



AP Government: Chapter 5

- **Civil Rights**
 - **Is an increase in the scope of government to protect some people's rights an unacceptable threat to the rights of others?**
- **Civil Rights=Policies designed to protect people against arbitrary or discriminatory treatment by government officials or individuals**



Civil Rights and Civil Liberties

- **Most Americans favor equality in the abstract yet the concrete struggle for equal rights under the Constitution has been our nation's most bitter battle**
- **Those people who enjoy privileged positions in American society have been reluctant to give them up**

Equality Debates

**Discrimination
based on race,
age, gender,
disability, sexual
orientation, and
the
disenfranchised**



Equality in the Constitution?

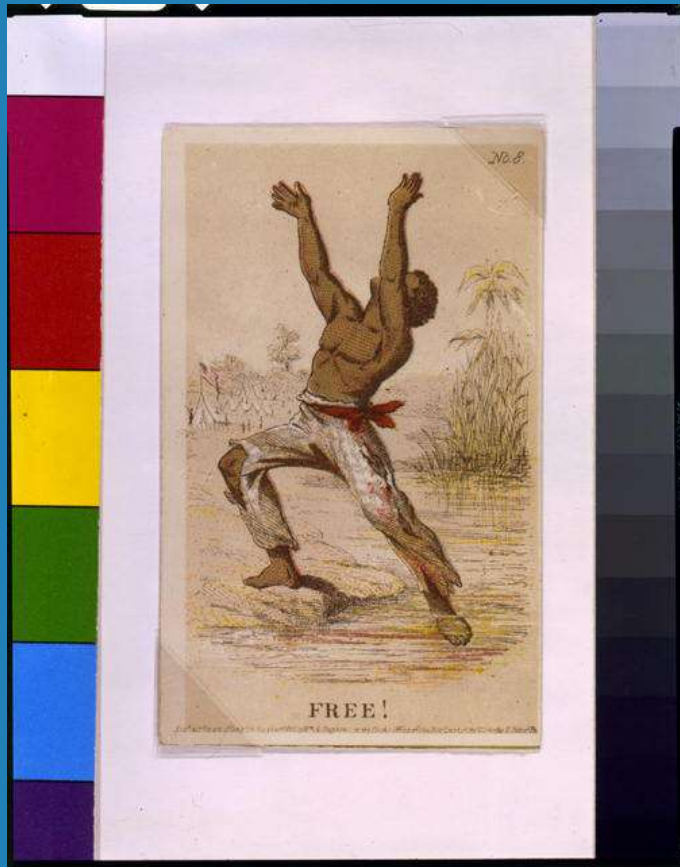


promoting
EQUAL OPPORTUNITIES
through empowerment

Equality of opportunity is not in the original Constitution or the Bill of Rights

- **14th Amendment (1868): forbids states from denying to anyone “equal protection of the law”**

The importance of the 14th Amendment



- **The Court didn't use the amendment to create equality in society until almost 100 years later to "unshackle disadvantaged groups"**
- **Has become the vehicle for more expansive Constitutional interpretations**

Two centuries of Struggle

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?

14th Amendment: Levels of Scrutiny

Three levels of scrutiny:

- ***Reasonable***—Bear a rational relationship to some legitimate governmental purpose are constitutional (i.e. *voting age*)



14th Amendment: Levels of Scrutiny

2. Inherently Suspect—

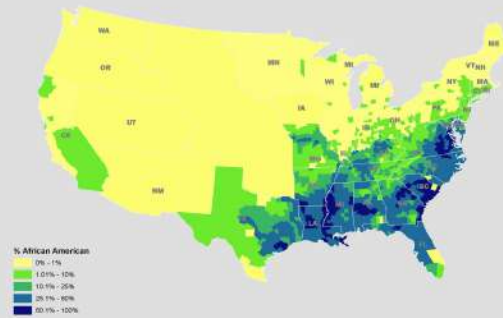
Presumed to be invalid and are upheld only if they serve a “compelling public interest” and there is no other way to accomplish the purpose of the law (i.e. college admissions, affirmative action)



