

## CHAPTER 05

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### Civil Rights

## Chapter Goals

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- Define civil rights and describe the different strategies that lead to achieving civil rights.
- Outline the key political and legal development in the civil rights.
- Explain how different social movements have expanded civil rights
- Describe the key issues of civil rights that continue to impact American Politics.

# Civil Rights

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The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved.

(John Marshall Harlan)

## What Are Civil Rights?

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The term civil rights refers to:

- **Civil rights:** obligation imposed on government to take positive action to protect citizens from any illegal action of government agencies and of other private citizens.
- Equal rights for persons regardless of characteristics such as race, gender or religion... equality before government; absence of discrimination by government.
- “*All men are created equal*” – equal in their rights and liberties. Equal before the law and before the eyes of god.

## What Are Civil Rights?

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The term civil rights refers to:

- The rights of Americans to equal treatment under the law, as provided for by the Fourteenth Amendment to the Constitution and by subsequent acts of Congress.
- It guarantees equal protection under the law through the **equal protection clause**:

*“No State shall make or enforce any law which shall . . . deny to any person within its jurisdiction the equal protection of the laws.”*

## What Are Civil Rights?

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The term civil rights refers to:

- Although the terms *civil rights* and *civil liberties* are sometimes used interchangeably, scholars make a distinction:
  - **Civil Liberties** are limitations on government; they specify what the government *cannot* do.
  - **Civil Rights** specify what the government *must* do—to ensure equal protection and freedom from discrimination.

## What Are Civil Rights?

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- Civil rights: rights guaranteed to all American citizens by law; usually refers to social freedoms and equal treatment under the law.
  - *All American citizens have civil rights (not merely minority groups).*
- Often understood in terms of groups whose civil rights were recognized by the U.S. government only after legal and political actions secured them.



## What Are Civil Rights?

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- From the beginning of the Republic formal, legal inequalities existed uncomfortably with America's value of equality for all since the nation's founding.
- Many states had property qualifications in order for white men to vote and hold office.



## What Are Civil Rights?

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Full benefits of citizenship were limited.

- Race, sex, age, wealth, national origin most clearly.
- Full citizenship refers to voting rights, equal treatment by law, right to own property.

## What Are Civil Rights?

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Although the Declaration of Independence and the Constitution were liberty documents, they were also aspirational, in the sense that they embodied ideals that Americans have sought to enact since their founding, even as the ideas in practice have come slowly and only after tremendous political battles.

# What Are Civil Rights?

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The concept of “equal rights” poses complicated legal and policy questions.

- Does treating people in the exact same manner mean we are treating them equally?
- How do we address real differences, as with biological distinctions between men and women, and preserve fairness?
- How do we address past legally mandated discrimination in policy?

# What Are Civil Rights?

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**Discrimination:** use of any unreasonable and unjust criterion of exclusion

- Formal, legal discrimination against blacks and women was contested, but persisted.
  - Abolitionist movement
  - Suffrage movement
- The civil rights movement started before the civil war with the struggle by black American struggle for equality before the law and society.

## The Abolitionist Movements

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- The earliest social movement in the country's (world ) history:
- Abolition:
  - Slavery was widespread in the South prior to 1860 and around the world.
  - The *Dred Scott* decision (1857) helped lead to the Civil War:
    - Lived in a free state for several years and when taken back to Missouri he tried to regain his freedom.
    - The courts stated that slaves were not citizens of Missouri within the meaning of the Constitution of the United States, and not entitled as such to sue in its courts.

# The Abolition Movement

**NOTICE.**

**THE DUTCHESS COUNTY  
ANTI-SLAVERY  
SOCIETY**

Will hold its first Annual Meeting at the house of  
Stephen E. Flagler, in the village of *Pleasant Valley*,  
**ON THURSDAY,**  
The 25th inst.

☐ Several gentlemen will ADDRESS the meeting. ☐

A neat and spacious Room, fitted for a large audience  
of Ladies and Gentlemen, is provided for the occasion.

All who feel an interest in the **PRESEN-**  
**VATION OF THEIR LIBERTIES** are respect-  
fully invited to attend.

P. S. Meeting for Business at 11, A. M.—for Ad-  
dresses at half past 2, P. M.

April 22, 1839.

Lanmas/Alamy Stock Photo



Historic Collection/Alamy Stock Photo

## *Dred Scott v. Sanford*

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Dred Scott was an enslaved person who sued for his freedom.

- Scott's slave owner had taken him to Illinois and the territory of Wisconsin, both of which prohibited slavery.
- The Court, however, ruled that enslaved people—indeed, all Black people—were not citizens of the United States.
- Scott was ruled to be his owner's permanent property, regardless of his having been taken to a free state or territory.
- This ruling inflamed the tense debate over the future of slavery, splitting the country deeply and helping to precipitate civil war.



