

About Citizenship

THE CONCEPT OF CITIZENSHIP

The earliest concept of citizenship developed in ancient Athens. Citizenship was limited to landowning men and excluded women and enslaved people. As in modern societies, citizenship in ancient Athens came with certain rights and responsibilities. Citizens could participate in the democratic process by voting; at the same time, they were required to pay taxes and could be called upon to serve in the military. Citizenship also existed in ancient Rome. Originally, citizenship was a way to set residents of Rome apart from those living in Roman territories. Citizenship was later expanded to include Roman allies and eventually all free men living within the Roman Empire.

The notion of citizenship waned in Europe during the Middle Ages. The continent was largely dominated by feudalism—a system of government in which land is exchanged for loyalty and service—rather than large, powerful governments or nation-states. While citizenship began to reemerge in Italian city-states during the Renaissance, our modern concept of citizenship did not develop until the eighteenth century, with the writings of Enlightenment thinkers and the American and French Revolutions. These events contributed to the idea that citizens have certain rights and liberties that cannot be violated by an all-powerful monarch. Over time, the concept of American citizenship has evolved from being strictly limited to white men to including people of all genders and races.

UNITED STATES CITIZENSHIP

A variety of push and pull factors encourage people to immigrate to the United States. Push factors may include the desire to leave behind religious persecution, war, or famine. Pull factors may include the desire for better economic or education opportunities. Another important pull factor to the United States is citizenship.

A citizen is a legally recognized member of a country or state who has protections under that country's laws. In the United States, citizenship also means access to many rights, responsibilities, and benefits, including owning property, participating in the democratic process by voting in elections and running for office, and having access to social safety net programs like social security and health insurance. U.S. citizenship also comes with other important benefits, like getting priority status when bringing family members from other countries to the United States and naturalizing children who were born in a foreign country so they too can enjoy the benefits of citizenship.

Citizenship also plays an important role in nationhood, or the shared national identity of a country or state. Through citizenship, people become an integrated part of the country where they live. They can contribute to and influence the country's political, social, cultural, and economic structures.

Citizenship in the United States may be conferred by birth, through *jus soli* (right of the soil) or *jus sanguinis* (right of the blood), or by naturalization (the process of becoming a citizen of one country when born in another). Most countries in the Western Hemisphere have *jus soli* citizenship, while most other countries around the world have *jus sanguinis* citizenship. This divide is the result of colonization; *jus soli* citizenship was part of English common law, which was adopted in the British North American colonies. At the same time, countries in the Western Hemisphere wanted to make obtaining citizenship easy to encourage more people to settle in the Americas.

CHANGING POLICIES ON IMMIGRATION AND NATURALIZATION

Immigration policy in the United States has changed considerably since Congress passed the first naturalization law in 1790. Throughout history, these changes have reflected societal views at the time the legislation was enacted. This is especially true as it pertains to citizenship for African Americans.

Early in the country's history, the Founders adopted the three-fifths clause, in Article I, Section 2, of the Constitution. This clause explained that "three fifths of all other Persons"—specifically enslaved people—were to be counted as part of a state's population for representation in the House of Representatives and for taxation purposes. This meant that while the Constitution did not reference the institution of slavery by name, it still actively dehumanized African American people living in the United States and deprived them of citizenship. This idea was further reinforced by the Supreme Court's ruling in the *Dred Scott* decision; free Africans were not considered citizens and did not have rights under the Constitution.

After the Civil War, Republicans in Congress worked to secure the rights of formerly enslaved people. This included passing the Fourteenth Amendment, which conferred citizenship to "all persons born or naturalized in the United States" and prohibited states from infringing on the rights to equal protection and due process. Congress further clarified who citizenship applied to by enacting the Naturalization Act of 1870, which made it clear that the *jus soli* citizenship guaranteed by the Fourteenth Amendment applied both to white people and to people of African descent.

In practice, however, the states enacted laws that denied African Americans the full rights of citizenship—including the rights to vote and to be granted equal protection—through the mid-twentieth century. Beginning in the 1950s and progressing through the 1960s, the Civil Rights Movement helped not only secure the full rights of citizenship for African Americans but also shift societal views of who citizenship should apply to.

Similarly, the push for women's rights also changed societal views of citizenship and influenced citizenship policies. For much of American history, being a citizen meant very little to women because they had limited property rights and could not vote in elections. Nineteenth- and early twentieth-century laws frequently overlooked women or tied their citizenship to their spouse. The Cable Act, passed in 1922, separated the nationality of a wife from her husband and allowed her to apply for citizenship in her own right, reflecting the shifting view of women as full citizens with the ratification of the Nineteenth Amendment in 1920.

Marginalization and Citizenship of Native Americans

Native Americans were not granted U.S. citizenship until 1924 with the Indian Citizenship Act. As a result, they had no say in the government and had little ability to resist the federal policies that affected their daily lives and systematically destroyed their traditional ways of life.

The Bureau of Indian Affairs (BIA) was set up by the U.S. government as part of the War Department in 1824 and transferred to the newly created Department of the Interior in 1849. The BIA's avowed purpose was to safeguard the welfare of Native Americans. However, in practice, the BIA implemented policies to remove Native Americans to reservations and to promote Native accommodation and assimilation to European culture, which often meant destroying Native American culture and values. During the 1800s, there was a western European tradition of imposing Christianity and middle-class morals and values on Indigenous peoples worldwide. This tradition was also practiced in the United States.

In 1871, the federal government passed the Indian Appropriation Act. Under the provisions of the law, the U.S. government withdrew recognition of separate Native American peoples as sovereign nations and stated that it would no longer enter into treaties with any Native American group. Treaties that were in force would be honored. That, however, proved to be a hollow promise whenever gold or silver was found on Native American lands or when American settlers wanted more land.

