

CHAPTER 6

Civil Rights

REVIEWING THE CHAPTER

CHAPTER FOCUS

This chapter focuses on the two most intense and protracted struggles for civil rights in recent times: that of blacks and that of women. After reading and reviewing the material in this chapter, you should be able to do each of the following:

1. Contrast the experience of economic interest groups with that of black groups in obtaining satisfaction of their interests from the government. Indicate why in most circumstances the black movement involved interest groups rather than client politics. Describe the strategies used by black leaders to overcome their political weaknesses, and explain why the civil rights movement has become more conventional in its strategy in recent years.
2. Summarize the legal struggles of blacks to secure rights under the Fourteenth Amendment, and state how the Court construed that amendment in the civil rights cases and in *Plessy v. Ferguson*. Discuss the NAACP strategy of litigation, and indicate why it was suited to the political circumstances. Summarize the rulings in *Brown v. Board of Education* and compare them with those in *Plessy v. Ferguson*.
3. Discuss the rationale used by the Supreme Court in ordering busing to achieve desegregation. Explain the apparent inconsistency between *Brown* and *Charlotte-Mecklenburg*. State why these decisions are not really inconsistent, and explain why the courts chose busing as an equitable remedy to deal with *de jure* segregation.
4. Trace the campaign launched by blacks for a set of civil rights laws. Explain why they used nonviolent techniques. Discuss the conflict between the agenda-setting and the coalition-building aspects of the movement. Demonstrate how civil rights advocates could overcome sources of resistance in Congress.
5. Describe the differences between the black civil rights movement and the women's movement. List the various standards used by the courts in interpreting the Fourteenth Amendment, and explain how these standards differ depending on whether blacks or women are involved.
6. Summarize the debate over "compensatory action" versus "preferential treatment" and targets versus quotas in affirmative action.

STUDY OUTLINE

- I. Introduction
 - A. Civil rights issue
 1. Group is denied access to facilities, opportunities, or services available to other groups, usually along ethnic or racial lines
 2. Issue is whether differences in treatment are "reasonable"
 - a) Some differences are: progressive taxes

- b) Some are not: classification by race subject to “strict scrutiny”
- II. The black predicament
 - A. Historical context
 - 1. Stark experience of discrimination was long standing
 - 2. Tension in both the North and the South
 - 3. Lynchings shocked whites, but little was done
 - 4. Little public support for racial equality, integration, civil rights movement
 - B. Progress depended on
 - 1. Finding more white allies or
 - 2. Shifting policy-making arenas
 - C. Civil rights movement followed both strategies
 - 1. Broadened base by publicizing grievances
 - 2. Moved legal struggle from Congress to the courts
- III. The campaign in the courts
 - A. Ambiguities in the Fourteenth Amendment
 - 1. Broad interpretation: Constitution color-blind
 - 2. Narrow interpretation: equal legal rights
 - 3. Supreme court adopted narrow view in *Plessy* case
 - B. “Separate but equal”
 - 1. NAACP campaign objectives in education through courts
 - a) Obviously unequal schools
 - b) Not so obviously unequal schools
 - c) Separate schools inherently unequal
 - C. Can separate schools be equal?
 - 1. Step 1: obvious inequalities
 - a) Lloyd Gaines
 - b) Ada Lois Sipuel
 - 2. Step 2: deciding that a separation creates inequality in less obvious cases
 - a) Heman Sweatt
 - b) George McLaurin
 - 3. Step 3: making separation inherently unequal; 1950 strategy to go for integration
 - 4. *Brown v. Board of Education* (1954)
 - a) Implementation
 - (1) Class action suit
 - (2) All deliberate speed
 - b) Collapse of resistance in the 1970s
 - 5. The rationale
 - a) Detriment to pupils by creating sense of inferiority
 - b) Social science used because intent of Fourteenth Amendment unclear; needed unanimous decision
 - 6. Desegregation versus integration
 - a) Ambiguities of *Brown*
 - (1) Unrestricted choice or integrated schools?
 - (2) *De jure* or *de facto* segregation?
 - b) 1968 rejection of “freedom of choice” plan settles matter; mixing
 - c) *Charlotte-Mecklenburg*, 1971
 - (1) Proof of intent to discriminate
 - (2) One-race school creates presumption of intent
 - (3) Remedies can include quotas, busing, redrawn lines
 - (4) Every school not required to reflect racial composition of school system
 - d) Some extensions to intercity busing