## *Dred Scott v. Sanford*

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The *Dred Scott* decision (1857) helped lead to the Civil War:

- The courts held that the Constitution of the United States recognizes slaves as property and pledges the Federal Government to protect it. And Congress cannot exercise any more authority over property of that description than it may constitutionally exercise over property of any other kind.
- Used article 4 of the Constitution which confers on Congress the power "*to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States*" as a justification

## *Dred Scott v. Sanford*

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The *Dred Scott* decision (1857) helped lead to the Civil War:

- The question before Supreme Court was : *Can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all of the rights, and privileges, and immunities, guarantied by that instrument to the citizen.*
- The Court decided that : *Black people were not American citizens and as such have no claim to the rights and privileges of ordinary citizens such as suing in state or federal courts.*
  - Read: *Dred Scott fight for freedom* from faculty website.

# Dred Scott v. Sanford

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## The Dred Scott Decision (1857)

In the case of *Dred Scott v. Sanford*, the Supreme Court ruled that black men – whether free or enslaved – had “no rights which a white man was bound to respect.” Scott, who claimed that he was freed when his master took him to a northern state which did not allow slavery, saw his petition rejected. Moreover, the Court ruled that Southern slave owners could take their slaves – their “property” – to any part of the United States they wished. Northerners were outraged at the notion that slavery was legal anywhere in the country!



black men – whether free or enslaved – had “no rights which a white man was bound to respect.”

From the Court Opinion:

*They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race either in social or political relations, and so far, inferior that they had no rights which the white man was bound to respect, and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold and treated as an ordinary article of merchandise and traffic whenever a profit could be made by it.*

# The Civil War Amendments

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## Ending Servitude

- Emancipation Proclamation- An announcement made by President Lincoln during the Civil War on September 22, 1862, emancipating all slaves in states still engaged in rebellion against the Union. Although implementation was strictly beyond Lincoln's powers, the declaration turned the war into a crusade against slavery. It went into effect on January 1, 1863.
- Ratification of the 13th, 14th, and 15th Amendments at the end of the Civil War.

## The Civil War Amendments

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After the Civil War, three constitutional amendments were passed that redefined civil rights in the United States:

- 13<sup>th</sup> Amendment: abolished slavery.
- 14<sup>th</sup> Amendment: Citizenship for newly freed slaves / guaranteed equal protection under the law.
- 15<sup>th</sup> Amendment: guaranteed voting rights for black men.

1. These amendments were passed in Congress before the south was readmitted, or in the case of the Fifteenth, voting in support of it was a condition of readmittance.
2. These amendments are the only ones where the nation did not truly speak as “We the People” but rather as a victor imposing them on the conquered, which helps explain in part why the white South fought so fiercely for another century over ways to maintain racial subjugation.

## Reconstruction

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After the Civil War, southern resistance to equality continued.

- **Black Codes** - laws that deny most legal rights to free slaves. Helped enforce the idea of separate and unequal.
- **Jim Crow Laws** – a system of social, political, and economic inequality. Enforced segregation in all public activities.
- The Federal government sent federal troops to the former Confederate states to enforce the Reconstruction laws and amendments.

# Reconstruction

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During Reconstruction (1865–77), Black Americans organized for greater social, economic, and political freedoms.

- **Civil Rights Act of 1866** - extending the rights of emancipated slaves by stating that any person born in the United States regardless of race is a US citizen. Led to the passage of the 14<sup>th</sup> Amendment.
- **Civil Rights Act of 1871** - prohibiting race-based violence against Black Americans.
- **Civil Rights Act of 1875** - prohibiting discrimination in "public accommodations", which was found unconstitutional in 1883 as Congress could not regulate conduct of individuals.



## Civil Rights: Separate but Equal

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After the Civil War, southern resistance to equality continued.

*Plessy v. Ferguson* (1896): “**separate but equal**” rule

- Supreme Court case in 1896 where a *very light skinned black male* was forced to leave a train car reserved for whites only. Established the concept of Separate but Equal. Ref: Plessy V. Ferguson case brief from faculty website.
- Established that public accommodations could be segregated by race as long as facilities were “equal.”
- The great dissenter –Justice Harland Disagreed and stated that “*Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved*”.

# *Plessy v. Ferguson*

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## Homer Plessy

Homer Plessy was a creole in Louisiana, who had one great-grandparent who was African-American. In most aspects of his everyday life, he “passed” as white, as they said during the period. Plessy, however, was devoted to the principle of equality for all, and quite literally informed the conductors of the train that he was on that he was “colored.” When they removed him from the first class train cart, he became the center of one of the most important Supreme Court cases in all American history. Plessy and his lawyers argued before the Supreme Court that his rights – guaranteed under the 14<sup>th</sup> Amendment to the Constitution – had been violated by the railroad company, and that any laws segregating public facilities were therefore unconstitutional.



On June 7, 1892, a 30-year-old black man named Homer Plessy was jailed for sitting in the "White" car of the East Louisiana Railroad.

Plessy was only 1/8<sup>th</sup> black and 7/8<sup>th</sup> white, but under Louisiana law, he was considered black and therefore required to sit in the "Colored" car.

