

We the People

THE CITIZEN & THE CONSTITUTION



COPY FOR EDUCATIONAL PURPOSES ONLY
REPRODUCTION PROHIBITED WITHOUT PRIOR WRITTEN PERMISSION
This is an electronic copy of Lesson 35 from We the People: The Citizen & the Constitution, Level 3, Copyright 2009, Center for Civic Education, Calabasas, California, www.civiced.org. All rights reserved. Reproduction prohibited without prior written permission from the Center for Civic Education. Publication or posting on any website is strictly prohibited. Directed by the Center for Civic Education and funded by the U.S. Department of Education under the Education for Democracy Act approved by the United States Congress.

35

HOW HAVE CIVIL RIGHTS MOVEMENTS RESULTED IN FUNDAMENTAL POLITICAL AND SOCIAL CHANGE IN THE UNITED STATES ?



LESSON PURPOSE

The Declaration of Independence is celebrated for its commitment to the principles of human liberty and equality. The Fourteenth Amendment guarantees equal treatment under the law. This lesson focuses on political and social movements that have used and continue to use the Declaration and the Fourteenth Amendment to effect fundamental political and social change in the United States.

When you have finished this lesson, you should be able to explain why African Americans, women, and other groups found it necessary to take concerted action to ensure recognition of their civil rights. You should be able to describe some of the goals and tactics that civil rights movements have used. You should be able to describe and explain the importance of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. You also should be able to identify some ongoing issues involving civil rights. Finally, you should be able to evaluate, take, and defend positions on landmark legislation involving civil rights and the role of civil disobedience in America's constitutional democracy.

TERMS AND CONCEPTS TO UNDERSTAND

civil disobedience

civil rights

de facto segregation

de jure segregation

WHAT WAS THE STATUS OF CIVIL RIGHTS IN MID-TWENTIETH CENTURY AMERICA?

Discrimination in the United States has affected African Americans and other groups, including Native Americans, Hispanic Americans, Asian Americans, women, and members of religious minorities. Discrimination based on race has its roots in racial separation, known as segregation. There are two kinds of segregation:

- **De jure segregation** refers to separation required by law. For example, before the Supreme Court's 1954 decision in *Brown v. Board of Education* several states had laws requiring school districts to maintain separate schools for white and nonwhite students. These laws always affected African Americans but sometimes affected other racial minorities as well, including Asian Americans.
- **De facto segregation** refers to racial separation caused by the actions of private individuals and groups. For example, before passage of the Civil Rights Act of 1964 (discussed later in this lesson) some restaurants, hotels, and theaters served only white customers. Some landlords refused to rent houses, apartments, or businesses to racial minorities.

The *Brown* decision addressed only *de jure* segregation in public schools. However, that decision clearly implied that all laws compelling separation of the races violate the guarantee of equal protection of the laws. When little was done to implement the *Brown* decision, the NAACP brought a follow-up case. In *Brown II* (1955) the Supreme Court authorized federal district courts to issue such orders "as are necessary and proper to admit to public schools on a racially nondiscriminatory basis with all deliberate speed the parties to these cases."

Some school districts found ways to implement the *Brown* decisions. But in some parts of the country the decisions were extremely unpopular. To understand why, it is necessary to recall that slavery was legal in America for almost 250 years, from 1619 to 1865. After the Civil War and Reconstruction the Jim Crow system maintained racial separation for more than a half century. Soldiers in the U.S. Army were segregated by race until after the end of World War II. The army was officially desegregated in 1948 by an executive order of President Harry Truman.

Still, in the 1950s racial segregation and discrimination were deeply entrenched. African Americans and other nonwhites were treated as second-class citizens. A web of state laws and local ordinances mandated *de jure* segregation in almost every aspect of public life, including schools, streetcars and buses, toilets, and drinking fountains. In some



What democratic principles are violated by *de jure* and *de facto* segregation?

places the courts kept separate Bibles for administering oaths to whites and nonwhites, prisoners were segregated based on race, and laws prevented interracial marriage.

Such discrimination was not limited to the South, but Southern leaders promised “massive resistance” to the *Brown* decisions. Some states refused to desegregate their schools and waged legal battles to maintain segregation. Other states passed laws making it possible for white students to attend private schools with state financial support. Some school districts closed their schools altogether rather than desegregate.

