

# 11 Desegregation as a Cold War Imperative

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AT THE height of the McCarthy era, when Congressional committees were exposing "communist infiltration" in many areas of American life, the Supreme Court was upholding loyalty oath requirements, and the executive branch was ferreting out alleged communists in government, the U.S. Attorney General filed a pro-civil rights brief in what would become one of the most celebrated civil rights cases in American history: *Brown v. Board of Education*. Although seemingly at odds with the restrictive approach to individual rights in other contexts, the U.S. government's participation in the desegregation cases during the McCarthy era was no anomaly.

In the years following World War II, racial discrimination in the United States received increasing attention from other countries. Newspapers throughout the world carried stories about discrimination against non-white visiting foreign dignitaries, as well as against American blacks. At a time when the U.S. hoped to reshape the postwar world in its own image, the international attention given to racial segregation was troublesome and embarrassing. The focus of American foreign policy at this point was to promote democracy and to "contain" communism. However, the international focus on U.S. racial problems meant that the image of American democracy was tarnished. The apparent contradictions between American political ideology and practice led to particular foreign policy difficulties with countries in Asia, Africa, and Latin America. U.S. government officials realized that their ability to sell democracy to the Third World was seriously hampered by continuing racial injustice at home. Accordingly, efforts to promote civil rights within the United States were consistent with, and important to, the more central U.S. mission of fighting world communism.

The literature on desegregation during the 1940s and 1950s has failed to consider the subject within the context of other important aspects of American cultural history during the postwar era. Most scholars seem to assume that little outside the subject of race relations is relevant to the topic.<sup>1</sup> As a result, historians of *Brown* seem to write about a different world than do those who consider other aspects of postwar American culture. The failure to contextualize *Brown* rein-

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forces the sense that the movement against segregation somehow happened in spite of everything else that was going on. During a period when civil liberties and social change were repressed in other contexts, somehow, some way, *Brown* managed to happen.

This chapter represents an effort to begin to examine the desegregation cases within the context of the cultural and political period in which they occurred. The wealth of primary historical documents on civil rights during the Cold War that explicitly draw connections between civil rights and anticommunism suggests that an effort to examine desegregation within the context of Cold War American culture may be more than an interesting addition to a basically well told tale. It may ultimately cause us to recast our interpretations of the factors motivating the critical legal and cultural transformation that *Brown* has come to represent.

In one important deviation from the dominant trend in scholarship on desegregation, Derrick Bell has suggested that the consensus against school segregation in the 1950s was the result of a convergence of interests on the part of whites and blacks, and that white interests in abandoning segregation were in part a response to foreign policy concerns and an effort to suppress the potential of black radicalism at home. According to Bell, without a convergence of white and black interests in this manner, *Brown* would never have occurred.<sup>2</sup> While Bell's work is important and suggestive, neither Bell nor other scholars have developed this approach historically.

One need not look far to find vintage '50s Cold War ideology in primary historical documents relating to *Brown*. For example, the amicus brief filed in *Brown* by the U.S. Justice Department argued that desegregation was in the national interest in part due to foreign policy concerns. According to the Department, the case was important because "[t]he United States is trying to prove to the people of the world, of every nationality, race and color, that a free democracy is the most civilized and most secure form of government yet devised by man."<sup>3</sup> Following the decision, newspapers in the United States and throughout the world celebrated *Brown* as a "blow to communism" and as a vindication of American democratic principles. As was true in so many other contexts during the Cold War era, anticommunist ideology was so pervasive that it set the terms of the debate on all sides of the civil rights issue.

In addition to its important consequences for U.S. race relations, *Brown* served U.S. foreign policy interests. The value of a clear Supreme Court statement that segregation was unconstitutional was recognized by the State Department. Federal government policy on civil rights issues during the Truman Administration was framed with the international implications of U.S. racial problems in mind. And through a series of amicus briefs detailing the effect of racial segregation on U.S. foreign policy interests, the Administration impressed upon the Supreme Court the necessity for world peace and national security of upholding black civil rights at home.

As has been thoroughly documented by other historians, the federal govern-

ment's efforts in the late 1940s and early 1950s to achieve some level of racial equality had much to do with the personal commitment on the part of some in government to racial justice, and with the consequences of civil rights policies for domestic electoral politics. In addition to these motivating factors, the effect of U.S. race discrimination on international relations during the postwar years was a critical motivating factor in the development of federal government policy. Without attention to the degree to which desegregation served important foreign policy interests, the federal government's posture on civil rights issues in the postwar years cannot be fully understood.