- e) Busing remains controversial
 - (1) Some presidents oppose but still implement it
 - (2) Congress torn in two directions
 - f) 1992 decision allows busing to end if segregation caused by shifting housing patterns
- IV. The campaign in Congress
- A. Mobilization of opinion by dramatic event to get on agenda
 - 1. Sit-ins and freedom rides
 - 2. Martin Luther King, Jr.
 - 3. From nonviolence to long, hot summers
 - B. Mixed results
 - 1. Agenda-setting success
 - 2. Coalition-building setbacks: methods seen as law breaking
 - C. Legislative politics
 - 1. Opponents' defensive positions
 - a) Senate Judiciary Committee controlled by southern Democrats
 - b) House Rules Committee controlled by Howard Smith
 - c) Senate filibuster threat
 - d) President Kennedy reluctant
 - 2. Four developments broke deadlock.
 - a) Change of public opinion
 - b) Violent white reactions of segregationists became media focus
 - c) Kennedy assassination
 - d) 1964 Democratic landslide
 - 3. Five bills pass, 1957–1968
 - a) 1957, 1960, 1965: voting rights laws
 - b) 1968: housing discrimination law
 - 4. 1964 civil rights bill: the high point—employment, public accommodations
 - a) Broad in scope, strong enforcement mechanisms
 - b) Johnson moves after Kennedy assassinated
 - c) Discharge petition, cloture invoked
 - 5. Effects since 1964
 - a) Dramatic rise in black voting
 - b) Mood of Congress shifted to pro-civil rights; 1988 overturn of Reagan veto of bill that extended federal ban on discrimination in education
 - D. Racial profiling
 - 1. Profiling refers to increased likelihood of being suspect because of race or ethnicity
 - 2. May be reasonable if members of certain race are, in fact, more likely to commit crime
 - a) A profiling of young Middle Eastern men might very well have prevented 9/11 attacks
 - b) But such profiling would inconvenience innocent citizens and attract charges of “racism”
- V. Women and equal rights
- A. Critical difference from movement to expand the rights of African Americans
 - 1. Laws claimed to protect women (Oregon workday limit)
 - 2. Seneca Falls Convention (1848) and the right to vote
 - 3. Congressional actions
 - a) Equal pay for equal work
 - b) Gender discrimination in employment
 - c) Gender discrimination and schools and universities receiving federal funds
 - d) Discrimination against pregnant women

- B. Supreme Court's position altered after the 1970s
 - 1. Somewhere between reasonableness and strict-scrutiny standard
 - 2. Gender-based differences prohibited by courts
 - a) Age of adulthood
 - b) Drinking age
 - c) Arbitrary employee height-weight requirements
 - d) Mandatory pregnancy leaves
 - e) Little League exclusion
 - f) Jaycees exclusion
 - g) Unequal retirement benefits
 - 3. Gender-based differences allowed by courts
 - a) All-boy/all-girl schools
 - b) Widows' property tax exemption
 - c) Delayed promotions in Navy
 - d) Statutory rape
 - 4. Women must be admitted to all-male, state-supported military colleges
- C. The military
 - 1. *Rostker v. Goldberg* (1981): Congress may draft men only
 - 2. Secretary of Defense in 1993 allows women in air and sea combat
- D. Sexual harassment
 - 1. Requesting sexual favors as condition for employment
 - a) "Quid pro quo" rule
 - b) Employer "strictly liable"
 - 2. Hostile or intimidating work environment
 - a) Employer not strictly liable
 - b) Employer can be at fault if "negligent"
 - 3. Almost no federal laws governing it
 - 4. Vague and inconsistent court and bureaucratic rules tell us what it is
- E. Privacy and sex
 - 1. Police power traditionally extended to laws designated to promote public order and secure the safety and morals of the citizens
 - 2. The Supreme Court and the right to privacy
 - a) 1965 case involving contraceptives and asserting "zones of privacy"
 - b) *Roe v. Wade* announced a "right to privacy" encompassing a woman's decision whether or not to terminate a pregnancy
 - (1) Subsequent controversies over when human life begins
 - (2) "Right to life" and "pro-life" v. "right to choose" and "pro-choice"
 - c) Congressional attempts to restrict and the Hyde Amendment
 - d) Reaffirmation of *Roe* and extension, until the late 1980s
 - (1) *Casey* decision (1992) and mandatory twenty-four hour waiting periods, parental consent and provision of information concerning alternatives to abortion
 - (2) Decisions which struck down laws requiring married women to obtain consent of husband and forbidding so-called partial birth abortions
 - (3) 1997 decision allowed buffer zones around abortion clinics
- VI. Affirmative action
 - A. Equality of results
 - 1. Racism and sexism overcome only by taking them into account in designing remedies
 - 2. Equal rights not enough; people need benefits
 - 3. Affirmative action should be used in hiring