Case went all the way to the Supreme Court which ruled that “Separate facilities are constitutional as long as they are equal”

This was a win for segregation laws because they were now backed by the Supreme Court

## Strategies Used by Social Movements

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Securing formal rights required 100+ years of challenges to discriminatory laws.

- Organizational, strategic efforts – NAACP raised funds to challenge Jim Crow laws and help bring northern blacks into the political system.
- Courts opinions that acknowledged individual civil rights.
- Changing public opinion- *changing culture of fear*.
- Moving lawmakers at all levels to the importance of civil rights for all.

## Social Movements and Shifting Public Opinion

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Integrated WWII military shapes the civil rights movements in the United States.

- The heroic exploits of black troops in all theaters of WWII help changed the public's opinion of black Americans.
- Black American troops desegregated in 1948.
- Latinos (largely Mexican American) served in integrated units.

Black and Latino soldiers return to United States

- Feel vested, earned, proven “full Americans”.
- Expect/prefer integration, equal protection now.
- Broadens public support/demand for civil rights.

# The Fight for Education Equality and the Weakening of Jim Crow

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In the 1930s, the NAACP executed a three-pronged plan, focused on the courts, to transform public school education in the South for Black students.

- The NAACP argued that separate schools could never be equal.
- One parent, Oliver Brown, the father of three girls, lived in a racially mixed neighborhood of Topeka, Kansas.
- In September 1950, Linda Brown's father took her to an all-White Sumner School, closer to their home, and tried to enroll her in the third grade. When they were refused, Brown went to the NAACP and soon thereafter, the case ***Brown v. Board of Education*** was born.

The NAACP, led by attorney Thurgood Marshall, argued for the Court to overturn the “separate but equal” doctrine.

- In a unanimous ruling, the Court ruled that states no longer had the power to use race as a criterion of discrimination in law.
- The national government now had the power to intervene against discriminatory actions of state governments.



## ***Brown v. Board of Education***

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### The End of the Separate-but-Equal Doctrine

- **Brown v. Board of Education of Topeka (1954)-** overturned the 1892 case of *Plessy v. Ferguson* doctrine of separate but equal by establishing that segregation of races in public schools violates the equal protection clause of the 14<sup>th</sup> amendment.
- States no longer had the power to use race as a criterion of discrimination in law.
- The national government now had the power to intervene against discrimination by state governments.

## Civil Rights after *Brown v. Board of Education*

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- In the post-*Brown* era, the Court began to rely on the “**strict scrutiny test**” when considering cases that involve alleged racial discrimination and other cases that involve civil liberties and civil rights.
- This places the burden of proof on government, rather than on the challengers, to show that the law in question is constitutional.
- Most states initially refused to cooperate with new laws outlawing segregated spaces.
- Even when **de jure** segregation (“by law”) ended, **de facto** segregation (“by fact”) remained.



# Social Protest and Congressional Action

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## The Civil Rights Movement After *Brown*

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Discrimination remained in voting, employment, public accommodations, and social and economic activity.

- Demonstrations against segregation mounted after the *Brown* decision.
- Military used to quell violence and riots.
- The Montgomery bus boycott started after the arrest of Rosa Parks, who had refused to give up her seat to a white man.
- The March on Washington (1963): Rev. Martin Luther King, Jr., gave his famous “I Have a Dream” speech.

## Social Movements and Congressional Legislation

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To strengthen civil rights the Federal government enacted landmark civil rights laws:

- **Civil Rights Act of 1964-** Prohibited discrimination in areas of public accommodations, and employment.
- **Voting Rights Act of 1965-** Help to further implement the fourteen amendment, including measures to enable blacks to vote.
- **Civil Rights Act of 1968-** bans discrimination in the sale and rental of housing.

## The Civil Rights Act of 1964

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The landmark Civil Rights Act of 1964 was enacted to strengthen voting rights provisions and attack discrimination and segregation.

- Public accommodations could no longer be segregated.
- The act, especially Title VI, strengthened the power of the executive branch to discipline segregated schools.
- It outlawed employment discrimination by all private and public employers, including government agencies, on the basis of color, religion, sex, race, or national origin.

## Civil Rights: Voting Rights

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Federal law also strengthened voting rights.

- In 1965, Congress passed the Voting Rights Act.
  - Banned the use of literacy tests as a condition to vote.
  - Made it a crime to interfere with efforts to vote.
- Voting rights were also strengthened with ratification of the Twenty-Fourth Amendment.
  - Abolished the poll tax
- Required states and local government with a history of discrimination to obtain federal approval before changing their voting laws.
- The Voting Rights Act transformed American politics by enfranchising millions of people.

## Civil Rights: Voting Rights

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The right to vote was further strengthened in 1964 with ratification of the 24<sup>th</sup> Amendment, which abolished the poll tax.

In 1975, legislation permanently outlawed literacy tests in all 50 states.

- The law also mandated bilingual ballots for Spanish, Chinese, Japanese, and Korean speakers and for Native Americans and Alaska natives.

