

Civil Rights

Definitions

- Civil liberties
 - Refers to freedom from government action
- Civil rights
 - Represent those protections by government power

Slavery in the Constitution

- There were several compromises within the Constitution on slavery
 - Article I, Section 2
 - 3 / 5 compromise
 - Article I, Section 9
 - No federal government regulation of the slave trade before 1808

Congress passed the Missouri Compromise of 1820

- Missouri and Maine
- Then admission of new states
- Balance in the senate

Dred Scott v. Sandford

- 1857
- Second case in which the Supreme Court invalidated a federal law
- Dred Scott was a slave who was brought into free territories by his owner
- MO Compromise of 1820
- SCOTUS said no
 - Said MO Compromise violated the 5th amendment

Missouri Compromise

- California is admitted as a free state
- The Fugitive Slave Law is included. Fugitive slaves must be returned to owners

Reconstruction Amendments

- 13th amendment
 - 1865
 - Bans slavery

- 14th amendment
 - 1868
 - National and state citizenship
 - Citizenship by birth
 - Equal protection of the laws
 - Due process of law
 - Different from 5th amendment due process of law
 - Gives you protections from the state that you already had from the federal government
- 15th amendment
 - 1870
 - The right to vote to all men, regardless of race, color, or previous condition of servitude

Jim Crow Era

- Voting restrictions
 - White primaries
 - Only white people could vote in primaries
 - Able to bypass 15th amendment because primaries are run by the political parties (private entities), not run by the government
 - Poll tax
 - Literary tests
 - grandfather clauses
 - Exempted poll tax and liberty test
 - Favored white people
 - Lynch mobs
- Segregation
- Violence

Plessy v. Ferguson

- 1896
- separate but equal
- African american boycott of streetcar
- Many african americans moved to the north
 - There was still segregation but voting rights were more protected

NAACP

- Civil rights organization founded in 1909
- Fought segregation in law schools

- Sweatt v. Painter (1950)
- Wanted to chip away at precedent
 - Picked a sympathetic audience because SCOTUS justices had gone to good law schools
 - Segregated law school would reduce opportunity for black students
- SCOTUS ruled that facilities were not equal
 - Violated the separate but equal rule
- Brown v. Board of Education of Topeka
 - 1954
 - Thurgood Marshall argues the case
 - He was lead attorney for NAACP Legal Defense Fund
 - Said the separate but equal is inherently unequal
 - SCOTUS ruled that separate but equal is inherently unequal
 - Outlawed segregation in public schools

MLK

- Southern Christian Leadership Conference leader
- He was a proponent of nonviolent resistance
- Organized multiple civil rights demonstrations
- Urged the federal government to pass comprehensive civil rights legislation and voting rights legislation

1957 Civil Rights Act

- Created a civil rights division within the Department of Justice
- Created the commission on civil rights
- Gave attorney general authority to intervene and initiate lawsuits re: 15th amendment

1960 Civil Rights Act

- Provided that federal courts can appoint voting referees to register voters

Equal Protection Clause

- Amendment XIV
- No state shall...nor deny to any person within its jurisdiction the equal protection of the laws

March on Washington

- 200,000 people participated in a demonstration on the Washington Mall (National Mall)
- This is the two mile areas from the Lincoln Memorial to the U.S. Capito
- MLK Jr.'s I Have A Dream Speech

Civil Rights Act of 1964

- Outlawed discrimination based on race, color, religion, sex, or national origin
- Ended segregation in schools
- Created the equal employment opportunity commission (EEOC) that would investigate the discrimination in hiring or employment
- Required voting rules to be applied to all races equally
- Still a need for comprehensive voting rights legislation
- More violence
- Including at a march for voting rights on the Edmund Pettus bridge in Selma, AL on March 7, 1965
- Televised too – why is this important?

August 6, 1965

- President Lyndon Johnson signs the 1965 Voting Rights Act
 - Section 2 outlaws any tests or other devices such as literacy
 - You can sue for rights violations
 - proactive
 - Section 5 creates the “preclearance” requirement
 - No longer subject to preclearance after registration/voting numbers are at least 50%
 - Section 4 describes the formula to determine if a state or jurisdiction is subject to preclearance

Shelby County v. Holder

- 2013
- Over time, several updates to the VRA are passed and large majorities in both houses of Congress approved renewals of the law
- Shelby County was upset due to being subject to preclearance
- Eric Holder is being sued (and the Justice Department)
- Found Section 4 of the Civil Rights Act unconstitutional
- Wanted a new formula

Civil Rights for Women

- Right to vote
- The 15th Amendment didn't expand the franchise to women
- Some states allowed women to vote (WY-1869, for ex.)
- In 1920, the 19th Amendment was finally passed

1964 Civil Rights Act, Title VII

- Title VII's inclusion of women was proposed by Rep. Howard Smith of West Virginia
- Was an example of a killer amendment
- Was supposed to kill it but essentially protected women's right

Equal Rights Amendment

- What is the equal rights amendment
 - "Equality of rights under the law shall not be denied or abridged by the United States or by any state on the account of sex"
- Why was the ERA not ratified
 - Equal Rights meant women could be drafted
 - It also might expand protections of abortion rights
 - These are seen as the primary reasons why it was not ratified by enough states
 - There is still debate over whether the ERA is dead though
- Failure of the ERA
 - 2 alternatives to fight sex discrimination
 - 14th amendment equal protection clause
 - 1964 civil rights act, Title VII
 - The 14th amendment's equal protection clause (see constitution)
 - Until 1971, it was not invoked successfully in a gender discrimination case (Reed v. Reed)

The American Civil Liberties (ACLU)

- Headed by Ruth Bader Ginsburg (later appointed as SCOTUS justice)
- Argued cases before the Court
- Frontiero v. Richardson (1973)
 - Female service members had to prove that their husbands depended on them to get government housing benefits
 - But male service members did not have to do this

1964 Civil Rights Act was also used to protect women's rights

- Harris v. Forklift Systems
 - She is not protected at first because she couldn't prove psychological effect
 - This went to supreme court
 - They determined that it is still sexual harassment even if it hasn't reached the point of a nervous breakdown
- More protection from sexual harassment under Title VII

LGBTQ Civil Rights

- In Bowers v. Hardwick
 - 1986
 - Which was about a Georgia sodomy law
 - SCOTUS said there was no fundamental right to engage in homosexual sodomy
- In Romer v. Evans
 - 1996
 - SCOTUS ruled that a Colorado state constitutional amendment (Amendment 2) which forbade the state, cities, and other jurisdictions from adopting policies that protected, LGBTQ people, violated the 14th Amendment
- In Lawrence v. Texas
 - 2003
 - Was about a TX sodomy law
 - In its decision, SCOTUS overturned the Bowers precedent
- The Defense of Marriage Act (DOMA)
- Passed by Congress in 1996
- Was a federal law that defined marriage between one man and one woman
 - 2004
 - MA Supreme Court ruled a law banning same-sex marriage unconstitutional
 - In 2008 the CA supreme court did the same thing
- Hollingsworth v. Perry (2010)
 - Federal court CA's Prop 8 (which prohibited same-sex marriage). Prop 8 would have changed the CA constitution
 - CA was against removing Prop 8 at first but supported it by the time it reached the supreme court
- U.S. v. Windsor (2013)
 - SCOTUS ruled Section of DOMA (which denied federal recognition of same-sex marriage) unconstitutional
- Obergefell v. Hodges
 - SCOTUS ruled that the right to marry is guaranteed to same-sex couples
 - Proactive decision