- B. Equality of opportunities
 - 1. Reverse discrimination to use race or sex as preferential treatment
 - 2. Laws should be color-blind and sex neutral
 - 3. Government should only eliminate barriers
- C. Targets or quotas?
 - 1. Issue fought out in courts
 - a) No clear direction in Supreme Court decisions
 - b) Court is deeply divided; affected by conservative Reagan appointees
 - c) Law is complex and confusing
 - (1) *Bakke*: numerical minority quotas not permissible
 - (2) But Court ruled otherwise in later cases
 - 2. Emerging standards for quotas and preference systems
 - a) Must be “compelling” justification
 - b) Must correct pattern of discrimination
 - c) Must involve practices that discriminate
 - d) Federal quotas are to be given deference
 - e) Voluntary preference systems are easier to justify
 - f) Not likely to apply to who gets laid off
 - 3. Congressional efforts to defend affirmative action not yet successful
 - 4. “Compensatory action” (helping minorities catch up) versus “preferential treatment” (giving minorities preference, applying quotas)
 - a) Public supports former but not latter
 - b) In line with American political culture
 - (1) Support for individualism
 - (2) Support for needy
 - 5. The *Adarand* decision
 - a) A low bidder lost a contract because of a government policy favoring racial and ethnic minorities
 - b) Court ruled any discrimination based on race must be subject to strict scrutiny
 - (1) Must serve a compelling governmental interest
 - (2) Must be narrowly tailored to serve that interest
 - 6. Affirmative action revisited
 - a) 1996 California initiative and program at the University of Texas Law School
 - b) University of Michigan cases (2003)
 - (1) Some applicants given 20 bonus points (of 100 needed) for admission
 - (2) Court ruled the policy was not narrowly tailored
 - (3) On the other hand, the use of race as a plus factor served a compelling state interest

VII. Gays and the Constitution

- A. Originally, state laws could ban homosexual activities
 - 1. Challenged in *Bowers v. Hardwick*
 - 2. Court ruled the right to privacy protected family, marriage or procreation
- B. Court struck down amendment to Colorado state constitution prohibiting laws to protect persons based on their homosexual, lesbian or bisexual orientation
- C. *Lawrence v. Texas* (2003)
 - 1. 5-4 decision which overturned Texas law banning sexual conduct between persons of the same sex
 - 2. Reversed the previous decision in *Bowers*

3. Law was largely irrelevant, but the Court's decision welcomed litigation regarding same sex marriage
 - a) Massachusetts Supreme Judicial Court ruled gays and lesbians must be allowed to marry
 - b) Mayor of San Francisco issued marriage licenses to gays in defiance of state law
 - c) Polls show support for "civil unions"
 - d) Constitutionality of the 1996 Defense of Marriage Act may be questioned
- D. Private groups can, however, exclude homosexuals from their membership

KEY TERMS MATCH

Match the following terms and descriptions:

- | | |
|--|---------------------------------------|
| 1. A legal distinction that the Supreme Court scrutinizes especially closely | a. affirmative action |
| 2. Post-Civil War era when southern laws protected blacks' freedoms | b. aliens |
| 3. Original litigant in <i>Roe</i> who, today, is an outspoken opponent of abortion | c. <i>Bakke</i> |
| 4. A Supreme Court decision upholding state-enforced racial segregation | d. <i>Brown v. Board of Education</i> |
| 5. The standard under which the Court once upheld racial segregation | e. buffer zone |
| 6. A black interest group active primarily in the courts | f. civil rights |
| 7. A Supreme Court decision declaring segregated schools inherently unequal | g. compensatory action |
| 8. Document signed by over 100 members of Congress complaining of "abuse of judicial power" | h. <i>de facto</i> segregation |
| 9. Segregation created by law | i. <i>de jure</i> segregation |
| 10. Segregation that exists but that was not created by law | j. equality of opportunity |
| 11. A school integration plan mandating no particular racial balance | k. equality of results |
| 12. An early nonviolent leader in black civil rights | l. freedom of choice |
| 13. Offering the races an equal chance at desired things | m. <i>Griswold v. Connecticut</i> |
| 14. Landmark case declaring gender discrimination violates the Equal Protection clause of the Fourteenth Amendment and asserting the reasonableness standard for such discrimination | n. Hyde Amendment |
| | o. <i>Lawrence v. Texas</i> |
| | p. Martin Luther King, Jr. |
| | q. NAACP |
| | r. nonviolent civil disobedience |
| | s. Norma McCorvey |
| | t. NOW |
| | u. <i>Plessy v. Ferguson</i> |
| | v. preferential treatment |
| | w. reasonableness |
| | x. Reconstruction |
| | y. <i>Reed v. Reed</i> |
| | z. reverse discrimination |