## American Racism in the Eyes of the World

Apart from pressure from civil rights activists and electoral politics at home, the Truman Administration had another reason to address domestic racism: other countries were paying attention to it. Newspapers in many corners of the world covered stories of racial discrimination against visiting non-white foreign dignitaries and Americans. And as tension between the United States and the Soviet Union increased in the years after the war, the Soviets made effective use of U.S. failings in this area in anti-American propaganda. Concern about the effect of U.S. race discrimination on Cold War American foreign policy led the Truman Administration to consider a pro-civil rights posture as part of its international agenda to promote democracy and contain communism.

In one example of foreign press coverage, in December 1946 the *Fiji Times & Herald* published an article entitled "Persecution of Negroes Still Strong in America." According to the Fiji paper, "the United States has within its own borders, one of the most oppressed and persecuted minorities in the world today." In the Southern states, "hundreds of thousands of negroes exist today in an economic condition worse than the out-and-out slavery of a century ago." Treatment of blacks was not merely a question of race discrimination; "it is frequently a question of the most terrible forms of racial persecution."

The article described the 1946 lynching of four blacks in Georgia. "This outrage," the article continued, followed Supreme Court action invalidating Georgia voting restrictions. "The decision gave the negro the legal right to vote but [Georgia Governor] Talmadge challenged him to exercise it. He also flung a defiance to the Court itself and asked the voters of his State to back him up, which they did." According to the paper, "[v]ery few negroes dared to vote, even though the country's highest tribunal had found them entitled to. Most of those who did, or tried to, were badly mauled by white ruffians." The article noted that federal anti-lynching legislation had been proposed in the past, and "further attempts are certain in the next Congress."

The *Fiji Times & Herald* was not entirely critical. Reporting that a recent dinner honoring black journalists had brought together blacks and white Southerners, the paper concluded that "[t]he point is that the best culture of the south, in America, is opposed to the Bilbo-Talmadge anti-negro oppression and seems today

more than ever inclined to join with the north in fighting it." Efforts against racial intolerance had particular consequences in the U.S., for "there cannot be, on the basic tenants [sic] of Americanism, such a thing as second class citizenship." The issue also had broader implications, however. "The recognition and acceptance of the concept of a common humanity should, and must, shatter the longstanding bulwarks of intolerance, racial or otherwise, before anything entitled to call itself true civilisation can be established in America or any other country."

The American Consul in Fiji was unhappy with the *Times & Herald* article, which it saw as "an indication of certain of the anti-American and/or misinformation or propaganda now carried" in the paper. A response to the article seemed appropriate and necessary. "If and when a favorable opportunity occurs, the matter of the reasonableness or justification in the publication of such biased and unfounded material, obviously prejudicial to American prestige throughout this area, will be tactfully broached to the Editor and appropriate government officials."

In Ceylon, American Embassy officials were concerned about what they considered to be "Asian preoccupation with racial discrimination in the United States." Ceylon newspapers ran stories on U.S. racial problems picked up from Reuters wire service. In addition, a Ceylon *Observer* columnist focused on the issue, particularly the seeming contradiction of segregation in the capital of American democracy. In his article, Lakshman Seneviratne quoted *Time* magazine as saying, "[i]n Washington, the seated figure of Abraham Lincoln broods over the capital of the U.S. where Jim Crow is the rule." According to Seneviratne, in Washington "the colour bar is the greatest propaganda gift any country could give the Kremlin in its persistent bid for the affections of the coloured races of the world, who, if industrialized, and technically mobilized, can well dominate, if domination is the obsession, the human race."

The effect of U.S. race discrimination on the country's leadership in postwar world politics was discussed in the Chinese press. The Shanghai *Ta Kung Pao* covered the May 2, 1948, arrest of U.S. Senator Glen Taylor for violating Alabama segregation laws. Criticizing Taylor's arrest, the paper noted that "[t]he Negro problem is a problem of U.S. internal politics, and naturally, it is unnecessary for anybody else to meddle with it." However, the issue had international ramifications.

[W]e cannot help having some impressions of the United States which actually already leads half of the world and which would like to continue to lead it. If the United States merely wants to "dominate" the world, the atomic bomb and the U.S. dollar will be sufficient to achieve this purpose. However, the world cannot be "dominated" for a long period of time. If the United States wants to "lead" the world, it must have a kind of moral superiority in addition to military superiority.

