

Plessy v. Ferguson

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In the American history between the years 1876 to 1965, “Jim Crow laws” were enacted in order to segregate all the public facilities like educational institutes, railways etc. for the African-American residents^[1]. This gave birth to “separate but equal” status to all the African Americans residing in United States from 1890 onwards. In the historical case of Plessy v. Ferguson in 1896, the Supreme Court of United States upheld that the Jim Crow laws were constitutional and requires segregation of all the public facilities. This decision was given citing the doctrine of “separate but equal”.

Louisiana State passed a law known as “Separate Car Act” in 1890 requiring separate accommodations and railway cars on the railroads for blacks and whites. This was challenged by Homer Plessy by travelling in the car which was for whites and refusing to move the cars which were being given to blacks. This resulted in his arrest and the case was brought in the Orleans parish and then to the Supreme Court of Louisiana and case was registered as *Homer Adolph Plessy v. The State of Louisiana*. Plessy argued that separate cars for blacks are violation of the Thirteenth and Fourteenth Amendments of US Constitution. The judgment was passed by Judge Ferguson upholding the law of separate car act. The appeal was then taken to the Supreme Court of United States and the case was Plessy v. Ferguson. In 1896, the Supreme Court upheld the decision by Ferguson by a vote of 7 to 1. According to the judges, there was no violation of Fourteenth Amendment of the US Constitution as the facilities were only separated but equal in nature^[2]. The facilities provided in the rail cars for blacks were found to be equal to those being provided in the cars for whites and was not inferior in nature. Thus, it did not violate the fourteenth Amendment under which equal rights were guaranteed to all the U.S. citizens and equal protection of these rights were guaranteed, against the deprivation of life, property and liberty to every citizen.

Racial Segregation

The United States followed the principle of racial segregation between the African-Americans and whites with regard to all the public facilities being provided to the citizens legally and socially. These public facilities included: healthcare facilities, housing, educational institutes, employment in public and private services, and transportation ^[3].

The racial segregation became more popular when the Jim Crow laws were enforced in the country and caused physical separation of all the provisions and public facilities. This included the racial segregation of the various roles in different institutes in the United States. This is best defined by the racial segregation followed in the United States Armed Forces till late 1950s. In the armed forces, there were separate black units which were segregated from white units but were led by white officers instead of black officers.

In spite of the passing of the Reconstruction Act of 1867, and the Fifteenth Amendment Act ratification, and Civil Rights Act of 1875, forbidding any kind of racial segregation and providing the African-American citizens a right to vote for their political leader; racial segregation was aggravated in United States. The supremacist group of whites known as Ku Klux Klan started terrorizing the community of blacks by looting and killing them. They gave the theory of “survival of the fittest” proposed by Darwin and propagated the idea that whites are the fittest and should always be treated and have rights more than the black ^[3]. They killed the blacks who tried to exercise their right to vote or for becoming the members of any political establishment or social and educational institutions. The racial segregation was implemented through legal tools also. The very intent of the Fifteenth Amendment Act of right to vote by blacks was violated by different legal clauses like implementation of poll taxes, and requirement

of property qualifications. This was done in order to discourage and prevent blacks from exercising their right to vote on the basis of color.

Separate but equal

The legal doctrine presented by the different states and United States in their constitution legalizing the racial segregation is known as “separate but equal”. According to the doctrine of “separate but equal”, all the services and public facilities like education, transport, healthcare facilities, and accommodation were allowed to be separated on the basis of race and the condition was included in this that the facilities although separate will have equal quality being provided to both the races of blacks and whites. This doctrine in the United States Constitution was derived from a law passed by the state of Louisiana in 1890 segregating the rail car on the railroad for blacks and whites. The phrase used by the law passed in the state of Louisiana was a little different, “equal but separate”^[4].

The slavery being practiced in America was ended by the American Civil War policy^[5]. This was followed by the Fourteenth Amendment in United States Constitution which granted equal rights and protection of rights to all the citizens. After the phase of Reconstruction, the blacks were still being discriminated on the basis of race. The federal government had left the formation of policies regarding racial segregation to the states. The state came up with the doctrine of “separate but equal” in order to maintain the intent of Fourteenth Amendment and at the same time segregating all the public services based on race. There were numerous pleas which were filed by the African-Americans that their rights granted by Fourteenth Amendment were being violated by this doctrine, but the pleas were rejected citing that the amendment was applicable at federal level only and not for the state citizenship.

Although, it was voiced that the services being provided were equal to both the blacks and whites, the real story was something different. Most of the times, the services provided to the African-Americans were inferior in quality than those being provided to the whites.