Throughout the 1800s, the U.S. government forced Native Americans onto reservations. For many, reservation life meant drastic changes in culture and lifestyle. For example, Plains peoples who had been hunters were forced to become farmers—often on land poorly suited for farming. The BIA's purpose was to oversee the reservations and provide food, clothing, and other necessities to Native Americans. However, greed and corruption often guided the actions of government agents in the BIA, and Native Americans saw little of the aid that was meant to sustain them in their new lives.

Corruption in the Bureau of Indian Affairs became so widespread that by the 1880s, the protests of Native Americans and their supporters could no longer be ignored. In 1887, Congress passed the Dawes Act, which broke up the landholdings on the reservations. The land was divided into parcels of 160 acres (0.6 sq km), and each head of a household received a parcel. Any land that was not disposed of in this way could be sold to non-Native Americans. Native American families had to hold the land for twenty-five years, at which time they could sell it. Many did sell their land and then had nothing to live on when the money was gone. Native Americans who accepted individual land allotments were granted citizenship. By 1932, 96 million acres (388,498 sq km) of the 138 million acres (558,466 sq km) set aside for Native Americans in 1887 no longer belonged to them.

Supporters of the Dawes Act believed the reservations should be broken up because they thought the “communal life” of Native Americans—that is, living in and sharing with a large extended group—kept individuals from developing a sense of ambition and becoming more like white Americans. In breaking up the reservations, supporters were convinced they were encouraging personal initiative. As part of the Dawes Act, federal funds were to be used for educating and training Native Americans and encouraging them to adopt the habits of what western Europeans and white Americans considered “civilized life.” These included owning land, settling in one place rather than moving around on a seasonal basis, farming or doing other kinds of modern labor, wearing European-style clothing, speaking English, learning to read and write, and accepting the Christian religion. The Dawes Act also made considerable quantities of land available in the West. The goal was to assimilate Native Americans to the American way of life, in much the same way immigrants were assimilated. However, it caused a great deal of harm to many Native American communities.

With the loss of vast amounts of land, tribal governments were destroyed, which contributed to the decimation of tribal cultures and social structures. Native American children were forcibly removed from their families and sent to boarding schools, where they were forced to speak English and adopt the customs of white Americans. Traditional Native American languages, customs, and spiritual practices were lost. The parcels of land that Native Americans received were often not suitable for farming, and they were forced to adopt techniques that were unfamiliar to their way of life.

Immigration Quotas

The greatest period of immigration to the United States occurred between 1880 and 1920, when approximately twenty-three million immigrants arrived. By 1914, one-third of all Americans either were immigrants themselves or had at least one parent who was an immigrant. These later immigrants came from different parts of Europe than the earlier immigrants. The “old immigrants,” who arrived between 1820 and 1860, came mainly from northern and western Europe. The “new immigrants,” who arrived between 1870 and 1920, were primarily from southern and eastern Europe. European immigrants largely came through Ellis Island in New York Harbor. A very limited number of immigrants were allowed into the United States from Asia at this time because of racial prejudice. Asian immigrants came through Angel Island, located near San Francisco.

Immigrants who settled in cities often had a hard time making a living in the factories and sweatshops. Farm families found life on the Great Plains, far from their nearest neighbors, lonely and at times dangerous when blizzards, floods, illness, or serious accidents struck. Still, for many of these immigrants, their new lives seemed better than their lives back home. Some Americans were helpful and friendly to the new immigrants. But as the number of new immigrants grew, others whose families had lived in the United States for generations were not happy with the arrival of so many new foreigners. This resulted in the rise of nativism and the anti-immigrant,

anti-Catholic “Know-Nothing” movement. The Know-Nothing Party began as a secret organization and later evolved into the American Party. The goal of the Know-Nothing Party was to restrict immigration, but it also supported measures to limit the rights of foreign-born people in the United States. The party peaked in the 1850s, but its sentiments and influence lingered for years.

Congress began enacting policies to restrict the immigration of certain nationalities during the second half of the nineteenth century, starting with the Chinese Exclusion Act of 1882. This new legislation, which prohibited Chinese laborers from entering the country, was the result of blatant racial hostility from white Americans. The act originally lasted for ten years and was extended another ten years in 1892. This extension required people of Chinese origin to carry identification papers or be deported. It also made it difficult for those who were not teachers, students, diplomats, or tourists to get into the country. The act was extended once more in 1902, making it nearly impossible for any Chinese immigrant to enter the United States. It was finally repealed in 1943, when a quota similar to those used for other nationalities was established for Chinese immigration.

Economic and political factors associated with World War I also contributed to anti-immigration sentiment and the adoption of nationality-based immigration quotas. Following World War I, the United States entered a significant economic downturn characterized by rapid deflation, a sharp decline in industrial production, and a rise in unemployment. The recession was caused by decreased government spending and a surplus of goods as the country demobilized after the war. Additionally, the Federal Reserve’s decision to raise interest rates in 1919 to combat inflation intensified these economic challenges. As economic conditions worsened, nativists increasingly argued that the increased flow of immigration from war-torn Europe would mean fewer jobs for Americans.

At the same time, fears of a Bolshevik-inspired revolution contributed to the first Red Scare and heightened anti-immigrant sentiment. Following the 1917 Russian Revolution, many Americans became increasingly alarmed by the rise of socialist and anarchist movements at home, associating them with violence, subversion, and foreign intrigue. This fear was exacerbated by events such as the 1919 anarchist bombings, in which radicals targeted prominent political and business figures. The U.S. government responded with a series of crackdowns. The Justice Department under Attorney General A. Mitchell Palmer orchestrated the “Palmer Raids,” which resulted in the arrests of thousands of suspected radicals, many of whom were detained without due process and deported. The media played a significant role in propagating the fear, often sensationalizing the threat and linking labor strikes and civil unrest to radical conspiracies.

