

Civil Rights

AP Government and Politics UNIT

What do we mean by "civil rights"?

- *The term civil rights refers to rights, freedoms and liberties and that should be given to people no matter their race, ethnicity, lifestyles, or beliefs*
- *They also can refer to the nonpolitical rights of a citizen or person*

Civil Rights...The Basics

- **Some Other Definitions**
 - *The rights of personal liberty guaranteed to U.S. citizens **by the 5th and 14th Amendments** to the Constitution and by acts of Congress.*
 - *The rights of citizens **to vote, to receive equal treatment before the law, and to share equally with other citizens the benefits of public facilities.***

Civil Rights Laws

- Civil rights laws increased the power of government as it limits individual rights often the majority **in order to protect the rights of the minority.**

The Government and Civil Rights

- A powerful federal government was seen as the greatest threat to liberty in 1789.
- Today, women and minorities look to the federal government for them equality.
 - This added role has increased the scope and power of the federal government.

Supreme Court Rulings on Discrimination

- The U.S. Supreme Court has held that certain kinds of government discrimination are inherently suspect and must be subjected to **strict judicial scrutiny**.
- The suspect classification doctrine has its constitutional basis in the **Fifth Amendment and the Equal Protection Clause of the Fourteenth Amendment**, and it applies to actions taken by federal and state governments.
- FYI- The involvement of the state then makes these cases **incorporation cases**.

Supreme Court Rulings on Discrimination

- When a suspect classification is at issue, the government has the burden of proving that the challenged policy is **constitutional**.
- The Supreme Court has ruled that some particular groups or “**Classifications**” may not be discriminated against
- Classifications that have been ruled on in the past include:
 - **Age, religion, race, gender, national origin**
 - **And recently sexual orientation**

Supreme Court Rulings on Classifications

- **Age**

- The Supreme Court has ruled that age classifications are “reasonable” AND constitutional
 - (i.e...Age 18 for voting and 21 for drinking alcohol)

- **Race**

- It is illegal to discriminate because of race
- The Court has ruled that most classifications based on race or ethnicity are “*inherently suspect.*”
 - Only exceptions are in the classification is designed to undo past discrimination (Affirmative Action).

Supreme Court Rulings on Classifications

- **Gender**

- The Court has ruled that classifications based on **gender** fit in-between being constitutional and unconstitutional
 - (i.e.... The golf club at Augusta **was** for men only and this was ruled constitutional because it is a private institution but some public institutions and universities have been forced to accept women because they take public monies)

- **Sexual orientation**

- Homosexuals have not always been considered a suspect class. But the Court has ruled on several cases concerning gay rights since *Bowers v Hardwick* in 1986.
 - The changing face of gay and lesbian rights has taken a “new road” in the United States since the controversial Stonewall riots in 1969. Current cases center around marriage equality.

The Constitutional Conception of Equality

- Neither the Constitution nor the Bill of Rights mentions the word **equality**
 - The Declaration of Independence said, “*all men are created equal.*”
 - This equality did not apply to **women, slaves or Native Americans.**
- Race was first dealt with at the Constitutional Convention when the Framers established the **3/5 Compromise.**
 - Was found in Article I, Section 2, Clause 3 but was superseded by the 14th Amendment

Race and the Constitution

- The Due Process Clause of the 5th Amendment implies equal treatment under the law for all persons.
 - “*No person (shall) be deprived of life, liberty, or property **without due process of law**; nor shall private property be taken for public use, without just compensation*”
- In *Dred Scott v. Sanford* (1857) the Supreme court ruled a black man, slave or free, was “*chattel and had no rights*”
 - Furthermore, Congress could not ban slavery in any territory of the United States.
 - Declared the **Missouri Compromise** unconstitutional

Important Amendments to Know for Test

- 13th Amendment
- 14th Amendment
- 15th Amendment
- 19th Amendment
- 24th Amendment

Important Amendments to Know for Test

- 13th Amendment ended **slavery**
- 14th Amendment gave newly freed slaves **citizenship rights**
 - Also included the “**Due Process Clause**” and “**Equal Protection Clause**” which was expanded in 20th century
- 15th Amendment gave African-American males the right to vote.
 - *Because these three amendments were narrowly interpreted, Jim Crow laws continued to allow separate facilities and rules based on race.*
- 19th Amendment- Gave **women** the right to vote
- 24th Amendment- Ended **Poll Tax**

The 14th Amendment

- Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.
- **No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;** nor shall any state deprive any person of life, liberty, or property, without **due process** of law; nor deny to any person within its jurisdiction **the equal protection** of the laws.

