

## D

# State Power – Criticisms and Responses

**Directions:** Read the essay and be ready to discuss the questions that follow.

One major criticism of strong state power comes from the legacy of slavery. After the Civil War and Reconstruction enslaved people were free. They even had been guaranteed citizenship, equal protection under the law, and—for men—the right to vote. But post-Reconstruction states turned these guarantees into empty promises. A majority of states made Jim Crow laws (named after a black character in popular variety shows of the time). These laws forbade [outlawed] interracial marriage, and they legalized segregation [separation] and unequal treatment based on race. By 1914, every southern state and many northern ones had laws that created two separate societies: one for whites, and one for blacks and “non-whites.” Blacks could not use white facilities like restrooms, restaurants, or parks, or even be buried in the same cemeteries as whites. In the case of *Plessy v. Ferguson* (1896), the Supreme Court said that “separate but equal” accommodations were constitutional. By September 1949, only

fifteen U. S. states had no segregation laws.

The National Association for the Advancement of Colored People (NAACP) challenged these laws in court. The cases eventually went to the Supreme Court. The first major legal blow to Jim Crow laws came with the landmark 1954 decision of *Brown v. Board of Education*. In this case, the Supreme Court found that segregation violated the equal protection clause of the Fourteenth Amendment. This meant that the states would have to obey the federal government’s order to integrate their schools. The 1954 *Brown* case began the Civil Rights Movement toward equal treatment in public life and the end of the states’ use of federalism to make Jim Crow laws. Later federal laws intended to stop the use of federalism to violate civil rights by states included the Civil Rights Act (1964) and the Voting Rights Act (1965). These laws and the enforcement of them came almost a century after the passage of the Fourteenth Amendment.

## Responses to Jim Crow

In response to Jim Crow laws, many argued for increased federal power. They argued that a strong federal government could correct the legal inequality and violation of rights caused by such laws. They said that states often commit wrongful acts, and that the federal government is an important force to correct these wrongs.

Others disagreed, stating that the national government has no better history of protecting rights than states do. The federal government did not protect citizens' rights during centuries of slavery and segregation. If more power were given to the federal government in the name of protecting rights, what would happen if officials then used that greater power to do bad things that affected the whole nation?



### Critical Thinking Questions

1. How does the legacy of slavery relate to the principle of federalism?
2. What are some arguments for and against increased federal power in response to state violations of rights?
3. Which arguments are do you agree with most?