The trial of Nicola Sacco and Bartolomeo Vanzetti, two Italian immigrants with anarchist ties, became emblematic of the era’s tensions. Accused of robbery and murder, they faced a trial riddled with prejudice and judicial misconduct, reflecting the widespread suspicion toward radicals and immigrants. The Red Scare eventually subsided by the early 1920s, but it left a lasting impact on American politics and society, setting the stage for subsequent periods of political repression and decades of discriminatory immigration policies—beginning with the Emergency Quota Act of 1921 and the subsequent Immigration Act of 1924.

Modern Immigration Policies

Modern immigration policies are carried out and enforced by two different federal agencies: United States Citizenship and Immigration Services (USCIS) and U.S. Immigration and Customs Enforcement (ICE). Both agencies were created in 2003 as part of the Department of Homeland Security.

USCIS oversees lawful immigration to the United States. It has two hundred offices around the world and employs more than twenty thousand people. USCIS is responsible for a variety of tasks, including

- reviewing immigration requests and the eligibility of prospective citizens,
- processing applications for relatives and future spouses to come to the United States,
- investigating fraud,

- processing refugee applications,
- granting asylum requests,
- granting lawful permanent residence status and green cards,
- conducting naturalization ceremonies, and
- confirming employment eligibility of new hires.

ICE is the law enforcement agency responsible for enforcing federal immigration, customs, and trade laws and for border control. It merges the responsibilities of two former federal agencies, the Immigration and Naturalization Service (INS) and the U.S. Customs Service. ICE has four hundred offices and more than twenty thousand employees. It has the power to investigate the unlawful movement of people and goods across U.S. borders to protect national security. This includes collecting information to build cases regarding transnational crimes like smuggling, cybercrime, identity theft, human rights violations, and terrorism. ICE also has the power to detect, detain, and remove people who are in the United States without lawful permission.

RIGHTS AND RESPONSIBILITIES OF CITIZENSHIP

As citizenship has expanded, more and more people have gained the rights and responsibilities that go along with it, including the rights to vote, to hold elected office, and to work for the federal government. These go hand in hand with responsibilities such as serving on juries, supporting and defending the Constitution, and defending the country when called upon. It's important to note that some rights, like voting and running for elected office, are conferred at certain ages depending on the jurisdiction. Other rights and responsibilities are enjoyed by all people living in the United States, regardless of age or citizenship status, including the freedoms of speech and religion and the duty to obey the country's laws.

About Civil Rights and Civil Liberties

WHAT ARE CIVIL LIBERTIES AND CIVIL RIGHTS?

Civil liberties and civil rights are cornerstones of American democracy. While similar in many regards, the two concepts have distinct meanings and implications for people living in the United States. Civil liberties are individual freedoms enumerated or implied by the Constitution that the government is prohibited from curtailing or infringing on, including and especially the freedoms identified in the First Amendment: freedom of religion, freedom of speech, freedom of the press, freedom to assemble, and freedom to petition the government. The Bill of Rights also protects a variety of other freedoms, including freedom from unwarranted searches and seizures and from excessive bail and cruel and unusual punishments.

On the other hand, civil rights are government protections against discrimination. Where civil liberties prohibit oppressive government action, civil rights obligate government action to promote equality and protect the rights of the people, particularly those of historically marginalized groups. For example, the right to vote was originally reserved for free, white, landowning men. Over time, the government expanded suffrage and protections for voters through the Fifteenth, Nineteenth, Twenty-Fourth, and Twenty-Sixth Amendments and through legislation like the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

There are instances in which civil liberties and civil rights often overlap. This is especially true when discrimination is at play in the violation of the civil liberties outlined in the First Amendment. For example, the Civil Rights Act of 1964 makes it illegal for employers to discriminate “based on race, color, religion, sex, or national origin.” Should an employer discriminate against an employee based on their religion or prevent them from practicing their faith, this would be considered a violation of both civil liberties and civil rights.

The concepts of civil liberties and civil rights originated during the Enlightenment. English philosopher John Locke conceived of the idea of “natural rights,” a term that can be used synonymously with civil liberties. According to Locke, natural rights are inherent; they are inborn and not conferred by any government authority. Locke and other philosophers, like Jean-Jacques Rousseau, also began to develop notions of equality—another inherent right—during this time. Thomas Jefferson borrowed both of these ideas when drafting the Declaration of Independence:

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.

It’s important to note that both Enlightenment thinkers and the Founders viewed equality as applying strictly to white men. Constitutional amendments, Supreme Court rulings, and congressional legislation have expanded protections for civil liberties and civil rights over time, reflecting changing notions of what equality means and how it should be protected.

RESTRICTING CIVIL LIBERTIES

The preamble to the U.S. Constitution outlines some of the most important roles of the federal government, including to “provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty.” But what happens when these roles conflict with each other? While it’s the government’s responsibility to “secure the Blessings of Liberty” by protecting the civil liberties and civil rights of Americans, the government also has a responsibility to act in the best interest of the entire country. The underlying tension between individual liberties and rights and national security—and the debates it inspires—typically comes to the fore during times of national crisis and international conflicts.

Abraham Lincoln and the Writ of Habeas Corpus

The writ of habeas corpus (Latin for “that you have the body”) is an important part of American law that dates back to English law and the adoption of Magna Carta in 1215 CE. The writ limits the power of the government by requiring it to show probable cause when arresting or detaining a person. Article I, Section 9, of the Constitution notes, “The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.” While Article I of the Constitution establishes the legislative branch and enumerates its powers, President Abraham Lincoln interpreted this clause to apply to the executive branch as well.