However, modern understanding to voting rights came from *Shelby County v. Holder*.

- In 2013, the Supreme Court declared that Section 4 of the Voting Rights Act was unconstitutional because it is based on 40-year-old data, and it impedes the principle of federalism and sovereignty of the states.
- States and counties with a history of discriminatory voting practices no longer need approval from the government to change their voting rules.

## Civil Rights: Housing

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Congress also has tried to tackle housing discrimination.

- The Fair Housing Act (1968) prohibited discrimination in the sale or rental of most housing.
  - Enforcement mechanisms, however, remained weak.
- The Fair Housing Amendments Act (1988) strengthened enforcement procedures.
  - The Department of Housing and Urban Development (HUD) was given the power to initiate legal action in cases of discrimination.



# Cause and Effect in the Civil Rights Movement

**TABLE 5.1 | Cause and Effect in the Civil Rights Movement**

Social movement action and government action worked in tandem to produce dramatic changes in American civil rights policies.

SOCIAL MOVEMENT ACTION	POLITICAL AND LEGAL ACTION
<b>1930–54</b> NAACP legal campaign focused on segregated public education.	<b>1954</b> <i>Brown v. Board of Education</i>
<b>1957</b> Little Rock Nine: NAACP recruited nine Black students to integrate Little Rock Central High School. Their efforts were met with violence.	<b>1957</b> Civil Rights Act created Civil Rights Commission; President Eisenhower sent 101st Airborne Division paratroops to Little Rock, Arkansas, to enforce integration of Central High School.
<b>1960</b> The sit-in movement began and subsequently the Student Nonviolent Coordinating Committee formed. College students would walk into a segregated establishment, ask to be served, and then refuse to leave when denied service. In doing so, the students practiced the tactic of civil disobedience.	<b>1960</b> Many establishments in the South, including department store restaurants and lunch counters, were integrated.
<b>1961</b> Freedom Rides: groups of White and Black civil rights activists rode together on buses through the South to protest segregated bus terminals. Freedom riders were met with violence but also garnered significant international media attention.	<b>1961</b> Interstate Commerce Commission ordered desegregation on all buses and trains and in terminals; President John F. Kennedy favored executive action over civil rights legislation.
<b>1963</b> (April) Nonviolent demonstrations in Birmingham, Alabama, led to civil rights demonstrators facing police dogs and fire hoses. Martin Luther King, Jr., was arrested and wrote his "Letter from Birmingham Jail." (August) March on Washington was one of the greatest displays of mass civil rights protest that ever occurred in the United States.	<b>1963</b> President Kennedy shifted, indicating his support for a strong civil rights law; after JFK's assassination, President Johnson asserted strong support for civil rights.
<b>1964</b> President Johnson met with civil rights leaders in the Oval Office.	<b>1964</b> Congress passed historic Civil Rights Act covering voting, employment, public accommodations, education.
<b>1965</b> Selma-to-Montgomery marches took place: a series of marches organized in Alabama to raise attention to the continuing denial of voting rights to Black people.	<b>1965</b> Voting Rights Act was passed.

# Civil Rights: Marriage

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The Civil Rights Act of 1964 was silent on interracial marriage, which 16 states continued to outlaw in 1967.

- *Loving v. Virginia* (1967): The Supreme Court ruled that state laws prohibiting interracial marriage were unconstitutional.
  - The case concerned a Virginia couple—Richard Loving, a White man, and Mildred Loving, who was Black and Native American.
  - The two married in Washington, D.C., where such unions were legal.
  - After moving back to Virginia, they were charged with violating the state's law against interracial marriage

The Court declared marriage to be “one of the ‘basic civil rights of man,’ fundamental to our very existence and survival.”

# Extending Civil Rights: The Women's Rights Movement

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- Women's rights:
  - Women had few rights in America prior to the Civil War.
  - Constraint by the traditional roles for women.
  - Helped to abolish slavery.
  - Women's Suffrage movement helped to gain the right to vote by the passage of the 19<sup>th</sup> Amendment in 1920.
  - The Seneca Falls convention of 1848 is often seen as a starting point for the movement.
  - The industrial revolution helped changed the traditional roles of women as more women entered the work force.
  - Today more women serve in high office than at any other time in history.
  - Western women are among the freest people in the world.

## Ending Gender Discrimination

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Title VII of the Civil Rights Act of 1964 laid the foundation for the modern women's movement.

- Beginning in the 1970s, the Court established gender discrimination as a major and highly visible civil rights issue.
- Laws and court decisions designed to deal with discrimination against women have also been used to protect people from discrimination based on sexual orientation and gender identity.

# Gender Equality in Education and Employment

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Title IX of the 1972 Education Act prohibits gender discrimination in education.

- The act was expanded in *Franklin v. Gwinnett County Public Schools*.
  - Violations could be remedied with monetary rewards.
- Has led to parity in college athletics programs, but gender barriers remain in many STEM fields.
- Women also fought against pay discrimination—paying a male employee more than a female employee of equal qualifications in the same job.

