


American Government and Politics Today

Chapter 5 Civil Rights



Gender-Based Discrimination in the Workplace

- Title VII of the Civil Rights Act of 1964
 - This title prohibits gender discrimination in employment.
- Sexual Harassment
 - The Supreme Court also has held that Title VII includes prohibitions on sexual harassment.

Sexual Harassment

- Quid pro quo: sexual favors are required as a condition for holding a job or for promotion; employers are strictly liable
- Hostile environment: creating a setting in which harassment impairs a person's ability to work; employers are liable if they were negligent



Gender-Based Discrimination in the Workplace (cont.)

- Wage Discrimination
 - Recent figures show a woman earns 76 cents for every dollar made by a man.
 - The Equal Pay Act of 1963.
 - The Glass Ceiling.

~ Equal Work Requirement ~

Cases Where Defendants Lost (Jobs viewed as equal)

<i>Shultz v. Wheaton</i> (1978)	Male "selector packer" perform minor extra duties that females are not permitted to perform
<i>Shultz v. American Can</i> (1978)	Male machine operators work at night and female machine operators work during the day
<i>Hodgson v. Braakhaven</i> (1978)	Males are classified as "arteries" and females are classified as "arterial aids"
<i>Hodgson v. Daisy</i> (1971)	Males are classified into "heavy" jobs and females are classified into "light" jobs
<i>Hodgson v. Miller Brewing</i> (1972)	Male and female technicians are physically segregated in different laboratories in the plant
<i>Brennan v. City Stores</i> (1973)	Segregation of males who are classified "riggers" as compared to female who are classified as "scoutwomen"
<i>Cornish v. Brennan</i> (1974)	Male glass inspectors permitted to work at night; female glass inspectors limited to working during the day
<i>Hodgson v. Pei</i> (1974)	Females classified as "turnouts" and work at night; males classified as "turnrodes" and work during the day

Ledbetter v. Goodyear (2007)

Key Question: What is an unlawful employment and when does it occur?

Continuing violation?

Baxmore v. Friday (1986; race discrimination case): "... each week's paycheck that delivers less to a black than to a similarly situated white is a wrong actionable under Title VII" ... "because they discriminate each time anew each time they issue ..."

Hostile work environment claims (*Morgan v. National Railroad Passenger Corp.*; repeated conduct)

"Although the unlawful conduct began in the past, a charge may be filed at a later date and still encompass the whole."

Lily Ledbetter Paycheck Fairness Act (2009)

An illegal employment act occurs when:

- a) it is implemented,
- b) an individual becomes subject to it, or
- c) one is impacted by its application (e.g., each time a paycheck is issued resulting from pay discrimination)

Immigration, Hispanics, and Civil Rights

- Immigration rates today are the highest they have been since their peak in the early twentieth century.
- By 2050, minority groups collectively will constitute the majority of Americans.

Illegal Immigration

- Mostly Latin Americans entering states bordering Mexico looking for work.
- Issues include:
 - Citizenship
 - Border Crime

Bilingual Education

- Accommodating Diversity
- Controversy over Bilingual Education

Affirmative Action

- Describes those policies that give special preferences in educational admissions and employment decisions to groups that have been discriminated against in the past
- *Regents of the University of California v. Bakke* (1978)
 - Quota systems that only considered the race of an applicant were unconstitutional
- *Adarand Constructors, Inc. v. Peña*
- State Ballot Initiatives

AFFIRMATIVE ACTION

- Dejure v. Defacto segregation
 - *Bakke v. California* (1978)- no strict quotas
 - *Grutter v. Bollinger* (2003)- 2 cases
 - Race can be a consideration by a college but no use of automatic points because of your race
- Louisville and Seattle School District Cases (2007)

Regents of The University of California v. Bakke

The case

- These all started out when a 35 year old white man applied for admission to the University of California Medical School at Davis.
- He had a higher grade point average than any other minority candidates who were admitted.
- He was denied admission twice because he was white and because of the special admissions.
- Allen thought that the special admission program violated the Fourteenth Amendment.



- Since he was denied twice he decided to sue the University of California Medical School at Davis.
- The case went all the way to the Supreme Court.
- On June 28, 1978 the decision of the court was announced by Justice Lewis Powell.
- Court rule 5-4 that race could have been one of the factors.



