punishment despite the claims of victims. Indeed, sexual abuse continued into the 1950s and 1960s as female civil rights workers were jailed and subjected to the whims of prison guards. The role of sexual violence combined with race relations remains an active area of research.

A critical means for the maintenance of white control in the Jim Crow South was the disenfranchisement of African Americans. During Reconstruction, African Americans in the former states of the Confederacy were able to vote, run for and hold office. After 1876, white Americans in those states quickly worked to reclaim political power by disenfranchising African Americans through various methods, including violence and intimidation, election fraud, and both substantive and procedural legal barriers. Soon after the ratification of the 15th Amendment and the Enforcement Act of 1870, African



Americans were threatened and sometimes assaulted when going to the polls. In 1873, more than 100 African Americans were killed in mob violence while defending local Republican government officials in Colfax, Louisiana. Federal enforcement of the right to vote was basically nullified in *United States v. Cruikshank*, a case that grew out of the Colfax incident. Still, African Americans continued to go to the polls. The second phase of disenfranchisement was known as “Redemption.” The **stuffing of ballot boxes** and the disposal of, or failure to count, African American votes was common; furthermore, the US Supreme Court significantly weakened the ability of the federal government to enforce legal voting practices in *U.S. v. Reese* in 1875. An additional practice was to count out ballots cast by African Americans for the chosen white candidates instead.

These practices were both inefficient and brought unwanted legal challenges, and often unwanted attention. White supremacists sought more efficient and longer lasting means to deny African Americans the vote. The path was through the passage of laws that effectively disenfranchised African Americans without ever mentioning race. The most common methods employed included a **poll tax**, which was used to prevent the poor (and most African Americans in the South were sharecroppers or in extremely low paid employment) from voting, and a **literacy test**, which facilitated the disqualification of almost every potential African American voter at the hands of biased registrars. Approximately one half of all African Americans were illiterate, having been denied an adequate education. However, even those who could read were disqualified by election officials.

One potential problem with the poll tax and literacy test was the disqualification of white voters as well. This obstacle was circumvented with what came to be called the “**Grandfather Clause**”, which allowed most white Americans, no matter how impoverished or illiterate, to cast legal votes. The Grandfather Clause allowed those whose grandfathers and sometimes great grandfathers were eligible to vote to cast ballots legally, regardless of the new election laws. As almost all the grandfathers of African Americans had been slaves, the Grandfather Clause effectively applied only to white Americans.

Another tactic was the “Whites-only primary”. The Democratic Party, being a non-government entity, was allowed to set its own rules for participation and membership. As this was the dominant political party in all southern states, excluding African Americans from the selection of candidates negated African American votes as well. The Whites-only primary was finally declared unconstitutional in *Terry v. Adams* in 1953, but federal enforcement was at best ineffective. Consequently, as a result of the variety of tactics employed by white supremacists in the last quarter of the 19th century and the first 50 years of the 20th century, the 15th Amendment providing African Americans with the right to vote was nullified.

The United States is a federal system: there is a central government with a Constitution and laws, and there are 50 state governments, each with its own Constitution and laws. The US Constitution

Ballot stuffing

The practice of election officials who cast significant numbers of fraudulent ballots to be counted with the intent, and usually the result, of the preferred candidate (or slate of candidates) winning the election.

A **poll tax** is one usually due at the time of voting and must be paid in order for a vote to be cast.

Literacy test

When registering to vote, citizens had to read and demonstrate understanding of a passage, often from the state constitution. The interpretation had to receive the approval of the registrar, who was almost always white and understood the unwritten purpose of the test.

A **grandfather clause** allows an exception for acts which were previously legal but made illegal. Today the term grandfathering refers to any rule, regulation, or law that allows those people under a previous set of circumstances to continue, while new persons are subject to the new regulations.

Historical Framework

As the struggle for civil rights evolved in the 20th century, developments can be classified into three strands: legal challenges, using the courts to secure rights that were being violated, essentially to force commercial and government institutions to adhere to the US Constitution; demonstrations and boycotts on various scales to force public and private institutions to stop a range of Jim Crow practices, from the refusal to serve African Americans to the prevention of African Americans from voting; the writing and passage of laws to allow the power of government to enforce civil rights. These strands were not mutually exclusive and often progress resulted from a combination of two or three strands working together, sometimes unintentionally, sometimes grudgingly, to achieve results. Examples of combined strands include: *Brown v. Board of Education* (1954); Montgomery Bus Boycott (1955–1956); the Little Rock Crisis (1957); the Civil Rights Act (1964); the Voting Rights Act (1965).