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| <p>15. Distributing desired things equally to the races</p> <p>16. The standard by which the Court judges gender-based classifications</p> <p>17. A ruling that held that Congress may draft men but not women</p> <p>18. A ruling that declared all state laws prohibiting abortion unconstitutional</p> <p>19. Legislation that barred the use of federal funds for nearly any abortion</p> <p>20. Declared state laws may not ban sexual relations between same sex partners</p> <p>21. Landmark case in which the Court first found a “right to privacy” in the Constitution</p> <p>22. A leading feminist organization</p> <p>23. A philosophy of peaceful violation of laws considered unjust and accepting punishment for the violation</p> <p>24. The standard by which the Supreme Court judges classifications based on race: they must have a compelling public purpose</p> <p>25. The use of race or sex to give preferential treatment to blacks or women</p> <p>26. Helping disadvantaged people catch up, usually by giving them extra education, training, or services</p> <p>27. Device used, and upheld by the Court, to address concerns about protestors and abortion clinics</p> <p>28. Giving minorities preference in hiring, promotions, college admissions, and contracts</p> <p>29. Designing remedies for overcoming racism and sexism by taking race and sex into account</p> <p>30. A Supreme Court ruling stating that a college may not use an explicit numerical quota in admitting minorities but could “take race into account”</p> <p>31. Any persons who are not U.S. citizens</p> | <p>aa. <i>Roe v. Wade</i></p> <p>ä. <i>Rostker v. Goldberg</i></p> <p>cc. separate-but-equal doctrine</p> <p>dd. Southern Manifesto</p> <p>ee. strict scrutiny</p> <p>ff. suspect classification</p> |
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32. The rights of citizens to vote, receive equal treatment before the law, and share benefits of public facilities

DATA CHECK

Figure 6.1 (Page 133): Changing White Attitudes Toward Differing Levels of School Integration

1. Generalize about the percentage of respondents since 1958 who were willing to accept schools that were integrated with a “few blacks?”

2. Generalize about the percentage of respondents since 1958 who were accepting of schools that were integrated with a majority of black students.

Figure 6.2 (Page 136): Growing Support Among Southern Democrats in Congress for Civil Rights Bills

3. In which years did less than 25 percent of the Southern Democrats in the House and the Senate support Civil Rights legislation?

4. In which years did more than 50 percent of the Southern Democrats in the House and the Senate support Civil Rights legislation?

Table 6.1 (Page 136): Increase in Number of Black Elected Officials

5. Which category of elected officials has seen the sharpest increase in the number of black officeholders during the period covered by the table? The next sharpest increase?

6. The next sharpest increase?

7. In which category of elected officials has the number of black officeholders increased the *least*?

PRACTICING FOR EXAMS

TRUE/FALSE QUESTIONS

Read each statement carefully. Mark true statements *T*. If any part of the statement is false, mark it *F*, and write in the space provided a concise explanation of why the statement is false.

1. T F Historians have long debated the intentions of the Congress that proposed the Fourteenth Amendment.

2. T F In the 1940s, President Roosevelt approved the army's removal of Japanese Americans from their homes and their placement in "relocation centers."

3. T F Civil Rights violations occur when laws and policies make distinctions among people and treat them differently.

4. T F The series of test cases that led up to the Court's decision in *Brown* began in the late 1950s.

5. T F The Supreme Court's controversial ruling in *Brown* was a 5–4 decision.

6. T F *Brown* overruled the Court's previous decision in *Plessy*.

7. T F Over one hundred members of Congress signed a declaration that the Court's decision in *Brown* constituted an abuse of judicial power.