For the most part the national government deferred to state governments in matters of race. The Ku Klux Klan, an organization created after the Civil War to advocate the supremacy of the white race, was reconstituted and revitalized in 1955. The next several years saw an increase in racially motivated murders, assaults, death threats, cross burnings, and attacks on private homes. President Dwight Eisenhower, who had been reluctant to intervene in state matters, finally sent National Guard troops into Little Rock, Arkansas, in 1957 to open public schools that had been closed in protest to *Brown* and to enforce order.

WHAT DO YOU THINK?

- 1 Is *de facto* segregation more difficult to change than *de jure* segregation? Why or why not?
- 2 Does *de facto* segregation occur today based on race, ethnicity, gender, or other characteristics? Explain.
- 3 Is there ever such thing as permissible segregation? Why or why not?

WHAT WERE THE ORIGINS OF THE MODERN CIVIL RIGHTS MOVEMENT FOR AFRICAN AMERICANS AND WHAT WERE ITS GOALS?

African Americans, leaders and ordinary men and women alike, challenged and resisted Jim Crow laws from the beginning. They had organized cooperative associations to assert community economic rights, and they had armed themselves against violence from the Klan and other white-supremacy organizations. In segregated public schools they had taught and learned black history. Their religious, social, and political associations had nurtured networks of communication and resistance by the time the Supreme Court issued the *Brown* decision.

Organizations such as the NAACP, founded in 1909, helped keep **civil rights** issues on the national agenda after *Brown*. The NAACP was joined by several religious



What are the principles of nonviolent direct action as practiced by Mohandas Gandhi and leading organizations of the civil rights movement?

organizations, including the Alabama Christian Movement for Human Rights, the Southern Christian Leadership Council, and the Fellowship of Reconciliation, an interfaith organization founded in 1914 to promote peace and justice. Many civil rights leaders also were influenced by principles of nonviolent direct action used by the Indian leader Mohandas Gandhi, commonly known as Mahatma Gandhi, in winning independence for India from Great Britain in 1947. Nonviolent direct action sometimes included **civil disobedience**, or the open violation of unjust laws together with a willingness to accept the consequences of violating those laws.

Preparation and education were central to the civil rights campaigns of the 1950s and 1960s. Many civil rights participants were trained in political organization and nonviolent social action at the Highlander Folk School in Tennessee. After petitioning local, state, and national leaders to repeal laws allowing racial segregation and discrimination, leaders organized direct actions, including sit-ins at restaurants and other public facilities, protests, marches, boycotts, and demonstrations. They were met with hostility and often violence.

In December 1955 as part of a planned protest, NAACP member and chapter secretary Rosa Parks refused to give up her seat to a white man on a city bus in Montgomery, Alabama. She was arrested for violating an ordinance requiring segregated seating on public transportation. The NAACP used Parks’s case to test the constitutionality of the ordinance and called for a



What were the results of the refusal of Rosa Parks to give up her seat to a white man on a city bus in Montgomery, Alabama in 1955?

boycott of the Montgomery bus system. Martin Luther King Jr., a young minister in Montgomery, helped lead the year-long boycott, which ended when the Supreme Court ordered Montgomery city officials to end segregation on city buses.

Civil rights activists also worked for passage of laws to protect their right to vote. King, like Gandhi, an advocate of nonviolent direct action, believed that the *Brown* decision could be implemented “without rancor or bitterness” if everyone had access to the ballot.

WHAT DO YOU THINK?

- 1 Explain the importance of the following for civil rights movements to succeed today:
 - Support of religious groups
 - Leadership and organization
 - Preparation
 - Public education
 - Patience
 - Links to principles in the Declaration of Independence or the Constitution
- 2 What factors would influence your decision to organize, join, or support a civil rights movement today? What factors would influence your decision to refrain from joining such a movement?

WHAT IS THE CIVIL RIGHTS ACT?