The Importance of the 14th Amendment

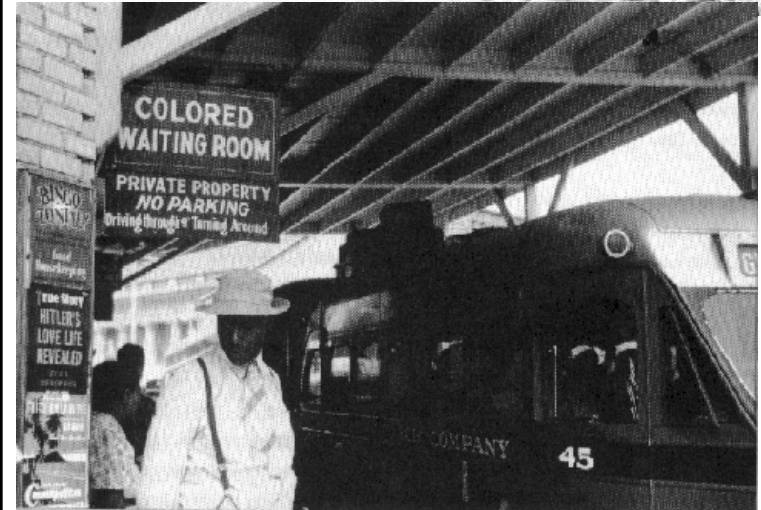
- The first and only mention of equality is in the **14th Amendment**, which prevents states from denying anyone “*equal protection under the law.*”
- **The 14th Amendment** provided “*equal protection of the laws*” while establishing citizenship rights for newly freed slaves
 - Not until the 1950’s (*Brown v. Board of Education*) and 60’s (The Civil Rights Act 1964 and the Voting Rights Act) was the full force of the 14th amendment felt and equal rights for women and minorities been protected.

The Birth of Jim Crow Laws

- After the Civil War most states in the South passed anti-African American legislation.
- These became known as **Jim Crow laws**.
 - This included laws that discriminated against African Americans with concern to attendance in public schools and the use of facilities such as restaurants, theaters, hotels, cinemas and public baths.
 - Trains and buses were also segregated and in many states marriage between whites and African American people.

Effects of Jim Crow

- In *Plessey*, the Justices based their decision on the **separate-but-equal doctrine**, that separate facilities for blacks and whites satisfied the Fourteenth Amendment so long as they were equal.
 - In short, segregation does not in itself constitute unlawful discrimination
- In the South especially, African Americans lived in fear of racially motivated violence.
- “Jim Crow” laws barred African Americans from access to employment and to **public places such as restaurants, hotels, and other facilities.**



The 1964 Civil Rights Act

- The 1964 Civil Rights Act **made racial discrimination in public places, such as theaters, restaurants and hotels, illegal.**
 - It also required employers to provide equal employment opportunities.
 - Projects involving federal funds could now be cut off if there was evidence of discriminated based on color, race or national origin.
- The Civil Rights Act also attempted to deal with the **problem of African Americans being denied the vote in the Deep South.**
 - The legislation stated that uniform standards must prevail for establishing the right to vote.
 - Schooling to sixth grade constituted legal proof of literacy and the attorney general was given power to initiate legal action in any area where he found a pattern of resistance to the law.

The 1965 Voting Rights Act

- President Lyndon Baines Johnson attempted to persuade Congress to pass the Voting Rights Act in 1965.
- This legislation removed the right of states to impose restrictions on who could vote in elections.
 - Johnson explained how, *“Every American citizen must have an equal right to vote. Yet the harsh fact is that in many places in this country men and women are kept from voting simply because they are Negroes.”*
- Although opposed by politicians from the Deep South, the Voting Rights Act was passed by large majorities in the House of Representatives (333 to 48) and the Senate (77 to 19).
 - The legislation empowered the national government to register those whom the states refused to put on the voting list.