8. T F By the late 1950s, most southern schools were integrated.

9. T F *Brown* ruled the Equal Protection clause of the Fourteenth Amendment rendered the Constitution and state laws "color blind."

10. T F De facto segregation is unconstitutional.

11. T F Court ordered intercity busing is permissible if there is a demonstration of past discrimination.

12. T F The Supreme Court will not allow court-ordered intercity busing.

13. T F Recent polls suggest most Americans are supportive of busing.
-
14. T F Presidents Nixon, Ford and Reagan opposed busing.
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15. T F Early demonstrations of civil disobedience eventually gave way to rioting and the rise of more militant civil rights organizations.
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16. T F In 1964 and 1968, over two-thirds of whites told pollsters that they thought the civil rights movement was too violent.
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17. T F John F. Kennedy submitted strong civil rights legislation to Congress, but it was consistently rejected by southern legislators in key leadership positions.
-
18. T F The 1964 Civil Rights Act was not considered by congressional committees.
-
19. T F The text suggests that, today, labeling a bill a civil rights measure almost guarantees its passage.
-
20. T F When Congress passed a law barring discrimination in housing, polls showed a majority of the public supported such a measure.
-
21. T F When an increase in arrests of crack cocaine dealers led to an increase in the arrests of African-American dealers, the Supreme Court found violations of civil rights.
-
22. T F The Court applies the strict scrutiny standard to gender discrimination cases.
-
23. T F Gender discrimination cases rarely reach the United States Supreme Court.
-
24. T F States cannot set different ages at which men and women are allowed to buy beer.
-
25. T F Girls can be barred from Little League baseball teams.
-
26. T F The Virginia Military Institute gender discrimination case came close to employing the strict scrutiny standard.
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27. T F The Court tends to give little deference to congressional policy related to national defense.
-
28. T F Ground troop combat positions are reserved for male soldiers.
-
29. T F There are almost no federal laws governing sexual harassment.
-
30. T F The right to privacy is nowhere mentioned in the Constitution.
-
31. T F Constitutional amendments have been introduced to overturn *Roe*.
-
32. T F The Supreme Court began to uphold state restrictions on abortion in part because of the influence of justices appointed by President Carter.
-
33. T F The Court struck down a state law requiring that individuals who requested abortions be given pamphlets about alternatives.
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34. T F Ironically, the original litigant in *Roe*, Norma McCorvey, has become an outspoken opponent of abortion.
-
35. T F Aliens cannot vote or run for office, but they must pay taxes.
-
36. T F Legally admitted aliens are entitled to welfare benefits.
-
37. T F States cannot bar aliens from serving on juries.
-
38. T F Affirmative action programs are just about always upheld by the Supreme Court.
-
39. T F Voluntary preference systems are easier to justify than affirmative action plans that are required by law.
-
40. T F A 1990 bill limited litigants in employment discrimination cases to back pay.
-
41. T F President Bush vetoed 1991 legislation which shifted the burden of proof from litigants to employers in employment discrimination cases.
-

42. T F Colorado's state constitutional amendment disallowing legal protections based on sexual orientation was upheld by the United States Supreme Court.
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43. T F The Supreme Court's decision in *Lawrence* overruled its decision in *Bowers*.
-
44. T F Many states have passed laws that ban same sex marriages.
-

MULTIPLE CHOICE QUESTIONS

Circle the letter of the response that best answers the question or completes the statement.

- When Congress, in 1883, passed a law that outlawed racial discrimination in public accommodations such as hotels,
 - the president exercised the veto power.
 - the Supreme Court declared the law unconstitutional.
 - the state legislatures immediately passed similar laws.
 - governors applauded the legislation as "progressive."
 - none of the above.
- The Supreme Court's decision in *Plessy v. Ferguson* (whatever its wider implications) directly concerned
 - segregation on railroad cars.
 - voting rights for blacks.
 - interracial marriage.
 - lynching.
 - the ability of Congress to regulate race relations in the states.
- The National Association for the Advancement of Colored People (NAACP) was founded
 - immediately after the Civil War.
 - in 1909, in the aftermath of a race riot.
 - during the presidential election of 1968.
 - during the Great Depression.
 - in 1955, following the Montgomery bus boycott.
- Which of the following statements about *Brown v. Board of Education* is true?
 - It was handed down by a divided Court.
 - It was ultimately rather narrow in its implications.
 - It explicitly banned *de facto* segregation.
 - It was almost unnoticed when it was decided.
 - It was the logical extension of a long line of related cases.
- In one dramatic test case leading up to *Brown*, the Court considered the case of Ada Sipuel who was
 - admitted to an all-white law school.
 - admitted to an all-white law school but relegated to a separate building.
 - allowed to attend an all-white graduate school, but not allowed to use the library.
 - separated from other law students by being roped off in a section of the state capitol.
 - not even allowed to take a law school correspondence course.