Racial prejudice

The relations based on the racial prejudice were fast deteriorating the American society with the creation and practice of the discriminatory laws like Jim Crow laws. These were validated by the Supreme Court with the doctrine of “separate but equal” in the historical case of Plessy v. Ferguson. The Jim Crow laws were challenged and down-turned by the Supreme Court in the historical case of Brown v. Board of Education citing the equal protection of rights under the Fourteenth Amendment Act^[6]. After the verdict of this case, large number of American-African activists emerged on the streets to start a movement for equal rights to all the races. This movement was led by Dr. Martin Luther King who became the leader and motivator for the civil disobedience and nonviolence movements in America. According to King in his letter from Birmingham prison, he had refuted the theory propounded by whites that this movement was unnecessary and not required. He hailed that blacks were continuously being victimized and humiliated, they were not given access to stay in any hotels or motels in the country^[8]. Their women folk were always insulted. The years of racial prejudice and thinking pattern that whites are supreme over other races by natural laws too, had led to the racial discrimination and vicious treatments of African-American race at the hands of the whites.

Civil Rights

The Civil rights Movement which started in 1960 was mainly focusing two issues: end of the “Jim Crow laws” which was segregating the U.S. citizens on the basis of race for all the public services, and to gain the right to vote for their leaders across the country.

This movement did not start all of a sudden and there were many factors and small revolutions which led to the Civil Rights Movement in 1960 which brought about revolutionary changes in the treatment of the African-Americans. After the adoption of constitution in United States in 1787, the naturalized citizenship was given only to whites i.e. the European immigrants and all the other races were denied the citizenship and consequently any voting rights. Also, African-Americans were not allowed to own any kind of property. The slavery was being practiced till 1865 i.e. the end of the Civil War^[7].

The fight against slavery, and discrimination on the basis of race and color involved killing of many men, both blacks and whites. During the Civil War, 3,60,000 Union soldiers died fighting against slavery which included men from both races. It was eventually ended by the Emancipation Proclamation and the Thirteenth Amendment which declared practice of slavery as illegal. But the decision on “right to vote” was left to the individual states. With the advent of the Fourteenth Amendment all the states were asked to provide right to vote to all the male citizens without discriminating on the basis of race and color. But women were denied any right to vote across both the communities of blacks and whites. During the Reconstruction period many African-American voted and selected their leaders to various offices. But in 1877, the Ku Klux Klan of whites started terrorizing blacks from exercising their rights to vote and also many clauses were included to restrict their voting rights.

Fourteenth Amendment

The constitution of United States adopted the Fourteenth Amendment on 9 July, 1868 following the Reconstruction Amendments. According to the Fourteenth Amendment every citizen of America will have equal rights and protection of the laws. This amendment was the result of the Civil War movement. This was not taken in good terms by the southern states but was forced to ratify their laws to accommodate this amendment in order to get representation to the Congress. The fourteenth Amendment contains various clauses such as: Citizenship Clause, Equal Protection Clause, Due Process Clause, and Privileges Clause ^[10].

- **The Due Process Clause:** The states and all the officials of the local government are prohibited from practicing anything which can deprive the citizens of America life, liberty, or property.
- **The Citizenship Clause:** A broad definition of citizenship is provided by the Citizenship Clause in the Fourteenth Amendment. The Citizenship Clause clearly overruled the verdict of the Supreme Court in the case of Dred Scott v. Sandford (1857), where Supreme Court had ruled that all the Americans who had descended from the African slaves cannot be considered as the citizens of United States.
- **The Privileges or Immunities Clause:** This clause protects all the privileges and immunities of the people regarding national citizenship and prohibits any interference from the states. This was upheld in another landmark decision in the Slaughter-House Cases. According to the verdict, this clause prevents the states from interfering only with the privileges and immunities possessed by the citizens due to national citizenship. These will include only privileges which are existent under the Federal government, possess a national characteristic in the constitution and laws. Few of these rights are: right to run

for federal offices, right to travel on the seat of the government, right to peaceful assembly, etc.

- **Equal Protection clause:** This clause states that no state shall and can deny any person who is the citizen of United States equal protection of the laws within its jurisdiction. This clause was passed with an aim to strengthen the various provisions regarding equality of the citizens present in the Civil Rights Act of 1866. Initially the equal protection clause was applicable to the state governments only. But with the advent of the controversy revolving around the case of *Bolling v. Sharpe* (1954), this clause became applicable to the federal government also. The ruling also reiterated and added the fact that this clause defines both: the legal equality with whites, and the legal equality among whites. The man who acted as the principal framer and force of the Equal Protection clause was Congressman John Bingham who belonged to Ohio. The Civil Rights Act was vehemently opposed by the Southern states in 1865 and thus this led the Congress to exercise its power and exclude these states from having any representation in the Congress. This power was used by the Congress under Article I, Section 5, clause 1 of the constitution which empowers the Congress to be judge of the qualifications required of its members. Thus, this led to the successful enactment and passing of the Fourteenth Amendment which made it possible for the congress to pass and propose the Equal Protection Clause to the different states. The Southern states ratified this clause in order to be reaccepted by the Congress.

