

Samuel Craig

# The Warren Court & The Advancement of the Civil Rights Movement

Dr. Paul Croce

In this research paper, I will be exploring the topic of Supreme Court decisions in the 1950s and 1960s, otherwise known as the “Warren Court,” named such after the Chief Justice Earl Warren. These decisions weren’t only important to the people at the time, but also to the activist nature of the Court even as it exists today. The civil-rights-minded decisions were born out of frustration by the people and the court as contemporaneous legislators failed to act on behalf of the people’s requests. A theme I will focus on is the sort of top-down effect of the Supreme Court and how it balances with the bottom-up tendencies of social movements. One of the main takeaways from this paper is that social movements can change public opinion to a certain extent, but it is only once these ideas are put into law that the people are truly protected. And that is what the Warren Court did, specifically in the advancements of the civil rights movement. Fundamentally, the court cases I will discuss in this paper all shared one common idea: they sought to achieve equality for all people. Martin Luther King Jr. once said, “Freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed.” By essentially legislating through the Supreme Court, the civil rights movement achieved tangible results in achieving freedom, albeit one step at a time. The Supreme Court cases decided in this period by the Warren Court defined the civil rights movement and added fuel to the fire that continues to burn even today.

Earl Warren served as Chief Justice on the United States Supreme Court from 1953 until 1969. When Warren joined the Court in 1953 all the justices had been appointed by Franklin D. Roosevelt or Truman, and all were committed New Deal liberals. Warren led a liberal majority that used judicial power in dramatic fashion, much to the consternation of conservative opponents. Specifically, the Warren Court expanded civil rights and civil liberties. The court was both applauded and criticized for bringing an end to racial segregation in the United States

and expanding the scope of the Fourteenth Amendment to protect all classes and races of people, as well as spurring change on the state level. Without states' enforcement, the Due Process clause and further expansion of the Fourteenth Amendment would essentially be useless. Warren's view of the law was pragmatic, seeing it as an instrument for obtaining equity and fairness, and his approach was most effective "when the political institutions had defaulted on their responsibility to try to address problems such as segregation and reapportionment and cases where the constitutional rights of defendants were abused" (Schwartz).

One of the first cases decided by the Warren Court was *Hernandez v. Texas* (1953). In a unanimous opinion delivered by Chief Justice Earl Warren, the Court held that the Fourteenth Amendment protects people beyond the two classes of "white or Negro" and extends to other racial groups in communities depending upon whether it can be factually established that such a group exists within a community. The Court concluded that the Fourteenth Amendment "is not directed solely against discrimination due to a 'two-class theory'" but in this case, covers those of Mexican ancestry (Oyez). One reason that the Supreme Court may not have classified Mexican Americans as a protected racial class is that the LULAC (League of United Latin American Citizens) lawyers specifically avoided reclassifying Mexican Americans as "non-white." In essence, they told the Supreme Court they wanted protection without race reclassification and the Supreme Court's decision ultimately gave them, more or less, what they requested (Bradshaw). The ruling was an extension of protection in the Civil Rights Movement to minority groups within the country and an acknowledgment that, in certain times and places, groups other than blacks could be discriminated against. The ultimate effect of this ruling was that the protection of the 14th Amendment was ruled to cover any national or ethnic groups of the United States for which discrimination could be proved. Also, this case continues to have a significant impact in

today's jurisprudence because it set precedent allowing for an expansive interpretation of Fourteenth Amendment protections beyond that of race (Bradshaw). Eventually, we will see the Court extending the Fourteenth Amendment to protect not only race, but gender and sexual orientation as well, but the crucial beginnings to the Amendment's expansion came via the Warren Court.

