

Equality Before The Law

- In principle, civil rights are about equality—the right of individuals to be treated fairly and equitably by government officials.
- This right is derived from the 14th Amendment's guarantee that all citizens are entitled to “the equal protection of the laws.”

Treating Citizens Differently

- When government officials treat one citizen differently from another, it must be justified.
- Most government actions that *discriminate* are subject to the **rational basis test**.
 - For example, admission to college.
 - Is the action a *reasonable way* to promote a *legitimate governmental interest*?

Suspect Classifications

- Exceptions:
 - Distinctions based on *gender* are subject to **heightened scrutiny**: is the action *substantially related* to accomplishing an *important governmental goal*?
 - Distinctions based on *race* or *ethnicity* are subject to **strict scrutiny**: does the action accomplish a *compelling governmental interest* in the least discriminatory way possible?

Open Questions

- Is *disproportionate impact* a form of discrimination that requires remediation?
- Are laws and actions designed to help minorities like **affirmative action** programs subject to the same level of scrutiny as those that are designed to hurt minorities?

Civil Rights for African Americans

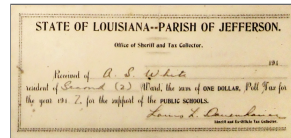
- Immediately after the Civil War, national politicians aggressively promoted the rights of newly freed slaves:
 - Civil War Amendments (13th, 14th, 15th).
 - Freedmen's Bureau.
 - Civil rights laws.

The End of Reconstruction

- Support soon faded as Reconstruction became unpopular in the north and former Confederates regained power in the south.
- 1876 Hayes/Tilden bargain ended Reconstruction.
- Supreme Court curtailed civil rights laws passed to enforce 14th and 15th Amendments.

The Redeemer Period: Jim Crow

- Southern states adopted Jim Crow laws to strip blacks of voting and other rights:
 - Literacy and understanding tests
 - Lengthy residency requirements
 - Poll taxes
 - Grandfather clauses



State Action & “Separate But Equal”

- The Supreme Court's rulings in the late 1800s helped this process:
 - The state action doctrine meant that “private” organizations could discriminate based on race or otherwise deny citizens' rights—enabled the *white primary* and gave free rein to KKK.
 - The “separate but equal” doctrine allowed state-sponsored segregation (*Plessy v. Ferguson*, 1896).



Civil Rights in the Early 20th Century

- Blacks began to migrate away from the “cotton belt” to the industrializing north; became an important voting bloc in northern cities.
- The NAACP Legal Defense Fund began to challenge anti-black laws in the courts.
 - *Smith v. Allwright* (1944) outlawed the white primary.
 - *Shelley v. Kraemer* (1948) ended legal enforcement of residential segregation.

Civil Rights and Education

- The NAACP also challenged the “separate but equal” educational system.
- Courts gradually whittled away the legal basis for segregation in higher education.
- *Brown v. Board of Education* (1954) overturned Plessy.
- However, in the face of “massive resistance” federal courts were not aggressive in enforcing desegregation until the late 1960s.

Civil Rights and Voting Rights Acts

- A decade of legal and political conflict culminated in the passage of two landmark laws by Congress:
 - **Civil Rights Act of 1964:** banned employment discrimination; required most businesses serving the public to be integrated; cut off federal funding to states that discriminated in administering federal programs.
 - **Voting Rights Act of 1965:** required pre-clearance of changes in election practices, mostly in the South; empowered federal officials to register voters; abolished literacy tests and poll taxes.

Modern Conflict Over Civil Rights

- Since 1960s, conflict over civil rights has become more national in scope, leading to less political support for further efforts to promote civil rights.
 - Controversy around *busing*.
 - Debate over the merits of *affirmative action* programs and other efforts to support minorities.
 - Public opposition has led to new policies designed to limit affirmative action.
 - Increased emphasis on the difference between *de facto* and *de jure* segregation.