14th Amendment: Levels of Scrutiny

- 3. Somewhere in between—*
Presumed neither to be constitutional nor to be unconstitutional; a law that discriminates on the basis of gender must bear a substantial relationship to an important legislative purpose

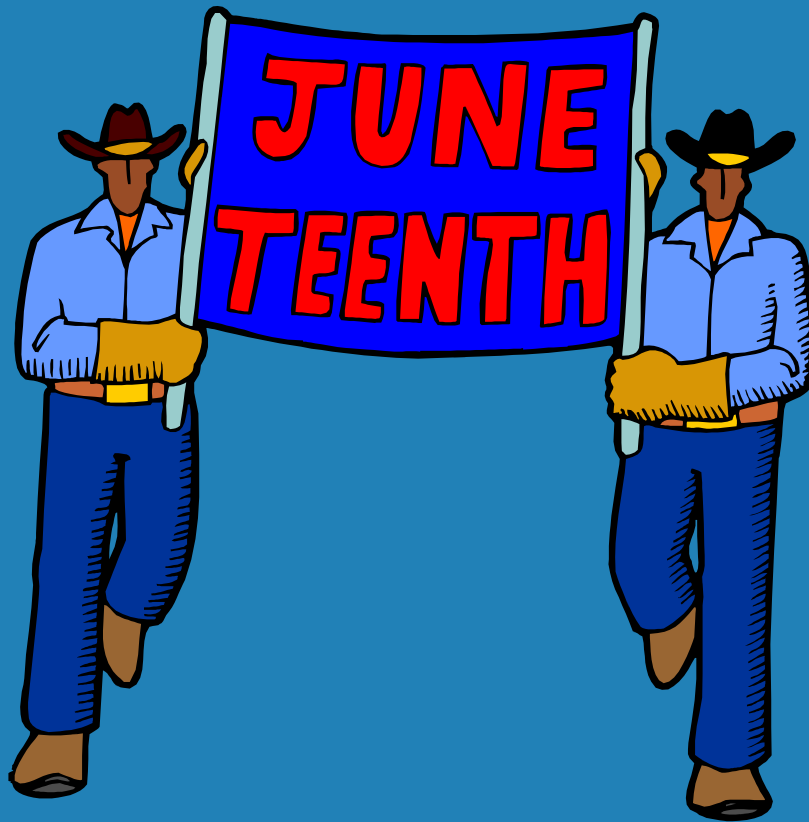
African-Americans as a Percent of All Americans, 1850



African Americans' Struggle for Equality in America



1. The Era of Slavery



- **1600's – 1865**
 - *Dred Scott v. Sandford* (1857)
 - Slaves had no rights.
 - Invalidated Missouri Compromise
 - **The Civil War**
 - **The Thirteenth Amendment**
 - Ratified after Union won the Civil War
 - Outlawed slavery

Race, the Constitution, and Public Policy

TABLE 5.2

Toward Racial Equality: Milestones in the Era of Slavery

1600–1865

Slavery took hold in the South, came to characterize almost all relations between African Americans and Whites, was constitutionally justified, and was finally abolished.

1619 Slaves from Africa are brought to Jamestown and sold to planters.

1776 The Continental army enlists African Americans to fight the British after the British offer freedom to slaves who would fight on their side.

1787 The Constitution provides for a slave to be counted as three-fifths of a person in representation and taxation and permits Congress to forbid the importation of new slaves after 1808.

1808 Congress prohibits importation of slaves.

1857 The *Scott v. Sandford* decision holds that slaves may not gain freedom by escaping to a free state or territory; it upholds the constitutionality of the slave system.