# Sexual Harassment

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During the late 1970s courts began to find sexual harassment to be a form of sex discrimination.

In 1986, the Supreme Court recognized two forms of sexual harassment.

- Quid pro quo harassment
  - An explicit or strongly implied threat that submission is a condition of continued employment
- A hostile work environment
  - Harassment that creates offensive or intimidating employment conditions
- Sexual harassment remains relevant today. The Office of Civil Rights (OCR) advised colleges to adopt stricter harassment procedures in 2011.

## Latinos and Civil Rights

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*Latino* and *Hispanic* encompass a wide range of groups with diverse national origins and distinct cultural identities.

- As a result, civil rights issues have varied considerably by group and place.
- Mexican Americans have long faced discrimination, both legal and extralegal.
- Mexican American Civil Rights - advocacy groups tried to imitate black civil rights groups by using protests and directed action. Concerned with farmworker rights, education, voting, eliminating of ethnic stereotypes.



## Immigration

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- Immigration has become a civil rights issue.
- The Continued Influx of Immigrants – Constitute the majority of Americans by the year 2050. Assimilation most important.
- Illegal Immigration:
  - Citizenship-Braking law by entering.
  - Accommodating Diversity with Bilingual Education.
- The Supreme Court has ruled that unauthorized immigrants are eligible for education and emergency medical care but can be denied other services.

# Immigration

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Another issue is federal cooperation with local and state law-enforcement agencies to enforce federal immigration laws.

- Several cities and states have declared themselves “sanctuaries” and declined to cooperate with federal immigration agents.
- The Trump administration responded by threatening to cut off federal funding from local governments that failed to help federal authorities.
- As president, Donald Trump also promised:
  - To build a wall along the U.S. border with Mexico
  - Institute a temporary ban on Muslims traveling to the United States from nations without a functioning government.
  - To reduce the Obama administration’s resettlement program for refugees

# Who Are Americans: Who Are America's Immigrants?

## WHO ARE AMERICANS?

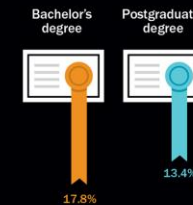
### Who Are America's Immigrants?

America has always called itself a nation of immigrants, but immigration has consistently been a controversial issue. In 1900, 1.3 million of New York City's 3.4 million people were foreign born. The immigrants at that time came mostly from mainland Europe, the UK, and Ireland. Who are today's immigrants?

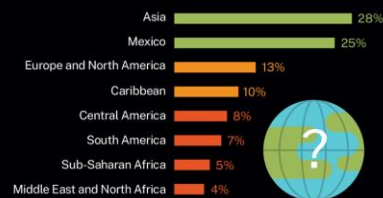
#### Percentage of Foreign-Born Residents by State



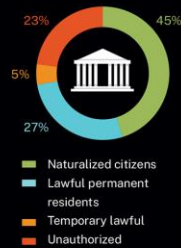
#### What kind of education do immigrants get?