In early 1861, Lincoln worried that people living in Maryland would rebel against the federal government. Maryland was a slave state that chose to remain in the Union, and its proximity to the North’s capital in Washington, D.C., meant that an uprising would pose a serious threat to the federal government. Lincoln directed Union general Winfield Scott to suspend habeas corpus to protect railroads that connected Washington, D.C., to Philadelphia, Pennsylvania.

It did not take long for conflict and debate over Lincoln’s order to arise. Union troops arrested John Merryman—a suspected member of a secessionist group—on May 25, 1861, and held him at Fort McHenry in Baltimore. Both actions were taken without a warrant. Following an appeal by Merryman’s lawyer, Chief Justice Roger Taney (the author of the majority opinion in the *Dred Scott* decision) issued a writ of habeas corpus on May 26 and ordered the commander of Fort McHenry, General George Cadwalader, to appear before the U.S. Circuit Court for Maryland to explain Merryman’s detention and the violation of his civil liberties. Cadwalader ignored Taney’s writ, instead writing a letter explaining that his actions—taken in the interest of public safety—were authorized by President Lincoln.

Taney’s response was swift. In *Ex parte Merryman*, he laid out his interpretation of Article I, Section 9, of the Constitution: The power to suspend habeas corpus belonged to Congress, not the president. Taney, however, recognized the limitations of his position and of the nature of the federal government; the judicial branch did not have the power to enforce his ruling. Lincoln waited more than a month to respond to Taney’s ruling, then challenged the chief justice’s interpretation of legislative and executive power in a speech before Congress. Lincoln unilaterally suspended habeas corpus again in September 1862 before receiving congressional approval in March 1863 to suspend the writ “whenever . . . the public safety may require it” until the end of the war.

Japanese American Internment

Japanese American internment during World War II is subject to considerable analysis and debate today. While many accepted the federal government’s actions and the Supreme Court’s rulings during and following the war, hindsight reveals a much clearer and more insidious picture of the factors that contributed to mass incarceration and the denial of civil rights and liberties to around 120,000 people, most of whom were American citizens.

In 1942, leaders in the federal government were torn over whether evacuating people of Japanese descent from the West Coast was necessary. During the 1930s, the Federal Bureau of Investigation (FBI) and the Office of Naval Intelligence began surveilling people of Japanese descent. About three thousand people were arrested for suspected subversion. However, neither agency expressed additional concerns about the country’s Japanese population, nor did they press for evacuation policies to protect national security.

The commander of the West Coast, General John DeWitt, disagreed and was convinced that Japanese Americans were a threat to the country. He falsely claimed that people of Japanese descent on the West Coast were communicating with Japanese ships in the Pacific. Notably, internal FBI reports showed that the federal government did not find any evidence to support this claim. Fear and hysteria fueled by racism continued to grow. At the same time, different groups pushed for the removal of people of Japanese descent from the West Coast to eliminate economic competition, especially in the agricultural sector. Combined, these factors led President Franklin D. Roosevelt to issue Executive Order 9066.

It's important to note that anti-Japanese sentiment also contributed to the formation of the internment camps themselves. The federal government had initially planned to resettle displaced Japanese Americans in the country's interior states. Racist threats, however, led the government to establish camps to keep all evacuees together. The result was that people of Japanese descent, including American citizens, were denied their right to habeas corpus, including protections from unlawful detention and the rights to a fair trial, due process, judicial oversight, and knowledge of the charges being brought against them.

Several cases regarding Japanese American internment ultimately made their way to the Supreme Court. Attorneys arguing in favor of internment based their cases on the same false evidence used by General DeWitt. In *Korematsu v. United States*, perhaps the most famous of the internment cases, the Supreme Court did not entertain the constitutionality of internment, instead focusing on whether Fred Korematsu was guilty of refusing to comply with military evacuation orders. The use of false evidence did not come to light until *Korematsu v. United States* was reopened and ultimately vacated by the federal district court in San Francisco in 1983. It's important to note that while this case was overturned by a lower federal court, it was never overturned by the Supreme Court, which means the precedent in this case still stands. A less well-known decision, *Ex parte Mitsuye Endo*, was decided on December 18, 1944, the same day as *Korematsu*. The Supreme Court ruled that the federal government could not detain people of Japanese descent who were loyal to the United States indefinitely and without cause, leading to the dissolution of the internment camps.

In 1988, Congress and the president publicly acknowledged the injustice of Japanese American internment and paid reparations to the internees.

Post-9/11 Debates

The tension between national security and civil rights and liberties persists today and has continued to be the subject of debate in a post-9/11 world. Following the terrorist attacks on September 11, 2001, Congress enacted the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001. More commonly known as the USA PATRIOT Act, or simply the Patriot Act, the law increased interagency communication and facilitated information sharing to improve national security. It also expanded the federal government's surveillance power. Further, the act authorized the government to detain or deport immigrants suspected of being associated with terrorism and to conduct "warrantless wiretaps," including the collection of cell phone records.

Proponents of the Patriot Act believe expanded surveillance capabilities are necessary to help detect and prevent future terrorist attacks. Critics of the law, however, view it as federal overreach and a violation of individual rights and liberties. The Patriot Act enables the federal government to collect information about all communications in the United States without a warrant; detractors view this as a violation of the Fourth Amendment protections from warrantless searches and seizures.

EQUAL PROTECTION UNDER THE LAW

The Fourteenth Amendment was one of three amendments ratified following the Civil War, known collectively as the Reconstruction Amendments. The Thirteenth Amendment abolished slavery, while the Fourteenth and Fifteenth Amendments reflected the efforts of Republicans in Congress to counter restrictive Black Codes enacted by Southern legislatures and secure the civil liberties and civil rights of formerly enslaved people living in the United States. To this end, the Fourteenth Amendment includes the equal protection clause, which explains in plain but clear language that no state may "deny to any person within its jurisdiction the equal protection of the laws." In other words, the federal government and the states are required to apply the law to one person the same way it is applied to any other person in similar circumstances. While the equal protection clause went into effect in 1868, the reality of equal protection was another century in the making.