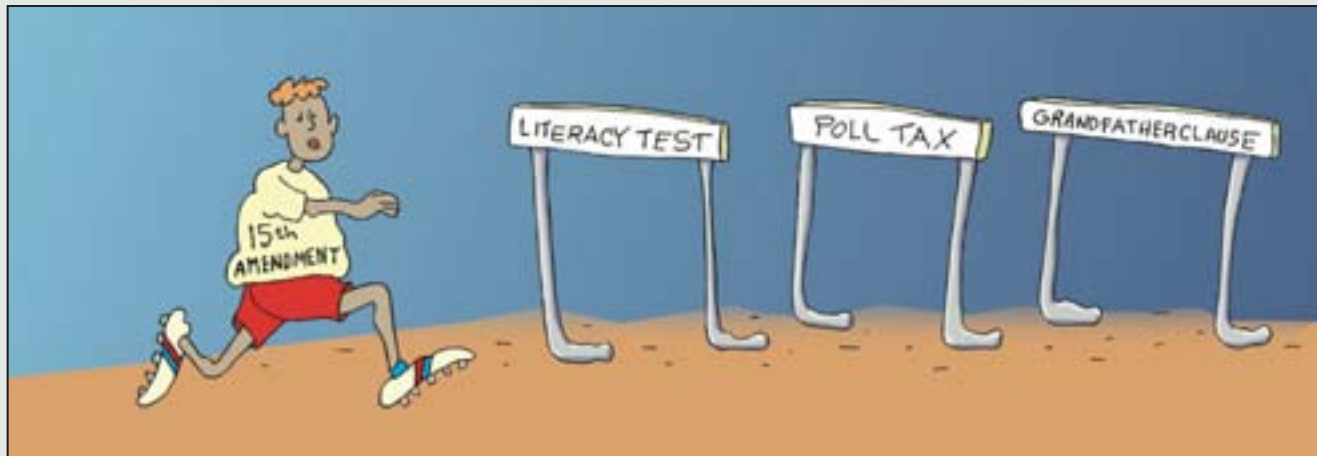
In the spring of 1963 civil rights leaders organized public demonstrations throughout the South in which young people often were prominent. Some protests were met with violence. In Birmingham, Alabama, local police used powerful fire hoses and dogs to break up marches. Television cameras captured scenes of confrontations, and newspapers around the world carried pictures and stories. These images aroused sympathy and outrage throughout the United States.

In August that same year more than two hundred thousand people, mostly African Americans, converged on Washington, D.C., to demonstrate for a full and speedy program of civil rights and job opportunities. President John F. Kennedy announced that he would ask Congress to enact major new civil rights legislation. Kennedy was assassinated three months later. The task of pushing for the legislation fell to his successor, Lyndon B. Johnson. Congress passed the Civil Rights Act of 1964, using its constitutional power under Article I to regulate interstate commerce so that it could regulate private activities as well as state action. The act remains the most far-reaching civil rights legislation in American history, outlawing both *de jure* and *de facto* segregation and many forms of discrimination. The central provisions of the act

- Outlaw discrimination in hotels, restaurants, theaters, gas stations, airline terminals, and other places of public accommodation



What events led to President Johnson signing the Voting Rights Act of 1965?



Why was the Voting Rights Act of 1965 needed to enforce the provisions of the Fifteenth Amendment?

- Give the national government additional authority to end school desegregation
- Prohibit job discrimination by businesses and labor unions
- Authorize the United States Justice Department to file lawsuits against states that discriminate against women and minorities

WHAT IS THE VOTING RIGHTS ACT?

The Civil Rights Act did not address problems that minorities encountered when they tried to vote. In March 1965 civil rights protesters met in Selma, Alabama, to march from there to Montgomery to protest voting discrimination. Alabama's governor sent state troopers to stop the march. Several demonstrators were clubbed and beaten. One was killed. The event was covered on national television. Five days later President Johnson announced that he would send Congress a voting rights bill. Using its authority to enforce the provisions of the Fifteenth Amendment, Congress quickly passed the Voting Rights Act of 1965. Amended several times since its passage and extended to 2031, the Voting Rights Act now

- Prohibits discrimination based on race
- Eliminates literacy tests, poll taxes, and discriminatory registration practices
- Requires states, counties, and cities with significant numbers of voters who do not speak English to provide voting materials and assistance in appropriate languages
- Requires states and counties with a history of discrimination to be monitored by the Justice Department

When President George W. Bush signed the 2006 extension of the Voting Rights Act, he acknowledged both progress in the area of civil rights and the need for continued efforts:

“ In four decades since the Voting Rights Act was first passed, we've made progress toward equality, yet the work for a more perfect union is never ending. We'll continue to build on the legal equality won by the civil rights movement to help ensure that every person enjoys the opportunity that this great land of liberty offers.