Another Effect of the Voting Rights Act

New African American Legislators

- Blacks make up around 12.1% of the population
- But in 1965, only 70 African Americans held elected office in all 11 southern states.
- That number rose to 2,500 by the early 1980's, after passage of the Voting Rights Act.

24th Amendment- 1964

- **Section 1.** *The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay **any poll tax or other tax.***
Section 2. *The Congress shall have power to enforce this article by appropriate legislation.*

Important Civil Rights Cases & Acts

- *Plessey v Ferguson*
- *Sweatt v Painter*
- *Brown v Board of Education*
- *Brown II*
- *Heart of Atlanta Motel v US 1964*
- *Korematsu v U.S.*
- *Reed v Reed*
- *Rostker v Goldberg*
- *Regents of the University of CA v Bakke*
- *Gratz v Bollinger*
- *Grutter v Bollinger*

Sweatt v Painter 1950

- **Facts of the Case**
- In 1946, Herman Marion Sweatt, a black man, applied for admission to the University of Texas Law School. State law restricted access to the university only to whites, and **Sweatt's application was automatically rejected because of his race.**
- When Sweatt asked the state courts to order his admission, the university attempted to provide separate but equal facilities for black law students.
- **Question**
- Did the Texas admissions policy violate the Equal Protection Clause of the Fourteenth Amendment?

Importance

- In a unanimous decision, the Court held that the Equal Protection Clause required that Sweatt be admitted to the university.
- The Court found that the "law school for Negroes," which was to have opened in 1947, **would have been grossly unequal to the University of Texas Law School.**
- The Court argued that the separate school would be inferior in a number of areas, including faculty, course variety, library facilities, legal writing opportunities, and overall prestige.
- The Court also found that the **mere separation from the majority of law students harmed students' abilities to compete in the legal arena.**

Brown v Board II 1955

- **Facts of the Case**

- After its decision in Brown I 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.

- **Question**

- What means should be used to implement the principles announced in Brown I?

Importance

- 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."**

Civil Rights Terms

- *De jure* segregation
 - Separation by law (by law or “jury”)
 - *Brown v Board 1954*
- *De facto* segregation
 - Separation as a matter of fact (housing patterns, neighborhoods...)
 - *Swann v Charlotte-Mecklenburg County Board of Education 1971*

Swann v. Charlotte-Mecklenburg Bd. of Ed. (1971)

- **Facts of the Case**
- After the Supreme Court's decision in 1954 in *Brown v. Board of Education*, **little progress had been made in desegregating public schools.**
- One example was the Charlotte-Mecklenburg, North Carolina, system in which approximately 14,000 black students attended schools that were either totally black or more than 99 percent black.
- **Question**
- Were federal courts constitutionally authorized to oversee and produce remedies for state-imposed segregation?

Conclusion

- In a unanimous decision, the Court held that once violations of previous mandates directed at desegregating schools had occurred, **the scope of district courts' equitable powers to remedy past wrongs were broad and flexible.**
- The Court ruled that:
 - 1) remedial plans were to be judged by their effectiveness, and the use of mathematical ratios or quotas were legitimate "starting points" for solutions
 - 2) predominantly or exclusively black schools required close scrutiny by courts
 - 3) non-contiguous attendance zones, as interim corrective measures, were within the courts' remedial powers
 - 4) no rigid guidelines could be established concerning busing of students to particular schools.

Other Minority Groups

- Asian Americans are the fastest growing minority.
 - Nearly 120,000 Japanese-Americans and Japanese aliens were interned in concentration camps during WWII
 - *Korematsu v. US* (1944)
- Hispanic Americans are the largest minority group in the US with increasing electoral influence
- Native-Americans were not made US citizens until 1924 – because of small size electorate, they benefit least from public policy and have the highest rate of poverty related problems

Korematsu v U.S., 1944

- **Facts of the Case**
- During World War II, **Presidential Executive Order 9066** and congressional statutes gave the military authority to exclude citizens of Japanese ancestry from areas deemed critical to national defense and potentially vulnerable to espionage. Korematsu remained in San Leandro, California and violated Civilian Exclusion Order No. 34 of the U.S. Army.
- **Question**
- Did the President and Congress go beyond their war powers by implementing exclusion and restricting the rights of Americans of Japanese descent?