The next major Supreme Court decision I researched was *Brown v. Board of Education II* (1955). This is perhaps the most famous case of the Warren Court, and for good reason. After the decision in *Brown v. Board of Education I* (1954), which declared racial discrimination in public education unconstitutional, the Court convened to issue the directives which would help to implement its newly announced Constitutional principle. Given the embedded nature of racial discrimination in public schools and the diverse circumstances under which it had been practiced, the Court requested further argument on the issue of relief. In revisiting the case, the Court held that the problems identified in *Brown I* required varied local solutions. Chief Justice Warren conferred much responsibility on local school authorities and the courts which originally heard school segregation cases. They were to implement the principles which the Supreme Court embraced in its first *Brown* decision. Warren urged localities to act on the new principles promptly and to move toward full compliance with them "with all deliberate speed" (Oyez). *Brown II* made it clear that schools in the United States would have to de-segregate, and the phrase "with all deliberate speed" was put into the decision to put pressure on schools to act immediately to fix the problem. The Court also set out a process for making sure schools integrated, by giving federal district courts the power to supervise the schools, control how long they could have to de-segregate and punish them if they refused to integrate (Cottrol). There are good reasons for *Brown's* popularity. The landmark decision precipitated racial integration in

public spaces first through education, then later housing and transportation, to name a few.

*Brown* attempted to redress past inequalities, promote equality of opportunity in public education, and extend equal protections of law for racial minorities who at the time were legally denied access to adequate education, which, in part, set precedence for outgrowth social movements toward disability, gender, sexuality, bilingual education, children of undocumented immigrants, and a menu of other civil rights issues. Consequently, *Brown* became known for more than what it was—an education policy case—but also for what it could mean for others denied equal protections of law (Terrel).

A few years later, the *Brown* decision came back into question. For example, The Governor and the Legislature of Arkansas openly resisted the Supreme Court's decision in *Brown v. Board of Education*. They refused to obey court orders designed to implement school desegregation and local officials delayed plans to do away with segregated public facilities. *Cooper v Aaron* (1958) was the legal climax of a year-long crisis in Little Rock. In the wake of *Brown*, the Little Rock school board adopted a gradual desegregation plan. The first year of the plan, as implemented in 1957, called for the admission of nine black children to a single, formerly all-white high school. This case came near the end of Eisenhower's presidency, and despite President Dwight Eisenhower's failure to give a full-throated endorsement of *Brown*, he insisted upon the need to respect the binding effect that Supreme Court decisions must have on all of us. Eisenhower met with Arkansas Governor Orville Faubus and urged him to use the National Guard to control the crowds around the high school rather than to prevent black children from entering it. This set the stage for *Cooper v. Aaron* (1958). In a signed, unanimous per curiam opinion, the Court held that the Arkansas officials were bound by federal court orders that rested on the Supreme Court's decision in *Brown v. Board of Education*. The Court noted

that its interpretation of the Fourteenth Amendment in *Brown* was the supreme law of the land and that it had a "binding effect" on the states. The Court reaffirmed its commitment to desegregation and reiterated that legislatures are not at liberty to annul judgments of the Court (Oyez). While this decision had good intentions, some legal scholars criticized the Court's rationale in *Cooper*. Critics accused the Court of taking too much power for itself by setting itself up as the sole institution responsible for the interpretation of the Constitution. In his legal review article, *The Law of the Constitution*, US Attorney General Edwin Meese wrote that while the judicial interpretation of the Constitution binds the parties of the case, it should not establish a supreme law of the land that must be accepted by all persons (Meese).

Nearly a decade after *Brown II*, another case involving integration made its way to the Supreme Court, *Heart of Atlanta Motel Inc. v US* (1964). In this case, The Heart of Atlanta Motel in Atlanta, Georgia, which had refused to accept Black Americans as customers, was charged with violating Title II of the Civil Rights Act of 1964 - an Act which forbade racial discrimination by places of public accommodation if their operations affected commerce. The question of this case was: Did Congress, in passing Title II of the 1964 Civil Rights Act, exceed its Commerce Clause powers by depriving motels, such as the Heart of Atlanta, of the right to choose their own customers? In yet another unanimous decision, the Court held that the Commerce Clause allowed Congress to regulate local incidents of commerce and that the Civil Rights Act of 1964 passed constitutional muster. The Court noted that the applicability of Title II was "carefully limited to enterprises having a direct and substantial relation to the interstate flow of goods and people..." The Court thus concluded that places of public accommodation had no "right" to select guests as they saw fit, free from governmental regulation (Oyez). A notable feature of the Court's opinion is its deployment of the relationship between state and federal

public accommodations law in disposing of the motel owner's claim that, "the Civil Rights Act deprived him of liberty and property under the Fifth Amendment." The Court rejected the appellant's claim briskly: It applied a "rational basis test", saying that if 1) Congress had a rational basis for finding that racial discrimination by motels affected commerce and 2) if it used reasonable and appropriate means to eliminate that evil, then the "appellant has no 'right' to select its guests as it sees fit, free from governmental regulation," (McClain).