According to the paper, "the United States prides itself on its 'liberal traditions,' and it is in the United States itself that these traditions can best be demonstrated."

The American Consul General in Shanghai believed that the *Ta Kung Pao* editorial "discusses the Negro problem in the U.S. in a manner quite close to the Communist Party line." The Consul General preferred an editorial in the *China Daily Tribune* which cast American race discrimination as a problem generated by a small minority who were acting against the grain. According to that paper, "Prejudice against people of color seems to die hard in some parts of the United States despite all that President Truman and the more enlightened leaders of the nation are doing to ensure that race equality shall become an established fact."

Indian newspapers were particularly attuned to the issue of race discrimination in the U.S. According to the American Consul General in Bombay, "[t]he color question is of intense interest in India." Numerous articles with titles like "Negro Baiting in America," "Treatment of Negroes a Blot on U.S.," and "Untouchability Banished in India: Worshipped in America" appeared in the Indian press. Regarding the latter article, the American Consul General commented that it was "somewhat typical of the irresponsible and malicious type of story on the American Negro which appears not too infrequently in segments of the Indian press. . . ." The article was written by Canadian George T. Prud'homme, who the Consul General described as a "communist writer." It concerned a trip through the South, and included a photograph of a chain gang. According to Prud'homme, "[t]he farther South one travels, the less human the Negro status becomes, until in Georgia and Florida it degenerates to the level of the beast in the field."

Prud'homme described an incident following his attempt to speak to blacks seated behind him on a segregated bus. He was later warned "not to talk to 'those damned niggers.'"

"We don't even talk to niggers down here," said [a] blond young man.

"You better not either . . . unless you want to get beaten up."

I replied I didn't think the Negroes would attempt to beat me up with the bus half-filled with whites.

"It isn't the niggers that will beat you up, it's the whites you have to look out for," confided the driver. "This ain't the North. Everything is different down here."

The article discussed segregation, the history of the Ku Klux Klan, and the denial of voting rights through poll taxes and discriminatory voter registration tests. The writer believed that American treatment of blacks "strangely resembles the story of India under British domination." The "only bright spot in this picture" was provided by individuals such as a white Baptist pastor who was committed to racial equality. But the minister told Prud'homme, "If one of us fights for true democracy and progress, he is labelled a Communist. . . . That is an effective way of shutting him up."

Of particular concern to the State Department was coverage of U.S. racism by the Soviet media. The U.S. Embassy in Moscow believed that a number of articles in 1946 "may portend stronger emphasis on this theme as [a] Soviet propaganda weapon." In August 1946, the U.S. Embassy in Moscow sent the State De-

partment a translation of an editorial from the periodical *Trud* which was "representative of the frequent Soviet press comment on the question of Negro discrimination in the United States." The *Trud* article was based on information the Soviets had gathered from the "progressive American press," and it concerned lynching and black labor in the South.

According to *Trud*, American periodicals had reported "the increasing frequency of terroristic acts against negroes," including "the bestial mobbing of four negroes by a band of 20 to 25 whites" in July 1946 in Monroe, Georgia. In another incident near Linden, Louisiana, "a crowd of white men tortured a negro war veteran, John Jones, tore his arms out and set fire to his body. The papers stress the fact that the murderers, even though they are identified, remain unpunished." U.S. census figures indicated that three quarters of American blacks lived in the South. In the Southern "Black Belt," "the negroes are overwhelmingly engaged in agriculture, as small tenant-farmers, share-croppers and hired hands. Semi-slave forms of oppression and exploitation are the rule. . . ." Blacks were denied economic rights due to the way the legal system protected the interests of the landowners upon whose property share-croppers and tenant farmers labored. In addition, "[t]he absence of economic rights is accompanied by the absence of social rights. The poll tax, in effect in the Southern States, deprives the overwhelming majority of negroes of the right to vote." *Trud* observed that "[t]he movement for full economic, political and social equality is spreading among the negro population," but that "[t]his movement has evoked exceptional fury and resistance." According to the paper, "[t]he progressive public opinion of the USA is indignant at the baiting of negroes, and rightly sees in this one of the means by which reaction is taking the offensive against the working people."