6. The federal district court that first considered the case of Linda Brown in Topeka, Kansas concluded
 - a. the separate but equal doctrine was unconstitutional.
 - b. the separate but equal doctrine no longer applied to schools.
 - c. the state could not separate her because the schools for blacks were not really equal.
 - d. the state could separate her because the schools for blacks were equal.
 - e. she had no standing because she could attend a private school.
7. *Brown* called for the desegregation of public schools
 - a. “with all deliberate speed.”
 - b. as soon as the state legislatures could fund the enterprise.
 - c. “in an acceptable amount of time.”
 - d. “immediately.”
 - e. immediately following the next school year.
8. In 1954, the Supreme Court ruled that segregation in public schools was “inherently unequal” on the basis of
 - a. the fact that black children were not achieving success academically.
 - b. the Equal Protection clause of the Fourteenth Amendment.
 - c. apparent psychological harm done to black children in separate schools.
 - d. inadequate expenditures on black education.
 - e. a philosophical understanding of the essentials of equality.
9. According to the text, the authors of the Fourteenth Amendment
 - a. intended to outlaw segregated schools in the Washington area.
 - b. intended to outlaw segregated schools throughout the United States.
 - c. may not have intended to outlaw segregated schools.
 - d. were pleased four years later when a civil rights act proposed an end to segregated schools.
 - e. thought desegregated schools would cure certain social ills.
10. Segregation maintained by law is labeled
 - a. *prima facie*.
 - b. *de facto*.
 - c. statist.
 - d. *de jure*.
 - e. *post facto* suspect.
11. In the late 1960s, the Supreme Court rejected a so-called “freedom of choice” plan because
 - a. *Brown* had explicitly ruled against such plans.
 - b. too many children chose different schools under the plan.
 - c. most students chose to stay in the same schools under the plan.
 - d. school administrators were not actually allowing students to make a choice.
 - e. few people could make up their minds easily about such decisions.
12. Among the remedies for past discrimination in school assignment, the Court will allow
 - a. racial quotas in the assignment of teachers.
 - b. racial quotas in the assignment of students.
 - c. redrawn district lines.
 - d. court-ordered busing.
 - e. all of the above.

13. The text suggests _____ were at the “leading edge” of changes in attitudes toward integration of public schools.
 - a. young, college educated people
 - b. older, wealthy persons
 - c. Southern legislators
 - d. farmers and small business persons
 - e. white females
14. The most prominent feature of the five civil rights laws passed between 1957 and 1968 is
 - a. housing.
 - b. voting.
 - c. employment.
 - d. education.
 - e. public accommodations.
15. The most far reaching civil rights act was passed in
 - a. 1957
 - b. 1960
 - c. 1964
 - d. 1965
 - e. 1968
16. The landmark 1964 civil rights legislation was passed, in large part, because
 - a. President Kennedy supported a discharge petition.
 - b. the Senate was dominated by Republicans.
 - c. the House was dominated by Republicans.
 - d. members of the Supreme Court expressed their support.
 - e. consideration by committees was bypassed.
17. The text suggests the great change in the political status of women came with
 - a. the Seneca Falls Convention.
 - b. the passage of the Nineteenth Amendment.
 - c. the need for workers in defense plants during World War II.
 - d. the Equal Rights Amendments.
 - e. the founding of the National Organization for Women.
18. The Court has generally used the _____ standard in cases involving gender discrimination.
 - a. “strict rationality”
 - b. “strict scrutiny”
 - c. “substantial relationship”
 - d. “suspect”
 - e. “reasonableness”
19. Which of the following gender discriminations have been *permitted* by the Supreme Court?
 - a. A property tax exemption for widows that is not given to widowers.
 - b. Barring girls from Little League baseball teams.
 - c. Preference given to men in the appointment of administrators of estates.
 - d. Different legal drinking ages for males and females.
 - e. Mandatory pregnancy leaves for women.