#### Where do immigrants come from?



#### What is the legal status of immigrants?



#### Do immigrants help the economy?

**25%** of new businesses are started by immigrants

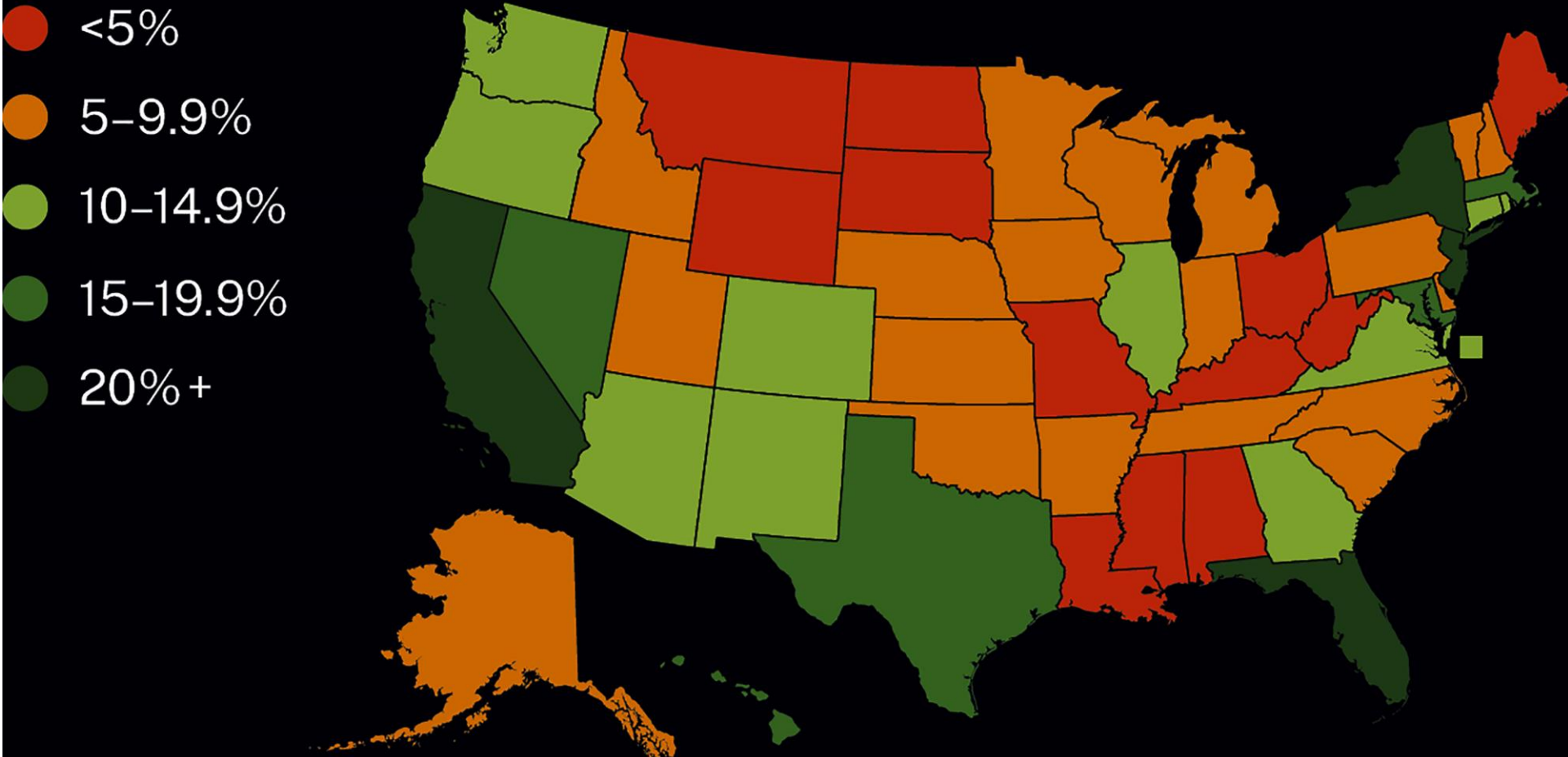
**20%** of Fortune 500 CEOs are immigrants

**10%** of Americans work for a private company owned by an immigrant



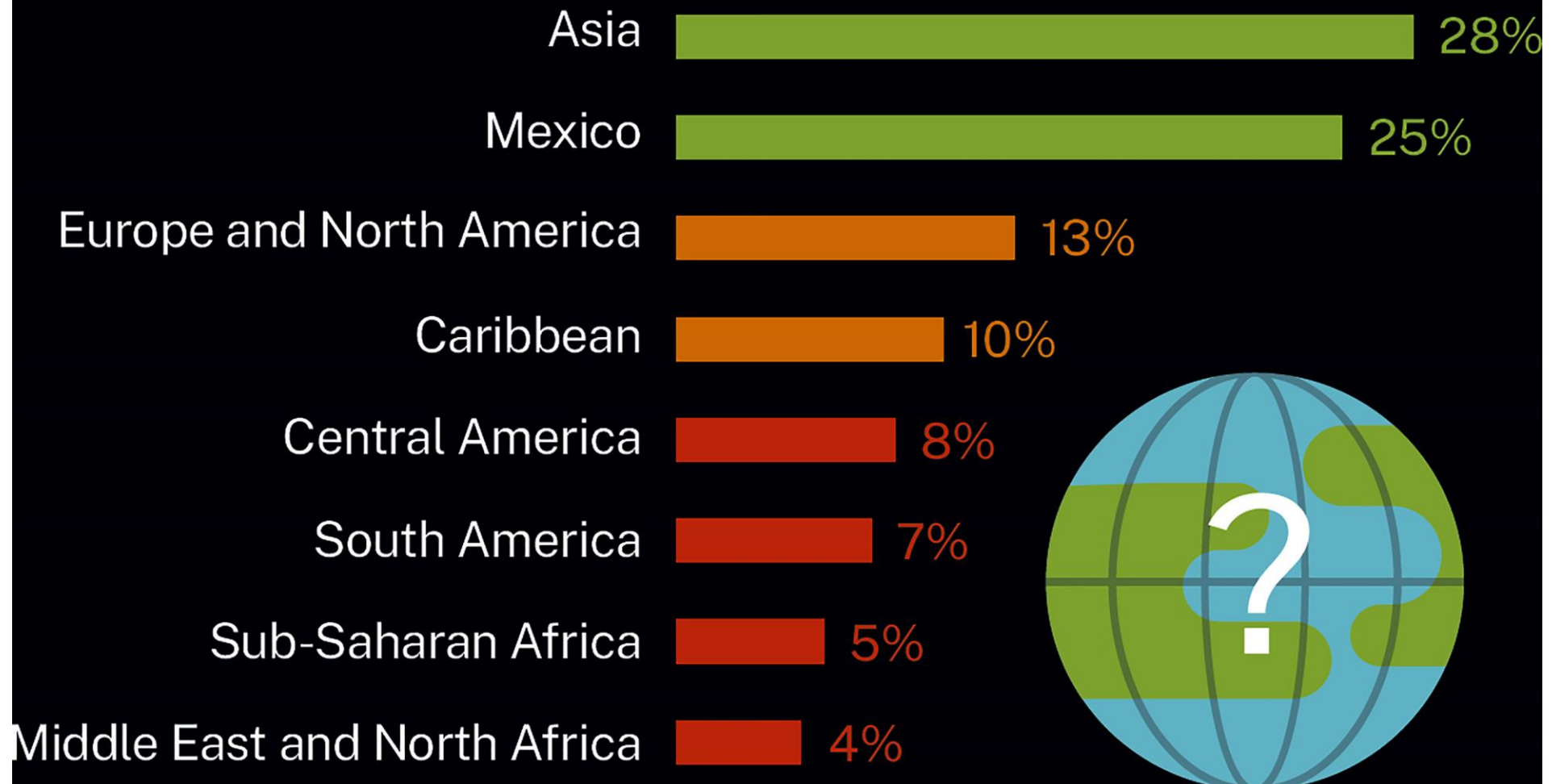
SOURCES: Jynnah Radford, "Key Findings about U.S. Immigrants," Pew Research Center, June 17, 2019; Jynnah Radford and Luis Noe-Bustamante, "Facts on U.S. Immigrants, 2017: Statistical Portrait of the Foreign-Born Population in the United States," Pew Research Center, June 3, 2019; U.S. Census Bureau, "American Community Survey," November 2018; Sari Pekkalä Kerr and William R. Kerr, "2018 Immigrant Entrepreneurship in America: Evidence from the Survey of Business Owners 2007 & 2012," National Bureau of Economic Research, [www.nber.org/papers/w24494](http://www.nber.org/papers/w24494).

