

**EQ # 36- What are Civil
Rights? How are they
protected?**

Ch 5

In what ways are people discriminated against in the US?

- Brainstorm a list with table partner.
- Are there any forms of discrimination that can be justified? Explain.

Four Corners

- Business owners have the moral right to refuse service to anyone.

Strongly Agree

Agree

Disagree

Strongly Disagree

What are Civil Rights?

- **Civil Rights**
 - Definition: Policies designed to protect people against unfair or discriminatory treatment by government officials or private individuals.

EXAMPLES-

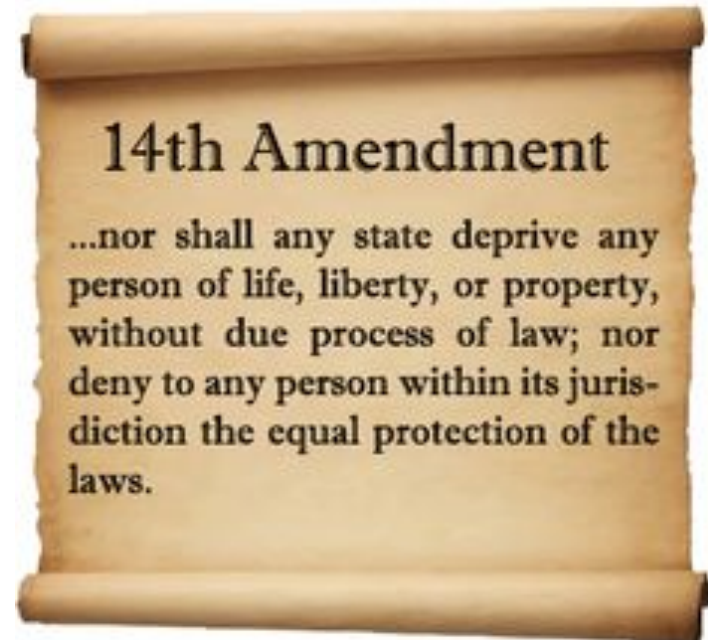
- **Racial Discrimination**
- **Gender Discrimination**
- Discrimination based on age, disability, sexual orientation and other factors.

Read the 14th Amendment

- Get a copy of the 14th A to put in your INB
- Read it and mark it up

14th Amendment

- Is the key for both civil rights AND civil liberties.
- Two clauses
 1. Due Process Clause
 2. Equal Protection Clause



What are civil rights? Where are they in the Constitution?

- **Civil rights:**
 - Protect certain groups from discrimination
 - Found in the **Equal Protection Clause** of the 14th Amendment



What about civil liberties?

- Civil liberties:

- Are constitutional protections for individuals against unfair government action
- Incorporated via the **Due Process Clause** of the 14th Amendment



Read the Article

We will be having a Socratic Discussion about the issues from this article

As you read, **MARK UP the article!**

After reading, use your LEFT side INB to answer the following:

1. What are the basic **FACTS** of this dispute/case?
2. What is the **KEY ISSUE** the parties involved are asking the Courts to decide?
3. What questions do you have about the case?

Socratic Seminar Norms

- Talk to each other, not just to the teacher.
- **Refer to evidence from the text** to support your ideas.
- **Ask questions if you do not understand what someone has said.**
- **You do not need to raise your hand to speak**, but please pay attention to your “airtime”—how much you have spoken in relation to other students.
- Don't interrupt.
- Don't “put down” the ideas of another student.

Arrange Room for Discussion

Reflection Prompt

1. What is the civil right involved in this case?
What is the civil liberty (or liberties)?
2. Was it reasonable for the state of Oregon to fine the bakers (the Kleins) for refusing to serve the lesbian couple? Explain. Feel free to provide a different / better solution if you think of one.

Thursday

- **Handouts-** HW & Calendar for Ch 5- Civil Rights
- **Topic / Learning Objective-** What effect did the Civil Rights Movement in the US—securing the right to vote

Warm-Up

Match terms in groups that make them accurate

- **Civil liberties**
- **Equal Protection Clause**
- **14th A**
- **Protections from government abuse**
- **Due Process clause**
- **Civil Rights**
- **Protection from discrimination**

What are civil rights?

- *Should groups or individuals be denied access to facilities, opportunities, or services available to other groups?*
- Are differences in treatment ever reasonable? Can you think of an example?



Why is there a Protected Class?