By 1949, according to the U.S. Embassy in Moscow, "the 'Negro question' [was] [o]ne of the principal Soviet propaganda themes regarding the United States." "[T]he Soviet press hammers away unceasingly on such things as 'lynch law,' segregation, racial discrimination, deprivation of political rights, etc., seeking to build up a picture of an America in which the Negroes are brutally downtrodden with no hope of improving their status under the existing form of government." An Embassy official believed that "this attention to the Negro problem serves political ends desired by the Soviet Union and has nothing whatsoever to do with any desire to better the Negro's position. . . ." The "Soviet press seizes upon anything showing the position of the US Negro in a derogatory light while ignoring entirely the genuine progress being made in America in improving the situation."

A powerful critique of U.S. racism, presented before the United Nations, came from American blacks. On October 23, 1947, the NAACP filed a petition in the United Nations protesting the treatment of blacks in the U.S. called *An Appeal to the World*. The petition denounced U.S. race discrimination as "not only indefensible but barbaric." It claimed that racism harmed the nation as a whole. "It is not Russia that threatens the United States so much as Mississippi; not Stalin and Molotov but Bilbo and Rankin; internal injustice done to one's broth-

ers is far more dangerous than the aggression of strangers from abroad." The consequences of American failings were potentially global. "[T]he disfranchisement of the American Negro makes the functioning of all democracy in the nation difficult; and as democracy fails to function in the leading democracy in the world, it fails the world." According to W.E.B. Du Bois, the principal author of the petition, the purpose behind the appeal was to enable the UN "to prepare this nation to be just to its own people."

The NAACP petition "created an international sensation." It received extensive coverage in the American and foreign media. Meanwhile, U.S. Attorney General Tom Clark remarked, "I was humiliated . . . to realize that in our America there could be the slightest foundation for such a petition." Although she was a member of the Board of Directors of the NAACP, Eleanor Roosevelt, who was also a member of the American UN delegation, refused to introduce the NAACP petition in the United Nations out of concern that it would harm the international reputation of the United States. The Soviet Union, however, proposed that the NAACP's charges be investigated. On December 4, 1947, the UN Commission on Human Rights rejected that proposal, and the UN took no action on the petition. Nevertheless, the *Des Moines Register* remarked that the petition had "accomplished its purpose of arousing interest in discrimination." Although the domestic press reaction was generally favorable, the West Virginia *Morgantown Post* criticized the NAACP for "furnishing Soviet Russia with new ammunition to use against us."

The Truman Justice Department first participated as *amicus curiae* in civil rights cases involving restrictive covenants.<sup>4</sup> In previous civil rights cases, the Solicitor General participated when the litigation involved a federal agency,<sup>5</sup> and when the question in the case concerned the supremacy of federal law.<sup>6</sup> A different sort of federal interest was involved in the restrictive covenant cases. According to Solicitor General Phillip Perlman, racially restrictive covenants hampered the federal government "in doing its duty in the fields of public health, housing, home finance, and in the conduct of foreign affairs."<sup>7</sup> The Brief for the United States in *Shelley v. Kraemer*<sup>8</sup> relied on the State Department's view that "the United States has been embarrassed in the conduct of foreign relations by acts of discrimination taking place in this country."<sup>9</sup> To support this argument, the brief quoted at length from the letter Acting Secretary of State Acheson had written to the Fair Employment Practices Commission in 1946.

Although not addressing the international implications of the case, the Supreme Court agreed with the result sought by the Justice Department. The Court ruled that enforcement of racially restrictive covenants in state courts constituted state action which violated the rights of blacks to equal protection of the laws.<sup>10</sup>

The Solicitor General's office continued its efforts in civil rights cases in 1949. In *Henderson v. United States*,<sup>11</sup> the Department of Justice took a position contrary to the Interstate Commerce Commission on the question of the validity of railroad dining car segregation under the Interstate Commerce Act.<sup>12</sup> As in

*Shelley*, an important motivation behind the government's anti-segregation position was the international implications of segregation.<sup>13</sup> The *Henderson* brief elaborated more fully on the problem. One area in which international criticism of the U.S. manifested itself was the United Nations. The brief quoted from recent statements made by representatives of other governments in a UN subcommittee meeting which "typify the manner in which racial discrimination in this country is turned against us in the international field."<sup>14</sup> For example, a representative of the Soviet Union had commented: "Guided by the principles of the United Nations Charter, the General Assembly must condemn the policy and practice of racial discrimination in the United States and any other countries of the American continent where such a policy was being exercised."<sup>15</sup> Similarly, the representative from Poland "did not . . . believe that the United States Government had the least intention to conform to the recommendations which would be made by the United Nations with regard to the improvement of living conditions of the coloured population of that country."<sup>16</sup>