1862 President Lincoln issues the Emancipation Proclamation.

1865 The Thirteenth Amendment abolishes slavery and involuntary servitude.



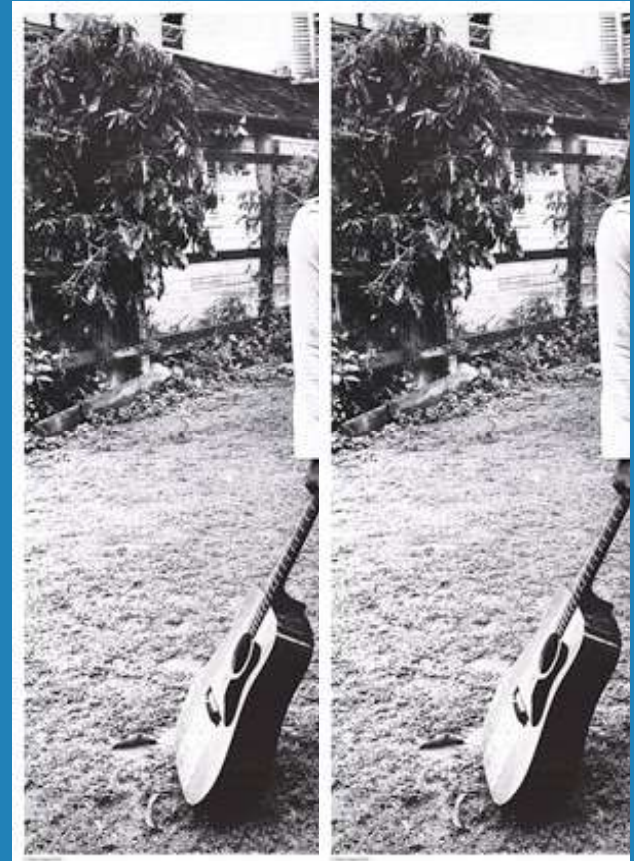
2. The Era of Reconstruction and Resegregation

- **Jim Crow or segregational laws**
 - Relegated African Americans to separate facilities
- ***Plessy v. Ferguson* (1896)**
 - Upheld the constitutionality of “equal but separate accommodations”



3. The Era of Civil Rights

- ***Brown v. Board of Education (1954)***
 - Overturned *Plessy*
 - School segregation inherently unconstitutional
 - Integrate schools “with all deliberate speed”
Little Rock 9 (1957)
- **Civil Rights Act (1964)**
- **Voting Rights Act of 1965**
- **School Busing (1971)**
 - Busing of students solution for two kinds of segregation:
 - *de jure*, “by law”
 - *de facto*, “in reality”





Civil Rights Act of 1964

- **Made racial discrimination illegal in hotels, motels, restaurants, and other places of public accommodation**
- **Forbade discrimination in employment on the basis of race, color, national origin, religion or gender**
- **Created the (EEOC) Equal Employment Opportunity Commission to monitor and enforce protections against job discrimination**
- **Provided for withholding federal grants from state and local governments and other institutions that practiced racial discrimination**
- **Strengthened voting rights legislation**
- **Authorized the US Justice Department to initiate lawsuits to desegregate public schools and facilities**

FIGURE 5.1

Percentage of Black Students Attending School with Any Whites in Southern States



Despite the Supreme Court's decision in *Brown v. Board of Education* in 1954, school integration proceeded at a snail's pace in the South for a decade. Most Southern African American children entering the first grade in 1955 never attended school with White children. Things picked up considerably in the late 1960s, however, when the Supreme Court insisted that obstruction of implementation of its decision in *Brown* must come to an end.

*Elementary and secondary students in 11 Southern states, including: Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Texas, Arkansas, Tennessee, and Florida.

Source: Lawrence Baum, *The Supreme Court*, 8th ed. (Washington, DC: Congressional Quarterly, 2004), 199.

TABLE 5.4**Toward Racial Equality: Milestones in the Era of Civil Rights**

1954–2009

Integration became a widely accepted goal; the civil rights movement grew, followed by urban racial disorders in the 1960s; African American voting increased; and attention shifted to equal results and affirmative action.

1954 *Brown v. Board of Education* holds that segregated schools are inherently unequal and violate the Fourteenth Amendment's equal protection clause.

Hernandez v. Texas extends protection against discrimination to Hispanics.