- People protected by civil rights laws have faced historic discrimination.
- They include **racial/ethnic minorities** (non-white), **women**, **those over 40**, **LGBTQ** individuals and the **disabled**.
- Whites have also received protection from Civil Rights laws (“reverse discrimination”)

What is reasonable treatment? SCOTUS must decide

- All Americans have a right to equal treatment before the law...
- This does NOT mean equality of outcome or circumstance.
- When is treatment unfair to a group?
- SCOTUS must decide.

SCOTUS Uses THREE Classifications

- 1. Strict scrutiny:** Racial classifications (different treatment based on race) **are inherently suspect / NOT justified.**
- 2. Mid-level review:** Gender classifications (treating men and women differently) must serve an important public interest. **Sometimes justified.**
- 3. Rational basis test:** Different treatment of “other” groups may be reasonable when there is a legitimate governmental interest. **Is met on case-by-case basis.**

Classifications

Table 5.1 Supreme Court's Standards for Classifications Under the Equal Protection Clause of the Fourteenth Amendment

BASIS OF CLASSIFICATION	STANDARD OF REVIEW	APPLYING THE TEST
Race	Inherently suspect (difficult to meet)	Is the classification necessary to accomplish a compelling governmental purpose and the least restrictive way to reach the goal?
Gender	Intermediate standard (moderately difficult to meet)	Does the classification bear a substantial relationship to an important governmental goal?
Other (age, wealth, etc.)	Reasonableness (easy to meet)	Does the classification have a rational relationship to a legitimate governmental goal?

Race, the Constitution and Public Policy

- There is NO mention of equality in original Constitution.
- 14th Amendment first clarified the concept by ensuring all Americans must receive “equal protection of the laws” using the Equal Protection clause.

Civil Rights Movement- How did we get here? Why was it needed?

- *Dred Scott v. Sanford*, 1857. Scott, a former slave, sued for his freedom.
- SCOTUS- Anyone whose ancestors were bought as slaves, whether himself slave or free, could NOT be a US citizen, and had no standing to sue. Any law depriving slave owners of their “property” was unconstitutional.
- **Film Clip-** <https://www.pbs.org/video/american-experience-what-was-dred-scott-decision/>

Civil Rights Movement- Why did we need it?

- **Civil War Amendments passed**
- **13th Amendment, 1865= outlawed slavery**
- **14th Amendment, 1868=extended citizenship to former slaves; Due Process and Equal Protection clauses**
- **15th Amendment, 1869= Black male suffrage (right to vote)**

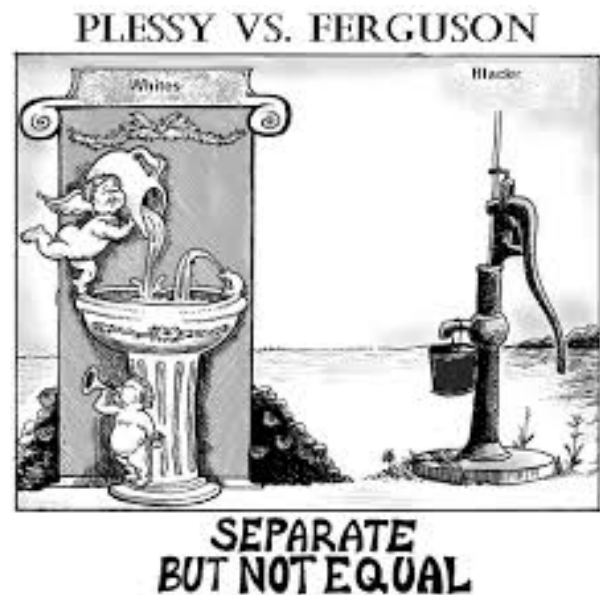
What was *Plessy v. Ferguson*?

- *Plessy v. Ferguson*, 1896
- **Background-** Plessy challenges a state segregation law that separates blacks & whites on train cars
- SCOTUS- Segregation ok if accommodations are equal; **Separate but Equal doctrine established**
- <https://www.pbs.org/video/slavery-another-name-plessy-v-ferguson/>



The Aftermath of Plessy Decision...

- States in South made “white only” accommodations.
- Black accommodations were **NOT** equal!!
- Blacks were treated as second class citizens
- Many lost their lives from violent crimes against them.



Why was the Civil Rights Movement Necessary?

- View *A Time for Justice* America's Civil Rights Movement clips
- Show parts 1 & 2
- Complete Film Graphic Organizer

The Right To Vote

- **Suffrage:** The legal right to vote.
- **Fifteenth Amendment:** Extended suffrage to African Americans but some states ignored.
- **Poll Taxes:** Small taxes levied in order to vote.
- **White Primary:** Only whites were allowed to vote in the party primaries. Ensured no black candidates could obtain office.
- **Literacy tests:** Required at voter registration for Blacks NOT whites; very difficult and technical; average person couldn't pass; kept blacks from voting.