The aforementioned cases mainly focused on advancing civil rights in terms of race and subsequently expanding federal powers to enforce the decisions. *Loving v. Virginia* (1967) came shortly after *Heart of Atlanta Motel* but is more closely related to *Hernandez* over a decade prior because of the timing when the case came into question. In 1958, two residents of Virginia, Mildred Jeter, a black woman, and Richard Loving, a white man, were married in the District of Columbia. Shortly after the marriage, the Lovings returned to Virginia. The couple was then charged with violating the state's anti-miscegenation statute, which banned inter-racial marriages. The Lovings were found guilty and sentenced to a year in jail (the trial judge agreed to suspend the sentence if the Lovings would leave Virginia and not return for 25 years). The case made its way to the Supreme Court, and upon reaching the Court, two major ideas came into question: 1) is a marriage a fundamental right, and if it is, 2) should all races be protected under the Equal Protection Clause of the Fourteenth Amendment? In a unanimous decision, the Court held that distinctions drawn according to race were generally "odious to a free people" and were subject to "the most rigid scrutiny" under the Equal Protection Clause. The Virginia law, the Court found, had no legitimate purpose "independent of invidious racial discrimination." The Court rejected the state's argument that the statute was legitimate because it applied equally to both blacks and whites and found that racial classifications were not subject to a "rational purpose" test under the

Fourteenth Amendment (this is the same test established in *Heart of Atlanta Motel*). The Court also held that the Virginia law violated the Due Process Clause of the Fourteenth Amendment. "Under our Constitution," wrote Chief Justice Earl Warren, "the freedom to marry, or not marry, a person of another race resides with the individual, and cannot be infringed by the State" (Oyez). For many, the Loving decision represents a symbolic turning point in the history of United States racial politics. Some even celebrate the decision on June 12<sup>th</sup>, otherwise known as Loving Day, which was the day that *Loving* was decided. The subsequent "biracial baby boom" can be seen as the beginning of a post-racial United States. Indeed, statistics indicating that fifteen percent of all new marriages are interracial and polls suggesting that a majority of Americans today approve of interracial marriage are cited as evidence of the erosion of racial boundaries and tensions. It was a symbolic victory that removed the legal sanction against interracial marriage and some of the negative social stigma associated with these unions, thus legitimizing marriages that had previously been proscribed (Reginald). It is key to remember that racial issues weren't the only focus of the civil rights movement, but also same-sex marriage. It took over forty years after legalizing interracial marriage to do the same with same-sex marriage: The Supreme Court decided *Obergefell v. Hodges* (2015) and lawyers cited *Loving* as precedent in U.S. federal court decisions holding restrictions on same-sex marriage in the United States. The takeaway of this, just as anything in the civil rights movement, is that everything takes time. In *Obergefell*, a 5-4 decision by the Court, the Court held that "the right to marry is a fundamental right inherent in the liberty of the person," and the individual states cannot discriminate against a couple on the basis of sexual orientation (Pecoraro).

The common thread in all of these cases is the forward-thinking mentality advocated by the people and the validation of these ideas by the Supreme Court. As I stated at the beginning of



this paper, the Warren Court was instrumental in advancing civil rights and liberties, as well as federal powers to enforce the decisions. However, none of these Supreme Court decisions were the last step in achieving equality. Aforementioned references to the delay between *Loving* and *Obergefell* are a clear example of this, as both dealt with the expansion of marriage rights for different classifications of people but came nearly 50 years apart. These cases should not be misconstrued as an end to a means: in reality, it is quite the opposite. As anyone seeking social and civil equality will tell you, the fight for equality is never-ending.