1955 Martin Luther King Jr. leads a bus boycott in Montgomery, Alabama.

1957 Federal troops enforce desegregation of a Little Rock, Arkansas, high school.

1963 Civil rights demonstrators numbering 250,000 march on Washington, D.C. Martin Luther King Jr. delivers "I have a dream" speech.

1964 The Civil Rights Act forbids discrimination in public accommodations and employment.

The Twenty-fourth Amendment ends the poll tax in federal elections.

1965 The Voting Rights Act sends federal registrars to Southern states and counties to protect African Americans' right to vote and gives registrars the power to impound ballots to enforce the act.

Executive order requires companies with federal contracts to take affirmative action to ensure equal opportunity.

Riots occur in Watts, California, and other cities and reappear every summer in various cities for the next five years.

1966 *Harper v. Virginia* holds that the Fourteenth Amendment forbids making payment of a tax a condition of voting in any election.

1967 Cleveland becomes the first major city to elect an African American mayor (Carl Stokes).

Loving v. Virginia ends prohibition of mixed-race marriages.

1968 The *Jones v. Mayer* decision and the Civil Rights Act of 1968 make all racial discrimination in the sale or rental of housing illegal.

Martin Luther King Jr. is assassinated.

1971 *Swann v. Charlotte-Mecklenburg County Schools* approves busing as a means of combating state-enforced segregation.

1978 *California Board of Regents v. Bakke* forbids rigid racial quotas for medical school admissions but does not forbid considering race as a factor when deciding admissions.

1979 *United Steelworkers of America v. Weber* permits an affirmative action program to favor African Americans if the program is designed to remedy past discrimination.

Dayton Board of Education v. Brinkman upholds school busing to remedy Northern school segregation.

1984 Jesse Jackson becomes the first African American candidate for president to receive substantial support in the primaries.

Grove City College v. Bell forbids the federal government from withholding all federal funds from a college that refuses to file forms saying that it does not discriminate. (Only a specific program risked its federal funds.)

1988 Congress rewrites the Civil Rights Act to "overturn" the implications of *Grove City College*.

1991 After three years of conflict, Congress enacts the Civil Rights and Women's Equity in Employment Act, which counters the effects of several Supreme Court decisions making it more difficult for workers to bring and win job discrimination suits.

1995 *Adarand Constructors v. Peña* holds that affirmative action programs must undergo strict scrutiny to determine that they are narrowly tailored to serve a compelling governmental interest.

2003 *Grutter v. Bollinger* approves use of race as one factor in college admissions.

2007 *Parents Involved in Community Schools v. Seattle School District No. 1* declares the use of race in voluntary integration plans violates the equal protection clause.

2008 Barack Obama elected president.



Voting Rights Act of 1965

- **A law designed to help end formal and informal barriers to African American suffrage.**
- **Hundreds of thousands of African Americans were registered, and the number of African American elected officials increased dramatically.**

Getting and Using the Right to Vote

- **Suffrage: the legal right to vote**
- **Fifteenth Amendment: extended suffrage to African Americans**
- **Poll Taxes: small taxes levied on the right to vote**
- **White Primary: Only whites were allowed to vote in the party primaries.**

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 of 1965:** helped end formal and informal barriers to voting



Civil Rights Amendments

LIST AND ANALYZE:

- **13th:**
- **14th:**
- **15th:**
- **19th:**
- **24th:**

Major Minorities in the United States



- **Caucasians=69%**
- **Hispanic Americans=13%**
- **African Americans=12%**
- **Asian Americans=4%**
- **Native Americans=1%**
- **The United States is heading to a Minority Majority=there will be more minorities than Caucasians in your lifetime**