Civil Rights Act of 1964

- Major federal law passed by US Congress
- Prohibits discrimination in ALL public places.
- Forbids discrimination in employment.
- Creates the EEOC- Equal Employment Opportunity Council to enforce fair hiring
- Withholds federal grants from discriminating institutions.
- Authorizes lawsuits by the Justice Department.

Race, the Constitution, and Public Policy

- Getting and Using the Right To Vote
 - *Smith v. Allwright* (1944): ended white primaries.
 - **Twenty-fourth Amendment:** Eliminated poll taxes for federal elections.
 - *Harper v. Virginia State Board of Elections* (1966): No poll taxes at all.

Voting Rights Act, 1965

- Helped end formal and informal barriers to African American suffrage.
- Ended literacy tests
- Hundreds of thousands of African Americans registered to vote
- Led to increased election of African American office holders

Friday 3/14

- **Survey** – Complete the survey to assess your availability and preferences for Review Sessions

Warm-Up

- List **THREE** tactics used to keep Blacks in the South from voting?
- List the legal remedies for each you named.
- ID **THREE** provisions of the Civil Rights Act and **TWO** of the Voting Rights Act.

Brown v. Board of Education, 1954

- What is the background of the Brown decision? Why is it significant?
- **Film Clips-**
- <https://vimeo.com/147973424>
- <http://www.nbclearn.com/finishing-the-dream/1954-separate-is-not-equal/cuecard/1288>

Brown v. Board of Education, ***1954 - Ruling***

- **Question-** Do public schools segregated by race violate the equal protection clause of the 14th A?
- **SCOTUS-** YES! Unanimous opinion **overturned** *Plessy v. Fergusson* (Separate but Equal Doctrine) and held public schools may NOT be segregated.
- **SCOTUS-** Segregation is detrimental, creating an inherent sense of inferiority among African American students
- **Significance-** End of legal segregation in US

After the *Brown* Decision

- ***De jure* segregation:** segregation by law (is ended by Brown)
- ***De facto* segregation:** segregation in fact; in practice
- Today, many public schools are still segregated due to de facto.
 - White flight to suburbs
 - Poor, racially divided neighborhoods in large cities.

Desegregation v. Integration

- *Swann v. Charlotte Mecklenburg* (1971): remedies to end segregation may include racial quotas, redrawn district lines, and court-ordered busing
- Busing was and is HIGHLY controversial

Heart of Atlanta Motel v. U.S. (1964)

- **Background-** A hotel owner refused to rent rooms to African Americans
- **Question-** Does the Civil Rights Act of 1964 infringe on the rights of private property owners? Is it constitutional?
- **SCOTUS-** NO! Upheld Congress's authority to pass the Civil Rights Act under the Commerce Clause.

Other Races and Civil Rights

- **1924- Indian Citizenship Act- Native Americans are granted citizenship and the right to vote**, regardless of tribal affiliation; about 2/3 of NA were already citizens by then; not universal; New Mexico last state to grant suffrage in 1962.
- **1943- Magnuson Act- Chinese immigrants granted citizenship and right to vote by the**

Race, the Constitution, and Public Policy: Other Minorities

– Native Americans

- *Santa Clara Pueblo v. Martinez* (1978): Court strengthens self government by tribes

– Hispanic / Latinex Americans

- *Hernandez v. Texas*, 1954: SCOTUS extends protection against discrimination to Latinos

– Asian Americans

- *Korematsu v. United States* (1944): Court upheld internment of Japanese-Americans during WWII

Quick Write: Civil Rights

How has the 14th Amendment been used to address racial discrimination? Use the following terms to support / explain your answer.

- **14th Amendment** (cite the clause that applies to civil rights)
- *Plessy v. Ferguson, 1896*
- *Brown v. Board of Education, 1954* (explain the political significance of the Court's decision)
- **Civil Rights Acts and Movement**

Gender-Based Discrimination

- The Battle for the Vote
 - Some states let women vote but many did not until the 19th Amendment passed.
- **Nineteenth Amendment, 1920**
 - Extended suffrage to women
 - Applied to ALL state and federal elections

Women & The Constitution

Equal Rights A

- **What is the Equal Rights Amendment?**
- Originally introduced in 1923 and passed by Congress in 1972 stating that “*equality of rights under the law shall not be denied or abridged by the US or any state on account of sex.*”
- Never ratified / didn't get $\frac{3}{4}$ votes needed (35/38 states ratified).