Backlash During and After Reconstruction

At the start of Reconstruction, President Andrew Johnson and Congress clashed over the best way to reunify the country. Johnson, a Southerner, favored a lenient approach to Reconstruction. By the end of 1865, all but one former Confederate state had complied with his requirements for readmission to the Union.

The Republican majority in Congress, however, strongly disagreed with President Johnson. Members of Congress believed that Reconstruction fell under the purview of the legislative branch, not the executive. Furthermore, Congress wanted Reconstruction to be much harder on the South than the president did. Some members of Congress pointed out that the Southern states had shown no sign of regret about the war. Instead, the South was defiant, and this was reflected in the men they had chosen to represent them in Congress, including four former Confederate generals, eight former Confederate colonels, six members of Jefferson Davis's Confederate cabinet, and Alexander Stephens, the former vice president of the Confederacy.

Congress also believed that while the Southern states had agreed to abolish chattel slavery in compliance with the Thirteenth Amendment, most white Southerners had not changed their attitudes toward African Americans. In 1865 and 1866, legislatures in every former Confederate state enacted Black Codes. These laws were designed to maintain the status quo in Southern society by severely restricting the movements and rights of newly emancipated African Americans. For example, Black Codes imposed curfews on formerly enslaved people, required them to obtain permits to travel, and prohibited them from serving on juries, voting, owning land, or holding public office. Other provisions made it lawful to arrest and fine unemployed African Americans; employers could pay the fine and then force the unemployed African American to work to repay the fine, constituting a new form of servitude. Meanwhile, convict leasing meant that prisons replaced plantations as the dominant source of free labor in the post-Civil War South.

Republicans in Congress feared that if Southern states were allowed to reenter the Union under the Presidential Reconstruction plan, there would be no way to protect the rights of newly freed African Americans. To that end, "Radical" Republicans in Congress refused to seat the new members of Congress and blocked Presidential Reconstruction, embarking on a new phase called Congressional or Radical Reconstruction. Laws passed under Congressional Reconstruction, particularly the Fourteenth and Fifteenth Amendments, allowed newly freed African Americans to play important roles as voters and elected officials. (The Fifteenth Amendment, passed by Congress in 1869 and ratified in 1870, gave African American men the right to vote.) In some states, they contributed heavily to Republican victories. African Americans were elected to serve in the governments of every Southern state and even briefly held a majority in the lower house of the South Carolina legislature. At the national level, sixteen African Americans served in Congress during the Reconstruction era, including two senators. During Reconstruction, between 1,500 and 2,000 African Americans held public office at local, state, and federal levels. In Louisiana, this included the state's first African American governor (P. B. S. Pinchback) and lieutenant government (Oscar James Dunn).

However, the effects of Congressional Reconstruction were short-lived. Many white Southerners opposed the new state governments; they were outraged that people who had once been enslaved were now voting, holding office, and making laws. Using a variety of tactics, those who were determined to replace the Reconstruction governments in the South finally succeeded in what they perceived as "redeeming" the South and reversing the gains of Radical Reconstruction policies.

Southern Democrats worked hard to regain control of state governments. One tactic they used was to include a number of provisions in state constitutions that made it very difficult for African Americans to vote. Although the Fifteenth Amendment prohibited states from denying someone the right to vote because of their race or color, Southern states found ways to get around the amendment.

One such voting restriction was the poll tax, a fee voters had to pay before being allowed to cast a ballot. Poll tax laws varied by state, but they all made it virtually impossible for African Americans—as well as poor white men—to vote. Literacy tests were another way of denying voting rights. These tests often required potential voters to read and explain difficult parts of complex texts, such as excerpts from state constitutions. Sometimes

biased local officials (who were almost always white men) simply decided whether the potential voter was literate or not. Because most formerly enslaved people had little education, these tests prevented many African Americans from voting.

Grandfather clauses also contributed to disproportionate African American disenfranchisement. These clauses allowed people to vote if their fathers or grandfathers had voted before Reconstruction. Because the fathers and grandfathers of formerly enslaved men could not vote before Congressional Reconstruction, they were excluded. Grandfather clauses often allowed poor, uneducated white men to vote—even if they were unable to pay poll taxes or pass literacy tests.

The situation in Louisiana reflected the effectiveness of these voting restrictions. In 1896, more than 130,000 African Americans were still registered voters. By 1904, this number had fallen to just over 1,300. These staggering figures mean that in just an eight-year time span, the participation rate of African Americans in Louisiana politics had decreased by 99 percent due to the legalized voter suppression of the day.

In addition to voting restrictions, white Southerners known as “redeemers” (who claimed to have redeemed, or saved, the South from African American and Republican rule) increasingly used violence and intimidation to topple Reconstruction governments. As early as 1866, groups of white Southerners began campaigns of terror against African Americans and their white supporters. They organized secret societies that engaged in terrorism to oppose Reconstruction.

During Congressional Reconstruction, Congress placed former Confederate states under martial law and enforced strict requirements for readmission to the Union, which included ratifying the Fourteenth and Fifteenth Amendments, repealing Black Codes, and drafting new state constitutions with the input of African American delegates. Congress also prohibited former Confederates from voting or holding office. The Ku Klux Klan was a notorious white supremacist group whose goal was to keep African Americans and their allies from voting or holding public office. The Klan’s intimidation and violence against property escalated into lynchings; several hundred African American victims of the Klan were abducted and hanged in the South every year. To protect African Americans and their supporters and limit the Klan’s activities, Congress passed the Enforcement Acts of 1870 and 1871, which authorized the use of federal troops for these purposes. For a time, the Klan virtually disappeared. However, other white supremacist groups rose in their place, such as the Louisiana-based Knights of the White Camelia.