Korematsu v U.S.

- **Conclusion**
- The Court sided with the government and held that the need to protect against espionage outweighed Korematsu's rights and that Japanese internment was a “*military necessity*” during wartime.
 - Justice Black argued that compulsory exclusion, though constitutionally suspect, is justified during circumstances of “*emergency and peril*.”
- Congress authorized token compensation for loss of property and violation of rights years later.

Women's Rights

- “Coverture” made married women subject to their husbands
 - Could not sign contracts or dispose of property. Divorce laws and child custody favored the husband.
 - Legal concept prevailed during the 19th century.

Women's Rights

- **19th Amendment**
 - women's right to vote
- The Equal Pay Act of 1963
 - businesses can not discriminate salaries because of gender
- Civil Rights Act of 1964 (has a gender clause)
- *Reed v Reed* 1971

Reed v Reed 1971

- **Facts of the Case**

- After the death of their adopted son, both Sally and Cecil Reed sought to be named the administrator of their son's estate (the Reeds were separated).
- **The Idaho Probate Code specified that "males must be preferred to females" in appointing administrators of estates.**
- According to the Probate Code, Cecil was appointed administrator and Sally challenged the law in court.
- **Question**
- Did the Idaho Probate Code violate the Equal Protection Clause of the Fourteenth Amendment?

Conclusion

- In a unanimous decision, the Court held that the law's dissimilar treatment of men and women was unconstitutional.
- The Court argued that "**[t]o give a mandatory preference to members of either sex over members of the other**, merely to accomplish the elimination of hearings on the merits, **is...forbidden** by the Equal Protection Clause of the Fourteenth Amendment. . .
- *The choice in this context may not lawfully be mandated solely on the basis of sex.*"

The ERA and Title IX

- The **Equal Rights Amendment (ERA)- Proposed!**
 - Passed by Congress in 1972
 - **Section 1.** Equality of Rights under the law shall not be denied or abridged by the United States or any state on account of sex.
 - **Section 2.** The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.
 - **Section 3.** This amendment shall take effect two years after the date of ratification.
 - Never ratified
 - Only 35 states and 38 needed
- The Education Amendment Act of 1972
 - AKA... **Title IX**
 - Equity in sports at high school and college levels

Women in the Military

- Women are admitted to all military academies and make up 11% of the armed forces.
 - However, only men must register for the draft, and women are not allowed to serve in ground combat units.
 - *Rostker v Goldberg* 1980

Rostker v Goldberg, 1980

- **Facts of the Case**
- After the Soviet Union invaded Afghanistan in early 1980, President Jimmy Carter reactivated the draft registration process but wanted to include the **registration of women** in the Military Selective Service Act (MSSA), but Congress disagreed.
- A number of men challenged the constitutionality of the MSSA, and the challenge was sustained by a district court.
- **Question**
- Did the **MSSA's gender distinctions violate the Due Process Clause** of the Fifth Amendment?

Conclusion

- In a 6-to-3 decision, the Court held that Congress's decision to exempt women from registration "*was not the 'accidental by-product of a traditional way of thinking about females'*" and did not violate the Due Process Clause.
- The Court found that men and women, because of combat restrictions on women, were not "*similarly situated*" for **the purposes of draft registration**.
- The Court also upheld Congress's judgment that the administrative and military problems that would be created by drafting women for noncombat roles were sufficient to justify the Military Selective Service Act.

Civil Rights for Seniors

- 1975 Civil Rights law denied federal funds to any institution discrimination against people over 40 years of age.
- 1978 law raised compulsory retirement age to 70 years.
 - AARP has significant political power as representative of senior citizens, a growing segment of the electorate.