# Percentage of Foreign-Born Residents by State



## Where do immigrants come from?

### Where do immigrants come from?



## Do immigrants help the economy?

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### Do immigrants help the economy?

**25%** of new businesses are started by immigrants

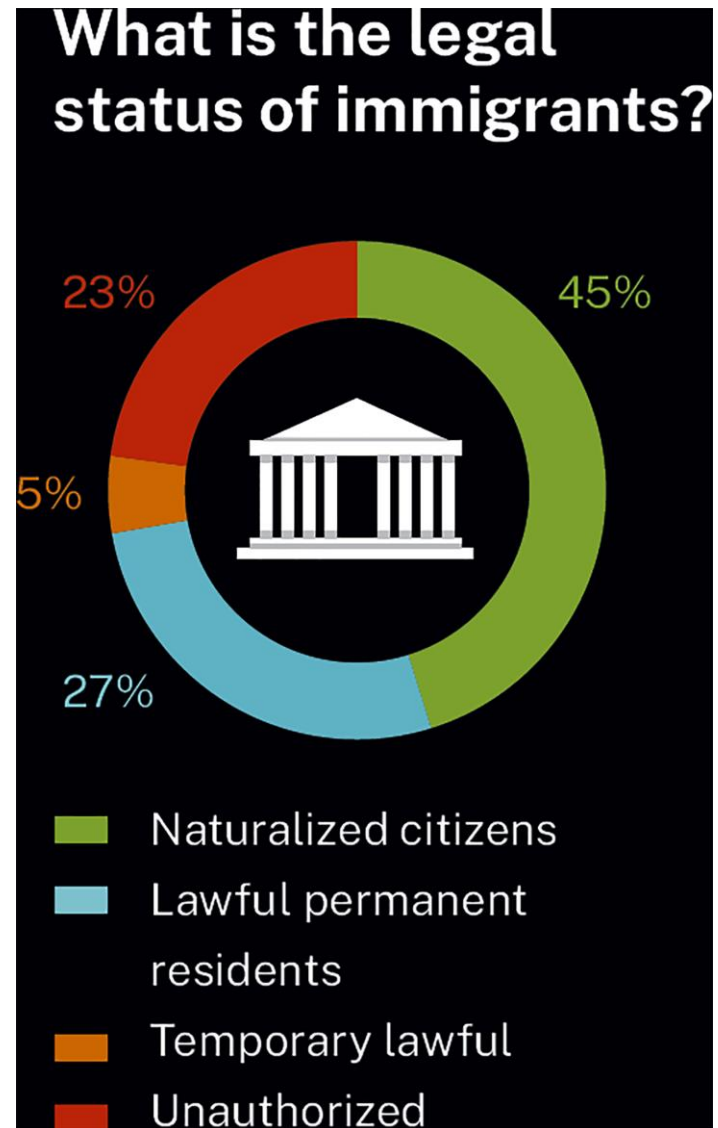
**20%** of Fortune 500 CEOs are immigrants

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# What is the legal status of immigrants?

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# Asian Americans and Civil Rights

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The term *Asian American* encompasses a wide range of people with varied national and cultural backgrounds.