Union war hero Ulysses S. Grant was elected president in 1868 and again in 1872. However, Grant’s presidency was troubled by scandal and corruption, and a major economic crisis began during his second term. A powerful banking firm declared bankruptcy, triggering the Panic of 1873 and sparking an economic depression that lasted most of the decade. The depression hurt the Republican Party and weakened Northerners’ already fading resolve to carry on with Reconstruction. In the 1874 congressional elections, Democrats regained control of the U.S. House of Representatives and made gains in the U.S. Senate, costing Radical Republicans much of their power.

By 1876, only three states—Louisiana, Florida, and South Carolina—retained Reconstruction governments. In that year’s presidential election, Democrat Samuel J. Tilden ran against Republican Rutherford B. Hayes. It appeared that Tilden had won until Republican leaders in Louisiana, Florida, and South Carolina challenged and discarded large numbers of votes cast for Tilden, accusing Democrats and white supremacist hate groups such as the White League of intimidating and bribing African Americans to stop them from voting. A congressional commission worked out a compromise. The Democrats supported Hayes in exchange for the withdrawal of federal troops from the South and the end of Reconstruction, funding for construction of the Texas and Pacific Railway, and the appointment of a Southerner to the president’s cabinet.

After federal troops withdrew from the South in the late 1870s and white conservatives regained control of Southern legislatures, African Americans in the South lost nearly every right they had won during Reconstruction. Southern lawmakers passed segregation laws, known as Jim Crow laws, which required the separation of white people and African Americans from one another in most public places. In 1896, the Supreme

Court would uphold legalized segregation in the case of *Plessy v. Ferguson*, stating that Jim Crow laws were constitutional if African Americans had “separate but equal” access to amenities such as public spaces. This was rarely, if ever, the case. Although segregation was practiced in the North as well as the South, few Northern states had Jim Crow laws on the books.

The Fight for Civil Rights

The fight for civil rights did not begin with the work of Dr. Martin Luther King Jr. and others in the 1950s and 1960s. In the late 1800s and early 1900s, African Americans worked to overcome racism and improve their position in society. Particularly in the South, African American men were excluded from voting through poll taxes, literacy tests, and grandfather clauses. Booker T. Washington and W. E. B. Du Bois were among those who worked to improve the status of African Americans. However, they offered very different strategies.

Booker T. Washington was director of the Tuskegee Institute in Alabama, an academic and vocational school that trained African Americans in skilled trades such as carpentry, brickmaking, printing, and home economics. He believed that pursuing educational and economic opportunities was the best strategy for African Americans to gain equality, rather than directly challenging political disenfranchisement and social segregation in the South. For these views, some people considered Washington an accommodationist.

W. E. B. Du Bois was the first African American to earn a PhD from Harvard University. He wrote that “the problem of the Twentieth Century is the problem of the color-line”—in other words, the segregation and racism that divided Americans. Du Bois believed that the best strategy for advancement for African Americans was to insist on political power through voting, civil rights, and economic and educational opportunity.

In 1903, Du Bois and twenty-eight other civil rights activists met in Buffalo, New York. The city’s hotels refused to accommodate the group, so they moved their meeting to nearby Niagara Falls in Ontario, Canada. The newly formed civil rights organization became the Niagara Movement. The Niagara Movement, like W. E. B. Du Bois, opposed Booker T. Washington’s approach to equality and instead pushed for direct action and immediate legal change. In 1908, a deadly race riot occurred in Springfield, Illinois. The event inspired members of the Niagara Movement, along with other African American and white civil rights activists, to establish the National Association for the Advancement of Colored People (NAACP). The NAACP fought to end segregation and worked to pass legislation that would end discrimination against African Americans. W. E. B. Du Bois, a prominent member, was the longtime editor of its quarterly magazine, *The Crisis*.

Ida B. Wells was another prominent activist who advocated for African American rights at the turn of the twentieth century. Wells was born into slavery in Mississippi in 1862, and she attended a freedmen’s school before becoming a teacher in her own right at just fourteen years old. Wells experienced firsthand the limited education opportunities available to African American students, and starting in 1891, she began publishing articles expressing her views on this and other issues, including campaigning against lynching. She founded the National Association of Colored Women and, like W. E. B. Du Bois, was a founding member of the NAACP. Ida B. Wells was also active in the women’s suffrage movement.

The fight for civil rights continued into the middle of the century, spurred by African American participation in World War I and World War II.

During World War I, more than 380,000 African Americans served in the U.S. Army, with around 200,000 deployed to Europe. Many were assigned to labor and stevedore battalions, undertaking crucial support roles such as building roads, bridges, and trenches. Among these, the 369th Infantry Regiment, known as the Harlem Hellfighters, initially performed labor duties before being reassigned to combat under French command. They distinguished themselves in key battles, including the Aisne-Marne counteroffensive. Private Henry Johnson, a member of this regiment, was the first American to receive the French Croix de Guerre, with 170 others also honored. The 370th Infantry Regiment, known as the Black Devils, also fought valiantly under French command, showcasing exceptional bravery and resilience against adversity.

African American troops often received inferior equipment and training compared to their white counterparts and were frequently assigned to labor-intensive support roles, such as building trenches and working in supply units. Yet their courageous service significantly contributed to the war effort. The experiences of African American soldiers during World War I, marked by both valor in the face of adversity and the stark realities of racial inequality, played a crucial role in shaping the early Civil Rights Movement as returning veterans sought recognition and equal rights in postwar America.

African American contributions were even greater during World War II: One million African American men and women served in the military in World War II, while millions more worked in defense industries. Despite playing an important role in World War II, African Americans experienced significant discrimination. A. Philip Randolph, president of the Brotherhood of Sleeping Car Porters, and other African American leaders demanded that President Franklin D. Roosevelt issue an executive order to end workplace discrimination in wartime industries and threatened to march on the White House. Roosevelt acquiesced on June 25, 1941, and issued Executive Order 8802. The order stated, "There shall be no discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin."