As it had in *Shelley*, the Justice Department made reference to foreign press coverage of U.S. race discrimination, noting that "[t]he references to this subject in the unfriendly foreign press are frequent and caustic."<sup>17</sup> This time the brief bolstered this claim with examples from Soviet publications. *The Bolshevik*, for example, carried an article which claimed that

[t]he theory and practice of racial discrimination against the negroes in America is known to the whole world. The poison of racial hatred has become so strong in post-war America that matters go to unbelievable lengths; for example a Negress injured in a road accident could not be taken to a neighbouring hospital since this hospital was only for "whites."<sup>18</sup>

Through its reliance on UN statements and the Soviet press, the *Henderson* brief powerfully made the point that racial segregation hampered the U.S. government's fight against world communism.

### **The Impact of *Brown* on American Foreign Policy Interests**

When *Brown v. Board of Education* was decided, the opinion gave the State Department the counter to Soviet propaganda it had been looking for, and the State Department wasted no time in making use of it. Within an hour after the decision was handed down, the Voice of America broadcast the news to Eastern Europe.<sup>19</sup> An analysis accompanying the "straight news broadcasts" emphasized that "the issue was settled by law under democratic processes rather than by mob rule or dictatorial fiat."<sup>20</sup> The *Brown* broadcast received "top priority on the Voice's programs," and was to be "beamed possibly for several days, particularly to Russian satellites and Communist China." The *New York Times* quoted a Voice of America official as commenting that "[i]n these countries . . . the people would know nothing about the decision except what would be told

them by the Communist press and radio, which you may be sure would be twisted and perverted. They have been told that the Negro in the United States is still practically a slave and a declassed citizen."<sup>21</sup>

The *Brown* decision had the kind of effect on international opinion that the U.S. government had hoped for. Favorable reaction to the opinion spanned the globe. On May 21, 1954, for example, the President of the Municipal Council of Santos, São Paulo, Brazil, sent a letter to the U.S. Embassy in Rio de Janeiro celebrating the *Brown* decision. The Municipal Council had passed a motion recording "a vote of satisfaction" with the ruling. They viewed *Brown* as "establishing the just equality of the races, essential to universal harmony and peace." The Council desired that "the Consul of that great and friendly nation be officially notified of our desire to partake in the rejoicing with which the said decision was received in all corners of the civilized world."

Newspapers in Africa gave extensive coverage to the decision. According to a dispatch from the American Consul in Dakar, *Brown* was "greeted with enthusiasm in French West Africa although the press has expressed some slight skepticism over its implementation." *Afrique Nouvelle*, a weekly paper that was a "highly vocal opponent of all racial discrimination," carried an article under the headline "At last! Whites and Blacks in the United States on the same school benches." The dispatch noted that the writer was concerned that there would be

"desperate struggles" in some states against the decision but expresses the hope that the representatives of the negroes and the "spiritual forces" of the United States will apply themselves to giving it force and life. The article concludes by saying that "all the peoples of the world can salute with joy this measure of progress."

The American Consul concluded the dispatch by observing that

[w]hile it is, of course, too soon to speculate on the long range effects of the decision in this area, it is well to remember that school segregation more than any other single factor has lowered the prestige of the United States among Africans here and the over-all results, therefore, can hardly fail to be beneficial.

Although the initial decision to participate in *Brown* had been made by the Truman Administration, the Republican National Committee (RNC) was happy to take credit for it. On May 21, 1954, the RNC issued a statement which claimed that the decision "falls appropriately within the Eisenhower Administration's many-frontal attack on global Communism. Human equality at home is a weapon of freedom. . . . [I]t helps guarantee the Free World's cause."<sup>22</sup>

## Conclusion

The desegregation cases came before the Court at a time when the sanctity of American democracy had tremendous implications for U.S. foreign policy interests. The U.S. hoped to save the world for democracy, and promoted

its ideology and form of government as providing for greater personal freedom. In the U.S., the Voice of America proclaimed, the Bill of Rights and the Constitution protected American citizens from state tyranny. Yet as news story after news story of voting rights abuses, state-enforced segregation, and lynchings appeared in the world media, many questioned whether American constitutional rights and democratic principles had any meaning. In many African and Asian countries, where issues of race, nationalism, and anti-colonialism were of much greater import than Cold War tensions between the superpowers, the reality of U.S. racism was particularly problematic. America could not save the Third World for democracy if democracy meant white supremacy. The Soviet Union's efforts to take advantage of this American dilemma reinforced its Cold War implications.