Gender-Based Discrimination

- Mid-level review versus strict scrutiny
- Court chooses a blend—more than reasonable but not as much as strict scrutiny.
- Arbitrary differences are not allowed.
- Some gender-based differences, such as the all-male draft, are allowed by courts

Key Cases for Gender

- **Reed v. Reed, 1971**
 - Landmark case where SCOTUS for the first time upheld a claim of gender discrimination
- **Craig v. Boren, 1976**
 - SCOTUS established the “medium scrutiny” standard for determining gender discrimination.

Sexual Harassment

- SCOTUS-Sexual harassment that is pervasive and creates a hostile work environment is a form of gender discrimination
- Is illegal under the Civil Rights Act of 1964
- *Harris v. Forklift Systems*, 1993 reinforces this — workers aren't required to prove psychological damage to win

Sexual Harassment

- **Quid pro quo:** If sexual favors are required as a condition for holding a job or for promotion, employers are strictly liable
- **Hostile environment:** If employer creates a setting in which harassment impairs a person's ability to work, employers are liable if they were negligent

Monday

- Survey for AP Test Review
- LGBTQ rights and courts
- Affirmative Action & courts
- Ch 5 Quiz
- Ch 4 Quiz back
- *Letter from a Birmingham Jail-MLK*

Gay Rights & the Constitution

- Early SCOTUS rulings-
- *Bowers v. Hardwick* (1986) Upholds state laws that ban homosexual relations
- *Boy Scouts v. Dale*, 2000 - Boy Scouts can exclude a gay man from being an adult member because his homosexuality violates the principles of their organization

Gay Rights & the Constitution

- *Lawrence v. Texas* (2003): Texas law banning sexual conduct between same sex couples violates 14th A Equal Protection clause.
- *Obergefell v. Hodges*, 2015 –SCOTUS (5-4 vote) held the 14th A. requires states to license and recognize same sex marriages.

What are Affirmative Action Programs?

- In education and employment, affirmative action programs give special consideration to protected classes (racial minorities, Native Americans, and women) who have been historically excluded.
- Race and gender are NOT the only considerations; MUST meet other qualifications
- ***Explanation-** <https://www.youtube.com/watch?v=ZhUOw0KidZg>

Pros and Cons of **Affirmative Action**

- **PROS-** List top THREE
- **CONS-** List top THREE

- Does this lead to **reverse discrimination**?
- *Read the US Army and Affirmative Action

What is Reverse Discrimination?

Do Civil Rights laws protect whites from this?

- *Regents of the University of California v. Bakke* (1978) –
- **Background-** Read the handout on the Bakke case background and decision
- https://www.thirteen.org/wnet/supremecourt/rights/landmark_regents.html

Regents University of California v. Bakke, 1978

- **Question-** Did the University's affirmative action policy violate the 14th A's Equal Protection clause and the Civil Rights Act?
- **SCOTUS- SCOTUS-** Yes; quotas are unconstitutional and can be reverse discrimination but Affirmative Action programs are OK.
- Admissions can use race and/or gender status as ONE consideration among many.

The Americans With Disabilities Act (1990)

- Federal law; applies to ALL states
- Requires employers to make reasonable accommodations for disabled employees.
- Was an *unfunded mandate*- Did NOT provide funding for accommodations...
- This has given rise to two issues:
 - What constitutes a disability?
 - What is meant by a “reasonable” accommodation?

*Letter from a Birmingham
Jail...MLK, Jr.*

- <https://www.pbs.org/video/metrofocus-gospel-freedom-look-back-mlk-jrs-birmingham-letter/>

Activity- Letter from a Bham Jail

1. Read paragraph 1. What is the purpose of this letter? Who is the audience? Describe the context.
2. Why was MLK in Birmingham? What were his reasons?
3. Why was King advocating for a **nonviolent direct action** approach in Birmingham?
4. King is more disappointed with the white moderate than with the KKK... Explain.
5. According to Dr. King, does direct action hinder negotiation? Explain.
6. Explain, in detail, King's reaction to the advice "wait" and "give us time to act".

Reflection

In King's response he writes,

“Injustice anywhere is a threat to justice everywhere.

We are caught in an inescapable network of mutuality, tied in a single garment of destiny.

Whatever affects one directly, affects all indirectly.”

PROMPT-What are the implications of this statement for all people in relation to social injustices? Do you believe he is right? Why or why not?