Civil Rights

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PLSC 1

Road map

- When is unequal treatment acceptable?
- Historical rights claims
- Modern rights claims



Collaborate!

Discrimination

Equality

A foundational principal and ongoing struggle

IN CONGRESS, July 4, 1776. DECLARATION

BY THE REPRESENTATIVES OF THE

UNITED STATES OF AMERICA.

IN GENERAL CONGRESS ASSEMBLED.

HEN in the Coarse of human Events, it becomes necessary for one People " to dissolve the Political Bands which have connected them with another," and to assume among the Powers of the Earth, the separate and equal Station " to which the Laws of Nature and of Nature's God entitle them," a decent Respect to the Opinions of Mankind requires "that they should declare the causes which impel them to the Separation.

We hold these Truths to be self-evident, "that all Men are created equal," "that they are endowed by their Creator with certain unalienable Rights," that among these are Life, Liberty, and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, "deriving their just Powers from the Consent of the Governed," that whenever any Form of Government becomes destructive of these Ends, "it is the Right of the People to alter or to abolish it, and to institute a new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness." Prudence, indeed, will distate that Governments long established should not be changed for light and transient Causes; and accordingly all Experience hath shown, that Mankind are more disposed to suffer, while Evils are sufferable, than to right themselves by abolishing the Forms to which they are accustomed. But when a long Train of Abuses and Usurpations, pursuto the forme Object, evinces a Delien to reduce them under absolute Despotism, it is their Right, it is their Duty to them and of the

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When is discrimination allowed?

Rational Basis Test

Reason for discrimination must be "rationally related to a legitimate government interest." Burden on person/group to challenge.

Week 5

Examples?

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A Higher Standard

Intermediate Scrutiny

- For issues of gender/sex discrimination
- Burden on government to prove legitimacy

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An Even Higher Standard

Strict Scrutiny

- For issues of race, ethnicity, religion
- Burden on the government
- Law must be "narrowly tailored"
- Policy must use "least restrictive means"

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Open Ended Question

Where do rights come from?

Two Traditions

Rights claims are ubiquitous in politics

Positive Rights

A right is a claim backed by the power of the state

Normative Rights

Rights derive from something higher — morality, religion, rationality, natural law — and do not need to be claimed



Figure: "Healthcare is a Human Right" by Juhan Sonin, CC BY 2.0

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How are rights claimed?

- Official statement of the right
- Establishment of a grievance process
- Selection of a remedy and enforcement

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Official statement

Modes:

- Statutory law
- Administrative law
- Common law
- Constitutional amendment



Figure: "Occupy_10_26_DSC_0050" by Michael Fleshman, CC BY-SA 2.0

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Grievance adjudication

- Litigation in the courts and bureaucracy
- Two sides and a "neutral" third party



13/22

"Judges are like umpires. Umpires don't make the rules, they apply them. ... And I will remember that it's my job to call balls and strikes and not to pitch or bat." (John Roberts)

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Remedy and Enforcement

- Responsibility of rights-holder to claim harm
- Needs backing by threat of force



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13 / 21

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What year did the first slaves arrive at what is now known as the United States?

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Slavery

A Long Struggle

- 1619: First slaves land in America
- 1857: Dred Scott v. Sandford not citizens
- 1863: Emancipation Proclamation
- Civil War Amendments (1865, 1868, 1870)
- Reconstruction, then Jim Crow
- 1896: Plessy v. Ferguson
- 1954: Brown v. Board
- 1964: Civil Rights Act
- 1965: Voting Rights Act
- 1968: Fair Housing Act
- 1971: War on Drugs

Lesson: PLSC 1 Week 5

2013: Shelby v. Holder

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A Long Struggle

- 1608: First Woman Arrives at Jamestown
- 1848: Seneca Falls Convention
- 1869: National Woman Suffrage Association founded
- UT (1869), WY (1869), CO (1893), WY (1869), ID (1896)
- 1920: 19th Amendment
- 1964: CRA Title VII (employment)
- 1972: Title IX
- 1982: ERA fails

Other Groups

- Indigenous
- Hispanic/Latino
- Asian
- LGBT
- Disabled
- Religious minorities

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Krutz's Questions

- Which groups?
- Which right(s) are threatened (claimed)?
- What do we do?

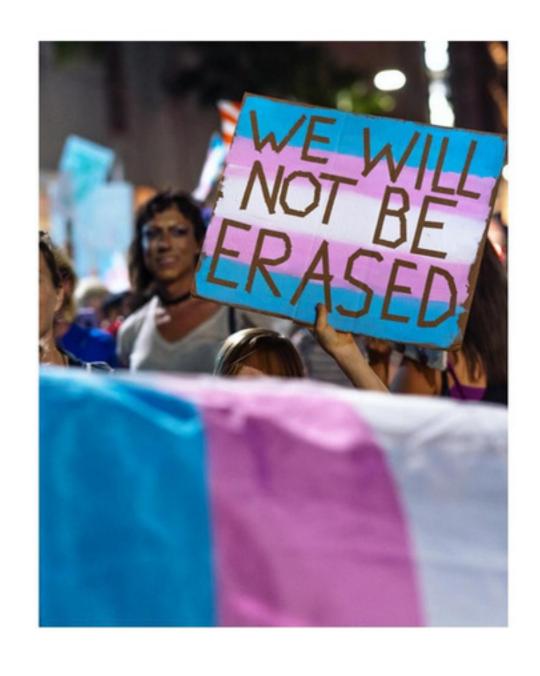
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Modern Rights Claims





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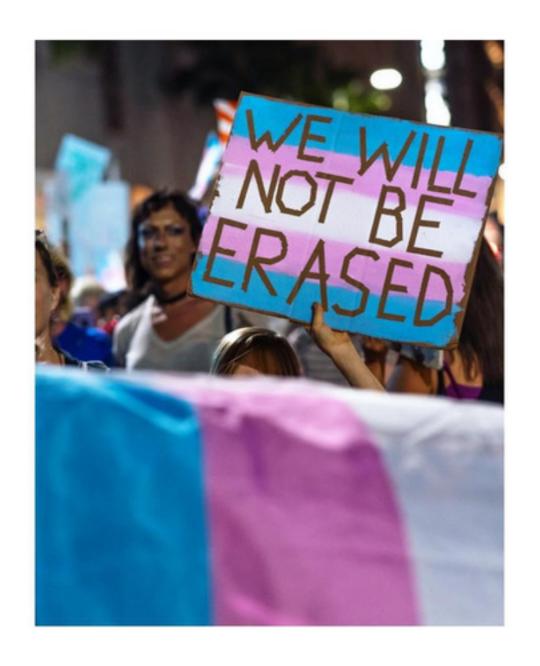
Climate Change



- Which groups?
- Which right(s) are threatened (claimed)?
- What do we do?

20 / 21

Transgender Rights



- Which groups?
- Which right(s) are threatened (claimed)?
- What do we do?