In responding to foreign critics, State Department officials attempted to characterize American racism as a regional, rather than a national, problem, and as something that was on its way out. They argued that democracy was working, and that it would eventually overcome the anachronistic practices of a marginal few. The desegregation cases posed a threat to this characterization. If the Supreme Court had ruled in favor of the defendants in *Shelley*, *Henderson*, *Sweatt*, *McLaurin*, and *Brown*, the Court would have reaffirmed the idea that the American Constitution accommodated the racist practices challenged in those cases. American Embassy officials in Nigeria would have found it difficult to counter arguments that the Communist Party was more committed to the interests of people of color, if the Court had interpreted the document embodying the principles of democracy and individual rights to be consistent with racial segregation.

## NOTES

1. As Gerald Horne has noted, "the fact that the *Brown* ruling came in the midst of a concerted governmental campaign against international and domestic communism is one of the most overlooked aspects of the decision." G. HORNE, *BLACK AND RED: W.E.B. DU BOIS AND THE AFRO-AMERICAN RESPONSE TO THE COLD WAR, 1944-1963*, at 227 (1986).

2. D. Bell, *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518 (1980), reprinted in D. BELL, *SHADES OF BROWN: NEW PERSPECTIVES ON SCHOOL DESEGREGATION* (1980); see also D. Bell, *Racial Remediation: An Historical Perspective on Current Conditions*, 52 NOTRE DAME L. REV. 5, 12 (1976).

3. Brief for the United States as Amicus Curiae at 6, *Brown v. Board of Education*, 347 U.S. 483 (1954).

4. See *Shelley v. Kraemer*, 334 U.S. 1 (1948); *Hurd v. Hodge*, 334 U.S. 24 (1948). According to Solicitor General Perlman, the brief filed in the restrictive covenant cases was "the first instance in which the Government had intervened in a case to which it was not a party and in which its sole purpose was the vindication of rights guaranteed by the Fifth and Fourteenth Amendments." J. ELLIFF,

THE UNITED STATES DEPARTMENT OF JUSTICE AND INDIVIDUAL RIGHTS 1937-1962, at 258 (1987) (quoting address by Perlman to the National Civil Liberties Clearing House (Feb. 23, 1950)).

Because my purpose is to examine the Truman Administration's participation in these cases, this article does not dwell on the crucial role in the cases played by the NAACP. For excellent treatments of the NAACP's litigation efforts, see M. TUSHNET, *THE NAACP'S LEGAL STRATEGY AGAINST SEGREGATED EDUCATION, 1925-1950* (1987); R. KLUGER, *SIMPLE JUSTICE* (1975).

5. See *Mitchell v. United States*, 313 U.S. 80 (1941).

6. See *Taylor v. Georgia*, 315 U.S. 25 (1942).

7. Oral argument of Solicitor General Perlman, 16 U.S.L.W. 3219 (Jan. 20, 1948) (paraphrased account of argument); see also C. VOSE, *CAUCASIANS ONLY: THE SUPREME COURT, THE NAACP, AND THE RESTRICTIVE COVENANT CASES* 200 (1959).

8. 334 U.S. 1 (1948). In *Shelley*, whites sold residential property to blacks in violation of a covenant among landowners prohibiting sales to nonwhites. State Supreme Courts in Missouri and Michigan had ruled that the covenants were enforceable. *Id.* at 6-7. The question in *Shelley* was whether judicial enforcement of the covenants constituted state action violating the fourteenth amendment rights of the blacks who purchased the property. The Supreme Court ruled that it did. *Id.* at 20.

9. Brief for the United States as Amicus Curiae at 19, *Shelley v. Kraemer*, 334 U.S. 1 (1948) (quoting letter from Ernest A. Gross, Legal Adviser to the Secretary of State, to the Attorney General (Nov. 4, 1947)).

10. 334 U.S. at 20.

11. 339 U.S. 816 (1950).

