Chapter 5 Civil Rights

Introduction to American Government
McDonald

Civil Rights

Civil Rights:
legal or moral claims for protection that citizens are entitled to make on the government

Whereas civil liberties concern those things that governments cannot do to citizens, civil rights involve citizens appealing to the government to protect them from other citizens, social actors, or some aspect of the government itself.

The Struggle for Civil Rights

The Constitution’s acknowledgement and sanctioning of slavery was fundamentally at odds with Americans’ emphases on equality and individual liberty.
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The Struggle for Civil Rights: Abolitionism

The dissonance between American ideals and the practice of slavery led to early movements to abolish the "peculiar institution."

Abolitionists like William Lloyd Garrison were organizing against slavery by the 1830s. Their efforts were built on by abolitionist political parties and social movements in the antebellum era.

The Struggle for Civil Rights: Women's Rights

Women's struggle for civil rights in America also seized on the dissonance between American ideals and practice.

In the Seneca Falls declaration, women echoed the Declaration of Independence, stating "We hold these truths to be self-evident: that all men and women are created equal."

The Legal Basis of Civil Rights

The Civil War amendments to the Constitution are an important basis for civil rights protection in the United States.

- The 13th Amendment abolished slavery.
- The 15th Amendment guaranteed voting rights for black men.
- Most directly, the 14th Amendment provides the basis for national government protection of rights.
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The Fourteenth Amendment

Just as the 14th Amendment was the basis for the selective incorporation of the Bill of Rights, interpretations of its equal protection clause are the basis of many of the debates on civil rights.

Equal protection clause: “No State shall make or enforce any law which shall … deny to any person within its jurisdiction the equal protection of the laws.”

Again similar to the process of selective incorporation, the Supreme Court’s decision in the 1873 Slaughterhouse Cases circumscribed the importance of the 14th Amendment by arguing that the amendment was aimed at forbidding the laws that had been used against slaves and other African Americans prior to the Civil War.

Separate But Equal

In its 1896 Plessy v. Ferguson ruling, the Supreme Court upheld the racial segregation system of Jim Crow arguing that “separate but equal” train cars and other facilities did not violate the 14th Amendment’s equal protection clause.
“Laws permitting, and even requiring, their separation [by race] ... do not necessarily imply the inferiority of either race to the other...”

--Justice Henry Billings Brown, Plessy v. Ferguson (1896)

"... in the field of public education the doctrine of 'separate but equal' has no place."

In *Brown v. Board of Education*, the Supreme Court struck down the separate but equal doctrine and the practice of separation on the basis of race as “inherently unequal.”

After *Brown*, states could no longer use race as a factor in discrimination in law and the court would apply its strict scrutiny standard to any case related to racial discrimination.

The Supreme Court’s decision in *Brown* had important political consequences:

1. It began a slow process of school desegregation that was often met with resistance from state and local governments.
2. It sparked greater resolve for a growing civil rights movement that would use social protest to press for political change.
3. It (and the political activism it sparked) led to important congressional actions, particularly the 1964 Civil Rights Act and the 1965 Voting Rights Act.

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**NOTE:** The data are drawn from a search of the New York Times index for all references to civil rights demonstrations.


**FIGURE 5.1:** Peaceful Civil Rights Demonstration, 1954–68

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WHAT DO YOU THINK?

- How do you think the government benefits by protecting the rights of its citizens?
- Why do you think the Supreme Court might have upheld segregation even after the 14th Amendment?
- Why do you think it took so long for the Brown decision to have a tangible effect on desegregation in the South in the 1950s and 1960s?

The Universalization of Civil Rights

The hard won 1964 Civil Rights Act became a foundation for rights expansion for African Americans as well as many other groups that faced discrimination.

The 1964 Civil Rights Act protected:

- Voting rights
- Access to public accommodations
- Ensuring the desegregation of public schools
- Against discrimination in employment on the basis of race, religion, and gender

The African American civil rights movement continued to struggle for social, economic, and political rights.

There were successful moves to:

- Outlaw employment discrimination
- Protect and expand voting rights
- Outlaw housing discrimination

The Universalization of Civil Rights
Building on the successes of the African American civil rights movement, other groups pressed to make rights protections universal.

The Universalization of Civil Rights

- Building on Title VII of the Civil Rights Act of 1964, women’s efforts to end gender discrimination, particularly in employment practices, fed the growth of the women’s movement and organizations such as the National Organization for Women (NOW) and the Women’s Equity Action League (WEAL).
- Latinos and Asian Americans established legal strategies modeled the NAACP’s Legal Defense Fund through the Mexican-American Legal Defense Fund (MALDEF) and the Asian Law Caucus.

The Universalization of Civil Rights

- Benefiting from the advances of the civil rights movement, Native Americans pressed for more rights protections in the 1960s and 1970s.
- Disabled Americans established their own legal defense funds in the 1970s, became increasingly active in protests and demonstrations, and pressed for equal access to public accommodations, achieving a significant victory in the Americans with Disabilities Act of 1990.
Gay and lesbian citizens have also modeled some of the successes of the African American civil rights movement in pushing for equal access to government protections of their rights to privacy and the right to civil unions and/or marriage.

**The Universalization of Civil Rights**

**Affirmative Action**

**Affirmative action:** government policies or programs that seek to redress past injustices against specified groups by making special efforts to provide members of these groups with access to educational and employment opportunities.

**WHAT DO YOU THINK?**

- How did the African American civil rights movement pave the way for other groups?
- Do you think various groups have achieved the equality they have fought for or does their struggle continue?
- Is affirmative action necessary to achieve the American values of liberty, equality, and democracy, or does classifying by race inherently contradict these values?
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[Review Questions]

Which of the following best describes how to distinguish civil rights from civil liberties?

A. Unlike civil liberties, civil rights place positive obligations on the government to take action.
B. Unlike civil liberties, civil rights restrict and limit government action.
C. Unlike civil liberties, only state governments enforce civil rights.
D. Unlike civil liberties, civil rights protect corporations as well as individuals.

[Review Questions]

_______ is defined as compensatory action to overcome the consequences of past discrimination.

A. Affirmative action
B. Reverse discrimination
C. Compensatory damages
D. Punitive damages

[Review Questions]

Based on Supreme Court rulings, which of the following policies would be LEGAL under federal law?

A. This company does not hire Irish Catholics.
B. This company does not hire women.
C. This school will not accept any more whites since 25% of our students must be black.
D. This company does not hire homosexuals.