20. According to the Supreme Court, differences based on sex are *permitted* for
 - a. the age at which men and women are allowed to buy beer.
 - b. the age at which men and women legally become adults.
 - c. allowing women to remain officers longer than men without being promoted in the Navy.
 - d. excluding girls from playing on Little League baseball teams.
 - e. insisting women pay more for insurance benefits because, on average, they live longer.
21. The Court's 1996 ruling on gender discrimination at the Virginia Military Institute was especially important because
 - a. the Court upheld VMI's right to engage in such discrimination.
 - b. the Court came close to using the strict scrutiny standard.
 - c. the Court upheld VMI's so-called "adversarial method" of training.
 - d. the Court ignored the sources of VMI's financial support.
 - e. VMI refused to even offer a course at another college.
22. In the 1981 case, *Rostker v. Goldberg*, the Court allowed gender discrimination with respect to
 - a. draft registration.
 - b. vehicle insurance.
 - c. nursing schools.
 - d. health insurance payments.
 - e. the hiring of prison guards.
23. Under the "*quid pro quo*" rule pertaining to sexual harassment
 - a. the employer is "strictly liable" even if he/she did not know that sexual harassment was occurring.
 - b. the employer cannot be held liable if he/she did not know that sexual harassment was occurring.
 - c. an employer is never liable for the sexual harassment of an employee.
 - d. a pattern of sexual harassment must be proven before the employer is liable.
 - e. the employer is liable but not the employee in sexual harassment cases.
24. The Supreme Court first changed its practice of deference to state police power as it related to the safety and morals of citizens in a case that involved
 - a. contraceptives.
 - b. nude pictures.
 - c. marriage laws.
 - d. abortion.
 - e. obscenity.
25. The Court has concluded the right of "privacy" can be inferred from _____ cast off by various provisions of the Bill of Rights.
 - a. colors
 - b. rays of light
 - c. firewalls
 - d. penumbras
 - e. waves
26. *Roe v. Wade* held that the state may regulate abortions to protect the health of the mother
 - a. in the first trimester.
 - b. in the second trimester.
 - c. in the third trimester.
 - d. at any point in the pregnancy.
 - e. in cases involving rape or incest.

27. *Roe v. Wade* held that the state may ban abortions
- in the first trimester.
 - in the second trimester.
 - in the third trimester.
 - at any point in the pregnancy.
 - in cases involving rape or incest.
28. The so-called Hyde Amendment
- restricts the use of federal funds for abortions.
 - was upheld by the United States Supreme Court.
 - has resulted in the denial of Medicaid funds for abortions for low-income women.
 - all of the above.
 - was declared unconstitutional by the United States Supreme Court.
29. Which of the following is *not* a statutory qualification for citizenship in the United States?
- Good moral character.
 - Continuous residency since the filing of a petition.
 - Favorable disposition to the good order and happiness of the United States.
 - Attachment to constitutional principles.
 - Employment.
30. The position that the Constitution neither is nor should be color-blind is taken by those who advocate
- equality of results.
 - the incorporation of the Bill of Rights.
 - the abolition of affirmative action.
 - freedom-of-education plans.
 - equal opportunity.
31. In the *Bakke* case the Supreme Court held that a university medical school, in admitting students, may
- use quotas for blacks and whites.
 - use quotas for men, but not women.
 - use quotas for men and women.
 - take gender into account.
 - take race into account.
32. Among the standards that appear to be emerging in the Supreme Court's rulings on quota systems and preference systems are all of the following *except*
- such systems must correct a present or past pattern of discrimination.
 - those systems involving hiring practices are more defensible than those involving layoffs.
 - those systems created by state law will be given deference to those created by federal law.
 - there must be compelling justification for such systems.
 - such systems should be flexible and limited in scope.
33. In the highly publicized cases involving affirmative action programs at the University of Michigan (2003), the Court struck down the use of a _____ but was sympathetic to the use of a so-called _____.
- quota ... goal
 - goal ... quota
 - quota guideline ... bonus points
 - racial label ... ethnic categorization
 - fixed quota ... plus factor

34. In a 2000 case, the Supreme Court ruled by a vote of 5–4 that the _____ could prevent gay boys and men from being members.
- American Civil Liberties Union
 - Boy Scouts of America
 - American Bar Association
 - Lion’s Club
 - International Brotherhood of Electrical Workers

ESSAY QUESTIONS

Practice writing extended answers to the following questions. These test your ability to integrate and express the ideas that you have been studying in this chapter.