12. The Interstate Commerce Act provided that "[i]t shall be unlawful for any common carrier . . . to make, give, or cause any undue or unreasonable preference or advantage to any particular person . . . in any respect whatsoever; or to subject any particular person . . . to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. . . ." Interstate Commerce Act, ch. 722, § 5(a), 54 Stat. 898, 902, 49 U.S.C. § 3(1) (1946) (codified as amended at 49 U.S.C. § 1074(b) (1982)). The Interstate Commerce Commission ruled that the Southern Railway Company's practice of providing separate seating behind a curtain in dining cars for black passengers did not violate the Act. See *Henderson v. United States*, 339 U.S. 816, 820-22 (1950). On appeal, the ICC defended its interpretation of the Act, and the Justice Department filed a brief on behalf of the United States arguing that (1) dining car segregation violated the Act, and (2) segregation violated the equal protection clause. See Brief for the United States at 9-11, *Henderson v. United States*, 339 U.S. 816 (1950).

13. The brief quoted from the same letter from Dean Acheson that the Department had relied on in *Shelley*. See Brief for the United States at 60-61, *Henderson*, 339 U.S. at 816.

14. *Id.* at 61.

15. *Id.* (quoting United Nations, General Assembly, *Ad Hoc* Political Committee, Third Session, Part II, Summary Record of the Fifty-Third Meeting (May 11, 1949), at 12).

16. *Id.* (quoting United Nations, General Assembly, *Ad Hoc* Political Committee, Third Session, Part II, Summary Record of Fifty-Fourth Meeting (May 13, 1949), at 6).

17. *Id.*

18. *Id.* at 61 n.73 (quoting Frantsov, *Nationalism—The Tool of Imperialist Reaction*, THE BOLSHEVIK (U.S.S.R.), No. 15 (1948)).

In another example, a story in the Soviet *Literary Gazette* titled "The Tragedy of Coloured America" stated:

It is a country within a country. Coloured America is not allowed to mix with the other white America, it exists within it like the yolk in the white of an egg. Or, to be more exact, like a gigantic ghetto. The walls of this ghetto are invisible but they are nonetheless indestructible. They are placed within cities where the Negroes live in special quarters, in buses where the Negroes are assigned only the back seats, in hairdressers where they have special chairs.

*Id.* (quoting Berezko, *The Tragedy of Coloured America*, THE LITERARY GAZETTE (U.S.S.R.), No. 51 (1948)).

19. N.Y. Times, May 18, 1954, at 1, col. 7. The Voice of America's ability to effectively use the decision was enhanced by the fact that the opinion was short and easily understandable by lay persons. Chief Justice Earl Warren intended to write "a short opinion so that any layman interested in the problem could read the entire opinion [instead of getting just] a little piece here and a little piece there. . . . I think most of the newspapers printed the entire decision." See J. WILKINSON, FROM BROWN TO BAKKE: THE SUPREME COURT AND SCHOOL INTEGRATION, 1954-1978, at 30 (1979) (quoting H. ABRAHAM, FREEDOM AND THE COURT 372 n.90 [3d ed. 1977]).

20. N.Y. Times, May 18, 1954, at 1, col. 7.

21. *Id.*

22. Republican National Committee, News Release, May 21, 1954, at 3, White House Files—Civil Rights—Republican National Committee 1954, Box 37, Philo Nash Papers, Harry S. Truman Library.

President Eisenhower himself was less enthusiastic. He repeatedly refused to publicly endorse *Brown*. See BURK, THE EISENHOWER ADMINISTRATION AND BLACK CIVIL RIGHTS 144, 162, 165-66 (1984). See generally Mayer, *With Much Deliberation and Some Speed: Eisenhower and the Brown Decision*, 52 J. SOUTHERN HIST. 43 (1986). Eisenhower criticized "foolish extremists on both sides" of the school desegregation controversy, BURK, *supra*, at 163, and, in an effort to distance his administration from the Supreme Court's ruling, he "rebuked Vice President Nixon for referring to Earl Warren as the 'Republican Chief Justice'. . . ." *Id.* at 162. Chief Justice Warren was angered by Eisenhower's stance. He believed that if Eisenhower had fully supported *Brown*, "we would have been relieved . . . of many of the racial problems that have continued to plague us." E. WARREN, THE MEMOIRS OF EARL WARREN 291 (1977); see WILKINSON, *supra* note 19, at 24.