As in World War I, African Americans in the military served in segregated units during World War II. The incongruity of their situation was apparent: They were fighting for the freedom of others while their own freedoms were severely curtailed at home. In 1939, the *Pittsburgh Courier*, the country's largest African American newspaper, called out this incongruity. Three years later, the paper published a letter from an African American defense worker detailing the discrimination he faced at work. The letter introduced the idea of a "double V for victory" sign symbolizing victories abroad and for African Americans on the home front. The *Courier* championed the Double V campaign and called for an end to domestic racism and to segregation in the military. The campaign achieved the latter goal when President Harry S. Truman issued Executive Order 9981 in 1948. Although the Double V campaign was short-lived, the experiences of African Americans during World War II laid the groundwork for the Civil Rights Movement of the 1950s and 1960s and the subsequent expansion of equal protection through landmark Supreme Court cases such as *Brown v. Board of Education* and legislation like the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

VOTING RIGHTS

In the United States, voting is both a right and a responsibility of citizens that supports democracy and holds governments at all levels of the federal system accountable to the people. While the Founders understood the necessity and importance of voting, our understanding of who should have voting rights has evolved considerably over time. At first, only white, landowning men had voting rights; suffrage was later expanded to include all white males of a certain age during the 1830s under President Andrew Jackson. Since then, suffrage has become even more inclusive with the ratification of constitutional amendments:

- Fifteenth Amendment (1870)—prohibits the states from denying voting rights to citizens based on their race
- Nineteenth Amendment (1920)—prohibits the states from denying voting rights to citizens based on their sex
- Twenty-Fourth Amendment (1964)—abolished the use of poll taxes to deny voting rights to citizens
- Twenty-Sixth Amendment (1971)—prohibits the states from denying voting rights to citizens aged eighteen and older

The Nineteenth Amendment

The suffrage movement developed out of the abolitionist movement. After the Fourteenth and Fifteenth Amendments passed without the inclusion of women, women's suffrage activists turned their full attention to securing the right to vote.

In the late 1800s, Susan B. Anthony and Elizabeth Cady Stanton's National Woman Suffrage Association (NWSA) and the more conservative American Woman Suffrage Association (AWSA) spearheaded national- and state-level efforts to win the vote. In 1890, both groups merged to create the National American Woman Suffrage Association (NAWSA). The group focused on garnering enough support for women's suffrage in state legislatures to influence the ratification of an amendment to the Constitution. To achieve this end, NAWSA campaigned for the support of upper-class, educated, and influential members of society, a move that alienated not only African American and poor women but also more radical members of the suffrage movement.

When NAWSA's strategy had failed to make any legal headway by 1910, an associated organization called the Congressional Union for Woman Suffrage fought for a federal strategy versus a state-by-state strategy. Led by Alice Paul and Lucy Burns, this group eventually left NAWSA to form the National Woman's Party (NWP). After the split, NAWSA leader Carrie Chapman Catt changed course to follow a strategy of direct action by members to create support for a federal amendment. This strategy included pressuring President Woodrow Wilson to push for a women's suffrage amendment.

The NWP employed even more militant strategies, including marches, protests, and civil disobedience. In an attempt to pressure President Wilson, the NWP staged multiple protests in front of the White House in 1916 and 1917. However, the United States' entrance into World War I resulted in a crackdown on demonstrations. Police arrested hundreds of women's suffrage picketers throughout the summer of 1917 and threatened months-long jail sentences. Undeterred, Alice Paul continued to lead protests outside the White House and, consequently, suffered several arrests for her activism.

By 1918, the tide was turning in favor of a constitutional amendment for women's suffrage. In 1919, the amendment passed both houses of Congress and was sent to the states for ratification. In 1920, Tennessee voted narrowly to ratify the amendment. It was the thirty-sixth state to do so, giving the amendment the necessary two-thirds majority needed to become part of the Constitution. It's important to note that the Nineteenth Amendment does not specifically extend suffrage to women; instead, it prohibits the states from denying voting rights to a person based on their sex.

However, it was mostly white women who initially benefited from the ratification of the Nineteenth Amendment. For example, until the civil rights victories of the 1960s, African American women were often barred from voting by the same Jim Crow laws that disenfranchised African American men.

FREEDOM OF SPEECH AND RELIGION

The First Amendment protects freedom of speech and freedom of religion, two of the most important civil liberties enjoyed by Americans. Although these principles were not formally enshrined until 1789, the Founders' commitment to them predated the Constitutional Convention. Freedom of speech can be traced to the ancient Greeks; Athenians believed that *parrhesia*, or free speech, was a necessary part of a democratic society and that people should be able to discuss politics and criticize the government openly without fear of punishment. Leading up to and during the American Revolution, the American colonists were subject to censorship. British officials repressed publications that criticized British rule. These experiences, fresh in the minds of the Founders, helped strengthen their commitment to freedom of speech in the emerging United States. Equally, the Founders resolved to protect freedom of religion. Many colonists had immigrated to the British North American colonies to freely practice their religion. Plymouth, Massachusetts Bay, Rhode Island, Pennsylvania, and Maryland were all founded in part to achieve this end.

James Madison and the First Amendment

James Madison played a pivotal role at the Constitutional Convention and is often known as the "Father of the Constitution." His thinking is represented in several of the key ideas of American government, such

as the need for a strong central government, the basing of representation on population (as in the House of Representatives), and the federal system itself. Once the Constitution was passed, Madison cowrote *The Federalist Papers* with Alexander Hamilton and John Jay, arguing in favor of ratification of the Constitution. After the Constitution was ratified and the new government took office, Madison submitted a proposal for a bill of rights, which Congress debated, revised, and sent to the states for ratification, resulting in the First Amendment protections we have today.

