

6. Civil Rights

Breakout Sessions

POLS 1101

**12:40pm-1:30pm Park Hall 145
& 1:50pm-2:40pm Leconte Hall 135**

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Mid term 1 Feedback: Short-answer Questions

- Use key items as **much / accurate** as possible
 - Telling stories is okay if you forget the concepts, where can get some of the points
 - Only when the story you tell is extremely close to the key idea of professional items can you get all the points.
 - e.g. For #1, did you emphasize how libertarianism & communitarianism rank **freedom, order, and equality**?
- Avoid too big, too general a picture in your answer -> **BE SPECIFIC!**
 - For history: **Who? Why** (especially its relation to **theoretical implications**)? **What?** (e.g. names of **influential cases of the SC**) **How? Impacts** on later events?
 - For theoretical questions: **Item + key meaning + How it applies** to your answer
 - This is also because the key to the exam given by Dr. Nicholson is in the form of **several key points**, so you have to cover **each of them to get a 10/10**.
- Suggestion: Maybe you can make full use of your bluebook – no need to fit all the answers onto two pages. And, write the time for your **DISCUSSION SESSIONS** (not MW 1:50-2:40, but **F 12:40-1:30 / F 1:50-2:40**) on top of your bluebook next time!

Basic Concepts

- *Equality of opportunity vs. Equality of outcome*
- **Invidious discrimination:** Discrimination based on animosity, working to harm.
Benign discrimination: Discrimination grounded in reason, causing no harm.
 - **Systemic racism:** Laws, policies, processes, and structures in society that create racially disparate outcomes.
 - Imagining a world without differences may be impossible, so we have to bear some kind of inequality. -> **Do you agree with this idea?**
- Classification: Criteria can be natural or arbitrary!
 - Race
 - Sex & Gender (identity)
 - Native or immigrant groups
 - People with / without disabilities
 - College admission criteria...

Less controversial: Equality for Black Americans

- **Civil War Amendments (13th – 15th)**

- Even after that, the Constitutional rights of African-Americans are not sufficiently protected (only better than before)
- Examples: Black Codes, Jim Crow Laws, poll tax (tax on voting citizens)
- **Separate but equal doctrine**: Plessy v. Ferguson (1896)

- **Courtroom Efforts to Dismantle Barriers to Full Citizenship**

- **Desegregation**: Brown v. Board of Education

- Remember: Applied **only to De jure segregation** (Government-imposed segregation), not to **de facto segregation** (segregation that is not the result of direct public policy)

- **Two “opposite” ideas**

- “Separate educational facilities are inherently unequal!”
- “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”

- Exchange your understanding of these two ideas with classmates.

Which do you think best applied to that era? How about today? Why?

Equality for Black Americans (cont`d)

- The Civil Rights Movement (see **Letter from a Birmingham Jail**)
 - “**An unjust law** is a code that a numerical or power majority group compels a minority group to obey but does not make binding on itself. **A just law** is a code that a majority compels a minority to follow and that it is willing to follow itself.”
 - **Do you agree with his criteria? Under what circumstances, if any, is breaking the law justified?**
 - King makes frequent appeals to religious and ethical principles. He draws on **biblical figures** like the Apostle Paul and invokes natural law theory, arguing that an unjust law is “a code **out of harmony with the moral law or the law of God.**”
 - **Q1: What kind of civil liberties was he exercising? Based on which Constitutional clause?**
 - **Q2: Many politicians in the U.S. end speeches with “God bless America.” Should religious references be acceptable in democracy, or should leaders avoid them to respect pluralism?**
- Legislative Efforts to Advance Civil Rights (see the last few slides)
- **In a democratic society, should courts, legislatures, or grassroots movements bear the main responsibility for advancing civil rights?**

Less controversial: Women's rights

- Background
 - **Protectionism:** Women must be sheltered from life's harsh realities.
 - **The 19th Amendment:** ensured women of the right to vote
 - **Equal rights amendment (ERA):** (failed) "Equality of rights under the law shall not be denied or abridged by the United States or any state on account of sex."
- Discussion
 - **Is there any case where gender-based distinctions are justifiable?**
 - **Intermediate scrutiny** (1976): If a law differentiates between people on the basis of gender, it must serve an **important governmental purpose**, and the means must be **substantially related** to that purpose.
 - Why does strict scrutiny apply to race differences, while only intermediate scrutiny applied to gender differences?
 - **Some argued that women already had protections under the Equal Protection Clause and intermediate scrutiny. Was a constitutional amendment necessary, or redundant?**

More controversial: LGBTQ+ Rights

- **Freedom AND Equality** in Obergefell v. Hodges (2015) – **Your idea?**
 - **Supporters:** Legalization of same sex marriage drew on both **freedom and equality**, which justified the court's decision.
 - **Premise here:** The right to marry is a fundamental liberty protected by the Due Process and Equal Protection Clauses of the 14th Amendment.
 - **Opponents:** The court had gone too far, usurping the power of the legislatures across the country, which have the legitimate authority to define marriage.
- **Order vs. Equality** in transgender cases
 - **Should transgenders use the bathroom fitting their gender identity, but at odds with their sex?**
- **Different meanings of “Equality”** in LGBTQ+ issues – **How about your opinion?**
 - The transgender athletes ask to be treated **equitably** by being able to race against competitors who identify with the same gender they do,
 - The cisgender athletes believe that their transgender competitors have biological advantages that make racing against them unfair, undermining **equity**.

Next week...

- Read materials on **Congress** before class, and that will be helpful to participate in peer discussions.
- Feel free to email me if you have any questions!
- ENJOY YOUR WEEKEND!