TABLE 5.5

Toward Gender Equality: Public Policy Milestones

1969	Executive order declares that offering equal opportunities for women at every level of federal service is to be national policy and establishes a program for implementing the policy.
1971	In <i>Reed v. Reed</i> , the Supreme Court invalidates a state law preferring men to women in court selection of an estate's administrator.
1972	Provisions of Title VII of the Civil Rights Act of 1964 are extended to cover the faculty and professional staffs of colleges and universities. The Education Act forbids gender discrimination in public schools (with some exceptions for historically single-gender schools). The ERA is proposed by Congress and sent to the states for ratification.
1974	A woman—Ella Grasso of Connecticut—is elected governor for the first time without succeeding her husband to the office.
1975	Congress opens armed services academies to women.
1976	Courts strike down an Oklahoma law setting different legal drinking ages for men and women.
1977	Supreme Court voids arbitrary height and weight requirements for employees in <i>Dothard v. Rawlinson</i> .
1978	The deadline for ratification of the ERA is extended. Congress passes the Pregnancy Discrimination Act.
1981	The Supreme Court rules that male-only military draft registration is constitutional. Sandra Day O'Connor becomes the first woman Supreme Court justice.
1982	The ERA ratification deadline passes without ratification of the amendment.
1984	Geraldine Ferraro is nominated as the first woman vice-presidential candidate of a major party.
1988	The Supreme Court unanimously upholds a 1984 New York City law aimed primarily at requiring the admission of women to large, private clubs that play an important role in professional life.
1991	After three years of conflict, Congress enacts the Civil Rights and Women's Equity in Employment Act, which counters the effects of several Supreme Court decisions making it more difficult for workers to bring and win job discrimination suits.
1992	California becomes the first state to be represented by two female U.S. senators.
1993	Supreme Court in <i>Harris v. Forklift Systems</i> lowers the threshold for proving sexual harassment in the workplace.
1994	Forty-eight women elected to U.S. House and eight to the Senate, the most in history.
1996	In <i>United States v. Virginia et al.</i> , the Supreme Court declares categorical exclusion of women from state-funded colleges unconstitutional.
1997	Madeline Albright appointed secretary of state, the first woman to serve in that role.
2001	Condoleezza Rice appointed national security adviser, the first woman to hold that post.
2002	Representative Nancy Pelosi is elected by her colleagues as House Democratic leader, becoming the first woman to head her party in Congress.
2007	Nancy Pelosi is elected speaker of the House of Representatives.

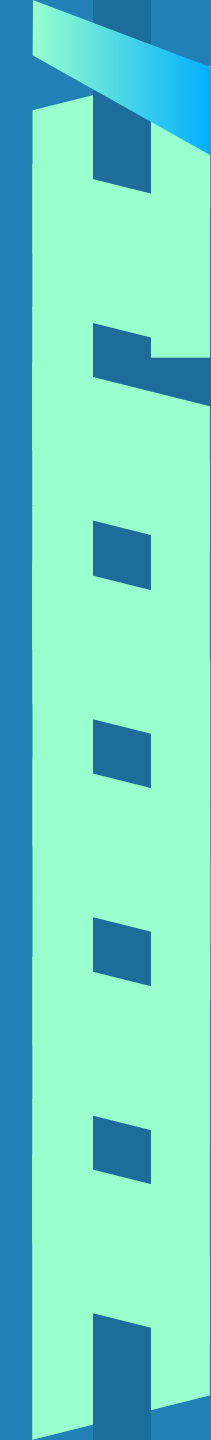


Women and the Constitution

19th Amendment (1920)

- **Equal Rights Amendment (ERA)**
Congress passed in 1972 but it was three states short by the expiration in 1982
- ***Reed V. Reed* (1971)**
Any arbitrary gender based classification violated the 14th Amend
- **First time declared any law unconstitutional on basis of gender discrimination**

- ***Craig V. Boren* (1976)**
“medium scrutiny” standard established
- **Gender discrimination neither valid nor invalid**
- **Court said there must be an “exceedingly persuasive justification” for any government to classify people by gender**
- **Civil Rights Act (1964)**
banned gender discrimination in employment