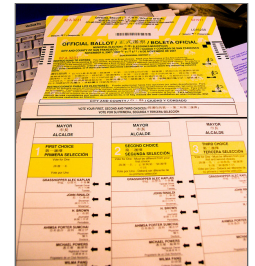


Recent Developments

- In *Fisher v. University of Texas* (2013), Supreme Court limited consideration of race in college admissions.
- *Preclearance* provisions of the Voting Rights Act of 1965 were suspended by the Supreme Court in 2013 in *Shelby County v. Holder*, until or unless Congress revises coverage formula.

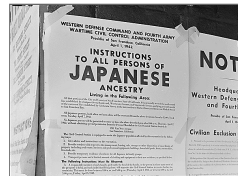
Civil Rights for Hispanics

- Fastest-growing minority group.
- Diverse national origins.
- Efforts to secure rights for Hispanics have tended to focus more on economic and social equality:
 - Cesar Chávez, LULAC, MALDEF.
- 1972 amendments to Voting Rights Act expanded *pre-clearance* to southwestern states; included requirements for translated ballots.
- Concerns about immigration and immigrants' rights widely seen as a “Hispanic issue.”



Civil Rights for Asian Americans

- Like Hispanics, not a monolithic group, in terms of origins or politics.
- Historically subject to government discrimination:
 - Chinese Exclusion Act; Immigration Act of 1924.
 - Internment of Japanese-Americans during World War II.
- Increased political visibility in recent decades:
 - Japanese-Americans long prominent in Hawaiian politics.
 - Current governors: Bobby Jindal (La.), Nikki Haley (S.C.).

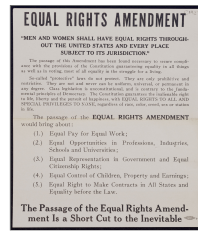


Civil Rights of Native Americans

- Complex relationship dating back to the colonial era; historically seen as separate nations.
- U.S. government regularly broke treaties with tribes; pushed “removal” to western territories.
- Members of various tribes gained U.S. citizenship over time; in 1924, all Native Americans became U.S. citizens by law.
- Economic empowerment since 1980s has rested on growth of tribal gaming.

Womens' Rights

- 19th Amendment (1920) guaranteed women the right to vote.
- Participation in the labor force during World War II changed expectations about gender roles.
- “Poison pill” amendment to Civil Rights Act of 1964 included gender discrimination.
- While the **Equal Rights Amendment** was not ratified, much of its intended effect has been “constitutionalized” by the courts.
- Controversies remain, including equal pay.



Rights of Gays and Lesbians

- Public support for equal rights for gays and lesbians has increased over time.
- Increasing number of openly gay and lesbian political figures.
- Gays and lesbians have been able to serve openly in the Armed Forces since the repeal of the “don't ask, don't tell” policy in September 2011.

Same-Sex Marriage

- 1996 *Defense of Marriage Act* forbade federal recognition of same-sex marriages.
- Some states recognized same-sex marriages; some others recognized *civil unions* that are mostly equivalent.
- Other states, including Georgia, adopted state constitutional amendments against same-sex marriage.



Same-Sex Marriage

- Part of the *Defense of Marriage Act* was struck down as unconstitutional in *United States v. Windsor* (2013).
- Supreme Court ruled against 2008 California referendum ending recognition of new same-sex marriages in *Hollingsworth v. Perry* (2013).
- Supreme Court ruled that same-sex marriage is a constitutional right in *Obergefell v. Hodges* (2015), striking down state laws and constitutional provisions to the contrary.

Rights of the Disabled

- Since the 1960s, federal laws and court decisions have expanded the rights of those with physical and mental disabilities.
- **Americans With Disabilities Act** of 1990 (ADA) gave broad rights to disabled Americans for “reasonable accommodations” in employment and education, at business or taxpayer expense.
- Rights for the disabled tend to be popular—but much more expensive than rights for other groups.