- Summarize the facts of the case in *Plessy v. Ferguson* and the Supreme Court’s ruling.
- Describe some of the test cases that were brought to the Supreme Court leading up to *Brown v. Board of Education*.
- Explain why the rationale of the decision in *Brown* was so unusual and why the Court used that rationale, as opposed to others?
- Summarize the guidelines for school segregation cases as settled by *Swann v. Charlotte-Mecklenburg Board of Education*.
- What four developments made it possible to break the deadlock in Congress regarding significant civil rights legislation?
- Identify five provisions of the 1964 Civil Rights Act.
- Explain the difference between the reasonableness standard and the strict scrutiny standard.
- Note 6-7 examples of gender discriminations which the Supreme Court has allowed/disallowed under its current interpretation of the law.
- Explain the two forms of sexual harassment identified by the EEOC and the standards of liability that attend each.
- Explain the trimester framework asserted in *Roe v. Wade* and how the right to privacy was read into the Constitution.
- Identify some additional regulations and restrictions regarding abortion which have been upheld by the Supreme Court in the aftermath of *Roe*.
- Identify the five statutory requirements for naturalization.
- While the Supreme Court’s decisions regarding affirmative action are almost evenly divided, a few general standards seem to be emerging. Identify 4-5 of those standards.
- Summarize the Court’s decisions in *Bowers* and *Lawrence*.

ANSWERS TO KEY TERMS MATCH QUESTIONS

1. ff
2. x
3. s
4. u
5. cc
6. q
7. d
8. dd
9. i
10. h
11. l
12. p
13. j
14. y
15. k
16. w
17. bb
18. aa
19. n
20. o
21. m
22. t
23. r
24. ee
25. z
26. g
27. e
28. v
29. a
30. c
31. b
32. f

ANSWERS TO DATA CHECK QUESTIONS

1. The percentage was near 80 and, soon thereafter, rose above that mark.
2. The percentage increases across time, but never seems to rise above 50 percent.
3. 1957, 1960, 1964, 1968.
4. 1965, 1970, 1988, 1991.
5. City and county officials.
6. Boards of education.
7. Congress and state legislatures.

ANSWERS TO TRUE/FALSE QUESTIONS

1. T
2. T
3. F Such violations do not occur when distinctions are being made, but when unreasonable distinctions are being made.
4. F The cases began in the late 1930s.
5. F The vote in the decision was unanimous, 9-0.
6. T
7. T
8. F Most were not integrated until the 1970s.
9. F *Brown* did not rule in this manner because some of the justices did not agree with this position.
10. F *De jure* (or intentional) segregation is illegal.
11. T
12. F The Court will allow such busing if segregation is determined to exist in a central city and suburbs.
13. F The public has generally had an unfavorable view of busing.
14. T
15. T
16. T
17. F Kennedy was reluctant to submit a strong civil rights bill.
18. T
19. T
20. F Only 35 percent supported it.
21. F The Court found no such violation.
22. F The Court applies the reasonableness standard to gender discrimination cases.
23. F Several dozen gender discrimination cases have reached the court.

24. T
25. F Girls cannot be barred from little league baseball teams.
26. T
27. F The Court generally gives great deference to congressional policy in matter related to national defense.
28. T
29. T
30. T
31. T
32. F It was the justices who were appointed by Reagan which encouraged this change.
33. F The Court upheld this law.
34. T
35. T
36. T
37. F States can bar aliens from serving on juries.
38. F The Court has upheld about as many as it has struck down.
39. T
40. F The bill allows for the collection of large damages awards.
41. F He signed the legislation.
42. F The Court declared the amendment unconstitutional.
43. T
44. T

ANSWERS TO MULTIPLE CHOICE QUESTIONS

1. b
2. a
3. b
4. e
5. d
6. a
7. a
8. c
9. c
10. d
11. c
12. e

- 13. a
- 14. b
- 15. c
- 16. e
- 17. c
- 18. e
- 19. a
- 20. c
- 21. b
- 22. a
- 23. a
- 24. a
- 25. d
- 26. b
- 27. c
- 28. d
- 29. e
- 30. a
- 31. e
- 32. c
- 33. e
- 34. b