- 
- **Women in the Workplace**
 - **The Civil Rights Act of 1964 banned gender discrimination in employment.**
 - **Wage Discrimination and Comparable Worth**
 - **The Supreme Court has not ruled on this issue.**
 - **Women in the Military**
 - **Only men may be drafted or serve in ground combat.**
 - **Sexual Harassment**
 - **Prohibited by Title VII of Civil Rights Act of 1964**

Women's Laws

- *Title IX of the Education Act of 1972*
- *Pregnancy Discrimination Act of 1978*: forbids gender discrimination in federally subsidized education programs
- 1996 Supreme Court decided that single gender schooling violates women's right to equal protection of the law



Women in the Military

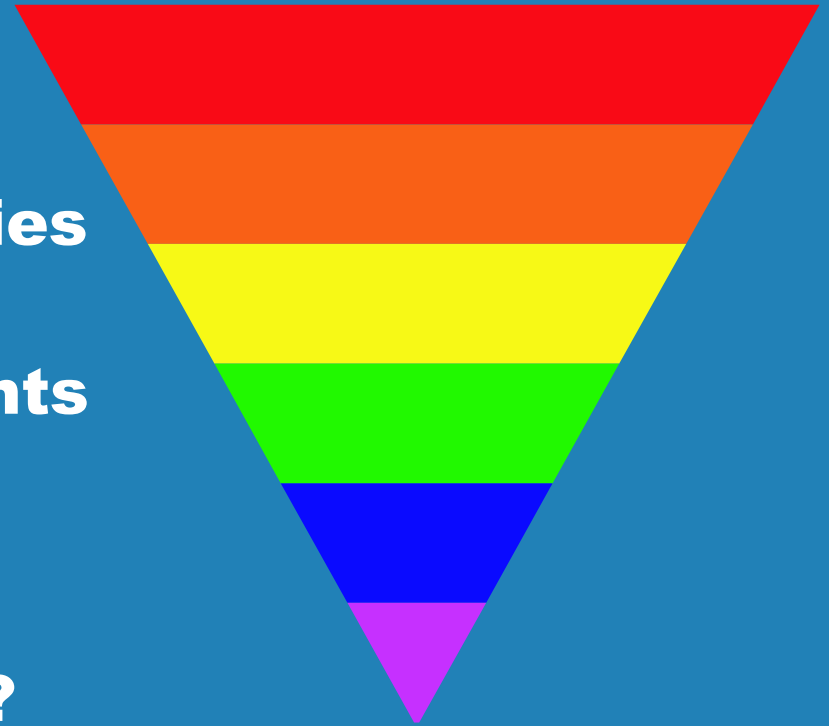


- **Women are now part of the regular service since 1975**
- **Make up 15% in the Armed forces**
- **Discrepancies:**
 - 1. Only men must register for the draft**
 - 2. Prohibits women from serving in combat (today=no ground combat in Army and Marines)**

Newly Active Groups under Civil Rights

- **Gay Liberation Movement**
- **People with Disabilities**
- **Gay and Lesbian Rights Groups**

**How has civil rights
helped these groups?**





Gay and Lesbian Rights

- ***Bowers v. Hardwick* (1986)**
- ***Lawrence v. Texas* (2003)**
 - **Overtured *Bowers***
 - **Private homosexual acts are protected by the Constitution**
- **Gay marriage**
 - **Many state constitutions amended to prohibit practice**

Affirmative Action...

A Policy designed to give special attention to or compensatory treatment for members of some previously disadvantaged group

- **According to the Supreme Court, is affirmative action constitutional?**
- **In education**
 - *Regents of the University of California v. Bakke* (1978)
 - **Racial set asides unconstitutional**
 - **Race could be considered in admissions**
 - *Grutter v. Bollinger* (2003)
 - **Race could be considered a “plus” in admissions**

Affirmative Action...

- **In employment**
 - ***United Steelworks v. Weber* (1979)**
 - **Quotas to remedy past discrimination are constitutional.**
 - ***Adarand Constructors v. Peña* (1995)**
 - **To be constitutional, affirmative action must be “narrowly tailored” to meet a “compelling governmental interest.”**
 - **Did not ban affirmative action, but severely limited its reach**