

CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The “Contemplation of Justice”
Bolling v. Sharpe, 347 U.S. 497 (1954)



Discrimination may be so unjustifiable as to be violative of due process. P. 347 U. S. 499

We have this day held that the Equal Protection Clause of the Fourteenth Amendment prohibits the states from maintaining racially segregated public schools. [Footnote 1] The legal problem in the District of Columbia is somewhat

Page 347 U. S. 499

different, however. The Fifth Amendment, which is applicable in the District of Columbia, does not contain an equal protection clause, as does the Fourteenth Amendment, which applies only to the states. *But the concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive. The "equal protection of the laws" is a more explicit safeguard of prohibited unfairness than "due process of law," and therefore we do not imply that the two are always interchangeable phrases. But, as this Court has recognized, discrimination may be so unjustifiable as to be violative of due process.* [Footnote 2]

Classifications based solely upon race must be scrutinized with particular care, since they are contrary to our traditions, and hence constitutionally suspect. [Footnote 3] As long ago as 1896, this Court declared the principle

"that the constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the general government, or by the states, against any citizen because of his race. [Footnote 4]"

Thoughts, Words and Actions for Plaintiff's Quintessential Rights of the First Amendment:
Truths that manifest Life, Liberty & Pursuit of Happiness pursuant to the Free Exercise Clause

And in *Buchanan v. Warley*, 245 U. S. 60, the Court held that a statute which limited the right of a property owner to convey his property to a person of another race was, as an unreasonable discrimination, a denial of due process of law.

Although the Court has not assumed to define "liberty" with any great precision, that term is not confined to mere freedom from bodily restraint. Liberty under law extends to the full range of conduct which the individual is free to pursue, and it cannot be restricted except for a

Page 347 U. S. 500

proper governmental objective. Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the Due Process Clause.

In view of our decision that the Constitution prohibits the states from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government. [Footnote 5]

It is so ordered.

[Footnote 1]

Brown v. Board of Education, ante, p. 347 U. S. 483.

[Footnote 2]

Detroit Bank v. United States, 317 U. S. 329; *Currin v. Wallace*, 306 U. S. 1, 306 U. S. 13-14; *Steward Machine Co. v. Davis*, 301 U. S. 548, 301 U. S. 585.

[Footnote 3]

Korematsu v. United States, 323 U. S. 214, 323 U. S. 216; *Hirabayashi v. United States*, 320 U. S. 81, 320 U. S. 100.

[Footnote 4]

Gibson v. Mississippi, 162 U. S. 565, 162 U. S. 591. *Cf. Steele v. Louisville & Nashville R. Co.*, 323 U. S. 192, 323 U. S. 198-199.

[Footnote 5]

Cf. Hurd v. Hodge, 334 U. S. 24.