

Civil Rights

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PLSC 1

Road map

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



Disc ion

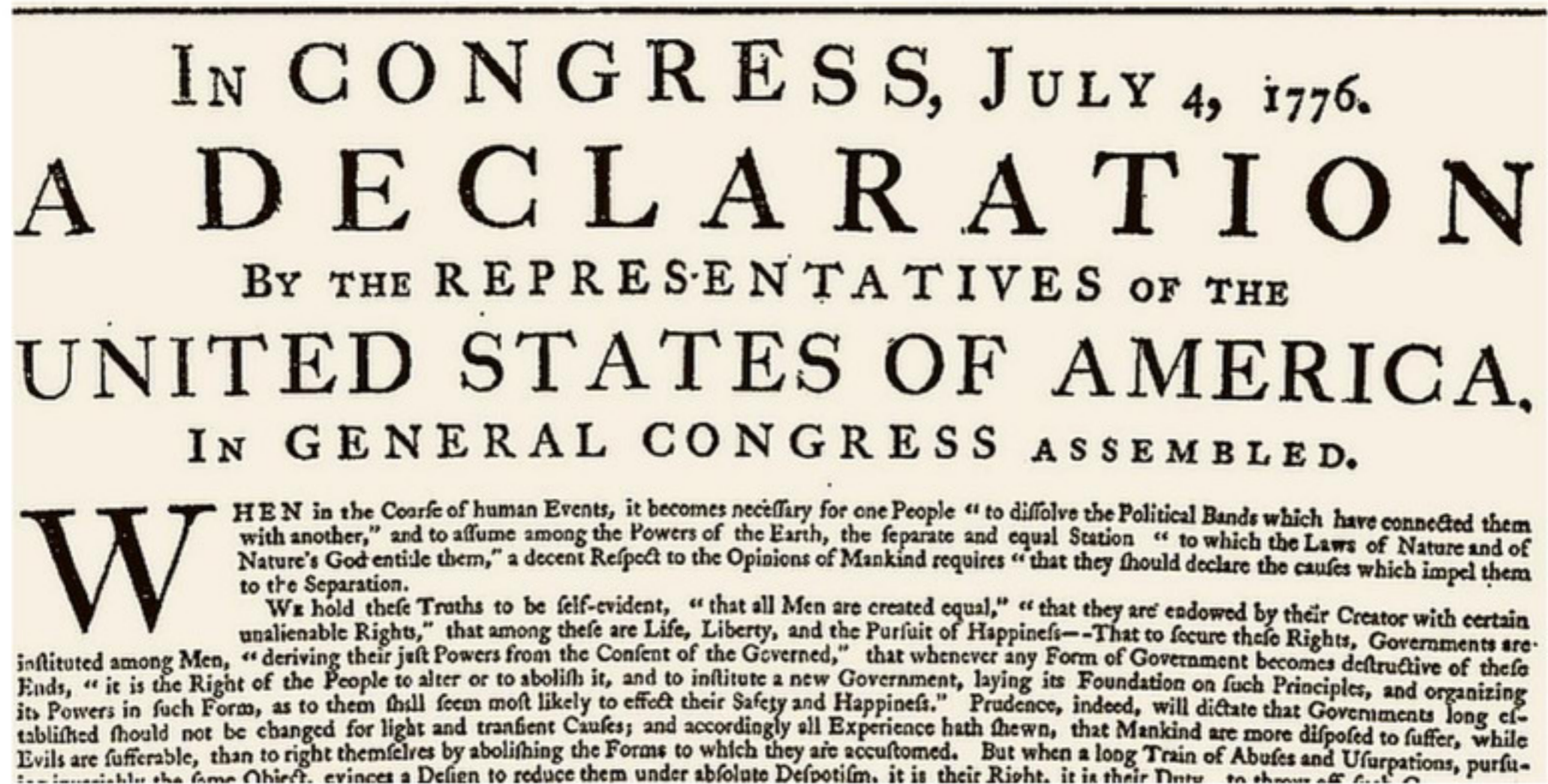
Are there times when it is appropriate for people to not be treated equally? Give examples.

Collaborate!

Discrimination

Equality

A foundational principal and ongoing struggle



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.

Examples?

A Higher Standard

Intermediate Scrutiny

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

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”

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

How are rights claimed?

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

Official statement

Modes:

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



Figure: "Occupy_10_26_DSC_0050" by Michael
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Grievance adjudication

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



“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)

Remedy and Enforcement

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





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

Collaborate!

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
- 2013: *Shelby v. Holder*

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

Krutz's Questions

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

Modern Rights Claims



Climate Change



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

Transgender Rights



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