reserves for the state governments those legal areas over which the federal government does not have authority, but the interpretation of those reserved powers has evolved and varied over the life of the United States. The incorporation of the Bill of Rights as applicable to the states did not begin in earnest until the 1920s, but even then it was a gradual process. Consequently, the Jim Crow laws could vary from state to state, and the state and local governments almost completely excluded African Americans from the official government functions of legislating, policing and contract enforcement, as well as other civil rights. There was little the federal government could or would do; even when it could do something, the realities of party politics largely prevented white officeholders from taking action. The Democratic Party became a coalition of white Southerners and northern labour, while the Republican Party grew to include northern business interests, rejecting a progressive wing in the early 1900s. The Democratic Party that emerged as a majority with Franklin D Roosevelt in 1932 was a coalition of progressives from the North, many of whom were former Republicans, and white segregationist Southerners who regarded the Republican Party as the party of Lincoln and “Radical Reconstruction”. For the most part, Democrat leaders ignored the rights of African Americans in order to keep the diverse coalition together. The result was little progress on civil rights from the federal government during the New Deal years, a period of dramatic governmental growth.

The Second World War largely focused the nation on fighting the war in Europe and the Pacific, but despite the participation of millions of African Americans as soldiers and defence workers, segregation remained. Just months before the United States entered the war, A Philip Randolph, leader of the Brotherhood of Sleeping Car Porters, threatened a march on Washington to protest against discrimination in defence factories and the armed forces. Roosevelt averted the confrontation by ordering an end to employment discrimination in the defence industry, but the problem festered as the armed forces of a country fighting Nazi Germany stayed segregated. As African American soldiers returned at the end of the war, they returned to a Jim Crow South. Many of the veterans felt they had earned the right to be treated as equals and began to act on their demands. Such activists included Medgar Evers, Amzie Moore and Charles Sims.

The decade following the war saw some progress as President Harry Truman ordered the army desegregated, as well as supporting civil rights legislation in 1948. However, Jim Crow remained the way of life in the southern states and increased pressure on the system resulted in a hardening of positions, especially as challenges came from African American activists and the federal government. The first large challenge to Jim Crow came in 1954 when the US Supreme Court declared segregated schools to be inherently unequal, violating the equal protection clause of the 14th Amendment.



Segregation and education; *Brown v. Board of Education* decision (1954); Little Rock (1957)

Possibly the most well-known US Supreme Court decision of the 20th century, *Brown v. Board of Education of Topeka* changed the landscape of legal support for segregation, specifically racial segregation in public education. It was a paradigm shift. If the 14th Amendment can be considered the “African American Bill of Rights”, as partially incorporated by *Gitlow v. New York* (1925), *Brown* made it official, even though the overturning of *Plessy v. Ferguson* (1896) was specifically only in the area of public education. However, *Brown* was not simply a sudden shift that came from the new Chief Justice of the Supreme Court, Earl Warren; rather, the steps to overturning *Plessy* had been paved by the decades-long effort of the NAACP’s legal arm, with the continued support of Walter White and the strong leadership of Charles Hamilton Houston. The NAACP devised and implemented a legal strategy to reverse *Plessy*, the legal foundation for Jim Crow. Hamilton’s contributions were so critical to the effort, he became known as “the man who killed Jim Crow”.



The foundation for the NAACP’s strategy came from the Margold Report. After assessing the climate and the prospects of dismantling Jim Crow, Nathan Ross Margold wrote a report that suggested attacking segregation through the courts: “if we boldly challenge the constitutional validity of segregation if and when accompanied irremediably by discrimination, we can strike directly at the most prolific sources of discrimination” (1930). Specifically, the NAACP would use the courts to challenge whether the “equal” part of “separate but equal” really meant “equal” in the case of public schools. Rather than ask the courts to order the mixing of races, the NAACP would try to get the courts to allocate as much per pupil for African American students as was spent on white Americans. Study after study showed that per pupil spending on white children was two to five times as much as on African American children, pay for African American teachers was much less than that of white educators, facilities within schools were completely unequal, and the school year for African Americans was significantly shorter; forcing school districts to comply with “equal” would be quite expensive. As the strategy of the NAACP’s legal division evolved to focus on education (lynching was also a major focus), the thinking was that, in the end, making separate facilities equal would be cost-prohibitive and the practical result would be the end of segregated schools.