There were various ratifications made by the different states in view of the equal protection clause. Few of the states barred interracial marriages which was refuted by the Alabam Supreme Court citing Civil Rights Act and Equal Protection Clause of *Burns v.*

State. Some states such as New York was following the doctrine of separate but equal with regards to public schooling while states like Iowa and Massachusetts never followed racial segregation in schools since 1850s only.

Similar cases

- A case very similar to Plessy v. Ferguson was fought in 1887, with a similar verdict. In this case a plea was made by Rev. W.H. Heard with the Interstate Commerce Commission for act of discrimination between blacks and whites against the Georgia Railroad Company ^[9]. He cited that Fourteenth Amendment was being violated by the company by providing different passenger cars for whites and African-American passengers. But the court upheld the decision in favor of Georgia Railroad Company citing that they were providing separate but equal accommodation. It was testified by W.H. Heard that the conditions in the rail cars meant for the blacks were provided with inferior quality. The condition included the fact that whites used to smoke, curse and drink profusely even if there is a colored lady travelling in the car. The company did not provide any testimonial to avoid this fact, but only said that the cars were separate but equal. The Interstate commerce Commission gave the ruling in favor of the Georgia Railroad Company.
- Berea College v. Kentucky (1908): This was a landmark of a case in the history of United States on the subject of racial segregation. In this case, the Supreme Court of United States upheld the decision of the states to prevent the private educational institutions from giving admission to both the races of blacks and whites ^[11]. Berea College in Kentucky founded in 1855, was the only educational institute which did not discriminate between whites and blacks and admitted both the races. The Kentucky

legislature passed a law called “Day Law” in 1904 segregating blacks and whites in the educational institutions. According to the law, a person, or a group of persons, or an institute was prohibited from teaching of both the races of blacks and whites in the same educational institution. And in case, they were being taught in the same institute, the branches for teaching blacks and whites should be separate and the branches should not be within 25 miles of each other. Berea College was the only educational institute which was violating this law. The college filed a plea to challenge this law with the Kentucky Court of Appeals. The verdict was given in the favor of the law incorporated by the government. The appeal was then made to the Supreme Court of the United States. The Supreme Court gave the decision in the favor of the Kentucky government and upheld the “Day Law” passed by the state government. It was reasoned by Justice Brewer that since the institutes in question were charter in nature under the Kentucky laws, the state government had full rights to impose such kind of prohibitions to these institutes. The ruling in this case resulted in the state being allowed to prevent the concept of integrated schooling not only in the private educational institutes but also spread this to the public educational institutions.

The racial segregation was struck down by the Supreme Court of United States in the Brown v. Board of Education case (1954)^[6]. In this case the court declared that the laws which demanded separate schools for blacks and whites were unconstitutional. This verdict overruled all the previous verdicts which had upheld the racial segregation of public services. The racial segregation was considered as a violation of Equal Protection Clause under the Fourteenth Amendment of the United States Constitution. This was considered as a huge victory for the movement which was started by African-Americans for their civil rights.

Footnotes

^[1] Woodward, C. Vann and McFeely, William S. (2001). *The Strange Career of Jim Crow*.

Barbara J. Fields (1982). *Ideology and Race in American History*. Oxford University Press.

^[2] Medley, Keith Weldon (2003). *We As Freeman: Plessy v. Ferguson: The Fight Against Legal Segregation*. Pelican Publishing Company.

^[3] Armstead L. Robinson (2005). *Full of Faith, Full of Hope: African-American Experience from Emancipation to Segregation*. Washington: U.S. Department of State.

^[4] Separate but equal: West's Encyclopedia of American Law. Retrieved on 30 August 2013 from www.answers.com

^[5] William G. Thomas (24 June, 2008). *How Slavery Ended in the Civil War*. University of Nebraska-Lincoln.

^[6] Anderson, *Legacy of Brown: Many people part of local case, Thirteen parents representing 20 children signed up as Topeka plaintiffs*. The Topeka Capital-Journal. Retrieved on 30 August 2013.

^[7] *Voting Rights History: Two Centuries of struggle*. Retrieved on 30 August 2013 from <http://www.crmvet.org/info/votehist.htm>

^[8] Pamela Miller. *Race Prejudice in America (100 Years of Silence: 1860-1960)*. Retrieved on 30 August 2013.

^[9] New York Times, 30 July 1887: "No Jim Crow Cars"...The answer further avers that the cars for the colored passengers are equally safe, clean, and ventilated likewise those provided to whites. ..."

^[10] Nelson, William E. (1988). *The Fourteenth Amendment from Political Principle to Judicial Doctrine*. Harvard University Press. p. 47. Retrieved on 30 August 2013.

^[11]Text of *Berea College v. Kentucky*, 211 U.S. 45 (1908). Retrieved on 30 August 2013 from
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