Civil Rights

What are civil rights? Written policies or laws that protect people from discrimination or other arbitrary treatment by government officials or other individuals.

Identifying Discrimination…

de jure segregation/discrimination—mandated by law/decreed by government
de facto segregation/discrimination—based on people's opinions, beliefs, actions; social or economic; by fact

Terms to Remember…

⇒ equal treatment
- ⇒ **equal protection**—14th Amendment clause; laws and regulations must apply equally to all citizens; state laws included
- ⇒ **reasonable accommodation**—1990 Americans with Disabilities Act; 2008 ADA Am. Act, expands to include protections for epilepsy, cancer, etc.; no one denied employment if a reasonable accommodation can be made (example a cushioned floor mat to stand on)
- ⇒ **eugenics**—law preventing childbearing by some individuals; prohibitions against marriage; sterilization & other programs
- ⇒ **coverture**—legal identity of women erased upon marriage; personal property becomes property of husband
- ⇒ **glass ceiling**—invisible barrier caused by discrimination, preventing women from rising to higher levels of organizations and groups
- ⇒ **comparable worth**—women or other historically disadvantaged groups paid less than men for same jobs with same skill set & education level
- ⇒ **affirmative action**—special privileges or compensations are awarded to benefit members of groups historically subject to discrimination

⇒ voting rights
- ⇒ **franchise or suffrage**—legal right to vote
- ⇒ **disenfranchisement**—denied voting rights
- ⇒ **white primary**—voting rights denied on basis of race; only whites could vote in elections to narrow the field for the general election
- ⇒ **literacy & understanding tests**—ways of denying voting rights; must prove ability to read or pass citizenship questions
- ⇒ **poll tax**—to prevent poor of all races and ethnicities from being able to exercise the right to vote; focus mainly on minority exclusion
- ⇒ **grandfather clause**—less literate whites may vote if previous generation of ancestors voted

Class Notes…

⇒ Organizations Seeking to Promote Equal Treatment
  - ⇒ **AIM**—American Indian Movement; direct action to raise awareness of violence against tribal members
  - ⇒ **UFW**—United Farm Workers; union for migrant workers founded in 1962 by Cesar Chavez and others
  - ⇒ **NAACP**—National Association for the Advancement of Colored People; 1909

⇒ Guidelines for Governmental/Court Action
  - ⇒ **compelling interest**—compelling interest to step in and infringe on rights of individuals; also known as strict scrutiny; based on 14th Am. equal protection; some laws may be deemed unconstitutional; if the legislation is narrowly defined for specific purposes and not broad or sweeping attempts to restrict liberties it has a better chance of standing a test of constitutionality; looking at how fundamental a right is perceived to be is key
  - ⇒ **strict scrutiny**—burden of proof on the government to demonstrate a compelling governmental interest in treating one group differently; least restrictive way of handling something
  - ⇒ **rational basis test**—is there a reason for treating people differently; is the government's interest legitimate; is the government's interest rational

⇒ Methods Used to Achieve Equality
  - ⇒ **direct action**—confrontational approach; marches, demonstrations, etc.
  - ⇒ **civil disobedience**—choosing to disobey an unjust law; with an understanding of the potential legal consequences

Acts of Congress

- 1964— Civil Rights Act—no discrimination based on race, ethnicity, religion, sex, or national origin; set up EEOC; prevent discrimination in jobs, hotels, restaurants, etc. based on race or ethnicity; no unequal application of voting qualifications
- 1965—Voting Rights Act—no formal or informal barriers to suffrage
- 1990—Americans with Disabilities Act—reasonable accommodations required
- 1830—Indian Removal Act—forced Native Americans to move west of the Mississippi River
- 1887—Dawes Severalty Act—effort to assimilate Native Americans; divided land; divided reservation lands; etc.
- 1898—Curtis Act—abolished tribal governments
- 1917—Jones Act—grated citizenship to Puerto Ricans
- 1972—Title IX—part of US Education law; prohibit discrimination on basis of sex in academic programs, sports, activities, etc.

Court Cases—Civil Rights

Scott v. Sandford

1857, escaped slave, managed to get to a free state; not accorded the rights of citizenship; basically upheld the constitutionality of slavery; whether free or slave does not matter for citizenship; government cannot limit expansion of slavery in territories

Plessy v. Ferguson (Separate But Equal Doctrine)

1896, started the separate but equal idea for all public accommodations including schools, public restrooms, etc.

Brown v. Board of Education

1954, segregation is unconstitutional; separate is inherently unequal

Loving v. Virginia

SCOTUS overturns law against interracial marriage in Virginia

Hernandez v. Texas

1954, extending rights to serve on juries to Hispanic Americans; Jim Crow (de jure) segregation case

Korematsu v. United States

1944, upheld internment camps as being constitutional; American citizens held in prison or concentration camps without trial or hearing; government argued protection of country was higher priority; compelling interest

Obergefell v. Hodges

2015; overturned state bans on same-sex marriage

Reed v. Reed

1971, gender-based discrimination; 14th Am; Idaho probate law gave mandatory preference to males

Bakke v. Regents of the University of California

1978; racial quotas to achieve student body diversity are unconstitutional; reverse discrimination

Fisher v. UT

2016, "strict scrutiny test," race may be considered to maintain diversity; Fisher failed to demonstrate that the racial component of admissions showed a lack of "good faith efforts to comply with the law" and the Top Ten Percent Plan. A PAI (personal achievement index) could be used and race one factor of many (Kennedy 1-2, *SupremeCourt.gov*).

Amendments

⇒ 14th—unconstitutional for states to "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"

⇒ 13th—abolish slavery

⇒ 15th—all males right to vote (except for Native Americans)

⇒ 19th—all women right to vote

⇒ 24th—no poll taxes

⇒ 26th—all citizens over age 18 now have the right to vote

Government Roles

- secure liberty
- *due process*
- *equality under the law*
- establish justice
- *equality under the law*
- *enforcement*

Clauses that Perpetuated Slavery

- Fugitive Slave Clause
- Importation Clause
- 3/5ths Clause

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Two Types of Law

- natural—rights not conferred by government; from consciousness; right reason; or higher power depending on individual belief; rights that cannot be separated from the individual; self-evident truths
- positive—human made rules; government construct; statutory law; legal positivism

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