## Works Cited

- Bradshaw, Gilbert. "Who's Black, Who's Brown, and Who Cares: A Legal Discussion of Hernandez V. Texas [Notes]." *Brigham Young University Education and Law Journal*, no. 2, 2007, p. 351. EBSCOhost, search.ebscohost.com/login.aspx?direct=true&AuthType=sso&db=edshol&AN=hein.journals.byuelj2007.17&site=eds-live&scope=site&custid=stetson.
- Cottrol, Robert J., et al. *Brown V. Board of Education : Caste, Culture, and the Constitution*. Lawrence, Kan.: University Press of Kansas, ©2003., 2003. Landmark law cases & American society. EBSCOhost, search.ebscohost.com/login.aspx?direct=true&AuthType=sso&db=cat06537a&AN=dpb.52418259&site=eds-live&scope=site&custid=stetson.
- McClain, Linda C. "INVOLUNTARY SERVITUDE, PUBLIC ACCOMMODATIONS LAWS, and the LEGACY of HEART of ATLANTA MOTEL, INC. V. UNITED STATES." *Maryland Law Review*, vol. 71, no. 1, Aug. 2011, pp. 83-162. EBSCOhost, search.ebscohost.com/login.aspx?direct=true&AuthType=sso&db=a9h&AN=71140236&site=eds-live&scope=site&custid=stetson.
- Meese, Edwin III. "Law of the Constitution," *Tulane Law Review* 61 (1986-1987): p. 979-990.
- Oyez.org. "Brown v. Board of Education of Topeka (2)." *Oyez*, 1 May. 2018, www.oyez.org/cases/1940-1955/349us294.
- Oyez.org. "Cooper v. Aaron." *Oyez*, 1 May. 2018, www.oyez.org/cases/1957/1\_misc.
- Oyez.org. "Heart of Atlanta Motel, Inc. v. United States." *Oyez*, 1 May. 2018, www.oyez.org/cases/1964/515.
- Oyez.org. "Hernandez v. Texas." *Oyez*, 30 Apr. 2018, www.oyez.org/cases/1940-1955/347us475.
- Oyez.org. "Loving v. Virginia." *Oyez*, 1 May. 2018, www.oyez.org/cases/1966/395.
- Lopez, Alberto B. "Road To, and Through, Heart of Atlanta Motel, the [Article]." *Savannah Law Review*, no. 1, 2015, p. 59. EBSCOhost, search.ebscohost.com/login.aspx?direct=true&AuthType=sso&db=edshol&AN=hein.journals.savanlr2.7&site=eds-live&scope=site&custid=stetson.
- Lucas, Lauren Sudeall. "Reflection: How Multiracial Lives Matter 50 Years After Loving." *Creighton Law Review*, vol. 50, no. 3, June 2017, pp. 719-723. EBSCOhost, search.ebscohost.com/login.aspx?direct=true&AuthType=sso&db=a9h&AN=123906435&site=eds-live&scope=site&custid=stetson.
- Pecoraro, Andrew J. "Exploring the Boundaries of Obergefell." *William & Mary Law Review*, vol. 58, no. 6, May 2017, pp. 2063-2103. EBSCOhost, search.ebscohost.com/login.aspx?direct=true&AuthType=sso&db=a9h&AN=123581697&site=eds-live&scope=site&custid=stetson.
- Reginald, Daniel G. and Kelekay, Jasmine. "From Loving V. Virginia to Barack Obama: The Symbolic Tie That Binds." *Creighton Law Review*, vol. 50, no. 3, June 2017, pp. 641-668. EBSCOhost, search.ebscohost.com/login.aspx?direct=true&AuthType=sso&db=a9h&AN=123906429&site=eds-live&scope=site&custid=stetson.

## Works Cited

- Schwartz, Bernard. *The Warren Court: A Retrospective*. New York : Oxford University Press, 1996., 1996. EBSCOhost, search.ebscohost.com/login.aspx?direct=true&AuthType=sso&db=cat06537a&AN=dpb.252640965&site=eds-live&scope=site&custid=stetson.
- Terrell L. Strayhorn, author and author Royel M. Johnson. "Why Are All the White Students Sitting Together in College? Impact of Brown V. Board of Education on Cross-Racial Interactions among Blacks and Whites." *The Journal of Negro Education*, no. 3, 2014, p. 385. EBSCOhost, doi:10.7709/jnegroeducation.83.3.0385.