- Chinese immigrants arrived in California in the 1850s.
- From 1863 to 1869, there were over 15,000 Chinese railroad workers.
  - This was 90 percent of the construction force—and were thus pivotal in building America's first transcontinental railroad.
- 1870: Congress declared Chinese immigrants ineligible for citizenship.
- 1882: The Chinese Exclusion Act suspended entry of Chinese workers into the United States.

## Asian Americans and Civil Rights: Japanese Americans

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Japanese immigrants also faced discrimination.

Japanese Americans were sent to internment camps during World War II. (*Read: The Niihau Incident*)

- 120,000 were forcibly relocated from their homes.
- Conditions in the camps were poor.
- The camps were not closed until 1944.
- In 1988, the federal government acknowledged the denial of the Japanese Americans' civil rights and the "grave injustice" in sending them to the internment camps.

# Japanese Americans During World War II

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Eliot Elisofon/The LIFE Picture Collection via Getty Images

## Native Americans and Civil Rights

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- Native Americans are both American citizens and members of sovereign tribal nations.
- Not until 1924 did congressional legislation grant citizenship to all persons born in the United States, including Native Americans.
- 1960s: Native Americans began to use protest, litigation, and assertion of tribal rights to improve their situation.
  - The federal government responded with the Indian Self-Determination and Education Assistance Act, which gave Native Americans more control over their own land.
- In 1987, the Supreme Court freed Native Americans from state regulations prohibiting gambling.

## Disabled Americans

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The history of advocacy for civil rights for disabled Americans begins with the 1973 Rehabilitation Act, which outlawed discrimination against individuals with disabilities.

The Americans with Disabilities Act of 1990 followed.

- It guarantees equal employment rights and access to public businesses.
- It also prohibits discrimination in housing, employment, and health care.

## LGBTQ Americans

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- The LGBTQ movement is now one of the largest civil rights movements in contemporary America.
- The movement first drew national attention in 1969, when patrons at Stonewall Inn in Greenwich Village, New York City, rioted after a police raid.
- *Lawrence v. Texas* (2003)
  - The Court struck down a Texas statute criminalizing certain intimate sexual conduct between consenting partners of the same sex.
- Same-sex marriage
  - In *Obergefell v. Hodges* (2015), the Court ruled that the equal protection clause guaranteed same-sex couples the right to marry.



# *Obergefell v. Hodges*

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## Civil Rights Today: Affirmative Action

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**Affirmative action** programs seek to redress past injustices against specified groups by making special efforts to provide members of those groups access to educational and employment opportunities.

What is the appropriate level of judicial scrutiny in affirmative action cases: Who should bear the burden of proof?

- *Regents of the University of California v. Bakke* (1978)
  - Affirmative action was upheld.
  - Quotas and separate admission for minorities were rejected.

## Civil Rights Today: Affirmative Action

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- Affirmative action applies to employers when hiring and promoting minorities and women, colleges and universities when admitting minorities and women, and governments when reserving a portion of their contracts for businesses owned by minorities and women.
- Phrase based on Executive Order 10925 issued by President Kennedy where it states that:

*“The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin”*

Ref : Executive Order 10925 Affirmative Action from faculty website.

## Civil Rights Today: Affirmative Action

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- The Bakke Case – Supreme ruled that a quota system based on race is illegal and while race can be considered as a factor for admission, it cannot be the sole factor.
- Reverse discrimination against a white student.
- Limits on Affirmative Action - does favoring one group over another violates the 14<sup>th</sup> amendment.
- State Ballot Initiatives - Affirmative action illegal in many states

# The Criminal Justice System

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Some have argued that the criminal justice system is a key civil rights area in need of reform.

- More than 2.1 million Americans are currently incarcerated, making the United States is the world's leading jailer.
- Yet its size does not reflect rising crime rates but, rather, a shift in criminal justice policy and practice that occurred in the 1980s and 1990s.
- Greater discretionary power given to prosecutors, and the War on Drugs with mandatory-minimum sentencing, fueled a growing incarcerated population and longer sentences. (Results of politics and fear and not facts)

# The Criminal Justice System

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There are racial and ethnic disparities in criminal justice contact and involvement.

- Black people account for approximately one-third of prisoners but only about 12 percent of the U.S. population. (Why is this the case?)
- About 20 percent of inmates convicted of minor drug offenses have received harsh mandatory sentences. (Results of politics and fear and not facts)
- Another 20 percent are awaiting trial and too poor to post bail.
- Black people make up a substantial percentage of this group as well.
- As a result, large numbers of Black people are in prison awaiting trial for relatively minor offenses.

# Civil Rights Protests

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## Readings From Faculty Website

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- *The Constitution of the United States*
- *Executive Order 10925 establishing affirmative action*
- *History of executive order 10925 and affirmative action*
- *Dred Scott fight for freedom*
- *Plessy V. Ferguson case brief*
- *The Niihau Incident*



# Civil Rights

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