Madison's defense of the freedoms of speech and religion began before the Constitutional Convention and ratification. In 1776, he helped draft the Declaration of Rights included in Virginia's new state constitution. This addition provided explicit protections for "free exercise of religion" that forbade the earlier practice of arresting Christian ministers who were not licensed by the Anglican Church. As a member of the Virginia Assembly, Madison also opposed legislation that would make Christianity the official state religion, believing that doing so would violate individual rights and empower the government to establish the supremacy of one denomination over another. These sentiments were later reflected in the First Amendment's establishment clause and free exercise clause. Another Virginian, Thomas Jefferson, helped write the state's Virginia Statute for Religious Freedom, which prohibited the establishment of an official religion in the state. This also influenced the First Amendment.

Free Speech Protections

As a principle, freedom of speech means being able to say what you like without fear of punishment or undue action by the government. Throughout U.S. history, the Supreme Court has expanded and interpreted this protection to include

- the choice not to speak, such as refraining from saluting the American flag;
- pure speech, such as wearing certain articles of clothing as a sign of protest;
- symbolic acts, such as burning a flag as a sign of protest;
- the use of select offensive language in political communication;
- the ability to make some political campaign contributions; and
- certain forms of advertising.

Two of the First Amendment cases that the Supreme Court has ruled on are *Tinker v. Des Moines Independent Community School District* and *Schenck v. United States*. The *Tinker* case involved students who wore black armbands to school to protest the Vietnam War and were subsequently suspended. The court ruled in 1969 that students do not lose their First Amendment rights to free speech when they enter the school building as long as their actions do not disrupt the educational process. This decision established the precedent that student expression is protected under the Constitution. *Schenck* was a case decided in 1919 that addressed the limits of free speech under the First Amendment. Charles Schenck was convicted for distributing leaflets that urged resistance to the draft during World War I, which the government argued posed a clear and present danger. The court, led by Justice Oliver Wendell Holmes Jr., established the "clear and present danger" test, ruling that speech that creates a significant risk of inciting illegal actions is not protected. This case set a precedent for evaluating the balance between free speech and national security, particularly during times of war.

It's important to note that there are limitations to freedom of speech, especially when the speech threatens public safety or the general well-being. The First Amendment does not protect defamatory speech (libel and slander), harassment or threats, hate speech, or speech that threatens public safety. It also does not protect encouragement of violence or lawbreaking, protesting a war by burning draft cards, or distribution of obscene content. The First Amendment also does not protect certain rights of students at school; school administrators may censor student newspapers, and students may not give obscene speeches at school events. The First Amendment protection of free speech also does not guarantee an audience. The right to speak freely does not mean that people have to listen to the speaker.

DUE PROCESS

Due process is the idea that the government must not deprive individuals of “life, liberty, or property” without granting them a fair trial. The Fifth Amendment, a part of the Bill of Rights, prohibits the federal government from infringing on due process. The Fourteenth Amendment, ratified in 1868, includes nearly identical language to the Fifth Amendment, with a subtle but significant difference: the states are also prohibited from infringing on the right to due process.

At the most basic level, due process includes the right to a fair trial before being found guilty of a crime. Over time, however, the states have developed a more comprehensive view of the steps that the government must follow before it can take away a person’s right to life, liberty, or property, known as *procedural due process*. This is distinct from *substantive due process*, or the ways that the courts have interpreted the Fifth and Fourteenth Amendments to identify and uphold unenumerated rights and liberties.

Procedural due process varies based on jurisdiction and context. The following list identifies and explains some of the most common elements of procedural due process that ensure a fair trial:

- Individuals must receive adequate notice of what they are being charged with, how the government intends to act on those charges, and why the action is being taken. This step is critical to give the accused sufficient time to prepare their defense.
- Individuals must have the opportunity to explain why the government should not take an intended action, and they have the right to present evidence in their own defense in court. This includes the right to call witnesses in their defense.
- Individuals have the right to hear the case being made against them, to review evidence presented by the opposition, and to cross-examine witnesses called by the opposition.
- Individuals have the right to a neutral and unbiased jury of their peers who return a decision based strictly on the evidence presented during the trial. The jury should also provide a written statement explaining the rationale for their decision.
- Individuals have the right to be represented by an attorney.

The Fifth Amendment also protects several other important rights of the accused. Individuals may not be charged for the same crime twice (double jeopardy), and they are protected from self-incrimination (testifying against themselves). Meanwhile, Article I, Section 9, of the Constitution protects people from being found guilty of crimes from *ex post facto* laws, meaning that an individual cannot be retroactively punished for an action that was later made illegal.

Two landmark Supreme Court cases strengthened the rights of the accused: *Miranda v. Arizona* and *Gideon v. Wainwright*. *Miranda*, decided in 1966, established the requirement for law enforcement to inform individuals of their rights during an arrest. The case involved Ernesto Miranda, who confessed to crimes without being informed of his right to remain silent or to have an attorney present. The Supreme Court ruled that the Fifth Amendment protection against self-incrimination requires that individuals in custody be informed of their rights, leading to the creation of “Miranda rights.” This decision aimed to ensure that confessions are made voluntarily and with an understanding of the legal rights available to suspects. *Gideon v. Wainwright*, decided in 1963, addressed the right to counsel for defendants in criminal cases. Clarence Gideon was charged with a felony in Florida and could not afford an attorney, so he represented himself at the trial and was convicted. Gideon appealed his conviction to the Supreme Court, which unanimously ruled that the Sixth Amendment guarantee of the right to counsel is applicable to state courts through the Fourteenth Amendment. The decision established that all defendants, regardless of their financial status, have the right to legal representation in criminal cases.