Gay Rights

- Clinton Administration
 - Gays in military
 - “*Don’t ask, don’t tell*”
- Gay marriage is still unsettled issue
 - *Massachusetts, Vermont...*

Affirmative Action

- Designed to overcome the effects of past discrimination, and bring about the increased employment, promotion or admission for women and minorities.
 - The goal is to “**move beyond equal opportunity towards equal results**”.
- The federal government mandated affirmative action programs for state and local governments during the Nixon administration
- Important cases dealing with Affirmative Action
 - *Bakke* case
 - University of Michigan cases,
 - *Gratz and Grutter*

Regents of the University of CA v Bakke, 1978

- Facts of Case

- Allan Bakke, a thirty-five-year-old white man, had twice applied for admission to the University of CA Medical School. He was rejected both times.
 - Bakke's qualifications (college GPA and test scores) exceeded those of any of the minority students admitted in the two years his applications were rejected.
- **The school reserved 16 places in each entering class of 100 for "qualified" minorities, as part of the university's affirmative action program**, in an effort to redress longstanding, unfair minority exclusions from the medical profession.
- Bakke contended, first in the California courts, then in the Supreme Court, **that he was excluded from admission solely on the basis of race.**

Regents of the University of CA v Bakke, 1978

- Conclusion
 - The decision was 5-4 and Bakke won his case but **affirmative action was NOT found to be unconstitutional**
 - However, the **rigid use of racial quotas were found to violate the equal protection clause of the Fourteenth Amendment**
 - Thus strict racial quotas were then generally found to be unconstitutional
 - **Reverse discrimination case**

Gratz v Bollinger, 2003

- **Facts of the Case**

- The University of Michigan used race as a factor in making admissions decisions because it served a "*compelling interest in achieving diversity among its student body.*"
- In addition, the University admitted virtually all qualified applicants who are members of one of three select racial minority groups - African Americans, Hispanics, and Native Americans - that are considered to be "**underrepresented**" on the campus.

- **Question of Law**

- Does the University of Michigan's use of racial preferences in undergraduate admissions **violate the Equal Protection Clause of the Fourteenth Amendment** or Title VI of the Civil Rights Act of 1964?

Importance

- In a 6-3 opinion delivered by Chief Justice William H. Rehnquist, the Court held that the University of Michigan's use of racial preferences in undergraduate admissions violates both the Equal Protection Clause and Title VI.
- While rejecting the argument that diversity cannot constitute a compelling state interest, the Court reasoned that the automatic distribution of 20 points, or one-fifth of the points needed to guarantee admission, to every single "underrepresented minority" applicant solely because of race was not narrowly tailored and did not provide the individualized consideration.
- Chief Justice Rehnquist wrote, "because the University's use of race in its current freshman admissions policy is not narrowly tailored to achieve respondents' asserted compelling interest in diversity, the admissions policy violates the Equal Protection Clause."

Grutter v Bollinger, 2003

- **Facts of the Case**
- The University of Michigan Law School admitted that it used race as a factor in making admissions decisions because it serves a *"compelling interest in achieving diversity among its student body."*
- **Question**
- Does the University of Michigan Law School's use of racial preferences in student admissions violate the Equal Protection Clause of the Fourteenth Amendment or Title VI of the Civil Rights Act of 1964?

Importance

- In a 5-4 opinion delivered by Justice Sandra Day O'Connor, **the Court held that the Equal Protection Clause does not prohibit the Law School's narrowly tailored use of race in admissions** decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body.
- The Court reasoned that, because the Law School conducts highly individualized review of each applicant, no acceptance or rejection is based automatically on a variable such as race and that this process ensures that all factors that may contribute to diversity are meaningfully considered alongside race.
- Justice O'Connor wrote, "in the context of its individualized inquiry into the possible diversity contributions of all applicants, **the Law School's race-conscious admissions program does not unduly harm non-minority applicants.**"

The Americans with Disabilities Act

- **Americans with Disabilities Act** was signed by President GHW Bush in 1990
- Required “*reasonable accommodations*” be made and prohibits discrimination in employment
- The ADA prohibits private employers, or the government from discriminating against qualified individuals with disabilities in
 - job application procedures
 - hiring, firing, advancement
 - compensation, job training
 - and other terms, conditions and privileges of employment.

According to the ADA an individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or is regarded as having such an impairment.
- A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question.

- **Reasonable accommodation may include, but is not limited to:**
 - Making existing facilities used by employees readily accessible to and usable by persons with disabilities.
 - Job restructuring, modifying work schedules, reassignment to a vacant position;
 - Acquiring or modifying equipment or devices, adjusting modifying examinations, training materials, or policies, and providing qualified readers or interpreters.