The legal strategy also had to consider the importance of judicial restraint and legal precedent. Consistency in law is critical to its acceptance and applicability. Judges’ rulings usually follow previous rulings and lower courts follow the rulings of higher courts. In the United States, the Supreme Court sets forth legal decisions (called Opinions) that guide lower courts. When subsequent rulings are based

on an opinion, that opinion acts as a precedent. The overturning of a precedent upon which a series of legal decisions is based is quite difficult, as judges value consistency and predictability as critical. The reluctance to overturn long-standing precedents, along with respect for the intent of legislators, is what is known as “judicial restraint”. Thus, the legal basis for segregation, *Plessy*, which was the culmination of numerous rulings in the 1880s and 1890s and had been in force for several decades, would be extremely difficult to reverse.

Of equal importance, the integration of white and African American children in schools would strike at the heart of Jim Crow, but it would also strike at the core fears of segregationists: equal status and miscegenation (the interbreeding of people of different races). Despite the great injustices, it would be difficult to find plaintiffs in public school cases due to the fear of economic and violent reprisals. African Americans who had tried to assert rights in Jim Crow states had lost their jobs and been lynched. Charles Hamilton Houston, who had become the chief of the NAACP’s legal team, had modified Margold’s strategy to start with graduate schools, the highest level of education. This approach would not upset entire local populations, which could pressure judges, and would also have the advantage of pointing out obvious inequalities, for example where no African American medical or law schools existed. However, it was necessary to find a client with the standing to bring a lawsuit.

Opportunity came in the person of Donald Murray in early 1935. Murray had applied for admission to the University of Maryland School of Law; his application had not even been considered, his letter of application had been rejected and the fee returned, and he had been told to apply to the Princess Anne Academy, the only post-secondary school available to African Americans in Maryland. The Princess Anne Academy was at best of junior college level; it offered no graduate courses whatsoever and had no law school. He was also told that he could apply to an out-of-state law school and that he would be eligible for tuition assistance, but the offer was a hollow one as the legislature had appropriated no funds for that purpose. Here was a willing plaintiff with standing, and certainly no “equal” facility. The “equal” part of *Plessy* could be tested.

In June 1935, the case went to court, with Charles Houston, assisted by Thurgood Marshall, arguing for Donald Murray in *Murray v. Maryland*. The NAACP lawyers argued successfully, calling both the president of the University of Maryland, Raymond Pearson, and the dean of the School of Law as witnesses. The Princess Anne Academy was exposed as offering an education far below the level of the first two years of undergraduate education at the University of Maryland, not to mention that of a law school. Judge Eugene O’Dunne decided in favour of Murray, ordering the law school to admit him. The decision was appealed and in 1936 the state Supreme Court affirmed the decision.

While *Murray v. Maryland* (1936) was a victory, it was only a first step. The decision only applied to Maryland and then only effectively to graduate schools. At this time in the United States, for a decision to apply to the entire country it had to reach the US Supreme Court.

The case was first designated *Murray v. Pearson* (Raymond Pearson was the President of the University of Maryland).

The Supreme Court cannot be forced to hear a case, rather it chooses the cases it will hear. A minimum of four justices must vote to hear a case. An affirmative vote results in a *writ of certiorari*.



This would mean selecting cases that would likely be appealed all the way to the Supreme Court. A way to guarantee this process was to choose cases that the NAACP would be likely to lose, and that they could then choose to appeal. Soon after *Murray*, the NAACP took up the equalization of teacher salaries in South Carolina. An African American school principal who asked the district superintendent for the salary increase saw his contract terminated, but the NAACP saw a ruling that equalized teacher salaries.

The next step was the case of *Gaines v. Missouri* (1938), also a law school case, in which the state refused to let African Americans attend the state university's law school. Missouri provided remedy in that it agreed to pay any additional tuition incurred by African Americans attending schools out of state but, unlike Maryland, fully funded that option. The Missouri Supreme Court decided against Lloyd L. Gaines, allowing an appeal to the US Supreme Court. The Supreme Court reversed the decision of the Missouri Supreme Court: the law school was ordered to admit Gaines. Essentially, separate facilities had to be equal within a state, but the Supreme Court did not comment on segregated facilities themselves. Although this was Houston's last case for the NAACP, he continued to attack, by legal means, segregation in transportation, labour and public facilities. These cases, too, helped pave a legal road to overturning Plessy. In 1940, Houston was followed by his chosen successor, Thurgood Marshall. It was the task of Marshall and the NAACP legal team to establish that separate facilities could never be equal, even if equally funded.