NATIVE AMERICAN ISSUES

- Distinct government under our constitution
- Tribal lands are essentially foreign nations
- To settle land disputes states have resorted to allowing Indians to build casinos in exchange for a portion of the profits.
- Indians do not get the vote until 1924

Special Protection for Older Americans

- Age Discrimination in Employment
 - The Age Discrimination in Employment Act of 1967
 - prohibits discrimination by age in all but a limited number of occupations where age is considered relevant to the job.
 - Mandatory retirement has progressively been made illegal by laws passed in 1978 and 1986.

Securing Rights for Persons with Disabilities

- The Americans with Disabilities Act of 1990
 - Prohibits job discrimination against individuals with physical or mental disabilities. Furthermore, it requires physical access to public buildings and public services.



Securing Rights for Persons With Disabilities (cont.)

- Limiting the ADA. No longer covered are:
 - persons who wear eyeglasses.
 - carpal tunnel syndrome, a repetitive stress injury

The Americans with Disabilities Act

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The Americans with Disabilities Act

- The ADA is a civil rights law that prohibits discrimination against otherwise qualified persons with disabilities
- The ADA extends the protections of Section 504 to employers, state and local governments, or any instrumentality of the government, and any privately owned business or facility open to the public
- The U.S. Congress used its authority to regulate interstate commerce to extend ADA to the private sector

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ADA Definition of a Disability

Any person who has a *physical or mental impairment* that substantially *limits one or more major life activities*, has a *record of such impairment*, or is *regarded as having such an impairment*

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Titles of the ADA

Title I-Employment: Prohibits employment discrimination against otherwise qualified persons with disabilities.

Title II-Public Services: Prohibits discrimination to all subdivisions of state & local government

Title III-Public Accommodations and Services
Operated by Private Entities: Prohibits discrimination by private business serving the public

Title IV-Telecommunications: Prohibits discrimination in public communications

Title V-Miscellaneous Provisions

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Otherwise Qualified Person with a Disability

- A person with a disability who can perform the essential functions of a job with or without reasonable accommodations

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Reasonable Accommodations

- Modifications to the job or work environment that will remove barriers and enable the person to perform the job
- e.g., making facilities accessible & useable, job restructuring, acquiring or modifying equipment
- An employer is not required to make modifications that would impose “undue hardship”

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Examples of Public Accommodations

- Places of lodging
- Bars & restaurants
- Places of entertainment
- Stores & shopping centers
- Service establishments
- Places of recreation
- Places of education

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Program Responsibilities

- ADA compliance coordinator
 - Self-evaluation
 - Transition plan
- Prohibition against discrimination

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Enforcement

- Equal Opportunity Employment Commission (EEOC), Department of Justice, and to persons with disabilities
 - Complaints must be filed within 180 days
EEOC will investigate, if there is merit it will either mediate the claim or issue a “right to sue” letter
 - Lawsuits in federal courts, can involve jury trials and punitive damages

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The Rights and Status of Gay Males and Lesbians

- Growth in the Gay Male and Lesbian Rights Movement
- State and Local Laws Targeting Gay Males and Lesbians


The Rights and Status of Gay Males and Lesbians (cont.)

- The Gay Community and Politics.
 - Gay activists now play a role in both major parties. Eleven openly gay men or lesbians sit in the House.
- Gay Men and Lesbians in the Military
- Same-Sex Marriages
- Child Custody and Adoption



The Rights and Status of Juveniles

- The presumption is that children are protected by parents
- Depending on the jurisdiction and the issue, children may be defined as those under ages that vary from sixteen to twenty-one.
- Voting Rights and the Young
- The Rights of Children in Civil and Criminal Proceedings



The Rights and Status of Juveniles (cont.)

- Civil Rights of Juveniles. If a person is a minor, that person is not usually held responsible for contracts he or she may have entered into.
 - Child custody issues
- Criminal Rights of Juveniles
- Dealing with Juvenile Crime
 - Increasingly, minors who commit acts such as murder have been tried as adults. Another approach is to hold parents responsible for the crimes of their children.



Questions for Critical Thinking

- Why was the Voting Rights Act necessary?
- Are there any obstacles today to the civil rights of various groups in society?
- Should affirmative action exist? If you do not favor affirmative action, how should society address the economic gap between men and women and whites and African Americans?