CRITICAL THINKING EXERCISE

Examining the Civil Rights and Voting Rights Acts

Work in one of two groups. One group should obtain a copy of the Civil Rights Act (1964) and all amendments to it. The other group should obtain a copy of the Voting Rights Act (1965) and all amendments to it.

First, each group should review the criteria for landmark legislation in Lesson 22. Then each group should study its statute and amendments and do any additional research to enable the group to respond to the following questions. Finally, each group should share its responses with the class as a whole.

- 1 Does the statute you examined qualify as landmark legislation? Explain your reasoning.
- 2 What are the significant features of amendments to the statute your group examined? Why were they added?
- 3 Have there been obstacles to implementing the statute or its amendments? If so, explain what they have been and what has been done to overcome them.

WHAT IS THE ROLE OF CIVIL DISOBEDIENCE AS A FORM OF POLITICAL PARTICIPATION?

Participants in the struggles against slavery, the woman suffrage movement, and the civil rights movement all used civil disobedience to advocate change. They did so only after the use of their First Amendment rights of petition, free speech, and assembly proved futile. In his “Letter from Birmingham City Jail” Martin Luther King Jr. wrote,

“ I submit that an individual who breaks a law that his conscience tells him is unjust, and willingly accepts the penalty by staying in jail to arouse the conscience of the community over its injustice, is in reality expressing the very highest respect for the law.

King’s words echoed those of American philosopher Henry David Thoreau (1817–1862), who in 1849 set forth some of the basic ideas about civil disobedience in his essay “On the Duty of Civil Disobedience.” Thoreau argued that individuals should obey their conscience. When conscience and law conflict, individuals have a moral responsibility to promote justice by disobeying the law. Thoreau and others who have written about civil disobedience, such as Russian novelist Leo Tolstoy and India’s Gandhi, agree that civil disobedience must be nonviolent and that those who participate in civil disobedience must be willing to identify themselves and accept legal sanctions. Civil disobedience does not attempt rebellion or revolution. But it does put conscience above the law.

Justification for this viewpoint has ancient roots. Antigone, the title character and tragic heroine of the Greek playwright Sophocles’ drama, justified disobedience to royal authority in the name of law higher than civil authority. For Sophocles (c. 496–406 BC) that higher law was an objective morality rooted in law made by the gods, not by human beings, as Antigone defies the tyrant Creon to secure a respectable funeral for her brother.

Critics argue that civil disobedience is never justified because it is an attack on constitutional democracy. American democracy’s legal system, they argue, often has protected minority rights in the face of majority oppression, as in *Brown v. Board of Education* and in many other instances. They add that when democratic decisions appear to go amiss, they can be challenged in court. American constitutional democracy does not leave fundamental individual rights at the mercy of majorities. The practice of civil disobedience makes individual conscience absolute, the final judge of obedience or disobedience. Thus it weakens respect for law and is an invitation to social chaos, a state of gross disorder where no rights or values are safe.

Defenders of civil disobedience counter that, in fact, there can be no other final judge of obedience to law than individual conscience. Each person must make his or her own decision whether to obey particular laws. After all, the defenders contend, laws are not necessarily just. They can be unjust. Defenders therefore argue that there are higher moral laws than the laws of any state, however democratic and constitutional. These higher laws shape the moral conscience of individuals. An unjust social situation breeds disorder. Seeking a more just society through civil disobedience may promote order rather than undermine it.

WHAT DO YOU THINK?

- 1 Under what circumstances, if any, do you think a citizen in a representative democracy has the right to engage in civil disobedience? Explain your position.
- 2 Read Martin Luther King Jr.’s “Letter from Birmingham City Jail.” How might King respond to the charge that those who followed their consciences to defy local segregation laws were no different from white protesters who defied court orders to integrate?



Should people be allowed to demonstrate by holding sit-ins in public buildings? Why or why not?