The cases of *Sweatt v. Painter* (1950) and *McLaurin v. Oklahoma State Regents* (1950) were the final two steps before *Brown* that chipped away at the "separate but equal" doctrine. In 1946, Herman Sweatt had applied for admission to the University of Texas School of Law. Texas had built a second law school just for African Americans, but in 1950 the US Supreme Court issued an opinion that, even if the facilities were equal, a law school was more than a legal education, involving interaction with fellow students, professors, access to a law library, and reputation. Consequently, no separate law school could ever be equal. Here the Supreme Court had ruled that, at least in the area of graduate schools, separate facilities could never be equal. *McLaurin v. Oklahoma*, a case involving the Oklahoma State School of Education, further established that being segregated within the same school also violated the equal protection clause of the 14th Amendment.

The public school cases were getting underway in various states: in Clarendon County, South Carolina, elementary and high school students brought suit in *Briggs v. Elliot*; in Prince Edward County, Virginia, the plaintiffs in *Davis v. County School Board* were high school students; in New Castle County, Delaware, elementary and high school students sued in *Gebhart v. Belton*; and in *Brown v. Board of Education of Topeka* the plaintiffs were elementary school students. The US Supreme Court agreed to hear these four cases – along with the District of Columbia case, *Bolling v. Sharpe* – as one consolidated case, calling it *Brown v. Board of Education*. The case ended up being argued twice before the justices. It was first heard in the spring of 1953, but the Court was unable to reach a decision and both sides were ordered to present their arguments again in the autumn of the same year.

ATL Thinking and social skills

The following extract tells how Barbara Johns organized students at the African American Moton High School to walk out in 1951 in support of achieving integrated schools in Prince Edward County. Johns also contacted the NAACP for legal support. In total, 117 of the students who walked out became the plaintiffs in *Davis v. County School Board*, one of the cases that became the basis for *Brown*.

Kluger, R. 2011. *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality*. Kindle edition, locations 11804–11811. Knopf Doubleday Publishing Group.

At the appointed moment in the auditorium, 450 students and a faculty of two dozen teachers less one principal hushed as the stage curtains opened. The student strike committee was seated behind the rostrum. Standing at it and in command of the suddenly murmuring room was Barbara Rose Johns. She asked the teachers to leave, and as the excitement grew, most of them obliged. And then the beautiful sixteen-year-old girl at the rostrum told her schoolmates what was in her heart. It was

time that Negroes were treated equally with whites. It was time that they had a decent high school. It was time for the students themselves to do something about it. They were going to march out of school then and there and they were going to stay out until the white community responded properly. The Farmville jail was too small to hold all of them, and none of them would be punished if they acted together and held fast to their resolve. In the long run, said Barbara Johns, things would never be really equal until they attended school with white students on a non-segregated basis.

Questions

- 1 What were Barbara Johns's motivations in organizing the strike?
- 2 Why do you think Johns asked all the teachers to leave?
- 3 In light of what you know about Jim Crow and potential consequences for Johns and her family, what qualities of the Learner Profile would you ascribe to Barbara Johns?

During the summer of 1953, an important change occurred at the US Supreme Court. Chief Justice Fred Vinson had died and President Dwight D Eisenhower had appointed the former three-term governor of California, Earl Warren, as the new Chief Justice. Although he had never been a judge, Warren had been both a prosecutor and a magistrate and, as historian Richard Kluger writes, had favoured “a sweeping civil rights program, beginning with a fair employment practices act. ... I insist upon one law for all men” (2011). Eisenhower did not voice the same support for civil rights, but Warren was a fellow Republican and a rival for party leadership. Over his career as Chief Justice, Warren became known as the leader of the most liberal or progressive Supreme Court in US history. Eisenhower later called his appointment of Earl Warren “the biggest damned-fool mistake I ever made”. Nonetheless, it was the change from Vinson to Warren that made the difference.

After reargument, the Supreme Court, which had been deadlocked months before, several justices' positions gradually changed as the case was discussed within the chambers, with Warren guiding discussions. In May 1954, the Supreme Court ruled unanimously that segregation by race in public schools was inherently unequal and that “Any language in *Plessy versus Ferguson* contrary to this finding is rejected”. The strategy originally proposed by Nathan Margold had finally been realized in law.

The ruling in *Brown* was a monumental decision that, while not specifically overturning all laws supported by *Plessy*, was understood to have greatly undermined any legal support for Jim Crow. Reactions to the ruling were mixed across geographical regions and races. The ruling shook up segregationist white Americans who saw their Jim Crow society being destroyed, while other white Americans reacted with caution or in



- ▲ Front page of New York Times 18 May 1954, banner headline announces the *Brown* decision. The other headlines illustrate the Cold War context of the period.