What civic purposes are served by public demonstrations?

HOW HAS THE MOVEMENT FOR CIVIL RIGHTS CHANGED SINCE THE MID-TWENTIETH CENTURY?

The Civil Rights and Voting Rights Acts were major legal achievements of the civil rights movement of the 1950s and 1960s. Unfortunately King was assassinated in 1968 while helping to organize a protest supporting sanitation workers in Memphis, Tennessee, who needed better pay and working conditions. His murder led to riots in cities throughout the United States. Other riots occurred in American cities during the 1960s protesting perceived economic discrimination and alleged police brutality.

After passage of the laws in the 1960s organizations such as the NAACP turned their attention to other issues affecting minorities and the poor, including

- Voter registration
- Laws increasing the minimum wage
- Better health care for people with HIV/AIDS
- Health services for minority populations in urban and rural areas
- High-quality public education for all minority children

Other groups also have been active in pursuing rights for their members and other minorities. The following are merely three examples:

- **Farm workers** In the early 1950s Mexican American Cesar Chavez began to register minority voters and to organize farm workers to demand better conditions in the fields of California. He and Dolores Huerta later founded the United Farm Workers Union. It and similar organizations have lobbied Congress for better pay and working conditions for farm workers, organized consumer boycotts of farm products such as grapes and lettuce, challenged the hiring of illegal aliens during farm-worker strikes, and protested the use of dangerous pesticides.
- **Native Americans** In 1968 several hundred members of Native American tribes met to discuss issues affecting their communities. Conversations focused on substandard housing, an eighty percent unemployment rate, discrimination in education and other areas, and claims of police brutality. The American Indian Movement (AIM) emerged out of this meeting. AIM gained national and international attention in the 1970s when some of its members seized the headquarters of the Bureau of Indian Affairs in Washington, D.C., and participated in standoffs with public authorities at Wounded Knee and Pine Ridge, South Dakota, in

disputes over land and mineral rights. Today AIM's focus includes cultural renewal, monitoring police treatment of Native Americans, opposing the use of Native American caricatures as mascots for sports teams, such as the Atlanta Braves and Florida State University Seminoles, and creating employment programs for Native Americans. AIM also supports the efforts of indigenous groups outside the United States.

- **Women** Women worked for generations to win the right to vote, which they achieved through the Nineteenth Amendment, ratified in 1920. In the 1960s and 1970s women's organizations turned their attention to issues such as reproductive rights, equal pay for equal work, and harassment in the workplace. The National Organization for Women, formed in 1966, lobbied for the Equal Rights Amendment (ERA), which Congress submitted to the states in 1972. The proposed amendment provided that

“ Equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex.

Only thirty-five of the required thirty-eight states ratified the ERA. Although the amendment failed, Congress has passed laws that achieve some of the goals of the proposed amendment, such as the Pregnancy Discrimination Act, making it unlawful to fire, not hire, or otherwise discriminate against a woman because of pregnancy or intent to become pregnant, and the Equal Credit Opportunity Act, making it unlawful to discriminate on the basis of gender or marital status in making loans. The Supreme Court also has held that sexual harassment is a form of illegal discrimination (*Meritor Savings Bank v. Vinson*, 1986). Legislative and judicial triumphs have led some to believe that the ERA is not necessary.

CRITICAL THINKING EXERCISE

Evaluating Contemporary Civil Rights Movements

Work in one of three groups. Each group should select a contemporary civil rights movement and then respond to the following questions. The groups should compare responses.

- 1 How is the movement you studied organized? Who are its leaders?
- 2 What are the stated objectives of the movement? How are those objectives related to

principles in the Declaration of Independence and the Constitution?

- 3 What role does public education play in the movement?
- 4 Has the movement used civil disobedience or supported civil disobedience to achieve its goals? Why or why not?

REVIEWING AND USING THE LESSON

- 1 What is the difference between *de jure* and *de facto* segregation?
- 2 Why has the Civil Rights Act of 1964 been called the most far-reaching civil rights legislation in American history?
- 3 Why was it necessary to extend the Voting Rights Act of 1965 in 2006?
- 4 How is civil disobedience different from merely breaking the law?



What changes have been made due to the movement for women's rights?